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ANNUAL REPORT ON COMPETITION POLICY DEVELOPMENTS IN JAPAN

-- 2013 --

17-18 December 2014

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EXECUTIVE SUMMARY

1. Changes regarding competition laws and policies – Outline of new regulations in competition laws and related legislation

1.1 The amendment of the Antimonopoly Act

1.1.1 Background to the Enactment of the Bill to Amend the Antimonopoly Act

1. The bill to amend the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (hereinafter referred to as “the Antimonopoly Act”), including primarily the abolition of hearing procedure of the Japan Fair Trade Commission (hereinafter referred to as “the JFTC”), was submitted to the 183rd ordinary session of the Diet on May 24, 2013. The bill remained under deliberation in the House of Representatives while the Diet was closed during the above 183rd ordinary session and the 184th extraordinary session. Thereafter, during the 185th extraordinary session, the bill was approved by the House of Representatives and the house of Councillors respectively on November 21 and December 7. (Act No.100 of 2013.)

2. The act shall be put into force on the day, except for some provisions of the Act, provided by the Cabinet Order no later than one and a half years after the date of the promulgation (13, December, 2013)

1.1.2 Major points of the Antimonopoly Act Amendment Bill (2013)

- The JFTC’s hearing procedure for administrative appeal will be abolished, and the provision which stipulates that the jurisdiction of the first instance over any appeal suit pertaining to decisions by the JFTC shall lie in the Tokyo High Court will also be abolished.
- To ensure the expertise of the court, any appeal suits pertaining to cease and desist orders etc., shall be subject to the exclusive jurisdiction of the Tokyo District Court. Also, any trials and judgments at the Tokyo District Court will be ruled by a panel of three or five judges.
- To ensure due process, provisions will be prepared and provided to recipients to explain the content of anticipated cease and desist orders, including references and copies of evidence in hearing procedures prior to issuing cease and desist orders.

1.2 The Act on Special Measures Preventing and Correcting Actions That Interfere with Shifting Consumption Tax with the Aim to Ensure the Smooth and Appropriate Pass-on of consumption Tax

1.2.1 Background to the enactment of the Act on Special Measures for Consumption Tax

3. In light of the need to ensure the smooth and appropriate pass-on of consumption tax when its rate is raised in April 2014 and October 2015, the “bill concerning the Act on Special Measures Preventing and Correcting Actions That Interfere with Shifting Consumption Tax with the Aim to Ensure the Smooth

and Appropriate Pass-on of consumption Tax ” (hereinafter referred to as “the Act on Special Measures for Consumption Tax”) was submitted to the 183rd ordinary session of the Diet on March 22, 2013. On June 5, 2013, the bill was passed during the floor session in the House of Councilors after a partial revision by the House of Representatives, and was promulgated on June 12, 2013.

4. The Act came into effect on October 1, 2013, except for some provisions of the Act, in accordance with the Cabinet Order specifying the enforcement date. It was determined that the Act would cease to be valid on March 31, 2017.

1.2.2 Major points of the Act on Special Measures for Consumption Tax

1.2.2.1 Special measures for correcting practices rejecting consumption tax pass-on, etc.

5. As legislative measures for addressing, correcting and preventing conducts of rejecting consumption tax pass-on etc., under the Act on Special Measures for Consumption Tax, conduct including (1) refusal of shifting consumption taxes by price reduction or slashing and (2) request to purchase goods, use of service, or provision of economic benefits in return for the acceptance of shifting of consumption taxes shall be prohibited.¹

1.2.2.2 Special measures concerning concerted practices on determining ways of pass-on and representations of consumption tax

6. Pass-on cartels and representation cartels by enterprises or trade associations shall be exempted from application of the Antimonopoly Act if the following requirements, are met.: a) prior notification shall be submitted to the JFTC; b) with respect to pass-on cartels, two thirds or more of the participating enterprises shall be small and medium sized businesses; c) “decisions on agreement on prices” shall not be exempted ; and d) with respect to representation cartels, only the concerted practice in relation to decisions on representation methods concerning consumption taxes shall be exempted.

2. Enforcement of competition laws and competition policies

2.1 Measures against violations

2.1.1 Measures taken in 2013

7. Under the Antimonopoly Act, the JFTC conducts necessary investigations based on Article 47. If the JFTC finds a violation, it notifies the person who is to be the addressee of the cease and desist order of matters such as the expected content of the order (Paragraph 5 of Article 49). The JFTC then gives the person an opportunity to express their opinion and submit evidence (Paragraph 3 of Article 49), before the cease and desist order is issued. In the event that the JFTC does not have enough evidence to take legal measures, but identifies suspicions of violations to the Antimonopoly Act, the JFTC will issue a “warning” and instruct the enterprises on what measures are to be taken. In addition, when the JFTC does not have enough evidence to specifically identify a violation of the Antimonopoly Act, and is only able to recognize certain conducts that could lead to a violation, the JFTC issues a “caution” as a means of preventing future violations of the Antimonopoly Act.

¹ The JFTC and the Small and Medium Enterprise Agency gave guidances in 1,338 cases and recommendations in 10 cases regarding the refusal of shifting consumption taxes from October 2013, when the act went into effect, to September 2014.

8. Out of the 182 cases in which the JFTC closed investigations in 2013, legal measures were taken for 15 cases (cease and desist orders in 15 cases, and surcharge payment orders without cease and desist orders in zero cases). The JFTC also issued “warnings” in 1 case where suspicions of violations of the Antimonopoly Act were identified, “cautions” in 149 cases, and terminated examinations in 17 cases where evidence of illegal conduct could not be uncovered.

2.1.1.1 Cease and desist orders

9. The JFTC has been especially engaged in continuous efforts to eliminate bid rigging. In 2013, 10 of the JFTC’s legal measures were carried out against bid rigging.

• Bid rigging	10
• Price cartels, etc. (excluding bid rigging)	4
• Unfair trade practices	1
• Private monopolization	0
• Total	15

2.1.1.2 Surcharge payment orders

10. Surcharges are applied to enterprises that carry out an unreasonable restraint of trade (cartels, bid rigging, etc.), private monopolization (exclusion type and control type) and certain types of unfair trade practices (concerted refusal to trade, discriminatory pricing, unjust low price sales, resale price restriction, and Abuse of Superior Bargaining Position [hereinafter referred to as ASBP]).

11. The surcharges are calculated on the basis of the sales amounts or purchase amounts of the products or services in question during the period of the violations (3 years maximum) by multiplying such amounts by calculation rates, the way of which is diverse depending on the type of the conduct in question as determined according to operation scales and business categories.

12. In 2013, the JFTC issued surcharge payment orders to 80 enterprises totaling 22,974 million Japanese yen (hereinafter referred to as “JPY”).

2.1.1.3 Criminal accusations

13. The JFTC has adopted a policy of filing criminal accusations to actively seek criminal penalties on violations that:

- a) Substantially restrain competition in a particular field of trade, including price cartels, supply restraint cartels, market allocation agreements, bid rigging, group boycotts and private monopolization. These examples constitute serious cases that are likely to have a widespread influence on the national economy.
- b) Involve firms or industries that are repeat offenders or do not take the appropriate measures to eliminate a violation, and for which the administrative measures of the JFTC are not considered sufficient to meet the aims of the Antimonopoly Act.

14. In 2013, concerning the following case, the JFTC conducted a criminal investigation and filed a criminal accusation with the Prosecutor-General.

- A Criminal Accusation on Bid-Rigging Concerning Snow-Melting Equipment Engineering Works for Hokuriku Shinkansen Ordered by the Japan Railway Construction, Transport and Technology Agency

The JFTC filed a criminal accusation with the Prosecutor-General against 8 enterprises who had agreed to designate successful bidders and to bid at prices allowing the designated successful bidders to win with respect to snow-melting equipment engineering works for Hokuriku Shinkansen and, in accordance with the agreement, designated the successful bidders for each of the works, as well as against the 8 individuals who were engaged in equipment engineering business of the 8 accused enterprises (filed on March 4, 2014).

2.1.1.4 Hearing procedures

15. The JFTC initiated hearing procedures on 35 cases in 2013. As of the end of December 2013, the JFTC has been conducting ongoing hearing procedures in 165 cases, 79 of which concerned cease and desist orders, and 86 of which concerned surcharge payment orders.

16. In 2013, following hearing procedures, the JFTC issued decisions on 16 cases.

2.1.2 *Summary of main cases*²

2.1.2.1 Bid rigging

- Case against Participants in Bidding for Overhead Transmission Facility Works and Underground Transmission Line Works Ordered by TEPCO

In relation to a case involving particular overhead transmission facility works and particular underground transmission cable line works ordered by Tokyo Electric Power Company, Incorporated (TEPCO), the enterprises jointly designated a successful bidder for each work and managed to have the designated bidders receive the order.

Given that the above findings are in violation of Article 3 of the Antimonopoly Act (“Prohibition of unreasonable restraint of trade”), the JFTC issued cease and desist orders and surcharge payment orders on December 20, 2013. (Total amount of surcharge: 746 million JPY)

Meanwhile, in relation to the above violations, the JFTC also found that TEPCO’s ordering method and a part of TEPCO’s employees induced or facilitated the violations. The JFTC therefore urged TEPCO to improve its order system and to review the effect of the improved system as well as to take appropriate measures to prevent recurrence of the conducts mentioned above.

² Some cases against which the JFTC took legal measures in 2014 are described in this section.

These cases are not included in the number of cease and desist orders or the number of the enterprises on which the JFTC has imposed surcharge payment orders, or in the amount of surcharges imposed by the JFTC in 2013 shown in the paragraph 8 of 2.1.1 and the table in paragraph 9 of 2.1.1.1 or paragraph 12 of 2.1.1.2.

- Case against Participants in Bidding for Overhead Transmission Facility Works and Underground Transmission Line Works Ordered by KEPCO

In relation to a case involving particular overhead transmission facility works and particular underground transmission line works ordered by Kansai Electric Power Company, Incorporated (KEPCO), the enterprises jointly designated a successful bidder for each work and managed to have the designated bidders receive the order.

Given that the above findings are in violation of Article 3 of the Antimonopoly Act (“Prohibition of unreasonable restraint of trade”), the JFTC issued cease and desist orders and surcharge payment orders on January 31, 2014. (Total amount of surcharge: 2370 million JPY)

Meanwhile, in relation to the above violations, the JFTC also found that KEPCO’s ordering method and a part of KEPCO’s employees induced or facilitated the violations. The JFTC therefore urged KEPCO to improve its order system and to review the effect of the improved system as well as to take appropriate measures to prevent recurrence of the conducts mentioned above.

- Case against Participants in Biddings for Engineering Works and Paving Works Ordered by Chiba Prefecture

In relation to a case involving particular engineering works and particular paving works ordered by Chiba Prefecture, the enterprises jointly designated a successful bidder for each work and managed to have the designated bidders receive the order.

Given that the above findings are in violation of Article 3 of the Antimonopoly Act (“Prohibition of unreasonable restraint of trade”), the JFTC issued cease and desist orders and surcharge payment orders on February 3, 2014. (Total amount of surcharge: 223 million JPY)

2.1.2.2 Price Cartels, etc. (excluding bid rigging)

- Case against Manufacturers of High-Fructose Corn Syrup and Manufacturers of Starch Syrup and Glucose

Manufacturers of specific high-fructose corn syrup and manufactures of specific starch syrup and glucose formed and implemented agreements to raise the selling prices.

Given that the above findings are in violation of Article 3 of the Antimonopoly Act (“Prohibition of unreasonable restraint of trade”), the JFTC issued cease and desist orders and surcharge payment orders on June 13, 2013. (Total amount of surcharge: 2,572 million JPY)

- Case against Manufacturers of Starch Adhesive for Corrugated Board

Manufacturers of Starch Adhesive for Corrugated Board formed and implemented agreements to raise the selling prices.

Given that the above findings are in violation of Article 3 of the Antimonopoly Act (“Prohibition of unreasonable restraint of trade”), the JFTC issued cease and desist orders and surcharge payment orders on July 11, 2013. (Total amount of surcharge: 255 million JPY)

- Case against a Medical Association

A Medical Association fixed the fees for voluntary flu shots service that would have been to be determined by each Association member and disseminated the fixed fees to the members.

Given that the above findings are in violation of Article 8 paragraph 1 of the Antimonopoly Act

(“Prohibition of unreasonable restraint of trade by trade association”), the JFTC issued cease and desist orders on February 27, 2014.

- Case against International Ocean Shipping Companies

International Ocean Shipping Companies agreed to mutually refrain from contending for customers by not offering lower freight rates and to raise or maintain freight rates for particular international ocean shipping service for automobiles.

Given that the above findings are in violation of Article 3 of the Antimonopoly Act (“Prohibition of unreasonable restraint of trade”), the JFTC issued cease and desist orders and surcharge payment orders on March 18, 2014. (Total amount of surcharge: 22,718 million JPY)
In this case, the JFTC started an investigation almost at the same time as the US Department of Justice and European Commission, etc. in September 2012.

2.1.2.3 Unfair trade practices

- Case against a Supermarket

A Supermarket forced, when opening or remodelling stores, those who were in an inferior bargaining position (hereinafter referred to as “specific suppliers”) among its regular suppliers to dispatch their employees to display, assort or take away the merchandises including what had not been supplied by the specific suppliers without concluding prior agreements with them regarding the dispatch conditions or paying them general employee dispatch costs.

Given that the above findings are in violation of Article 19 of the Antimonopoly Act (falling within Paragraph 9 Item 5 [ASBP]), the JFTC issued a cease and desist order and a surcharge payment order on July 3, 2013. (Total amount of surcharge: 1,287 million JPY)

- Case against a Discount Retailer

A Discount Retailer forced, when opening or remodelling stores, those who were in an inferior bargaining position (hereinafter referred to as “specific suppliers”) among its regular suppliers to dispatch their employees to move or display etc. merchandises, including what had not been supplied by the specific suppliers, according to the way of shelf assignment arranged by the staff of the Discount Retailer in charge of purchases without concluding prior agreements with them regarding the dispatch conditions or paying them general employee dispatch costs.

Given that the above findings are in violation of Article 19 of the Antimonopoly Act (falling within Paragraph 9 Item 5 [ASBP]), the JFTC issued a cease and desist order and a surcharge payment order on June 5, 2014. (Total amount of surcharge: 1,274 million JPY)

2.1.3 *Lawsuits seeking to overturn the JFTC’s decisions*

17. Regarding lawsuits seeking to overturn the JFTC’s decisions, 10 court decisions were made in 2013. 7 new lawsuits have also been filed. As of the end of December 2013, there were 11 pending lawsuits.

2.2 Mergers

2.2.1 Statistics relating to mergers

18. Based on the provisions of the Antimonopoly Act, mergers³ exceeding a certain size in Japan must be notified to the JFTC prior to the transaction. The JFTC conducts reviews of notified cases, and may conclude that a transaction may substantially restrain competition in a particular field of trade. The JFTC has the power to issue cease and desist orders in such a case (acquisitions of shares, etc.). Throughout 2013, 284 planned mergers were notified to the JFTC. The JFTC conducted Phase II reviews concerning 3 cases, in none of which the JFTC concluded that competition in any particular field of trade might not be substantially restrained with remedies.

Table 1

Year	Number		Phase II review
	Notifications	Phase I review	(with remedies)
2013	284	280	3 (0)

Note 1: The number of "Notifications" above includes that of notifications withdrawn due to the filing company's issues.

Note 2: The number of the cases for "Phase I review" does not include the cases subject to "Phase II review".

2.2.2 Main merger cases

2.2.2.1 The Proposed Acquisition of Shares of the Daiei, Inc. by AEON CO. LTD.

Outlines of the transaction

19. AEON CO., LTD. (hereinafter referred to as "AEON", and AEON and all companies operating supermarkets which already have a joint relationship with AEON will be collectively referred to as the "AEON Group".) is planning to acquire the shares of Daiei (hereinafter referred to as "Daiei", and all its subsidiary companies operating supermarkets will be collectively referred to as the "Daiei Group.") through a takeover bid (the planned acquisition of shares is hereinafter referred to as "the Acquisition"). Daiei will become an AEON's subsidiary after the Acquisition. The provision of applicable law is Article 10 of the Antimonopoly Act.

Outline of the results

20. The JFTC concluded that the Acquisition would not substantially restrain competition in any particular fields of trade.

Particular field of trade

- Service range

³ Hereinafter, "mergers" refer to all forms of business combination including "acquisitions of shares", "mergers", "joint incorporation-type splits", "absorption-type splits", "joint share transfers", and "acquisitions of business"

21. The Parties operate general supermarkets (“General Merchandise Store” GMS) that sell a wide range of goods including groceries, daily commodities, and clothing, as well as food supermarkets that sell mostly groceries. Both GMS and food supermarkets have well-supplied stocks of perishable food and other groceries, targeting customers. GMS and food supermarket operators recognize that competition exists not only among stores in the same category, but also between GMS and food supermarkets. At the same time, consumers do not actually consider whether it is GMS or a food supermarket when purchasing groceries.

22. Convenience stores, drug stores, and home centers offer overlapping selection of products with supermarkets. Shops of these categories are now supplying a wider range of groceries, obscuring the difference among each category of stores. However, when compared with supermarkets, which have competitive edge in perishable food and other groceries, other types of stores are not as well stocked with these items, and consumers are selective when shopping in supermarkets and other types of stores in accordance with the purposes of their purchase.

23. Accordingly, the JFTC defined the “supermarket business” (GMS and food supermarkets) as the service range.

- Geographic range

24. It is considered that supermarkets compete with each other on store-by-store basis. Each operator uses customer surveys and other methods to find out where repeat customers live and to define its trading area for sending out fliers and studying competitors. Trading areas may vary depending on location (downtown or suburb) and size of each store.

25. The JFTC has, in this case, defined the geographic range for each store to be an area within a radius of 500 to 3,000 meters from the store, which is considered to be a trading area for each store, depending on the store location, size, and other factors.

26. During the review, the JFTC focused on the geographic range for each Daiei group’s store. Since the actual trading area may not be an exact circle because of landform, like rivers, hills, or mountains, major roads, or other factors, the competition status in the actual trading area were examined when necessary.

Assessment under the Antimonopoly Act

- Joint relationship to be strengthened by the Acquisition

27. Currently, AEON already controls nearly 20% of Daiei’s voting rights, making it the second largest holder of voting rights. AEON and Daiei also have interlocking directorates and business alliances. This shows that AEON and Daiei already have had a joint relationship to a certain degree. Through the Acquisition, AEON will obtain additional voting rights of Daiei, making the latter its subsidiary, strengthening their joint relationship. It is, therefore, necessary to examine the impact that the strengthening of a joint relationship by the acquisition would have on the competition.

- Review concerning substantial restraint of competition

1. Status of competition in each geographic range

For the approximately 100 geographic ranges requiring specific considerations, the JFTC has

reviewed the impact the Acquisition may have on competition in each range by using information on location, size, and other aspects of the Parties' and their competitors' stores in each geographic range and actual trading area, and also by using customer survey reports and other data provided by the Parties.

Through this review, the JFTC found that all geographic ranges falls under either situation described below and the JFTC concluded that, even after the Acquisition there will still be active competition between the Parties' and their competitors' stores.

- a) Where the Parties' store was in a weaker competitive position due to size or other disadvantages, there was one or more competitive stores of other competitors.
- b) Where one Party's store is located relatively apart from the other Party's store within the same geographic range, there exist one or more competitive stores, located relatively close to the Parties' store, which is owned by other competitors.
- c) Where one Party's store is located relatively close to the other Party's store and in active competition with each other, there also existed one or more competitive stores of other competitors within the same actual trading area and customers purchasing at the party's stores also purchase at the stores of other competitors.

2. Entry pressure

Permission to sell processed meat, required by the Food Sanitation Act (Act No.233 of 1947), or any other permission mandatory under the law, cannot be considered as an institutional entry barrier against the supermarket business. Similarly, for supermarket operators planning to open a new supermarket, their initial investment level cannot be considered to be an entry barrier for new store opening, since the sum required to open a standard-sized supermarket is normally a few hundred million yen, recoverable in several years under general circumstances. In order to preserve the living environment around the planned location of stores, all large-scale retail facilities with floor area exceeding 1,000 square meters are required to submit applications to the local prefecture or ordinance-designated city beforehand under the Act on the Measures by Large-Scale Retail Stores for Preservation of Living Environment (Act No.91 of 1998). Many applications have been submitted under the Act. There are also many new supermarkets with 1,000 square meters or smaller floor areas which are not required to notify. Therefore, the JFTC recognizes that there is entry pressure to a certain degree.

3. Competitive pressure from related markets

Competitive pressure from other businesses including convenience stores Products being sold in supermarkets are also offered at other types of stores, including convenience stores, drug stores, and home centers, although the latter group's selection of products may be limited. While supermarkets have an advantage over other types of stores in selling perishable food and other groceries, it is recognized that there is a certain level of competition over prices and customer services in selling products that overlap between them, by using special offers and other methods, to lure customers.

Therefore, the JFTC recognizes that there is competitive pressure from other businesses to a

certain degree.

Also, in areas neighbouring the geographic range defined in above 1. c, there are supermarkets operated by competitors. The Parties' stores are engaged in a certain level of competition over prices and customer services, by using special offers and other methods to lure customers, with competitors' stores in these neighboring areas.

Therefore the JFTC recognizes that there is competitive pressure from geographically neighboring markets to a certain degree.

4. Daiei's financial condition

Daiei has been showing poor performances with ordinary losses in three out of last five fiscal years up to the year ending February 2013, while making net losses for five consecutive fiscal years. Since Daiei Group's business ability has been limited as a result, competition between AEON Group stores and other competitors' stores is equivalent or more active compared to the competition between AEON Group stores and Daiei Group stores in many of the geographic ranges,.

Conclusion

28. The JFTC concludes that the Acquisition would not substantially restrain competition through unilateral conduct of the Parties or through coordinated conduct of the Parties with competitors.

- Review on the Proposed Integration in Thermal Power Generation Systems Businesses of Mitsubishi Heavy Industries, Ltd. and Hitachi, Ltd.

Outlines of the transaction

29. Mitsubishi Heavy Industries, Ltd. (hereinafter referred to as "MHI", and a group of combined companies whose ultimate parent company is MHI will be referred to as the "MHI Group") which is a company engaged in the manufacture of industrial machinery, etc. plans to transfer the thermal power generation systems businesses within its corporate group to MH Power Systems, Ltd. (hereinafter MH Power Systems, Ltd. before the integration will be referred to as "MHPS" and the same company after the integration will be referred to as "the Integrated Company.") in the form of absorption-type company split, and (ii) Hitachi, Ltd. (hereinafter referred to as "Hitachi", and a group of combined companies whose ultimate parent company is Hitachi will be referred to as the "Hitachi Group") which is a company engaged in the manufacture of industrial machinery, etc. also plans to transfer the same businesses within its corporate group to MHPS in the form of absorption-type company split.

30. A notification regarding the transaction above (ii) was submitted by MHPS and Hitachi (hereinafter collectively referred to as "the Notifying Companies."). The provision of applicable law is Article 15-2 of the Antimonopoly Act.

31. *Note 1: The manufacture and sale business of machinery such as boilers, steam turbines, gas turbines which constitute thermal power plants as well as the design and construction business of thermal power plants are collectively referred to as the thermal power generation systems business.

32. Regarding this case, the JFTC has concluded that the Integration will not substantially restrain competition in the fields of trade regarding “supercritical pressure thermal power plants supply business,” “supercritical pressure boilers,” “large steam turbines,” and “large gas turbine combined cycle power generation plant supply business”, in which the Parties compete with each other.

Assessment under the Antimonopoly Act (Supercritical pressure thermal power plants supply business)

- Steam-power generation plants are categorized into two main types: supercritical pressure thermal power plants using supercritical pressure boilers and large steam turbines both of which deliver large power, and subcritical pressure thermal power plants using subcritical pressure boilers and medium and small steam turbines both of which deliver medium and small power. Regarding this case, the JFTC’s examined the field of trade regarding “supercritical pressure thermal power plants supply business”, in which the parties compete with.
- In the past, there had been active competition among the MHI Group, the Hitachi Group, and Company A. However, Company B has recently entered the market. Each company has excess capacities. Therefore, it is considered that competition continues to be active between the Integrated Company and Company A, a major competitor, and that Company B, a new entrant, will function as a competitive constraint on the Integrated Company. As supercritical pressure thermal power plants designed by each plant manufacturer have their own features and are different from each other, supercritical pressure thermal power plants supply is considered as a service for which coordinated conduct with competitors is unlikely to occur.
- As, since September, 2012, in principle, general electricity utilities are required to call for tenders (hereinafter referred to as “IPP tender”) for all thermal power supplies in case they newly or additionally build, or replace thermal power supplies with a capacity of one or more MW by themselves, companies winning a bid in IPP tender are supposed to order supercritical pressure thermal power plants supply business to plant manufacturers.

33. In this regard, the companies participating in IPP tender request that plant manufacturers provide a preliminary estimate amount. However, even if multiple companies participate in the same IPP tender, the sizes of supercritical pressure thermal power plants which they plan to build, and the plant manufacturers which they request to provide a preliminary estimate amount can be different. When plant manufacturers provide an expensive preliminary estimate amount to companies participating in IPP tender, which would result in the loss of competitiveness of the companies, it is possible that they give up making a bid in IPP tender due to unprofitability. As a result, in such cases, plant manufacturers cannot supply such companies with supercritical pressure thermal power plants. Thus, the IPP tender makes the form of competition more complicated than ever before, which is considered to act as a certain constraint on the Integrated Company’s unilateral conduct and its coordinated conduct with competitors.

34. As described in above, since not only Company B has entered the market but also other companies are considering to enter the market, the JFTC recognizes that there is entry pressure to a certain degree.

- It is large-scale customers that order supercritical pressure thermal power plants, and these customers are capable to calculate prices appropriate for them of thermal power plants they order based on information such as the past procurements, and negotiate a price with plant manufacturers to make a price appropriate for them. Besides, it seems that in the case of customers making requests to lower prices based on reasonable grounds, plant manufactures accept such requests. In addition, it is considered that customers will negotiate prices more

severely as they place more emphasis on costs than ever before in the procurement of supercritical pressure thermal power plants because of IPP tender. Accordingly, the JFTC recognizes that there is robust competitive pressure from customers.

Conclusion

35. The JFTC recognizes that the Integration will not substantially restrain competition in the field of supercritical pressure thermal power plants supply business through the Integrated Company's unilateral conduct or through its coordinated conduct with competitors

3 The role of the competition authority in the formulation and implementation of other policies

3.1 *Coordination between the Antimonopoly Act and other economic laws and ordinances*

36. When administrative bodies propose to enact or amend an economic law or ordinance from the standpoint of a specific policy requirement, the JFTC acts in accordance with these bodies to ensure coordination of the proposed provisions with the Antimonopoly Act and the competition policy. In 2013, as in previous years, the JFTC submitted its opinions after consultation with other administrative agencies.

3.2 *Study Report on Childcare Sector*

3.2.1 *Background of survey and study*

37. It is said in Japan that the difficulty in balancing child-rearing and working is one of the factors of declining birth rate. Especially in urban areas, short supply of childcare facilities leads to a huge issue that a large number of children are on waiting lists.

38. In accordance with three new child-rearing-related legislations enacted in August 2012, "the Comprehensive Support System for Children and Childrearing"(hereinafter, the "new system") is scheduled to start in April 2015, and both the national and local governments are now working on the preparation for the implementation of the new system. Likewise, based on the "Zero Childcare Waiting List Acceleration Project" launched by the Prime Minister Shinzo Abe on April 19, 2013, various efforts have been increasingly made by the Japanese government to achieve the goal that no children will have to wait when receiving childcare services by the end of FY2017.

39. In addition, the "Japan Revitalization Strategy," which was adopted by the Japanese Cabinet on June 14, 2013, states that the childcare sector is one of "the sectors that could become the driving force of growth as vast new markets, depending on the institutional design" and "there is significant room remaining for improvement *snip* to efficiently provide good quality and low cost services and products to the people. For the purpose of contributing to the growth and development of Japan, the "Regulatory Reform Implementation Plan" (Cabinet approval on June 14, 2013) states that regulatory reform shall be undertaken to completely eliminate waiting lists for children, while maintaining the quality of childcare. Childcare service is not only a sector in need of filling demands, but also one that is expected to become a growth area of Japanese economy. Keeping in mind that the objective of competition policy is to promote fair and free competition among operators, thereby ensuring benefits for consumers, the JFTC conducted a survey and analysis on the state of childcare sector, and identified key issues from the viewpoint of competition policy.

3.2.2 *Survey Results and Viewpoints concerning Competition Policy related to the Childcare Sector*

3.2.2.1 New Entry

3.2.2.1.1 Survey Results

40. It is essential to allow for new entry of diverse forms of operators so that motivated operators are not excluded from entry into the childcare sector.

41. Institutionally, no limit is imposed on the form of entity establishing a daycare centers, but some municipalities are reluctant to admit the entry of stock companies, etc. into the childcare sector and, for example, they limit qualified applicants to social welfare corporations in their application guidelines. Some opinions were expressed about new entry: “Some municipalities accept only existing social welfare corporations,” “We were asked to obtain agreement for new entry from all presidents of existing daycare centers in the same area.”

42. As reasons why some municipalities do not select stock companies as establishment entities of daycare centers, they noted “concerns regarding bankruptcy” and “concerns about the quality of provided daycare services.”

43. As for guardians, most of them are positive about the entry of stock companies.

3.2.2.1.2 Viewpoints from Competition Policy related to the Childcare Sector

44. In keeping with measures taken in the new system, municipalities should operate their approval systems so that various types of operators can enter the childcare sector irrespective of the form of corporation, even under the current system.

45. Needless to say, under the new system, municipalities should avoid unfair operation of their approval systems (for instance, setting conditions and regulations to prevent stock companies, etc. from entering the childcare sector), in order not to bring disadvantage to operators in specific forms.

46. In addition, while refraining from imposing conditions that make it difficult for possible new operators to newly enter, for instance, by asking them to obtain agreement from existing operators, municipalities need to provide enough opportunities of new entry to a wide range of motivated operators; for example, by selecting establishing entities through public invitation. At the same time, municipalities need to make efforts to eliminate arbitrariness by utilizing objective criteria when selecting specific operators, on the premise that legal approval requirements are satisfied.

3.2.2.2 Subsidy and Tax Systems

3.2.2.2.1 Survey Results

47. It is required to promote the entry of various types of operators so that users can enjoy benefits sufficiently and equally, and to ensure equal footing regarding subsidy and taxation systems so that operators can provide childcare services under equal conditions.

48. It was found that some municipalities' subsidy systems limited subjects of subsidies to social welfare corporations or were setting differences between social welfare corporations and other corporations regarding the amounts and conditions for granting subsidies.

49. Regarding this, the following issues were pointed out: "If a municipality's own subsidy system does not consider stock companies as its subjects, stock companies dare not enter the childcare businesses in the municipality" and "Setting differences between social welfare corporations and stock companies in the subsidy amount negatively affects the treatment of nursery teachers and the development of new businesses by creating differences in income among staff at social welfare corporations and stock companies."

50. Social welfare corporations are exempted from corporate tax, local inhabitant taxes, and enterprise tax in principle.

51. On this point, some people expressed that "as the amount of surplus funds changes depending on whether or not tax is imposed, the ease of establishing day-care centers also changes" and "whether or not tax is imposed makes difference in childcare services."

3.2.2.2.2 Viewpoints from Competition Policy related to the Childcare Sector

52. Municipalities need to establish fair subsidy systems of their own irrespective of the form of corporation, so that operators can provide childcare services under fair conditions.

53. As for tax systems against operators establishing day care centers, sufficient consideration should be given to the taxation measures, taking into account possible impacts of tax levy on the contents of childcare services provided by operators, as well as purposes and effectiveness of giving social welfare corporations tax incentives in a comprehensive manner since a wide range of operators including stock companies are allowed to enter the childcare sector and the number of operators entering the sector is expected to increase..

3.2.2.3 Information Disclosure and Third Party Evaluation

3.2.2.3.1 Survey Results

54. It is expected that such selection by guardians will further encourage operators to improve the contents and quality of their childcare services. To this end, useful information for guardians needs to be widely provided and to be easily accessed by guardians.

55. Regarding this, given that there are gaps between information demanded by guardians and that actually disclosed by municipalities and childcare facility operators, at present, it can hardly be said that information useful to guardians is disclosed in a way they can easily access.

56. Apart from information disclosure, promoting operators to receive third-party evaluation implemented from a professional point of view and disclose evaluation results is an effective ways to improve and enhance the quality of childcare services, by encouraging operators to review their childcare services and to compare them with those provided by different daycare centers. Also, this helps guardians compare and judge daycare centers.

57. However, third-party evaluations have not been received widely at the national level so far. As a result, the public awareness of the third-party evaluation system and the utilization of evaluation results

among guardians are still low. This means that the third-party evaluation system is not so successful in influencing the selection of daycare centers by guardians so far.

3.2.2.3.2 Viewpoints from Competition Policy related to the Childcare Sector

58. Operators should understand what kind of information is demanded by guardians, and disclose such information in a more proactive manner, utilizing methods that are easily available to guardians; for instance, through online disclosure, including on daycare centers' websites, which many guardians use as a way to obtain information.

59. In addition, the government and municipalities should make the third-party evaluation system known to guardians and increase awareness of the system. At the same time, they should improve the recognition of operators regarding the necessity and meaning of the evaluation system, while ensuring third-party evaluation results are disclosed in a more specific and friendly way so that guardians can use such results for comparing and judging daycare centers.

60. Operators should make efforts for more active reception of evaluation and announcement of evaluation results.

3.2.2.4 Additional Services

3.2.2.4.1 Survey Results

61. To respond to a wide range of demands from users for childcare services, it is essential to diversify the contents of childcare services and increase options for users by admitting additional services provided by operators and facilitating innovativeness among operators through competition on the premise that rules to ensure health and safety of children are complied with, while enough attention is paid to provide necessary childcare services to low-income people.

62. Although it is institutionally possible to provide additional services at daycare centers and collect fees for such services, some municipalities do not admit operators to collect fees necessary to provide additional services and to provide services users can choose whether to use or not, which prevents operators from satisfying demands from guardians sufficiently and from using their innovativeness.

63. As for guardians, there are a certain number of guardians who answered they wanted to use additional services even if extra fees were charged in addition to daycare fees. In other words, there is a certain level of need for additional services, and attitudes that accept the burden of additional fees.

3.2.2.4.2 Viewpoints from Competition Policy related to the Childcare Sector

64. On the premise that rules to ensure health and safety of children are complied with, municipalities should ensure the diversification of childcare services as much as possible by admitting the provision of additional services and the collection of fees for such services and promoting innovation among operators, while paying enough attention to provide necessary childcare services to low-income people.

3.2.3 *Conclusion*

65. Based on the ideas indicated above, it is crucial to establish an environment that allows new entry of diverse operators, competition under fair conditions, appropriate selection by users, and innovation by operators. By that, new entry of diverse operators will be promoted and the supply of childcare services

will increase. At the same time, facilitating competition among operators and appropriate selection by users will improve the quality of childcare services delivered to users. These, in turn, will make the childcare sector a growth sector of the Japanese economy.

3.3 Support on the implementation of competition assessment

66. Since October 2007, as a general rule, each ministry is obliged to implement the ex-ante evaluation of regulations when it implements the institution, revision or abolition of the regulation. On this occasion, each ministry also implements the analysis of impacts of regulation on competition (hereinafter referred to as "Competition Assessment"). Competition Assessment started experimentally in April, 2010. Each ministry is expected to fulfill the checklist regarding the impacts on competition and its analysis (hereinafter referred to as "Competition Assessment Checklist"), then submit Competition Assessment Checklist to the Ministry of Internal Affairs and Communications (hereinafter referred to as "MIC") with the report on ex-ante evaluation of regulation. Thereafter, MIC submits the Competition Assessment Checklist fulfilled by each ministry to the JFTC.

67. In order to disseminate and establish the Competition Assessment in each ministry, having compiled the Competition Assessment Checklist etc. in reference to the OECD Competition Assessment Tool Kit and distributed it to each ministry, in 2013, like the previous year, the JFTC supported the implementation of Competition Assessment including the provision of consultations for ministries about the concept and method of the Competition Assessment when they answer the Competition Assessment Checklist, by not only answering questions, but also explaining the basic concept regarding competition policy which is the foundation of Competition Assessment.

4. Main surveys related to competition policy

4.1 Report on Fact-Finding Survey on Trades between Food Service Operators and Suppliers

68. On November 30, 2010, The JFTC formulated and published "Guidelines Concerning Abuse of Superior Bargaining Position (hereinafter referred to as ASBP) under the Antimonopoly Act (hereinafter referred to as "Superior Bargaining Position Guidelines")" with the goal of increasing the transparency of law enforcement and predictability for enterprises. The JFTC has prevented illegal acts by clarifying the concept of ASBP.

69. The JFTC has surveyed areas of trade where cases are observed that may constitute ASBP, so as to identify how trade practices are actually carried out in these areas. In the "Report on Fact -Finding Survey on the Trades between Large - Scale Retailers and Suppliers" (published in May 2010), there were responses such that there are "some requests that seem unjust in trades with lodging operators and food service operators." With regard to responses in the lodging business such as hotels, etc., in the "Report on Fact - Finding Survey on the Trades between Hotels/Inns and Suppliers" (published in May 2012), "requests for purchasing and utilizing products and services such as Christmas cakes and traditional New Year's dishes are broadly made, and among such requests, there are those that are relentless or unilateral."

70. Based on these fact-finding surveys, as there is the possibility that behaviors that can be linked to ASBP are found in trades between food service operators and suppliers, the JFTC has conducted a survey on the actual state of trades between food service operators and suppliers, sending questionnaires to 5,586 suppliers continuously having trades with the food service operators (with capitals of more than 50 million yen), and compiled the results of the survey into a report (published in May 2013).

71. The main points of the report are as follows.

4.1.1 Main points of the survey results

72. In 10.7% of the trades subject to survey, there has been some sort of action that can be linked to ASBP by a food service operator. As the actual state of trades, actions corresponding to “forced purchase/use” in particular were found more frequently in relation to other types of actions. Such requests for purchase and use made to suppliers that can be linked to ASBP were made by all kinds of food service operators. It is observed that food service operators who manage a chain of restaurants in particular, whose sector category is “eating places,” “drinking houses and beer hall,” or “‘sushi’ bar”, made such requests for purchase and use extensively toward their suppliers.

4.1.2 Response of the JFTC

73. Based on the survey results, with a view to preventing food service operators from abusing the superior bargaining position, the JFTC pointed out issues found in the survey results to the trade associations of food service operators and requested that they take voluntary actions to promote fair trade in the industry, including thoroughly informing members about the Superior Bargaining Position Guidelines once again. Subsequently, to promote fair trade between food service operators and suppliers and prevent illegal acts, the JFTC held workshops for food service operators by category. In particular, the JFTC encouraged those food service operators who are in the sector category in which actions that can be linked to ASBP are often observed to participate actively in such workshops.

4.2 Survey Report on Gasoline Transaction

74. The JFTC has conducted surveys on the condition of gasoline distribution, and published its views in light of the Antimonopoly Act (The reports were published in September 2004 and September 2005). Since then, some changes have emerged in competitive environment of gasoline distribution market including significant changes in setting method of wholesale prices from primary distributors to retailers. Against the backdrop, the JFTC conducted a survey again, sending questionnaires to 8 primary distributors, 11 general/energy trading companies, 3,547 gasoline distributors, a trade association and 2 others, so as to figure out the current condition of gasoline distribution, and compiled the results of the survey into a report (published in July 2013).

75. The main points of the report are as follows.

4.2.1 Main points of the survey results

76. Through this survey, many cases were observed where primary distributors set their wholesale prices to dealerships operating under their trademarks, especially to “general dealerships” (others than primary distributors’ subsidiaries, etc.) at relatively high level, without disclosing sufficient information to the dealerships or negotiating with them at the time of setting the prices. It was also found that primary distributors provide trading companies with own-refined gasoline which was to be distributed to private-labeled gas stations. Such gasoline called “gyoten-gyoku” was generally cheaper. On the other hand, the primary distributors restrained the dealerships from purchasing and selling the “gyoten-gyoku.”

4.2.2 Response of the JFTC

77. Based on the survey results, the JFTC would ask the primary distributors for an improvement on these practices and keep a close watch on their responses. Moreover, the JFTC would take strict actions against primary distributors in cases where it recognizes the facts regarding possible infringements of the Antimonopoly Act such that primary distributors cause disadvantages over trade conditions on “general dealerships” unjustly in light of the normal business practices, by making use of their superior bargaining

positions. Meanwhile, governmental authorities supervising gasoline distribution sector also should take a role of encouraging the parties involved to appropriately address this issue first, so as to build fair competition environment in gasoline distribution market.

4.3 Report on Fact-Finding Survey on Transactions Involving the Use of Logistics Centres

78. The JFTC formulated and published “Superior Bargaining Position Guidelines”, with the goal of increasing the transparency of law enforcement and predictability for enterprises. The JFTC has prevented illegal acts by clarifying the concept of ASBP.

79. The JFTC has surveyed areas of trade where cases are observed that may constitute ASBP, so as to identify how trade practices are actually carried out in these areas. In the previous fact-finding surveys, the JFTC found issues concerning “center fees”⁴ pointed out by survey respondents, who said “we were not provided with an opportunity to discuss a center fee,” and “the burden of a center fee exceeded the benefits arising from the use of the logistics center.”

80. Given the above states of the industry, the JFTC conducted a survey by sending questionnaires to 2000 wholesalers and 2000 manufacturers, each mainly dealing with food or daily sundries, that the JFTC confirmed had reported sales of 1 billion yen or more for the previous year, and the 500 retailers that had undertaken business with any of these wholesalers and manufacturers who the JFTC confirmed had reported sales of 10 billion yen or more for the previous year. The JFTC compiled the results of the survey into a report (published in August 2013).

81. The main points of the report are as follows.

4.3.1 Main points of the survey results

82. The current survey has revealed potential ASBP practices not only in wholesaler-retailer transactions and manufacturer-retailer transactions but also in manufacturer-wholesaler transactions. The survey has also revealed that, in each transaction, transactions with partners with higher degree of trade dependence or annual value of transactions tend to have a higher percentage of transactions where a request made was identified as a conduct that would lead to potential ASBP practice.

4.3.2 Response of the JFTC

83. Based on the survey results, with a view to preventing retailers and wholesalers from abusing the superior bargaining position, the JFTC pointed out issues found in the survey results to the relevant trade associations and requested that they take voluntary actions to promote fair trade in the industry, including thoroughly informing members about the Superior Bargaining Position Guidelines once again. Subsequently, to promote fair trade and prevent illegal acts, the JFTC held the seminars on ASBP for retailers and wholesalers.

⁴ A fee that a retailer who operates a logistics center requests wholesalers or manufacturers delivering to its logistics center to pay for using the center. The same shall apply hereinafter.

5. International efforts to strengthen the cooperation and coordination of competition law and competition policy

5.1 *Bilateral efforts*

84. In recent years, there has been an increasing need to strengthen the cooperation and coordination among competition authorities given the globalization of corporate activities. In response to this situation, the JFTC is making efforts to strengthen its cooperative relationship with foreign competition authorities through bilateral anticompetitive cooperation agreements and other initiatives. In addition, the JFTC is participating in negotiations related to competition policy, which is an important element of economic partnership agreements, and working with various government ministries and agencies.

5.1.1 Bilateral meetings with foreign competition authorities

85. In 2013, the JFTC held bilateral meetings on competition policy with the competition authorities of Hungary, Korea, United States, Canada and EU.

5.1.2 Efforts for economic partnership agreements

86. In 2013, Japan commenced economic partnership agreement negotiations on an unprecedented scale, such as the Trans-Pacific Partnership (TPP) agreement, the Regional Comprehensive Economic Partnership (RCEP), the Free Trade Agreement (FTA) between Japan, China and the ROK, and the Japan-EU Economic Partnership Agreement (EPA). Besides Japan has promoted EPA negotiations with Canada, Mongolia, Colombia, Australia and so on, where the JFTC has participated in negotiations regarding the chapter related to competition policy.

5.1.3 Memorandum on Cooperation / Cooperation Arrangement between competition authorities

5.1.3.1 Memorandum on Cooperation with the Philippine DOJ

87. The JFTC on August 28, 2013, signed Memorandum on Cooperation with the Department of Justice of the Republic of the Philippines (hereinafter, "Philippine DOJ"), which is the competition authority of the Republic of the Philippines. Accordingly, cooperation based on this Memorandum was started. This Memorandum provides the manners of notification and exchange of information, etc. between the JFTC and the Philippine DOJ.

5.1.3.2 Cooperation Arrangement with the VCA

88. The JFTC on August 28, 2013, signed Cooperation Arrangement with the Competition Authority of the Socialist Republic of Viet Nam (hereinafter, "VCA"), which is the competition authority of the Socialist Republic of Viet Nam. Accordingly, cooperation based on this Arrangement was started. This Arrangement provides details concerning the implementation of the cooperation set forth in the Agreement between Japan and the Socialist Republic of Viet Nam for an Economic Partnership in terms of the manners of notification and exchange of information, coordination of enforcement activities, etc. between the JFTC and the VCA.

5.2 *Multilateral efforts*

89. The JFTC proactively participates in the activities of organizations such as the International Competition Network(ICN), the Organization for Economic Co-operation and Development(OECD), Asia-Pacific Economic Cooperation(APEC) and the United Nations Conference on Trade and

Development(UNCTAD). In addition to these activities, the JFTC plays a leadership role in the East Asia Top Level Official's Meeting on Competition Policy and the East Asia Conference on Competition Law and Policy.

90. Especially, the "International Competition Network's Framework for Merger Review Cooperation" was established at the ICN's 11th Annual Conference in April 2012. This framework was proposed by the chairman of the JFTC at the time and is overseen by the JFTC for the purpose of promoting effective and efficient multijurisdictional merger review among ICN members.

5.3 Technical Assistance

91. Given that developing economies are either actively strengthening their existing competition law systems or introducing new ones, the JFTC provides technical assistance for such countries by dispatching its staff, organizing training programs, etc. In 2013, the JFTC implemented training courses on competition policy for Indonesia, the Philippines, Vietnam and China, Malaysia, etc.

5.3.1 Main international activities during 2013: Summary

- The 12th ICN Annual Conference (Warsaw, April)
- Operating International Competition Network's Framework for Merger Review Cooperation
- East Asia Top Level Officials' Meeting on Competition Policy (Manila, August)
- Bilateral consultations with foreign competition authorities (Hungary, Korea, United States, Canada and EU)
- Signing the Memorandum on Cooperation, etc. between competition authorities (Philippine and Viet Nam)
- Providing training on competition policy (Indonesia, Philippines, Viet Nam, China, Malaysia, etc.)

6. Public relations, etc.

6.1 Public relations

92. For the purpose of enhancing public understanding of competition policies, the JFTC engages in public relations activities, providing the general public with information on legislation, including the Antimonopoly Act, and its own activities through press releases, the JFTC website and other means. The JFTC established dedicated websites to provide information aiming at the general consumer and children respectively. Some sections of the websites give comprehensive explanations and examples of the Antimonopoly Act and the activities of the JFTC.

93. Other than the above activities, the JFTC hosted the "One Day JFTC" and held "Consumers Seminar," the former of which is to further enhance the public's understanding and consultation services regarding the Antimonopoly Act and the Subcontract Act, and the latter of which is to introduce consumers to the Antimonopoly Act and the JFTC's work. These events were held in local cities, where the JFTC's offices are not located. Also, at the request of junior high schools, high schools, universities, etc., the JFTC has made efforts to spread knowledge of competition policy through school education by dispatching staff to speak on the role of competition in economic activity.

94. Moreover, the JFTC is open to opinions and responds to requests made by the public at informal gatherings. The process of encouraging, offering and gathering information is designed to help prevent businesses and their associations from committing violations of the Antimonopoly Act, etc., and to ensure that competition policies properly reflect the views and wishes of people from all walks of life.

95. The main activities during 2013 were as follows:

Table 2

Types of Activities	Press Releases	Exchange of opinions with local experts*	Lectures in schools	Consumers Seminar	One Day JFTC
Number	293	93	141	55	8

(Notes). The JFTC Commissioners, etc., met with representatives of the business community, academic experts, mass media, consumer groups, etc., in local districts.

96. In addition to the above, because the efforts of procurement officers are extremely important in fully preventing bid-rigging, the JFTC has training workshops about the Antimonopoly Act and Involvement Prevention Act for procurement officials, etc. in local government agencies and other authorities and the JFTC has also cooperated with the central government offices, local government agencies and other authorities, by dispatching lecturers and providing materials and other material when they hold similar training workshops. In 2013, the JFTC held 28 training workshops and dispatched lecturers in 277 cases to central government, local government agencies and specified juridical persons.

6.2 Policy evaluation

97. Since FY 2002, the JFTC has implemented a policy evaluation based on “the Government Policy Evaluation Act”. In 2013, the JFTC implemented 8 ex-post evaluations including the “Prompt and appropriate merger control” and “Strict coping with the violations of the Antimonopoly Act,” by means of performance evaluation, and published the report on policy evaluation.

98. Out of all the evaluated policies described below, consumer benefits protected by each policy were estimated with regards to “Prompt and appropriate merger control” and “Strict coping with the violations of the Antimonopoly Act”. For the “Prompt and appropriate merger control” policy, consumer benefits of an estimated 49.4 billion JPY was protected by the reviews of 3 cases in which remedies were taken. As for the “Strict coping with the violations of the Antimonopoly Act” policy, consumer benefits of an estimated 236.4 billion JPY was protected by legal measures taken in 20 cases.

99. In addition, the “Promotion of coordination with foreign competition authorities” policy was evaluated in light of the following activities of the JFTC:

- Holding of meetings such as bilateral meetings with foreign competition authorities based on the bilateral Anti-monopoly Cooperation Agreement.
- Participating in multilateral discussions.
- Providing technical assistance training for developing countries and countries with economies in transition.
- Publicizing the competition policy of Japan in other countries.

100. As a result, the necessity, effectiveness and efficiency of the policy were well appreciated. By contrast, methods for implementing technical assistance training and publicizing information overseas were pointed out to have rooms for improvements.

Table 3: Report on policy evaluation published in 2013

Evaluated Policies		Evaluating Method
Measures etc. against violation of the Antimonopoly Act	Hearing procedures	Performance Evaluation
	Prompt and appropriate merger control	Performance Evaluation
	Strict coping with the violations of the Antimonopoly Act	Performance Evaluation
Measures etc. against violation of the Subcontract Act	Promoting appropriate trade practices	Performance Evaluation
	Proper application of the Subcontract Act	Performance Evaluation
Public relations and public hearing etc. on competition policy	Public relations and public hearing on competition policy	Performance Evaluation
	Promotion of coordination with foreign competition authorities	Performance Evaluation
	Creation of competitive market environment	Performance Evaluation

7. Resources (FY 2013)

7.1 Budget (unit: JPY billion and %)

101. The budget of the JFTC is as follows (unit: billion JPY, %).

Table 4

Fiscal Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Budget amount (JPY billion)	7.82	8.13	8.34	8.42	8.68	8.45	8.96	8.91	8.74	8.80
Change over previous year (%)	Δ0.4	4.0	2.5	0.9	3.2	Δ2.7	6.1	Δ0.5	Δ1.9	0.7
General Expenditures Budget: change over previous year (%)	0.1	Δ0.7	Δ1.9	1.3	0.7	9.4	3.3	1.2	Δ4.2	4.2

Note: The General Expenditures Budget refers to the total budget of the Japanese government and is the amount of General Account Budget Expenditures less National Debt Service and Local Allocation Tax Grants.

7.2 Number of officials (FY 2013)

102. The number of officials in the General Secretariat of the JFTC is as follows (unit: persons).

Table 4

Fiscal Year	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
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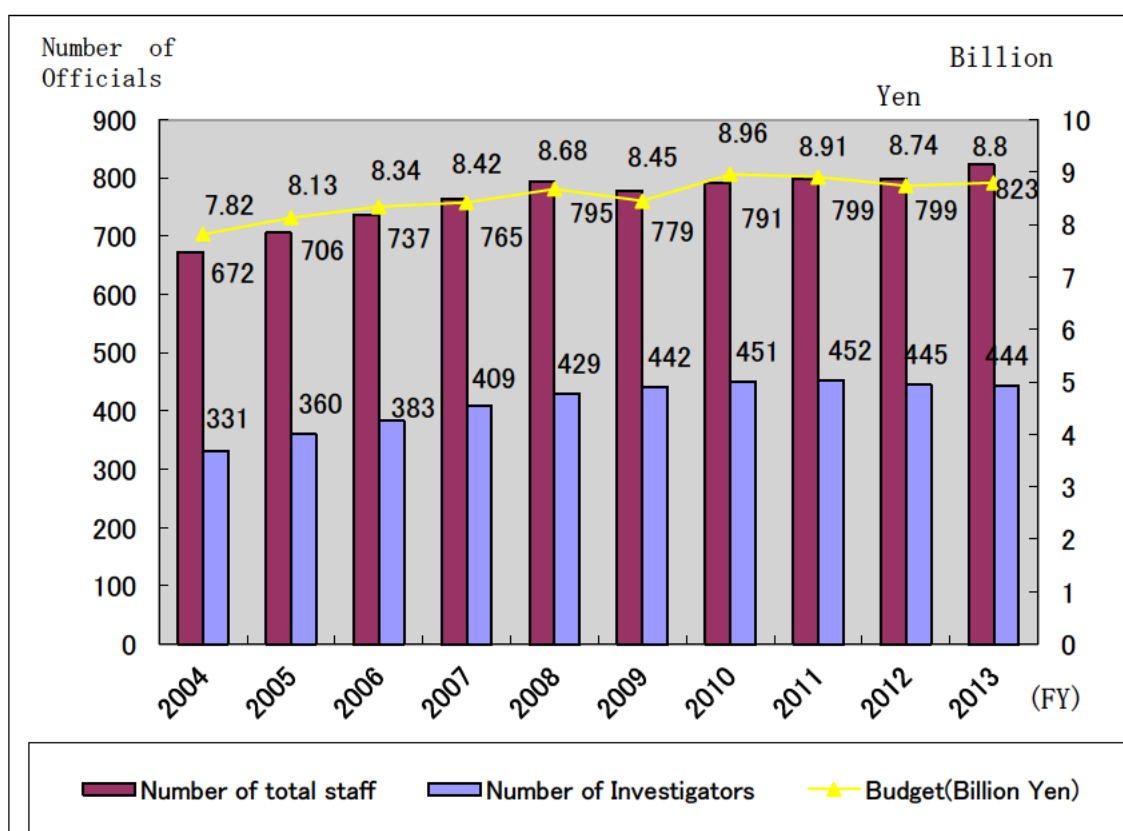
Number of officials	672	706	737	765	795	779	791	799	799	823
Enforcement against anti-competitive practices	331	360	383	409	429	442	451	452	445	444
Merger review enforcement	32	32	35	36	36	36	35	37	41	40
Advocacy efforts	30	37	36	34	35	35	36	35	33	33

Note 1: The number of officials engaged in enforcement against anticompetitive practices refers to the investigation Bureau and Investigation Divisions of local offices.

Note 2: The number of officials engaged in merger review enforcement refers to the Mergers and Acquisitions Division.

Note 3: The number of officials engaged in advocacy efforts refers to the General Affairs Division of the Economic Affairs Bureau and the Coordination Division.

Figure 1: Budget and Number of Officials (FY 2004-2013)



8. Activities of the Competition Policy Research Center

103. The Competition Policy Research Center (hereinafter referred to as the “CPRC”) develops research activities through a collaboration between the JFTC staff, director, chief researchers, and visiting researchers (a total of 16 persons at the end of December 2013) specialized in the fields of economics and law. These research activities are aimed at strengthening the theoretical and empirical basis for the implementation of the Antimonopoly Act and the preparation of competition policies. The director, chief researchers and visiting researchers are mostly university professors participating in the CPRC on a part-time basis.

104. In 2013, the CPRC published 3 joint research reports and 1 discussion paper. It organized 3 open seminars and 1 international symposium. The research reports and discussion papers as well as the

presentation materials of the open seminars and international symposia are made available at the CPRC website.

8.1 *Joint research reports*

- Trends in the Electronic Book Market (June 2013)
- Review of Means for Proof in Cartel Cases - Application of Circumstantial
- Evidence - (June 2013)
- Application of EU State Aid Regulations to Japan (July 2013)

8.2 *Discussion papers*

- "On the Relationship between Competitive Advantage in Global Markets and Domestic Competition" (June 2013)

8.3 *Hosting open seminars*

105. The CPRC hosts open seminars to introduce the results of its joint research reports, etc. In 2013, the following 3 open seminars were held.

Table 4

Date	Theme	Speaker	Moderator, Panelists and Commentators
May 10	Resale Price Maintenance: Economics and policy implications	Patrick Rey, Professor of Economics, University Toulouse I	Moderator: Yosuke Okada, Director of CPRC • Professor, Graduate School of Economics, Hitotsubashi University
June 14	[1] Competition Policy in Japan : Historical survey [2] Future prospect of regulations against unilateral conduct	[1] Yosuke Okada, Director of CPRC • Professor, Graduate School of Economics, Hitotsubashi University [2] Fumio Sensui, CPRC Visiting Researcher • Professor, Graduate School of Law, Kobe University	Moderator: Koki Arai, Vice- Director of CPRC Commentator: Kaoru Hattori, Partner attorney of Nagashima Ohno & Tsunematsu
November 15	Trends in the Electronic Book Market	Hiroshi Ohashi, CPRC Chief Researcher • Professor, Graduate School of Economics, University of Tokyo Katsuyuki Izumi, Professor, School of Law, Kyoto Women's University	Moderator: Yosuke Okada, Director of CPRC • Professor, Graduate School of Economics, Hitotsubashi University Commentator: Satoshi Hamaya, Executive Director, FUJITSU RESEARCH INSTITUTE

Note: Titles listed in the above table were applicable at the time.

8.4 *Hosting an international symposium*

106. Playing a central role in the international exchange of competition policies, the CPRC hosts international symposiums that bring together senior officials of foreign competition authorities and academic specialists.

107. An international symposium entitled "The Role of Competition Policy in Emerging Economies" was held in February 2013. Participating invitees included Ms. Geeta Gouri (Member, Competition Commission of India), Mr. Wu Hanhong (Director of The Research Center of Industrial Economy and Competition Policy at Renmin University of China, Professor of School of Economics of Renmin University of China), Mr. Victor Gomes (Chief-Economist, Department of Economic Studies, Conselho Administrativo de Defesa Econômica, Associate Professor, Department of Economics, Universidade de Brasilia), Mr. Tetsushi Sonobe (Adviser to the President and Professor, National Graduate Institute for Policy Studies).

108. Note: Titles listed in the above table were applicable at the time.