

# Standard Format: Report for Policy Evaluation - Management by Objective (MBO)

(The Japan Fair Trade Commission 23-(2))

Name of Activity	Measures against violations of the Antimonopoly Act, etc. Strict enforcement of the Antimonopoly Act						
Outline of Activity	Undertaking the necessary investigations (such as on-the-spot inspections and hearings) into suspected violations of the Antimonopoly Act, and where violations are recognized, issuing cease and desist orders and taking other necessary measures such as issuing warnings.						
Goal	Maintaining and promoting fair and free competition by strictly eliminating violations of the Antimonopoly Act such as cartels, bid rigging, and unfair trade practices, unjust low price sales in specific retail markets (alcoholic liquor, petrochemical products, and consumer electrical appliances) within two months, in principle, and causing violators to cease and desist from this conduct (FY2010).						
Budget-Related Activity	Breakdown of Budget		FY2008	FY2009	FY2010	FY2011	Requested amount for FY2012
	Amount Allocated (thousand yen)	Budget Supplemented (a)	210,828	206,055	199,302	221,963	226,212
		Budget Carried (b)	0	0	0	0	0
		Total (a + b)	210,828	206,055	199,302	221,963	226,212
	Executed amount (thousand yen) (c)		152,899	202,079	196,546		
Important Cabinet Policy Related to the Activity (Main Administrative Policy Speeches, etc.)	Name of administrative policy speech, etc.			Date		Relevant part (excerpt)	
	Basic policies of 2009 for economic and fiscal reform (Cabinet decision)			June 23, 2009		○ Chapter 2. Strengthening growth potential 5. Revitalization of small- and medium-sized enterprises and strengthening of research and development (1) Revitalization of small- and medium-sized enterprises “... providing comprehensive support to small- and medium-sized enterprises through measures including tightening controls under the Antimonopoly Act, Subcontract Act, etc.”	
	Three-year plan for promoting regulatory reform (second revision) (Cabinet decision)			March 31, 2009		III. Measures 6. Measures related to competition policy B. Reviewing and reinforcing the structure of the Fair Trade Commission (a) Reviewing and reinforcing the investigation capacity and structure concerning instances of violations of the Antimonopoly Act (iii) Setting and publishing new targets for ensuring prompt investigations and undertaking objective evaluations	
	Administrative policy speech to the 166th Diet session			January 26, 2007		“The frequent occurrence of collusive bidding involving public offices in both the central and local governments is extremely regrettable. We will strictly enforce the amended law on the prevention of collusive bidding involving public offices, and unequivocally advance competitive bidding.”	
	Guidelines for Measures to Plan Proper Tendering and Contracting for Public Works (Cabinet decision)			May 23, 2006		II. Measures to plan proper tendering and contracting 3. Matters concerning the thorough elimination of collusive bidding and other misconduct, mainly from tendering and contracting (5) Matters concerning the prevention of ordering parties’ involvement in collusive bidding “The head of each ministry and agency shall strive to eliminate and prevent collusive bidding involving ordering parties in accordance with the Act on the Elimination and Prevention of Involvement in Bid Rigging and Penalties for Acts by Employees that Harm the Fairness of Bidding (Act No. 101 of 2002).”	

Evaluation Index	Number of complaints on suspected violations (excluding complants of unjust low price sales concerning retailing; See Note)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		1,657	2,460	3,685	2,794	2,094
	Number of processed cases (legal measures)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		13	24	17	26	12
	Number of processed cases (warnings)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		9	10	4	9	3
	Number of processed cases (cautions) (excluding cases of unjust low price sales in which cautions were given through rapid processes)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		74	88	87	69	95
	Number of subject enterprises (legal measures)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		73	193	49	84	109
	Number of subject enterprises (warnings)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		9	10	4	9	3
	Number of complaints of unjust low price sales concerning retailing	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		3,593	4,885	9,668	8,979	8,675
	Number of cautions issued in cases of unjust low price sales concerning retailing (through rapid processes)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		1,031	1,679	3,654	3,225	2,700
	Amount of surcharges (10,000 yen)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		926,300	1,129,600	2,703,600	3,607,400	7,208,706
	Number of enterprises against whom surcharge payment orders were issued	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		158	162	87	106	156

Note: The term “retailing” herein refers to the retailing of alcoholic liquor, petroleum products, and consumer electrical appliances, etc.

Evaluation Index	Amount of surcharges per enterprise (10,000 yen)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		5,863	6,973	31,076	34,032	46,209
	Number of criminal accusations	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		2	1	1	0	0
	Number of requests for application of the leniency program	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		79	74	85	85	131
	Number of legal measures concerning applications of the leniency program which were published	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		6	16	8	21	7
	Length of time for processing cases in which legal measures were taken (average of all cases, in months)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		Approx. 9	Approx. 9	Approx. 11	Approx. 12	Approx. 12
	Average length of time for processing cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products, and consumer electrical appliances (months)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		-	-	3.4	2.4	2.2
	Target Figures for Each Year	-	-	2	2	2
	Amount of coverage in daily newspapers (lines) (See Note)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		-	-	17,188	21,237	20,673
	Amount of consumer benefits protected by legal measures (100 million yen)	Actual Results				
		FY2006	FY2007	FY2008	FY2009	FY2010
		Approx. 509	Approx. 754	Approx. 4,079	Approx. 1,204	Approx. 1,790

Note: Calculated based on the assumption that one column of a newspaper article consists of approximately 70 lines.

Results of Evaluations of Activity	Status of Achievements	The target length of the period to be taken for processing cases of unjust low price sales of alcoholic liquor, petroleum products, and consumer electrical appliances is up to two months, in principle. In fact, the average length of the period for processing such cases was around 2.2 months. This means that the target was mostly achieved.
	Directions for Future Activity	<p>Evaluated based on the evaluation indexes as a whole, the activity under review can be evaluated as being necessary and effective to maintain and promote fair, free competition. However, the JFTC needs to tackle the following issues.</p> <p>The average length of the period for processing cases in which legal measures were taken in FY2010 was around 12 months. This is attributed in part to procedures taken in advance by assuming the implementation of legal measures, such as providing opportunities to present opinions and submit evidence to persons who are to be the addressees of the legal measures, and to the increase in the amount of tasks for calculating the amount of surcharges that resulted from the amended Antimonopoly Act of 2009, under which some violations became subject to a surcharge. To ensure further swiftness in terms of case processing, the JFTC needs to process cases more efficiently and improve its ability to investigate cases by making effective use of its resources (manpower and budget) for dealing with violations of the Antimonopoly Act, and by improving its officials' abilities to investigate cases, for example.</p> <p>Reports of unjust low price sales concerning retailing increased significantly in FY2008, and the number of such cases remained at the same level in FY2010. The JFTC therefore needs to further strengthen enforcement to continue to deal promptly and appropriately with reports of unjust low price sales.</p> <p>Moreover, although there were no instances of criminal accusations in FY2010, the JFTC needs to further improve its ability to collect information in order to be more proactive in discovering cases that warrant criminal accusations.</p>

Use of Expert Knowledge	<p>There are a large number of reports of unjust low price sales concerning retailing. Looking at the number of cases in which measures were taken, however, it can be concluded that many of these reports do not lead directly to measures being taken against unjust low price sales. It may also be necessary to inform retailers, etc. proactively of what constitutes unjust low price sales to improve the appropriateness of the contents of reports. (Mr. Kakizaki)</p> <p>(We responded that the JFTC has created guidelines showing its views of unjust low price sales in an effort to ensure that these views are known. See “Measures against violations of the Subcontract Act, etc. - Ensuring proper trade practices (FY2010).”)</p>
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Materials and Other Information Used During Policy Evaluations	<p>“Enforcement status of the Antimonopoly Act in FY2010”</p> <p>Drafted by: The JFTC</p> <p>Published on: June 1, 2011</p> <p>The above material is held by the General Affairs Division, Secretariat, General Secretariat, the JFTC.</p>
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Responsible Department	Management and Planning Division, Investigation Bureau	Responsible Person	Isao Kasubuchi, Director of the Management and Planning Division	Year/Month for Policy Evaluation	April - July, 2011
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