

FY 2012 Japan Fair Trade Commission Performance Evaluation Report (Standard Format)

(The Japan Fair Trade Commission 24-(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 (FY 2011).						
Budget-Related Activity	Breakdown of Budget		FY 2009	FY 2010	FY 2011	FY 2012	Amount requested for FY 2013
	Amount Allocated (thousand yen)	Budget Supplemented (a)	206,055	199,302	221,963	224,503	224,496
		Budget Carried (b)	0	0	0	0	0
		Total (a + b)	206,055	199,302	221,963	224,503	224,496
	Executed amount (thousand yen) (c)		202,079	196,546	208,253		
Important Cabinet Policy Related to the Activity (Main Administrative Policy Speeches, etc.)	Name of the administrative policy speech, etc.			Date		Relevant part (excerpt)	
	Guidelines for Measures to Plan Proper Tendering and Contracting for Public Works (Cabinet decision)			August 9, 2011		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)."	
	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."	

Evaluation Index	Number of complaints on suspected violations (excluding complaints of unjust low price sales concerning retailing) (See Note)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		2,460	3,685	2,794	2,094	1,657
	Number of processed cases (legal measures)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		24	17	26	12	22
	Number of processed cases (warnings)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		10	4	9	3	2
	Number of processed cases (cautions) (excluding cases of unjust low price sales in which cautions were given through rapid processes)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		88	87	69	95	138
	Number of subject enterprises (legal measures)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		193	49	84	109	303
	Number of subject enterprises (warnings)	Actual figures				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		10	4	9	3	2

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

Evaluation Index	Number of complaints of unjust low price sales concerning retailing	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		4,885	9,668	8,979	8,675	7,102
	Number of cautions issued in cases of unjust low price sales concerning retailing (through rapid processes)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		1,679	3,654	3,225	2,700	1,772
	Amount of surcharges (10,000 yen)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		1,129,686	2,703,642	3,607,471	7,208,706	4,425,784
	Number of enterprises against whom surcharge payment orders were issued	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		162	87	106	156	277
	Amount of surcharges per enterprise (10,000 yen)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		6,973	31,076	34,032	46,209	15,977
	Number of criminal accusations	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		1	1	0	0	0
	Number of requests for application of the leniency program	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		74	85	85	131	143
	Number of legal measures concerning applications of the leniency program which were published	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		16	8	21	7	9
	Length of time for processing cases in which legal measures were taken (average of all cases, in months)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		Approx. 9	Approx. 11	Approx. 12	Approx. 12	Approx. 15
	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				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		—	3.4	2.4	2.2	2.1
	Target figures for Each Fiscal Year	—	2	2	2	2
	Amount of coverage in daily newspapers (lines) (See Note)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		—	17,188	21,237	20,673	22,256
	Amount of consumer benefits protected by legal measures (100 million yen)	Actual Results				
		FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
		Approx. 754	Approx. 4,079	Approx. 1,204	Approx. 1,790	Approx. 2,793

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 2.1 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 FY2011 was around 15 months. This was caused by the JFTC taking on cases that by their nature took considerable time to investigate and cases without past precedents. One drawn-out case involved violations connected to automotive wire harnesses and associated products ordered by multiple automakers that required exchanges of information with overseas competition authorities to clarify the circumstances of the case. Other time-intensive cases involved abuses of superior bargaining positions that required the imposition of new surcharges established by legal amendments. 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</p> <p>Complaints of unjust low price sales concerning retailing increased significantly in FY2008, and the number of such cases remained at the same level in FY2011. The JFTC therefore needs to further strengthen enforcement to continue to deal promptly and appropriately with complaints of unjust low price sales.</p> <p>Although there were no instances of criminal accusations in FY 2011, one case was investigated on the basis of a criminal proceeding. 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	<ul style="list-style-type: none"> The average length of time to process the 22 cases in which legal measures were taken has increased since the last fiscal year. Has the processing time for all cases gotten longer, or just for some cases? I think the reason for the longer processing times should be noted in the 'Directions for Future Activity' section. (Mr. Kakizaki) (We revised the details based on the above opinion.)
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Materials and Other Information Used During Policy Evaluation	"Enforcement Status of the Antimonopoly Act in FY 2011" Drafted by: The JFTC Published on: June 6, 2012. The above material is held by the General Affairs Division, Secretariat, General Secretariat, the JFTC.
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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, 2012
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