

FY 2013 Japan Fair Trade Commission Performance Evaluation Report (Standard Format)

(The Japan Fair Trade Commission 25-(3))

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 2012).						
Budget-Related Activity	Breakdown of Budget		FY 2010	FY 2011	FY 2012	FY 2013	Amount requested for FY2014
	Amount Allocated (thousand yen)	Budget Supplemented (a)	199,302	221,963	224,485	222,914	223,023
		Budget Carried (b)	0	0	0	0	0
		Total (a + b)	199,302	221,963	224,485	222,914	223,023
Executed amount (thousand yen) (c)		196,546	208,253	185,502			
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		j 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 2008	FY 2009	FY 2010	FY 2011	FY 2012
		3,685	2,794	2,094	1,657	1,644
	Number of processed cases (legal measures)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		17	26	12	22	20
	Number of processed cases (warnings)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		4	9	3	2	6
	Number of processed cases (cautions) (excluding cases of unjust low price sales in which cautions were given through rapid processes)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		87	69	95	138	208
	Number of subject enterprises (legal measures)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
	49	84	109	303	126	
Number of subject enterprises (warnings)	Actual figures					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	4	9	3	2	6	

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 2008	FY 2009	FY 2010	FY 2011	FY 2012
		9,668	8,979	8,675	7,102	8,173
	Number of cautions issued in cases of unjust low price sales concerning retailing (through rapid processes)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		3,654	3,225	2,700	1,772	1,736
	Amount of surcharges (10,000 yen)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		2,703,642	3,607,471	7,208,706	4,425,784	2,507,644
	Number of enterprises against whom surcharge payment orders were issued	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		87	106	156	277	113
	Amount of surcharges per enterprise (10,000 yen)	Actual Results				
		FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
		31,076	34,032	46,209	15,977	22,191
	Number of criminal accusations	Actual Results				
FY 2008		FY 2009	FY 2010	FY 2011	FY 2012	
	1	0	0	0	1	
Number of requests for application of the leniency program	Actual Results					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	85	85	131	143	102	
Number of legal measures concerning applications of the leniency program which were published	Actual Results					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	8	21	7	9	19	
Length of time for processing cases in which legal measures were taken (average of all cases, in months)	Actual Results					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	Approx. 11	Approx. 12	Approx. 12	Approx. 15	Approx. 14	
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 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	3.4	2.4	2.2	2.1	2.0	
Target figures for Each Fiscal Year	2	2	2	2	2	
Amount of coverage in daily newspapers (lines) (See Note)	Actual Results					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	17,188	21,237	20,673	22,256	16,040	
Amount of consumer benefits protected by legal measures (100 million yen)	Actual Results					
	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	
	Approx. 4,079	Approx. 1,204	Approx. 1,790	Approx. 2,793	Approx. 2,364	

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	A target of two months or less, in principle, was set for the processing of retail market dumping cases connected with alcoholic beverages, petrochemical products, and consumer electrical appliances. The average length of time to process these cases in FY 2012 was approximately 2.0 months, meaning that, on the whole, the target was achieved.
	Directions for Future Activity	<p>Looking at all evaluation indicators as a whole, the activity can be deemed as being necessary and effective in maintaining and promoting fair and free competition. Nevertheless, the following issues remain.</p> <p>The average length of time to process cases in which legal measures were taken was about 14 months. This was caused by the JFTC taking on cases that by their nature took considerable time to investigate. One drawn-out case involved violations connected to alternators and associated automotive products ordered by multiple automakers that required exchanges of information with overseas competition authorities to clarify the circumstances of the case. Consequently, the JFTC, in the interest of speeding up case processing times, must apply resources (personnel and budgets) effectively to cases that by their nature will take considerable time to investigate and to violations of the Antimonopoly Act, such as price cartels and bid-rigging cases with significant consequences for citizens' livelihoods. The JFTC must also work to raise the investigative capabilities of JFTC officials and proceed with case processing more efficiently by increasing the number of investigation officials and, at the same time, promoting knowledge-sharing among officials.</p> <p>The number of reports about retail market dumping, which had increased dramatically in FY 2008, remained at the same high level in FY 2012. The JFTC must strengthen its enforcement ability further in order to continue to process dumping reports promptly and appropriately.</p> <p>Although criminal charges were laid in one case in FY 2012, with the establishment of a policy for more proactive pressing of criminal charges for violations of the Antimonopoly Act, such as price cartels and bid-rigging cases with significant consequences for citizens' livelihoods, the JFTC must work to further improve its information collection abilities to be more proactive in discovering cases that warrant criminal charges.</p>

Use of Expert Knowledge	<ul style="list-style-type: none"> • Your efficiency indicator is the length of time to process cases. However, increasing the number of people assigned to case investigations should shorten the length of time to process cases. Has the number of people assigned to case investigations increased? (Mr. Kakizaki) (We replied that the number of fixed personnel in sections that handle cases of Antimonopoly Act violations has increased in recently years. However, the numbers in FY 2012 were generally on par with the previous fiscal year.) • Regarding processing times of cases involving sales at unjustly low prices in the third item, given that individual cases are to be processed within two months in principle, rather than giving just the average, the median value or else the percentage of cases processed within two months should also be listed. (Mr. Tanaka) (The section was adjusted as suggested.) • The JFTC issues orders to implement improvement measures based on the Anti-Bid-Rigging Act. If reports on the improvements based on such orders are submitted, listing these reports can demonstrate the effectiveness of the improvement measure orders. (Mr. Wakabayashi) (The section was adjusted as suggested.) • The evaluation report states that the number of reports about retail market dumping “remained at the same high level.” Shouldn’t the evaluation report provide the reason or reasons why the number of reports continues to be at a high level? (Mr. Konishi) (The section was adjusted as suggested.)
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Materials and Other Information Used During Policy Evaluation	<p>“Enforcement Status of the Antimonopoly Act in FY 2012” Drafted by: The JFTC Published on: May 29, 2013.</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	Wataru Kobayashi, Director of the Management and Planning Division	Year/Month for Policy Evaluation	April – July, 2013
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