

FY 2015 Japan Fair Trade Commission Performance Evaluation Report (Standard Format)

(The Japan Fair Trade Commission 27-(1))

Name of Activity	Measures, etc. Against Violations of the Antimonopoly Act Hearing Procedures					
Outline of Activity	Hearing procedures are processes for re-examinations and decisions about cease and desist orders or surcharge payment orders made by the Japan Fair Trade Commission in relation to violations of the Antimonopoly Act. (Although hearing procedures were abolished following the amendment of the Antimonopoly Act in 2013, provisions set forth in Article 2 of the Supplementary Provisions of the law amending the Antimonopoly Act stipulate that cases where advance notification about cease and desist orders or surcharge payment orders were issued by March 31, 2015 shall follow the previous examples.)					
Goal	The goal is to maintain and promote fair and free competition by appropriately managing hearing procedures to reach decisions. For example, completing hearing procedures in a period as short as possible within two years. ("Hearing procedures" are as set forth in Article 18 of the Rules of Hearings before the abolishment. Procedures being from the start of the issuance of notification of the commencement of hearings to the completion of the closing statement of opinions by the relevant two parties.)					
Budget-Related Activity	Breakdown of Budget		FY 2013	FY 2014	FY 2015	Amount requested for FY2016
	Amount Allocated (thousand yen)	Initial budget (a)	4,330	4,020	3,919	
		Supplementary budget (b)	0	0	0	
		Budget Carried (c)	0	0		
		Total (a+b+c)	4,330	4,020		
Executed amount (thousand yen)		2,758	2,734			
Important Cabinet Policy Related to the Activity (Main Administrative Policy Speeches, etc.)	—					

Evaluation Index [See Note 1]	Duration of hearing procedures [months] [See Note 2]		Actual Results					Year in this evaluation	Target achievement
			FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2013・FY2014	Considerable progress has been made
	Target Figures for Each Fiscal Year		Within two years						
State of management of hearing procedures			State of progress of the activity (actual results)					Year in this evaluation	Target achievement
			FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2013・FY2014	Considerable progress has been made
	See Attachment								
Target Figures for Each Fiscal Year									

Note 1: The evaluation index is subject to decisions, excluding decisions about violations of the Act Against Unjustifiable Premiums and Misleading Representations ("Premiums and Representation Act") and consent decisions.

Note 2: The duration of hearing procedures for relevant fiscal year is the average duration of a period from the commencement of hearing procedures to the completion of hearing procedures. Duration is calculated based on thirty days as one month.

Measurement results	Measurements of target achievement rates	Administrative organization common classification	Considerable progress has been made
	Basis of judgment	<p>With respect to the target of completing hearing procedures within two years, the hearing procedures of decisions that were made during this evaluation period was 16.5 months in fiscal year 2013, achieving the target, while it was 32.4 months in fiscal year 2014, making the average duration of 27.3 months in this evaluation period. This slightly exceeded the target duration. Except for the occurrence of thirty cases being held for the same instance (which was a cartel conducted by a multiple number of parties) that were merged and processed effectively as one case that exceeded two years, the target was considered to have almost been achieved and, thus, it is believed that certain progress has been made.</p> <p>Moreover, although the ratio of suits not being filed slightly declined because most decisions were not quashed by court decisions, it is believed that appropriate management of hearing procedures that contribute to the maintenance and promotion of fair and free competition has been carried out.</p>	

Evalu	Analysis of activity	<p>Evaluating the overall evaluation index, it is possible to assess that these initiatives are necessary and effective and effectively implemented to achieve the appropriate decisions.</p> <p>However, because there are two cases of hearing procedures that required more than two years, it is necessary to continue to take the initiative to manage efficient hearing procedures for hearing cases that are pending in accordance with the provisions set forth in Article 2 of the Supplementary Provisions of the law amending the Antimonopoly Act, which was revised in 2013.</p>
	Directions to be reflected in next-term targets	<p>Policy</p> <p>To ensure the fairness of the details of decisions related to hearing cases that are pending in accordance with the provisions set forth in Article 2 of the Supplementary Provisions of the law amending the Antimonopoly Act, which was established in 2013, those involved will continue to strive to manage appropriate hearing procedures. Furthermore, hearing procedures were abolished following the revision of the act in 2013.</p>

Use of Expert Knowledge	<p>- The “Number of decisions” that are stated in Table 2 of the reference document of the Performance Evaluation Report (“number of cases where a suit to quash a decision was not filed”) does not match “of the decisions made in the relevant fiscal year, the number of cases where a suit to quash a decision was not filed” combined with the “number of decisions where a suit to quash a decision was filed” stated in Table 3 (“the number of decisions rescinded through a suit to quash a decision.”) What are the reasons for this? (Commission Member Konishi). (To this question, an answer was offered as follows. “Of the decisions made in the relevant fiscal year, the number of decisions where a suit to quash a decision was not filed,” which were stated in table 2, includes the number of cases where a suits to quash a decision was not filed out of the cases that were heard and held during the relevant fiscal year. There were also other cases where a suit to quash a decision was filed in the following fiscal year. On the other hand, Table 3 shows the number of cases where a suit to quash a decision was filed during the relevant fiscal year, and it also included the cases where decisions were made in the previous fiscal year. Moreover, the figures in Table 3 were calculated based on the case numbers of the Tokyo High Court. For example, in the fiscal year 2014, 30 decisions about cease and desist orders and surcharge payment orders were made in relation to the cases of a cartel which a multiple number of parties were connected with. Of such decisions, there were 24 cases where a suit to quash a decision was filed and the Tokyo High Court put these cases together and treated them under one case number. This is why the table shows that one suit to quash a decision was filed.)</p>
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Materials and Other Information Used During Policy Evaluation	<p>“Processing Status of Violations of the Antimonopoly Act,” JFTC for each fiscal year from FY 2013 and FY 2014</p> <p>These documents are held by the General Affairs Division, Secretariat, JFTC.</p>
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Responsible Department	Decision and Lawsuit Office	Responsible Person	Takatoshi Iwashita, Director of Decision and	Year/Month for Policy Evaluation	April – July, 2015
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Evaluation Index	State of management of hearing procedures	State of progress of the activity (actual results)				
		FY 2010	FY 2011	FY 2012	FY 2013	FY 2014
		<p>Including the initiatives below, efforts were made to ensure the appropriate management of hearing procedures.</p> <p>Number of decisions where (1) suit to quash a decision was filed [See Note 1] [10]</p> <p>Number of decisions rescinded through (2) suit to quash a decision [See Note 2] [1]</p>	<p>Including the initiatives below, efforts were made to ensure the appropriate management of hearing procedures.</p> <p>(1) As on the left [7]</p> <p>(2) As on the left [0]</p>	<p>Including the initiatives below, efforts were made to ensure the appropriate management of hearing procedures.</p> <p>(1) As on the left [3] [See Note 3]</p> <p>(2) As on the left [1]</p>	<p>Including the initiatives below, efforts were made to ensure the appropriate management of hearing procedures.</p> <p>(1) As on the left [9]</p> <p>(2) As on the left [1]</p>	<p>Including the initiatives below, efforts were made to ensure the appropriate management of hearing procedures.</p> <p>(1) As on the left [8]</p> <p>(2) As on the left [0]</p>
Target Figures for Each Fiscal	Strive to manage appropriate hearing procedures.					

Note 1: Of the decisions made in the relevant fiscal year (excluding decisions about violations of the Premiums and Representation Act and consent decisions based on the Antimonopoly Act before its revision in 2005), the number of decisions where suit to quash a decision was not filed

Note 2: Of suits filed during the relevant fiscal year, the number of decisions that were either entirely or partially rescinded through suit to quash a decision (including certain decisions that were made in the previous years)

Note 3: Figures for FY 2012 include decisions where suit to quash a decision was filed by a party other than the respondent.