

FY 2016 Japan Fair Trade Commission Performance Evaluation Report (Standard Format)

(The Japan Fair Trade Commission 28-(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.						
Budget-Related Activity	Breakdown of Budget	FY 2014	FY 2015	FY 2016	Amount requested for FY2017		
	Amount Allocated (thousand yen)	Initial budget (a)	228,846	256,132	256,548	250,160	
		Supplementary budget (b)	0	-9,097	0	0	
		Budget Carried (c)	0	0	/		
		Total (a+b+c)	228,846	247,035			
Executed amount (thousand yen)	192,095	171,076					
Important Cabinet Policy Related to the Activity (Main Administrative Policy Speeches, etc.)	August 9, 2011 Guidelines for Measures to Plan Proper Tendering and Contracting for Public Works (Cabinet decision) June 23, 2009 Basic policies of 2009 for economic and fiscal reform (Cabinet decision) March 31, 2009 Three-year plan for promoting regulatory reform (second revision) (Cabinet decision) January 26, 2007 Administrative policy speech to the 166th Diet session						

Evaluation Index	State of strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging, and unfair trade practices	/	State of progress of the activity (actual results)					Year in this	Target achievement
	Target Figures for Each Fiscal Year		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2013 – FY 2015	Considerable progress has been made
			See Attachment 1					/	
	Average length of time for processing cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products, and consumer electrical appliances	/	Actual Results					Year in this	Target achievement
	Target Figures for Each Fiscal Year		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2013 – FY 2015	Considerable progress has been made
			2.1 months	2 months	2.1 months	1.9 months	1.7 months	/	
State of prompt processing of cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products, and consumer electrical appliances	/	State of progress of the activity (actual results)					Year in this	Target achievement	
Target Figures for Each Fiscal Year		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015	FY 2013 – FY 2015	Considerable progress has been made	
		See Attachment 2					/		

Administrative organization common classification	Considerable progress has been made
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	<p>Measurements of target achievement rates</p>	<p>Basis of judgment</p> <p>As for the state of the strict elimination of violations of the Antimonopoly Act such as private monopolizations, cartels, bid rigging and unfair trade practices, it cannot be denied that the annual number of cases is declining as shown by the number of legal measures: 9 for FY2015, 10 for FY2014, 18 for FY2013 and over 20 for FY2012/FY2011 (12 for FY2010). On the other hand, incidents were addressed appropriately to meet the needs of society, including the areas of major impact on the lives of the people, and warnings that do not constitute legal measures were provided for three fiscal years (once, once, and six times, respectively). In addition, two criminal charges were brought in three fiscal years and the estimated interests of consumers were 201.5 billion yen, 192.3 billion yen and 57.1 billion yen, respectively. Throughout the three fiscal years, violations of the Antimonopoly Act were strictly considered and properly eliminated. As a result, considerable progress is recognized as having occurred regarding this measurement.</p> <p>In terms of the average length of time for processing cases of unjust low price sales in the retailing of three items, the target was almost achieved as shown by the reduction from 2.1 months for FY2013 to 1.9 months for FY2014 and 1.7 months for FY2015, so considerable progress is recognized as having been made.</p> <p>With regard to the state of the prompt processing of cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances, an adequate number of such cases is still maintained with the trend of the decrease from 1,366 to 982 and 841 for each fiscal year, so considerable progress is recognized as having been made.</p> <p>As described above, violations of the Antimonopoly Act such as private monopolizations, cartels, bid rigging and unfair trade practices are strictly eliminated by undertaking the necessary investigation of suspected violations of the Antimonopoly Act, issuing cease and desist orders and taking the necessary measures including warnings, and the prompt processing of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances was conducted for FY2013 to FY2015. As a result, considerable progress is recognized as having been made in the achievement of the target of the maintenance and promotion of fair and free competition through the elimination of the above.</p>
<p>Evaluation results</p>	<p>Analysis of activity</p>	<p>The number of legal measures is declining in the medium term, and appropriate legal measures were taken for a variety of incidents to meet the needs of society, including the areas of major impact on the lives of the people. The length of time taken for processing cases of unjust low price sales is shortened, and a considerable number of such cases is maintained with a decreasing trend. Upon evaluation based on the overall measurements, this activity is judged to be necessary and effective for and in the maintenance and promotion of fair and free competition, and to be conducted efficiently.</p> <p>On the other hand, the decrease in the number of legal measures is considered to have been caused by the substantially prolonged length of time for processing, of about twenty months for FY2015, while the average length of time for processing cases for all the cases for which legal measures are taken is showing a lengthening tendency. The reasons for this prolonged length of time for processing are the necessity of deliberate proof in the review of cases, while it is not yet clear how the method of proof of the Commission will be regarded by the court upon the abolition of the hearing system and the change to the direct action system upon the enforcement of the revised Antimonopoly Act in 2015. In this regard, it is necessary to determine the appropriate level of proof and handle cases more efficiently.</p> <p>In addition, the average length of time for processing cases of unjust low price sales in the retailing of three items is shortened with efficiency. However, given the number of cases whose length of time for processing exceeds two months, more prompt processing is required.</p>

Directions to be reflected in next-term targets	<p>Policy Violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices shall continue to be strictly eliminated, and cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances shall be promptly processed and eliminated for the maintenance and promotion of fair and free competition.</p> <p>Evaluation Index The current measurement targets shall be continuously maintained with the improvement of the following matters for the maintenance and promotion of fair and free competition.</p> <p>a. Promotion of efficient processing of cases Review activities cannot be evaluated with reference to the amount of cases processed. However, a focus on effective and efficient review activities is important, and to that end, the length of time for processing cases of violations of the Antimonopoly Act should be shortened. Upon a change to direct action due to the increased complication of legal points at issue and the enforcement of the revised Antimonopoly Act, the system for the accumulation of knowledge on review with an eye toward lawsuits by establishing the post of litigation officer within the investigation bureau to ensure more appropriate proof activities, for the examination of the method of proof for individual cases under the direct action system by appointing the personnel of the office of litigation officers within the investigation bureau from the initial stage of the review of cases and for advice on general proof activities is established. This should ensure more efficient review activities. In addition, actions to ensure the more efficient review of cases shall be taken through the efficient accumulation of knowledge on specific areas and industries to continue to establish and strengthen a more efficient and effective review system.</p> <p>b. Prompt and appropriate processing of unjust low price sales The number of reports on cases of unjust low price sales in retailing is 5,966, 82.4% of the total number of reports (7,243 reports) for FY2013, 5,620, 81.6% of the total number of reports (6,886 reports) for FY2014 and 5,210, 82.3% of the total number of reports (6,331 cases) for FY2015. The ratio of reports on cases of unjust low price sales in retailing to the total number of reports exceeds 80%, which still means that there is strong demand for processing cases of unjust low price sales in retailing. The Japan Fair Trade Commission is required to handle such reports appropriately and to promptly and properly address actions that are problematic under the Antimonopoly Act. Prompt and appropriate processing shall be continued.</p>
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Use of Expert Knowledge	<p>- Are there any reasons for the decrease in the number of legal measures for FY2014 before the adoption of direct action? (An answer is provided stating that in addition to the reasons described in the performance evaluation report (P14), the fact that a longer period of time for processing cases is needed due to the increase in the number of cases requiring complex review methods such as digital forensics in recent years will be also included in such reasons.)</p> <p>- Criminal charges of malicious cases should be actively brought. (An answer is provided stating that the Japan Fair Trade Commission follows "The Fair Trade Commission's Policy on Criminal Accusation and Compulsory Investigation of Criminal Cases Regarding Antimonopoly Violations" in the judgment of criminal charges, and will actively bring criminal charges of malicious and serious cases of a major impact on the lives of the people.)</p> <p>- The shortened average length of time for processing cases of unjust low price sales is appreciated. How about the evaluation of the details of the activities? (An answer is provided stating that based on the opinion, a possible evaluation method will be considered in future.)</p>
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Materials and Other Information Used During Policy Evaluation	<p>"Enforcement Status of the Antimonopoly" (FY2013—FY2015)</p> <p>These documents are held by the General Affairs Division, Secretariat, JFTC.</p>
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Responsible Department	Management and Planning Division, Investigation Bureau	Responsible Person	Kazuyuki Katagiri, Director of the Management and Planning Division	Year/Month for Policy Evaluation	April – July, 2016
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		State of progress of the activity (actual results)				
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Evaluation results	State of strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging, and unfair trade practices	Efforts are made to achieve the strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices including the following. Number of complaints on suspected violations (excluding (1) complaints of unjust low price sales concerning retailing) [See Note 1] [1,657]	Efforts are made to achieve the strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices including the following. (1) As on the left [1,644]	Efforts are made to achieve the strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices including the following. (1) As on the left [1,277]	Efforts are made to achieve the strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices including the following. (1) As on the left [1,266]	Efforts are made to achieve the strict elimination of violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices including the following. (1) As on the left [1,121]
		Number of processed cases (legal measures) [22]	(2) As on the left [20]	(2) As on the left [18]	(2) As on the left [10]	(2) As on the left [9]
		Number of processed cases (warnings) [2]	(3) As on the left [6]	(3) As on the left [1]	(3) As on the left [1]	(3) As on the left [6]
		Number of processed cases (cautions) [See Note 2] [138]	(4) As on the left [208]	(4) As on the left [114]	(4) As on the left [102]	(4) As on the left [106]
		Number of subject enterprises (legal measures) [303]	(5) As on the left [126]	(5) As on the left [210]	(5) As on the left [132]	(5) As on the left [39]
		Number of subject enterprises (warnings) [2]	(6) As on the left [6]	(6) As on the left [1]	(6) As on the left [5]	(6) As on the left [6]
		Amount of surcharges [44.25784 billion yen]	As on the left [25.07644 billion yen]	As on the left [30.24283 billion yen]	As on the left [17.14303 billion yen]	As on the left [8.51076 billion yen]
		Number of enterprises against whom surcharge payment orders were issued [277]	(8) As on the left [113]	(8) As on the left [181]	(8) As on the left [128]	(8) As on the left [31]
		Amount of surcharges per enterprise [159.77 million yen]	(9) As on the left [221.91 million yen]	(9) As on the left [167.08 million yen]	(9) As on the left [133.92 million yen]	(9) As on the left [274.54 million yen]
		Number of criminal accusations [0]	(10) As on the left [1]	(10) As on the left [1]	(10) As on the left [0]	(10) As on the left [1]
		Number of requests for application of the leniency program [143]	(11) As on the left [102]	(11) As on the left [50]	(11) As on the left [61]	(11) As on the left [102]
		Number of legal measures concerning applications of the leniency program which were published [9]	(12) As on the left [19]	(12) As on the left [12]	(12) As on the left [4]	(12) As on the left [7]
		Length of time for processing cases in which legal measures were taken [Approx. 15 months (Average length of time from the start of the procedures for hearing opinions to legal measures -)] [See Note 3]	(13) As on the left [Approx. 14 months (As on the left -)]	(13) As on the left [Approx. 14 months (As on the left -)]	(13) As on the left [Approx. 15 months (As on the left -)]	(13) As on the left [Approx. 20 months (As on the left Approx. 3 months)]
		Amount of coverage in daily newspapers [22,256 lines] [See Note 4]	(14) As on the left [16,040 lines]	(14) As on the left [13,166 lines]	(14) As on the left [5,505 lines]	(14) As on the left [6,450 lines]

	Amount of consumer benefits protected by (15) legal measures[See Note 5][Approx. 279300 million yen]	As on the (15) left[Approx. 236400 million yen]	As on the (15) left[Approx. 210500 million yen]	As on the (15) left[Approx. 192300 million yen]	As on the (15) left[Approx. 57100 million yen]
Target Figures for Each Fiscal Year	Violations of the Antimonopoly Act such as cartels, bid rigging and unfair trade practices shall be strictly eliminated.				

Note 1: The term "retailing" herein refers to the retailing of alcoholic liquor, petroleum products, and consumer electrical appliances, etc.

Note 2: Excluding cases of unjust low price sales in which cautions were given through rapid processes

Note 3: The procedures for hearing opinions are the system introduced from April 1, 2015. "Average length of time from the start of the procedures for hearing opinions to legal measures" is not applicable for FY2014 and before.

Note 4: Calculated based on the assumption that one column of a newspaper article consists of approximately 70 lines.

Note 5: The Japan Fair Trade Commission has publicly announced the estimated interests of consumers for the cases for which legal measures are taken for FY2006 and after, which are calculated by converting the market scale of the market subject to violations into the discounted present values for each of the coming five (5) years (the discount rate used shall be the "basic discount rate and basic loan rate") and multiplying each value by 10% and adding up the resulting values.

		State of progress of the activity (actual results)				
		FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Evaluation results	State of prompt processing of cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products, and consumer electrical appliances	<p>Cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances including the following are processed promptly.</p> <p>Number of complaints of (1) unjust low price sales concerning retailing[7,102]</p> <p>Number of cautions issued in cases of unjust low price sales concerning retailing (through rapid processes)[1,772]</p>	<p>Cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances including the following are processed promptly.</p> <p>(1) As on the left[8,173]</p> <p>(2) As on the left[1,736]</p>	<p>Cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances including the following are processed promptly.</p> <p>(1) As on the left[5,966]</p> <p>(2) As on the left[1,366]</p>	<p>Cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances including the following are processed promptly.</p> <p>(1) As on the left[5,620]</p> <p>(2) As on the left[982]</p>	<p>Cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances including the following are processed promptly.</p> <p>(1) As on the left[5,210]</p> <p>(2) As on the left[841]</p>
	Target Figures for Each Fiscal Year	Cases of unjust low price sales in the retailing of alcoholic liquor, petroleum products and consumer electrical appliances shall be processed promptly.				