

For Fair and Free Market Competition

International Affairs Division
Japan Fair Trade Commission

1-1-1 Kasumigaseki, Chiyoda-ku, Tokyo 100-8987, Japan

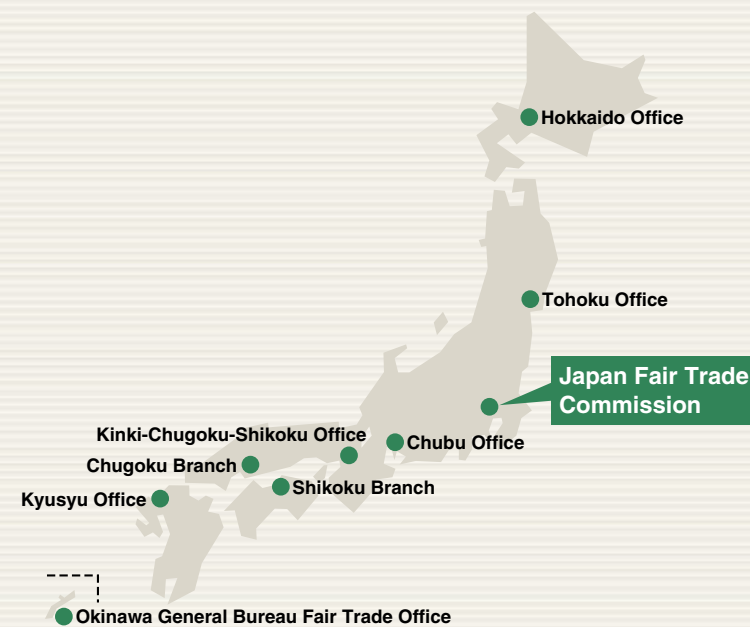
Telephone : 81-3-3581-1998

Facsimile : 81-3-3581-1944

E-mail : intnldiv@jftc.go.jp

<http://www.jftc.go.jp/e-page/>

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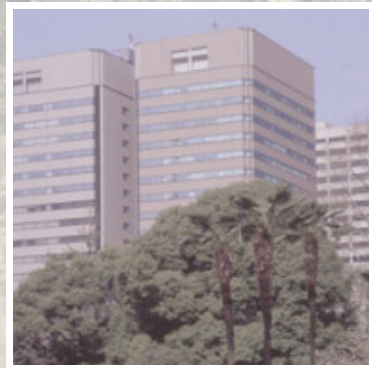
JFTC

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Introduction

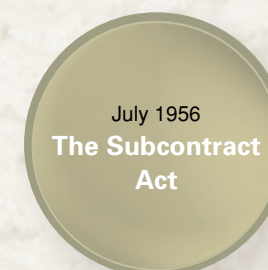
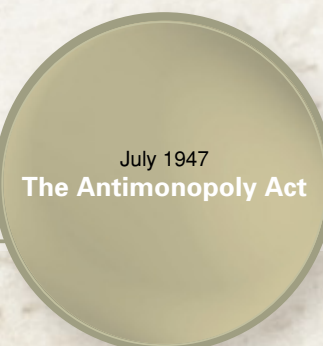
The Japan Fair Trade Commission vigorously enforces the Antimonopoly Act to maintain fair and free competition in a market.

The Japanese competition law known as the Antimonopoly Act (official name : Act on Prohibition of Private Monopolization and Maintenance of Fair Trade) was enacted in July 1947 as a part of measures to establish the economic foundation for supporting democratic society. It aims to promote the democratic and sound development of national economy as well as to assure the interests of general consumers by promoting fair and free competition through prohibition of private monopolization, unreasonable restraint of trade (such as cartels and bid riggings) and unfair trade practices.

In addition to the Antimonopoly Act, policies for promoting competition have been improved steadily through the enforcement of the complementary law, the Subcontract Act enacted in July 1956. The Antimonopoly Act has also been strengthened and amended repeatedly according to changes in

economy and industrial structure from the post-war high economic growth period until today. Its recent amendments made in April 2005 includes the introduction of a Leniency Program and criminal investigation powers, and those made in June 2009 expanded the scope of conduct subject to surcharges to exclusively type of private monopolization and certain types of unfair trade practices, and introduced a leniency application system for group enterprises etc.

It is an administrative commission (administrative agency by a council system) known as the Japan Fair Trade Commission (JFTC) that enforces the Antimonopoly Act and its related laws. The JFTC always supervises the functions of the market, economy and business activities in order to prevent or detect acts against the Antimonopoly Act, and strictly regulates and takes measures against illegal acts, if any.



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Thank you for taking your time to read this brochure. I would like to provide a short message, as the Chairman of the JFTC, regarding the state of competition policy in Japan and the issues and priorities for the JFTC.

The environment surrounding the Japanese economy has been changing rapidly with the recent progress of globalization and significant technological innovations. In enforcing the Antimonopoly Act as a basic rule of economic activities, and in implementing competition policy, I think that it is necessary to take account of such changes in the environment surrounding the economy.

Ensuring prompt and proper response to these changes in the economic environment, the Antimonopoly Act underwent its first comprehensive amendments in the last quarter century in April 2005. These amendments took effect on January 4, 2006, and they primarily aim to eradicate cartels and collusion so as to contribute to realizing a vital, energetic and robust economy and society. Among the specific provisions amended are an increase in the rate of surcharge. Specifically, the rate for large-sized manufacturers for example was increased from 6% to 10%, and as for repeat offenders, the rate is time and a half. In addition, a leniency program was introduced. This is similar to those already introduced in many other countries in which undertakings that report their violations to the competition authorities are able to enjoy immunity from and/or reduction of surcharges.

In 2009 further amendments were made and the amended act became effective in January 2010. The amendments include expansion of types of conduct subject to surcharges to exclusionary type of private monopolization and certain types of unfair trade practices,

introduction of the prior notification system of share acquisitions and revision of the notification threshold, and increase in maximum jail terms for cartels and bid riggings.

The amendments require greater compliance efforts on the part of corporations. The JFTC will closely monitor the status of compliance on the company’s side and encourage them to step up their efforts for better compliance. This is the second challenge facing us.

It is obvious that we need to further strengthen fair competition rules. The JFTC will continue to deal actively and strictly with unfair trade practices that disadvantage SMEs such as abuse of dominant bargaining positions. This is the third challenge.

In the area of international cooperation the JFTC perceives the need to strengthen cooperative ties with the competition authorities in other jurisdictions. This is the forth challenge for us. I believe that the JFTC, which has over 60 years of experience in enforcing the Antimonopoly Act, should shoulder an appropriate responsibility in light of Japan's position as an advanced country in competition law enforcement as well as a big economic power in the East Asia region.

The JFTC is committed to vigorous enforcement of the Antimonopoly Act and thereby meeting the expectations that have been placed on us. We look forward to your continued understanding on and support for our efforts.

Kazuhiko Takeshima
Chairman

Chairman of the JFTC
Kazuhiko Takeshima



Commissioners of the JFTC



Michiyo Hamada Akira Goto Kazuhiko Takeshima Seisui Kamigaki Kiyoshi Hosokawa

The JFTC vigorously enforces the Antimonopoly Act, and positively implements competition policies.

The JFTC is an independent administrative commission consisting of the Chairman and 4 commissioners. These members are appointed from among experts in law or economics by the prime minister with the consent of the Parliament. The JFTC is unique in that it performs its duties as independent administrative commission without being directed or supervised by other organs. Its organizational unit known as General Secretariat takes charge of clerical affairs of the JFTC with regard to investigation and supervision of those cases involving the Antimonopoly Act.

Organizational Chart

Enforcement of laws including the Antimonopoly Act as a law-enforcement agency

In order to maintain fair and free competition in a market, the JFTC enforces the Antimonopoly Act and the Subcontract Act. The JFTC makes its effort to restore competitive order immediately by giving cease and desist orders when illegal acts have been detected and surcharge payment orders when price cartels, etc. have taken place.

Positive implementation of competition policies as a policy-enforcement agency

In an effort to establish internationally-opened, free, fair and dynamic economic society, the JFTC devotes itself to the improvement of the foundation for promoting regulatory reforms and positively implementing competition policies. Its efforts are also directed toward further improvement of the Antimonopoly Act, researches and proposals for regulatory reforms, betterment of competition-restricting administrative guidance, promotion of improvement of public contract bidding systems, and establishing and amending various guidelines as preventive measures for violations.



The JFTC commits to building up close cooperative relations with competition authorities of each country.

Amid the recent globalization of economy, international cartels and mergers are on the increase, with the result that international cooperation among competition authorities is becoming more and more important. The JFTC endeavors to accelerate international cooperation in competition policies through exchanges of opinions with overseas competition authorities, execution of Bilateral Antimonopoly Cooperation Agreements and Economic Partnership Agreements, and positive participation in various international conferences. It also provides developing countries including East Asia with technical assistance regarding competition policies.



Bilateral Antimonopoly Cooperation Agreement between Japan and Canada

Strengthening cooperative relations with overseas competition authorities

The JFTC endeavors to build up international cooperative relations regarding competition policies by executing Bilateral Antimonopoly Cooperation Agreements with competition authorities of each country in order to cope properly with cases infringing on competition laws of various countries and those cases involving jurisdiction. Moreover, it positively exchanges opinions and information on competition policies with competition authorities of those countries which have close economic relations with Japan.

- Bilateral Antimonopoly Cooperation Agreement
 - * Japan and U.S.A. (concluded in October 1999)
 - * Japan and EC (European Community) (concluded in July 2003)
 - * Japan and Canada (concluded in September 2005)
- Exchanging opinions with overseas competition authorities (U.S., EU, Canada, Korea, etc.)

Competition policies in Economic Partnership Agreements

Improvement of competitive environments is intended to ensure benefits arising from the liberalization of trade and investment. “Promotion of competition policies” is defined as an important factor in Economic Partnership Agreements as well, and efforts are made to participate positively in negotiations for concluding such Agreements. The JFTC positively urges each contracting country to incorporate cooperative provisions in the filed of competition into Economic Partnership Agreements, including the cooperation among competition authorities for properly excluding anticompetitive conducts.

- Economic Partnership Agreement with:
 - Singapore (concluded in 2002), Mexico (concluded in 2004), Malaysia (concluded in 2005), Philippines (concluded in 2006), Chile, Thailand, Indonesia (concluded in 2007), Vietnam (concluded in 2008), Switzerland (concluded in 2009)
- Conclusion of Economic Partnership Agreements with several countries as a whole is now under negotiation.

Participation in international conferences on competition law and policy

The JFTC participates in international organizations regarding competition laws, which are organized by governments and competition authorities of each country, to discuss competition policies. It also participates in various international meetings and seminars aimed at developing competitive environments in East Asia.

- Participation in various international conferences
 - Organisation for Economic Co-operation and Development (OECD), International Competition Network (ICN), Asia-Pacific Economic Cooperation (APEC), United Nations Conference on Trade and Development (UNCTAD), etc.
- The 7th ICN Annual Conference held in Kyoto in April 2008 hosted by JFTC.
- East Asia Top-Level Officials’ Meeting on Competition Policy.



7th ICN Annual Conference in Kyoto in April 2008 hosted by the JFTC

Technical assistance to developing countries, etc.

In order to facilitate smooth introduction, establishment, and proper enforcement of competition laws for competition authorities with less experience of competition law and policy, the JFTC takes full advantage of its long-term experience and know-how to provide them with various types of assistance.

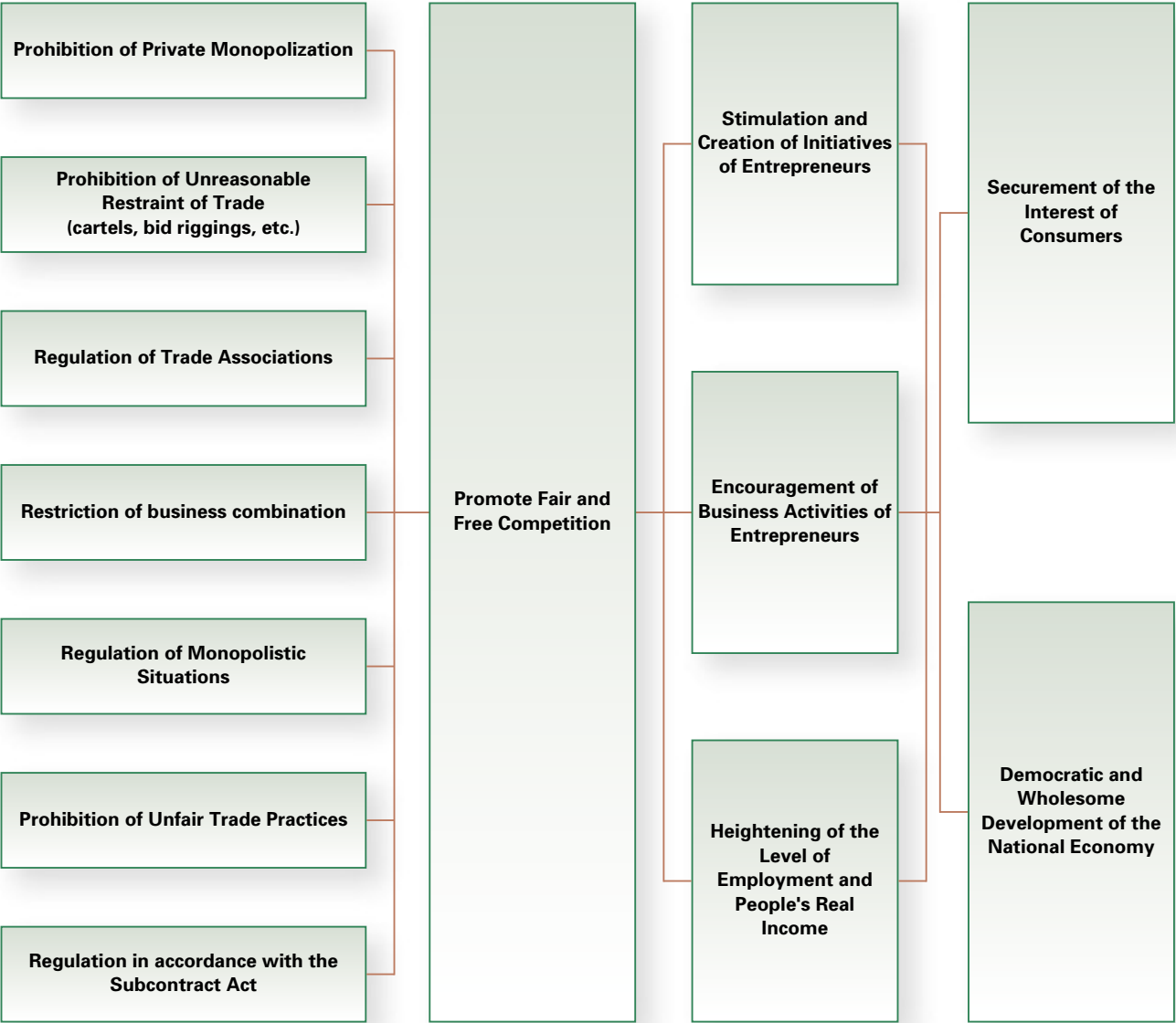
- Acceptance of trainees
 - Acceptance of trainees from developing countries and implementation of training programs in terms of both theory and practice.
- Holding local seminars
 - Holding local seminars in supported countries in cooperation with them.
- Dispatch of experts
 - Dispatching staff members of the JFTC to competition authorities of supported countries in order to give support geared to the local situations.

Structure of the Antimonopoly Act

The Antimonopoly Act is a law providing for basic rules for business activities.

The Japanese competition law known as “the Antimonopoly Act” provides rules which entrepreneurs should observe in carrying out their business operations in free economic society, and regulates such acts as impede fair and free competition. The JFTC positively deploys competition policies and maintains competitive order in the market by enforcing 2 laws: “the Antimonopoly Act” and its complementary law known as “the Subcontract Act”.

● Structure of the Antimonopoly Act



Regulation of the Antimonopoly Act ~ Monopoly and Oligopoly

Any acts to monopolize the market are prohibited.

The monopolistic or oligopolistic market under the control of only a few entrepreneurs makes it difficult for competition to function effectively. The Antimonopoly Act applies various regulations to acts intended to monopolize the market and maintain oligopolistic situations by undue means.

Prohibition of private monopolization

If any entrepreneurs try to exclude competitors from the market individually or by combination with other entrepreneurs by means of unjust low-price sales, discriminatory prices, etc. or monopolize the market by obstructing business activities of new-comers to the market, such acts are prohibited as “private monopolization (exclusion type).” Moreover, if any dominant entrepreneurs try to control the market by restraining business activities of other entrepreneurs through the acquisition of stock, dispatch of officers, etc., such acts are also prohibited as “private monopolization (control type).”



Measures against monopolistic situations

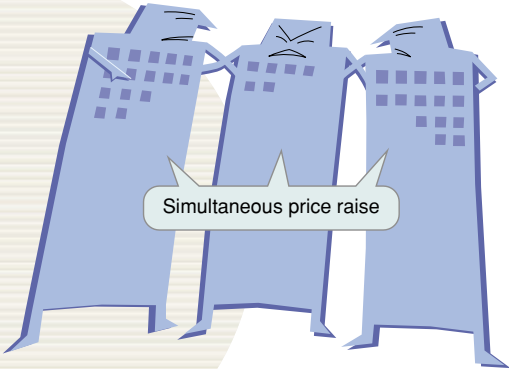
If competition fails to function effectively in a certain industry in a monopolistic situation because some dominant entrepreneurs engage in large-scale operations, the JFTC may regard such a case as monopolistic situation, and take measures to restore competition. In such a case, the JFTC may request such entrepreneurs to transfer a part of their business operations, as necessary.

Any entrepreneurs are prohibited from restraining competition in conjunction with other entrepreneurs.

There are many cases where several entrepreneurs execute agreements for product prices and volumes in order to protect mutual interests, thus voluntarily restraining market competition. The Antimonopoly Act prohibits any artificial competition-restricting acts such as cartels and bid riggings.

Prohibition of cartels

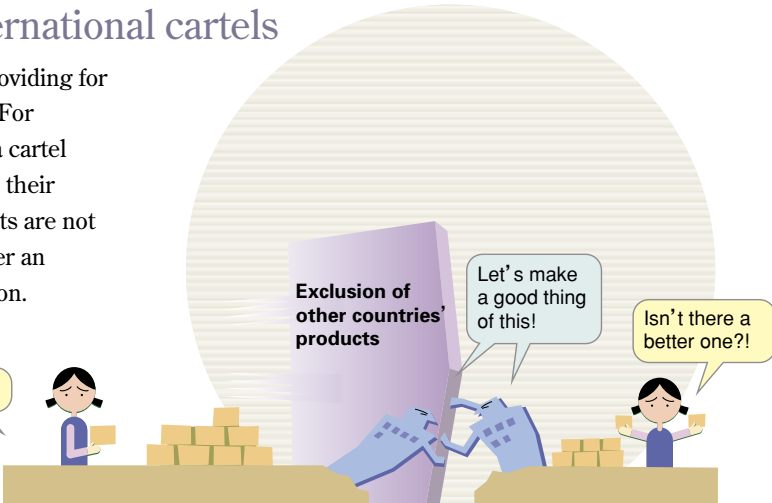
If any entrepreneurs or any entrepreneurs as constituent members of trade associations consult with each other to jointly determine product prices, sales and production volumes, etc., which should be determined voluntarily by each entrepreneur, and restrain competition as the result, such acts are regarded as “cartels,” and prohibited. Such arrangements, whether by gentlemen’s agreements, by word of mouth or any other forms, are regarded as “cartels,” if some kind of arrangements exist among these entrepreneurs, and if they eventually take a concerted action.



Prohibition of participation in international cartels

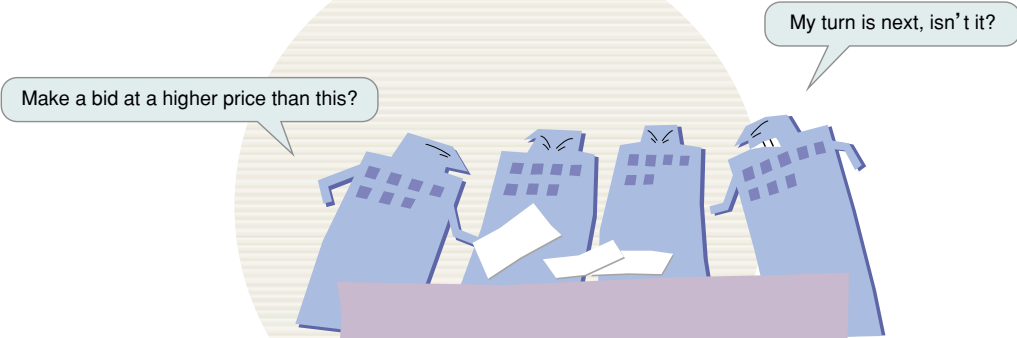
It is unlawful and prohibited to conclude agreements providing for cartels with overseas entrepreneurs in the same trade. For instance, if domestic and overseas entrepreneurs form a cartel whereby they do not export their respective products to their respective partner countries, it follows that such products are not imported into the domestic market. This case falls under an illegal act because of a substantial restraint of competition.

Why doesn't this get much cheaper?



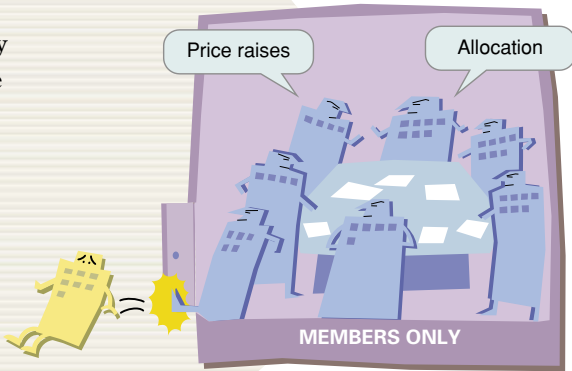
Prohibition of bid riggings

“Bid rigging” means that several entrepreneurs participating in bidding for e.g. public works of the central and local governments and public procurement consult with each other in advance to determine the contractors and contract prices, and is prohibited as one of the unreasonable restraint trades.



Restraint of activities by trade associations

Trade associations are prohibited from performing such acts as unjustly restrain voluntary business activities of entrepreneurs by limiting the number of entrepreneurs in a particular field of trade and giving instructions as to price raises, volume restraint, transaction partners, and allocation of sales territories.



Cartel exemptions from the application of the Antimonopoly Act

In order to achieve specific policy objectives, cartels may be allowed exceptionally under certain requirements in accordance with the Antimonopoly Act and other laws. For instance, joint economic business by those associations aimed at mutual aid of small-scale entrepreneurs and consumers is exempted from the application of prohibition of the Antimonopoly Act.

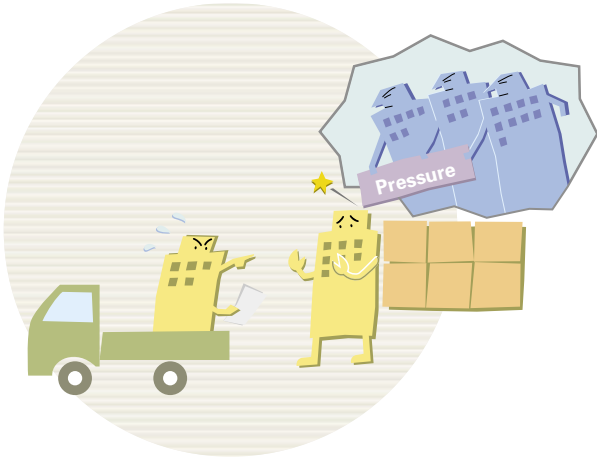
Any acts likely to impede fair competition in a market are prohibited.

In order to revitalize the market, it is necessary for entrepreneurs to engage in fair competition in an effort to offer products, which are better in quality and lower in prices than those of their competitors. For this purpose, the Antimonopoly Act designates the acts restraining free competition and undermining the foundation for competition as “unfair trade practices,” and prohibits such acts. “Unfair trade practices” consist of “general designation” applicable to the entire category of business and “Special designation” applicable only to specific category of business.

General designation

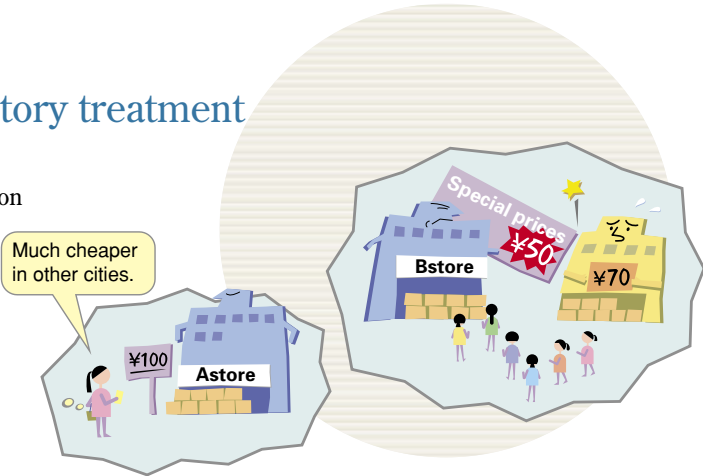
Refusal to deal

It is unlawful and prohibited that several entrepreneurs jointly refuse to do business with specific entrepreneurs or cause the third party to do so. For example, if several entrepreneurs jointly force raw material manufacturers not to supply products to newcomers to the market with intent to prevent such newcomers from launching their operations, this falls under refusal to deal. Refusal to deal on an individual basis is also deemed unlawful, if deals are refused as a means of achieving an unjust purpose in terms of the Antimonopoly Act, such as making retailers abide by sales prices.



Discriminatory pricing and discriminatory treatment

It is unlawful and prohibited to set unjustly different prices and transaction terms for the same products or services depending on transaction partners and sales territories. For instance, if dominant entrepreneurs offer lower prices only to the customers of competitors in order to exclude them, and take an excessive dumping means only in the area competing with their competitors, such acts falls under this case.



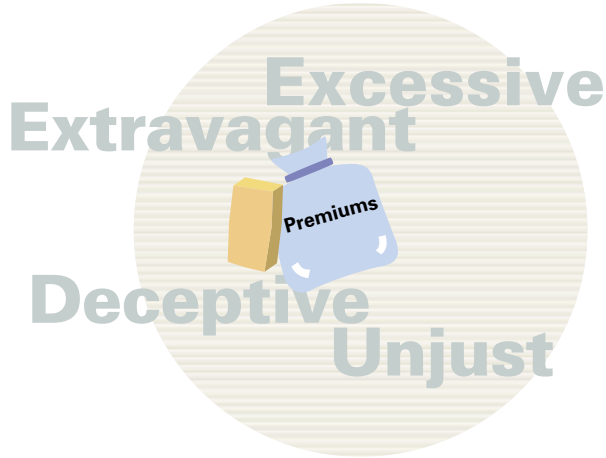
Unjust low price sales

It is unlawful and prohibited to sell products or services at unjustly low prices, for example, sell continuously at prices sizably lower than seller's actual purchase prices if such sales make it difficult for competitors to carry out business activities. However, it is lawful and justified to make bargain sales as fair competition means and dispose of perishable or seasonal products at special prices.



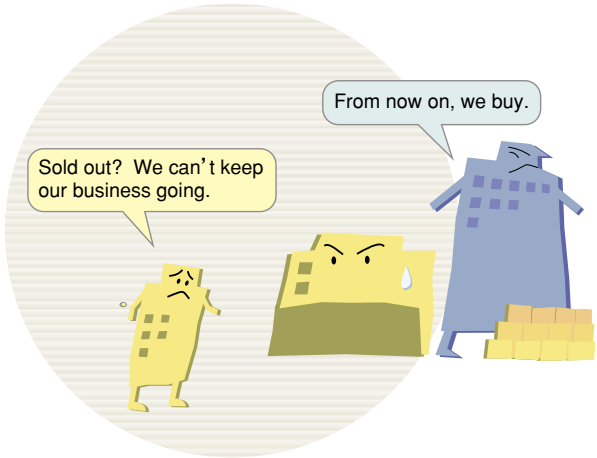
Deceptive customer inducement

It is unlawful and prohibited to attract customers unjustly through deceptive and extravagant advertisements with intent to disguise own products or services as extremely superior to those of competitors, and sell them by attaching excessive premiums because such acts distort the proper selection of products or services by customers.



Unjust high price purchasing

It is unlawful and prohibited to purchase what competitors need at prices extremely higher than the market prices in order to exclude them from the market by making it difficult for such competitors to procure necessary products or services. For instance, buying up raw materials indispensable to products of competitors at extremely high prices falls under this case.



Tie-in sales

It is unlawful and prohibited to force transaction partners to purchase products or services by tying them to the supply of other products or services. For instance, forcing purchasers to buy a combination of popular products and unsold unpopular ones against their will falls under this case.

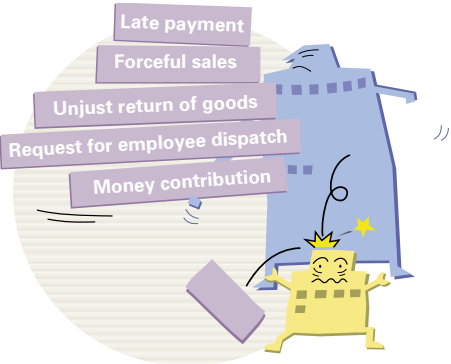


The Subcontract Act

The Subcontract Act regulates the late payment or reduced payment of subcontract prices and ordering parties' unreasonable treatment of subcontractors. It clearly defines prohibited acts on the part of ordering parties in wide-ranging business fields from manufacturing to service industries, and protects subcontractors by asking for simple and prompt remedial measures, if any illegal acts occur.

Abuse of dominant bargaining position

It is unlawful and prohibited for large entrepreneurs in a dominant bargaining position to use their position to perform unreasonable acts to transaction partners to the disadvantage of the latter. Such acts include the late payment for subcontracted work due to one-sided reasons of ordering parties, forceful sales, unjust return of goods, request for dispatching employees, and request for money contribution. These acts often occur in subcontract transactions, and are regulated in detail by the Subcontract Act, a complementary law of the Antimonopoly Act.



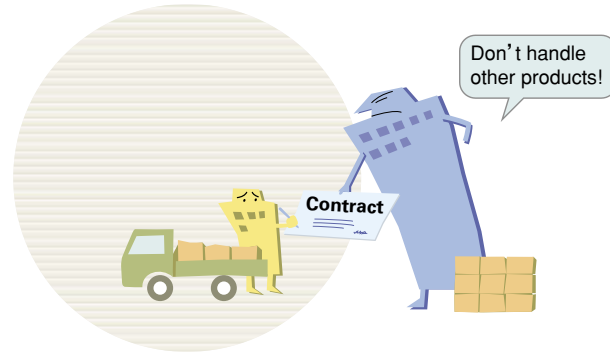
Resale price restriction

It is prohibited, in principle, to give retailers, etc. instructions on sales prices because it restricts prices as a basic means of competition. It is also prohibited to impose economic disadvantage on retailers and suspend delivery to them in order to force them to sell products or services at designated prices.



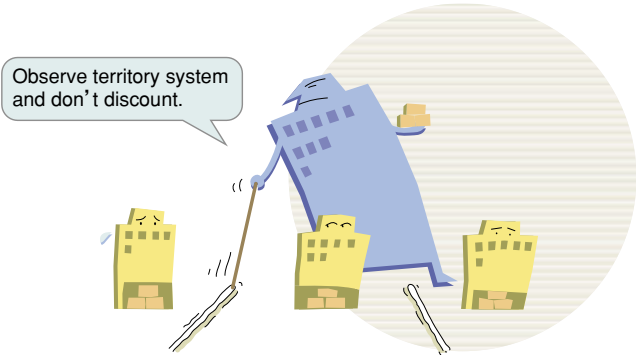
Dealing on exclusive terms

If exclusive dealing, which makes transaction partners handle only one's own products or services, and prohibits dealing with other competitors, has the possibility of depriving competitors of trade opportunities and distribution routes and hindering new entry, such conduct would be unlawful.



Dealing on restrictive terms

Carrying out trade on terms that unjustly restrict business activities of transaction partners is prohibited. Restriction of sales territories under the territory system and sales methods such as low-price sales falls under this case.



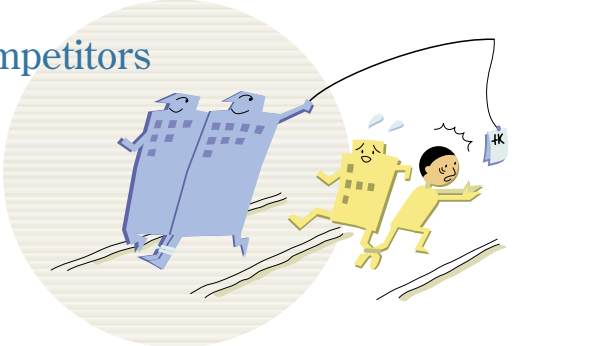
Interference with competitors' transactions

It is unlawful and prohibited to unjustly obstruct business activities of competitors by obstructing the conclusion of contracts necessary for carrying out business activities and by inducing the non-fulfillment of such contracts. For instance, if import agents handling overseas brand-name products request overseas sales outlets to discontinue transactions with other domestic import agents, it falls under this case.



Interference with internal operations of competitors

It is unlawful and prohibited to unjustly induce or abet the shareholders and officers of competitors to perform acts detrimental to them.



Special designation

In addition to 5 categories of business; large-scale retailers, textbook business, maritime business, physical distribution, and newspaper business, the maximum amount of premiums in advertisement is designated as special designation.

- * Specific Unfair Trade Practices by Large-Scale Retailers Relating to the Trade with Suppliers
- * Specific Unfair Trade Practices in the Textbook Business
- * Specific Unfair Trade Practices in the Maritime Business
- * Specific Unfair Trade Practices when Specified Shippers Assign the Transport and Custody of Articles
- * Specific Unfair Trade Practices in the Newspaper Business
- * Specific Unfair Trade Practices by Offering Economic Benefits through Lotteries or Other Means in Advertisements

Unfair trade practices by trade associations

Trade associations are prohibited from instructing their participating member entrepreneurs to perform acts falling under "unfair trade practices." It is also prohibited to unjustly exclude those members not following such instructions from trade associations or make it difficult for such members to carry out business activities through discriminatory treatment.

International contracts and unfair trade practices

Domestic entrepreneurs are prohibited from concluding international contracts containing "unfair trade practices" with overseas entrepreneurs. As to overseas areas where it is difficult to regulate unfair trade practices of overseas entrepreneurs by the Japanese Antimonopoly Act, it is prohibited to conclude such international contracts.

The JFTC regulates business combination which may restrain competition.

The Antimonopoly Act prohibits merger, division and acquisition of business etc. where the effect of such a business combination may substantially restrain competition. The JFTC announces “Guidelines to application of the Antimonopoly Act concerning review of business combination” to clarify what kind of business combination may raise problem. Moreover, the AMA prohibits establishment of a company which may cause excessive concentration of economic power, and restricts rate of holding voting rights by a bank or an insurance company.

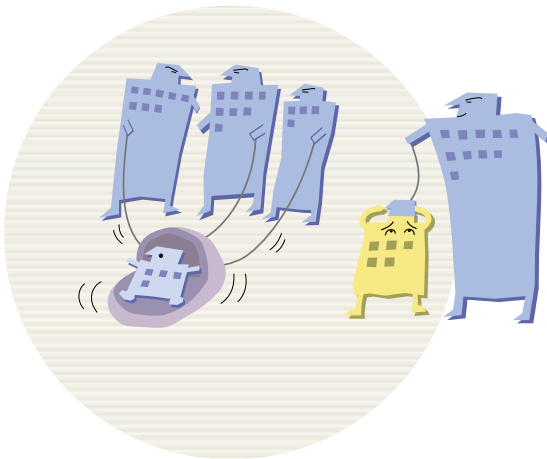
Prohibition of particular mergers

Mergers are prohibited if they may cause a substantial restraint of competition in any particular field of trade. “Particular field of trade” is generally defined individually in accordance with the types of products or services handled by merged companies, geographical extent to which such products or services are traded, and the specific phase of transactions. The judgment on whether the effect of the merger may substantially restrain competition or not is made by comprehensively taking into account various factors such as market shares and status of import and entry in the market.



Prohibition of particular divisions

“Joint establishment division” in which several entrepreneurs jointly cause a new company to take over business operations and “acquisition division” in which an entrepreneur cause the existing company to take over business operations are treated in the same manner as mergers because a portion subject to division and takeover is taken over by the other company. Such division is prohibited if it substantially restrains competition in any particular field of trade.



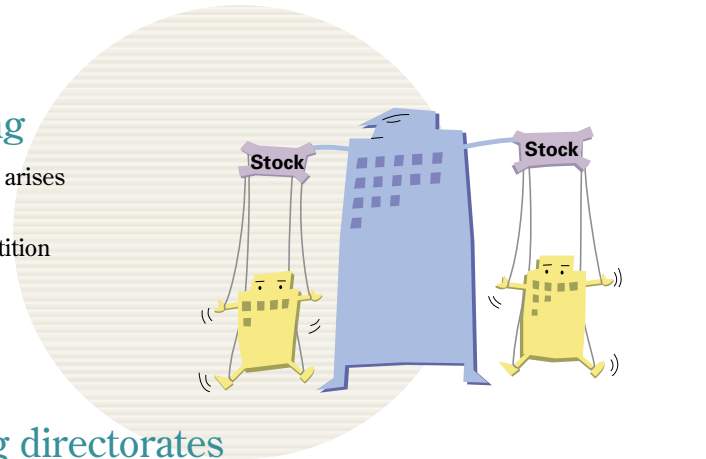
Prohibition of particular acquisition of business

The acquisition of business among companies are treated in the same manner as mergers because the business of acquired company is combined with that of acquiring company, and is prohibited if it substantially restrains competition in any particular field of trade. The acquisition of business includes the acquisition of sales and plant operations, the acquisition of fixed assets used for business and the lease of business, etc.



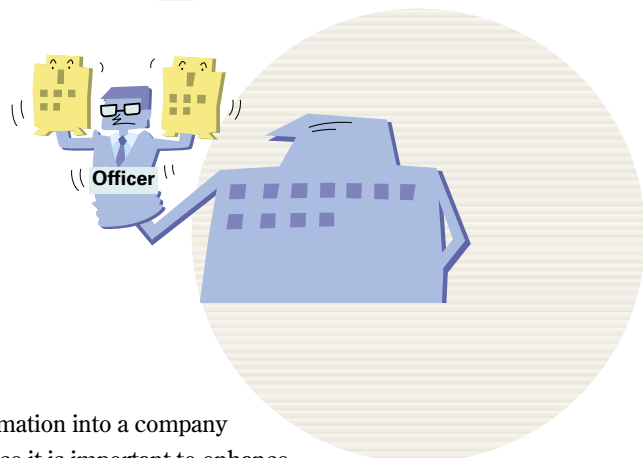
Prohibition of particular stockholding

When one company holds stocks of another company, there arises a relation of business combination between them. Such stockholding is prohibited if it substantially restrains competition in any particular field of trade.



Prohibition of particular interlocking directorates

Interlocking directorates are prohibited if it substantially restrains competition in any particular field of trade by one person concurrently serving as officers of several companies.

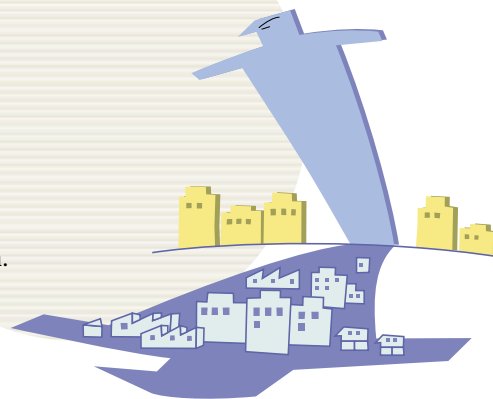


Prohibition of establishment of company which may cause excessive concentration of economic power

The Antimonopoly Act prohibits the establishment of and transformation into a company which may cause excessive concentration of economic power. Since it is important to enhance the predictability of entrepreneurs and secure the transparent operation of the Act, the JFTC announces “Guidelines Concerning Companies which Constitute Excessive Concentration of Economic Power” as a means of interpretation of what companies are prohibited as such.

Restriction on rate of holding voting rights by a bank or an insurance company

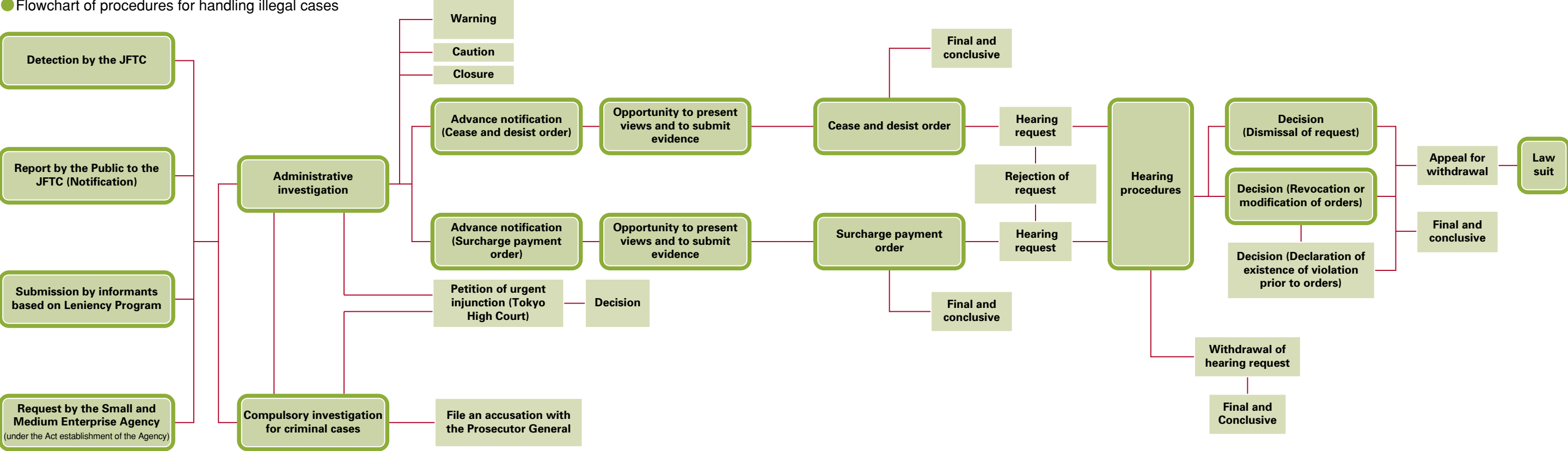
Banks or insurance companies are prohibited to hold more than 5% (10% in the case of insurance companies) of voting rights of non-financial companies in Japan. However, they can hold more than 5% (10% in the case of insurance companies) when so approved by the JFTC or exceptionally permitted by law. The JFTC announces “Guidelines concerning Authorization of Acquisition and Holding of Voting Rights by Banking and Insurance Companies under the Provision of Section 11 of the Antimonopoly Act” etc..



The JFTC regulates illegal acts promptly, and takes strict measures.

When there is a suspected violation of the Antimonopoly Act, the JFTC carries out investigations through the on-the-spot inspections and hearings. When illegal acts have been recognized, it orders the violators to take measures to eliminate such acts. Strict measures including the imposition of surcharges and criminal penalties are taken against malicious acts such as cartels.

● Flowchart of procedures for handling illegal cases



A clue for starting investigations When the JFTC detects suspected acts through its ex officio investigation, information offered by the public and applications for Leniency Program, it launches an investigation.

Administrative investigation On-the-spot inspection is made to the entrepreneurs suspected of illegal acts in order to collect and investigate accounting books and related documents, and the concerned parties are ordered to appear for hearing details, if necessary.

Compulsory investigation for criminal cases In accordance with the warrants issued by the judge, visit and search to the entrepreneurs concerned are carried out for seizure of necessary objects. If criminal accusation is deemed reasonable as a result of investigations, an accusation is filed with the prosecutor-general.

Advance notification When illegal acts are recognized as a result of investigations, the JFTC decides on the contents of cease and desist orders and surcharge payment orders, which are deemed reasonable, and gives the entrepreneurs in question an advance notification on the contents of such orders.

Opportunity to present views and to submit evidence Entrepreneurs can present their views on the contents of orders notified in advance. In order to ensure the decision of fair administrative measure, they can not only present their views, but submit evidence.

Cease and desist orders Cease and desist orders are the administrative measure aimed at a prompt elimination of illegal acts. In the case of price cartels, the entrepreneurs involved are ordered to withdraw price raises, and so on.

Surcharge payment orders Surcharge payment orders are the administrative measure given to such cases as cartels, bid riggings, and private monopolization, in addition to elimination of illegal acts. Surcharge payment is calculated in accordance with a certain formula and made to the national treasury.
⇒ For particulars, see “Surcharge calculation rates” on page 21.

Hearing procedures and decision When a request for hearing procedures is made, establishment of facts of violation and review of applicable measure are carried out. After hearing procedures, decision is made depending on facts of violation.

Lawsuit Entrepreneurs dissatisfied with decision can appeal to Tokyo High Court asking for revocation. In the absence of substantial evidence for decision or in the case of breach of the Constitution, the court repeals such decision.

Surcharge calculation rates

Surcharges are applied to those entrepreneurs carrying out cartels, bid riggings, private monopolization, and certain types of unfair trade practices. The sum of surcharges is calculated on the basis of sales amounts of products or services in question during the period of violation (3 years at a maximum) by multiplying such sales amounts by calculation rates as determined according to operation scales and business categories.

Sum of surcharges

=

sales amounts of products or services in question during the period of violation *

×

surcharge calculation rates

*purchase amount in the case of purchasing cartels

● Cartels and bid riggings

● Large enterprises		Early termination	Repeated violation / Leading entrepreneur	● Medium and small enterprises		Early termination	Repeated violation / Leading entrepreneur
Manufacturing, etc.	10%	8%	15%	Manufacturing, etc.	4%	3.2%	6%
Retail	3%	2.4%	4.5%	Retail	1.2%	1%	1.8%
Wholesale	2%	1.6%	3%	Wholesale	1%	0.8%	1.5%

- “Early termination” means that the period of illegal acts is less than 2 years, and such acts are discontinued not later than one month before the commencement of investigations (not applicable in the case of private monopolization of the control type).
- “Repeated violation” means cases where surcharge payment orders have been given during the period of 10 years before the commencement date of investigation.
- “Leading entrepreneur” means entrepreneur who plays a leading role, such as “organizer” in bid-rigging, cartel, etc.

● Private monopolization

	Control type	Exclusionary type
Manufacturing, etc.	10%	6%
Retail	3%	2%
Wholesale	2%	1%

● Unfair trade practices

	Concerted refusal to trade, Discriminatory pricing, Unjust low price sales, Resale price restriction *Levied against the second offence of the same type of violation within ten years	Abuse of superior bargaining position
Manufacturing, etc.	3%	1%
Retail	2%	
Wholesale	1%	

Leniency program

A leniency program is a system whereby surcharges are immunized or reduced on condition that the entrepreneurs, which have been involved in cartels and bid riggings, voluntarily report them to the JFTC. The more rapidly they make such report to the JFTC before its initiation of investigation, the more surcharges they are exempted. This system applies to a total of 5 applicants on a first-come-first-served basis including reports on such illegal cases after initiation of investigation. This system makes it easier to detect and clarify cartels because entrepreneurs report on the contents of violation and submit related documents.

* The leniency program applies to cartels (including purchasing cartels) and bid riggings.

- The first applicant before initiation of investigation ----- immunity from total surcharges

○ The second applicant before initiation of investigation ----- reduction of 50% of surcharges

○ The third to fifth applicant before initiation of investigation --- reduction of 30% of surcharges

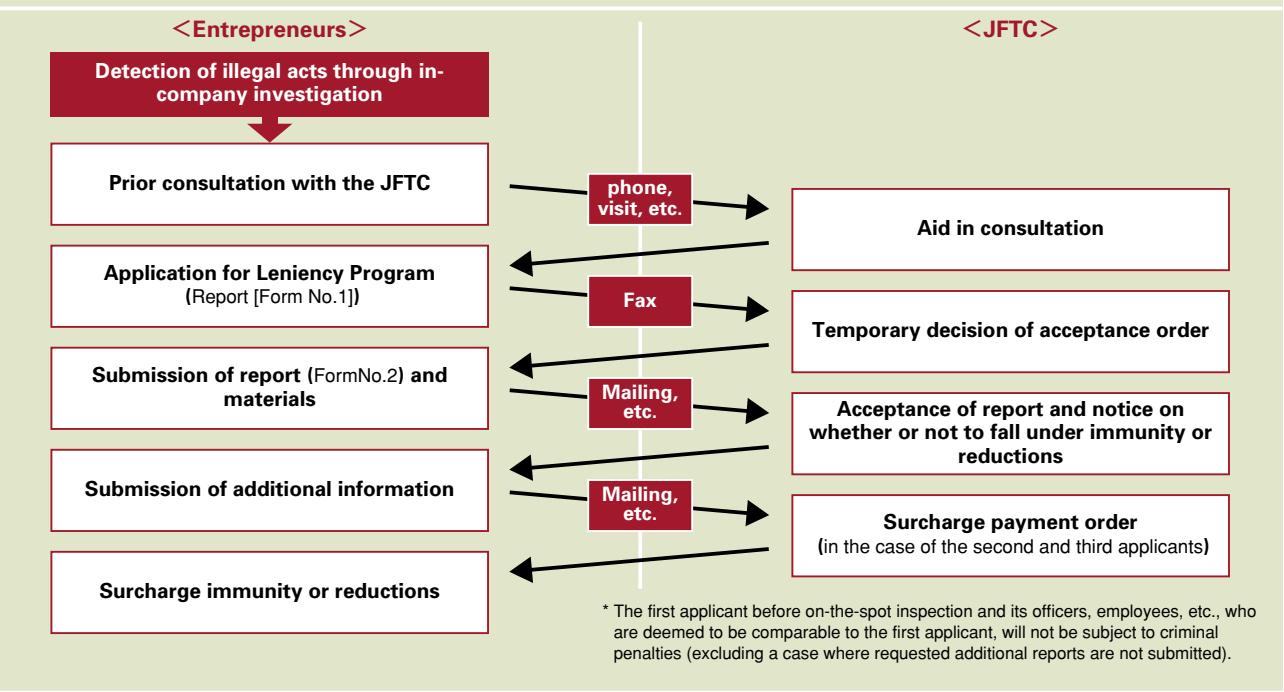
○ The applicants after initiation of investigation ----- reduction of 30% of surcharges
- Surcharge immunity or reductions apply to a total of 5 applicants (up to 3 applicants after the investigation start date)

* Until surcharge payment orders, etc. are given, it is necessary to make additional reports on illegal acts, etc. at the request of the JFTC.

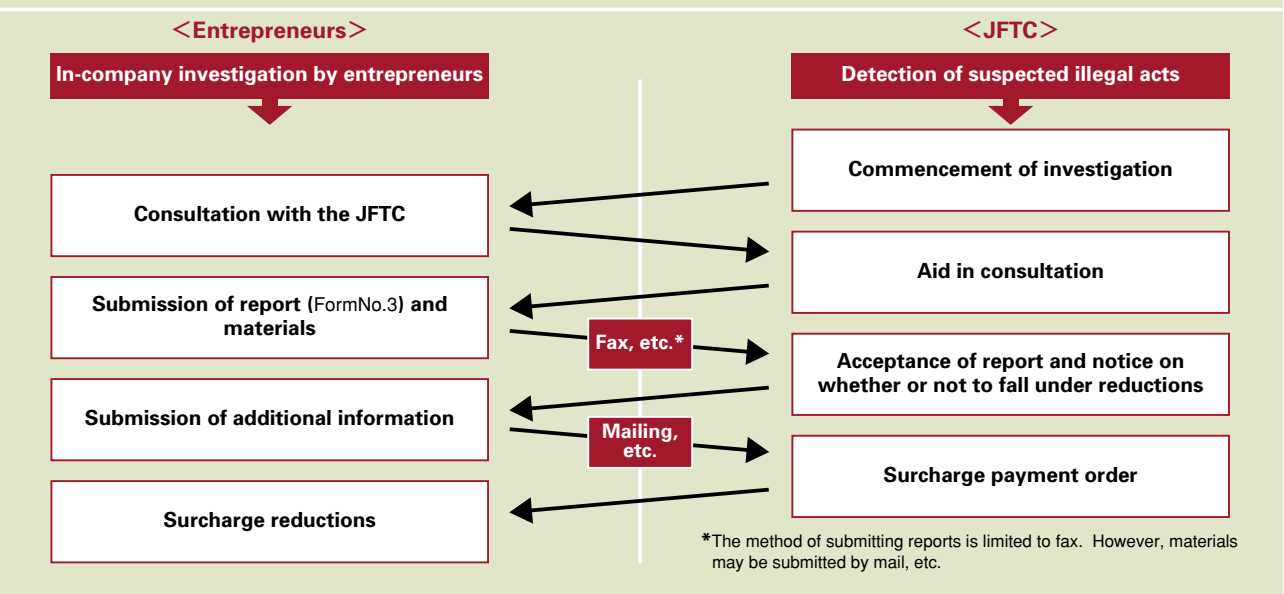
* Joint application is accepted. Upon certain condition being met, two or more applicants in the same company group are granted with the same order of application.

● Flowchart of Leniency Program

In the case of report before the commencement date of investigation by the JFTC



In the case of report after the commencement date of investigation of the JFTC



Criminal penalties

In some cases, criminal penalties such as imprisonment with work or fine are imposed against violation of the Antimonopoly Act. If entrepreneurs are engaged in cartels, an individual who has decided to carry out such cartels is subject to criminal penalties, and a fine is also imposed on the entrepreneurs and trade associations involved.

Types of illegal acts		Individual	Entrepreneurs
Private monopolization, unreasonable restraint of trade, illegal acts of trade associations		Imprisonment with work of up to 5 years or fine of up to 5 million yen	Fine of up to 500 million yen
Illegal acts of trade associations, such as execution of specific international agreements		Imprisonment with work of up to 2 years or fine of up to 3 million yen	Fine of up to 3 million yen
Violation of final cease and desist order		Imprisonment with work of up to 2 years or fine of up to 3 million yen	Fine of up to 300 million yen*
Violation of prohibition of stockholding of companies, violation of prohibition of interlocking directorates, etc.		Imprisonment with work of up to one year or fine of up to 2 million yen	Fine of up to 2 million yen (excluding violation of prohibition of interlocking directorates)
Failure to report to the JFTC, etc.		Fine of up to 2 million yen	Fine of up to 2 million yen
Obstruction of on-the-spot inspection, etc.	Refusal to appear or report, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen
	Refusal of order of expert examination, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen
	Refusal of order of submission, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen
	Obstruction of on-the-spot inspection, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen

* A fine of up to 3 million is imposed on violation of injunctions against private monopolization, unreasonable restraint of trade or illegal acts of trade associations.

Adjustment of surcharges and fines

In case both surcharges and fines are imposed, the amount corresponding to half the amount of fines is deducted from surcharges.

Filing of injunctions

Consumers or entrepreneurs can file an injunction with the court if they have incurred a remarkable damage or are likely to incur such damage due to the illegal acts falling under unfair trade practices.

Compensation for damage

Consumers or entrepreneurs that have incurred damage due to the violation of acts prohibited by the Antimonopoly Act, they can demand damages from the violators. If damages are demanded in accordance with the Antimonopoly Act, in particular, entrepreneurs or trade associations so demanded cannot be exempted from their liabilities regardless of the existence of their intentions or negligence.

Inquiries about leniency program will be accepted by Senior Officer for Leniency Program.

- Advance consultation on Leniency Program : Tel: 81-3-3581-2100 (direct line) Office hours: 9:30 to 17:45
- Transmission of report involving Leniency Program (Form No.1 and Form No.3) : Fax: 81-3-3581-5599 (by fax only)
- Submission of report and materials involving Leniency Program (Form No.2 and Form No.3) : Japan Fair Trade Commission 1-1-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8987, Japan
 - Forms of reports are as set forth in the website of the JFTC.

Developments in Japanese competition policies

Development of competition policy in Japan		
High Growth Period of Japanese Economy	Introduction of Competition Policy	1947 • Enactment of the Antimonopoly Act (AMA) 1953 • Promulgation of the 4th Amendment of the AMA (Introduction of various exemptions etc.) 1956 • Enactment of Act Against Delays in Payment of Subcontract Proceeds, etc. to Subcontractors(Subcontract Act) 1962 • Enactment of Act Unjustifiable Premiums and Misleading Representations(Premiums and Representations Act)
Economic Collapse by Skyrocketing Prices	Strengthening and Promotion of Competition Policy	1974 • Criminal Accusation Against cartel involving 12 oil wholesalers for violation of the Antimonopoly Act 1977 • Promulgation of the 10th Amendment of the AMA (Introduction of surcharge system etc.) • First bilateral meeting between Japanese and U.S. competition authorities 1980 • First bilateral meeting between Japanese and EC competition authority
Low Growth Period		
Bubble Economy Period		1989 • The Structural Impediments Initiative talks between Japan and U. S. started.
Heisei Recession Period	Aggressive Development of Competition Policy	1991 • Promulgation of the 11th Amendment of the AMA (Increase of the Surcharge Rate) 1992 • Promulgation of the 12th Amendment of the AMA (Reinforcement of criminal penalties) 1995 • Criminal Accusation against bid rigging case concerning electric equipment installation work 1996 • Promulgation of the 13th Amendment of the AMA (Establishment of General Secretariat) 1997 • Promulgation of the 14th Amendment of the AMA(Lifting of ban on holding company) • Promulgation of the omnibus law for abolishing exempted cartels and other exemptions under various laws 1999 • Bilateral Antimonopoly Cooperation Agreement Between Japan and U.S. was concluded 2003 • The JFTC was transferred from an external organ of the Ministry of Internal Affairs and Communications to the Cabinet Office. • Bilateral Antimonopoly Cooperation Agreement Between Japan and EC was concluded 2005 • Promulgation of the 19th Amendment of the AMA (Increase of the Surcharge Rate, Introduction of a Leniency Program, Introduction of the Compulsory Measures for Criminal Accusations, Revision of the Hearing Procedures) • Criminal Accusation against the bid rigging case concerning steel bridge construction projects • Bilateral Antimonopoly Cooperation Agreement Between Japan and Canada was concluded 2009 • Expansion of types of conduct subject to surcharges to exclusionary type of private monopolization and certain types of unfair trade practices. • Introduction of the prior notification system of share acquisitions and revision of the notification threshold. • Increase in maximum jail terms for cartels and bid riggings.
Sluggish Economy under Deflation		

Annual data

1.The number of remedial measures (FY2003-FY2009)

Fiscal Year	2003	2004	2005	2006	2007	2008	2009
Formal Action *1	25	35	19	12	22	16	26
Warning *2	13	9	7	9	10	4	9
Criminal Accusation	1	0	2	2	1	1	0

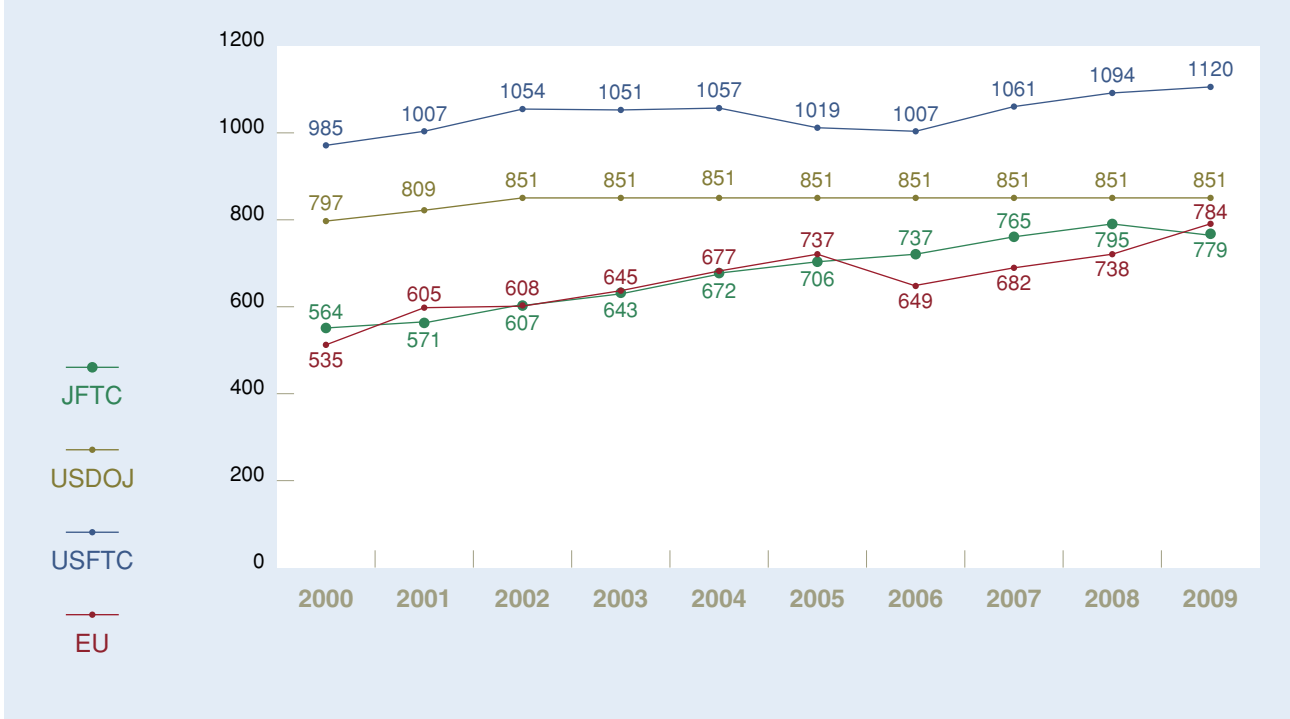
Source : JFTC's annual reports.
Note 1 : “Formal Action” includes recommendations and surcharge payment orders issued without recommendations.
Note 2 : “Warning” is a kind of administrative guidance.

2.Surcharge payment orders (FY2003-FY2009)

Fiscal Year	2003	2004	2005	2006	2007	2008	2009
Number of cases	24	26	20	13	20	11	24
Number of recipients of orders	468	219	399	158	162	87	106
Total amount (Mil Yen)*	3,870	11,150	18,870	9,263	11,296	27,036	36,074

Source : JFTC's annual reports.
Note : “Total amount” includes the amount of the surcharge payment orders through decisions via hearing procedures, excludes the amount of the surcharge payment orders that JFTC initial hearings on.

Statistics Change of the number of staff of the competition agency in main countries



DOJ : Department of Justice Antitrust Division (US)
FTC : Federal Trade Commission (US)
EU : Directorate-General for Competition (EU)