

Speech by Chairman Kazuhiko Takeshima on the activities of The Japan Fair Trade Commission in 2002 to the Committee on Economy, Trade and Industry of The House of Representatives at the 156th Session of the Diet

(February 19, 2003)

I will explain the activities of the Japan Fair Trade Commission during 2002.

The Japan Fair Trade Commission has strictly enforced the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (“Antimonopoly Act”) and promoted the competition policy with emphasis on the following.

The first is enforcement of the Act in line with the structural reforms. With regard to violations of the Antimonopoly Act such as bid-rigging, we have continued to take a strict line to encourage free and fair competition of entrepreneurs within and outside the country as well as for the benefit of consumers. We took legal measures such as issuing recommendations against 598 persons in total in 23 cases including bid-riggings. Some 433 entrepreneurs in total were ordered to pay surcharges of ¥2.7 billion in total in 33 cases of price cartels and bid-riggings.

Further, the Act Concerning Elimination and Prevention of the Involvement in Bid-Rigging was enacted last July by legislation at the instigation of House members and was put into force in January this year. When the Commission rendered a recommendation in January this year on a case of bid-riggings concerning construction projects, the Commission demanded improvement measures of the local government which ordered the projects based on the provisions of the Act. With regard to involvement in bid-rigging by government officials etc. in the future, the Fair Trade Commission will continue to take appropriate action based on the provisions of the Act.

Also, with a view to securing free and fair competition in sectors where the competitive environment is changing rapidly as regulatory reforms proceed, the Commission has set up an IT and Public Utility Sector Task Force within its Investigation Bureau, and has dealt with cases by promptly gathering information on the practices of IT and public utility companies violating the Antimonopoly Act.

The second main activity is creating a competitive environment. In

March last year, with a view to clarifying the relationship between intellectual property rights and the Antimonopoly Act, the Commission released the Guideline of the Antimonopoly Act on Software Licensing Contract, etc. Meanwhile, to promote competition in the so called social regulation sector such as nursing, medical care and labor, etc., the Commission studied the introduction of systematic reforms and competition in the sector, and published the results last November. Further, in the electricity and telecommunications sector, with a view to securing fair competitive conditions between new entrants and incumbents, the Commission revised the guidelines already made public for each sector.

The third activity is the promotion of a competitive society supported by rules. In order to secure fair competition following regulatory reform, the Commission has promptly and strictly dealt with such unfair trade practices as unfair low price sales, abuse of dominant bargaining position, etc., which may cause undue disadvantages to small- and mid-sized entrepreneurs.

With regard to work concerning the Act Against Delays in Payment of Subcontract Proceeds, etc. to Subcontractors ("Subcontract Act"), the Commission has dealt with violations of the Act such as reduction of subcontract proceeds and refusal to receive works, by issuing three recommendations and 1,304 warnings. Also, in view of recent developments in the service industry, the Commission intends to submit a bill to the current Diet session to revise the Subcontract Act, to add subcontracting related to commissioning of services for preparing programs, etc. to the scope covered by the Subcontract Act.

With regard to work concerning the Act Against Unjustifiable Premiums and Misleading Representations ("Premiums and Representations Act"), the Commission has endeavored to eliminate unjustifiable premiums and misleading representations, issuing 28 cease-and-desist orders and 420 warnings. Also, in view of the recent situation regarding representations and to effectively eliminate them, the Commission will submit a bill to the current Diet session to revise the Premiums and Representations Act.

The fourth activity is a comprehensive review of the Antimonopoly Act's current system of administrative and criminal measures. In order to further strengthen the enforcement and preemptive powers of the Antimonopoly Act against increasingly complex and ingenious violations,

the Commission will comprehensively review the Antimonopoly Act's current system of cease-and-desist measures, surcharges and criminal accusation, etc., and is now carefully studying the matter at the Working Group on the Antimonopoly Act.

The fifth activity is on the examination of mergers and acquisitions. The Commission published the Policies dealing with Prior Consultation regarding Enterprise Combination Plans in last December with a view to speeding up and clarifying examination procedures of increasingly large-scale and complex mergers and acquisitions. The Commission endeavors to respond to prior consultations as early as possible within the time frame set by the policies. With regard to cases subject to the Act for Special Measures on Industrial Revitalization, the Commission intends to set operational guidelines for shortening the examination period, etc. by classifying types for quick examinations in order to further speed up the examination. A draft of the guideline was made public in February this year.

The above is a brief outline of our work.

Last but not least, in view of the importance of strictly enforcing the Antimonopoly Act, the Commission has submitted a bill to the current Diet session concerning the preparation of related laws to transfer the Fair Trade Commission to an extra ministerial body of the Cabinet Office.

We would appreciate your continued guidance in the future.