

Cease and Desist Order against Marukyo Corporation
(Tentative Translation)

May 23, 2008

Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC), in accordance with the Anti-Monopoly Act (AMA), investigated Marukyo Corporation (hereinafter referred to as “Marukyo”) and found that Marukyo had committed an act in violation of the provision of Article 19 of the AMA (coming under paragraphs 1, 2 and 7 of the Designation of Specific Unfair Trade Practices by Large-Scale Retailers^(note) Relating to Trade with Suppliers). Accordingly, the JFTC has today issued a cease and desist order to Marukyo, pursuant to the provisions of Article 20, Paragraphs 1 and 2 of the AMA, as outlined below.

(Note): The term “Large-Scale Retailers” refers to retailers of everyday goods used by general consumers with sales amounts exceeding ten billion yen in the previous business year, or to stores with sales floors (floor areas used for retail business) exceeding 3,000 m², located in special wards or ordinance-designated cities, or exceeding 1,500m² in other areas.

1. Outline of the party concerned

Enterprise	Marukyo Corporation
Location	3-1, Yamada 5-chome, Ohnojo-shi, Fukuoka
Representative	Toshio Saita, Representative Director
Outline of Business	Food and grocery supermarkets

2. Outline of the violation

- (1) With respect to goods handled by its food purchasing department, Marukyo set its own ‘sell-by’ dates: for example, a date that is two months prior to the ‘best before’ date set by a manufacturer or two weeks after the date of rice milling, and returned goods whose ‘sell-by’ date had passed to a suppliers of the food products or general merchandise with whom Marukyo has an ongoing business relationship and over whom Marukyo enjoys a superior bargaining position (hereinafter in items from (1) to (3) referred to as “supplier”) on the grounds that the ‘sell-by’ life of the goods had expired, even though no conditions for return had been agreed in advance with the supplier.
- (2) With respect to goods handled by different purchasing departments, such as those responsible for food products, snacks and general merchandise, Marukyo carried out discount sales on the grounds that, variously, the goods concerned had a low turnover ratio, that a store was due to be closed (including the stores of a limited liability company, ‘Potato’; the same shall apply

hereinafter), that the sales period for seasonal products had ended, or that the goods were damaged as a result of, for example, falling from a shelf (hereinafter referred to as “low turnover ratio, etc.”), and Marukyo performed the following acts.

(a) Marukyo returned goods to a supplier on the grounds that the goods had a low turnover ratio, etc. even though no conditions for return had been agreed to in advance with the supplier.

(b) Marukyo coerced a supplier of goods subject to discount into accepting a reduction in the delivery price of those goods by the amount arrived at by multiplying 0.5 by the price before the discount, etc.

- (3) Marukyo coerced suppliers associated with different purchasing departments, such as those responsible for food and dairy products, snacks, meat and general merchandise, into sending their employees to Marukyo stores without having concluded prior agreements with such suppliers concerning the conditions for sending employees and without accepting liability for the costs normally incurred in sending employees. For example, Marukyo coerced suppliers into sending their employees to Marukyo stores at times of inventory clearance or inventory change for sales called “Ohban” (literally meaning “larger size”) (sales conducted by distributing sales circulars that are larger than regular circulars) to perform such activities as display or replenishment of products, inventory clearance and inventory change at stores that do not require the skills or abilities of suppliers’ employees, to also perform such work as cleaning of store shelves that do not require the skills or abilities of suppliers’ employees for an event called “Store Clinic.”

3. Outline of the cease and desist order

- (1) Marukyo shall cease the conducts described in 2-(1) above and shall resolve at a board meeting to cease such conducts and not to engage in any conducts similar to such conducts in future.
- (2) Marukyo shall confirm that the conducts described in 2-(2) and (3) above have ceased and shall resolve at a board meeting not to engage in any conducts similar to such conducts in future.
- (3) Marukyo shall inform suppliers of food products and general merchandise with whom Marukyo enjoys continuous business relationships of the measures taken based on 3-(1) and (2) above and shall make its own employees fully aware of this information.
- (4) Marukyo shall not engage in any conducts similar to those described in 2 above in the future.
- (5) Marukyo shall take the necessary steps to implement the following measures:
- (a) Formulate guidelines for conduct to comply with the provisions of the Anti-Monopoly Act relating to trade with suppliers; and
- (b) Provide regular training for officers and personnel responsible for purchasing in compliance with the provisions of the Anti-Monopoly Act relating to trade with suppliers, and conduct regular monitoring by personnel responsible for legal affairs.