

Evaluation of JFTC Policies in FY2009
(Tentative Translation)

July 22, 2009
Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC) conducted the policy evaluation in the FY2009 in accordance with “Government Policy Evaluations Act” (Act No. 86 of 2001) and compiled the results. When compiling the evaluation results, the JFTC heard opinions from the Japan Fair Trade Commission Policy Evaluation Commission members (commissioned to outside experts) so that their opinions were included.

1. Measures Subject to Evaluation etc.

Subject Measures	Subject Activities
Rapid and effective operation of the Act	Business combination review
	Business combination review (FY2008)
	Measures against violations of the Antimonopoly Act
	Measures against violations of the Antimonopoly Act (FY2008)
Promotion of competition society governed by rules	Measures against violations of the Subcontract Act
	Measures against violations of the Subcontract Act (FY2008)
	Promotion of adequate consumer transactions
	Dissemination of the Premiums and Representations Act
	Measures against violations of the Premiums and Representations Act
	Measures against violations of the Premiums and Representations Act (FY2008)
Positive creation of competitive environment	Promotion of international cooperation
	International cooperation through organizing the seventh annual conference of the International Competition Network (ICN)
	Improvement of compliance awareness
	Improvement of compliance awareness at corporations and ordering organizations

2. Evaluation Results

In this policy evaluation, the measures of the JFTC were examined from the viewpoints of “Necessity,” “Effectiveness,” or “Efficiency” in accordance with Paragraph 1, Article 3 of the Government Policy Evaluations Act. Examples of specific evaluation results contents in terms of “Effectiveness” and “Efficiency” are as follows:

(1) Evaluation from the viewpoint of "Effectiveness"

-- *Business combination review*

The business combination review can be evaluated as having been rapidly and appropriately conducted because the reviews based on notification etc. and prior consultation processes were completed within the predetermined period and because the quality improvement of the business combination review was intended by properly assigning human resources required on a large scale and important cases including those that needed collaboration with foreign competition authorities.

It is further supposed that, as a result of the business combination review, consumer interest worth at least approximately 3.7 billion yen was saved.

-- *Measures against violations of the Antimonopoly Act*

For the cases involving violations of the Antimonopoly Act in FY2008, (1) legal measures were adopted in 17 cases, (2) various and strong-impact cases in the diverse fields of trade were processed, and (3) the final and conclusive amount of surcharge levied per entrepreneur was the largest in the history. Since the objective of dealing strictly and quickly with violation of the Antimonopoly Act has been achieved, these measures can be evaluated as being effective.

For the newspaper coverage with regard to the measures taken by JFTC in FY2008, accusations were often reported. It is expected that an increase in the news coverage due to strict measures adopted against violations of the Antimonopoly Act will ensure widespread awareness of such violations in the society, thus, contributing to the prevention of violations of the Act. In addition, it is supposed that consumer interest worth at least 407.9 billion yen was saved by adopting legal measures.

-- *Measures against violations of the Subcontract Act*

The number of recommendations in Subcontract Act violation cases and the amount returned to cover the reduced subcontract charges as a result of recommendations and warnings were the highest since April 2004, when the amended Subcontract Act was enforced. Further with all recommendation cases published since the enforcement of the amended Subcontract Act, the number of newspaper reports has largely increased in FY2008. It is expected that such extensive coverage will contribute to the prevention of violations of the Subcontract Act, and will help in ascertaining more violations as a result of increased applications. Therefore, measures against violations of the Subcontract Act can be evaluated to be effective in the light of their objectives, which are fair subcontract transactions and protection of subcontractor interests.

-- *Promotion of adequate consumer transactions*

For conferences for consumers on the contents of the Premiums and Representations Act and Fair Competition Code, the JFTC has dispatched instructors to consumer courses or the like held by consumer organizations, local government etc., 48 times in all (total number of attendants was about 2,300 persons). In addition, based on the answers to questionnaires given at consumer seminars etc., held by the JFTC, it can be evaluated that the consumers who attended conferences deepened the understanding about the Premiums and Representation Act which prohibits

misrepresentations which misleads consumers. Therefore, certain effectiveness is recognized in the dissemination activities pertaining to the Premiums and Representation Act for facilitating an environment where consumers can make purchase decisions based on appropriate information.

-- *Measures against violations of the Premiums and Representations Act*

The number of cease and desist orders against violations of Premiums and Representations Act was continuously at a high level equivalent to that in the previous fiscal year, which was the highest ever till then. Closing the cases by the cease and desist orders of legal measures was emphasized, and cases from a wide range of fields were addressed. Since the objective that strict measures should be taken against violations of the Premiums and Representations Act was achieved, this can be evaluated to be effective.

-- *Promotion of International Cooperation*

On the basis of the results of the questionnaire for participants in the seventh annual conference of the International Competition Network (hereinafter, referred to as ICN) held in April 2008 by the JFTC, participants were highly satisfied with the contents of the conference and the entire conference management. This shows that the conference was held according to the business needs of the participating authorities. Therefore, organizing of the seventh annual conference can be evaluated as being effective in promoting ICN activities with an objective of promoting international convergence in both procedural and substantial aspects of the competition law and promoting international cooperation.

-- *Improvement of compliance awareness*

Instructors were dispatched to training courses on the Antimonopoly Act and the Bid-Rigging Involvement Prevention Act held by ordering organizations for 75 times in FY2006, 76 times in FY2007, and 87 times in FY2008, with a great increase as compared to before. After the training courses, 92.8% of the attendants indicated that their understanding of these acts was “Deepened” or “Deepened to an extent.” Therefore, the dispatch of instructors to training courses can be evaluated as effective for the improvement of the knowledge about these acts among the officers of ordering organizations.

(2) Evaluation from the viewpoint of “Efficiency”

-- *Business combination review*

For the business combination review, the review was completed within 30 days of statutory waiting period for all notified cases. In addition, the review was completed within the predetermined period for all of the prior consultation cases.

-- *Measures against violations of the Antimonopoly Act*

For Antimonopoly Act violation cases, the average investigation period for all cases where any legal measures were taken was about 11 months in the FY2008. This long period was due to the investigation of a number of cases which was time-consuming as it involved an analysis of the violating facts such as in price-fixing cartel cases (Many business counterparts are involved and actual transaction situations are largely different among cases) and abuse of dominant bargaining

position cases (It is difficult to obtain statements from entrepreneurs suffering loss because they are concerned about the transaction relations in the future, and the number of entrepreneurs suffering loss is huge.)

-- *Measures against violations of the Subcontract Act*

Most warnings against Subcontract Act violations were processed within six months (98.6%). For recommendations, the number of processed cases was 15, the largest since the enforcement of the amended Subcontract Act in April 2004 and the average processing period was 7.3 months in FY2008. As compared to the average of 9.8 months in the last fiscal year, the processing period was reduced by 2.5 months.

-- *Measures against violations of the Premiums and Representations Act*

The average processing period was 186 days for the Premiums and Representations Act violation cases where cease and desist orders were issued. This period was reduced by 142 days as compared to that in the previous fiscal year. The target that a majority of cases should be processed in about six months was achieved with about 60% cases processed within six months.