

Enforcement Status of the Antimonopoly Act in FY2008

(Tentative Translation)

June 3, 2009

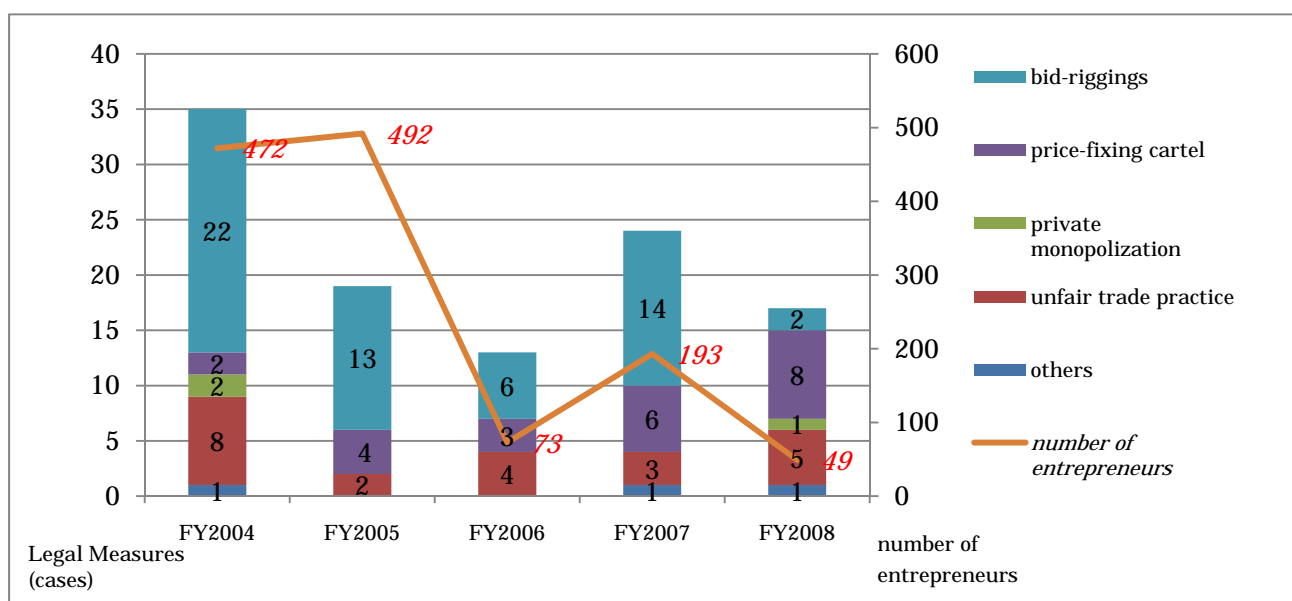
Japan Fair Trade Commission

Based on the policy where the Japan Fair Trade Commission (JFTC) enforces the Antimonopoly Act (AMA) promptly and effectively, JFTC has strictly and positively dealt with various types of violations of the AMA responding to social needs precisely, in particular; 1. price-fixing cartels and bid-riggings which have a great impact on people's living; 2. unfair trade practices such as abuse of dominant bargaining position, unjust low price sales and discriminatory pricing which cause unfair disadvantages to small and medium-size enterprises(SMEs); and 3. hindrance of new entries in the fields of information technology, public utilities and intellectual property which are key elements for promoting economic development.

1. Overview of cases investigated in FY2008

[Legal Measures]

JFTC took legal measures against a total of 49 entrepreneurs in 17 cases.



➤ **Investigation of a variety of cases precisely responding to social needs;**

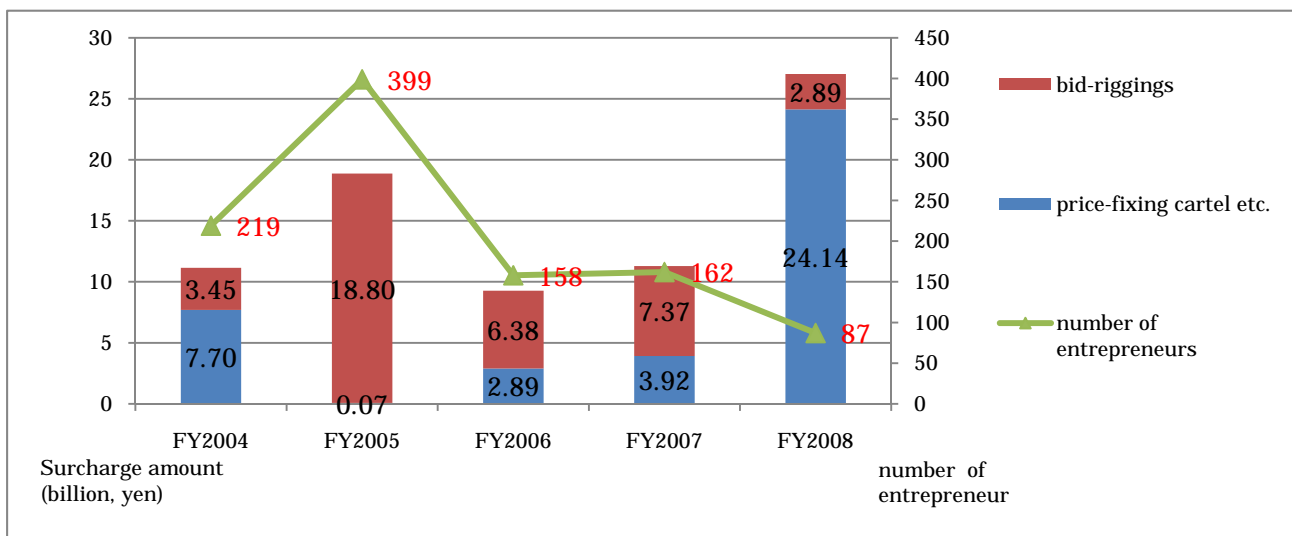
1 case of private monopolization, 2 cases of bid-riggings, 8 cases of price-fixing cartels, 1 case of other type of cartel, and 5 cases of unfair trade practices.

➤ **Prompt law enforcement;**

The average investigation period of all cases in which legal measures were taken in FY2008 was about 11 months.

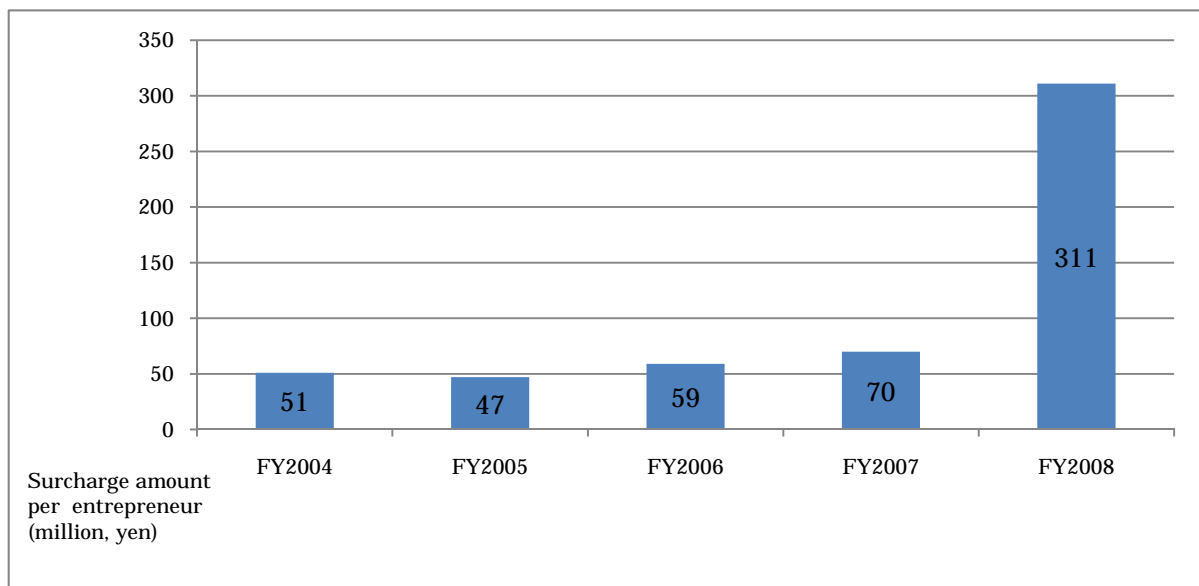
[Surcharge]

The amount of surcharge settled in FY2008 was about 27 billion yen against 87 entrepreneurs. (record-high amount)



(Note) Including the amount subject to the hearing decision made under the AMA before amended in 2005, and excluding the amount subject to the surcharge payment orders nullified by commencement of hearing procedures under the AMA before amended in 2005.

➤ Average surcharge amount per entrepreneur; 311 million yen (record-high amount)



[Criminal Accusations]

Price-fixing cartel by manufacturers and sellers of galvanized steel sheets (against 3 companies and 6 individuals)

[Enforcement of Act on Elimination and Prevention of “Kansei Dango” (bid-riggings in which government officials involve)]

In the bid-rigging over electric equipment construction in relation to sewage disposal facilities ordered by the city of *Sapporo*, it was found that employees of the city of *Sapporo* had been involved in bid riggings. Accordingly, JFTC issued a demand to the mayor of *Sapporo* for improvement measures.

2. Main cases in FY2008

(1) Strict enforcement on bid-riggings and price-fixing cartels

[Bid-riggings]

- Bid-riggings over electric equipment construction in relation to sewage disposal facilities ordered by the city of *Sapporo* (Cease and desist orders and surcharge payment orders were issued on October 29, 2008.)
- Bid-riggings over automatic ambient air monitors ordered by governmental organizations or local governments (Cease and desist orders and surcharge payment orders were issued on November 12, 2008.)

[Price-fixing cartels]

- Price-fixing cartels by manufacturers and sellers of vinyl chloride pipes and joints (Cease and desist orders and surcharge payment orders were issued on February 18, 2009.)
- Price-fixing cartels by international air freight forwarders (Cease and desist orders and surcharge payment orders were issued on March 18, 2009.)
- Price-fixing cartel by manufacturers and distributors of cross-linked high-foaming polyethylene sheets (Cease and desist orders and surcharge payment orders were issued on March 30, 2009.)

[Other type of cartels]

- Purchasing cartel by participants in the bidding for molten metal sold by local governments (Cease and desist orders and surcharge payment orders were issued on October 17, 2008.)

(2) Strict enforcement on exclusionary conducts

- Private monopolization related to musical copyrights by copyright management business operator (Cease and desist order was issued on February 27, 2009.)

(3) Enforcement on violations causing unfair disadvantage to SMEs

- Abuse of dominant bargaining position by large-scale electronics-retail-store against its suppliers (Cease and desist order was issued on June 30, 2008.)
- Low-price bids for public construction projects (Warnings were issued on July 4, 2008)

(4) Enforcement on unfair trade practice in the distribution sector

- Resale price restriction of knitting wool (Cease and desist order was issued on June 23, 2008.)

3. Enforcement of the strengthened AMA which was amended in 2005 in FY2008

(1) Surcharge

(a) Increase in surcharge rates, etc.

- Increased surcharge rate under the AMA amended in 2005 was applied in 7 cases (against 27 entrepreneurs).
- Increased surcharge rate for entrepreneurs who repeated the violation was applied in 1 case (against 2 entrepreneurs).
- Reduced surcharge rate for entrepreneurs who early ceased of unlawful conduct was applied in 1 case (against 1 entrepreneur).

(b) Leniency program

- 85 leniency applications were received in FY2008. (264 applications were received from January 2006).
- JFTC published the names of a total of 21 entrepreneurs that received lenient treatments in 8 cases.

(2) Criminal investigation

As a result of criminal investigation, JFTC filed 1 criminal accusation with the Prosecutor General. (Price-fixing cartel by manufacturers and sellers of galvanized steel sheets)

(3) Prior procedure for the cease and desist order or surcharge payment order

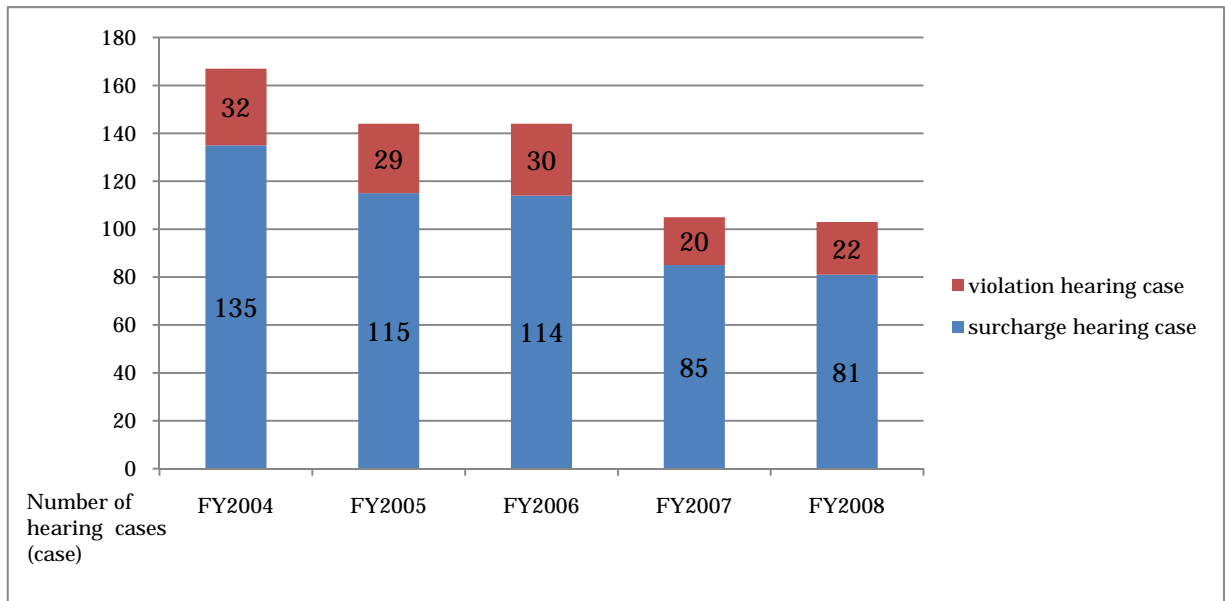
Before issuing cease and desist order or surcharge payment order, JFTC implemented prior explanation* to a total of 38 entrepreneurs.

* Explanation about the facts JFTC had found, or the evidence necessary to calculate surcharge or to find violation on which a surcharge payment order is based.

4. Overview of hearing in FY 2008

- JFTC newly commenced 11 hearing procedures.

- JFTC rendered 58 hearing decisions after completing hearing procedures.
- The number of hearing cases pending before the hearing examiners during FY2008 was 103, and 81 among them were those of complaints against surcharge payment orders.



(Note) The number of hearing cases pending before the hearing examiners as of the end of March 2009 is 50.