

Publication of the Guidelines for Exclusionary Private
Monopolization under the Antimonopoly Act
(Tentative Translation)

October 28, 2009
Japan Fair Trade Commission

On June 3, 2009, the bill to amend the Act concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (Antimonopoly Act), which includes introduction of surcharges against Exclusionary Private Monopolization^{*}, was approved and established at the 171st ordinary session of the Diet. The Act was promulgated as Act No. 51 of June 10 of the same year. The Guidelines for Exclusionary Private Monopolization under the Antimonopoly Act were prepared to ensure the transparency of JFTC's enforcement and enhance the predictability for business by clarifying JFTC's interpretation of the requirements that constitute Exclusionary Private Monopolization.

The JFTC published the Draft of the Guidelines on June 19 and sought public comments. Some 183 comments (excluding duplication) from 28 entities were submitted from home and abroad. The draft was revised in part after careful consideration on these comments.

The Guidelines shows the followings:

- The general matters that the JFTC is to consider when determining whether to give priority to investigating a particular case as Exclusionary Private Monopolization
- The types of major conduct that tends to be deemed problematic as "Exclusionary Conduct," and the framework for deliberations and factors applied for assessing whether or not it falls under Exclusionary Conduct for each type
- The factors to be considered for defining a particular field of trade and determining the presence or absence of a substantial restraint of competition in a particular field of trade when assessment is made over whether Exclusionary Conduct has substantially restrained competition in the field of trade

The full text of tentative English translation of the guidelines will be available on this website.

^{*} Exclusionary Private Monopolization refers to the acts to exclude the business activities of other entrepreneurs, thereby causing, contrary to public interest, a substantial restraint of competition in any particular field of trade.