

Cease and Desist Orders and Surcharge Payment Orders against  
Manufacturers of Optical Fiber Cable Products  
(Tentative Translation)

May 21, 2010

The Japan Fair Trade Commission

The Japan Fair Trade Commission (JFTC), under the provisions of the Antimonopoly Act (AMA), has investigated companies engaged in manufacturing and selling optical fiber cable products ordered by Nippon Telegraph and Telephone East Corporation (hereinafter referred to as “NTT East”) and other two companies (Note 1), and NTT DoCoMo, Inc. (hereinafter referred to as “NTT Docomo”) and found that they were in violation of Article 3 (prohibition of unreasonable restraint of trade) of the AMA. Accordingly, the JFTC today issued 14 cease and desist orders pursuant to Paragraph 2, Article 7 of the AMA and 14 surcharge payment orders pursuant to Paragraph 1, Article 7-2 of the AMA as detailed below.

(Note 1) The other two companies are Nippon Telegraph and Telephone West Corporation (hereinafter referred to as NTT West”) and a company whose head office is located in Minato ward, Tokyo.

Optical fiber cable products ordered by the company are used for telecommunications facilities manufactured and sold by NTT East and NTT West.

1. The violating companies, the number of the cease and desist orders and the surcharge payment orders received, and the amount of the surcharge.

	The violating companies	The number of the cease and desist orders received	The number of the surcharge payment orders received	The amount of the surcharge
1	Sumitomo Electric Industries, Ltd.	4	4	6,762,720,000 yen
2	Furukawa Electric Co., Ltd.	4	4	4,606,020,000 yen
3	Fujikura Ltd.	4	4	4,411,640,000 yen
4	SWCC Showa Cable Systems Co., Ltd.	1	1	199,030,000 yen
5	Sumitomo 3M Limited	1	1	120,020,000 yen

6	Advanced Cable Systems Corporation.	—	—	—
7	Corning International K.K.	—	—	—
8	SWCC Showa Holdings Co., Ltd.	—	—	—
9	Hitachi Cable, Ltd.	—	—	—
Total amount of surcharge				16,099,430,000yen

(Note 2) “—” in the above table shows that the JFTC did not issue the cease and desist order or surcharge payment order to the company.

## 2 Outline of the violation

The JFTC has found following violations.

### (1) Optical fiber cable products ordered by companies such as NTT East

#### a) Optical fiber cable products

The three companies —Sumitomo Electric Industries, Ltd., Furukawa Electric Co., Ltd. (hereinafter referred to as “Furukawa Electric” ) and Fujikura Ltd.— (these three companies shall be hereinafter referred to as the “Three Companies” ) together with SWCC Showa Cable Systems Co., Ltd., Advanced Cable Systems Corporation. (hereinafter referred to as “ACS”), Corning International K.K., SWCC Showa Holdings Co., Ltd. and Hitachi Cable, Ltd. (hereinafter referred to as “Hitachi Cable”) substantially restrained competition, on or after February 9, 2005 (Note 3) at the latest, in the field of sales of the optical fiber cable products contrary to the public interest, in order to prevent decline of sales prices for the optical fiber cable products (in addition, insofar as Three Companies, to equalize selling price.), by jointly determining the preparation value (Note4) and the order of quotation (Note5) by quotation collections, and determining estimated price, which each participant in the quotation collection must propose, according to the determined preparation value and ranking of quotation.

(Note3) SWCC Showa Cable Systems Co., Ltd. joined the collusion on or after April 3, 2006, ACS joined on or after April 1, 2006, Corning International K.K. joined no later than March 31, 2006, SWCC Showa Holdings Co., Ltd. joined on or after January 11, 2006 to April 2, 2006 at the latest, and Hitachi Cable joined no later than March 31, 2006.

(Note4) It means the limiting value of lowering average from targeted order prices or targeted minimum prices in price negotiation with three companies in NTT — Nippon Telegraph and Telephone Corporation, NTT East and NTT West— (these three companies shall be hereinafter referred to as “NTT Three Companies”) on quotation collection (hereinafter the same shall apply in 2(1) a)).

(Note5) It means the ascending order of estimated price proposed by each participant in quotation collection.

b) FAS connectors

Three Companies, together with Sumitomo 3M Limited, ACS and Hitachi Cable substantially restrained competition, on or after February 8, 2006 (Note 6) at the latest, in the field of sales of FAS connectors contrary to the public interest, in order to prevent decline of sales prices for FAS connectors, by jointly determining the preparation value (Note7) and the order of quotation, and determining estimated price, which each participant in the quotation collection must propose, according to the determined preparation value and ranking of quotation.

(Note6) One company joined the collusion on or after April 1, 2006, another one company joined no later than March 31, 2006.

(Note7) It means the limiting value of lowering average from targeted order prices in price negotiation with NTT Three Companies in quotation collection (hereinafter the same shall apply in 2(1) b) and c)).

c) Heat shrink splice protection sleeves

Three Companies substantially restrained competition, on or after February 9, 2005 at the latest, in the field of sales of heat shrink splice protection sleeves contrary to the public interest, in order to prevent decline of sales prices for heat shrink splice protection sleeves, by jointly determining the preparation value and the order of quotation, and determining estimated price, which each participant in the quotation collection must propose, according to the determined preparation value and ranking of quotation.

(2) Optical fiber cable products ordered by NTT Docomo

Three Companies substantially restrained competition, on or after January 31, 2006 at the latest, in the field of sales of the optical fiber cable products ordered by NTT Docomo contrary to the public interest, in order to prevent decline of sales prices and equalize selling price for the optical fiber cable products, by jointly determining the preparation value and the order of quotation, and determining

estimated price, which each participant in the quotation collection must propose, according to the determined preparation value and ranking of quotation.

### 3 Outline of the cease and desist orders

The JFTC issued the cease and desist orders against each violation in connection with the action in item 2 above.

- (1) The companies subject to the cease and desist orders (hereinafter referred to as the “addressees”) shall respectively adopt a resolution at their Board of Directors confirming that
  - they have terminated the action in item 2 above,
  - they will not take any action similar to that in item 2 above in the future,
  - each of them will independently carry out its business in the future.
- (2) The addressees shall respectively notify the measures taken in accordance with item (1) above to the other addressees and their own customers such as NTT East, and also shall have them disseminated among its employees.
- (3) The addressees respectively shall not take any action similar to that described in 2(1) mutually among themselves or in cooperation with other companies in the future.
- (4) The addressees shall respectively take measures necessary to do the following;
  - a) Revision of the guidelines of activities with regard to compliance with the AMA in relation to the sales activities for their own products and full dissemination to their employees of the guidelines (insofar as Furukawa Electric, full dissemination to their employees of the guidelines of activities with regard to compliance with the AMA.).
  - b) Implement a regular training program for the staff engaged in sales of the products targeted in item 2 above and regular audits by the legal department, with regard to compliance with the AMA in relation to the products targeted in item 2 above.

### 4 Outline of the surcharge payment orders

- (1) The violating companies receiving surcharge payment orders shall respectively pay the amount by August 23, 2010, (16,099,430,000 yen in total).
- (2) Pursuant to Paragraph 7, Article 7-2 of the AMA, 50% higher rate is applied to the sales amount of a violating company who had previously received a surcharge payment order which has become final and binding related to another case within 10 years retroactively from the starting date of this case investigation.