

## Survey on Corporate Compliance Efforts with the Antimonopoly Act (Summary)

November 28, 2012  
Japan Fair Trade Commission

### I. Purpose of the Survey

#### 1. Activities by the Japan Fair Trade Commission on Antimonopoly Act Compliance

To further promote fair and free competition in the market, it is necessary not only to eliminate anticompetitive conducts against the Antimonopoly Act (hereinafter, “AMA”) by enforcing the AMA strictly but also to create an environment where compliance related to the AMA (hereinafter, “AMA compliance”) is promoted within individual enterprises so that competitive business activities are implemented autonomously. From this viewpoint, the Japan Fair Trade Commission (hereinafter, “JFTC”) has been encouraging AMA compliance in enterprises, considering the stringent and active enforcement of the AMA and, supports and advocacy for initiatives taken by enterprises related to AMA compliance as “a pair of wheels” in competition policy.

#### 2. Current Status and Issues of Corporate AMA Compliance

From surveys conducted to date, it appears that efforts to establish systems for AMA compliance have made significant progress overall within enterprises listed on the first section of the Tokyo Stock Exchange. In June 2010, the JFTC completed and published a report entitled “Corporate Compliance Efforts on the Antimonopoly Act – Measures to Enhance Compliance Effectiveness,” which points out the necessity of taking measures for improving the effectiveness of AMA compliance.

On the other hand, the number of enterprises, on the first section of the Tokyo Stock Exchange (at the time of engaging in the violation), that committed illegal conducts in the past six years (January 2006 to December 2011) amounts to seventy eight. Of these 78 enterprises, 48 companies (61.5%) violated the AMA, although they had prepared and owned compliance manuals related to the AMA. Of these 48 enterprises, 13 made use of the leniency program (on publication<sup>1</sup> basis), which shows changes in awareness of AMA compliance among enterprises. In terms of the effectiveness of AMA compliance, however, the level of effectiveness is not yet sufficient even though it has been improved gradually.

#### 3. Purpose and Method, etc. of the Survey

Based on the above, we conducted the survey to contribute to enhance the effectiveness of enterprises’ AMA compliance through promoting strong commitment and initiatives by the top management of enterprises toward effective AMA compliance, by revealing the following cases as well as the current status concerning AMA compliance.

- 1) Cases where the promotion of AMA compliance has enabled an enterprise to avoid losses or has brought about a positive result to the enterprise (hereinafter, “success cases”)
- 2) Cases where failure to take measures concerning AMA compliance or insufficient measures have resulted in losses or a negative impact on an enterprise (hereinafter, “failure cases”)

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<sup>1</sup> See the JFTC website concerning the disclosure of enterprises to which the leniency program was applied (available only in Japanese). <http://www.jftc.go.jp/dk/genmen/kouhyou.html>

### 3) Cases that will be informative for achieving efficient and effective AMA compliance

We conducted the survey by sending questionnaires (dated June 1, 2012) to 1,681 companies listed on the first section of the Tokyo Stock Exchange as of February 29, 2012. The questionnaire asked the enterprises' legal and compliance departments about their statuses as of May 31, 2012 (collection rate: 52.3%).

We also conducted interviews with six lawyers specializing in corporate legal affairs (conducted in January to February 2012) and interviews with 15 enterprises mainly focusing on those against which cease and desist orders and/or surcharge payment orders were issued for their conducts against the AMA in the past (including those to which the leniency program was applied) (conducted in April to June 2012).

We also interviewed 82 enterprises that provided interesting success cases or failure cases, etc. in the questionnaire. These interviews were conducted by telephone or other methods (in August to October 2012).

In addition to the above, we examined materials including validation reports and improvement reports (such as written recommendations by third-party committees) concerning compliance systems that were disclosed by enterprises against which legal measures were taken in the past for their conducts against the AMA.

## II. Summary of Survey Results (Toward an Effective AMA Compliance)

### 1. Promoting Strategic AMA Compliance

#### (1) Significance and Position of the Promotion of AMA Compliance

The results of the survey show that the enterprises have obtained the following business benefits by promoting AMA compliance:

- Maintenance or improvement of the reputation and brand image of the enterprise and the trust of business partners and shareholders
- Avoidance of potential risks and cost reductions including long-term reductions of compliance costs

On the other hand, failures to promote AMA compliance have caused direct and indirect damages to the enterprise and increased business costs including the following:

- Financial losses associated with violations of the AMA (surcharges, compensation for damage, etc.)
- Waste of business resources to respond to investigations by the authority or civil proceedings and losses of manpower
- Deterioration of enterprise image

Measures related to AMA compliance will enable these risks to be controlled and the necessary actions to be taken, including prevention of illegal conducts. As a result, AMA compliance should not be a mere "tool for complying with laws and regulations." It should be utilized actively and strategically as a "tool for controlling and avoiding risks."

In addition, the prevention of conducts against the AMA will enable the brand image of an enterprise to be maintained or improved, and the efficiency of business operations to be improved because it allows business activities to be furthered without concerns regarding potential infringements of the AMA. In this respect, AMA compliance can be also deemed to function as a "tool for maintaining and improving enterprises' value."

#### (2) The "3Ds" of AMA compliance

A program aimed only at preventing conducts against the AMA is insufficient for allowing AMA compliance to function as a “tool for controlling and avoiding risks.” It is therefore required that an AMA compliance program should be designed based on the assumption that measures for preventing violations cannot completely eliminate the risk of violations. In fact, it has been found that the degree of loss resulting from a conduct against the AMA depends significantly on whether or not such an act in an enterprise was discovered at an early stage and a countermeasure was implemented appropriately.

Accordingly, the inclusion of the following three measures (the “3Ds”) is indispensable for ensuring the effectiveness of AMA compliance as a “tool for controlling and avoiding risks.”

- i) Deterrence: Prevention acts in violation of the AMA through trainings and others
- ii) Detection: Verification and an early discovery of acts in violation of the AMA thorough audits and others
- iii) Damage Control: Appropriate response to an act in violation of the AMA

## 2. Measures for Ensuring the Effectiveness of AMA Compliance

For an AMA compliance program to be shared across a business and operated in a unified manner, they are necessary to document the contents of the program (unambiguity), and to make the documents easily accessible as necessary by comprehensively storing them on the enterprise’s intranet or the like (accessibility).

In light of the success cases and failure cases obtained through the survey, the following measures and points to keep in mind are deemed effective for ensuring the effectiveness of AMA compliance.

### (1) Overall AMA Compliance Program

#### a. Commitment and Initiative of the Top Management

The most important element for ensuring the effectiveness of AMA compliance is that the top management of an enterprise expresses its commitment to and takes the initiative regarding AMA compliance.

The following cases were seen among companies against which cease and desist orders and/or surcharge payment orders had been issued for conducts against the AMA in the past:

- Cases where it was concluded that the failure to prevent a violation of the AMA or the failure to cease the violation at an early stage was attributed partly to insufficient transmission to employees of the clear policy of the top management that they should not implement business in a manner that would not be approved by society.
- Cases where an enterprise subject to on-site inspection due to an alleged conducts against the AMA has issued a notice from the president seeking the cooperation of employees with an internal survey, and as a result, a conduct against the AMA related to another product was discovered and the enterprise was able to utilize the leniency program.

To convey to employees the top management's emphasis on AMA compliance, it is important to send out a clear message repeatedly and directly.

#### b. Establishment of the AMA Compliance Program in Accordance with the Actual Situation

(a) Risk Identification Concerning AMA Violations in Accordance with the Unique Situation of the Enterprise

Specific risks of individual companies concerning AMA violations differ significantly according to the business content, market environment, and other factors. As a result, if uniformly presented measures, such as those presented in the form of a model compliance program, are applied as they are, they will not be an effective AMA compliance program that are suitable for the unique situation of the enterprise. In fact, there is a case where an enterprise against which a cease and desist order and/or surcharge payment order was issued for its conducts against the AMA has found that the prevention of violations remains difficult as long as the same training is provided uniformly throughout the company. So the enterprise organizes its operating divisions into compliance groups according to the functions of the products they handle and business customs, and have the administrative department of each division play the central role in working on AMA compliance.

In establishing an effective AMA compliance program, it is important to focus on the enterprise's own risks related to the AMA and plan measures for addressing those particular risks.

When an enterprise intends to identify the risks it must handle, it will need to give comprehensive consideration to its internal factors, such as the business size, business content, and organizational climate, and external factors including the actual state of the industry, the market situation, and relevant legal systems.

The following cases serve as examples:

- A case where an enterprise was able to use the leniency program, as it undertook internal investigations focusing on departments handling general-purpose products with the consideration that a cartel is more possible for such products and accordingly such departments are at high risks, and discovered a conduct against the AMA
- A case where it was analyzed that a conduct against the AMA by a particular department had the grounds that the enterprise's legal and compliance department did not monitor the activities of the department in question sufficiently and that the same employees had belonged to the department for a long time, because the department was not deemed important within the company due to the amount of its sales

(b) Measures Tailored in Risk-Based Approach

A haphazard response to identified AMA risks for preventing violations is costly but not necessarily effective. It is necessary to select solutions or preventive measures that are appropriate for the identified risks.

The following cases serve as examples:

- A case where an enterprise in an oligopoly market introduced a system, assuming a price increasing cartel, under which the reasons for price increases, price increases undertaken by competitors, and contacts made with the people from competitors are described on the request for approval of the price increase and scrutinized by the legal and compliance department
- A case where an enterprise handling general-purpose products has prohibited its salespeople from attending meetings with competitors and the like in light of the fact that the risk of a cartel is high for

general-purpose products

c. Establishment of Departments in Charge of the AMA Legal and Compliance and Implementation System

The questionnaire shows that almost all the subject enterprises have departments in charge of legal affairs and compliance matters. To ensure the effectiveness of measures concerning AMA compliance, a company needs to establish meticulous systems that will allow its legal and compliance department to promote AMA compliance effectively.

(a) Designation of the Legal and Compliance Personnel in Charge of AMA Compliance

By designating personnel responsible for collecting and managing knowledge and information related to the AMA and for completing tasks related to AMA compliance in the legal and compliance department, and by assigning the personnel to engage in tasks related to AMA compliance expertly and centrally, an enterprise can clarify the duties and responsibilities concerning the tasks related to AMA compliance. It leads to ensuring active and independent-minded engagement in the tasks, and improving the efficiency of the tasks.

The following case is that of an enterprise against which a cease and desist order/surcharge payment order was issued for a violation of the AMA:

- A case where a company designated dedicated personnel and an executive in charge of AMA compliance after receiving a cease and desist order/surcharge payment order for a violation of the AMA, based on the understanding that the momentum required to promote AMA compliance had been weak because most of the people who were responsible for AMA compliance held other positions concurrently

(b) Appointment of the Executive in Charge of AMA Compliance

Because legal and compliance tasks require interdepartmental, flexible measures, the appointment of an executive in charge of AMA compliance is believed to enable prompt decision-making and help ensure that compliance measures are thoroughly implemented by the management decision-making body of the enterprise, such as the board of directors.

The following cases are those of companies against which cease and desist orders/surcharge payment orders were issued for violations of the AMA:

- A case where the placement of a dedicated executive in charge of compliance in the legal and compliance department enabled effective directions to be provided to the operating divisions
- A case where the appointment of an executive as the head of the legal and compliance department enabled direct reporting to the president and made the department more influential within the company than it was previously

(c) Designation of the Legal and Compliance Personnel in Charge of AMA Compliance within the Operating Division

A possible advanced measure is to designate an employee from each operating division (such as a person engaged mainly in administrative duties) as a person in charge of AMA compliance within the division, in addition to the legal and compliance department. Because people who belong to operating

divisions are familiar with the reality of the respective business operations, the designation of such people in charge of AMA compliance is expected to enable the proactive promotion of AMA compliance that are in line with the actual circumstances of each business operation.

The following case is that of an enterprise against which a cease and desist order/surcharge payment order was issued for a violation of the AMA:

- A case where a person belonging to each operating division was assigned to concurrently serve as a member of the legal and compliance department, based on the awareness that it is problematic that there are matters that are not known to the personnel in the legal and compliance department, while that are known to the people in the operating divisions concerned

#### d. Integrated Approaches as a Group of Enterprises

In the recent business environment, with numerous cases of company splits, consolidated management, and globalization, we can say that the pursuit of AMA compliance by a single company is insufficient as a “tool for controlling and avoiding risks” or a “tool for maintaining and improving corporate value.”

Competition authorities in each country and region have been cooperating in the detection of international cartels and other violations. Japan’s leniency program can now be utilized jointly by multiple companies belonging to the same corporate group. In this way, integrated approaches to AMA compliance made by an entire group of enterprises, which include overseas business activities, have been becoming more important.

The following are cases of integrated approaches made by corporate groups:

- A case where the legal and compliance department of the head office is involved in and provides support for the training and audits of subsidiaries, etc.
- A case where no legal and compliance departments are established within subsidiaries intentionally, and instead the legal and compliance department of the head office promotes the AMA compliance of subsidiaries
- A case where whistleblowing reports are accepted and handled centrally at the head office

### (2) Measures for Deterring Violations

#### a. Formulation of the AMA Compliance Manual

For an enterprise to avoid being involved in conducts against the AMA, it is the starting point that its employees understand what acts are prohibited by the AMA. An efficient, effective method to get employees to acquire this basic knowledge is to formulate a compliance manual focusing on the AMA.

Our survey shows that 68.8% of the enterprises have formulated AMA compliance manuals. However, there are cases where an enterprise against which a cease and desist order/surcharge payment order was issued for conducts against the AMA had formulated an AMA compliance manual, but the manual was actually not functioning before receiving such orders.

The contents of an AMA compliance manual should therefore be practical enough to ensure its effectiveness.

The following cases serve as examples:

- A case where the manual explains what acts could infringe the AMA and how employees should behave, with specific examples including its own case that resulted in a cease and desist order/surcharge payment order for a violation of the AMA
- A case in which a creative measure has been devised for an AMA compliance manual, such as a checklist at the end of the manual

#### b. In-House Training on AMA Compliance

Another key method of enabling employees to acquire the knowledge essential to AMA compliance is the in-house training.

There is a case where a company against which a cease and desist order/surcharge payment order was issued for a violation of the AMA had prohibited its employees from contacting people from other companies in the same trade, but the same violation was repeated due to a lack of understanding of the rule by employees belonging to its operating divisions and failure to ensure that the rule was observed by them. This made the company reaffirm the importance of compliance education. As this case shows, it is important to deepen employees' understanding of AMA compliance.

Our survey shows that more than 80% of the enterprises provide their employees with some forms of training on the AMA. This training is also required to be effective.

The following cases serve as examples:

- A case where training is provided intensively to managerial employees in the sales departments who are deemed highly likely to be involved in conducts against the AMA
- Cases where the contents of the training are customized to each operating division, by adding private monopolization to the training topics given the large market share of the enterprise, or by adding overseas competition laws to the topics for a division that operates mainly in overseas countries, for example
- A case where training is provided in the form of discussions or role-playing instead of lectures

#### c. Development of Legal Consultation System

A legal consultation system run by the legal and compliance department needs to be established and utilized. Such a system is necessary not only for deterring acts in violation of the AMA but also for preventing sales activities from being excessively hampered due to concern regarding possible AMA violations.

Our survey shows that in nearly 70% of the enterprises their legal and compliance departments offer consultations about the AMA. Among them, there is a case where the legal and compliance department tries to find out feasible solutions together with the sales department, instead of simply answering that the sales department shouldn't take a particular conduct given the possibility of an AMA violation, because such a method of consulting will make the sales department reluctant to consult the legal and compliance department.

#### d. Development of Internal Disciplinary Rules

Our survey shows that an employee, if involved in conduct against the AMA, could be subject to disciplinary action in almost all the enterprises. There only,

however, are 9.9% of the enterprises which clearly stipulate that an involvement in conducts against the AMA will fall into disciplinary sanction. To deter conducts against the AMA, it is also essential to reduce the temptation to engage in such acts by internal disciplinary rules. To ensure the effectiveness of the rules, it is necessary to disclose disciplinary actions that have actually been taken within the enterprise as well as to clearly state in writing and notify that an involvement in conducts against the AMA will be subject to disciplinary sanction and to inform employees that effect. There is a case where an enterprise against which a cease and desist order/surcharge payment order was issued for a violation of the AMA disclosed not only the disciplinary actions taken against the employees who had actually engaged in the violation but also those taken against their superiors in order to inform employees that even “an act engaged in allegedly for the sake of the enterprise” will be subject to disciplinary action.

e. Formulation of Rules Concerning Contacts with Other Competing Enterprises

Contacting other competing enterprises and participating in meetings of trade associations, etc. involve a risk that can lead to violations of the AMA such as cartels and bid rigging. Such a risk is particularly high when a salesperson contacts people from competitors. It is therefore necessary to clarify specific points to keep in mind and inform employees these points.

Our survey shows that the majority of the enterprises have rules on contacts with other competing enterprises. To operate these rules appropriately and uniformly, it is necessary for not only the superiors of the department at issue but also the legal and compliance department to be involved in the implementation of the rules.

The following case is seen in the enterprises against which cease and desist orders/surcharge payment orders were issued for a violation of the AMA:

- A case whereas the enterprise had established a rule that requires an employee who was approached by another competing enterprise concerning price to report to his or her superior, such a report actually enabled a superior to recognize that one of their subordinates had been approached concerning price by a competing enterprise and to report to the legal and compliance department. Consequently, the enterprise was able to prevent conducts against the AMA.

(3) Measures for Verification and Early Detection of Violations

There are two types of measures aimed at the verification and early detection of conducts against the AMA. One is to accept information concerning conducts against the AMA from employees. The other is to discover such conducts through the activities of the legal and compliance department, etc. on its own aimed at detecting information about such conducts.

Above all, the latter detecting activities may incur opposition and resistance by employees. As a result, senior management is required to send a clear message about the importance and necessity of such activities to employees to secure their understanding and cooperation.

a. AMA Audits

Business operations audits of divisions in an enterprise are helpful for detecting acts in violation of the AMA. Our survey shows that approximately



14% of the enterprises that undertook audits actually discovered conducts that were likely to lead to violations of the AMA or the Act against Delay in Payment of Subcontract Proceeds, Etc. to Subcontractors.

To ensure the effectiveness and efficiency of audits, creative measures such as focusing on divisions or projects with high risks of AMA violations and utilizing existing systems need to be devised.

The following cases serve as examples:

- A case where projects to be subject to intensive audits are selected based on the percentage of winning bids to planned prices and the operating profit ratio
- A case where an enterprise has begun to undertake audit from the viewpoint of AMA compliance in addition to the existing audits focusing on contracts and profitability

There is also a case where an enterprise against which a cease and desist order/surcharge payment order was issued for a violation of the AMA had undertaken audits mainly through voluntary inspections by each division in the manner that the division answered the questionnaire made by the auditing division. The enterprise concluded that this method of auditing was not effective enough to detect concealed violations. As this case shows, it is essential that methods of auditing should be made effective by checking the information contained in the notebooks of employees, for example.

Our survey shows that the majority of the enterprises check internal e-mails in one way or other. This can be utilized for audits as well.

Attention should also be paid to who actually undertakes the audits. The following is the case seen in the enterprises against which a cease and desist order/surcharge payment order was issued for a violation of the AMA:

- In this case, scrutiny of the bills of estimated costs could have possibly led the auditors to detect the bid rigging, but the bid rigging could not be detected because the audits were undertaken only by the people from the legal and compliance department. In response, the enterprise decided to have the audits undertaken jointly by its legal and compliance department and administrative department in charge of the operating division, so as to apply specialized knowledge concerning the operating division in question to the audits to ensure the early detection of bid rigging.

#### b. Development of Internal Reporting System

An internal reporting system, or whistle-blowing system, is an important method of obtaining information about wrongdoings taking place beneath the surface. Our survey shows that most of the enterprises have introduced such a system. However, the mere introduction of an internal reporting system is not sufficient. Making the system be the one which is well utilized by the employees.

The following case was seen among the enterprises against which cease and desist orders/surcharge payment orders were issued for violations of the AMA.

- A case where the whistle-blowing system was not utilized when a conduct against the AMA was taking place, partly because the existence of the internal reporting system or the specific way of utilizing it was not notified enough to the employees

#### c. In-House Leniency Policy

So-called in-house lenient treatment is a measure for facilitating the early internal detection of conducts against the AMA and for securing the cooperation of the employees involved with the subsequent internal investigations or investigations by the JFTC, etc.

Our survey shows that more than 80% of the enterprises may consider a reduction of disciplinary sanction against an employee who had been involved in conducts against the AMA but voluntarily made the required reports, etc. concerning the conducts. However, have only 20% of these enterprises notified their employees that.

On the other hand, where an in-house leniency policy has been clearly defined as a system, the moral hazard is a possible negative impact. There is a case where an enterprise has introduced and informed its employees its in-house leniency policy whereby the disciplinary action against an employee who has been involved in conducts against the AMA and who voluntarily reports such conducts could be reduced only when the voluntary report benefits the enterprise in such a way as reduction of an administrative penalty against the enterprise.

#### (4) Measures for Appropriately Addressing Information Concerning Violations of the AMA

##### a. Prompt Response and Appropriate Decision-Making at the Initiative of Top Management

When information concerning violations of the AMA has been detected or provided, efforts should be made to minimize the risks and costs generated from the violations as much as possible. An important measure for minimizing those risks and costs is to collect, analyze, and evaluate related information promptly to make an appropriate decision concerning the policy to be implemented by the enterprise.

In our survey, nearly 70% of the enterprises responded that information suggesting the possibility of an AMA violation should be reported to senior management, and approximately 85% of the enterprises would have their top management make the final decision regarding whether or not to undertake internal investigations, etc. concerning the potential violation.

When information concerning violations of the AMA has been detected or provided, it is important that top management should take the initiative in responding promptly to the matter and making an appropriate decision. The following cases are those of enterprises against which cease and desist orders/surcharge payment orders were issued for violations of the AMA.

- A case where an enterprise issued a notice from the president that asks employees to cooperate with an internal investigation, and as a result of the investigation, bid rigging was detected and the enterprise was able to utilize the leniency program and received the immunity to and the reduction of the surcharges
- A case where the result of the internal investigation was "gray" and where its top management judged that the enterprise should take some measures, which enabled the enterprise to utilize the leniency program and be exempted from the surcharge.

##### b. Active Use of Leniency Programs

Our survey shows that the majority of the enterprises consider using the

leniency programs when their involvement in a cartel or bid rigging is deemed highly possible.

The use of the leniency program or similar systems in the overseas jurisdictions is helpful to reduce the costs incurred from violations of the AMA.

#### c. Prior Development of a Contingency Manual

It is not necessarily easy to promptly and appropriately respond to information about conducts against the AMA. It is therefore deemed beneficial to compile in documents about the basic points related to the policies and procedures to respond to the situations that the enterprise becomes to know such information (e.g. the departments & the contacts of the responsible for responding to such information, how to consult the JFTC, how to apply to the leniency program, staffers in charge of internal investigations, the reporting and instructing channels from the department responsible to senior management, and the outlines of the AMA) as a contingency manual and have the manual shared among the relevant people.

Our survey shows that only 3.2% of the enterprises have formulated a contingency manual referring to AMA violations. It is believed to be helpful to write such manuals by including policies concerning the use of the leniency program, etc.

The following are the cases of enterprises against which cease and desist orders/surcharge payment orders were issued for violations of the AMA.

- A case where an enterprise was extremely slow to implement procedures to use the leniency program when an emergency occurred because it had not clearly defined the internal procedures, and as a result, the enterprise was not included in the subjects of the leniency program, which prompted the enterprise to write its contingency manual
- A case where an enterprise failed to use the leniency program because the internal investigation took a long time

#### d. Appropriate Internal Probe

When information concerning conducts against the AMA is detected or provided, a quick collection of accurate information concerning the relevant facts, which will be the premises, will be necessary for making a right decision to control the risks. Accordingly, an internal probe needs to be conducted at its possible earliest stage. It is important for an enterprise, in such a case, that top management should show its initiative to secure the employees' cooperation with the internal investigation and to conserve materials including internal documents, thereby ensuring the efficient collection of testimonies through interviews with the relevant people and of materials that prove the related facts in question (It also needs to be kept in mind that any destructions of materials including internal documents may be subject to penalty because it is deemed as an obstruction to investigations initiated by a competition authority, etc.).

It also needs to be reminded that probes should be conducted to check, in relation to the AMA violation whose information has been detected or provided, as to whether there are any similar violations in businesses similar to or related to the business or in similar businesses operated in overseas countries.

The following are cases of enterprises against which cease and desist orders/surcharge payment orders were issued for violations of the AMA.

- A case where an enterprise undergoing an on-site inspection by the JFTC undertook an internal investigation on products other than the subject of the inspection and discovered violations of the AMA, which allowed the enterprise to use the leniency program and be exempted from the surcharge for the products
- A case where an enterprise that was entitled to the immunity to the surcharge in Japan was subject to criminal punishments in the United States because it did not use the US leniency program with respect to similar products it deals with in that country.

### III. Future Actions by the JFTC

Businesses are expected to, referring to the results of this survey, make active use of AMA compliance by positioning it strategically as a “tool for controlling and avoiding risks,” thereby ensuring the effectiveness of their measures concerning AMA compliance. Meanwhile, the JFTC will continue taking stringent actions against conducts in violation of the AMA and support and encourage corporate compliance efforts related with the AMA compliance by disseminating the results of this survey to them, for example.