

Cabinet Decision on the Antimonopoly Act Amendment Bill
(Tentative Translation)

May 24, 2013
Japan Fair Trade Commission

The Cabinet today made an approval on the amendment bill of the Antimonopoly Act (AMA) (hereinafter referred to as “the bill”).

1 Background

Article 20 (1) of the supplementary provisions for the 2009 AMA Amendment (Act No.51 of 2009) provides that the government shall entirely review the provision of the AMA regarding the JFTC’s hearing procedure, and it shall complete the review by March 2010 and consequently take necessary measures.

Besides, the resolutions regarding the 2009 AMA Amendment by the Committees on Economy, Trade and Industry of both Houses (the House of Representatives and the House of Councillors) demand that the government shall make a fundamental revision on the hearing procedure as the result of the consideration without maintaining the current system or going back to an ex-ante hearing system as it was before the 2005 AMA Amendment.

In accordance with the supplementary provision etc., the bill was prepared to abolish the JFTC’s hearing procedure for administrative appeals.

2 Outlines of the bill

- (1) Abolition of the JFTC’s hearing procedure for administrative appeals.
- (2) Abolition of the provision which stipulates that the jurisdiction of the first instance over any appeal suits pertaining to decisions of the JFTC shall lie in the Tokyo High Court.
- (3) Introduction of a system in which any appeal suits pertaining to cease and desist orders etc. shall be subject to the exclusive jurisdiction of the Tokyo District Court, and a panel comprising three or five judges in the Tokyo District Court will hear the cases, with the view to ensuring expertise of the court.
- (4) With the view to ensuring due process, development of procedures for hearing prior to issuing cease and desist order etc.:
 - providing the expected recipient of the order with explanation on the content of the order

- ensuring opportunity for the expected recipient to present opinions and/or submit evidence
- stipulating inspection and/or copy of evidence that the JFTC relies on

3 Planned effective date

The amendment shall come into force on the date to be set forth by a Cabinet order within one and a half years after the date of the promulgation of this bill.