

Enforcement of the Antimonopoly Act in FY2012 (Summary)

May 29, 2013
Japan Fair Trade Commission

□ Number of cease and desist orders: 20

Bid-rigging (in private demand)	15	EPS blocks ; auto parts
Bid-rigging (in public demand)	4	General engineering works, etc. ordered by Shikoku Regional Development Bureau, the Ministry of Land, Infrastructure, Transport and Tourism and Kochi prefecture(some part was assisted by government officials)
Price-fixing cartels	1	Bearings

□ Total surcharge amount: **Approx. 25.1 billion yen**

- Since FY2008, the total surcharge amount **has been hovering high**, exceeding 25 billion yen every year.

Changes in the Total Surcharge Amount over the Last Decade

FY	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Total (billion yen)	3.86	11.15	18.87	9.26	11.29	27.03	36.07	72.08	44.25	25.07

□ Criminal Accusation

➤ The JFTC **filed a criminal accusation** with the Public Prosecutor-General against seven individuals and three companies in connection with price-fixing cartel by bearing manufacturers (June 2012)

(i) The three companies are all large companies operating nationwide.

(ii) The products subject to the cartel (industrial machinery bearings and automotive bearings) are widely used in industrial machineries and automobiles and are closely related to people's lives.

(iii) The size of the market for these products is extremely large (approx. 260 billion yen annually)

⇒ Serious case with wide influence over people's lives

➤ The JFTC has adopted a policy to actively seek criminal charges against violations of the Antimonopoly Act (AMA), such as cartels and bid-rigging with great influence on people's lives.

- ❑ The JFTC **protects consumer interests** by eliminating price-fixing cartels and bid-rigging.
 - The aggregated market size for 20 cases in which the JFTC took legal measures is **approximately 480 billion yen a year**.
 - The JFTC focuses on **fields closely relating to people's lives**
 - The JFTC also focuses on **bid-rigging led/assisted by government officials**, where procurer side harms the public interest (e.g., bid-rigging for general engineering works, etc. ordered by the Shikoku Regional Development Bureau, the Ministry of Land, Infrastructure, Transport and Tourism)

Fields closely relating to people's lives (example)	Connection with people's lives (example)
Bearings	Used in rotational axes for wheels, transmissions, engines, etc. of construction machinery, agricultural machinery, and automobiles
Auto parts (generators, wiper systems, headlamps, etc.)	Used in automobiles
EPS blocks	Expanded poly-styrol blocks used in construction works for embankments, such as on soft ground and landslide areas or for road widening
Public construction works	Road repair, river improvement, and port development

- ❑ The JFTC focuses on bid-rigging led/assisted by government officials, where procurer side **harms the public interest**.
(e.g., bid-rigging for general engineering works, etc. ordered by the Shikoku Regional Development Bureau, the Ministry of Land, Infrastructure, Transport and Tourism (MLIT))
 - Officials in the Bureau **provided** the presidents of a certain construction firms with **unpublished information** (e.g., names of bidders, their evaluation scores, preset maximum prices, etc.)
 - ⇒ In order to eliminate bid-rigging assisted by government officials, it is necessary not only bidders **but procurement agencies** to take preventive measures.
 - The JFTC issued cease and desist orders to **the AMA violators**, and simultaneously **demand**ed the MLIT to **take remedial actions**.
 - ⇒ The MLIT published the details of its remedial actions.
(promotion of law compliance, review of the procedures for concluding bidding contracts, tightening of penalties, etc.)

The JFTC will continue to take **strict and proactive** measures against bid-rigging led/assisted by procurement agencies and other violations of the AMA, with the aim of **preventing the recurrence** of such violations.

- ❑ From the perspective of preventing abuse of superior bargaining position, the JFTC conducts investigations **in an efficient and effective manner**.
 - The “Task Force on Abuse of Superior Bargaining Position” was established in November 2009.
 - The JFTC issues cautions to large-scale retailers, hotels and inns, etc. whose conducts may lead to infringements.

FY	2008	2009	2010	2011	2012
Cautions issued	8	22	55	52	57

The **largest number** of cautions **ever** were issued for abuse of superior bargaining position in FY2012.

❑ The JFTC takes **strict measures** against unjust low price sales that fall into AMA violations.

➤ **Issuance and publication of warnings** against liquor wholesalers (Mitsubishi Shokuhin Co., Ltd., ITOCHU-SHOKUHN Co., Ltd., and Nihon Shurui Hanbai Co., Ltd.) for suspicion of unjust low price sales of beer, etc. (August 2012)

➤ **Issuance and publication of a warning** against Mitani Co., Ltd., a petroleum product retailer, for suspicion of unjust low price sales of regular gasoline (January 2013)

□ From the perspective of preventing unjust low price sales, the JFTC **takes measures promptly**.

➤ As to alleged unjust low price sales by retailers of liquor, petroleum products, home appliances, etc., the investigation is supposed to be completed within **two months** in principle, and **cautions** are issued to retailers whose conducts may lead to infringements.

FY	2008	2009	2010	2011	2012
Liquor	795	700	1,028	1,138	1,123
Petroleum Products	430	956	714	444	426
Home Appliances	2,364	1,425	856	142	121
Others	65	144	102	48	66
Total	3,654	3,225	2,700	1,772	1,736