

Enforcement of the Antimonopoly Act in FY2013 (Summary)

May 28, 2014
Japan Fair Trade Commission

□ Number of Cease and Desist Orders: **18**

Violation Types	# of Cases	Relevant Products/Services
Bid rigging (in private demand)	7	Electricity transmission line works ordered by TEPCO and KEPCO
Bid rigging (in public demand)	2	Engineering works and paving works ordered by Chiba Prefecture
Price fixing cartels	8	International ocean shipping for cars; High-fructose corn syrup, etc.; Voluntary flu shot service
Abuse of superior bargaining position	1	Trading between a supermarket and its suppliers

□ Total Surcharges Imposed: **Approx. 30.2 Billion Yen**

➤ Since FY2008, annual surcharge amounts exceed 25 billion yen every year.

Changes in Annual Surcharge Amounts over the Last Decade

FY	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
Amount (Bln.)	11.15	18.87	9.26	11.29	27.03	36.07	72.08	44.25	25.07	30.24

- ❑ **Protect consumer interests** by eliminating bid rigging, price fixing cartels, etc.
 - Aggregated market size of 17 cases where JFTC took legal measures amounts to **approx. 420 billion yen a year**
 - JFTC focuses on sectors **closely related to people's living**

Sectors Closely Related to People's living (examples)	Nexuses with People's Living
Electricity transmission line works ordered by electric power companies	Transmission lines for electricity generated at power plants
High-fructose corn syrup and starch syrup/glucose	Used as sweetener for beverages, etc.
Public engineering works	<ul style="list-style-type: none"> ▪ Engineering works and paving works (e.g. road improvement/repair works, drainage works, etc.) ordered by Chiba Prefecture ▪ Snow-melting equipment engineering works for Hokuriku <i>Shinkansen</i> (Japanese bullet train)
Voluntary flu shot service	Influenza prevention

- ❑ Bid rigging case on snow-melting equipment engineering works for Hokuriku *Shinkansen* ordered by Japan Railway Construction, Transport and Technology Agency (JRCTTA) (1)
 - i. Involved by companies doing business nationwide including listed companies
 - ii. Associated with public social infrastructure
 - iii. An employee of the violating company were criminally convicted in a past bid rigging case
- ⇒ **JFTC filed criminal accusation with Public Prosecutor General against 8 companies and 8 employees (March, 2014)**

JFTC has expressed its policy that it will actively seek criminal charges against such violations of the Antimonopoly Act (AMA) as cartels and bid rigging incurring huge impacts on people's living.

- ❑ Bid rigging case on snow-melting equipment engineering works for Hokuriku Shinkansen ordered by JRCTTA (2)
 - JRCTTA employees provided particular bid participants with planned upper prices that were not to be disclosed before biddings
 - = **Procurer's involvement in bid rigging (so-called "*Kansei Dango*," or procurer-led / -assisted bid rigging)**
 - To eradicate "*Kansei Dango*," not only bid participants, but procuring side must be required to take recurrence preventive measures
 - ⇒ **JFTC demanded JRCTTA to take improvement measures (March 2014)**

JFTC continues its strict and vigorous enforcement to AMA violations including "*Kansei Dango*," and strives for preventing recurrence of violations.

- Along with **strict enforcement, effective and efficient responses** are needed to prevent abuse of superior bargaining position
 - Cease and desist order and surcharge payment order issued to a supermarket's abuse against its suppliers (July 2013; approx. 1.3 billion yen surcharge)
 - “Task Force for Abuse of Superior Bargaining Position” (established in November 2009)

JFTC issued warnings to such enterprises as hotels, Japanese-style inns and large-scale retailers whose practices may lead to infringements

FY	2009	2010	2011	2012	2013
Number of Warnings	22	55	52	57	58

Highest ever number of warnings on abuse of superior bargaining position in FY2013

- ❑ **Swift Responses** to reporting concerning unjust low price sales
 - Regarding alleged cases in retail sectors such as liquors, petroleum products and home appliances, JFTC sets a goal to complete its investigations **within two months in principle**
 - From preventive perspective, **warnings** are issued to those which may lead to unjust low price sales

[Unit: cases]

Fiscal Year	2009	2010	2011	2012	2013
Liquors	700	1028	1138	1123	847
Petroleum Products	956	714	444	426	452
Home Appliances	1425	856	142	121	29
Others	144	102	48	66	38
Total	3225	2700	1772	1736	1366

- ❑ JFTC **called on procurers, etc.** for necessary measures considered to be taken from competition policy viewpoint

Entities	Contents of Requests
Japan Starch and Glycation Association [Business association]	In price fixing cartel cases on high-fructose corn syrup and starch syrup/glucose, the agreements on selling prices and information exchange among companies were made at meetings of the Association. Although the Association's executive recognized such behaviors, no measure was taken to halt them. JFTC thus requested the Association to take recurrence preventive measures.
Tokyo Electric Power Company (TEPCO) [Procurer]	In bid rigging cases on TEPCO's electricity transmission line works, TEPCO's employees induced or facilitated the violations in such ways as calling bid participants' attention to keep the violations unrevealed. JFTC thus requested TEPCO to take recurrence preventive measures.
Kansai Electric Power Company (KEPCO) [Procurer]	In bid rigging cases on KEPCO's electricity transmission line works, KEPCO's employees induced or facilitated the violations in such ways as providing bid participants with undisclosed design costs and lists of works to be put to biddings. JFTC thus requested KEPCO to take recurrence preventive measures and to improve competitiveness of biddings.
Japan Railway Construction, Transport and Technology Agency (JRCTTA) [Procurer]	In relation to bid rigging case on Hokuriku <i>Shinkansen</i> snow-melting equipment engineering works, JRCTTA's employees also informed bid participants of undisclosed planned upper prices in other works. JFTC thus, in addition to its demand under the Bid Rigging Involvement Prevention Act, urged JRCTTA to establish compliance system.
Ministry of Land, Infrastructure, Transport and Tourism (MLIT) [Competent agency]	In price cartel cases on international ocean shipping, tariffs that are exempted from AMA application pursuant to the Marine Transportation Act were not used in practice, and the AMA-exempted cartels may not meet the requirements for the exemption. JFTC thus requested MLIT to review and take necessary measures on the exemption.