

Publication of “Guidelines on Administrative Investigation Procedures  
under the Antimonopoly Act”

December 25, 2015  
Japan Fair Trade Commission

1. On the basis of recommendations in the report compiled by the “Advisory Panel on Administrative Investigation Procedures under the Antimonopoly Act” held in the Cabinet Office from February 2014 (published on December 24, 2014; “Advisory Panel Report”), from the perspective of further ensuring the appropriateness of administrative investigation procedures, the Japan Fair Trade Commission (“JFTC”) decided to prepare the “Guidelines on Administrative Investigation Procedures under the Antimonopoly Act” (“Guidelines”) in which the JFTC clarifies the standard steps and key points to note in the JFTC’s administrative investigation procedures, taking the past practices into account., and inform officers engaged in administrative investigations of alleged antitrust cases of the Guidelines. From the same perspective as above, in order to enhance transparency of the JFTC’s investigation procedures and contribute to the smooth implementation of the JFTC’s case investigations, the JFTC also decided to make the Guidelines known to the public.
2. The JFTC published the draft of the Guidelines on June 30, 2015. Public comments were requested from various interested parties regarding the draft, which was due on July 29, 2015. In response to the call for comments, 20 organizations, companies and persons submitted comments. The JFTC carefully reviewed all comments. Based on this review, the JFTC partially amended the draft and published the Guidelines to be put in force on January 4, 2016 (see Attachment).  
Moreover, the JFTC decided to publish the Reference Material for Business etc. (“Overview of Administrative Investigation Procedures for Alleged Antitrust Cases”) describing the standard steps in the JFTC’s administrative investigation procedures on the basis of the Guidelines (only available in Japanese).
3. The JFTC will ensure the appropriateness and transparency of the administrative investigation procedures by publishing the Guidelines, and will continue to strictly and properly enforce the Anti-Monopoly Act in order to vitalize our economy and ensure consumers’ benefit through guaranteeing and enhancing “fair and free competition.”

4. Taking into account that the Advisory Panel Report stated that “it is appropriate for the JFTC to follow up on the implementation of the guidelines after a lapse of certain period of time from implementation of procedures based on the new guidelines and make public the results,” the JFTC will conduct follow-ups on the operation of administrative investigations of alleged antitrust cases pursuant to the Guidelines two years after the publication thereof. In consideration of the relevant legal systems and other circumstances, the JFTC will then review the Guidelines as necessary, including the examination of the matters with respect to public comments submitted on the draft from the perspective of ensuring that companies involved in an alleged violations are able to make defense (so called attorney-client privilege, format of records of interrogation, etc.).

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