

# Compliance Efforts of Trade Associations for Achieve Antimonopoly Act

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Japan Fair Trade Commission

## 1. Outline of Survey Results

- (1) It has been revealed that, with regard to many of the activities concerning Antimonopoly Act (AMA) compliance, less than half of the trade associations <sup>(Note 1)</sup> are implementing some sort of compliance efforts, and even with respect to trade associations implementing such efforts, the status of efforts is not always sufficient.

(Note 1) The term “trade association” means, in accordance with the provisions of Article 2, Paragraph 2 of the AMA, “any combination or federation of combinations of two or more enterprises having as its principal purpose the furtherance of their common interest as enterprises”.

More specifically, the term may refer to associations having any of such words as “Industrial Association”, “Association”, “Council” or “Union” in its name as well as federations of those associations called “XX Joint Association”.

### (2) Backgrounds of the Above Conditions

- a Many trade associations are at the stance that efforts to achieve AMA compliance should be made independently by respective constituent enterprises, and the level of their awareness of the necessity of efforts for AMA compliance is rather low.
  - b Most of the trade associations surveyed have less than ten people as secretariat staff, and, therefore, it should be noted that, as compared with the status of compliance efforts by enterprises, compliance efforts, especially those requiring a certain scale of human resources are difficult for those trade associations to implement.
- (3) However, should a violation of the AMA occur, trade associations may face risks that are not so different from the risks enterprises may face. In addition, activities of trade associates may provide opportunities to bring together sector peer companies in one place and some of the activities may work to impose a certain limitation on the business activities of constituent enterprises. Thus, risks concerning the AMA are always inherent in the general activities of trade associations. Therefore, it should be noted that the present status of efforts by trade associations that the survey has revealed is not at all sufficient.

- (4) Accordingly, it would be recommended that, with respect to training programs and other activities that require a certain level of human resources, trade associations should start to implement those practical depending on their scale and capacity, for example, by using such method as a joint project by several trade associations and outsourcing.

- (5) It should be especially pointed out that, as the survey results have revealed, even with respect to trade associations with large market share or trade associations of industries where violations of the AMA occurred in the past, the status of efforts for Antimonopoly compliance is not at all at a satisfactory level.

Therefore, it is strongly recommended that those trade associations should immediately start to promote necessary measures.

- (6) In recent years, at the level of constituent enterprises, there can be seen proactive efforts to promote AMA compliance. Therefore, should those enterprises participate carelessly in the activities by trade associations that are less enthusiastic about efforts for AMA compliance, there may be a possibility that they get involved in a violation of the AMA. Accordingly, there can be seen such situations where constituent enterprises are hesitant to participate in the activities by their trade association. Also from the viewpoint of the healthy development of trade associations and eventually the industries as a whole represented by those associations through promotion of such environment where constituent enterprises may participate in the activities by their trade associations without any anxiety, it should be argued that efforts for AMA compliance by trade associations are now urgent tasks for them.

## **2. Future Activities by Japan Fair Trade Commission**

The Japan Fair Trade Commission (JFTC) is regarding the strict enforcement of the AMA and activities for preventing violations of the AMA as a pair of wheels. From the viewpoint of preventive efforts, the JFTC considers these survey results as a warning to trade associations, and we will continue to provide necessary support to help trade associations achieve AMA compliance, for example, by responding to inquiries from trade associations and by holding sessions briefing about the survey results.

(For reference) Purpose and Method of the Survey

- > There have occurred many violations of the AMA and other problems that involve trade associations <sup>(Note 2)</sup> In some cases of price cartel by a group of enterprises, those enterprises took advantage of the meetings of trade associations.
- > The JFTC conducted a survey regarding compliance efforts of trade associations with an aim to contribute to better achievement by trade associations of AMA compliance by getting the picture of the current status of their efforts to promote AMA compliance and then by clarifying issues to be tackled by them.
- > A questionnaire survey covering 1,041 associations <sup>(Note 3)</sup> was carried out.
- > A hearing survey covering 102 associations was carried out.

(Note 2) The number of cases where the JFTC issued cease and desist orders or warnings to trade associations during the previous ten years (from 2006 until 2015) amounts to 29 cases.

(Note 3) Selected mainly out of trade associations consisting of enterprises belonging to the same industry without specifying the types of industry.