

Compliance Efforts of Trade Associations for Antimonopoly Act (Outline)

Outline of Survey

There have occurred many violations of the Antimonopoly Act (AMA) and other problems that involve trade associations (Note 1) and, in the cases of price cartel by a group of enterprises, those enterprises took advantage of the meetings of trade associations.

With an aim to contribute to better AMA compliance by trade associations by getting the picture of the status of their efforts to ensure compliance with the AMA and then by clarifying issues to be tackled by them, AMA compliance efforts by trade associations have been classified into **three areas of efforts** and then, based on the classification, a questionnaire survey (covering 1,041 associations [Note 2]) and a hearing survey (covering 102 associations) were conducted.

(Note 1) The number of cases where the Japan Fair Trade Commission issued cease and desist orders or warnings to trade associations during the previous ten years (from 2006 until 2015) amounts to 29 cases.

(Note 2) Selected mainly out of trade associations consisting of enterprises belonging to the same industry without specifying the types of industry.

Three Areas of Efforts by Trade Associations to Promote AMA Compliance

Efforts to Promote AMA Compliance Targeting Officers and Staff of Associations

Efforts to maintain and promote AMA compliance in general terms such as holding of training courses and formulation of a compliance manual.

- ❑ Commitment by the representative of an association to AMA compliance
- ❑ Establishment of a department and a section in charge of legal and compliance matters
- ❑ Cooperation with lower branches of the association
- ❑ Formulation of an AMA compliance manual
- ❑ Holding of training courses on the AMA
- ❑ Development of a legal consultation system
- ❑ Formulation of disciplinary rules
- ❑ Implementation of AMA audits
- ❑ Development of a whistle-blowing system

Efforts to Promote AMA Compliance having relevance to Particular Activities of Associations

Efforts having relevance to activities specific to trade associations such as statistical activities (information activities) and joint undertakings (development of rules)

- ❑ Management of meetings
- ❑ Statistical activities
- ❑ Self-Regulation, etc., Self-imposed Certification, Authorization, etc.
- ❑ Management guidance
- ❑ Joint undertakings

Efforts to Promote AMA Compliance Targeting Constituent Enterprises

Efforts concerning which it is advisable for a trade association to provide support to its constituent enterprises in connection with their efforts to achieve AMA compliance in general terms.

- ❑ Support for formulation of an AMA compliance manual to be used by respective constituent enterprises
- ❑ Holding of training courses on the AMA for constituent enterprises
- ❑ Development of a legal consultation system for constituent enterprises
- ❑ Other activities to support constituent enterprises in connection with AMA compliance

Survey Results

It should be noted that in any area of efforts, the status of efforts by trade associations for the AMA compliance are not sufficient. Further, even with regard to trade associations that already have some sort of compliance activities, those activities are not always at a sufficient level and the level of awareness of AMA compliance is rather low among them.

→ As for trade associations that have not yet implemented any compliance efforts, it is important that they start to implement some sort of compliance activities. On the other hand, with regard to trade associations that have already implemented some sort of compliance activities, it would be advisable for them to clarify issues for them to tackle in current situations and then further promote and strengthen their compliance efforts.

3 steps for promoting AMA compliance

Step 1: Awareness Raising

【Efforts by representatives, etc. of trade associations to communicate the importance of AMA compliance】

Representatives, etc. of trade associations should **actively send a message about** the importance of AMA compliance to their officers and staff as well as their constituent enterprises in order to ensure that the officers and staff as well as constituent enterprises well understand risks inherent in the activities of trade associates in connection with the AMA.

Step 2: Clarifying Issues to Tackle

【Trade associations should gathering information about efforts by constituent enterprises, etc. to promote AMA compliance】

gather information about efforts and activities being implemented by constituent enterprises and other trade associations to promote their AMA compliance in order to clarify issues for the association to tackle.

Step 3: Development of Systems

【Construction and maintenance of an appropriate system for promoting AMA compliance in the light of the activities being implemented by the trade association】

Referring to the efforts and activities gathered by Step 2 about, trade association should **construct** and **implement** an AMA compliance system that may address issues clarified. Further, such system should be well coordinated with the ordinary activities of the association and it is also important to **check the status** of its implementation in order to ensure the effectiveness of the constructed AMA compliance system.

In order for the maintenance of the constructed AMA compliance system, it is important to implement the activities of each Step in a repetitive manner and to make adjustments as appropriate to respective activities.

Examples of Efforts by Trade Associations for Promoting AMA Compliance (1)

Efforts to Promote AMA Compliance Targeting Officers and Staff of Associations

【Commitment by the representative of an association to AMA compliance】

- ❑ It is important to communicate widely the importance of AMA compliance in a clear and repetitive manner, and the (non-full-time) representative has been and is sending such message at every occasion. Further, the full-time officer serving as representative of the secretariat of the association also has been and is communicating such message at internal meetings, trainings and other occasions.

【Formulation of an AMA compliance manual】

- ❑ The manual was prepared in an efficient manner by referring to compliance manuals formulated internally by its constituent enterprises as well as to those formulated by other trade associations to which its constituent enterprises also belong.
- ❑ In the preparation of the AMA compliance manual, the secretariat and its constituent enterprises worked in close cooperation to discuss what should be taken into consideration, which served as a good opportunity for both of the secretariat and its constituent enterprises to better understand the AMA.
- ❑ In order to ensure the activities of the association are conducted in compliance with the prepared manual, check sheets listing matters to be taken care of have been formulated for respective activities of the association as a material to supplement the manual.
- ❑ A FAQs document has also been prepared by listing particular cases since it was thought the textbook-style manual alone might not be enough to promote sufficient understanding.

【Holding of training courses on the AMA】

- ❑ All of the officers and staff of the association are obligated to participate in a training course on the AMA in principle once a year. At the same time, such training courses have been incorporated into curriculums for respective positions of the officers and staff. Further, in the event of a change in staff loaned from constituent enterprises, training courses are provided separately to respective new staff persons.
- ❑ In order to ensure that the officers and staff of the association receive necessary training on the AMA, the department in charge has been and is formulating a training plan listing dates and persons to be trained at the start of each fiscal year. Further, checks are also made to confirm persons to be trained have received necessary training.

In addition to the above, examples of efforts, etc. concerning **【Establishment of a department and section in charge of legal and compliance matters】** **【Cooperation with lower branches of the association】** **【Development of a legal consultation system】** **【Formulation of disciplinary rules】** **【Implementation of AMA audits】** **【Development of a whistle-blowing system】** are included in the report.

Examples of Efforts by Trade Associations for Promoting AMA Compliance (2)

Efforts to Promote AMA Compliance having relevance to Particular Activities of Associations

【Management of meetings】

- ❑ Association's officers and staff have made it a rule to leave a meeting room only after they have confirmed that all of the participants have left the room in order to avoid such situations that constituent enterprises alone remain in the room to conduct information exchange or any other inappropriate things.
- ❑ At any social gathering of constituent enterprises, as monitor of AMA compliance, association's officers and staff deliberately spread among participants by occupying seats at an appropriate intervals and moves around among participants from time to time in order to check on any inappropriate remarks or topics.
- ❑ Any meeting is participated by the officer or staff person of the association so that caution can be exercised against any improper remarks of participants that might lead to a violation of compliance. Should any of the officer or staff be unable to participate for any compelling reason, there still is a rule that requires the recording of discussions at an unattended meeting and the recorded discussions will be later checked by the officer or staff person.
- ❑ In order to prevent a violation of the AMA that takes advantage of a meeting of the trade association, there is a strict rule that whenever a room is to be used by a group of constituent enterprises, a written oath must be submitted to attest that there will be no information exchange, etc. that might lead to a violation of the AMA.

【Statistical Activities】

- ❑ Statistical activities have been outsourced to third-party organizations so that the association receives only a summary of statistical information compiled by third-party organizations. As a result, not only constituent enterprises have expressed their gratitude saying that they were now more confident to provide their information, but also the accuracy and speed of statistical activities of the association have improved.
- ❑ Considering that, in the case of meetings where statistical information is dealt with, particular attentions should be paid with regard to potential violations of the AMA, it has been made a rule to have a legal adviser check documents and minutes of such meetings.
- ❑ As a result of the audit conducted to check if there was any concern about AMA compliance in connection with the association's statistical activities, procedures for handling the data of respective enterprises have been reviewed and statistical activities other than those essentially for the benefit of consumers have been cancelled to avoid potential violations of the AMA, resulting in improvement in efficiency of statistical activities.

In addition to the above, matters to keep in mind in connection with the AMA, etc. about **【Self-Regulation, etc., Self-imposed Certification, Authorization, etc.】** **【Management guidance】** **【Joint undertaking】** are included in the report.

Examples of Efforts by Trade Associations for Promoting AMA Compliance (3)

Efforts to Promote AMA Compliance Targeting Constituent Enterprises

【Support for formulation of an AMA compliance manual to be used by respective constituent enterprises】

- ❑ Since most of the constituent enterprises are small and medium-sized enterprises and, therefore, it is difficult for them to independently develop activities for AMA compliance, the association has developed the example of an AMA compliance manual and held explanatory meetings to help constituent enterprises formulate their own manuals based on the model manual. Considering such support from the association to its constituent enterprises may lead to the development of the industry as a whole, the association has been and is implementing compliance efforts.
- ❑ In the past few years, there have occurred violations of the AMA in the industry, and the association has developed the example of a compliance manual with an aim to prevent recurrence of such violations. Further, since what should be understood may differ in accordance with positions and departments, manuals have been prepared for each of relevant positions and departments.

【Holding of training courses on the AMA for constituent enterprises】

- ❑ Efforts to increase the number of participants have been made, for example, by holding an explanatory meeting about the AMA simultaneously with an briefing session about industry trends.
- ❑ As an effort to relieve the burden of expenses at the side of the association, training courses have been held jointly with other trade association(s) of the same industry. This has made it possible to hold training courses regularly.

【Development of a legal consultation system for constituent enterprises】

- ❑ Since most of the constituent enterprises are small and medium-sized enterprises and it is difficult for them to put in place an independent legal consultation system, the association has provided a point of consultation service through which many inquiries have been and is being received.

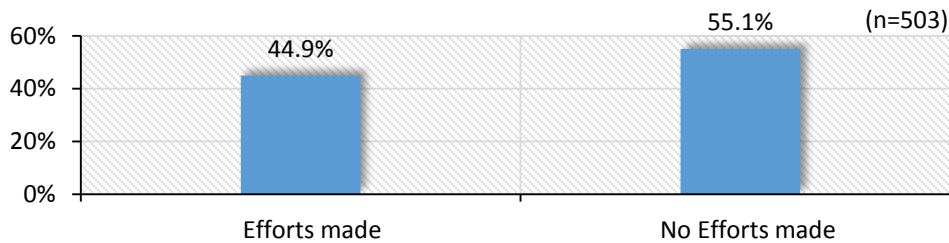
In addition to the above, examples of efforts, etc. concerning **【Other efforts to support constituent enterprises】** are listed in the report.

(Reference) Major Results of Questionnaire Survey (1)

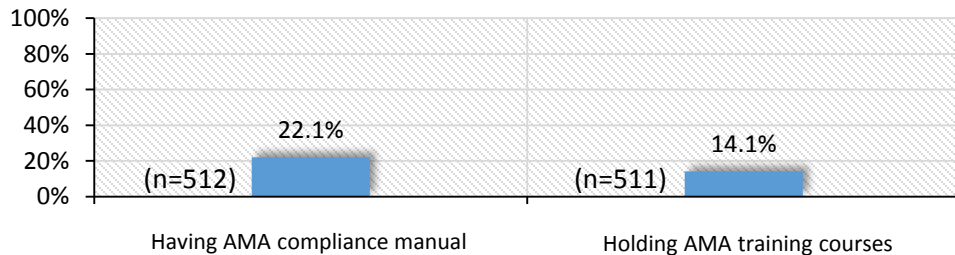
Outline of Questionnaire Survey

Questionnaires were sent (May, 2016) to 1,041 associations sampled mainly out of trade associations consisting of enterprises belonging to the same industry without specifying the types of industry → responses provided by 696 associations (response rate is 66.9%)

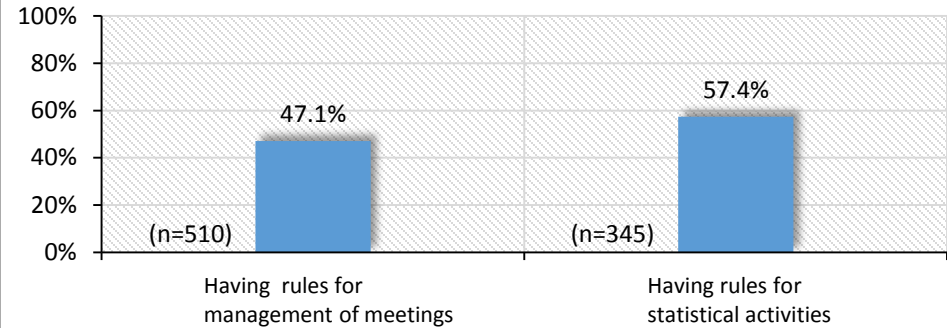
Efforts to achieve AMA compliance (page 5 of the report)



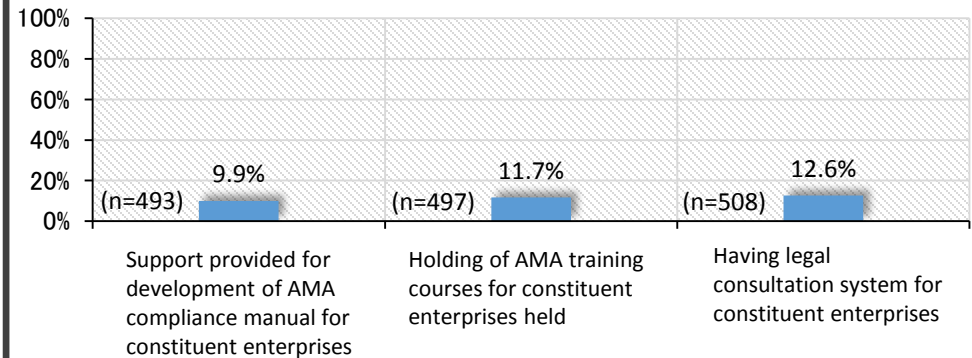
Development of AMA compliance manual and holding of training courses (pages 15 and 19 of the report)



Development of rules concerning management of meetings and statistical activities (pages 28 and 32 of the report)



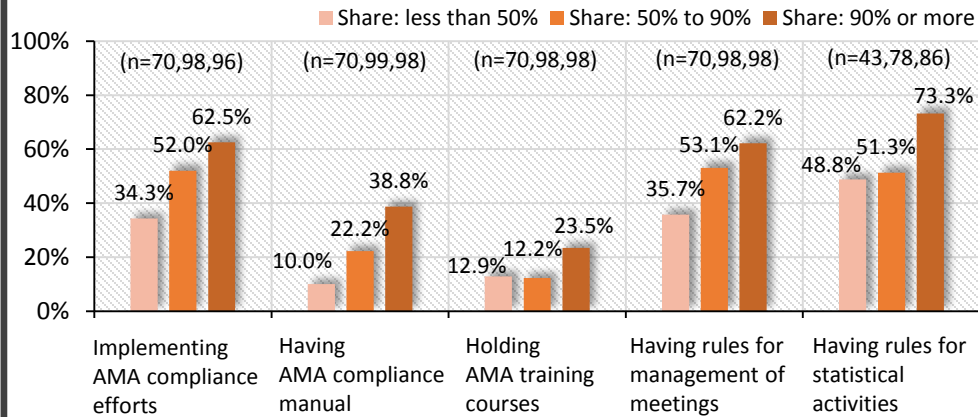
Support for development of AMA compliance manual, holding of AMA trainings and development of legal consultation system for constituent enterprises (Note 3) (pages 48, 50 and 51 of the report)



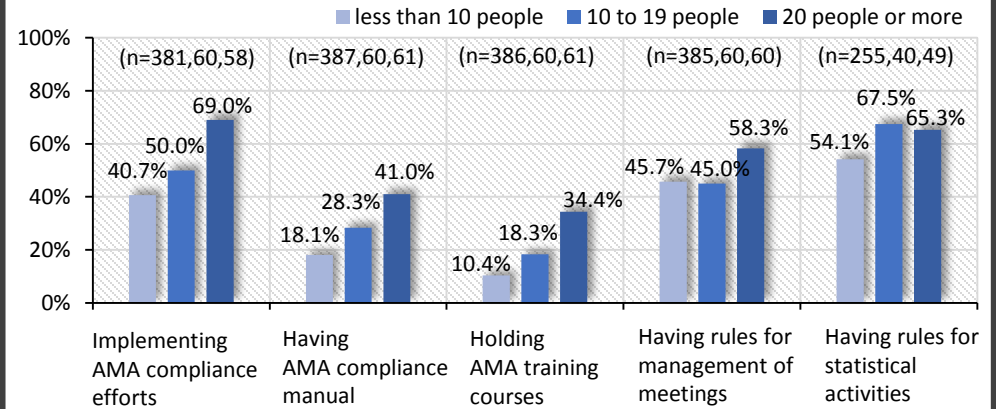
(Note 3) The above figures represent percentages obtained by deducting from valid responses to respective questions those responded respectively "No provision of support for development of AMA compliance manual for constituent enterprises", "No AMA training courses for constituent enterprises", and "No legal consultation system for constituent enterprises".

(Reference) Major Results of Questionnaire Survey (2)

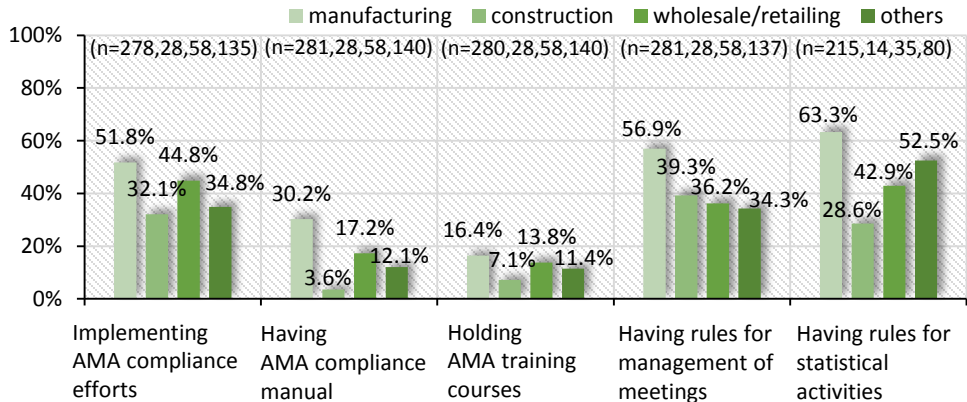
Analysis by Market Share of Trade Associations (pages 55 to 57 of the report)



Analysis by Scale of Secretariat of Trade Associations (pages 60 to 62 of the report)



Analysis by Industry Represented by Trade Associations (pages 58 to 59 of the report)



Please see the report for more detailed results of the questionnaire survey.

