

Overview of the Policies Concerning Commitment Procedures (draft)

Purpose

- ◆ To ensure the transparency of the application, as well as predictability for businesses, of the law related to Commitment Procedures by clarifying the Policies Concerning Commitment Procedures as much as possible.

Subjects of Commitment Procedures

- ◆ The JFTC applies the Commitment Procedures to the Suspected Violation, when the JFTC recognizes that it is necessary for promotion of free and fair competition.
- ◆ On the other hand, the following cases are not subject to Commitment Procedures.
 - Suspected Violations, such as bid-rigging, price-fixing cartels (what is called “Hard-core Cartel”)
 - Cases in which an enterprise has violated the same provisions within 10 years
 - Cases recognized as constituting vicious and serious Suspected Violations which are considered to be deserved a criminal accusation.

Commitment Measures

- ◆ In order to ensure the restoration of competition order or that the act will not be repeated in the future, the Commitment Measures shall satisfy the following requirements;
 - They are sufficient for excluding the Suspected Violation or to confirm that the Suspected Violation has been excluded
 - They are expected to be reliably conducted

- ◆ Typical Examples of Commitment Measures
 - Cessation of the Suspected Violation, confirmation that it has ceased
 - Notification to trading partners and others or publicizing information to users and others
 - Development of a compliance program
 - Amendments of Contracts
 - Transfer of business etc.
 - Recovery of monetary value provided by trading partners and others
 - Reporting on the state of implementation

Other Key Points

- ◆ Public Comments
 - If the JFTC finds that it needs to invite opinions of third parties for the Commitment Plans, the JFTC requests Public Comments regarding an overview of the Commitment Plan
- ◆ Public Announcement
 - After the approval of a Commitment Plan, the JFTC shall publicly announce a summary of the Approved Commitment Plan, a summary of the Suspected Violation and other matters as necessary.
- ◆ Exercise of Investigatory Authority after migration to Commitment Procedures
 - After the issuance of a Notification of Commitment Procedures, the JFTC shall not, in principle, conduct any investigation, such as an on-site inspection, report order and seeking testimony of the Notified Enterprise.