

Public Comments on the Draft of the Amendment of the
Rules/Policy/Guidelines with the Amendment of the Antimonopoly Act

April 2nd, 2020
Japan Fair Trade Commission

The bill to amend the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade was passed on June 19th and promulgated on June 26th, 2019*¹(Act No.45 of June 26, 2019. Hereinafter referred to as “the amendment act”). It includes the introduction of the system of applying the reduction rates according to the degree of enterprises’ contribution to revealing the truth of the case (hereinafter referred to as “Reduction System for Cooperation in Investigation”) in the Leniency Program.

The Japan Fair Trade Commission (hereinafter referred to as “JFTC”) has established the draft of the amendment of the Rules on Reporting and Submission of Supporting Materials Regarding Immunity from or Reduction of Surcharges (Attachment 1) and the draft of the Guidelines to Reduction System for Cooperation in Investigation (Attachment 2) to implement the amendment act*².

Besides, the JFTC shall introduce a new procedure, from the perspective of making the new leniency program more effective, etc. concurrently with the enforcement of the amendment act. The new procedure (hereinafter referred to as “Determination Procedure”) sets forth that the investigators will not access the documents containing confidential communication between the enterprise and the attorney regarding the legal advice on unreasonable restraint of trade, if certain conditions are confirmed to be met pursuant to prescribed procedures. The JFTC has established the draft of the amendment of the Rules on Investigations by the Fair Trade Commission (Attachment 3) and the draft of the Treatment of confidential communication between an enterprise and an attorney (Attachment 4) along with the introduction of the Determination Procedure.

In addition, the JFTC has established the draft of the amendment of the Guidelines on Administrative Investigation Procedures under the

Antimonopoly Act (Attachment 5). It is shown in the draft of the Guidelines that employees, etc. of the applicant for the leniency program may take notes on the spot after the completion of interview conducted by investigators.

The JFTC hereby has concluded that it seeks public comments from various stakeholders on these drafts (Attachment 1,2,3,4 and 5) as follows.

* 1 The summary of the amendment act is also available in this website.

<https://www.jftc.go.jp/en/pressreleases/yearly-2019/June/19061907.html>

* 2 The amendment act shall come into effect on the date specified by Cabinet order within a period not exceeding one and a half years from the date of the promulgation of the Bill except for the enforced regulation. (Refer to chapeau of Article 1 of the Supplementary Provisions of the amendment act.)

1. The summary of the drafts of the amendment of the JFTC rules etc.

(1) Reduction System for Cooperation in Investigation

Refer to “Outline of the draft of the Rules and the Guidelines for Reduction System for Cooperation in Investigation” (Attachment 6).

(2) Determination Procedure

Refer to “Treatment of confidential communication between an enterprise and an attorney (outline of the draft)” (Attachment 7).

(3) Noting Down after the Completion of Interrogation Conducted by Investigators

From the perspective of making the new leniency program more effective, the JFTC shall add to the “Guidelines on Administrative Investigation Procedures under the Antimonopoly Act” that employees, etc. of the applicant for the leniency program may take notes on the spot after the completion interrogation conducted by investigators.

2. Public Comments

(1) How to obtain related materials

Related materials are available at

- a. The e-Gov page of e-Government;
- b. The website of the JFTC; or
- c. The Head Office (Tokyo), Local Offices (Sapporo, Sendai, Nagoya, Osaka and Fukuoka) and Branches (Hiroshima and Takamatsu) of the JFTC and the Fair Trade Office of the Okinawa General Bureau, General Affairs Division, Cabinet Office (Naha).

(2) How to submit comments

Please submit your comments in Japanese by either of the following methods, identifying your name, address, and contact information (telephone number, fax number, or e-mail address). If you submit as a corporation or an association, please identify the location of its main office, the name of a corporation or an association, and the name of a liaison person. Submitting a comment by phone cannot be accepted.

(a) Through the submission form on the e-Gov

Please submit your comments through the submission form on the e-Gov. (the webpage is only available in Japanese.)

(b) By e-mail:

The subject of the e-mail should be “Opinions on the drafts of the amendment of the JFTC rules etc.”

E-mail: kisoku2020_at sign_jftc.go.jp

(Please replace “_at sign_” with “@”, when you send an e-mail.)

Note: Please submit your comments in text format. Please understand that we cannot accept comments by attached file or URL.

(c) By fax:

Clearly indicate “Person in Charge of the amendment of the JFTC rules (draft), etc. at the Planning Office, General Affairs Division, Economic Affairs Bureau” as the addressee, and write “Opinions on the drafts of the amendment of the JFTC rules etc.” as the subject of the fax cover sheet. Please note that comments sent without the addressee will not be accepted.

Fax number: +81-(0)3-3581-1945

(d) By postal mail:

Send to:

Person in Charge of the amendment of the JFTC rules (draft), etc.

Planning Office, General Affairs Division, Economic Affairs Bureau,
Secretariat, Japan Fair Trade Commission.

1-1-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8987 Japan

(3)Due date

May 15th, 2020, no later than 6 p.m. (GMT+9)

(4)Notes regarding the submission of comments

Submitted comments may be made public except for full name, affiliated group or company name, address, and contact information such as e-mail address, fax number and telephone number. Please note that individual responses will not be made to submitted comments.

The JFTC asks for your identification and contact information, for the communication purpose where any clarifications may be needed on your comments. The information provided will not be used for any other purposes.