

Check Points for the Design and Implementation of an Effective Antimonopoly Act Compliance Program¹

1. Overall Efforts for Compliance Related to the AMA

(1) Commitment and Initiative of the Top Management

- Does top management periodically and continuously share and communicate the clear message that it will not tolerate any kind of AMA violations both inside and outside of the company?
- Does top management demonstrate with its own actions that it is serious about efforts to design and implement an AMA compliance program, by allocating sufficient authority and resources (budget, personnel, equipment, etc.) to the departments or persons in charge of each effort?

(2) Assessing the Risk of the AMA Violations in Accordance with Respective Situations of Companies and Responding to the Risk in Risk-Based Approach

- Are risks of AMA violations being identified appropriately according to the actual situation of the company?
- Is the seriousness of the identified risk being appropriately analyzed and assessed from the perspectives of the likelihood of the risk occurring and the magnitude of the impact if the risk occurs?
- Are policies for dealing with risks properly considered in accordance with the results of risk analysis and assessment?
- Are limited resources allocated to areas with a high risk of AMA violations by using a risk-based approach?
- Are the processes for identifying, analyzing and assessing risks periodically re-implemented? And are policies for dealing with risks periodically reviewed?

(3) Design and Implementation of Policies and Procedures for Promoting the AMA Compliance

- Has a code of conduct been formulated that clearly states the basic policy of “not becoming involved in any way in activities that are AMA violations, such as cartels and bid-rigging”?
- Have AMA compliance basic rules been formulated that comprehensively

¹ These check points were excerpted from “Check Points” of the “Guide for the Design and Implementation of an Effective Antimonopoly Act Compliance Program: Focusing on Responses to Cartels and Bid-rigging.”

prescribe basic policies and procedures related to the design and implementation of an AMA compliance program?

- Has an AMA compliance manual been created that sets out information and points for consideration about the AMA in an easily understandable way?
- Have the code of conduct, AMA compliance basic rules, and the AMA compliance manual been properly made well-known to each individual executive and employee, and are their contents understood (have they properly permeated to each individual executive and employee)?
- Are the contents of the code of conduct, AMA compliance basic rules, and the AMA compliance manual periodically reviewed and updated?

(4) Design of Organizational Structure and Allocation of Adequate Resources and Authority

- Are responsibilities (segregation of duties) related to efforts to promote compliance of the AMA systematically and clearly defined in accordance with the actual situation of the company and the risk of AMA violations? For example, has the following organizational structure been put in place?
 - Compliance officer or person in charge of compliance (second line)
 - Compliance committee (second line)
 - Department or person in charge of compliance (first line, second line)
 - Specialized department or person in charge of AMA compliance (first line, second line)
 - Department or person in charge of internal audits (third line)
- Have adequate authority and resources (budget, personnel, equipment, etc.) been allocated to the department or person in charge of efforts related to promoting AMA compliance, in accordance with the company's actual situation?
- Has appropriate consideration been given in the design of the organization to issues like independence, autonomy, expertise, and whether or not there is a direct reporting line to monitoring or supervisory bodies like top management, the board of directors or the auditors?
- Are the responsibilities (segregation of duties) related to efforts to promote AMA compliance clearly defined in the AMA compliance basic rules?

(5) Integrated Efforts by Corporate Group

- Does the corporate group design and implement an integrated AMA compliance program on a group basis?
- Do domestic and overseas companies that belong to a corporate group appropriately customize their group's AMA compliance program in accordance with the actual situation of the regulatory environment and market environment of the country and region that they are located in, to design and implement a separate individual AMA compliance program?

2. Specific Measures to Prevent the AMA Violations

(1) Design and Implementation of Internal Rules for Contacts with Competitors

- Are the internal rules regarding contact with competitors appropriately designed and implemented in accordance with the actual situation of the company and its risk of AMA violations?
- Is the evidence of the applications, approvals and reports involved in the above rules properly recorded, stored, and managed?

(2) Providing In-House Trainings on the AMA

- Does the in-house training on the AMA effectively arouse the interest of executives and employees, and is it carried out in a format and with contents that make it memorable for executives and employees?
- Are the targets, contents, formats, methods, timings and frequency of the training properly customized in accordance with the company's actual situation and its risk of AMA violations?
- Is the in-house training described above conducted and taught by personnel who have adequate knowledge and experience of AMA compliance?
- Is there a test at the end of the training to check the executives and employees' level of understanding of the contents of the in-house training described above?
- Are records of the above-mentioned in-house training's operational guidelines, training materials, attendance records, etc., properly stored and managed?
- Is the in-house training described above designed so that it's possible to ask relevant questions to the person in charge about any points that executives and employees are unclear or uncertain about?
- Does the in-house training described above conduct questionnaires after it has

finished so that executives and employees can give feedback on its content and format?

- Are the contents and format of the in-house training described above periodically reviewed and updated?

(3) Design and Operation of a Consultation System on the AMA

- Is there a system that has been designed and put into operation in which individual executives and employees can consult with the department or person in charge of compliance, in good time and without hesitation, if they are unsure and worrying about whether or not their actions are potentially a violation of the AMA?
- Has a culture and organizational climate been developed that makes it easy for people to consult with other people about their worries and concerns regarding the AMA?
- Is the consultation system easy for executives and employees to use due to devising a wide range of ways to consult?
- Is information about the system, such as the name of the department and person in charge of the consultation desk, how to use the consultation desk, how a consultation is dealt with and the response process, the standard period of time required for an answer, etc., easy to find and well-known among executives and employees?
- Is confidentiality guaranteed when necessary in accordance with the consulter's wishes and the details of the consultation?
- Has the person in charge of dealing with consultations been able to build an appropriate relationship of trust with the people in the business departments?
- Does the person in charge of dealing with consultations have an adequate amount of expertise on the AMA, and independence from the consulters?
- Has a system been created that allows people to consult with a legal advisor or the JFTC, for cases where professional judgement is required?
- Is the usage record of the consultation system periodically analyzed, and is the analysis utilized to improve the system?

(4) Design and Implementation of Internal Disciplinary Rules for the AMA Violations

- Is it clearly established in the work regulations and the disciplinary regulations that being involved in AMA violations, or failing to take reasonable measures to prevent or detect AMA violations at an early stage, are reasons for discipline and will be subject to disciplinary measures?
- In addition to the grounds for discipline above, are the people with disciplinary authority, the disciplinary procedures, the standards for deciding the contents of the disciplinary measures, etc., clearly established in advance in the work regulations and the disciplinary regulations, and is this widely known among executives and employees to the extent that there is no hindrance to the operation of internal disciplinary rules?
- Are the above standards and regulations applied fairly and equally to all executives and employees, including top management?
- Is the company considering introducing an incentive system that leads to benefits for executives and employees who cooperate in efforts to prevent or detect AMA violations at an early stage?

3. Specific Measures to Detect the AMA Violations at an Early Stage and Take Appropriate Actions

(1) Conducting Audits on the AMA

- Are audits on the AMA conducted periodically?
- Are audits conducted by an internal audit department that is independent of the business departments on the first line and the department or person in charge of compliance on the second line?
- Are both audits with advance notice and unannounced audits properly employed and utilized when carrying out audits?
- Does the department conducting the audit compile the results of the audit into a report, and present that report to relevant people such as top management, the compliance officer, and the compliance committee?
- Does the department conducting the audit properly store and manage the report described above and other materials used in the audit as records?

(2) Design and Operation of a Whistleblowing System

- Has a person been designated who performs the business of dealing with whistleblowing disclosures as a person engaged in the business, and has a system been established necessary for appropriately dealing with whistleblowing disclosures from the inside of the enterprise, in accordance with Article 11, Items 1 and 2 of the 2020 Revised the Whistleblower Protection Act, and have all necessary measures been put in place?
- Has a culture and organizational climate been developed in which it is easy to speak up if executives and employees see or hear about violations of the AMA?
- Is the whistleblowing system easy for executives and employees to use, due to ideas like establishing contact points for receiving whistleblowing outside the company, expanding the ways for reporting, and allowing anonymous reporting?
- Are the ways to use the whistleblowing system, and the processes for how reports are dealt with after they are received, easy to understand and well known among executives and employees?
- Are the names of whistleblowers and the details of their reports kept strictly confidential?
- Are whistleblowers subjected to retaliation or any other unfavorable treatment?
- Is whistleblowing dealt with appropriately in accordance with pre-established processes, and are the results fed back to executives and employees in good time?
- Is the usage record of the whistleblowing system periodically analyzed, and is this analysis used to improve the system?

(3) Introduction of an Internal Leniency System about the AMA

- Has the company introduced an internal leniency system that allows for the reduction or exemption of disciplinary measures for those who voluntarily report about their involvement in AMA violations and cooperate with internal investigations?
- Are the conditions and details for reductions and exemptions of disciplinary measures by an internal leniency system clearly stated in the internal rules etc., and have these been properly disseminated to executives and employees?

(4) Appropriate Response to Suspected Violations of the AMA

- Are appropriate responses quickly carried out if a suspected violation of the AMA arises, such as considering applying to the JFTC for Leniency Program or cooperating with the JFTC's investigation?
- When conducting an internal investigation into the facts, are similar cases also thoroughly investigated so that the whole story of AMA violations in the company is revealed?
- When an AMA violation is detected, is there a thorough analysis of its root causes, and are effective measures to prevent recurrence formulated and implemented to ensure that it doesn't happen again?
- Is there a manual that compiles and summarizes what to do if there is a suspected AMA violation, including information on the system, internal reporting lines, reporting procedures, the department or person in charge of internal investigations of the facts, how to use the Leniency Program and the reduction system for cooperation in investigation, and how to consult with the JFTC, and has this manual been properly shared among all relevant parties?
- Is there training and simulations periodically carried out during normal times, so that the company can respond in accordance with the manual mentioned above if suspected violations of the AMA suddenly arise?

4. Periodic Evaluation and Update of the Program

- Is the AMA compliance program periodically evaluated and updated?
- Does the department carrying out the evaluation compile the results into a written report and properly present it to relevant parties such as top management, the compliance officer, and the compliance committee?
- Are the processes and results of the evaluation properly stored and managed as records?