



公正取引委員会
Japan Fair Trade Commission

Enforcement of the Antimonopoly Act in FY2022 (Summary)

June 1, 2023

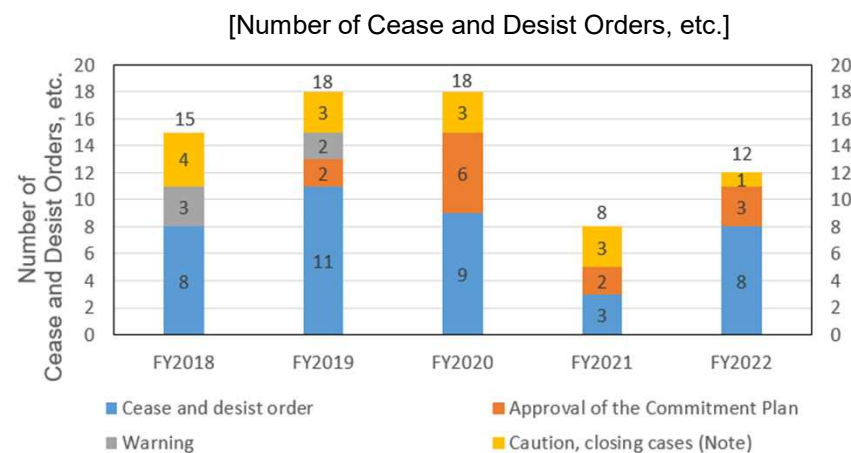
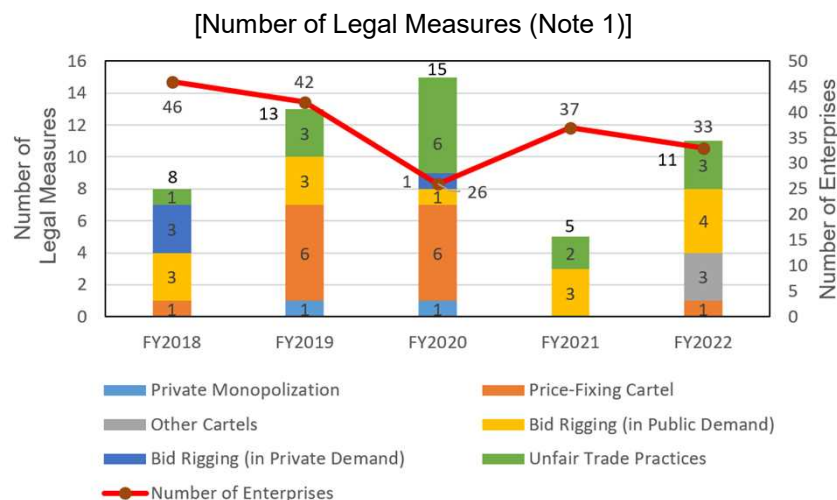
Japan Fair Trade Commission

Features of FY 2022

- Strictly tackled large-scale bid-rigging and cartel cases such as bid-rigging relating to the Olympic and Paralympic Games Tokyo 2020, and market allocation in electric power retail sectors (the highest ever surcharge amount)
- Effectively addressed cases such as the result of cooperation with advocacy [e.g. fact-finding survey on information system procurement], and cases in the sector where regulatory reform has been promoted [e.g. electric power retail sector]
- Swiftly responded to conduct that unfairly disadvantages small and medium-sized enterprises, such as cases that may lead to Abuse of a Superior Bargaining Position in connection with the introduction of the Invoice System

Overview of the enforcement cases [2/2]

◆ Eleven Legal Measures (Eight Cease and Desist Orders and Three Approvals of Commitment Plan)



(Note 1) "Legal Measures" consist of Cease and Desist Orders, Surcharge Payment Orders, and approvals of Commitment Plan. If a Cease and Desist Order and a Surcharge Payment Order are jointly issued for a single case, the number of legal measures is counted as one.

(Note 2) If a case relating to both provisions concerning Private Monopolization and Unfair Trade Practices, such case is classified as Private Monopolization.

(Note 3) "Other Cartels" are cartels involving quantity, sales channels, prohibitions on customer movement, facility restrictions, etc.

(Note) The chart summarizes cases officially announced by the JFTC.

◆ Total Amount of Surcharge: Approx. 101.98 billion JPY (Highest ever)

Amount of Surcharge after FY2018

Fiscal year	FY 2018	FY2019	FY 2020	FY2021	FY2022
Surcharge Payment Order					
Amount of Surcharge (JPY Billion) (Note)	0.26	69.27	4.32	2.18	101.98
Number of Enterprises	18	37	4	31	21

(Note) Amount of Surcharge is rounded down to the nearest 10 million yen.

◆ One Criminal Accusation with the Prosecutor General

◆ One case with voluntary remedies taken by the enterprise

◆ Criminal accusation on bid-rigging concerning the outsourcing contracts of planning test events, etc. regarding the Olympic and Paralympic Games Tokyo 2020 ordered by the Tokyo Organizing Committee of the Olympic and Paralympic Games (Accused on February 28, 2023)

- Employees of the Organizing Committee, which ordered the operations, as well as employees of major advertising agencies, and major event planning and management companies which had managed major sporting events in Japan and overseas, engaged in bid-rigging for the operations of the Tokyo 2020 Olympic and Paralympic Games.
- The JFTC filed a criminal accusation with the Prosecutor General against seven employees of six enterprises, including one employee of the Organizing Committee.

◆ Market allocations in electric power retail sectors (Three cases: Cease and Desist Orders and Surcharge Payment Orders issued on March 30, 2023)

- Former general electric utility companies agreed to restrain competition for winning customers in each other's service area, and maintained or raised the level of electricity charges in their service areas.
- JFTC issued Surcharge Payment Orders to four violators to pay 101.03 billion yen in total (the highest ever) .
- Surcharge Payment Order to one of the violators (70.71 billion yen) is also the highest ever.

Cooperation with advocacy including Fact-Finding Surveys

- ◆ Approval of the Commitment Plan submitted by SCINEX CORPORATION and SMARTVALUE Co., Ltd. (June 30, 2022)
 - SCINEX CORPORATION and SMARTVALUE Co., Ltd. respectively encouraged municipalities considering orders for renewing their websites, to include certain requirements in their specification documents that would make it difficult for operators providing open-source software content management systems to participate in the competition for winning such businesses.
 - Relevant Fact-Finding Surveys
 - Fact-Finding Survey on Public Procurement for Information Systems (Report published on February 8, 2022)
 - Fact-Finding Survey on Start-up Business Practices (The final report published on November 27, 2020)
 - Raising awareness of the case to local governments
 - Shared the press release of the case to local government throughout the country

Cases in the sectors where regulatory reform has been promoted.

Electricity Sector

- ◆ Market allocation in the electric power retail sectors (Three cases, Cease and Desist Orders and Surcharge Payment Orders on March 30, 2023)
 - Request to the Federation of Electric Power Companies of Japan
 - Provision of information to the Electricity and Gas Market Surveillance Commission

Agricultural and Fisheries cooperatives

- ◆ Caution against conduct by cooperatives that could lead to violations.
 - Restrictions by a sub-group of an agricultural cooperative on sales activities of its members
 - Conduct by a fishing cooperative such as levying fees on the members for sales outside the cooperative, restricting sales activities and requiring all shipments to the cooperative

Abuse of a Superior Bargaining Position

➤ Investigations by the “Task Force on Abuse of a Superior Bargaining Position”

- ◆ In FY2022, the JFTC issued cautions in 55 cases, including cases that could cause Abuse of a Superior Bargaining Position in relation to the introduction of the Invoice System.

FY	2018	2019	2020	2021	2022
Number of Cautions	56	29	47	46	55

➤ Cases of caution related to the Invoice System

- ◆ Company A is engaged in illustration work. It unilaterally notified its outsourced illustrators that it will reduce an amount equivalent to 10% [equal to consumption tax rate] of the trading price if its outsourced illustrators will not convert to taxable enterprises after the implementation of the Invoice System and choose to be tax-exempt enterprises, despite the fact that transitional measures (Note) allow deduction of tax in certain cases.

(Note) When purchasing goods/services from tax-exempt enterprises, 80% of the trading price could be deducted from amount of tax due for the first three years after the introduction of the Invoice System, and 50% of the same for the following three years after the term.

➤ Fair and free competitive environment throughout the supply chain

- ◆ Report from SEVEN-ELEVEN JAPAN ceasing Product Guide Production Fee in Private Brand manufacturing contract (December 22, 2022)
 - JFTC made a recommendation under the Subcontract Act to a supplier of SEVEN-ELEVEN Japan Co. Ltd. since the supplier collected “product guide preparation fees” from subcontractors in relation to the manufacturing of private brands by Seven-Eleven Japan. After the recommendation, the JFTC requested materials from Seven-Eleven Japan to confirm whether or not there were any problems from the perspective of Abuse of a Superior Bargaining Position with the supplier in question. In the meantime, Seven-Eleven Japan reported that it had voluntarily taken measures such as suspending the collection of the product guide preparation fees from the supplier in question, and notifying the supplier who had been collecting the fee to that effect. As a result, the JFTC announced that no further action would be taken.

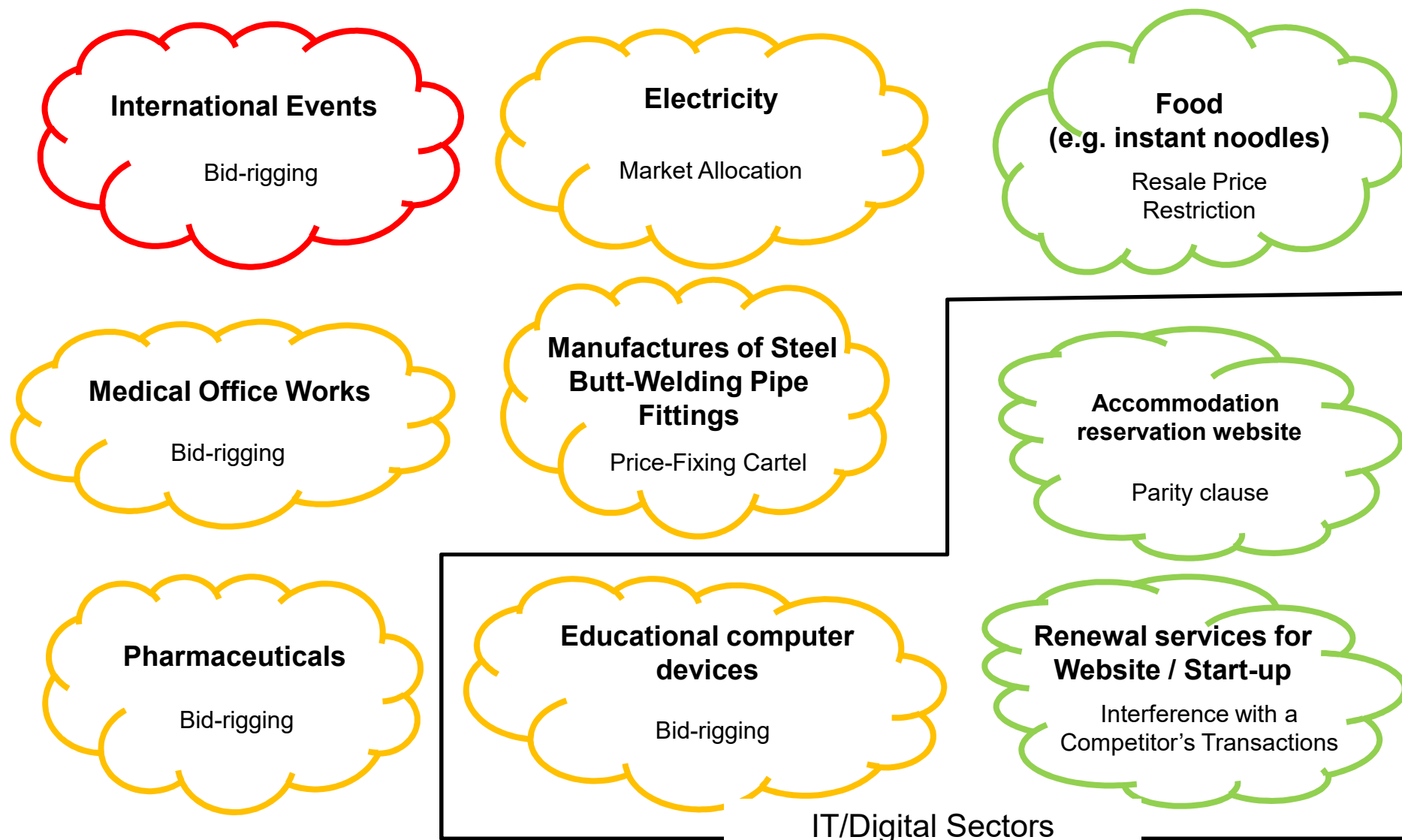
Unjust Law Price Sales

- JFTC aims to complete its investigations within two months in principle if it receives complaints regarding cases in retail sectors such as liquors, petroleum products, and home appliances, etc.
- JFTC issues cautions against conduct which could lead to unjust low price sales.

FY	2018	2019	2020	2021	2022
Liquors	22	63	9	29	37
Petroleum products	194	162	115	206	151
Home appliances	0	2	0	1	0
Others	11	8	12	8	4
Total	227	235	136	244	192

- Effectively addressed cases following the revision of the “Measures to deal with Unjust Law Price Sales and Discriminatory Consideration regarding distribution of gasoline ,etc.” (November 11, 2022).
 - In a case where an enterprise operating several service stations had received cautions repeatedly, the JFTC made a caution to the individual in charge at the head office.
 - Follow-up investigations were conducted on enterprises who had received cautions repeatedly, requesting report of their sales prices, purchase prices, etc. after the repeated cautions.

◆ Products and services concerned in cases published by the JFTC in FY2022



* Different colors are used for distinction, namely, **orange** for cease and desist orders, **green** for approvals of commitment plan, and **red** for criminal accusation to the public prosecutor general.

◆ Approval of the Commitment Plan submitted by Expedia Lodging Partner Services Sàrl (June 2, 2022)

- Expedia concluded contracts with accommodation operators, who listed their accommodations on the accommodation reservation website “Expedia”, having conditions making their accommodation rates and number of rooms equal to or more advantageous than those of other sales channels (However, excluding the conditions stipulated in the said contracts that the accommodation rates shall be equal to or more favorable than those of the sales channels such as the accommodation operators’ own websites). The accommodation operators were also made to comply with the said conditions.

◆ Approval of the Commitment Plan submitted by SCINEX CORPORATION and SMARTVALUE Co., Ltd. (June 30, 2022)

◆ Cease and Desist Orders and Surcharge Payment Orders against participants in biddings for personal computers and managed local area network servers for schools ordered by Hiroshima Prefecture and the City of Hiroshima (October 6, 2022)

- With regard to specified computer devices ordered by Hiroshima Prefectural Board of Education and by the City of Hiroshima, in order to prevent the price of orders from falling too low, etc., the participants of the biddings agreed to (i) determine the prospective winner for each bidding, and (ii) cooperate so that the determined prospective winner could win the bid, and engaged in the conduct following the above agreement.
- The JFTC issued Surcharge Payment Orders totaling approximately 56 million yen.

Establishment of the contact point for receiving information on IT/Digital sectors (October 21, 2016)

- To receive a wide range of information concerning suspected violations of the Antimonopoly Act in IT/Digital sectors, the JFTC established the point of contact exclusively for receiving information related to those sectors on October 21, 2016. The JFTC is gathering information more effectively through measures including further publicity of the contact point.

FY	2017	2018	2019	2020	2021	2022
Number of times receiving information through the contact point	104	117	180	182	140	139

[Reference] List of cases involving legal measures

Types of Conduct	Cases
Price-Fixing Cartel	<ul style="list-style-type: none"> Manufactures of Steel Butt-Welding Pipe Fittings [Cease and Desist Orders and Surcharge Payment Orders in December 2022]
Other Types of Cartel	<ul style="list-style-type: none"> Former General Electricity Utility companies [Cease and Desist Orders and Surcharge Payment Orders in March 2023]
Bid-rigging in Public Procurement	<ul style="list-style-type: none"> Participants in biddings for personal computers and managed local area network servers for schools ordered by Hiroshima Prefecture and the City of Hiroshima [Cease and Desist Orders and Surcharge Payment Orders in October 2022] Participant in bidding for office work in hospitals ordered by hospitals located in Aichi and Gifu Prefectures [Cease and Desist Order and Surcharge Payment Order in October 2022] Participants in biddings for pharmaceutical procurement for hospitals in Kyushu area ordered by National Hospital Organization [Cease and Desist Orders and Surcharge Payment Orders in March 2023]
Unfair Trade Practice	<ul style="list-style-type: none"> ICHIRAN Inc. [Approval of the Commitment Plan in May 2022] Expedia Lodging Partner Services Sàrl [Approval of the Commitment Plan in June 2022] SCINEX CORPORATION and SMARTVALUE Co., Ltd. [Approval of the Commitment Plan in June 2022]