

JFTC renders recommendation and warning to Nippon Telegraph and Telephone East Corporation on optical broadband communications services

4 December 2003

Japan Fair Trade Commission

The JFTC, following an investigation, today issued a recommendation to Nippon Telegraph and Telephone East Corporation (NTT East) for the violation of Section 3 (private monopolization) of the Antimonopoly Act.

The JFTC also issued a warning to NTT East against possible violation of Section 19 of the Antimonopoly Act (interference with a competitor's transactions/Article 15 of Designation of Unfair Trade Practices).

1 The recommendation

(1) The corporation to receive recommendation

Nippon Telegraph and Telephone East Corporation
19-2 Nishishinjuku 3 chome, Shinjuku, Tokyo

Main business: local telecommunications service in eastern Japan

(2) Outline of violation

The JFTC found the fact as follows:

NTT East possesses high speed fiber-optic networks over eastern Japan, offers optical broadband communications services (FTTH service: fiber to the home internet access service) to consumers, and rents unused optical fibers to other telecom carriers. It is difficult for the telecom carriers to offer an FTTH service without accessing the fiber-optic networks owned by NTT East because it is hard for them to build new fiber networks on their own. NTT East rents each optical fiber to other telecoms at 5,074 yen per month. NTT East offers an FTTH service named "B-FLET'S" to consumers.

When a company publicized its entry plan into FTTH service in March 2002, NTT East considered providing a cheaper FTTH service for consumers. Because NTT East considered that it was problematic in terms of fair competition to set a user charge which is cheaper than the access fee for an each optical fiber cable, it avoided discounting the access fee for an optical fiber cable by creating the system in which each cable is split into up to 32 consumers. Thus NTT East introduced a bargain category of "B-FLET'S" named "New Family Type" for detached houses consumers in June 2002 and set the charge (¥5,800 per month) after notification to the Minister of Public Management, Home Affairs, Posts and Telecommunications. But actually,

NTT East did not practice the split system because of having so little demand among consumers and used the direct cable connecting method as before.

The competitor discounted its fees in December 2002 and NTT East considered discounting the user charge. In March 2003, NTT East notified the Minister of Public Management, Home Affairs, Posts and Telecommunications of discounting of New Family Type (4,500 yen per month) on the basis of cost down simulation per a user by the split method with the intention of preventing the fees of an optical fiber from dropping in order not to let other telecoms enter into the detached houses market. But actually, the company continues providing the service by the direct cable connecting method.

As the result of that, the New Family Type fee (4,500 yen per month) is lower than the access fee to other telecoms (5,074 yen per month), and telecoms except the carriers with own fiber networks can not enter into the detached houses market.

By this way, NTT East prevents other telecoms from starting FTTH service to detached houses. The JFTC concludes that the conduct of NTT East substantially restricts competition in the trading field of FTTH service in eastern Japan.

(3) Outline of measures to be adopted

The JFTC recommends as follows;

- a. NTT East to cease the above mentioned activities,
- b. NTT East to do fair and proper indications to consumers in advertising of "New Family Type",
- c. NTT East to inform the other telecoms which access the optical fibers of NTT East and consumers of the measures taken according to the a. above and nonrecurrence of the above mentioned activities in the future,
- d. NTT East not to do the above mentioned activities in the future.

(4) Due date of acceptance

15 December 2003

(If accepted, the JFTC will issue the decision accordance with the recommendation, if not, initiate hearing procedures.)

2. The warning

(1) The corporation to receive recommendation

As with 1(1)

(2) Outline of possible violation

NTT East has recommended "B-FLET'S" and "FLET'S ADSL (ADSL services of NTT East)" to consumers who applied for other telecoms' FTTH or ADSL services, when NTT East undertakes the accessing work for such consumers (Other telecoms always have to request NTT East for the accessing work when they accept applications for FTTH or ADSL services from consumers).

This conduct by NTT East is suspected to unjustly interfere with transactions between other telecoms and their applicants.

(3) Outline of warning

NTT East shall not conduct the same kind of acts as above in the future.