

JFTC to convene meeting of the Study Group Concerning Review of Monopoly and Oligopoly Regulation

June 12, 2003

Fair Trade Commission

Introduction

The Study Group on the Antimonopoly Act, which met in October 2002, has mainly conducted research in the past into reviews of the system of measures under the Act. The need to deal effectively with conduct that hinders new entry due to monopoly and oligopoly market structures originating in bottleneck facilities is pointed out recently including the Three-Year Program for Promoting Regulatory Reform (Re-revision) (Cabinet Council decision of March 28, 2003) which states with regard to the public utilities sector that “dissatisfaction.....with the Japan Fair Trade Commission’s competition surveillance function..... has been expressed by new entrants in the network business sector concerning issues such as its specialization and promptness in dealing with cases... .. This calls for strengthening the Fair Trade Commission’s examination system and functions, and accelerating the handling of matters suspected of violating the Antimonopoly Act.”

On the other hand, the two systems of measures and regulations against monopolistic situations (Section 8-4) and regulations for the collection of reports on parallel price increases and reports to the Diet (Section 18-2) were established by the 1977 revision of the Act as a response to problems originating in monopoly and oligopoly market structures. These cannot be said to sufficiently address the problem described above, however, and given that 25 years have passed since introduction of these systems there is a need to verify the systems correspond to the changes in the economic environment during this period.

During the meeting of the Study Group on Antimonopoly Act, the members also decided to continue with the necessary examination concerning how the Antimonopoly Act should be made to conform to changes in the economic environment with regard to problems other than review of the measures system, and to take up a review of the monopoly and oligopoly regulations in the Study Group. In order to study this issue in a specialized, intensive manner, the group will convene a monopoly and oligopoly regulation review study group as described below that will consist of experts.

1 Study Group objectives

Problems believed to originate in monopoly and oligopoly market structure, including

In the public utilities sector in particular, where competition was introduced by deregulation into businesses where monopoly was recognized under past business law, a problem has been noted that the principle of competition does not function effectively in these sectors due to problems such as existing entrepreneurs' owning the bottleneck facilities. Is the current Antimonopoly Act an effective law for ensuring fair, free competition between existing entrepreneurs and new entrants in such sectors where new entrants are to be promoted?

In addition, are there problems other than those originating in bottleneck facilities that should be addressed through the Antimonopoly Act?

In oligopoly markets, circumstances such as repeated parallel price increases are noted, but how should the Commission respond to such parallel conduct?

The Study Group therefore decided it will conduct its study from the viewpoint of whether the two systems mentioned above that were introduced in 1977 by amendment of the Act can become an effective action policy against these problems originating in monopoly and oligopoly market structures and, with regard to the two systems mentioned above, whether it is necessary to review them in light of the changes in economic circumstances over the twenty-five year period since the two systems were introduced.

2 Key matters for study by the Study Group

- (1) The proper approach to monopoly and oligopoly market regulation based on the Antimonopoly Act
- (2) Evaluation of the application of Section 8-4 and Section 18-2 over the past twenty-five years
- (3) The need for and orientation of a review of Section 8-4 and Section 18-2
- (4) Other issues

3 Schedule

The Study Group plans hold its first meeting on June 25, 2003 and will hold meetings roughly once or twice per month thereafter, and will prepare its report as a Study Group and report to the Study Group on the Antimonopoly Act during the beginning of October 2003.