

Main Features of the Proposal to Amend the Antimonopoly Act

1 April 2004

Fair Trade Commission of Japan

1. Review of the surcharge system

- (1) Raising the rate of calculating the surcharge amount (large-sized enterprises: 6%, small and medium-sized enterprises (SMEs): 3%, wholesalers: 1%, retailers: large-sized enterprises: 2%, SMEs: 1% raising the respective rates to approximately double the current rates + imposing an extra amount of surcharge on those enterprises that have repeatedly violated to about 50% of the respective rates).
- (2) Enlarging conduct subject to the surcharge system (cartels restraining the price of goods or services cartels restraining the price of goods or services, volume of supply, market share or customers, private monopolization or purchasing cartels).
- (3) Introducing an adjustment clause (Half the amount of fines shall be deducted from the surcharge.).

2. Introduction of a leniency program

Immunity from or reduction in surcharge payment shall be applied to entrepreneurs in statutory conditions (e.g. entrepreneurs committing violations shall voluntarily provide necessary information to the JFTC).

3. Introduction of compulsory measures for criminal investigations, etc.

- (1) Compulsory measures for criminal investigations shall be introduced for active criminal accusation.
- (2) The exclusive jurisdiction of the Tokyo High Court shall be abolished.
- (3) More punishment to corporations than individuals for violations of elimination measures against Unfair Trade Practices, etc. shall be introduced, penalties against interference with inspection, etc. shall be strengthened and double punishment to corporations against it shall also be introduced.

4. Review of hearing procedures, etc.

- (1) A system by which the JFTC issues elimination measures after having provided an opportunity to tender opinions, etc. and decides on whether to initiate hearings for situations where there is an objection shall be introduced (Recommendation system shall be abolished.).
- (2) A system whereby surcharge payment is not compulsorily levied when hearing procedures are initiated shall be introduced (interest shall be added to the amount paid when the payment order is granted.).
- (3) Improving the statutes on hearing procedures by hearing examiners.