

Application of the Subcontract Act in FY2003 and  
Measures for Fairness of Corporate Transactions (Summary)

June 1, 2004

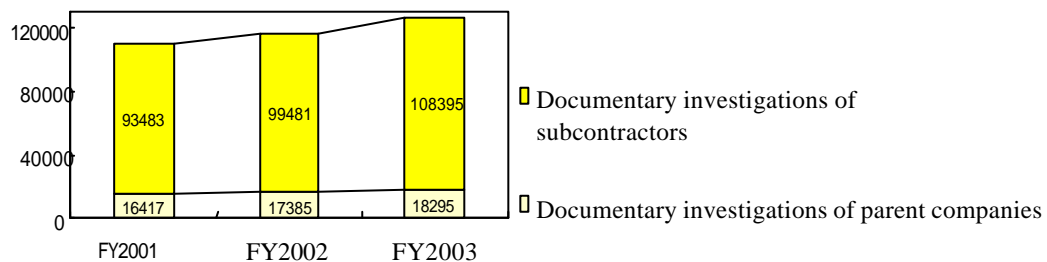
Fair Trade Commission

I. Application of the Subcontract Act

1. Expansion of regular surveys

Since, due to the nature of subcontract transactions, reports of the Subcontract Act violations cannot be expected from subcontractors, the Fair Trade Commission (JFTC) regularly conducted documentary investigations of parent companies and subcontractors and actively conducted on-site investigations of those suspected of violation.

In particular, the JFTC expanded documentary investigations of subcontractors and endeavored to discover facts suspected of being in violation of the Subcontract Act.



2. Measures against violations of the Subcontract Act

(1) The number of cases in which measures were taken with respect to violations of the Subcontract Act was 1,365 in total.

Recommendations: 8 cases (doubled from the previous year, largest number in past 20 years)

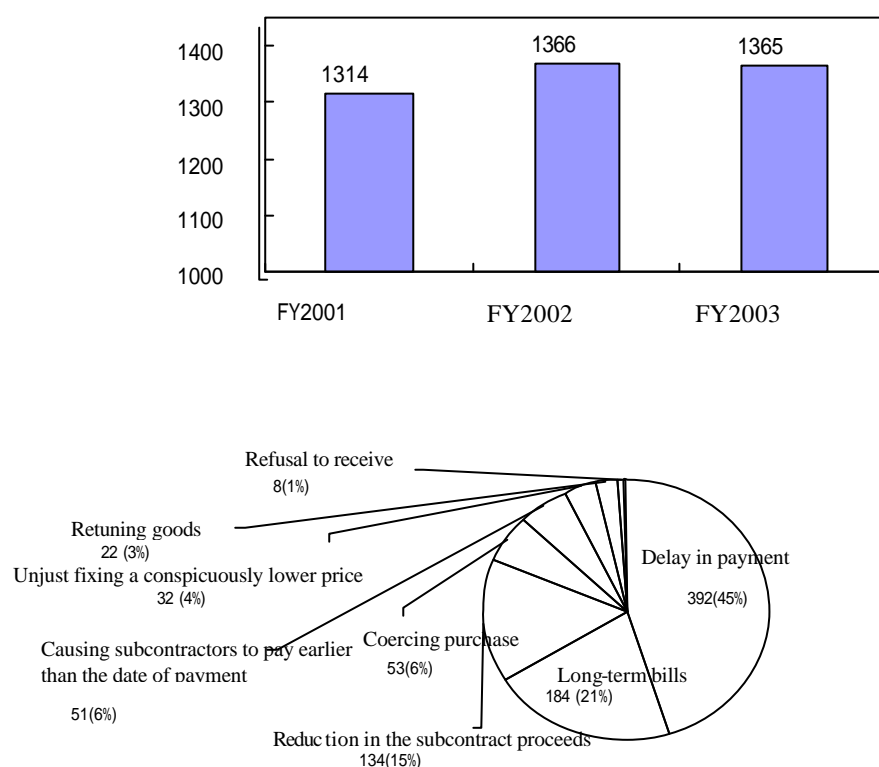
Warnings: 1,357 (same as previous year)

(2) Violations of Section 3 (duty to issue documentation on placement of order) (1,125 cases) and violations of Section 5 (duty to preserve relevant documentation) (142 cases) accounted for 60% of the total.

In a breakdown of violations of Section 4 (Items to be observed by parent company) delay in payment of subcontract proceeds (392 cases), long-term bills (184 cases) and reduction of subcontract proceeds (134 cases) were still common.

Cases subject to recommendation were mostly cases of a reduction in the subcontract proceeds.

Number of Violations of the Subcontract Act



(3) In the case of those violations relating to delay in payment and reduction of subcontract proceeds, the JFTC had offenders take restorative measures such as the payment of delay interest (a total of ¥124,090,000 to 508 subcontractors: highest

amount on record) and refund of the reduction (a total of ¥519,020,000 to 559 subcontractors: third highest amount on record).

(4) Industries with many violations of Section 4 were the car sales and repair industry, general equipment manufacturing industry, electrical equipment manufacturing industry, metal product manufacturing industry and transportation equipment manufacturing industry (About half the total number of violations of Section 4 were accounted for by these five industries)

(5) With respect to subcontract transactions relating to textile products that had a large impact on sudden growth in imports, etc. the JFTC issued warnings in 87 cases in which violations were found.

## II. Subcontract Act promotion and education

The JFTC put effort into promoting and educating people about the Subcontract Act, not only establishing November every year as “Subcontract Rationalization Promotion Month ” and collaborating with the Small and Mid -Size Enterprise Agency in advertising activities using media such as newspapers, magazines and TV, but also holding courses on the Subcontract Act all over Japan.

## III. Measures for the fairness of corporate transactions

### 1. Amendment of the Subcontract Act

In June 2003 the Subcontract Act was amended including the addition of subcontract transactions in the service field to the scope of the act, the addition of prohibited acts and the strengthening of enforcing measures. Ahead of enforcement of the amended Subcontract Act in April 2004, besides adjusting related government ordinances and regulations, the JFTC endeavored to promote and educate people about the amended law through the amendment and publication of

application standards, the holding of briefing sessions and the distribution of pamphlets, etc.

In addition, ahead of enforcement, the JFTC conducted a fact-finding survey of the software production industry, the TV program production industry, the advertisement production industry and the building maintenance industry, with the aim of understanding the actual situation regarding transactions and promotion and education.

## 2. Notice of distribution special designation

As a result of the amendment of the Subcontract Act, transactions between original distribution contractors and distribution subcontractors will be regulated by the Subcontract Act, but the JFTC notified and enforced from April 2004 “Specific Unfair Trade Practices When Specific Consignors Entrust the Transportation and Storage of Goods” (distribution special designation) specifically designating the scope of regulations and prohibited acts under the Antimonopoly Act with respect to transactions between consignors and original distribution contractors which are not covered by the Subcontract Act.

## 3. Response due to implementation of total representation system

Since there are concerns over abuse of dominant bargaining position, for example, retailers coercing suppliers to unilaterally lower supply prices or send staff as a result of implementation of the price total representation system following the amendment of the Consumption Tax Act, the Fair Trade Commission published “Q&A on the Antimonopoly Act and Related Legislation on Implementation of the Total Representation System under the Amended Consumption Tax Act,” and has endeavored to make this widely known. In addition, the JFTC has urgently conducted a questionnaire survey of large-scale retailers and suppliers, has

conducted interviews individually with retailers who were indicated by suppliers and were considered a particular problem and demanded improvement.

#### 4. Amendment of service guidelines

With the aim of further clarifying types of violation with respect to the unilateral handling of rights, etc. in relation to information products and of making the revisions required in view of the fact that, with the latest amendment of the Subcontract Act, service subcontract transactions are now covered by said act, the JFTC made a partial amendment of guidelines on the Antimonopoly Act (Service Guidelines) with respect to the abuse of dominant bargaining position in service transactions under contract. (published March 31, 2004).