

Enforcement Status of the Antimonopoly Act in FY2006 ( Summary )  
(Tentative translation)

May 30, 2007

Japan Fair Trade Commission

Based on the policy where the Japan Fair Trade Commission (JFTC) enforces the Antimonopoly Act ( AMA ) promptly and effectively, the JFTC has strictly and positively dealt with various types of violations of the AMA responding to social needs precisely, in particular; 1. price-fixing cartels and bid-riggings which have a great impact on people's living; 2. unfair trade practices such as abuse of dominant bargaining position and unjust low price sales which cause unfair disadvantages to small and medium-size enterprises(SMEs); and 3. hindrance of new entries in the fields of information technology, public utilities sectors and intellectual property which are key elements for promoting economic development.

### **1. Summary of cases investigated**

In FY2006, the JFTC took legal measures against a total of 73 entrepreneurs in 13 cases.

In specific terms, the JFTC has effectively managed a variety of cases precisely responding to social needs, with six cases of bid-riggings, three cases of price-fixing cartels, and four cases of unfair trade practices.

In FY2006, the JFTC received 79 leniency applications. ( The number of application amounts to 105 since January 2006. )

Prompt law enforcement: The average investigation period of all cases in which legal measures were taken in FY2006 was about nine months.

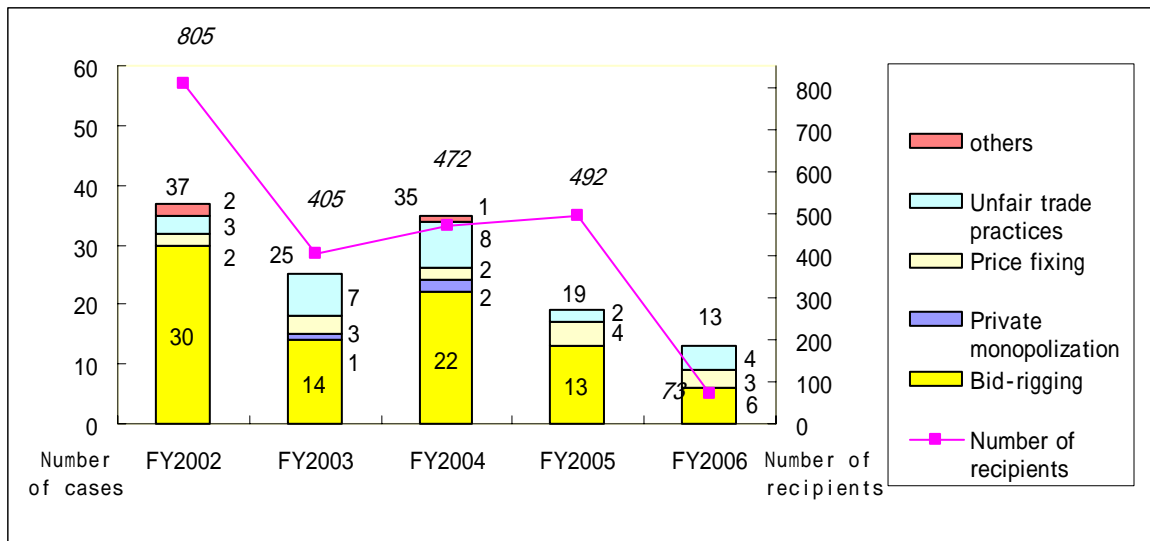
In the bid-rigging case for human waste disposal facilities construction projects, the JFTC filed criminal accusations with the Prosecutor General against 11 companies and 11 individuals. Also in the bid-rigging case for subway construction procured by the City of Nagoya, the JFTC filed criminal accusations with the Prosecutor General against five companies and five individuals.

The JFTC demanded improvement measures based on the Act Concerning Elimination and Prevention of Involvement in Bid rigging, etc. to the Minister of the Ministry of Land Infrastructure and Transport (MLIT) in connection with the bid-rigging case for floodgate projects ordered by the

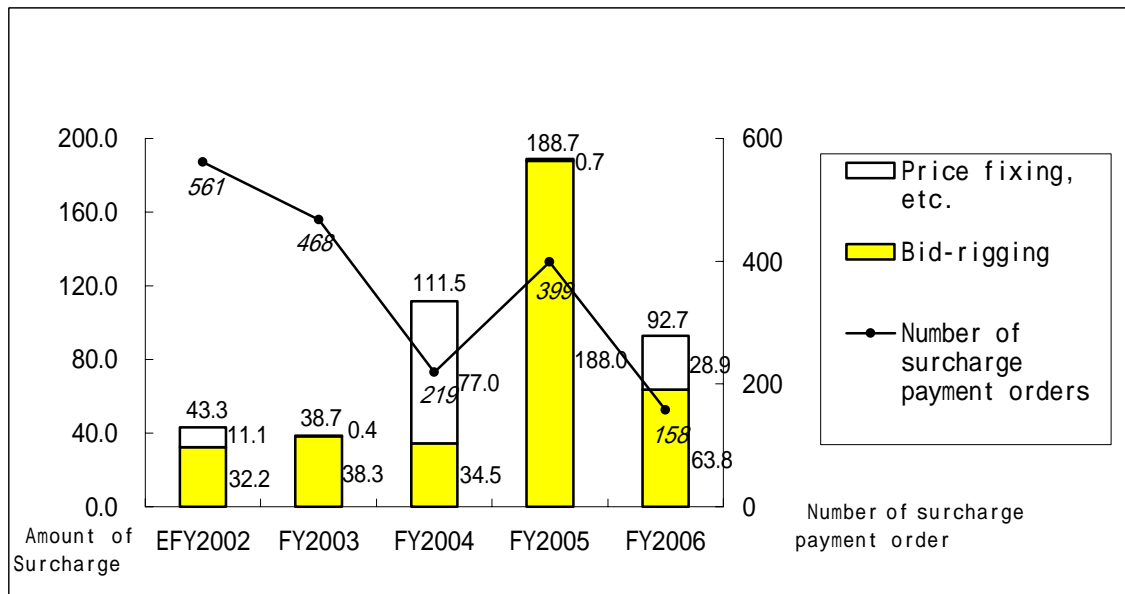
MLIT.

With respect to surcharge payment orders, the amount of payment confirmed in FY2006 was about 9.26 billion yen against 158 entrepreneurs. (Surcharge payment orders which amounted to about 27 billion yen became invalid because of the decision to commence hearing procedures.)

**Figure 1 “Numbers of cases where legal measures were taken and their recipients”**



**Figure 2 “Trend in amount of surcharge, etc.”**



## 2. Main cases in FY2006

### (1) Strict enforcement on bid-riggings and price-fixing cartels

Bid-riggings over human waste disposal facilities constructions ordered by local municipalities, etc. (A criminal accusation was filed on May 23 and an additional accusation was filed on June 12, 2006. A cease and desist order and surcharge payment orders were issued on January 16, 2007.)

Bid-riggings over tunnel ventilation constructions ordered by the Metropolitan Expressway Public Corporation ( Surcharge payment orders were issued on September 8, 2006. )

Bid-riggings over subway construction procured by the City of Nagoya (A criminal accusation was filed on February 28 and an additional accusation was filed on March 12, 2007. )

Bid-riggings over floodgate projects ordered by the MLIT, the Japan Water Agency, and the Ministry of Agriculture.(Cease and desist orders and surcharge payment orders were issued on March 8, 2007)

Price-fixing cartels over flooring sheets made from polyvinyl chloride and carpet tiles by manufacturing companies, etc. (A cease and desist order and surcharge payment orders were issued on May 26, 2006 )

### (2) Strict and prompt enforcement on violations causing unfair disadvantage to SMEs.

Unjust low price sales by petroleum products retailers (A cease and desist order was issued on May 18, 2006)

Abuse of dominant bargaining position against its suppliers by a large-scale retailer( Cease and desist orders were issued on October 13, 2006 and March 27, 2007 )

### (3) Enforcement on unfair trade practices in the distribution sector

Resale price maintenance concerning chemical herbicide (A cease and desist order was issued on May 22, 2006 )

Unjust restriction by an agricultural cooperative on business activities of its members (A warning was issued on July 21, 2006 )

### (4) Strict enforcement on exclusionary conducts, etc.

Restriction by a trade association on business activities of its members (A

warning was issued on September 29,2006)

### 3. Enforcement of the amended AMA

FY2006 is the first fiscal year in which the amended AMA was applied through the whole fiscal year. The summary of enforcement actions of the amended AMA is as follows.

#### (1) Surcharge

##### 1 Increase in surcharge rates, etc.

Although the amended AMA includes the provisions of increase in surcharge rates, introduction of extra rate of surcharge, introduction of reduction of surcharge rate, and expansion of scope of a surcharge payment order, there is no case where these provisions were applied in FY 2006.

##### 2 Leniency program

In FY 2006, 79 leniency applications were received (105 applications were received from January 2006 to March 2007). Moreover, in FY2006, the JFTC published the names of a total of 16 entrepreneurs that received lenient treatments in six cases.

#### (2) Criminal investigation

In FY 2006, the JFTC, as a result of criminal investigation, filed two criminal accusations with the Prosecutor General.

#### (3) Cease and desist order and prior procedure

In FY 2006, both of a cease and desist order and a surcharge payment order were issued at the same time in 8 cases. Moreover, at a request of entrepreneurs, the JFTC explained a total of 51 entrepreneurs about the facts the JFTC had found, or the evidence necessary to calculate surcharge or to find violation on which a surcharge payment order is based.

### 4. Hearings and hearing decisions

In FY2006, the JFTC rendered 98 decisions after completing hearing proceedings, while the number of cases in which hearing proceedings were newly commenced was 16.

The number of cases pending before the hearing examiners in FY2006 was 144, and 114 among them were the cases of complaints against surcharge payment orders. The number of hearing cases has remained at a high level

for the past few years.

The number of cases does not include that of cases concerning the Premiums and Representations Act.

Figure 3 “Trend in Number of Pending Hearing Cases”

