Market Study Report on Business Practices in the Food Supply Chain

May 2025

Japan Fair Trade Commission

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I Purpose of the Study, etc.

1 Purpose of the Study

Currently, the negative environmental impact caused by food loss in the series of food distribution transactions from the production and manufacturing to the sales and consumption of food and beverages[1] (hereinafter referred to as the "Food Supply Chain") is becoming a social issue worldwide. Moreover, in recent years, there has been growing awareness that food loss not only has an environmental impact but also negatively affects the market economy due to the lack of proper resource allocation. Food loss, where food that is still edible is disposed of as waste, increases waste disposal cost across the market. Food and beverage manufacturers, wholesalers, and retailers are forced to bear costs that would not have been arisen if the products had not been disposed. Furthermore, part of these costs, specifically those related to disposal by local governments, is covered by the public through taxes. In short, food loss leads to unnecessary social costs.

Business practices in the Food Supply Chain have been pointed out as a factor contributing to food loss, which in turn leads to unnecessary social costs[2],[3].

The Japan Fair Trade Commission (hereinafter referred to as the "JFTC") has paid attention to the trade practices in the Food Supply Chain and has conducted a Market Study on the Distribution Practices in the Processed Food Industry in 1992, a Market Study on Transactions between Food Product Manufacturers and Wholesalers in 2011, and a Market Study on Transactions of Private Brand Products in the Food Sector in 2014.

Given that a considerable time has passed since the previous study and that actual concerns have been raised about competition policy issues regarding business practices in the processed food industry, the JFTC has conducted another market

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1 In this report, the terms "food and beverage", "food" or "commodity" are used to refer to food and beverage products, depending on the context.

2 Food Waste and Recycling Management Office, Food Service Industry and Food Cultures Division, Ministry of Agriculture, Forestry and Fisheries, " Food Loss and Waste & Recycling" Updated as of November 2024, p. 4.
<https://www.maff.go.jp/j/shokusan/recycle/syoku_loss/161227_4.html>

3 For example, in order to comply with such business practices, food and beverage manufacturers sometimes produce more than necessary. These products may not be sold before their best-by dates and are eventually disposed of as waste. In other cases, food and beverage products are disposed of even though they are still edible, simply because they violate the delivery deadline based on business practices.

study on business practices that also lead to food loss. The study aims to improve transactions in the Food Supply Chain and promote the reduction of food loss, while also presenting JFTC's views under the Antimonopoly Act (hereinafter referred to as the "AMA"), etc.

2 Method of the Study

This market study was conducted from September 2024 to March 2025 using the following methods.

Prior to this market study, interviews were conducted with a total of 19 business associations of food and beverage manufacturers, etc. (hereinafter referred to as "Business Association Interviews") to identify which business practices in the Food Supply Chain should be examined in light of the purpose of the study.

(1) Web-based questionnaire survey

(a) Recipients of the questionnaire request letter

Based on the corporate information of businesses that maintain a corporate information database (hereinafter referred to as "Corporate Data"), businesses whose main industry is classified as food and beverage manufacturing or food and beverage wholesaling, and whose annual sales are 100 million yen or more, were selected and sent a letter requesting their response to the web-based questionnaire. Letters are sent to 11,600 food and beverage manufacturers (hereinafter referred to as "Manufacturer(s)") and 5,845 food and beverage wholesalers (hereinafter referred to as "Wholesaler(s)"), for a total of 17,445 companies.

(b) Study period

From September 17, 2024 to October 4, 2024.[4]

(c) Response rate, etc.

Table 1 shows the response rate, etc. from the web-based questionnaire.

4 In cases where an extension was requested due to difficulty in responding by the deadline, the deadline was extended to the 11th of the same month for accepting response.

Table 1: Response Rate, etc.

Number of letters sent requesting cooperation in surveys	**17,445 companies**
Of which, undeliverable due to undeliverable address	**153 companies**
Number of respondents	**4,706 companies**
Response rate[5]	**About 27.2%**

(2) Information submission form

In September 2024, the JFTC set up an information submission form on its website to solicit information from a wide range of businesses that were not included in the web-based questionnaire survey described in (1) above or in the voluntary interviews described in (3) below.

As a result, a total of 223 cases were submitted by March 2025.[6]

(3) Interview survey

Manufacturers or Wholesalers who responded to the web-based questionnaire survey described in (1) above were interviewed, either in person of by telephone, regarding the content of their responses (66 companies in total).

Based on the results of the web-based questionnaire survey and the above interviews with Manufacturers and Wholesalers, additional in-person interviews were conducted with retailers and others (15 retailers and 6 Wholesalers).

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[5] Percentage of 4,706 respondents out of a total of 17,292 companies to which letters were successfully delivered.

Note that individuals who exited the web-based questionnaire survey response form before completing it, as well as those who did not answer the required questions, are not included in the number of respondents in Table 1.

[6] This information was used as a reference in the selection of the business entities to be interviewed, as described in (3) below.

Ⅱ The Scope of This Study

1 Business Practices and Acts Scoped in This Study

Various business practices exist in the Food Supply Chain for consumer food and beverage products, some of which may impose disadvantages on suppliers (Manufacturers and Wholesalers, see 2 below) and may also cause food loss.

According to the results of the Business Association Interviews, it was frequently reported that suppliers, due to the following business practices (1) through (5) below (hereinafter referred to as the "Business Practice(s)"), were subjected to acts by orderers (retailers, Wholesalers, etc. to whom the suppliers deliver products; see 2 below), such as being refused the delivery of products even when the suppliers had them in stock, or having delivered products returned at a later date. These acts, conducted under the Business Practices, are hereinafter collectively referred to as the "Acts".

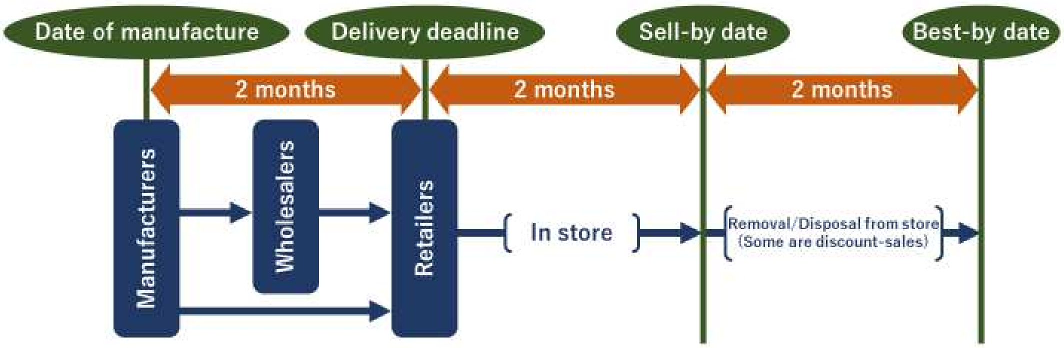
Therefore, this market study focused on the Business Practices in the Food Supply Chain for consumer food and beverage products.

(1) One-third rule

The "One-third rule" refers to the business practice in which the period from the date of manufacture to the best-by date of food and beverage products is divided into three equal parts, and the Manufacturer (including the Wholesaler), retailer and consumer each share one-third of this period. Under this business practice, the first third of the period is the "delivery deadline", by which the Manufacturer must deliver the product to the retailer; the second third is the "Sell-by date", during which the retailer may keep the products in store; and the final third is the "Best-by date", which is ensured as the period during which the consumer can still enjoy the product. Based on the One-third rule, food and beverage products that have passed the delivery deadline are returned by the retailer to the Manufacturer, which constitutes one of the Acts.

Some retailers originally set their own Sell-by dates shorter than one-third, i.e., prior to the Best-by date, and require Manufacturers and Wholesalers to adhere to these dates.

[Example of 6 Months Best-by Date]



(2) Short lead times

The "Short lead times" refers to the business practice that presumes it is a matter of course to accept orders with short delivery deadlines (e.g., same-day order and same-day delivery) – deadlines that cannot be met unless the quantity to be ordered is forecast in advance, before the retailer actually places the order (hereinafter referred to as "Make-to-stock production").

(3) Prohibition of delivery of reversed-date products

The "Prohibition of delivery of reversed-date products" refers to the business practice that the products whose best-by date (or date of manufacture) is even one day earlier than that of the products already delivered to the retailer (hereinafter referred to as "Reversed-date products") are not permitted to be delivered to the same retailer.

(4) Prohibition of delivery of mixed-date products

The "Prohibition of delivery of mixed-date products" refers to the business practice that the products containing items with different best-by dates (or date of manufacture) (hereinafter referred to as "Mixed-date products") are not permitted to be delivered to the retailer or Wholesaler. (For example, for an order of 100 units, 50 units of a product with a best-by date of April 1 and 50 units of a product with a best-by date of April 2 are not allowed to be delivered mixed together.)

(5) Out-of-stock penalty

The "Out-of-stock penalty" refers to the business practice whereby, in the event that the Manufacturer or Wholesaler fails to deliver the quantity ordered from the retailer by the delivery deadline (hereinafter referred to as "Out-of-stock"), the Manufacturer or Wholesaler is required to pay compensation or other financial penalties to the retailer, regardless of the reason, for the loss of sales opportunity.

2 Businesses Scoped in This Study

As described in 1 above, the scope of this market study is the Business Practices in the Food Supply Chain for consumer food and beverage products. In this study, a web-based questionnaire survey was conducted of Manufacturers and Wholesalers (hereinafter simply referred to as "Supplier(s)"[7]). Retailers, Wholesalers and others to whom Suppliers deliver products are referred to as "Orderer(s)."[8]

A total of 4,706 companies responded to the web-based questionnaire survey (see I 2(1) above). Of these, 3,506 companies could be the subjects of the Business Practices and the Acts. This number was obtained by first excluding 173 companies that responded they are engaged only in the retail industry (as shown in **Table 2**), resulting in 4,533 companies[9], and then excluding 1,027 companies that responded that they are engaged only in the restaurant industry or the production of prepared foods (as shown in **Table 3**). For this reason, these 3,506 companies[10] were included in the aggregation presented in Section III and IV below.

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[7] Wholesalers may be in the position of an Orderer to Manufacturers, but in the web-based questionnaire survey, we asked about their position as a Supplier to retailers, etc.

[8] In the web-based questionnaire survey, respondents were asked to answer questions based on the status of purchase transactions during the most recent one-year period (September 1, 2023 to August 31, 2024).

[9] When asked about the type of business operated by the respondents (i.e., (1) food and beverage manufacturing, (2) food and beverage wholesaling, or (3) food and beverage retailing) in the web-based questionnaire survey, 173 respondents selected "retailing only". In this regard, we confirmed the details of their business by telephone, and found that all of them were engaged in manufacturing and retailing (a form of business in which they manufacture products by themselves and sell them to individual consumers, such as so-called confectionery stores, bento shops, and prepared foods shops in towns). As a result, it was confirmed that they are not the subjects of the Business Practices and the Act.

[10] As a result of the Business Association Interviews, it was considered necessary to confirm whether each company manufactures or sells products to consumers, since the business practices subject to this market study are those related to the distribution of food and beverage products to consumers. Therefore, this point was confirmed in the web-based questionnaire survey.

Table 2: Industry Classification of Respondents

Manufacturing only	2,555 companies
Wholesale only	1,165 companies
Manufacturing and wholesale	291 companies
Manufacturing, wholesale, and retail (all of them)	243 companies
Retail only	173 companies
Wholesale and retail	158 companies
Manufacturing and retail	121 companies
Total	4,706 companies

Table 3: Whether Products Are Manufactured or Sold to Consumers

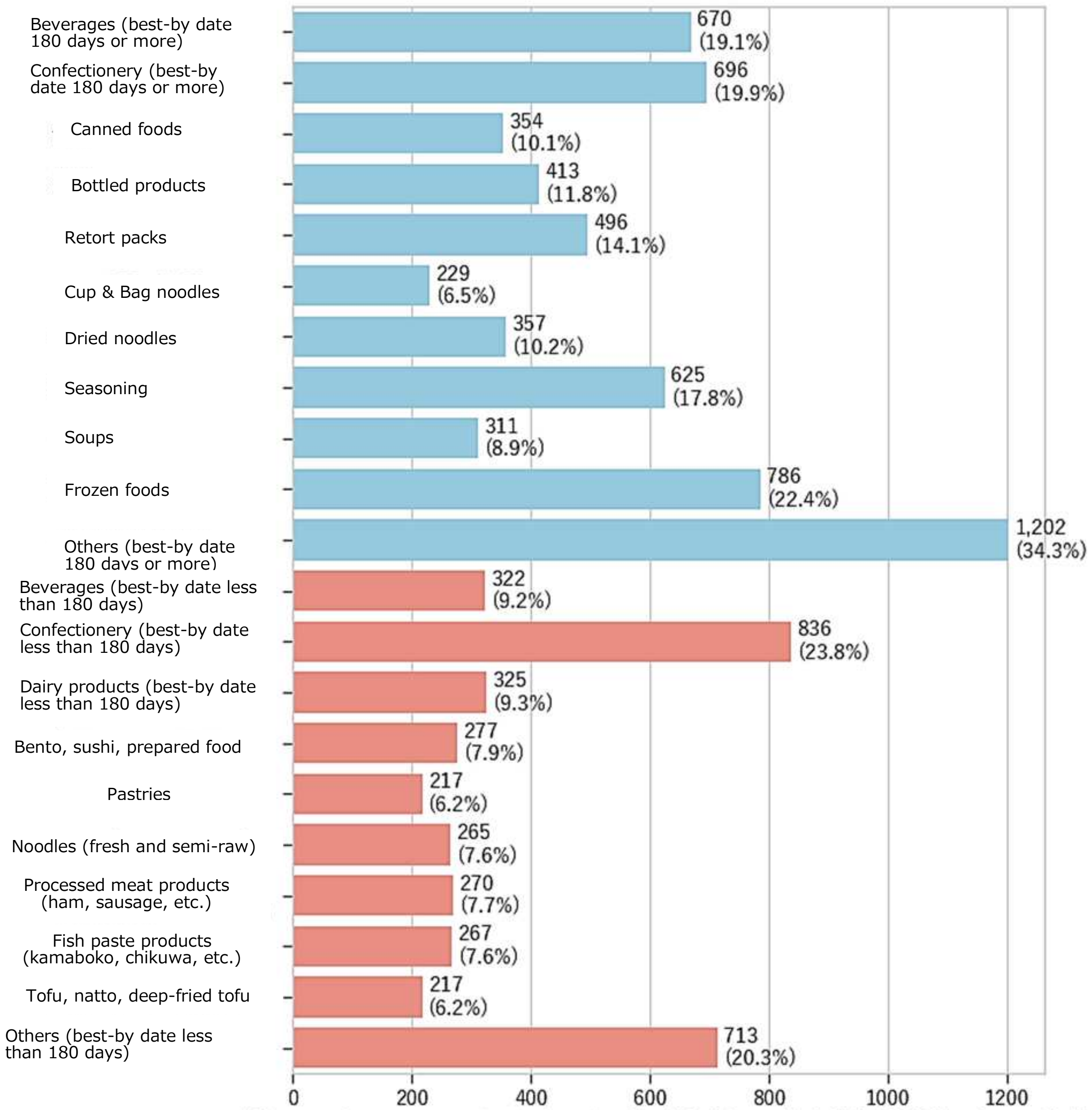
Manufactures or sells food and beverage products to consumers	3,506 companies
Manufactures or sells only for commercial use, such as in the food service industry or in the pro duction of prepared foods	1,027 companies
Total	4,533 companies

Ⅲ Supplier Profile

1 Food and Beverage

In the web-based questionnaire survey, respondents were asked about the types of their food and beverage products, and the results are shown in **Figure 1**[11].

Figure 1: Food and Beverage Products Handled by Suppliers[12]



Number of companies that selected "handling their own products" (percentage of total 3,506 respondents shown in parentheses)

*In general, food and beverage products with a longer best-by date are colored blue and those with a shorter are colored red.

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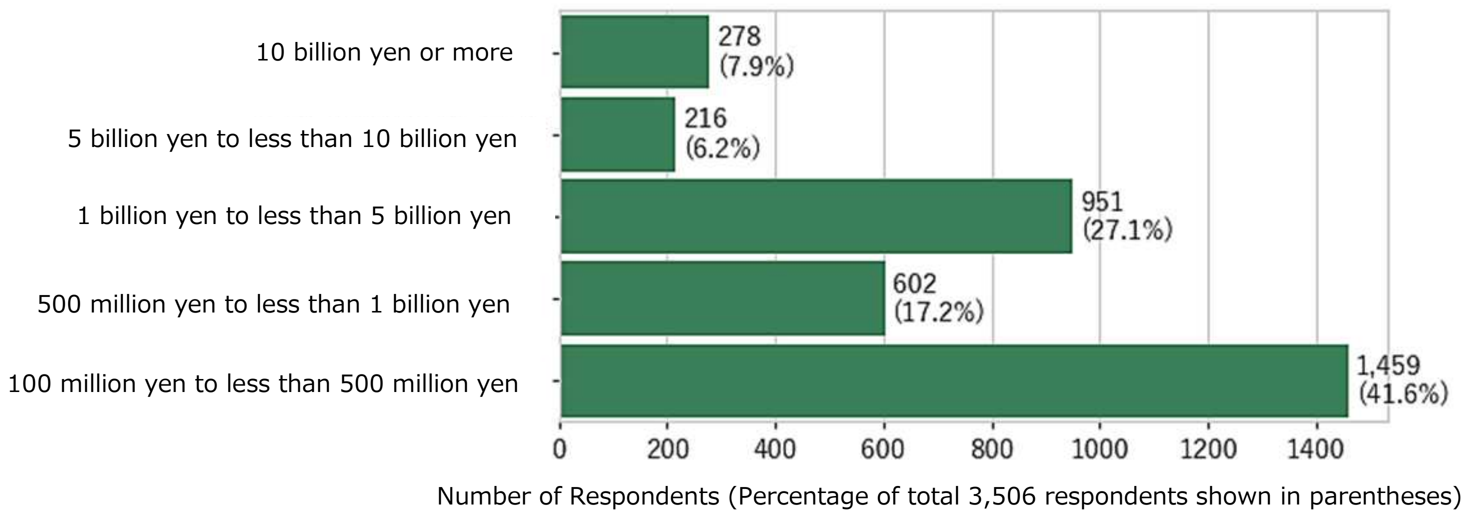
11 Hereinafter the percentage (%) figures are rounded to the second decimal place.

12 The figures shown represent the total number of responses to the question: "Please select the food and beverage products that your company mainly handles among the following. (Choose as many as applicable)." A total of 3,506 companies responded.

2 Net Sales

Based on the Corporate Data, the annual sales of the respondents to the web-based questionnaire survey was divided into the following five categories for totaling: (1) 100 million yen to less than 500 million yen, (2) 500 million yen to less than 1 billion yen, (3) 1 billion yen to less than 5 billion yen, (4) 5 billion yen to less than 10 billion yen, and (5) 10 billion yen or more, as shown in **Figure 2**.

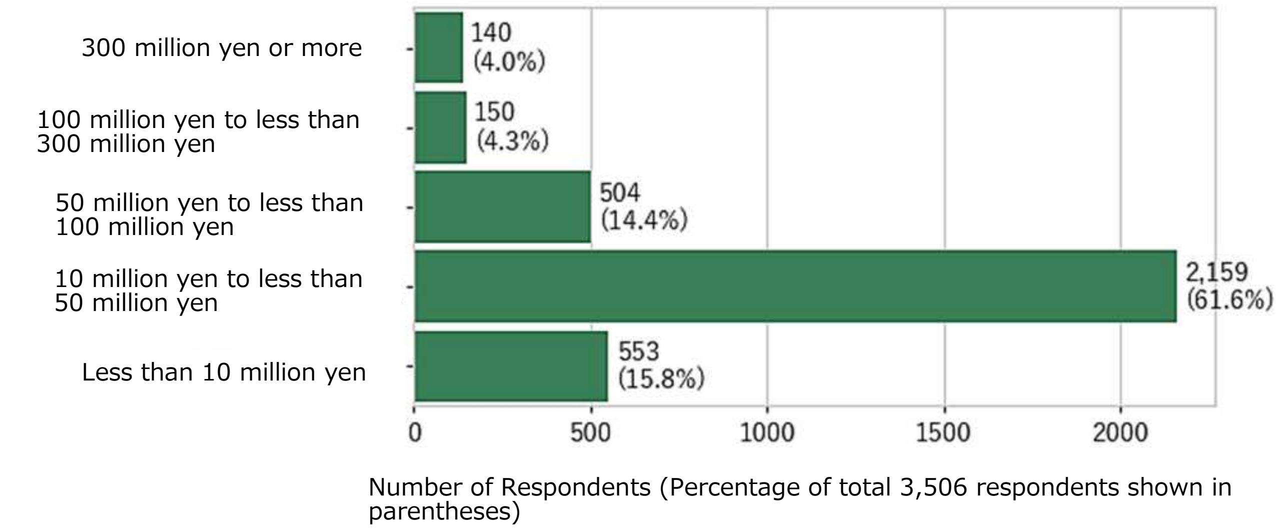
Figure 2: Annual Sales of Suppliers



3 Capital Stock

Based on the Corporate Data, the amount of capital of the respondents to the web-based questionnaire survey was divided into the following five categories for totaling: (1) Less than 10 million yen, (2) 10 million yen to less than 50 million yen, (3) 50 million yen to less than 100 million yen, (4) 100 million yen to less than 300 million yen, and (5) 300 million yen or more. The results are shown in **Figure 3**.

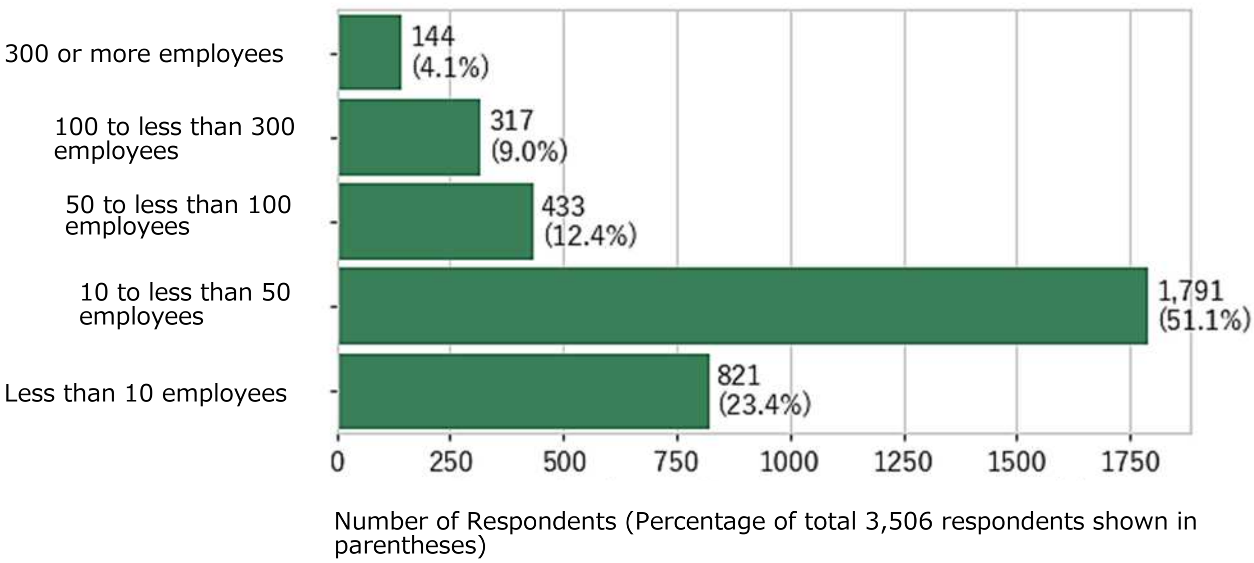
Figure 3: Suppliers' Capital



4 Number of Employees

Based on the Corporate Data, the number of employees of the respondents to the web-based questionnaire survey was divided into the following five categories for totaling: (1) Less than 10 employees, (2) 10 to less than 50 employees, (3) 50 to less than 100 employees, (4) 100 to less than 300 employees, and (5) 300 or more employees. The results are shown in **Figure 4**.

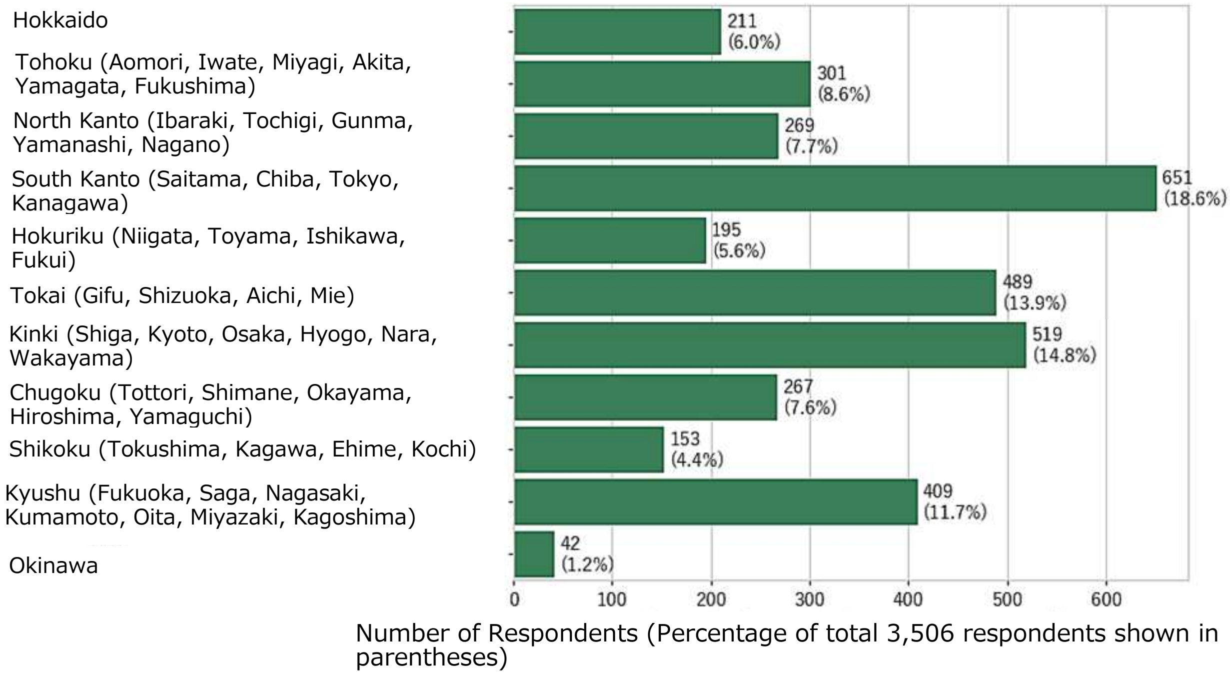
Figure 4: Number of Employees of Suppliers



5 Area of Location

Based on the Corporate Data, the location of the headquarters of the respondents to the web-based questionnaire survey was divided into the following 11 areas throughout Japan (Hokkaido, Tohoku, North Kanto, South Kanto, Hokuriku, Tokai, Kinki, Chugoku, Shikoku, Kyushu, and Okinawa). The results are shown in **Figure 5**.

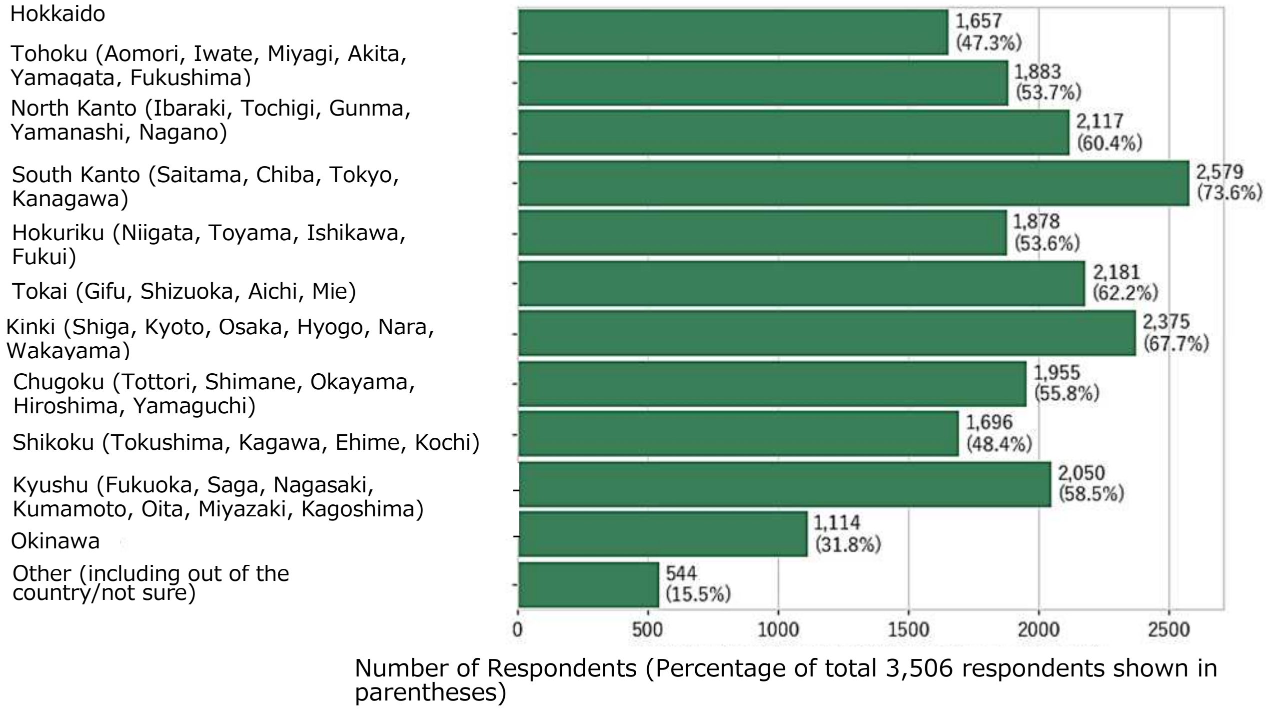
Figure 5: Area Where Suppliers Are Located



6 Trading Area

In the web-based questionnaire survey, respondents were asked to provide the area of the retailers' shops to which they deliver the products (hereinafter including cases where the products are delivered via a Wholesaler). During the totaling process, the responses were categorized into the following 11 areas throughout Japan—Hokkaido, Tohoku, North Kanto, South Kanto, Hokuriku, Tokai, Kinki, Chugoku, Shikoku, Kyushu, and Okinawa—as well as an other area, making a total of 12 areas. The results are shown in **Figure 6**.

Figure 6: Suppliers' Trading Areas (Locations of Retailers' Stores to Which Deliveries Are Made)[13]



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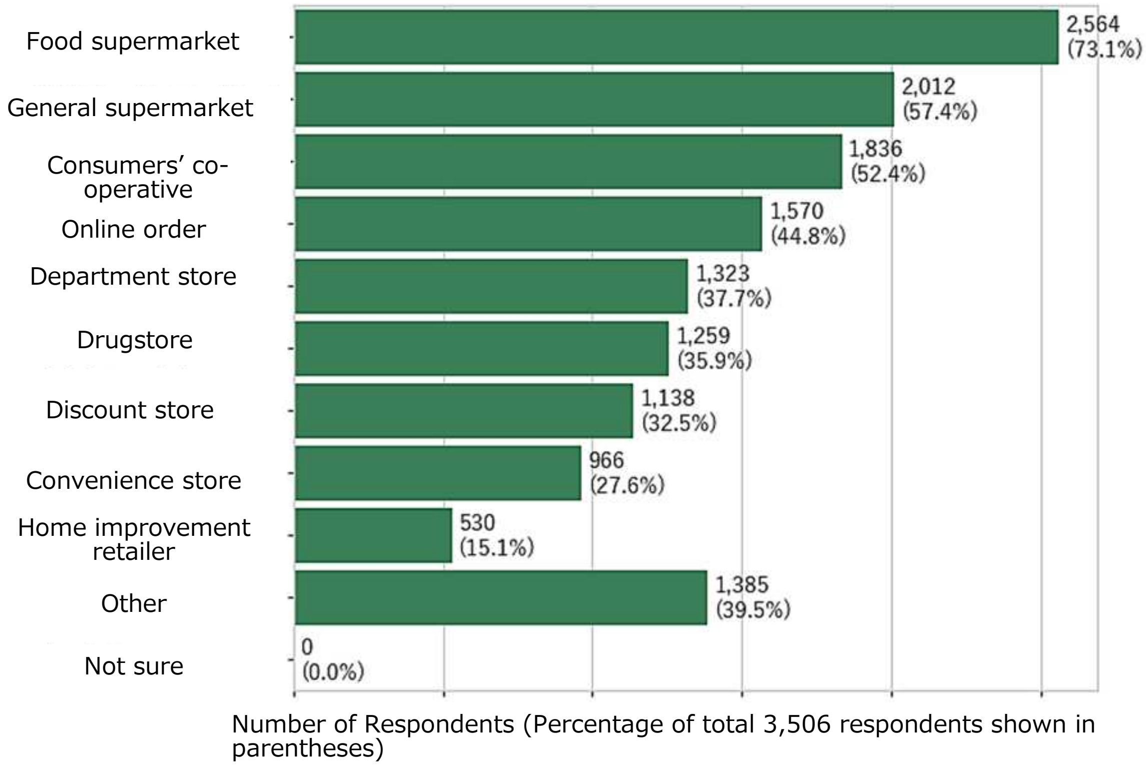
[13] These are the total responses to the question: "Please select all areas, as far as you know, where the retailers to whom your company delivers food and beverage products (including cases where your company delivers through Wholesalers) are located. (Multiple answers allowed)" (Number of respondents: 3,506 companies).

7 Business Types of Retailers with Whom You Do Business

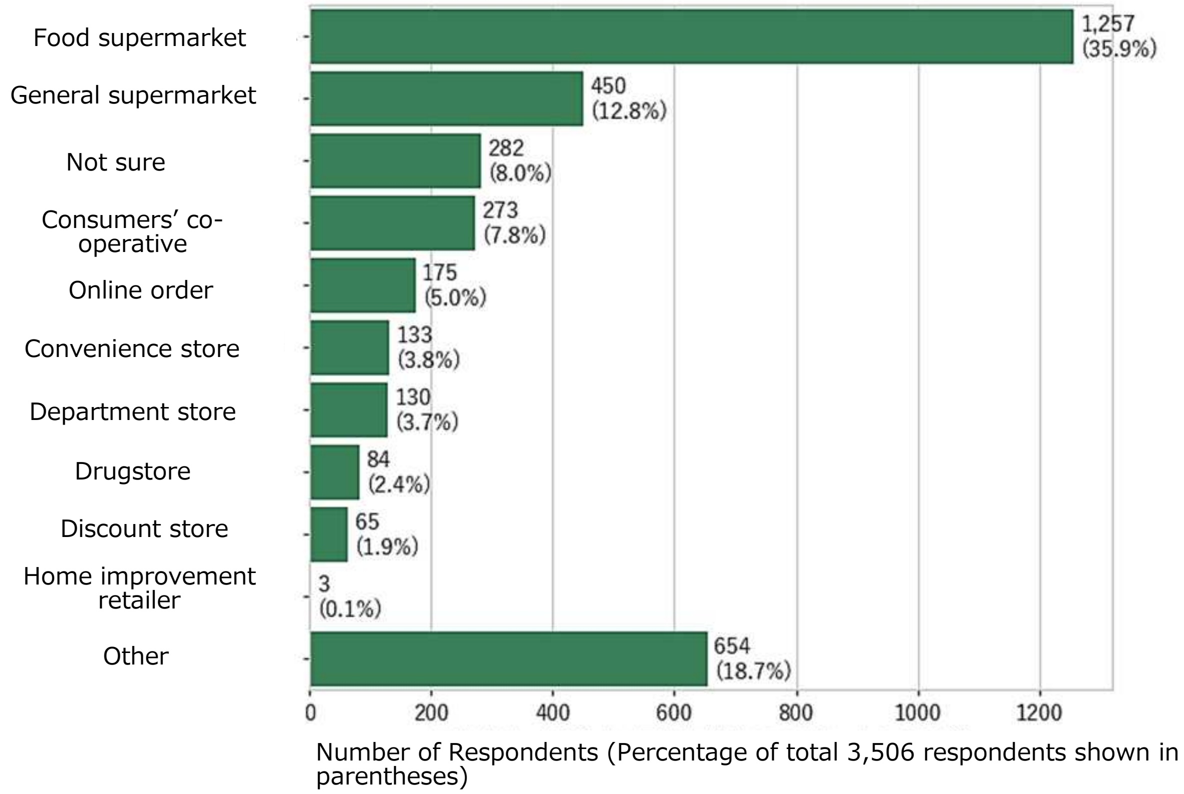
In the web-based questionnaire survey, respondents were asked about the types of retailers they deliver to, and the results are shown in **Figure 7**. **Figure 8** shows the business type of the retailer with the largest sales volume among those to which each respondent delivers products.

Figure 7: Business Types of Retailers with Whom Suppliers Do Business[14]



[14] These are total responses to the question: "Please select all business types of retailers to which your company delivers food and beverage products (including cases where your company delivers through Wholesalers). (Multiple answers allowed) Also, please select the one business type with the largest sales volume. (Only one)" The table shows the responses to the first part of the question (Number of respondents: 3,506 companies).

Figure 8: Business Types of Retailers with the Largest Sales Volume (per Supplier)[15]

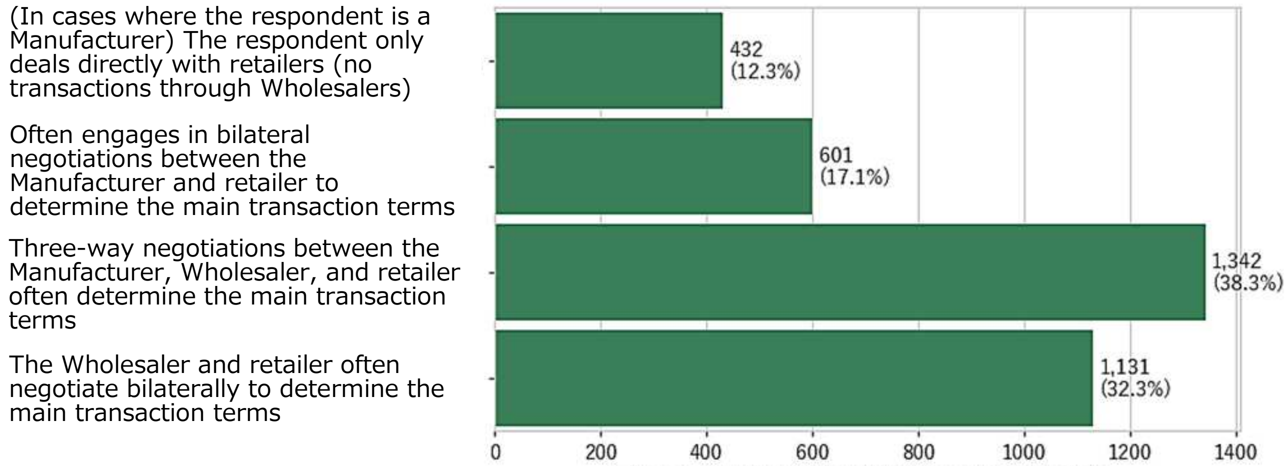


[15] These are the total responses to the question: "Please select all business types of retailers to which your company delivers food and beverage products (including cases where your company delivers through Wholesalers). (Multiple answers allowed) Also, please select the one business type with the largest sales volume. (Only one)" The table shows the responses to the latter question (Number of respondents: 3,506 companies).

8 Methods of Business Negotiations

In the web-based questionnaire survey, respondents were asked how they conduct business negotiations with retailers regarding transaction terms—such as transaction price, volume, delivery deadlines and rebates—when a Wholesaler involved between the Manufacturer and the retailer. The results are shown in **Figure 9**.

Figure 9: Suppliers' Methods of Negotiation[16]



Number of Respondents (Percentage of total 3,506 respondents shown in parentheses)

[16] These are the total responses to the question: "Please select only one of the following that best describes your business negotiations with retailers regarding transaction terms (transaction price, transaction volume, delivery date, rebates, etc.)." The table shows the responses to this question (Number of respondents: 3,506 companies).

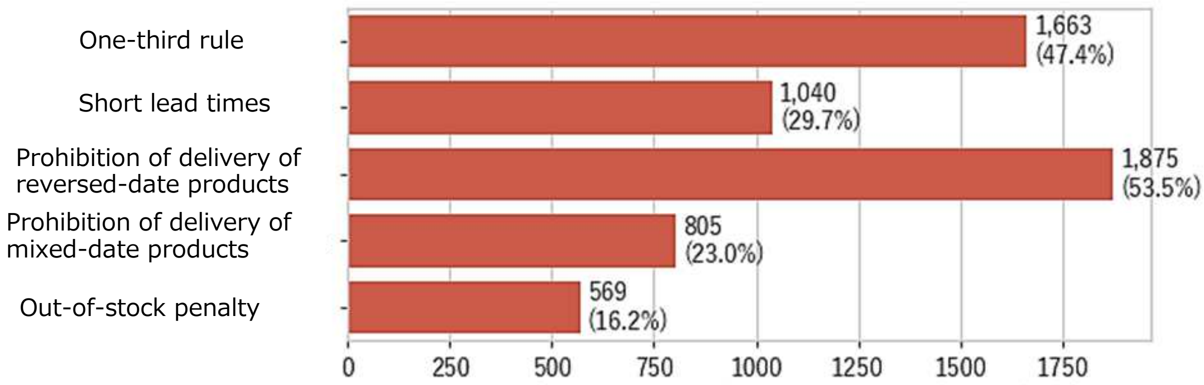
Ⅳ Results of This Study

1 Degree of Penetration, etc. of the Business Practices

As mentioned in Ⅱ 1 above, many respondents in the Business Association Interviews indicated that Suppliers are sometimes subjected to the Acts by Orderers because of the existence of the Business Practices.

To confirm the degree of penetration of the Business Practices in the Food Supply Chain, a question was asked in a web-based questionnaire survey as to whether the food and beverage products handled by each respondent's company were subject to the Business Practices. The results are shown in **Figures 10** and **11**.

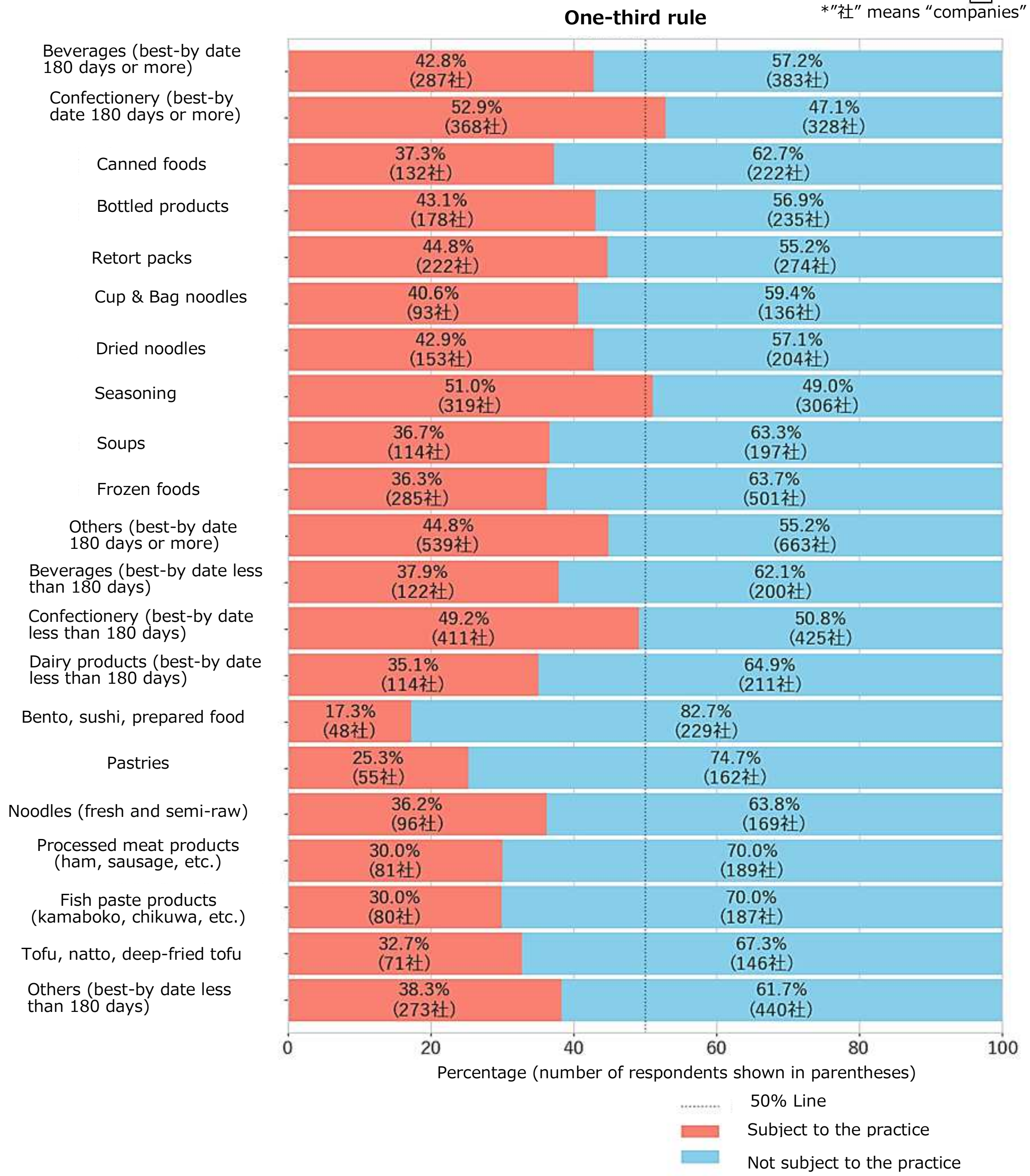
Figure 10: Percentage of Suppliers Doing Business in Accordance with the Business Practices[17]



Number of Respondents (Percentage of total 3,506 respondents shown in parentheses)

[17] These are the total responses to the question described in the footnote 18 to Figure 11, aggregated by each Business Practice.

Figure 11: Percentage of Suppliers Doing Business in Accordance with the Business Practices (by Business Practice and Products handled)[18]



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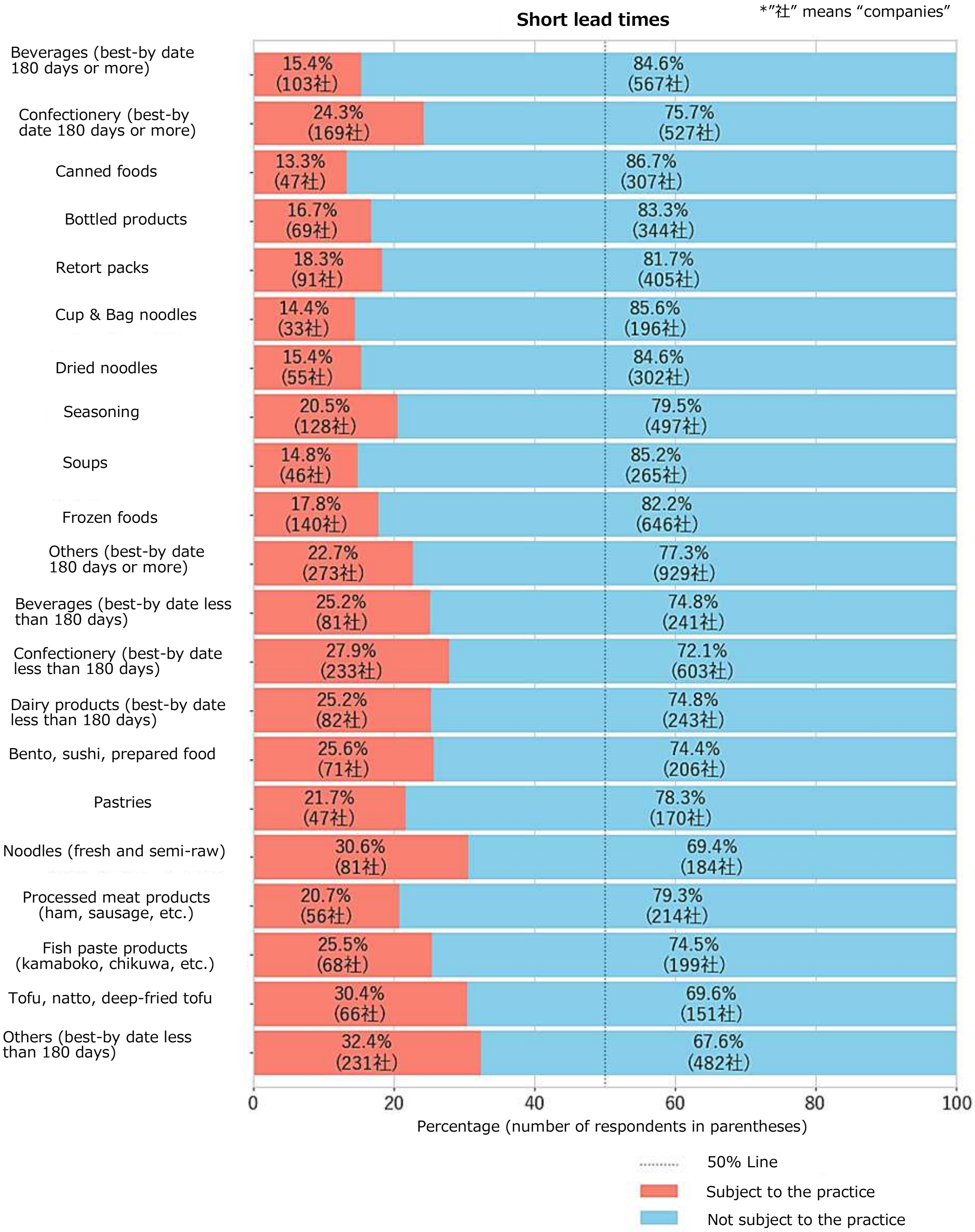
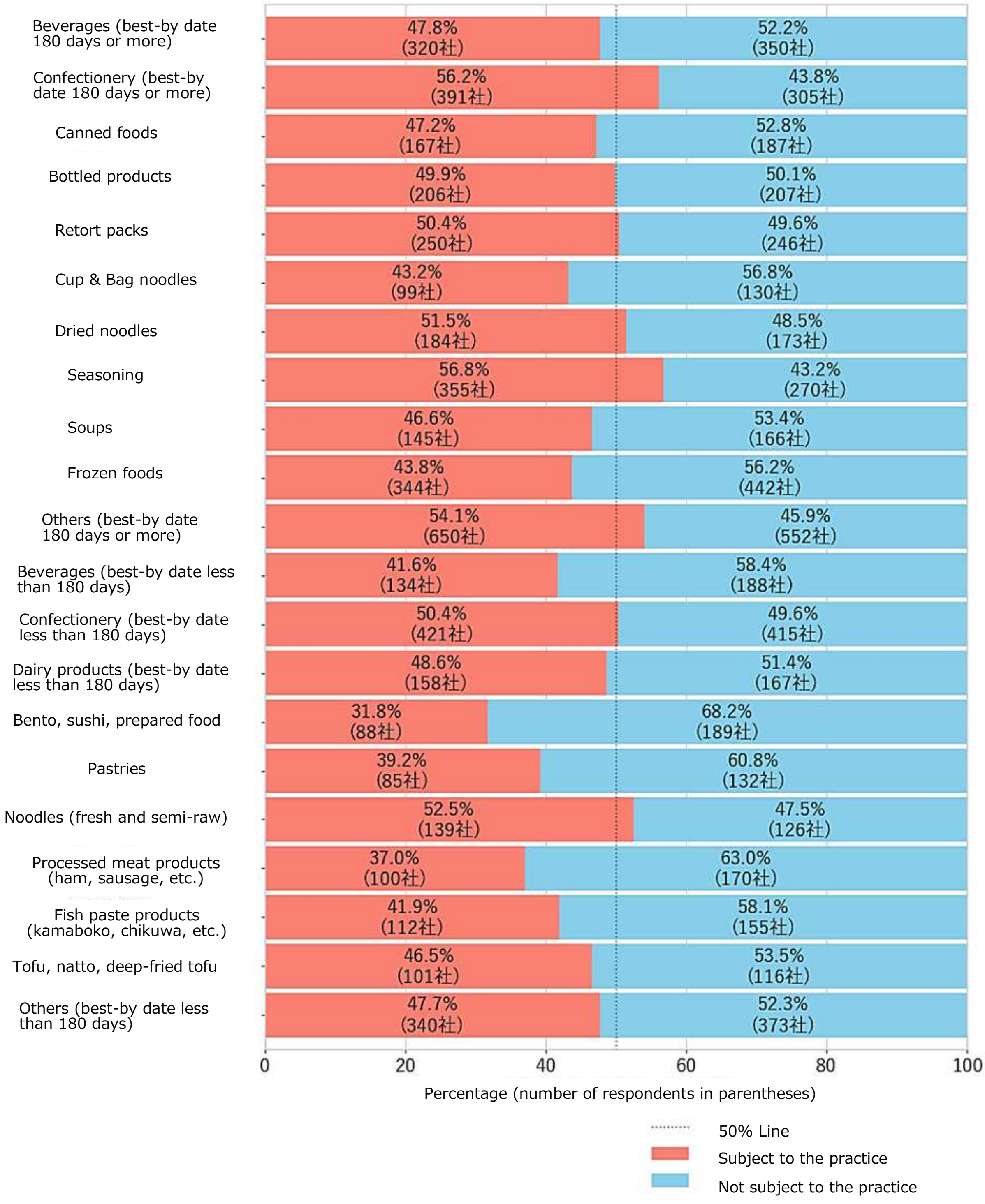
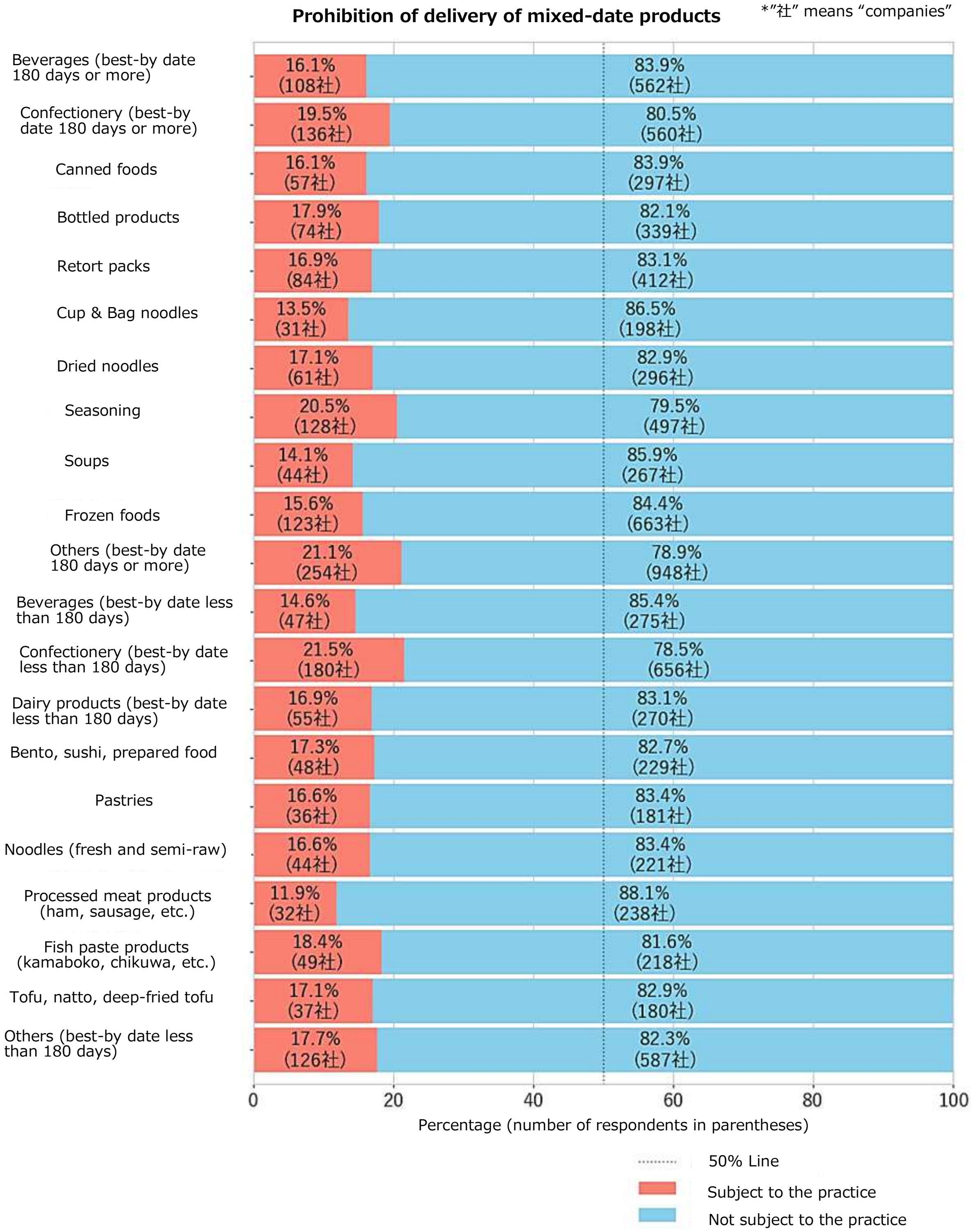
[18] These are the total responses to the question: "Please check each of the following business practice boxes if your company is subject to any of the listed business practices with respect to the products you handle. (Multiple answers allowed)" (Number of respondents: 3,506 companies). For each food and beverage product selected, the total number of respondents is set at 100. The percentage of respondents who answered that they are engaged in of transactions subject to the Business Practice is shown in red (left side), and the percentage of those who answered that they are not engaged is shown in blue (right side). Numbers in parentheses indicate the number of respondents who selected the option.


Short lead times
*"社" means "companies"
Beverages (best-by date 180 days or more) 15.4% (103社) 84.6% (567社)
Confectionery (best-by date 180 days or more) 24.3% (169社) 75.7% (527社)
Canned foods 13.3% (47社) 86.7% (307社)
Bottled products 16.7% (69社) 83.3% (344社)
Retort packs 18.3% (91社) 81.7% (405社)
Cup & Bag noodles 14.4% (33社) 85.6% (196社)
Dried noodles 15.4% (55社) 84.6% (302社)
Seasoning 20.5% (128社) 79.5% (497社)
Soups 14.8% (46社) 85.2% (265社)
Frozen foods 17.8% (140社) 82.2% (646社)
Others (best-by date 180 days or more) 22.7% (273社) 77.3% (929社)
Beverages (best-by date less than 180 days) 25.2% (81社) 74.8% (241社)
Confectionery (best-by date less than 180 days) 27.9% (233社) 72.1% (603社)
Dairy products (best-by date less than 180 days) 25.2% (82社) 74.8% (243社)
Bento, sushi, prepared food 25.6% (71社) 74.4% (206社)
Pastries 21.7% (47社) 78.3% (170社)
Noodles (fresh and semi-raw) 30.6% (81社) 69.4% (184社)
Processed meat products (ham, sausage, etc.) 20.7% (56社) 79.3% (214社)
Fish paste products (kamaboko, chikuwa, etc.) 25.5% (68社) 74.5% (199社)
Tofu, natto, deep-fried tofu 30.4% (66社) 69.6% (151社)
Others (best-by date less than 180 days) 32.4% (231社) 67.6% (482社)
0
20
40
60
80
100
Percentage (number of respondents in parentheses)
50% Line
Subject to the practice
Not subject to the practice

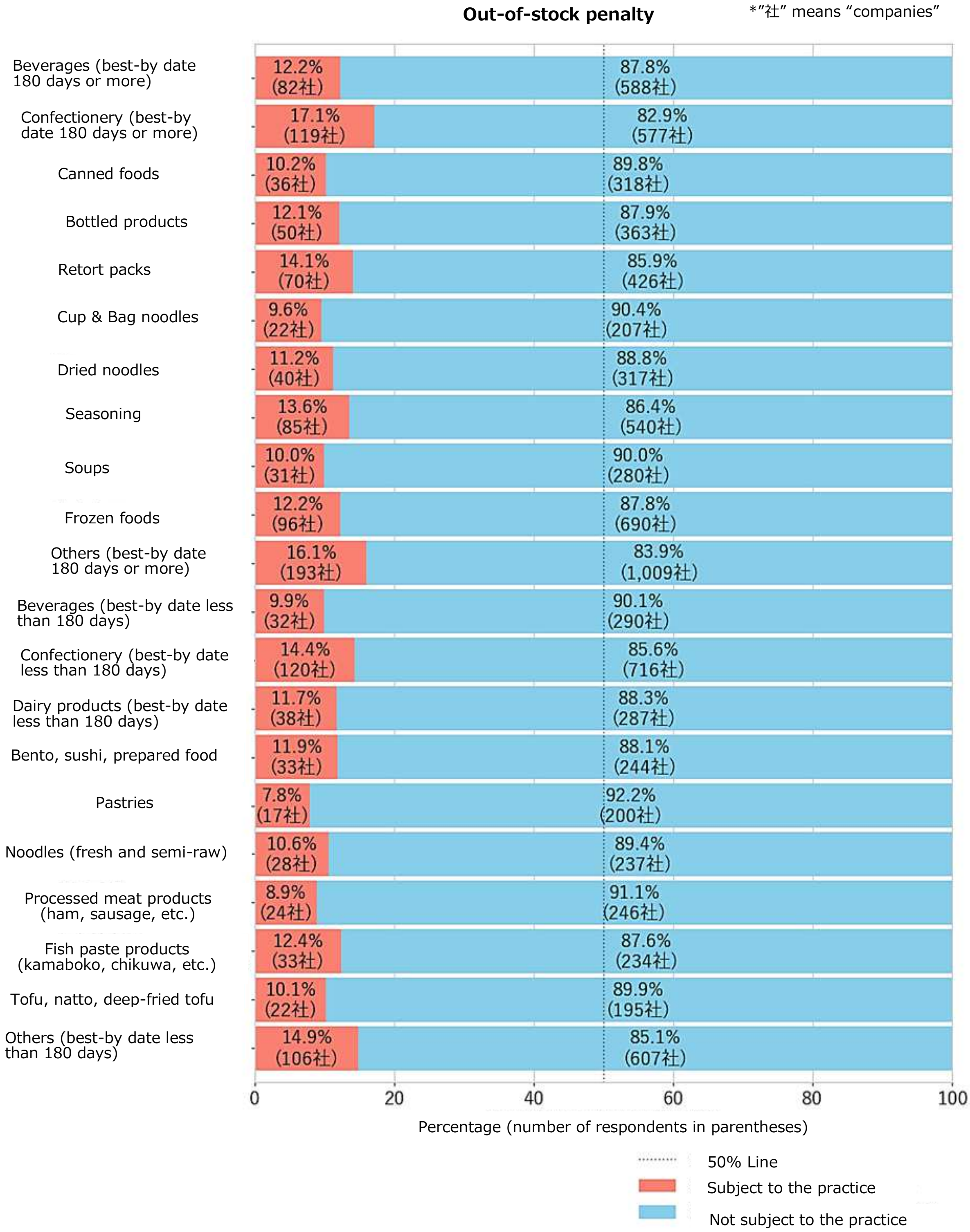
Prohibition of delivery of reversed-date products

*"社" means "companies"





Prohibition of delivery of mixed-date products
*"社" means "companies"
Beverages (best-by date 180 days or more)
16.1% (108社)
83.9% (562社)
Confectionery (best-by date 180 days or more)
19.5% (136社)
80.5% (560社)
Canned foods
16.1% (57社)
83.9% (297社)
Bottled products
17.9% (74社)
82.1% (339社)
Retort packs
16.9% (84社)
83.1% (412社)
Cup & Bag noodles
13.5% (31社)
86.5% (198社)
Dried noodles
17.1% (61社)
82.9% (296社)
Seasoning
20.5% (128社)
79.5% (497社)
Soups
14.1% (44社)
85.9% (267社)
Frozen foods
15.6% (123社)
84.4% (663社)
Others (best-by date 180 days or more)
21.1% (254社)
78.9% (948社)
Beverages (best-by date less than 180 days)
14.6% (47社)
85.4% (275社)
Confectionery (best-by date less than 180 days)
21.5% (180社)
78.5% (656社)
Dairy products (best-by date less than 180 days)
16.9% (55社)
83.1% (270社)
Bento, sushi, prepared food
17.3% (48社)
82.7% (229社)
Pastries
16.6% (36社)
83.4% (181社)
Noodles (fresh and semi-raw)
16.6% (44社)
83.4% (221社)
Processed meat products (ham, sausage, etc.)
11.9% (32社)
88.1% (238社)
Fish paste products (kamaboko, chikuwa, etc.)
18.4% (49社)
81.6% (218社)
Tofu, natto, deep-fried tofu
17.1% (37社)
82.9% (180社)
Others (best-by date less than 180 days)
17.7% (126社)
82.3% (587社)
0
20
40
60
80
100
Percentage (number of respondents in parentheses)
50% Line
Subject to the practice
Not subject to the practice


Out-of-stock penalty
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Beverages (best-by date 180 days or more)
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87.8% (588社)
Confectionery (best-by date 180 days or more)
17.1% (119社)
82.9% (577社)
Canned foods
10.2% (36社)
89.8% (318社)
Bottled products
12.1% (50社)
87.9% (363社)
Retort packs
14.1% (70社)
85.9% (426社)
Cup & Bag noodles
9.6% (22社)
90.4% (207社)
Dried noodles
11.2% (40社)
88.8% (317社)
Seasoning
13.6% (85社)
86.4% (540社)
Soups
10.0% (31社)
90.0% (280社)
Frozen foods
12.2% (96社)
87.8% (690社)
Others (best-by date 180 days or more)
16.1% (193社)
83.9% (1,009社)
Beverages (best-by date less than 180 days)
9.9% (32社)
90.1% (290社)
Confectionery (best-by date less than 180 days)
14.4% (120社)
85.6% (716社)
Dairy products (best-by date less than 180 days)
11.7% (38社)
88.3% (287社)
Bento, sushi, prepared food
11.9% (33社)
88.1% (244社)
Pastries
7.8% (17社)
92.2% (200社)
Noodles (fresh and semi-raw)
10.6% (28社)
89.4% (237社)
Processed meat products (ham, sausage, etc.)
8.9% (24社)
91.1% (246社)
Fish paste products (kamaboko, chikuwa, etc.)
12.4% (33社)
87.6% (234社)
Tofu, natto, deep-fried tofu
10.1% (22社)
89.9% (195社)
Others (best-by date less than 180 days)
14.9% (106社)
85.1% (607社)
0
20
40
60
80
100
Percentage (number of respondents in parentheses)
50% Line
Subject to the practice
Not subject to the practice

As shown in **Figure 11,** it was confirmed that transactions in accordance with the Business Practices are in fact taking place for all types of food and beverage products. However, the percentage of transactions conducted in accordance with the Business Practices varied by practice, with a large percentage for the "One-third rule" and "Prohibition of delivery of reversed-date products" and a smaller percentage for "Short lead times", "Prohibition of delivery of mixed-date products" and "Out-of-stock penalty". This trend was similar for all types of food and beverage products.

The percentage of respondents who indicated that they conduct transactions in accordance with the Business Practices was relatively low across all types of food and beverage products, with some product types showing especially low percentages.

As shown in the **Interview Survey Result 1**, respondents who answered that they do not conduct transactions in accordance with the Business Practices were further asked about the reasons. Their responses included that they had never heard of the Business Practices in the first place, and that such practices are applied to transactions with large-sized orderers, but are not necessarily applied to transactions with smaller companies.

Interview Survey Result 1: Recognition of the Business Practice and Whether or Not Transactions Were Conducted in Accordance with the Business Practices.

○ I have never heard of any of the Business Practices and learned about them for the first time through this web-based questionnaire survey. (Manufacturers/Seasoning, Tofu, Natto, Deep-fried tofu)

○ The Business Practices apply only to large national Wholesalers, and basically do not apply to local Wholesalers. On the other hand, the delivery deadlines among local Wholesalers vary considerably. For example, some Wholesalers even accept deliveries after the One-third rule delivery deadline. (Manufacturer/Frozen Foods)

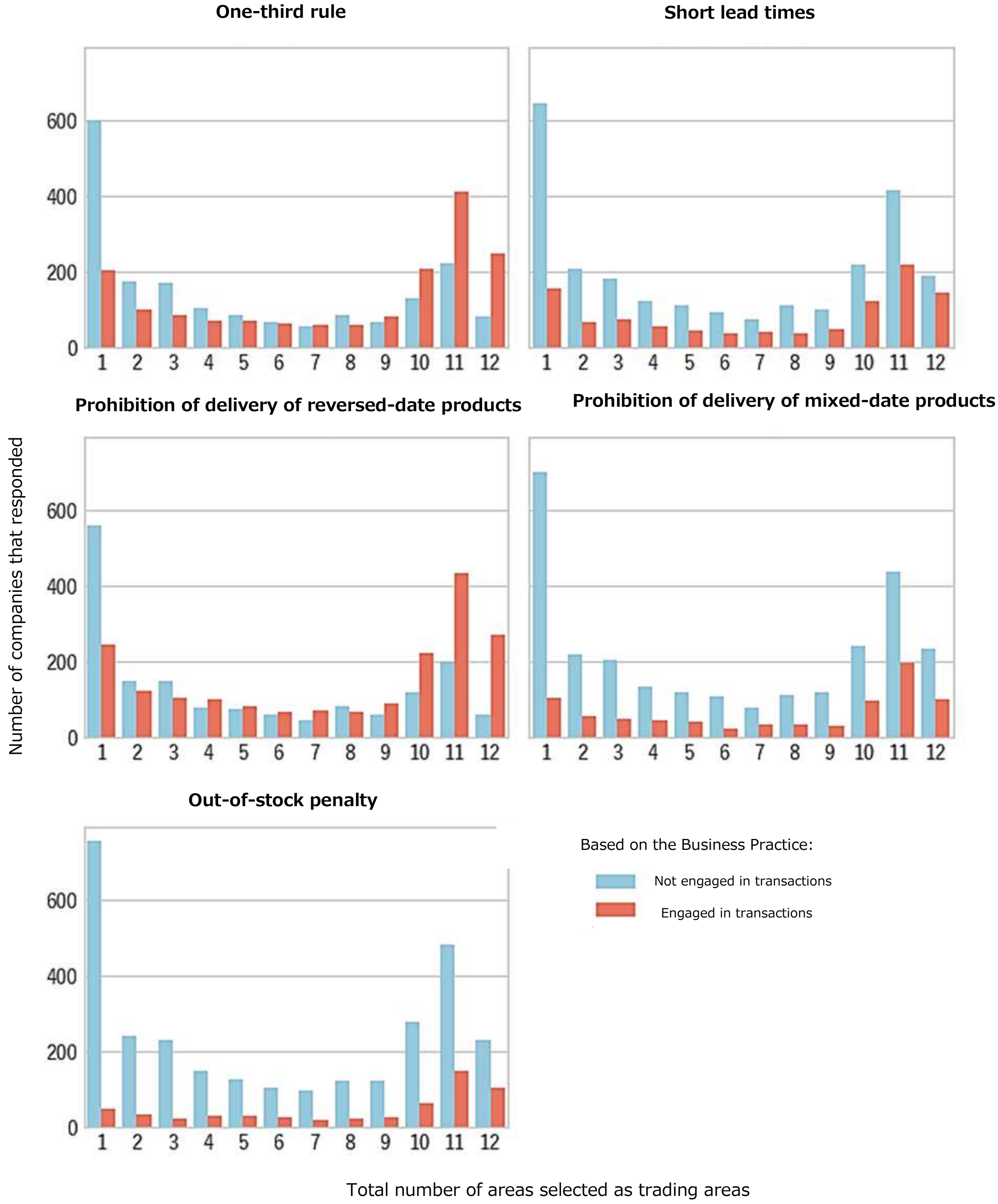
○ When a delivery deadline based on the One-third rule is exceeded, the distribution center often decides whether to accept the delivery or not, and there is an impression that the decision differs depending on whether the distribution center in question is directly operated by the Wholesaler/retailer or outsourced. Outsourced distribution centers tend not to accept deliveries because they are required to comply with the rules. (Manufacturer/Bottled products and Retort packs, Manufacturer/Confectionery)

○ The One-third rule often does not apply to transactions of products for sale in stores operated by consumers' co-operatives. (Manufacturer/Seasoning)

Thus, it seems that compliance with the Business Practices was more frequently required by large businesses with nationwide trading areas, and less so by Wholesalers engaged in distribution only within specific area in a local regions.

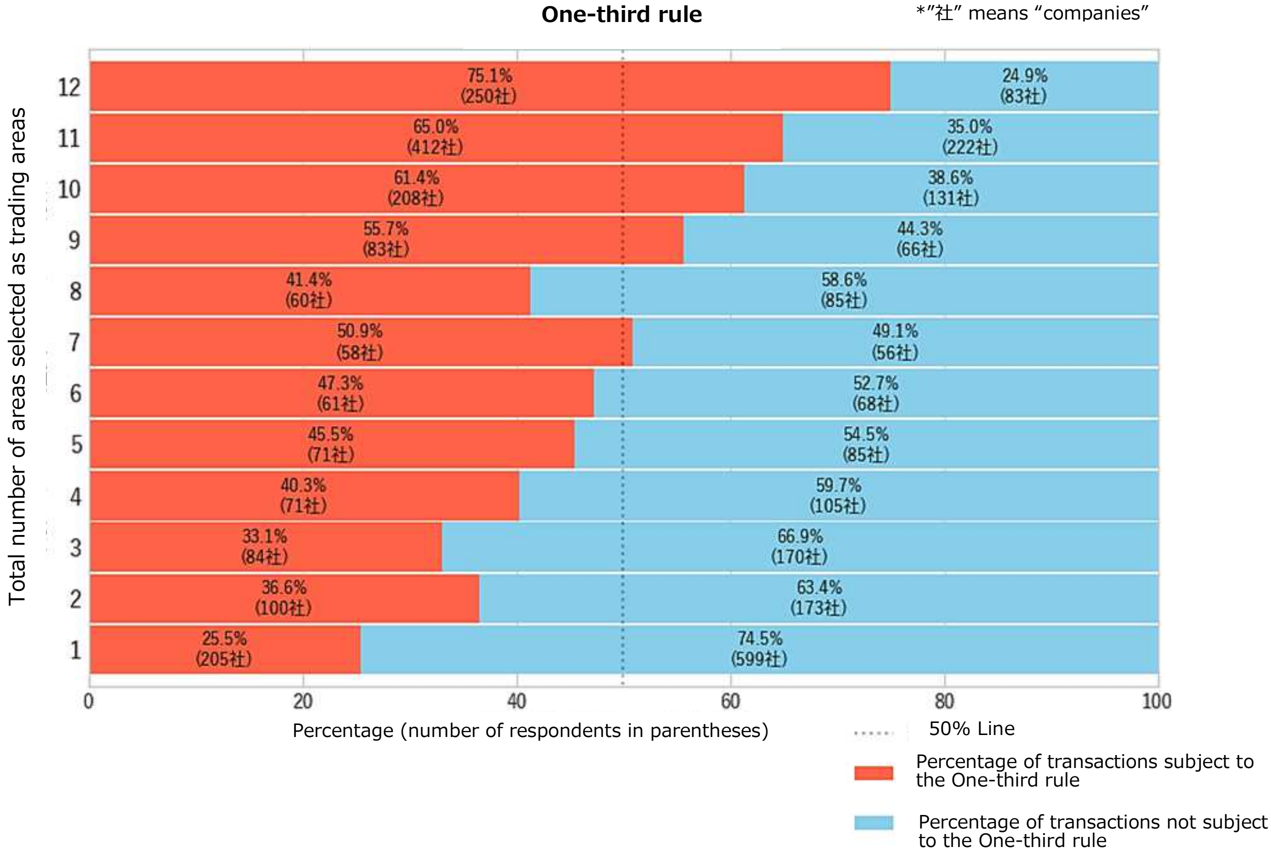
In this regard, the number of trading areas (the size of the trading area; the larger the number of trading areas, the larger the trading area) that each respondent answered in the web-based questionnaire survey is shown in **Figure 6** in Ⅲ 6 above. The results showing the degree of penetration of each Business Practice by the size of the trading area are shown in **Figures 12** and **13**.

Figure 12: Number of Suppliers Trading According to the Business Practices (by Business Practice and Size of Trading area)[19]



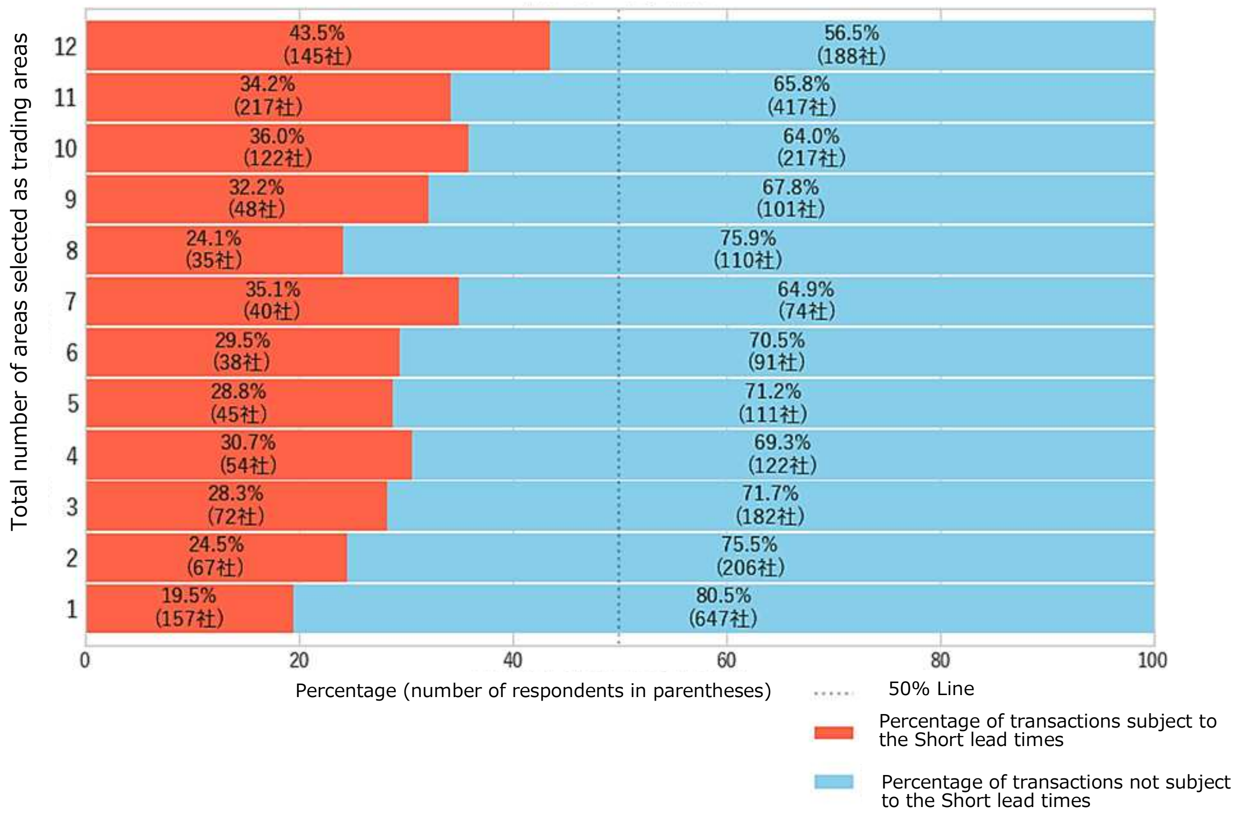
[19] The results of the responses to the questions in footnote 18 in Figure 11 and footnote 13 in Figure 6 are compiled in this tabulation.

Figure 13: Percentage of Suppliers Doing Business According to the Business Practices (by Business Practice and Size of Trading Area)[20]

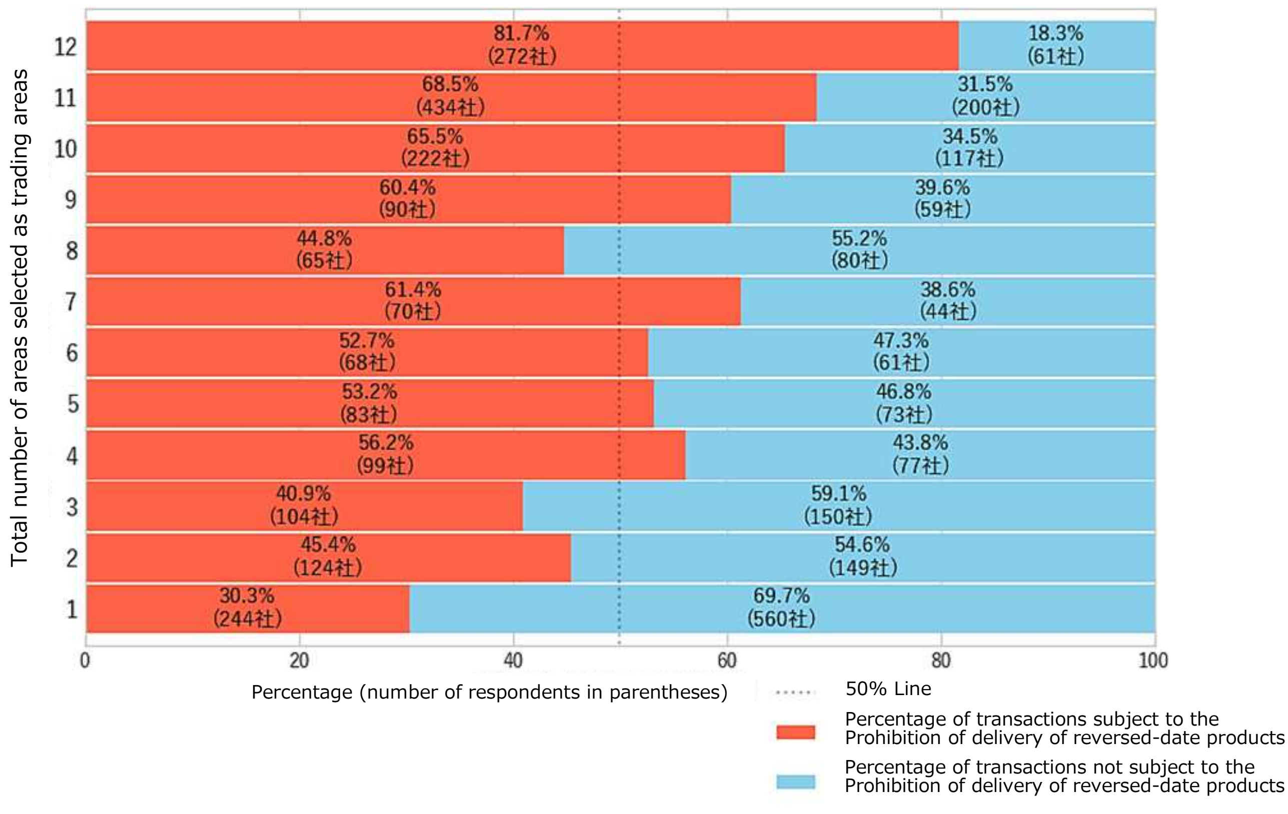


[20] The results of the responses to the questions in footnote 18 in Figure 11 and footnote 13 in Figure 6 are compiled in this tabulation.

Short lead times *"社" means "companies"

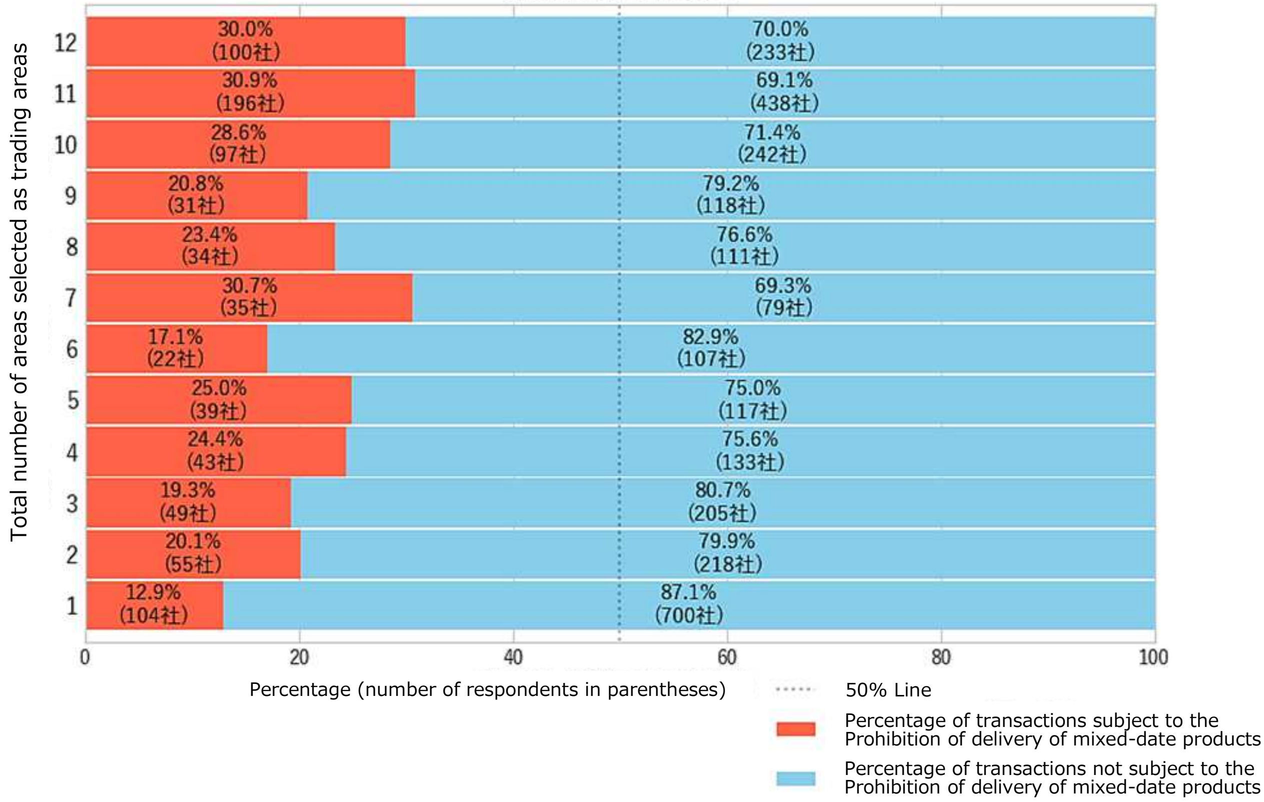


Prohibition of delivery of reversed-date products *"社" means "companies"



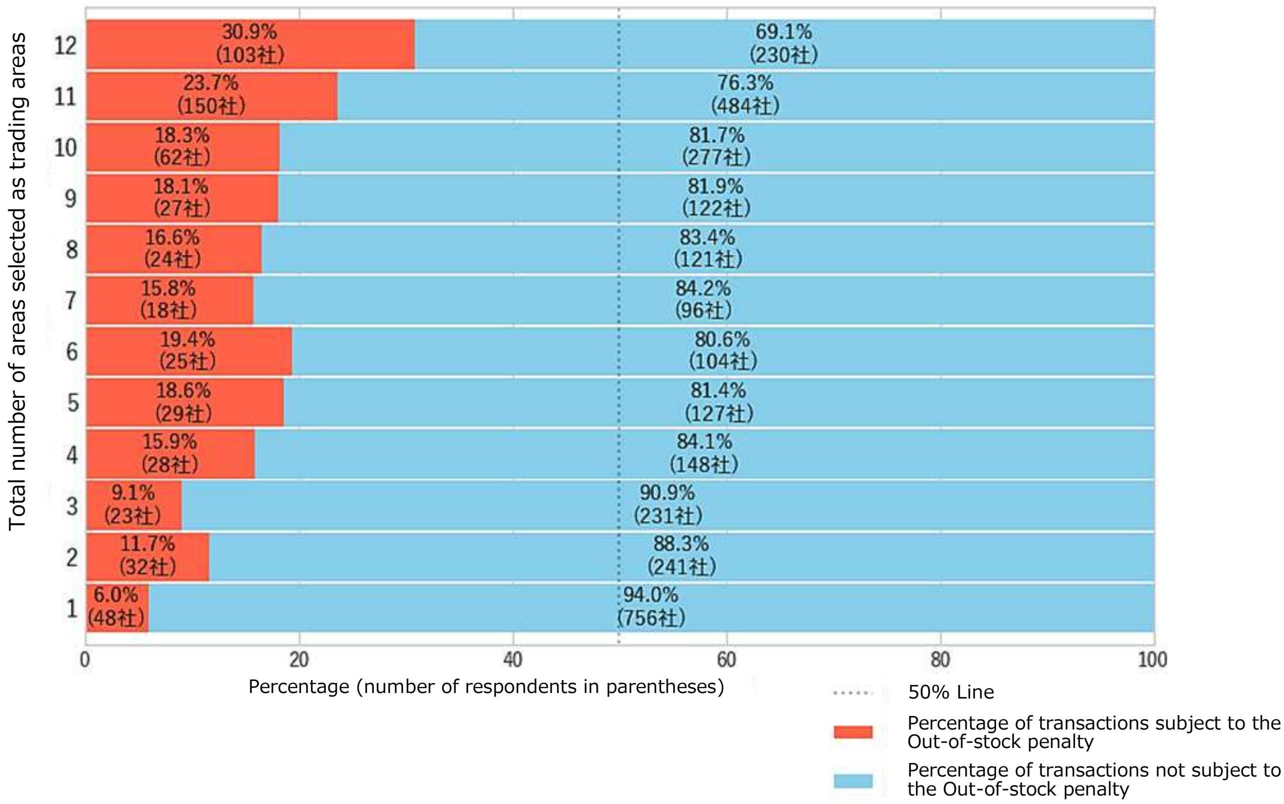
Prohibition of delivery of mixed-date products

*"社" means "companies"



Out-of-stock penalty

*"社" means "companies"



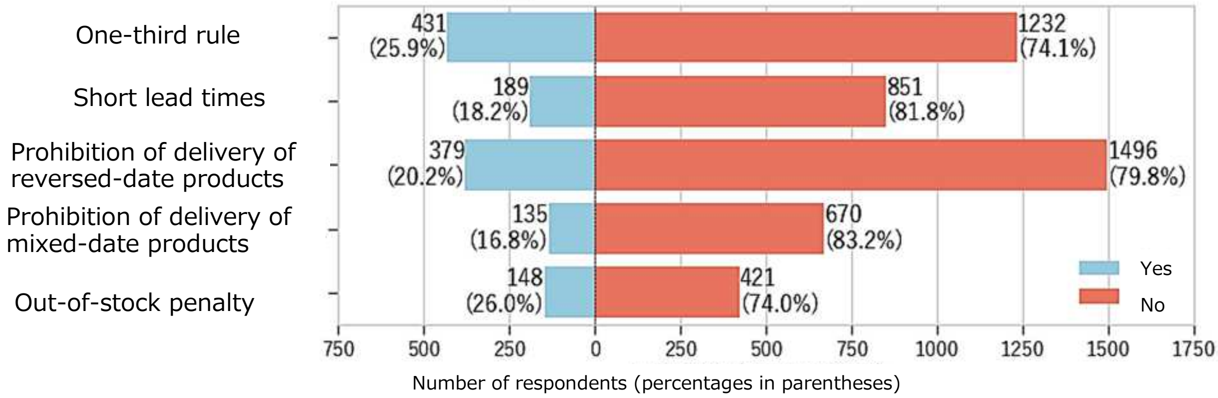
As shown in **Figure 13**, for each of the Business Practices, the percentage of transactions conducted in accordance with the Business Practices tended to increase as the number of Suppliers' trading areas increased. This tendency was particularly pronounced for the "One-third rule" and the "Prohibition of delivery of reversed-date products".

2 Existence or Non-Existence of a Written Contract or Other Document Pertaining to the Business Practices

In the Business Association Interviews, it was found that the Business Practices are rarely clearly stipulated in writing in advance— such as in a contract— or specifically stated orally at the time of order placement, and instead tend to exist as de facto business practices.

In this regard, in the web-based questionnaire survey, respondents who indicated that they conduct transactions in accordance with the Business Practices (see **Figure 10** in 1 above) were asked whether these practices are stipulated in a written contract or other document. The results are shown in **Figure 14**.

Figure 14: Existence or Non-Existence of Written Contract or Other Document (by Business Practice)[21]



[21] These are the total responses to the question: "Please check each of the following boxes if you have a written contract or other document with the retailer that clarifies the content of the business practice and the products to which applies." (Number of respondents: 3,506 companies).

The blue (left side) indicates that "the respondent has a written contract, etc.", and the red (right side) indicates that "the respondent does not have a written contract, etc." The numbers in parentheses indicate the percentage of the total number of respondents who selected each of the Business Practices.

As shown in **Figure 14,** more respondents answered that there is no written contract or other written document for any of the Business Practices, and in the interview survey, similarly, most of the respondents answered that there is no written contract or other written document. Thus, it was confirmed that in many cases, the Business Practices were not clarified in advance by written documents or other means.

On the other hand, a small number of respondents answered that they "have a written contract or other document" (blue area in **Figure 14**) for all Business practices, so we conducted further interviews with those who answered that they "have a written contract or other document" to confirm the situation.

As a result, as shown in **Interview Survey Result 2**, some respondents answered that although written documents such as contracts, existed, they had not been created through discussions with the Orderer, but were instead sent unilaterally. They also reported that while the contract included a clause stating that "matters shall be discussed each time," which served as the basis for the Business Practices, in reality, no such discussion actually took place.

Interview Survey Result 2: Existence or Non-Existence of a Written Contract or Other Document Pertaining to the Business Practices

- ○ A Wholesaler unilaterally sends us a letter containing the contents of a business practice. The Wholesaler is our direct business partner, but the letter was issued in the name of the retailer. (Manufacturer/Canned Foods)
- ○ A Wholesaler, taking into consideration the retailer's intentions, unilaterally sends a letter stating that the product cannot be delivered unless it complies with the One-third rule. (Manufacturer/Frozen foods)
- ○ We and the Wholesaler do not discuss in advance the setting of delivery deadlines based on business practices such as the One-third rule. The Wholesaler and retailer discuss and decide, and then the Wholesaler unilaterally notifies us. (Manufacturer/Confectionery)
- ○ The master contract contains a clause stating that the specific terms and conditions of the transaction "shall be determined by mutual discussion between the First Party and the Second Party," which serves as the basis for the business practice. However, in reality, no discussions take place with the retailers, and Manufacturers are forced to accept unilateral notification from the retailers, who are in a stronger position. (Manufacturers/Beverages, Confectionery)

The respondents who answered “no written contract, etc.” were also interviewed further and asked whether documenting the Business Practices in advance would help prevent transaction related problems and facilitate smoother transactions. As shown in **Interview Survey Result 3**, many respondents answered that they prefer not to put the Business Practices in a written contract because clarifying them in a written contract, etc. would actually hinder flexible commercial transactions based on discussions between the parties involved in the transaction.

Interview Survey Result 3: Intention to Document the Business Practices

Suppliers

- ○ Although there is no particular problem at present, we are negotiating to clarify the business practices in contracts and other documents to prevent future problems, but none of our customers are willing to agree. (Manufacturer/Processed meat products (ham, sausage, etc.))
- ○ We would like to have the One-half rule applied to all retailers instead of the One-third rule, and we would like to achieve this by exchanging written agreements. (Wholesaler/Confectionery)
- ○ We do not want to put the business practices in writing because if the content of the business practices is clarified in writing, they will become more excessive than they are now and there will be no room for flexibility. (Manufacturers/Bottled products, Retort packs, Confectionery)
- ○ It is cumbersome to establish written rules for delivery deadlines for each product. Even if the rules are put in writing, it is necessary to make exceptions, such as when urgent delivery is required depending on the circumstances. Since it is expected that exceptions will become the norm, there is no point in putting it in writing. (Manufacturer/Confectionery (best-by date 180 days or more))

Orderers

- ○ It is easier to respond flexibly in various cases if it is not documented. I think Manufacturers have the same view. (Retailer/Supermarket)
- ○ The One-third rule is a rule known to everyone in the food industry, and since everyone knows that if this rule is followed, transactions can be conducted without problems, there is no need to put the rule in writing. If the rule were to be strictly agreed upon in writing, the industry would be bound by it and would have to deal with it uniformly, making it impossible to respond flexibly according to individual circumstances. (Retailer/Drugstore)

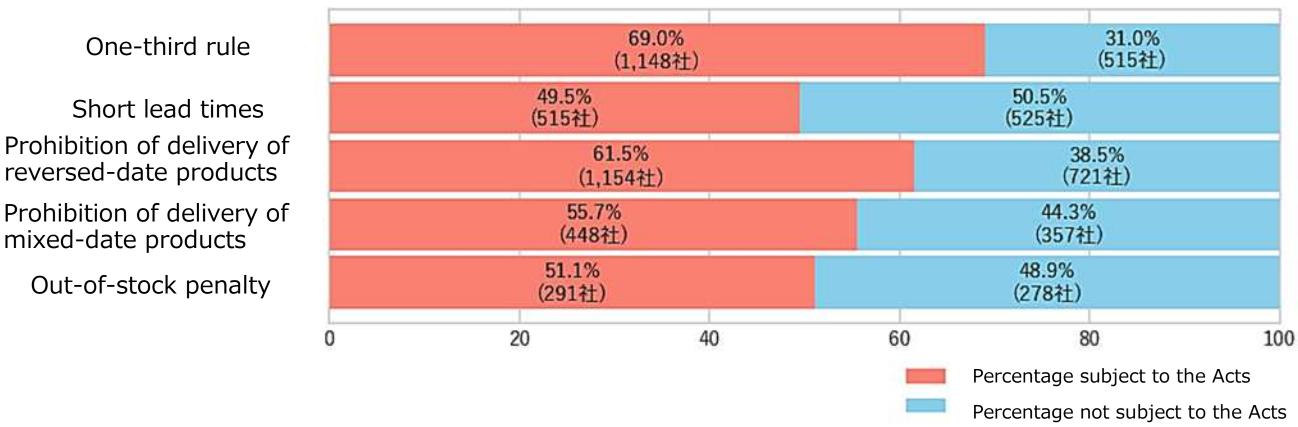
3 Whether or Not the Acts Are Due to the Business Practices

If the Supplier conducts business in accordance with the Business Practices, the Supplier may be subject to the Acts, such as being unable to deliver products to the retailer even if it has products in stock, or being forced to return products it has already delivered, because of the Business Practices.

In this regard, in the web-based questionnaire survey, those who responded that they conduct business in accordance with the Business Practices (see **Figure 10** in 1 above) were asked whether they have actually been subjected to the Acts on account of their respective Business Practices, and the results are shown in **Figure 15**. The breakdown of the specific types of the Acts they had been subjected to for each Business practice is shown in **Figure 16.**

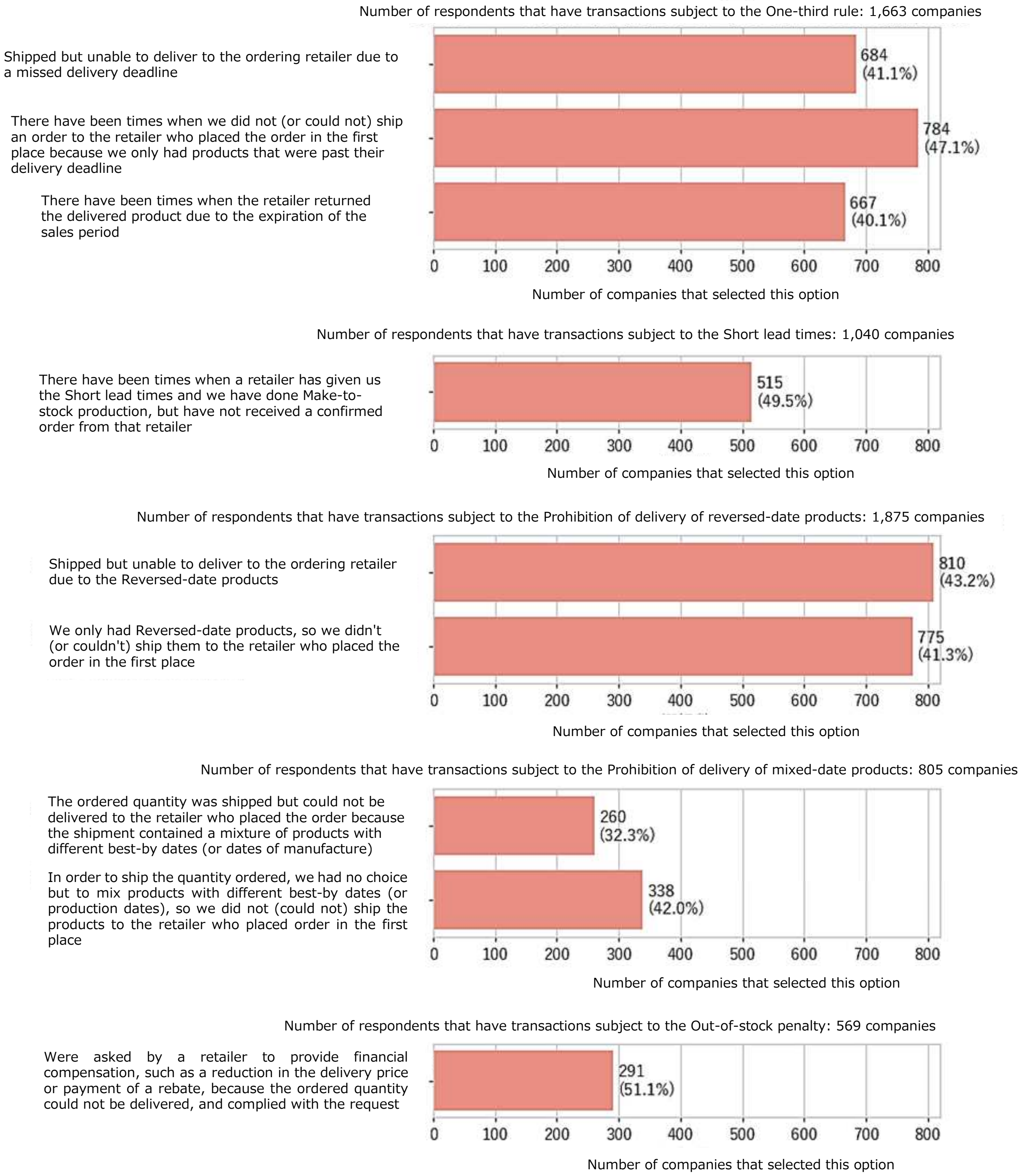
Figure 15: Percentage of Suppliers Who Have Experienced the Acts (by Business Practice)[22]

*"社" means "companies"



22 Figure 16 is summarized and tabulated by business practice.

Figure 16: Breakdown of the Acts (by Business Practice)[23]



As shown in **Figures 15** and **16,** in each of the Business Practices, about half of the respondents who conduct business accordingly were subjected to some kind of the Acts because of the Business Practices. The percentage was particularly high for

[23] These are the total responses to the question: “Please select all that apply to your company regarding the operational status of the relevant business practice. (Multiple answers allowed)” (Number of respondents: 3,506 companies), excluding those who answered “None apply” (Number of respondents**:** 781 companies).

the “One-third rule” and the “Prohibition of delivery of reversed-date products”.

4 Status of Burden of Costs Arising from the Acts

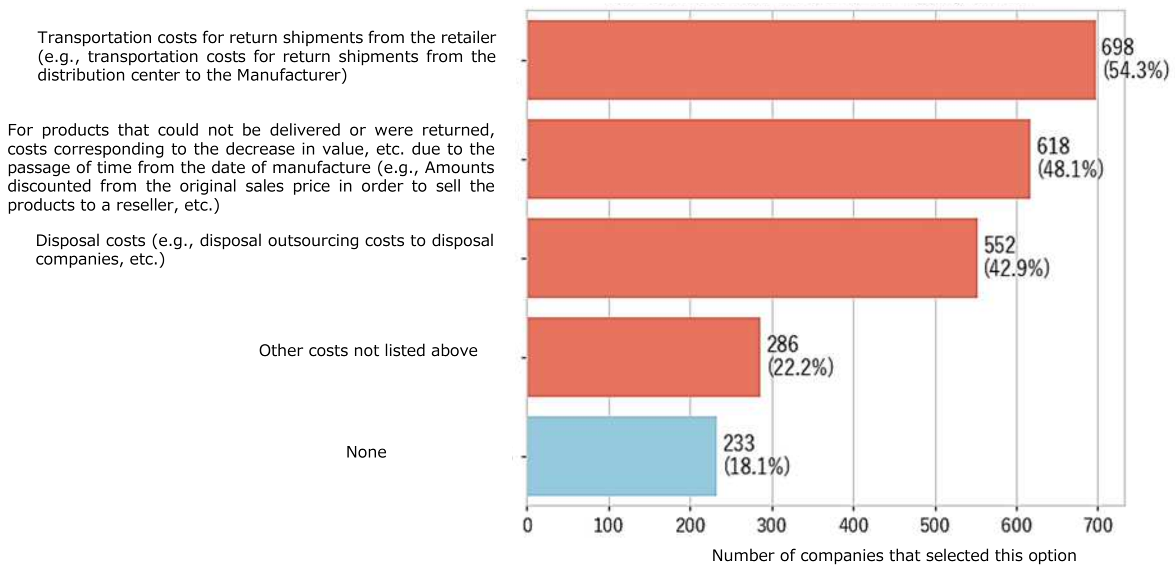
Among the Business Practices, especially those related to delivery deadlines (the “One-third rule” and “Short lead times”; the same applies hereinafter) and those relating to the order of delivery (the “Prohibition of delivery of reversed-date products” and “Prohibition of delivery of mixed-date products”; the same applies hereinafter), Suppliers may actually be subject to the Acts, such as being unable to deliver products despite having inventory in their company, or having products already delivered returned to them. Furthermore, Suppliers may incur costs necessary to process the transactions afterwards.

These costs include, for example, the cost of having to procure new products with sufficient time before the sales deadline, even though inventory that would normally be available for delivery is in stock; the cost of reducing the price of returned products from the original transaction price in order to resell them to other buyers (i.e., cost corresponding to a decrease in products value); logistics costs (such as transportation costs for returning the products from the delivery destination); and disposal costs. The occurrence of these costs is hereinafter referred to as “Loss arising from the Acts”.

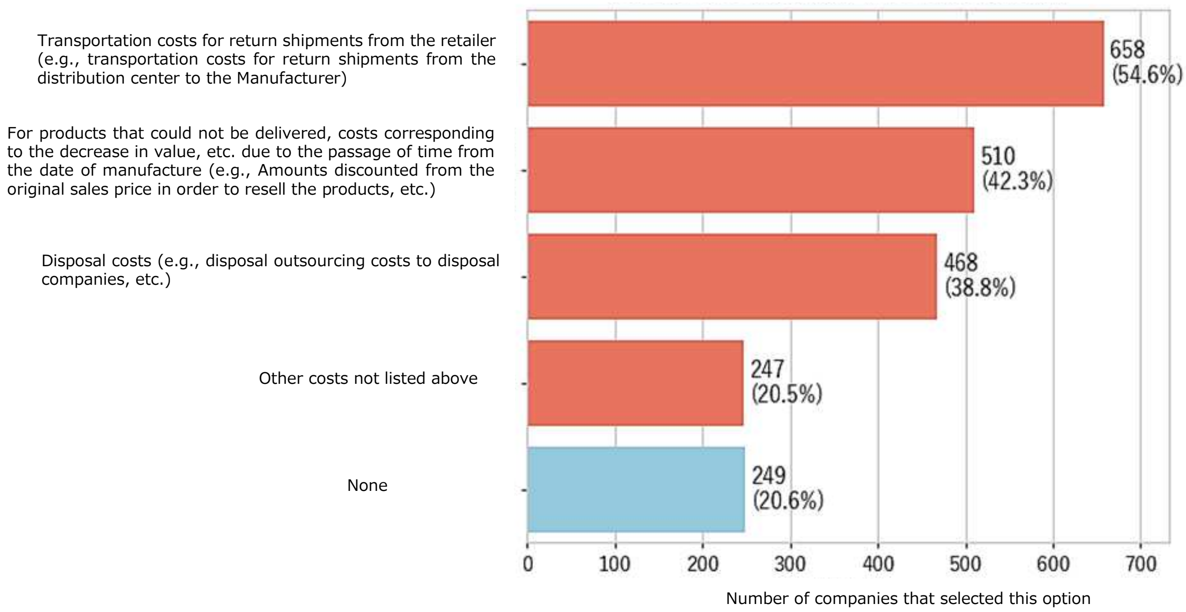
In this regard, we asked each of the respondents (see **Figure 15** in 3 above) who answered that they had been subjected to any of the Acts because of Business Practices related to delivery deadlines or the order of delivery about the status of burden of Loss arising from the Acts, and the results are shown in **Figure 17**.

Figure 17: Status of Suppliers' Burden of the Loss Arising from the Acts[24]

Losses borne due to business practices related to delivery deadlines (the One-third rule/the Short lead times) (number of respondents: 1,286 companies)



Losses incurred due to business practices regarding the order of delivery (Prohibition of delivery of reversed-date products/mixed-date products) (number of respondents: 1,206 companies)



As shown in **Figure 17,** for both the business practice regarding the delivery deadline and the order of delivery, only around 20% of the respondents have never borne any Loss arising from the Acts, while the remaining around 80% have borne some losses.

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24 These are the total responses to the question: "Please select all of the following costs associated with failure to deliver, etc., that your company has borne (including cases in which the costs were shared proportionally with Suppliers)." (Multiple answers allowed).

As for the breakdown of the losses borne, the largest percentages of respondents reported bearing logistics costs, resale-related value reduction costs, disposal costs, and other costs, in that order. In particular, it was confirmed that more than half of the respondents had borne logistics costs.

5 Status of Discussions and Dissatisfaction Among Transaction Parties by Business Practices, etc.

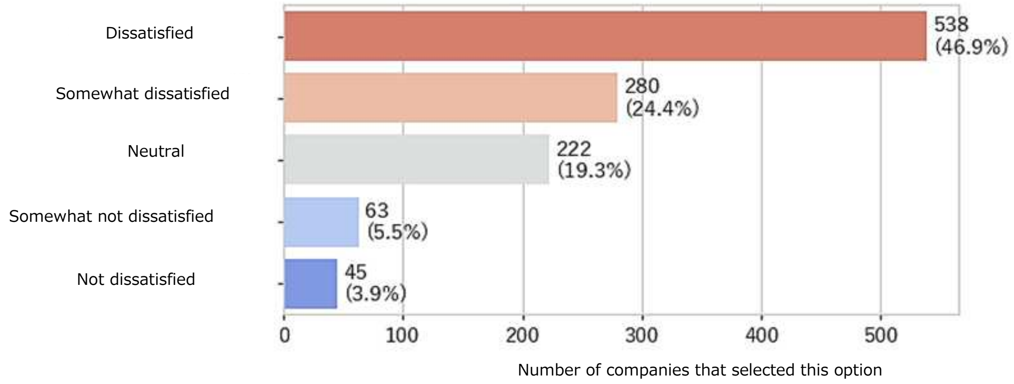
As stated in 3 above, when a transaction is conducted in accordance with the Business Practices, the Supplier may be subjected to the Acts based on those Practices. It is considered that there are cases where the parties to the transaction fully discuss this matter and the Supplier agrees to it after fully understanding it while there are other cases where the Supplier does not agree. Whether or not the Supplier is able to agree to it may also depend on the method of bearing the Loss arising from the Acts, the ratio of the loss to be borne, and other factors.

In this regard, in the web-based questionnaire survey, those who responded that they had actually been subjected to the Acts premised on the Business Practices (see **Figure 15**, 3 above) were asked about the status of discussions concerning the burden of costs arising from those Acts, the method of burden sharing, the burden-sharing ratio, and other related matters. Specifically, we first asked them about their perceptions of the respective Business practices that were the basis for the Acts, dividing them into five levels (Dissatisfied / Somewhat dissatisfied / Neutral / Somewhat not dissatisfied / Not dissatisfied), followed by a question about the reasons for their perceptions. The results are shown in (1) through (5) below.

(1) One-third rule

The status of Suppliers' dissatisfaction with the One-third rule is shown in **Figure 18.**

Figure 18: Dissatisfaction with the One-Third Rule and Reasons for Dissatisfaction[25]



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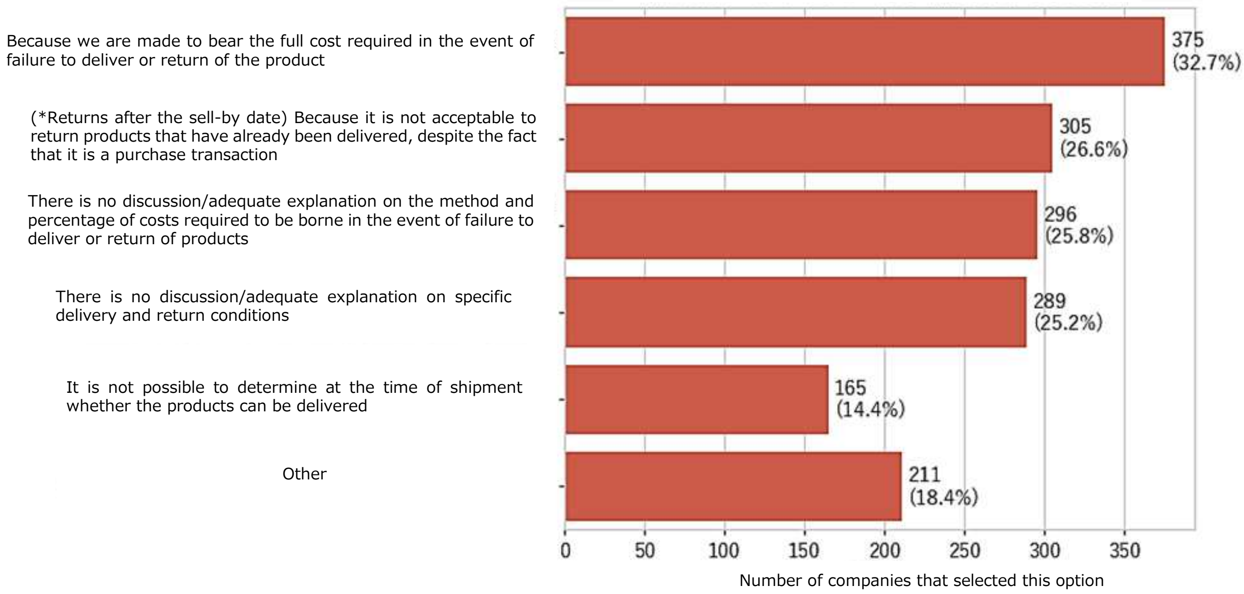
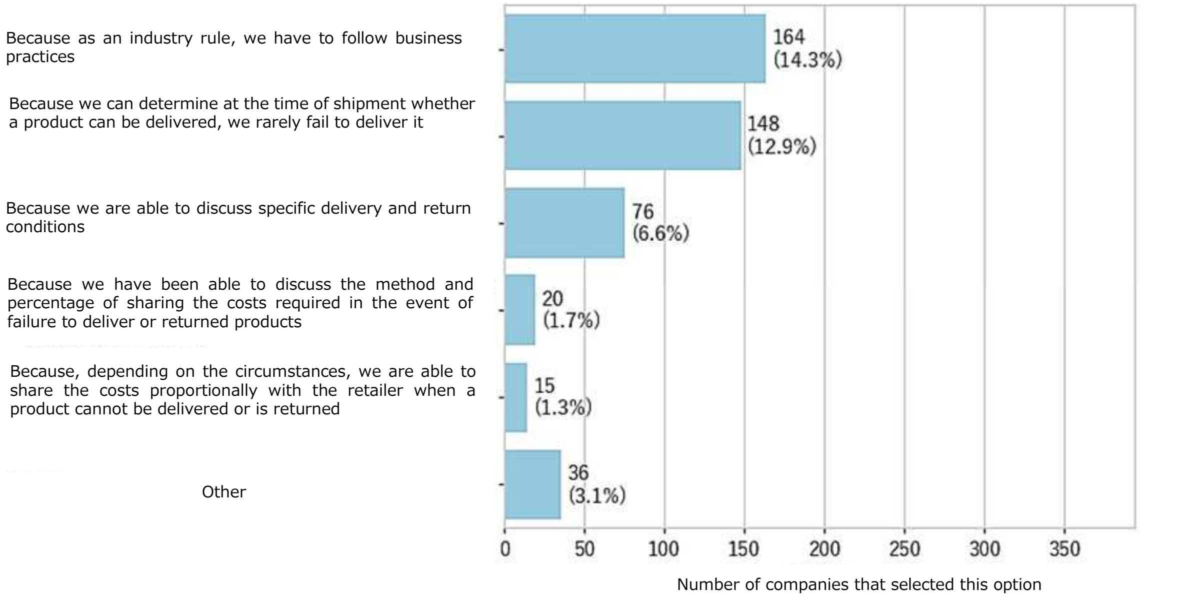
[25] These are the total responses to the question: "Please select one answer that best reflects your company's perception of each business practice. (One answer per business practice)" (Number of respondents for the One-third rule: 1,148 companies). The figure also shows the results of a multiple-choice question asking the reasons for selecting "Dissatisfied" or "Somewhat dissatisfied" and, separately, the reasons for selecting "Neutral", "Somewhat not dissatisfied," or "Not dissatisfied."

Reasons for choosing “Dissatisfied” or “Somewhat dissatisfied”



Reasons for choosing “Neutral”, “Somewhat not dissatisfied” or “Not dissatisfied”



As shown in **Figure 18**, 71.3% of respondents (818 out of 1,148 companies) selected “Dissatisfied” or “Somewhat dissatisfied” for the One-third rule.

The largest percentage of respondents (32.7%) selected “Because we are made to bear the full cost required in the event of failure to deliver or return of the product (losses that would normally be incurred)” as the reason for this, followed by 25.8% who selected “There is no discussion/adequate explanation on the method and percentage of costs required to be borne in the event of failure to deliver or return of products” and 25.2% who selected “There is no discussion/adequate explanation on specific delivery and return conditions”. The following is a summary of the free descriptions by respondents who selected "Other".

- For all the talk about "SDGs" and "food loss reduction" as if they were trendy words, it is hard to understand that they are creating a situation where we are unable to ship edible products.
- Basically, we have to accept that the risk of incurring costs must be borne by Manufacturers, or else we would not even be able to do business with them.
- If they don't accept the return, they will apply a discount without our permission.
- The minimum lot size that logistics providers are willing to accept is becoming increasingly large, resulting in larger-than-necessary bulk purchases and a vicious cycle of shelf-life progression in inventory.
- Unlike daily foods, processed foods are manufactured in large quantities at a time, making it difficult to apply the One-third rule. Inventory control is even more difficult because there is no information on the number of orders in advance.
- Since some companies do not inform in advance the quantities of special quantity sales, etc., we are producing based on our forecasts. If the Orderers do not place an order, we discard the products, or if the quantity is not enough, a penalty is imposed on us.
- Why one-third? I think it should be half or between half and one-third depending on the best-by date.

On the other hand, 28.7% (330 out of 1,148 companies) of the respondents selected "Neutral", "Somewhat not dissatisfied" or "Not dissatisfied", while the percentages of those who selected "Because we are able to discuss specific delivery and return conditions" (6.6%), "Because we have been able to discuss the costs required" (1.7%), and "Because we are able to share the costs with the retailer depending on the circumstances" (1.3%) were extremely low as the reason. The largest percentage of respondents who selected as the negative reason being "Because as an industry rule, we have to follow business practices" (14.3%). The following is a summary of the free descriptions by the respondents who selected "Other".

- From the buyer's perspective, it is understandable that some companies have low awareness of best-by dates. However, excessive adherence to the One-third rule can result in food loss, stricter delivery deadlines and other requirements. We hope that this rule will be abolished in the future.
- Retailers also have no guarantee that they will be able to sell all their inventory, and if products pass their best-by dates, they incur losses. Since our products have best-by dates of 30 days, we consider this unavoidable. However, Manufacturers whose products have best-by dates of a year or more may feel differently, and we think it is inappropriate to apply the One-third rule uniformly to all cases.
- We understand that retailers are cutting various costs to keep selling prices down, and one of the ways they do so is by applying the One-third rule. If retailers bear all the inventory risk, they will need to raise prices to reflect that, which makes the products harder to sell.
- Most of our products have a best-by date of less than three weeks, and if the products are less than a week away from one-third of best-by date at the time of purchase, many consumers complain, and both Manufacturers and retailers should avoid that hassle.

Based on the above results, we conducted a further interview survey with the respondents and others regarding the actual situation related to the Acts on the grounds of the One-third rule. As a result, as shown in the **Interview Survey Result 4**, there were many respondents who answered that even if the delivery deadline based on the One-third rule (see Ⅱ1(1)) was exceeded, they were able to handle the situation upon mutual consent through discussion with the Orderers, and that there was no problem because delivery was also made depending on the discussion. On the other hand, as shown in the **Interview Survey Result 5**, there were many responses that the delivery deadline based on the One-third rule was exceeded and that there was no cause for the company to have exceeded the deadline, but the delivery was uniformly rejected without any discussion.

Interview Survey Result 4: Actual Situation Pertaining to the Acts Under the One-Third Rule ①

○ We have been able to engage in discussions and reach mutual understanding in our business transactions, and there have been no particular problems. (Manufacturer/Dried Noodles)

○ While some retailers strictly manage their products based on the One-third rule, others allow delivery even after the deadline under the One-third rule, depending on the outcome of discussions. (Manufacturer/Beverages)
○ Even if the One-third rule delivery deadline is exceeded, it does not necessarily mean that delivery is not allowed. There is no significant difference between retailers and Wholesalers in this response. (Manufacturer/Dried Noodles, Noodles)
○ If the One-third rule delivery deadline is missed, a national Wholesaler may still accept delivery if the delay is only a few days and the circumstances are explained in advance. (Manufacturer/Frozen Foods)
○ The severity of the application of the One-third rule varies from Wholesaler to Wholesaler and, more precisely, depends on the attitude of the retailer beyond the Wholesaler. In the case of large retailers, the delivery deadlines imposed by the large Wholesalers with whom they deal are strict, whereas small local Wholesalers usually deal with smaller local retailers, many of whom are more flexible. (Manufacturer/Canned Foods)

Interview Survey Result 5: Actual Situation Pertaining to the Acts under the One-Third Rule ②

○ As a business practice, Wholesalers and retailers unilaterally force us to do so, and we have no choice but to comply. (Manufacturer/Bottled products, Retort packs)
○ The Wholesaler will tell us the rules set by individual retailers (e.g., Retailer A applies the One-third rule and Retailer B applies the one-half rule), and we simply follow those rules. (Manufacturers/Seasoning, Beverage)
○ Rules regarding delivery deadlines are necessary, but applying the One-third rule to all products is excessive and there should be flexibility based on the length of the best-by date. We are negotiating to have the rule improved, but no progress has been made. (Wholesaler/General)
○ Even when the delivery deadline was exceeded due to long delays in cargo unloading at the Wholesaler's distribution center, the delivery was refused without any discussion. (Manufacturer/Frozen foods)

As shown in **Figure 18**, the percentage of respondents who answered that they sometimes receive returns for reasons of elapsed sales period even if they deliver within the delivery deadline based on the One-third rule (the percentage of respondents who selected “Because it is not acceptable to return products that have already been delivered, despite the fact that it is a purchase transaction”) was confirmed to a considerable extent at 26.6%. Therefore, we conducted further interview survey on this point with the respondents. As a result, as shown in the **Interview Survey Result 6**, most of the respondents answered that recently they are no longer returned by the Orderer, but there were some respondents who answered that they are sometimes returned unilaterally without any discussion after a certain period of time has elapsed since delivery. In particular, the volume and frequency of returned products were noteworthy in transactions with drugstores.

Interview Survey Results 6: Returns Under the One-third Rule

○ Even when products are delivered in compliance with the One-third rule, some local supermarkets return them to us because of best-by dates. Due to our weak position, such returns have not disappeared, and we bear all transportation and disposal costs related to the returns. Drugstores have a higher volume of returned products than other types of businesses. (Manufacturer/Processed foods, Manufacturer/Other processed foods, Wholesaler/General)

○ There are still retailers who return products because of the expiration of the unilaterally set sales period, even though they were delivered in compliance with the One-third rule and the best-by date still remains.
(Manufacturer/Confectionery)

○ In the case of transactions with Wholesalers, there is a holding period at the Wholesaler's distribution center as inventory, but the holding period may be extended due to a Wholesaler's mismanagement, and the One-third delivery deadline to the retailer is exceeded. In such cases, the costs related to transportation and disposal are borne by us, which is a heavy burden. (Manufacturers/Bottled products, Retort packs, Tofu, natto, deep-fried tofu, Confectionery, Dried noodles)

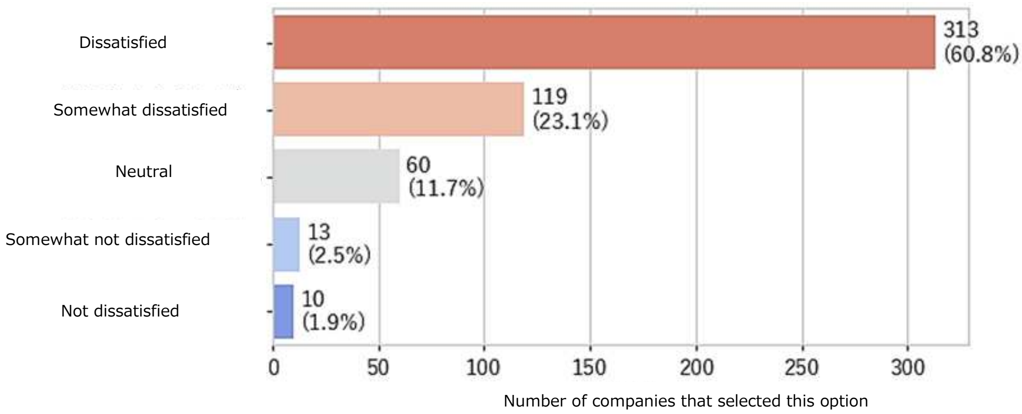
○ Although it is a business practice unique to the drugstore industry, newly introduced products delivered in accordance with the One-third rule are returned if they are not sold within six months of being displayed in the store. In addition, since health foods are displayed on the shelves of pharmaceuticals and daily necessities, there are many returns of products with strong seasonal characteristics (e.g., insect repellents, body warmers, etc.) due to the timing of shelf changes. (Manufacturer/Soups (freeze-dried soups, etc.))

○ Drugstores tend to equate products without best-by dates, such as sundries, with food products and easily return them, resulting in an abnormally high return rate among all retail formats.
(Manufacturer/Confectionery, Manufacturer/Processed meat products (ham, sausage, etc.))

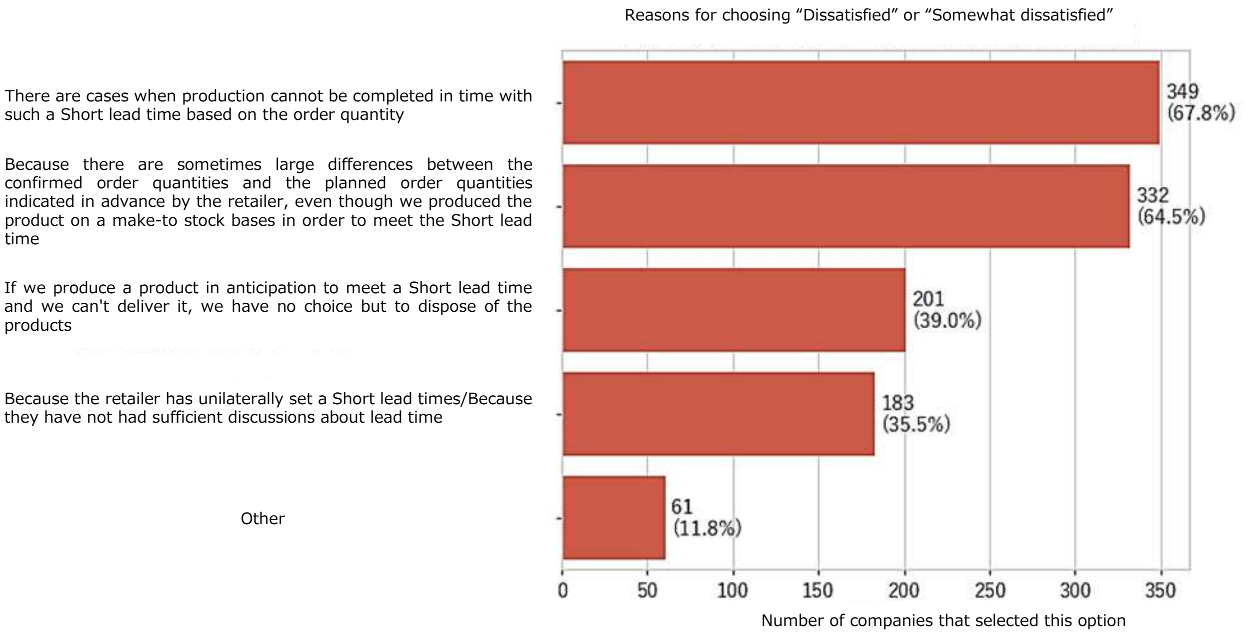
(2) Short lead times

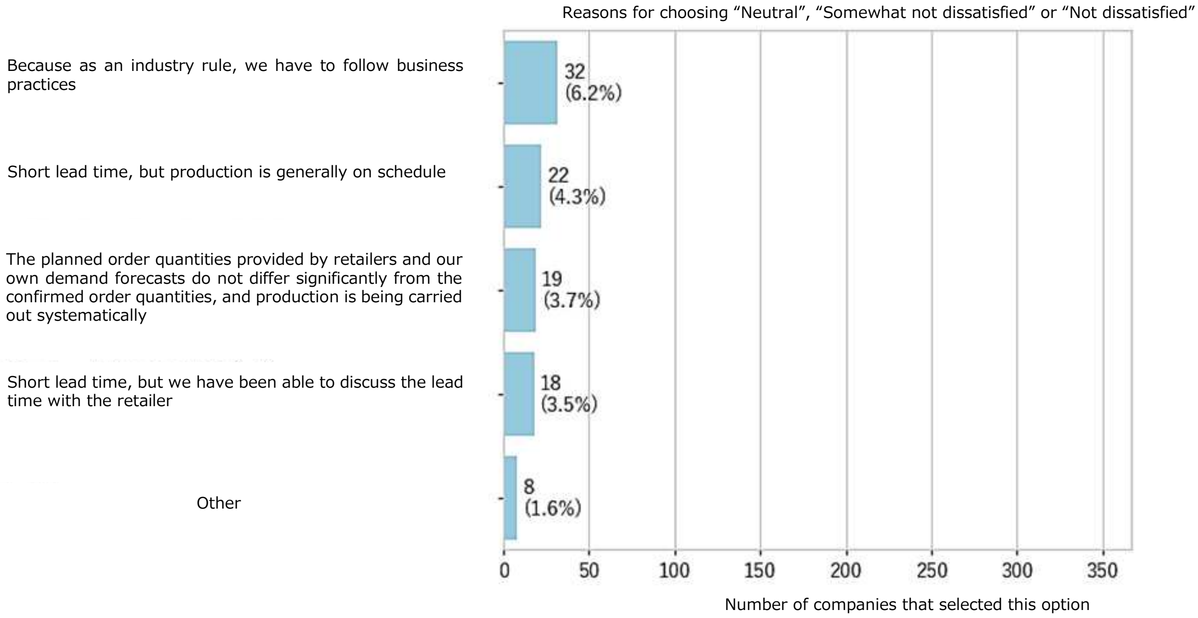
The status of Suppliers' dissatisfaction with Short lead times is shown in **Figure 19.**

Figure 19: Dissatisfaction with the Short Lead Times and Reasons for Dissatisfaction[26]



26 These are the total responses to the question: "Please select one answer that best reflects your company's perception of each business practice. (One answer per business practice)" (Number of respondents for the Short lead times: 515 companies). The figure also shows the results of a multiple-choice question asking the reasons for selecting "Dissatisfied" or "Somewhat dissatisfied" and, separately, the reasons for selecting "Neutral", "Somewhat not dissatisfied" or "Not dissatisfied" respectively.





As shown in **Figure 19**, 83.9% of respondents (432 out of 515 companies) selected “Dissatisfied” or “Somewhat dissatisfied” for the Short lead times.

The largest percentage of respondents (67.8%) selected “There are cases when production cannot be completed in time with such a Short lead time based on the order quantity” followed by 64.5% (332 out of 515 companies) who selected “Because there are sometimes large differences between the confirmed order quantities and the planned order quantities indicated in advance by the retailer, even though we produced the product on a make-to stock bases in order to meet the Short lead time”. The following is a summary of the free descriptions by the respondents who selected “Other”.

- Even when we ask to extend lead time due to the 2024 problem in logistics, they do not accept the request.
- It is clear that the current situation has placed an excessive burden on the transportation sector in recent years, yet we are still forced to follow the same conventional delivery practices. We hope that people will quickly realize that unless we change our way of thinking, there is a real risk that products may not be delivered even when needed.
- Some companies suggest penalties, etc. for late delivery, even when the logistics network is paralyzed due to weather or other factors.
- If the confirmed order quantity is significantly less than the planned order quantity, the Orderer will not purchase the products that were not ordered; conversely, if the quantity is significantly greater, we will always be required to meet the delivery deadline and may be penalized if we fail to do so.
- Products from out-of-state Manufacturers have sufficient lead time, while local Manufacturers have short lead time and are not satisfied.
- Even with more shipping workers, delivery services are still hard to find. Costs have increased due to a lack of shipping carrier options. Tight manufacturing planning is required to meet shipping deadlines, which also results in inefficiencies in production.
- Unless the lead time is extended—even just for large order quantities—we will be forced to work overtime and on holidays.

On the other hand, only 16.1% (83 out of 515 companies) selected “Neutral”, “Somewhat not dissatisfied” or “Not dissatisfied”. The reasons for this were “The planned order quantities provided by retailers and our own demand forecasts do not differ significantly from the confirmed order quantities, and production is being carried out systematically” (3.7%) and “Short lead time, but we have been able to discuss the lead time with the retailer” (3.5%). Those answers were all small, and as with the One-third rule, the largest percentage of respondents who selected as the negative reason being “Because as an industry rule, we have to follow business practices” (6.2%). The following is a summary of the free descriptions by respondents who selected “Other”.

- Even if the Short lead times are set, in many cases the delivery deadline can be extended by mutual agreement if delivery is not made on time. In addition, even if there is no confirmed order after the Make-to-stock production, in many cases the Orderer agrees to pick up the products if we report the quantity.

- It is understandable that not having the Short lead times would cause problems such as sales loss on the part of retailers. It is also unavoidable from the standpoint of retailers who must respond to consumer demand.
- There are no particular problems because the Wholesalers stand between us and the retailers and coordinate with them.

Based on the above results, we conducted a further interview survey with the respondents and others regarding the actual situation associated with the Short lead times. As a result, as shown in the **Interview Survey Result 7**, many respondents answered that they are not being unilaterally set the Short lead times recently, and that they are able to set lead times after discussion with the Orderer. On the other hand, as shown in the **Interview Survey Result 8**, an overwhelming number of respondents were dissatisfied with the fact that they are forced to comply with the Short lead times without discussion with the Orderer. In particular, there were many responses expressing dissatisfaction with transactions for cooperative purchasing (home delivery service) by the consumers' co-operatives.

Interview Survey Result 7: Actual Situation Pertaining to the Acts Under the Short Lead Times ①

Suppliers

○ The number of Suppliers who consider the lead time has increased, and we have reduced the number of the Make-to-stock production. (Manufacturer/Confectionery, Manufacturer/Dairy Products, Manufacturer/Chilled foods, Manufacturer/Tofu, natto, deep-fried tofu)

○ After negotiating with the retailer based on the 2024 problem in logistics, delivery on the same day of the order was changed to delivery on 2 days after the order date. (Manufacturer/Pastries, Manufacturer/Beverage)

○ With the 2024 problem in logistics, it became easier to discuss lead time, etc. with Wholesalers. (Manufacturer / Dried Noodles)

Orderers

○ The shorter the lead time, the more accurate our ordering becomes and our risk of unsold orders decreases, while the longer the lead time, the more the Manufacturer can plan production after receiving an order and the Manufacturer's risk of unsold orders decreases. We have not heard any complaints because lead times are determined through discussions with Manufacturers and Wholesalers to reach a compromise between the two. (Retailer/Discount Store)

○ Even for special sales, the lead time is the same as for standard products. In addition, when special sales are made, sales plans are drawn up in advance based on discussions with Suppliers regarding business conditions, and Manufacturers can make production plans based on these plans, so there is no need to rush into production. (Retailer/Food supermarket)

Interview Survey Result 8: Actual Situation Pertaining to the Acts Under the Short Lead Times ②

○ Some retailers require same-day delivery of orders, and meeting this lead time is taken for granted. (Manufacturer/Dairy products)

○ Retailers require delivery within 24 hours of receiving an order. Since production after receiving the order cannot meet the delivery deadline, we carry out the Make-to-stock production in a large quantity to avoid the Out-of-stock. (Manufacturer/Dairy products, Manufacturer/Fish paste products)

○ If retailers placed orders a couple of days before delivery, it would be possible to switch from the Make-to-stock production to make-to-order. This would reduce production costs, lower product prices, and reduce food losses, but they are not willing to comply. (Manufacturer/Tofu, Natto, Deep-fried tofu)

○ We are dissatisfied with the fact that lead-time discussions on special sales products are actually only tokenistic and led by retailers who have a strong position. (Wholesaler/General, Manufacturer/Processed meat products (ham, sausage, etc.))

○ It is problematic that we are not informed in advance of the exact quantity to be ordered for special sales. Wholesalers, in order to avoid their Out-of-stock, purchase a larger quantity of special sales items from us and hold them in inventory. If the quantity ordered from the retailer is less than the Wholesaler's forecast, the Wholesaler's inventory will increase, and as a result, the product may be returned to us. (Manufacturer/Processed Foods, Manufacturer/Confectionery (best-by date 180 days or more), Manufacturer/Beverages, Manufacturer/Pastries, Manufacturer/Dairy products, Manufacturer/Tofu, Natto, Deep-fried tofu)

○ Recently, many of our Suppliers have agreed to deliver the product two days after the order date, but for products for the consumers' co-operative's individual home delivery business, the Wholesaler insists that the product be delivered the day after the order date and refuses to negotiate any lead time extension at all. (Manufacturer/Seasoning)

○ There are two types of retail business in consumers' co-operatives: store-based sales and home delivery of items jointly purchased by members via a catalog. We have no dissatisfaction with the former. But, in the latter—the home delivery business—we are given very short lead times and are struggling to meet them. In this system, members place orders, and the consumers' co-operative consolidates and places them. As a result, we are often not notified of order quantity in a timely manner. In addition, when the order finally comes in, the quantity may be five times the usual amount, or only one-tenth. It is difficult for us to manage our production under such conditions, where lead times are short and confirmed order quantities fluctuate greatly. (Manufacturer/Canned foods, Manufacturer/Canned foods and Bottled products, Manufacturer/Confectionery (best-by date 180 days or more)

In addition, in order to meet the Short lead times, Suppliers sometimes significantly increase production costs—such as labor and material costs—compared to normal periods. As shown in the **Interview Survey Result 9**, which examines such cost increases and the actual state of price negotiations reflecting them, many respondents answered that when the Short lead times are imposed, they must make frequent small-lot deliveries. They also noted that discrepancies between forecasted and confirmed order quantities often lead to overproduction and increased costs.

Interview Survey Result 9: Cost of Meeting the Short Lead Times

○ The Short lead times are often combined with the requirement for frequent small-lot deliveries, which increases transportation cost. However, we have not been able to pass on these costs, as there has been no discussion with the Orderers about the cost increase. In particular, daily-delivery items often have to be shipped in small lots every day. Although it is necessary to limit order lots to control shipping costs, many supermarkets tend to avoid handing products with fixed lot sizes. As a result, we have no choice but to continue supplying them even with smaller lots in order to maintain business relationships. Recently, many supermarkets have become more open to negotiations, but in some cases, we are still delivering products that are not profitable. (Manufacturer/Tofu, Natto, Deep-fried tofu)

○ A retailer set Short lead times for us, and although we had an arrangement to make deliveries twice a day, they later unilaterally and verbally changed the arrangement to require deliveries three times a day. The retailer does not bear the additional cost of the increased delivery frequency, so we are forced to bear the burden. The cost of delivery services has been gradually rising due to recent logistics problems, and although we have no choice but to accept price increases requested by delivery companies, we are not able to pass these increased costs on to retailers through transaction prices, meaning that we are effectively bearing them. Manufacturers, logistics companies and Wholesalers are struggling to pass on the rising shipping costs to retailers. (Wholesaler/General)

○ In order to reduce inventory risks, retailers are increasingly placing small-lot and frequent orders along with setting Short lead times. For example, although the standard order lot is by the case unit, we sometimes receive orders for a single item. We are also sometimes required to use a 20-yen cardboard box to deliver 100-yen product, resulting in inefficient packaging costs. (Manufacturer/Processed meat products (ham, sausage, etc.))

○ Although Wholesalers and retailers forecast demand based on empirical data and give us an indication of the planned order quantity in advance, the actual orders are not always placed as planned, sometimes resulting in excess inventory or, conversely, emergency production, which increases production costs. We bear those increased production costs. (Manufacturer/Beverage (best-by date 180 days or more), Manufacturer/Pastries)

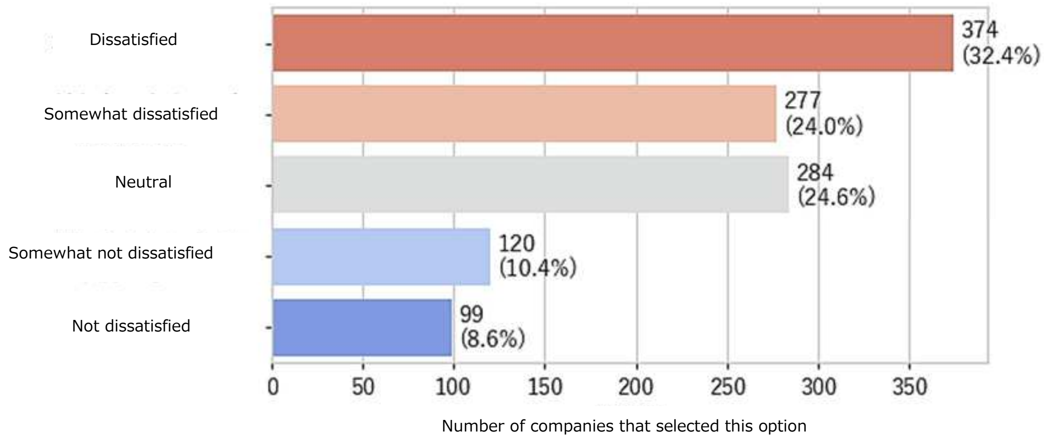
○ After receiving notification of a planned special sale, we are in close contact with the retailer to obtain information more than usual, but the order quantity is not finalized until the day before the special sale date. Since the product must be delivered the day after the order quantity is confirmed, we have no choice but to engage in Make-to-stock production, but since the order quantity does not always match the information received, production adjustment is extremely difficult, resulting in increasing production costs due to Out-of-stock

and excess inventory. (Manufacturer/Dairy products (best-by date less than 180 days) ○ Some retailers indicate the planned order quantity in advance, but there are cases where the actual order quantity deviates significantly from the planned quantity, and we are having difficulty adjusting the quantity. (Manufacturer/Confectionery (best-by date less than 180 days) ○ Estimates of order quantities for special sales are unreliable and unstable. When a special sale is scheduled, we are notified about a month in advance and are informed of the expected order quantity, but this is only an estimate, and the order may not be placed as planned. (Manufacturer/Tofu, Natto, deep-fried tofu)

(3) Prohibition of delivery of reversed-date products

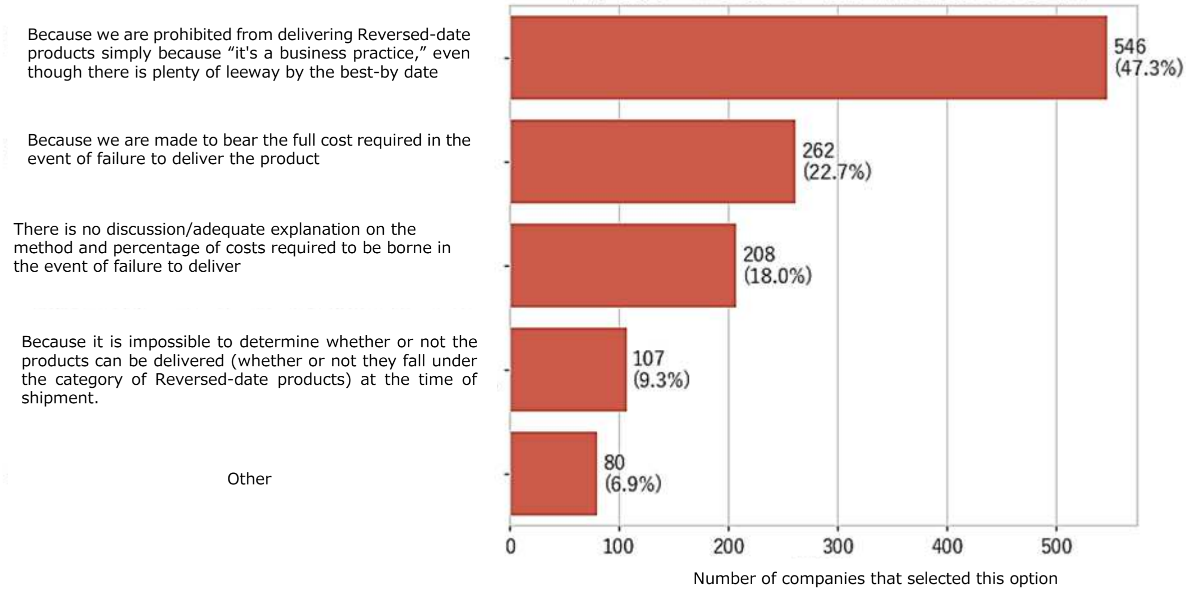
The status of Suppliers' dissatisfaction with the Prohibition of delivery of reversed-date products is shown in **Figure 20**.

Figure 20: Dissatisfaction with the Prohibition of Delivery of Reversed-Date Products and Reasons for Dissatisfaction[27]

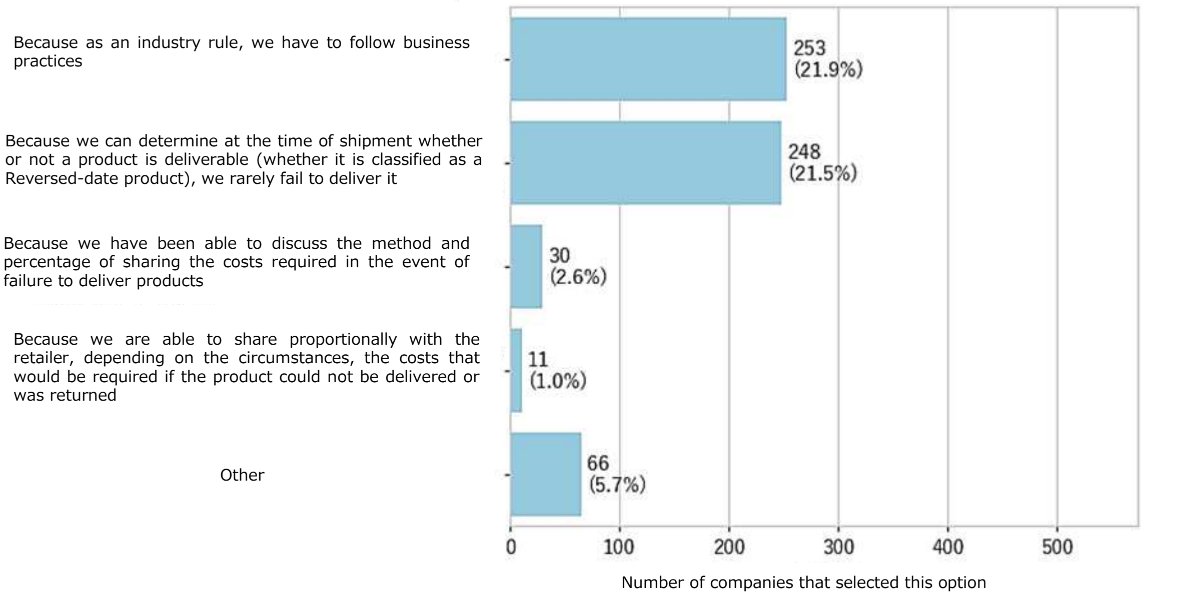


[27] These are the total responses to the question: "Please select one answer that best reflects your company's perception of each business practice. (One answer per business practice)" (Number of respondents for the Prohibition of delivery of reversed-date products: 1,154 companies). The figure also shows the results of a multiple-choice question asking the reasons for selecting "Dissatisfied" or "Somewhat dissatisfied" and, separately, the reasons for selecting "Neutral", "Somewhat not dissatisfied" or "Not dissatisfied" respectively.

Reasons for choosing “Dissatisfied” or “Somewhat dissatisfied”



Reasons for choosing “Neutral”, “Somewhat not dissatisfied” or “Not dissatisfied”



As shown in **Figure 20**, the percentage of respondents who selected “Dissatisfied” or “Somewhat dissatisfied” with the Prohibition of delivery of reversed-date products was 56.4% (651 out of 1,154 companies), which is more than a majority, but the smallest percentage of dissatisfaction among the Business Practices.

As for the reasons for selecting “Dissatisfied” or “Somewhat dissatisfied”, 47.3% of the respondents, the most majority of percentage, selected “Because we are prohibited from delivering Reversed-date products simply because “it's a business practice,” even though there is plenty of leeway in the best-by date”. The next most common answer was “Because we are made to bear the full cost required in the event of failure to deliver the product" at 22.7%, followed by 18.0% for "There is no discussion/adequate explanation on the method and percentage of costs required to be borne in the event of failure to deliver". The following is a summary of the free descriptions by respondents who selected "Other".

- While we believe that it is unavoidable when the range of reversal of best-by dates is 10 days or more, in reality, even a one-day reversal cannot be delivered, and such a minor reversal should be handled by the Wholesaler/retailer's delivery operations. Despite the fact that Suppliers are paying center fees and other margins for this purpose, taking no action is malicious.
- In the first place, it is difficult to manage best-by dates individually, as there are many delivery centers, etc., for each sales destination.
- Even if products are shipped at the same time, there may be a gap in the arrival date of products between the delivery route by truck and the delivery route by freight train, and the best-by dates may be reversed. In such a case, if the best-by date of the products arrived later is older than that of the products delivered earlier, delivery of such products is basically prohibited.
- When delivering products with older and newer best-by dates to the same recipient by separate shipments, the dates may be reversed depending on the order in which the shipments arrive. If the flight with the newer product arrives first, the later flight (with the older product) will be refused delivery.
- When a product shipped earlier (with an older best-by date) arrived later than the same product shipped later (with a newer date) due to logistical delays caused by a natural disaster, such as during a typhoon, the earlier product was refused delivery on the grounds of business practice.
- Due to delays caused by weather or disasters, we are sometimes only able to deliver products with an best-by date that is older than that of the products already delivered, but we are troubled because the products are considered date-reversed in relation to the products already delivered, and the delivery is not accepted and treated as "Out-of-stock", sometimes resulting in the products lifting from the shelves (termination of transactions).

On the other hand, 43.6% (503 out of 1,154 companies) of respondents selected

“Neutral”, “Somewhat not dissatisfied” or “Not dissatisfied” with the most common negative reason (21.9%) being “Because as an industry rule, we have to follow business practices”. However, almost the same percentage (21.5%) of respondents selected “Because we can determine at the time of shipment whether or not a product can be delivered (whether or not they fall under the Reversed-date products), we rarely fail to deliver it”. In contrast, the percentages of respondents who selected “Because we have been able to discuss the method and percentage of sharing the costs required in the event of failure to deliver products” (2.6%) and “Because we are able to share proportionally with the retailer, depending on the circumstances, the costs that would be required if the product could not be delivered or was returned.” (1.0%) were both extremely small. The following is a summary of the free descriptions by respondents who selected “Other”.

- As a food product Manufacturer, the principle of FIFO (the first-in, first-out principle) is the basis of quality control common to raw materials and manufactured products, and unless there is a specific reason to ship Reversed-date products, we recognize that it is a matter of product management on the Manufacturer's side.
- We understand the principle of FIFO, but we are dissatisfied with the lack of flexibility to make deliveries even after consultation.
- It is also understandable that reverse delivery would make storage and other management difficulties on the part of the retailer to whom the products were delivered.
- This is unavoidable because the practice is based on consumer habits (e.g., taking products with newer dates from the back of the display shelf), and if consumer attitudes do not change, it will be difficult to change the practices of intermediate distribution.

Based on the above results, we further conducted an interview survey of the respondents and others regarding the actual situation concerning the Acts due to the Prohibition of delivery of reversed-date products. As a result, as shown in the **Interview Survey Result 10**, many respondents answered that they were aware of the Prohibition of delivery of reversed-date products as a matter of course as a Manufacturer, and that there was no particular problem. On the other hand, as shown in the **Interview Survey Result 11**, there were some respondents who answered that they were dissatisfied with the unilateral refusal of delivery without any discussion, even though the cause of the reversal of delivery date was the client.

Interview Survey Result 10: Actual Situation Pertaining to the Acts under the Prohibition of Delivery of Reversed-Date Products ①

Suppliers ○ The Manufacturer considers it normal to ship in the order of production date, and does not consider this to be a particular problem. (Manufacturers/ Beverages and many others) ○ Since our products have short best-by dates, we have never had a situation where we have to produce and hold inventory to the extent that date reversals occur, and we have not experienced any particular problems. (Manufacturers/ Noodles and many others) ○ Basically, Reversed-date products are not accepted, but some Wholesalers will accept them if we discuss with them. (Manufacturer/Processed foods, Manufacturer/Frozen foods, Manufacturer/Beverages, Manufacturer/Seasoning, Manufacturer/Chilled foods, Manufacturer/Confectionery)

Orderers ○ Although there are no detailed arrangements, both parties understand this as a matter of course, and Reversed-date products are rarely delivered. (Retailers/General supermarket, Discount store) ○ Since we do not control the best-by dates of products delivered, we accept deliveries even if there are Reversed-date products. (Retailer/Consumers' co-operative) ○ The only thing we check in our stores is the store arrival date set by us for each product, and as long as that is met, there is no problem with Reversed-date products. (Retailer/General supermarket) ○ Although there are rarely Reversed-date products that arrive at our distribution center, we consult with the Manufacturer's representative on a case-by-case basis and take appropriate measures as needed. (Wholesaler/Food products in general) ○ Even if it is a Reversed-date product, retailers will accept it within the range of one-third or one-half of a rule if they are notified in advance, and the same applies to deliveries from the Manufacturer to us. (Wholesaler/Confectionery)

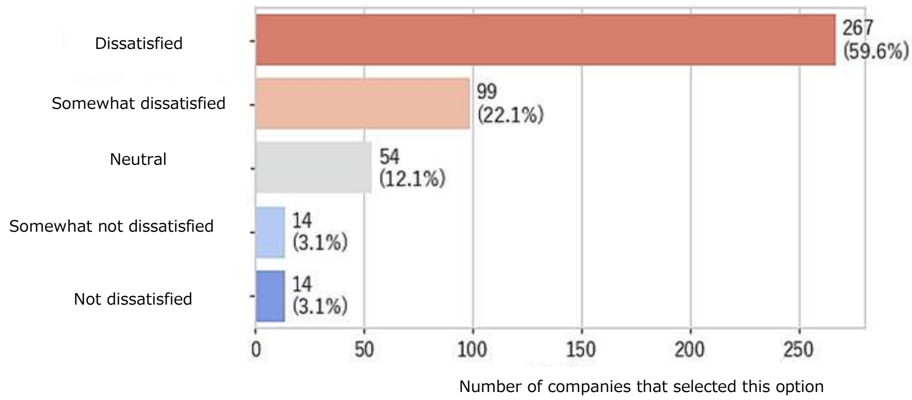
Interview Survey Result 11: Actual Situation Pertaining to the Acts under the Prohibition of Delivery of Reversed-Date Products ②

○ When products are shipped by truck from multiple factories, depending on the order in which they arrive at the distribution center, date reversal may occur and delivery may not be possible. We think it is excessive to not be able to deliver products due to a difference in date of a few days. (Manufacturer/Confectionery, Manufacturer/Cup noodles, etc.)
○ We are dissatisfied with the return of products from the Wholesaler to us, even though it was the Wholesaler's mistake, such as when date reversals occur at the delivery stage from the Wholesaler to the retailer. (Manufacturer/Canned foods)

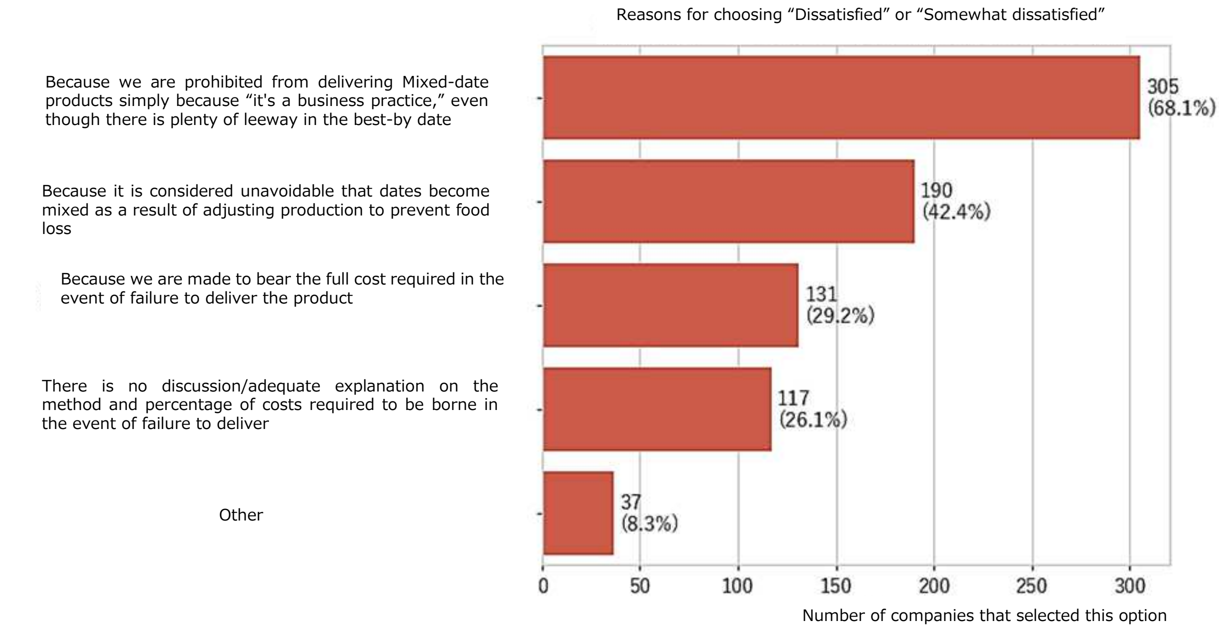
(4) Prohibition of delivery of mixed-date products

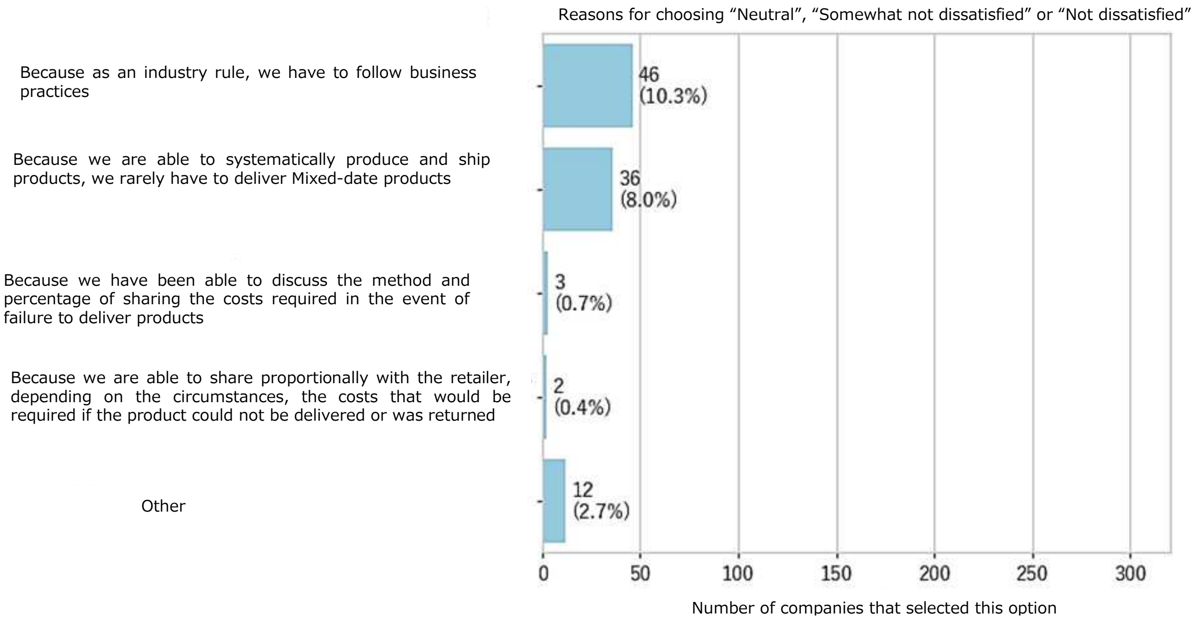
The status of Suppliers' dissatisfaction with the Prohibition of delivery of mixed-date products is shown in **Figure 21**.

Figure 21: Dissatisfaction with the Prohibition of Delivery of Mixed-Date Products and Reasons for Dissatisfaction[28]



28 These are the total responses to the question: "Please select one answer that best describes your company's perception of the relevant business practice for each business practice. (one for each)" (Number of respondents for the Prohibition of delivery of mixed-date products: 448 companies). The results are also tabulated from the multiple-choice question regarding the reason for selecting "Dissatisfied" or "Somewhat dissatisfied" / "Neutral", "Somewhat not dissatisfied" or "Not dissatisfied" respectively.





As shown in **Figure 21**, 81.7% of respondents (366 out of 448 companies) selected "Dissatisfied" or "Somewhat dissatisfied" with the Prohibition of delivery of mixed-date products, which was more dissatisfied than the Prohibition of delivery of reversed-date products, a similar business practice.

As for the reason, as same as the Prohibition of delivery of reversed-date products, 68.1% of the respondents, the most majority of the percentage, selected "Because we are prohibited from delivering Mixed-date products simply because "it's a business practice," even though there is plenty of leeway in the best-by date", followed by 42.4% for "Because it is considered unavoidable that dates become mixed as a result of adjusting production to prevent food loss", 29.2% for "Because we are made to bear the full cost required in the event of failure to deliver the product” and 26.1% for “There is no discussion/adequate explanation on the method and percentage of costs required to be borne in the event of failure to deliver”. The following is a summary of the free descriptions by respondents who selected “Other”.

- We are forced to deal with Suppliers who do not adhere to the delivery unit (shipping lot) determined by us (the Manufacturer), resulting in odd inventory with best-by dates. Since Mixed-date products are not allowed, the odd inventory is wasted, resulting in a burden on the Manufacturer and food loss, which is unreasonable.
- Since we do the Make-to-stock production, there will always be inventory for multiple dates, but it will be wasted.
- We were told that the retailer's (distribution center's) system cannot process acceptance when products with different dates are mixed. From the standpoint of food loss and of us (Manufacturer), it is only natural that there would be fractions, but the business practice of rejecting them is outdated.
- Older dated products tend to remain, and as a result, cannot be delivered due to reversed-date or the One-third rule.

On the other hand, only 18.3% (82 out of 448 companies) of respondents selected “Neutral”, “Somewhat not dissatisfied,” or “Not dissatisfied” and the percentages of respondents who selected “Because we have been able to discuss the method and percentage of sharing the costs required in the event of failure to deliver products” (0.7%) or “Because we are able to share proportionally with the retailer, depending on the circumstances, the costs that would be required if the product could not be delivered or was returned” (0.4%) were extremely small. And the most common negative reason (10.3%) was “Because as an industry rule, we have to follow business practices” as with other business practices. The following is a summary of the free descriptions by respondents who selected “Other”.

- It is fully understandable that there would be a great deal of work involved in managing the products to be delivered.
- In the past, delivery of Mixed-date products was prohibited, but with the understanding of Suppliers, the situation has been improving and there have been virtually no actual cases.

- Although there is a trend toward improvement as a business practice, it is essential that not only retailers but also consumers understand the improvement of this practice.

Based on the above results, we further conducted an interview survey of the respondents and others regarding the actual situation concerning the Acts due to the Prohibition of delivery of mixed-date products. As a result, as shown in the **Interview Survey Result 12**, a majority of the respondents generally answered that even Mixed-date products were not a problem because they were able to discuss with the Orderers and reach a mutual understanding, and delivery was possible depending on the discussions. On the other hand, as shown in the **Interview Survey Result 13**, some respondents answered dissatisfaction with the fact that they could not deliver the products and had to dispose of them in the end, even though the cause of the Mixed-date products was the Orderers' side.

Interview Survey Result 12: Actual Situation Pertaining to the Acts under the Prohibition of Delivery of Mixed-Date Products ①

Suppliers

○ Even Mixed-date products are accepted if we inform them in advance, so we don't think it is a particular problem. (Manufacturer/Processed foods, Manufacturer/Canned foods, Manufacturer/Dried noodles)

○ About 10 years ago, delivery of Mixed-date products was prohibited, but now retailers do not see this as a problem at all. I think a large part of it is because they accept it from the viewpoint of food loss reduction. (Manufacturer/Dairy products, Manufacturer/Canned foods)

Orderers

○ We accept deliveries as long as the products are within the delivery period and do not fall into the category of Reversed-date products. (Retailer/Supermarket)

○ We accept products as long as they are delivered on time. Not accepting Mixed-date products is against the trend of the times. (Retailer/Drugstore)

○ Accepted as long as they are separated so that dates are not mixed on the same pallet. (Retailer/Supermarket)

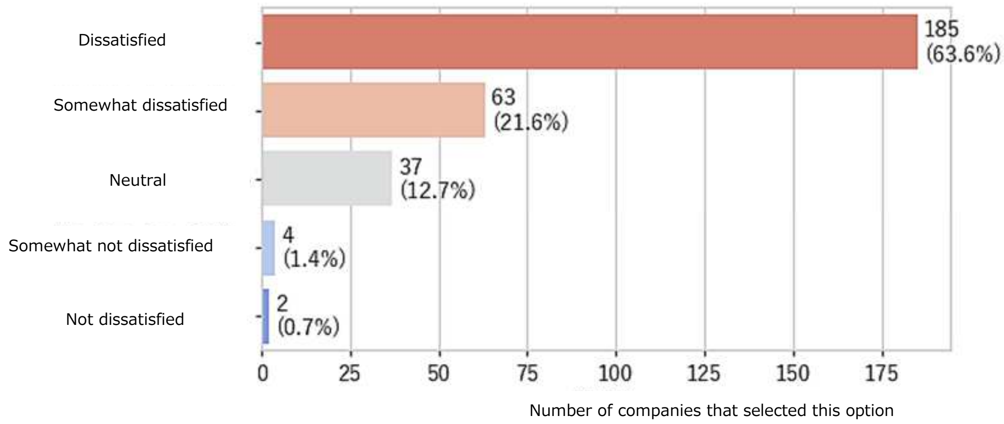
Interview Survey Result 13: Actual Situation Pertaining to the Acts under the Prohibition of Delivery of Mixed-Date Products ②

- ○ It is difficult to manage product dates because the Orderer does not adhere to the delivery unit (lot) that was agreed upon in advance. For example, although orders are received and produced in lots of 50 units, and the date of manufacture is also managed by this unit, only 10 units may be ordered, and it is sometimes necessary to comply with this order. As a result, the remaining 40 units remain in inventory with an old production date. We would like to include these 40 units in the delivery when 100 units are ordered at a later date, but they do not allow us to do so. We are forced to bear the cost of disposing of the stock.
  (Manufacturer/Processed Foods, Manufacturer/Beverages, Manufacturer/Dairy Products)
- ○ Basically, delivery of Mixed-date products is prohibited, but the response differs depending on the Wholesaler. Some Wholesalers allow delivery if the products are not mixed and delivered by separate shipments for each best-by date, but some Wholesalers will not accept delivery at all.
  (Manufacturer/Canned foods and Bottled products, Wholesaler/Confectionery)

(5) Out-of-stock penalty

The status of Suppliers' dissatisfaction with the Out-of-stock penalty is shown in **Figure 22**.

Figure 22: Dissatisfaction with the Out-of-Stock Penalty and Reasons for Dissatisfaction[29]



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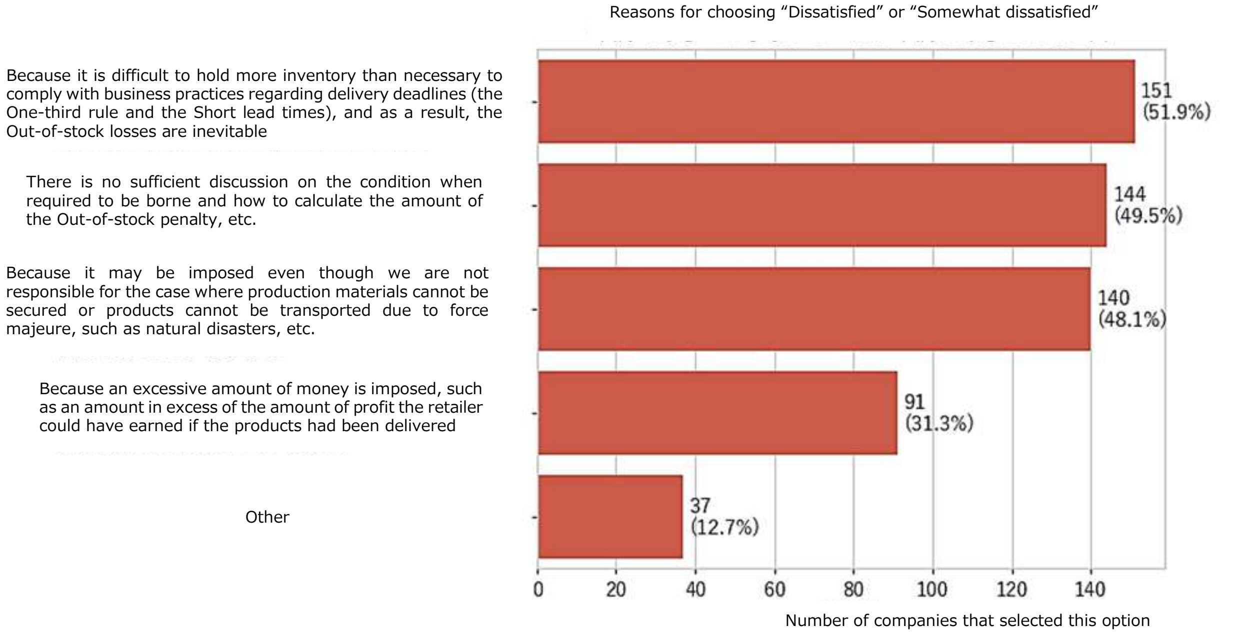
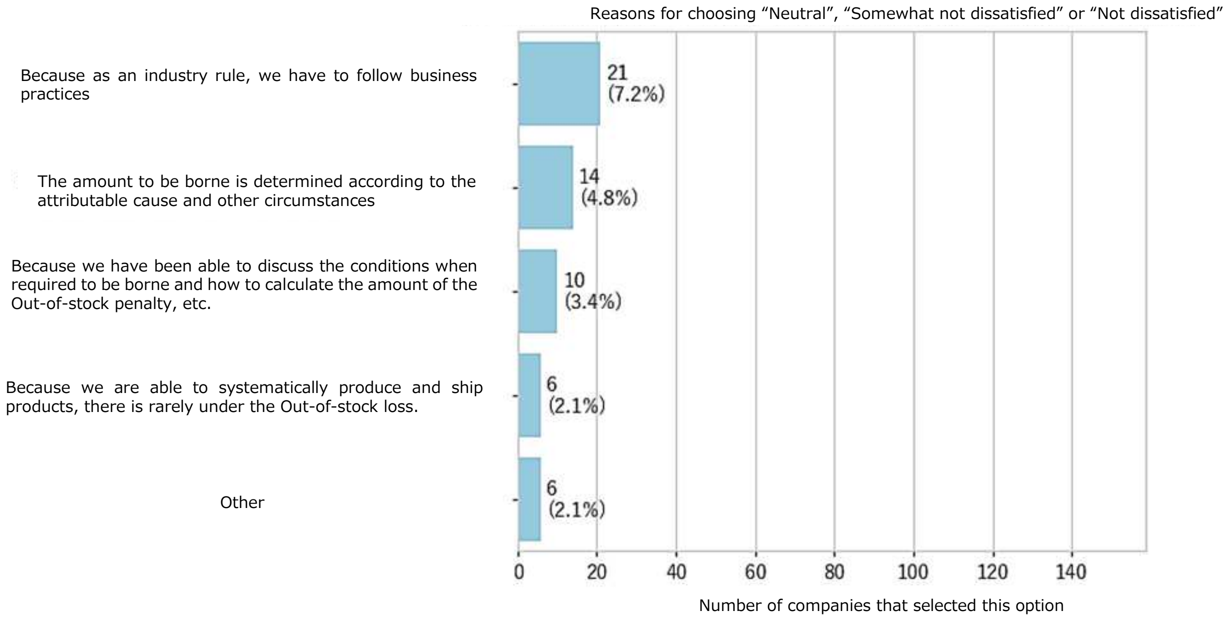
[29] These are the total responses to the question: "Please select one answer that best describes your company's perception of the relevant business practice for each business practice. (one for each)" (Number of respondents for the Out-of-stock penalty: 291 companies). The results are also tabulated from the multiple-choice question regarding the reason for selecting "Dissatisfied" or "Somewhat dissatisfied" / "Neutral", "Somewhat not dissatisfied" or "Not dissatisfied" respectively.





As shown in **Figure 22**, 85.2% of respondents (248 of 291 companies) selected “Dissatisfied” or “Somewhat dissatisfied” with the Out-of-stock penalty, the highest level of dissatisfaction among the Business Practices.

The largest percentage of respondents (51.9%) selected “Because it is difficult to hold more inventory than necessary to comply with business practices regarding delivery deadlines (the One-third rule and the Short lead times), and as a result, the Out-of-stock losses are inevitable” as the reason. Followed by “There is no sufficient discussion on the condition when required to be borne and how to calculate the amount of the Out-of-stock penalty, etc.” which was selected by

49.5% of respondents and followed by 48.1% of respondents who selected "Because it may be imposed even though we are not responsible for the case where production materials cannot be secured or products cannot be transported due to force majeure, such as natural disasters, etc.", as a large percentage. The percentage of respondents who selected "Because an excessive amount of money is imposed, such as an amount in excess of the amount of profit the retailer could have earned if the products had been delivered" was 31.3%. The following is a summary of the free descriptions by respondents who selected "Other".

- In the past, orders for raw materials for products to be manufactured could be delivered as early as the day before, but now there are cases where raw materials cannot be delivered even if ordered one week in advance. Our Orderers do not understand such circumstances, and small, medium, and micro companies like ours are quickly forced to stop doing business with them.
- No financial penalty is imposed for the Out-of-stock, but the products that are Out-of-stock are removed from the product lineup. Our Orderers are pressured us to make deliveries even when it snows and the transportation network stops functioning, and we are forced to respond without regard to profit. In addition, since the Out-of-stock is not allowed, we must carry more inventory than necessary, and if products do not sell, those that fall outside the One-third rule must be sold at discount stores at a discount or disposed of.
- To prevent the Out-of-stock, it is necessary to hold inventory in excess of the actual number of orders placed.
- Penalties were imposed on us when the Out-of-stock occurred, even though we had discussed this in advance. When we refused to pay, our Orderer suspended all transactions for all products that had been delivered.

On the other hand, only 14.8% (43 out of 291 companies) selected "Neutral", "Somewhat not dissatisfied" or "Not dissatisfied". As for the reason, the largest percentage (7.2%) selected "Because as an industry rule, we have to follow business practices" as in other business practices. As for "The amount to be borne is determined according to the attributable cause and other circumstances" (4.8%) and "Because we have been able to discuss the conditions when required to be borne and how to calculate the amount of the Out-of-stock penalty, etc." (3.4%), those percentages of respondents were extremely small. The following is a summary of the free descriptions by respondents who selected “Other”.

- We think the Manufacturer has a responsibility to ensure supply in the case of the Out-of-stock.
- In some cases, the responsibility lies not only with the Orderers but also with us, Suppliers. Since the Out-of-stock can cause problems for Orderers, we have no choice but to accept a small penalty (depending on the reason for the Out-of-stock) in order to maintain a good relationship with our Orderers.
- In the case of Out-of-stock due to Suppliers’ own responsibility, it is unavoidable to accept a penalty.

Based on the above results, we further conducted an interview survey of the respondents and others regarding the actual situation concerning the Acts due to the Out-of-stock penalty. As a result, as shown in the **Interview Survey Result 14**, the majority of the respondents generally answered that they are no longer penalized by the ordering party, but as shown in the **Interview Survey Result 15**, some respondents answered that they are sometimes unilaterally imposed excessive amounts of Out-of-stock penalty without any discussion, even in cases where Supplier is not responsible, such as natural disasters and other force majeure. In particular, in the case of transactions with Drugstores, there was a notable number of responses stating that the amount of penalties imposed as a result of Out-of-stock is large and that the frequency of imposition of penalties is high.

Interview Survey Result 14: Actual Situation Pertaining to the Acts under the Out-of-Stock Penalty ①

Suppliers

○ There are some retailers who still impose the Out-of-stock penalties, but few in the industry as a whole. (Manufacturer/Confectionery, Manufacturer/Dried noodles, Manufacturer/Dairy products)

○ Even at the time of the Great East Japan Earthquake, we were imposed the Out-of-stock penalty, but recently we are no longer imposed it in cases where we are not responsible, such as natural disasters and other force majeure events. (Manufacturer/Canned foods, Manufacturer/Processed foods)

○ In the past, we were imposed penalty for any Out-of-stock, but this is no longer the case, and we are now able to discuss and receive forgiveness even if the reason for the Out-of-stock was our responsibility. (Manufacturer/Tofu, natto, deep-fried tofu)

Orderers

- ○ The Out-of-stock may occur due to natural disasters, accidents, poor harvests of fresh produce, etc., but these are unavoidable. In addition, human errors such as omissions in Supplier arrangements can occur, but in such cases, the Supplier contacts us in advance, and we simply confirm the reason and remind them to prevent recurrence; no penalties are imposed. (Retailer/General supermarket)
- ○ Although buyers are aware of the delivery rate of each Supplier, they do not penalize those with poor delivery rates, but instead work together with the Suppliers to improve the situation. (Retailer/General supermarket)
- ○ Although Out-of-stock occurs quite frequently, we do not impose a penalty. In cases where products cannot be transported due to bad weather or where demand increases abnormally when products are covered by the mass media, etc., we accept the situation as unavoidable. (Retailer/Discount Stores)

Interview Survey Result 15: Actual Situation Pertaining to the Acts under the Out-of-Stock Penalty ②

- ○ Even if the reason for the Out-of-stock is due to force majeure such as natural disasters for which we have no responsibility, the Out-of-stock penalty may be imposed.
  (Manufacturer/Frozen foods, Manufacturer/Noodles, Manufacturer/Pastries)
- ○ When a Wholesaler was asked by a retailer for financial compensation due to the Out-of-stock of our products caused by the Wholesaler's error in inventory control, we were asked to bear part of the cost. (Manufacturer/Confectionery)
- ○ When a certain product is Out-of-stock, we are sometimes unilaterally asked to lower the transaction price of other products or to pay a rebate that was not agreed upon at the start of the transaction, and we have no choice but to comply. (Manufacturer/Frozen foods)
- ○ The most common method of calculating the Out-of-stock penalty is profit compensation (compensation calculated by subtracting the retailer's purchase price for the Out-of-stock products from its selling price, then multiplying the result by the quantity ordered but not delivered). (Manufacturer/Canned foods, Manufacturer/Dairy products)

○ As the Out-of-stock penalty, we have been required to compensate the amount of expected sales.
(Manufacturer/Canned foods, Manufacturer/Confectionery, Manufacturer/Dried noodles and noodles)

○ Recently, we have been required to pay the Out-of-stock penalties in the form of rebates such as sales incentives. This makes the penalty appear to be a normal rebate, which makes it difficult to understand the reality of the penalty. This rebate is not agreed upon at the start of the transaction, but is unilaterally demanded when a product is Out-of-stock. (Manufacturer/Confectionery)

○ The Out-of-stock penalties are often imposed from specific types of businesses rather than from specific companies, specifically from drugstores. (Manufacturer/Dried Noodles, Manufacturer/Canned foods)

○ Major drugstores are very strict about the Out-of-stock, and the penalties are severe. They tend to aggressively apply the same trading practices used for pharmaceuticals to foodstuffs, and they absolutely will not tolerate Out-of-stock — no matter what happens, even in the event of an act of God. (Manufacturer/Frozen foods, Manufacturer/Confectionery)

As shown in **Figure 22**, a majority of respondents (51.9%) selected "Because it is difficult to hold more inventory than necessary to comply with business practices regarding delivery deadlines (the One-third rule and the Short lead times), and as a result, the Out-of-stock losses are inevitable", so we conducted further interview survey on this point as well. As shown in the **Interview Survey Result 16**, many respondents answered that it is difficult to deal with the situation because if they produce a larger quantity of product to avoid the Out-of-stock penalty, the resulting inventory will become backlogged and the delivery deadline based on other business practices will be exceeded.

Interview Survey Result 16: Synergistic Negative Impact of the Out-of-Stock Penalty and Other Business Practices

○ It is difficult to cope with both the Short lead times and the Out-of-stock penalty. Because of the Out-of-stock penalty, we have no choice but to increase our Make-to-stock production, especially for daily-delivery products, which are subject to large fluctuations in order quantity. However, in many cases, the actual order quantity is much smaller than expected, and the excess products have to be disposed of. However, if the Make-to-stock production volume is reduced, the production will not be able to meet the delivery deadline when the order quantity becomes large.

(Manufacturer/Tofu, natto, deep-fried tofu, Manufacturer/Dried Noodles, Manufacturer/Dairy Products, Manufacturer/Processed meat products (ham, sausage, etc.), Wholesaler/General)

○ We need to reduce unnecessary inventory as much as possible to reduce food loss, and this requires just-in-time production whenever possible, but this makes it impossible to avoid the Out-of-stock. It would be nice if the retailers would agree to the Out-of-stock, but that is not the case. (Manufacturer/Confectionery)

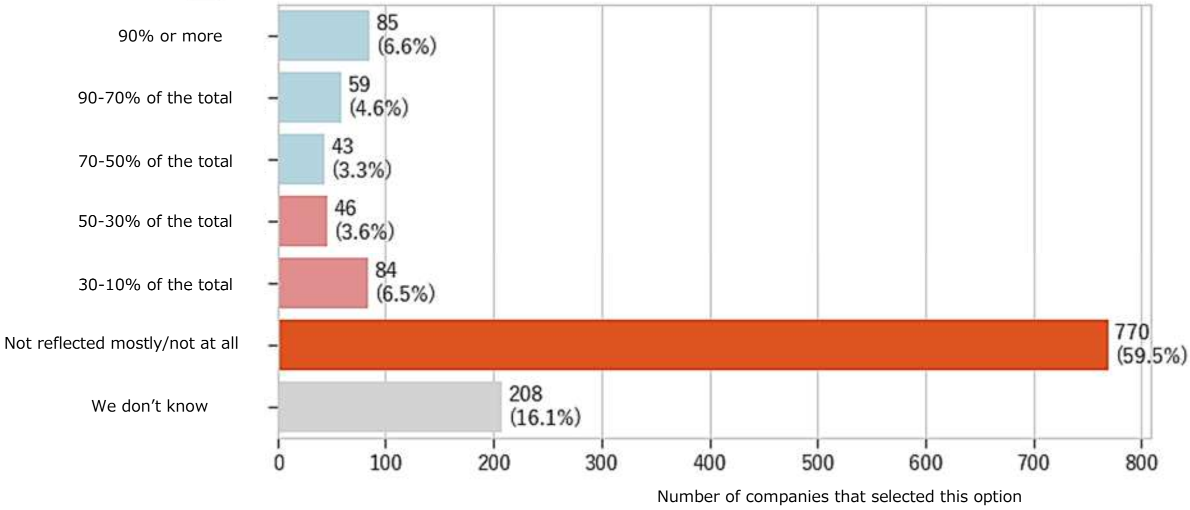
○ New products are produced in larger quantities to avoid the Out-of-stock penalty, since demand for new products may grow faster than expected, resulting in larger order quantities, and production may not be completed in time. However, if demand does not grow, the product becomes backlogged inventory, and as a result, it is often impossible to deliver the product due to the One-third rule. (Manufacturer/Frozen foods, Wholesaler/General)

6 Status of Reflection of Losses Caused by the Acts on Transaction Prices

Even if the Supplier incurs Loss arising from the Acts because of the Business Practices, there may be cases in which the Supplier does not have to bear such a burden in effect, if such a burden is anticipated in advance and reflected in the transaction price.

In this regard, we asked those who responded in the web-based questionnaire survey that they have actually been subjected to the Acts for the reason of the Business Practices (see **Figure 15**, 3 above), how many of their business partners are able to predict in advance that they will incur Loss arising from the Acts and reflect such losses in their transaction prices. The results are shown in **Figure 23**.

Figure 23: Status of Reflection of Losses Caused by the Acts on Transaction Prices [30]



As shown in **Figure 23**, about 60% of the respondents selected "Not reflected mostly/not at all" for reflecting losses in transaction prices, while only 14.5% (187 companies) selected "more than 50%" for reflecting losses in transaction prices, confirming that in many cases Suppliers are not able to reflect losses caused by the Acts in transaction prices due to the Business Practice.

As shown in the **Interview Survey Result 17**, some respondents answered that the loss is basically assumed to be borne by the Manufacturer and cannot be reflected in the transaction price, or that it is difficult to reflect the loss in the transaction price because of the large fluctuation in demand and the difficulty in predicting the amount of loss that should normally be incurred.

Interview Survey Results 17: Reflection of Losses Caused by the Acts on Transaction Prices

○ In most cases, the Manufacturer bears the entire cost of shipping the product back from the delivery destination and its disposal, although there are some cases where the Wholesaler bears some proportion of these costs.

[30] These are the total responses to the question: "What percentage of your total business partners are ones for which you are able to predict in advance and reflect in your transaction prices the costs and losses that would be incurred if you were unable to deliver a product due to a breach of business practice? Please select one of the following that best applies to your company." (number of respondents: 1,295 companies).

(Manufacturer/Confectionery (best-by date 180 days or more, less than 180 days)

- ○ The transaction price does not reflect the cost of returning the products from the delivery destination. The transaction price is determined on the assumption that such a thing does not happen. (Manufacturer/Frozen foods)
- ○ In order to resell the returned products, the price must be reduced, and the Manufacturer is supposed to incur the decrease in value. We have not had this reflected in the transaction price, nor have we heard of this as a case study. (Manufacturer/Dairy Products (best-by date less than 180 days)
- ○ Although they add a certain amount to product prices as a kind of fixed cost, demand forecasts are only estimates, and since the fluctuation range is large, they cannot properly reflect the demand. (Wholesaler/General)
- ○ Although transaction prices are set with some expectation of losses, it is difficult to reflect these losses in transaction prices because demand fluctuates so widely that it is impossible to predict them completely. In addition, while it may be possible for large Manufacturers, it is impossible for small and medium-sized Manufacturers to reflect disposal costs in their transaction prices due to the power dynamics. (Manufacturer/Confectionery (best-by date 180 days or more and less than 180 days)

When we interviewed the respondents about the extent to which they were able to compensate for the Loss arising from the Acts through resale, etc., some responded that they did not resell the products in the first place because their own standards prohibit resale of products once shipped from the viewpoint of food safety as shown in the **Interview Survey Result 18**, and that they were not able to resell the products because they had short best-by date left at the time they were returned by the Orderer.

Interview Survey Result 18: Whether or Not the Products Returned by the Orderer Can be Resold, etc.

- ○ Products that cannot be delivered and are returned often have the best-by dates that are approaching by the time they are returned and are often difficult to resell. Therefore, many of the returned products are disposed of at our own expense because a resale destination cannot be found. (Manufacturer/Seasoning)

○ Our company's internal regulations prohibit the resale of food products once they have been shipped, i.e., once they have left our control. This is because, if the resold product were to cause health problems, the cause could not be traced. For this reason, we also prohibit the distribution of such food to food banks. As a result, once a product has been shipped, it must be discarded even if it still remains the best-by date. (Manufacturer/Confectionery (best-by date 180 days or more and less than 180 days), Manufacturer/Processed meat products (ham, sausage, etc.))

V JFTC's View on the Business Practices Under the AMA, etc.

1 Actual Situation

(1) Status of penetration of the Business Practices

As described in Ⅳ 1 above, in the Food Supply Chain of food and beverage products for consumers, it was found that transactions in accordance with the Business Practices were being conducted in some parts of the Food Supply Chain. The wider the Supplier's business area, the greater the percentage of transactions conducted in accordance with the Business Practices, and among the Business Practices, the One-third rule and the Prohibition of delivery of reversed-date products are relatively common.

In light of this, it is highly likely that there is a discrepancy in perception between Suppliers who deal in a relatively small area and those who deal in a relatively large area as to whether the Business Practices is applicable or not in transactions between them and the Orderers.

(2) Status of discussion on the Business Practices

As described in Ⅳ 2 above, it was confirmed that in many cases, the Business Practices were not clarified in advance in writing, etc., and even in cases where the contents of the contract were in writing, they were not necessarily agreed upon after sufficient discussion.

It was also confirmed that many Suppliers are dissatisfied with the Business Practices, as described in Ⅳ 5 above.

In addition to this, and considering the actual situation described in (1) above, it is considered that Suppliers may not be in a position to grasp in advance the nature and extent of the disadvantages caused by the Business Practices.

(3) Status of disadvantages associated with the Business Practices

As described in Ⅳ 3 above, it was confirmed that in all of the Business Practices, about half of the respondents who conduct transactions in accordance with the practices are subjected to some kind of the Acts because of the Business Practices, and the percentage is particularly high for the One-third rule and the Prohibition of delivery of reversed-date products.

In addition, as stated in Ⅳ 4 above, with regard to both the business practice regarding the delivery deadline and the business practice regarding the order of delivery, it was confirmed that the majority of Suppliers who conduct transactions in accordance with these business practices have actually incurred some losses as a result of the Acts due to these business practices, and as stated in Ⅳ 6 above, it was also confirmed that in many cases, Suppliers have failed to reflect these losses in the transaction prices.

In addition to this, considering the actual conditions described in (1) and (2) above, the specifics of the Business Practices are not always clear and uniform, and there are cases where Suppliers cannot grasp in advance the disadvantages that may result from the Business Practices.

2 JFTC's View Under the AMA

(1) General discussion

It is problematic, as an abuse of a superior bargaining position under the AMA, for a party who has superior bargaining position against the other transacting party to make use of such position to impose a disadvantage on the transacting party, unjustly in light of normal business practices.

JFTC's views under the AMA to disadvantageous acts taken on account of the Business Practices is as described in (2) below, but in any case, the following points should also be noted regarding the terms and conditions of the trade; It is important that sufficient discussions are held between the Orderer and the Supplier, and that the Supplier agrees satisfactorily. Even if it is agreed upon through prior discussion, it may be a problem if the Orderer imposes disadvantage on the Supplier that cannot be calculated in advance or that exceeds a reasonable scope.

It should be noted that the term "normal business practices" means business practices that are endorsed from the viewpoint of the maintenance/promotion of the fair competition. Therefore, an act is not immediately justified merely because it complies with the currently existing business practices[31].

(2) JFTC's view to each Business Practice

(a) One-third rule

If an Orderer who has superior bargaining position against a Supplier acts that falls under any of the following (i) and (ii) because of the One-third rule business

[31] Guidelines Concerning Abuse of Superior Bargaining Position under the Antimonopoly Act (hereinafter referred to as the "ASBP GLs"). See III.

practice, it unjustly imposes a disadvantage on the Supplier in light of normal business practices and therefore cause a problem as abuse of superior bargaining position[32].

(i) If, after having entered into a contract to purchase products from the Supplier, the Orderer refuses to accept all or part of the said products without justifiable reason and if it is unavoidable for the Supplier to accept the request due to concern about the possible effects on future transactions, etc.

or

(ii) In the case of returning products received from a Supplier, when it is not clearly agreed upon with the Supplier as to when and under what conditions the products are to be returned, and when this causes the Supplier, etc. a disadvantage that cannot be calculated in advance, or when the return is made without any other justifiable reason and if it is unavoidable for the Supplier to accept the request due to concern about the possible effects on future transactions, etc.

In above cases, the following cases will not be a problem under the AMA; when ① the Orderer refuses to accept or returns the products due to reasons attributable to the Supplier, such as non-conformity of the delivered products to the contract, ② the conditions for non-acceptance are agreed upon in advance within the scope of normal business practice, or ③ the Orderer bears the loss that would normally arise from the refusal to accept or return the products, with the Supplier's prior consent, etc. But it should be noted that it is only in such cases that this will not be a problem[33]. In particular, for example, if the reason for exceeding the delivery deadline under the One-third rule is due to congestion at the distribution center managed by the Orderer, this would not be considered a justifiable reason.

Specifically, if an Orderer whose bargaining position is superior to that of the Supplier takes advantage of that position to engage in any of the following acts, it may be problematic as an abuse of superior bargaining position.

- Unilaterally notifying the Manufacturer that the retailer and Wholesaler will

[32] See ASBP GLs IV 3(2) and (3).

[33] See ASBP GLs IV 3(2) and (3).

set the delivery deadline based on the One-third rule without discussion with the Manufacturer and that the Manufacturer must adhere to this rule.

- Unilaterally refusing to accept products despite prior consultation from the Manufacturer regarding the Manufacturer's inability to meet the delivery deadline due to natural disasters or other circumstances for which the Manufacturer is not responsible.
- The Wholesaler returns the product to the Manufacturer in cases where the Manufacturer had delivered the product to the Wholesaler in a purchase transaction so that it could be delivered to the retailer in accordance with the One-third rule, but the Wholesaler subsequently kept the product in its own warehouse, and as a result, the Wholesaler was unable to deliver the product to the retailer.
- The return by a retailer of products purchased in a purchase transaction to a Wholesaler or Manufacturer because of the expiration of the sales period under the One-third rule.

(b) Short lead times

If an Orderer who has superior bargaining position against a Supplier places an order with the Short lead times and, despite the resulting increase in the Manufacturing cost, unilaterally requests a significantly lower price, and if the Supplier has no choice but to accept this request out of concern about the possible effects on future transactions, etc., it unjustly imposes a disadvantage on the Supplier in light of normal business practices and therefore causes a problem as an abuse of superior bargaining position[34].

In addition, if an Orderer who has superior bargaining position against a Supplier, in the case such as where the Supplier has already procured raw materials, etc., cancels the order for unilateral reasons without paying the costs incurred by the Supplier for the production, etc., and when it is found that the order for the production, etc. of the products was placed substantially in advance[35], also if it unjustly imposes a disadvantage on the Supplier in light of

[34] See ASBP GLs IV 3(5)(a).

[35] For example, following cases fall under: (1) a case where a Supplier is expected to start manufacturing products without waiting for a formal order by indicating an expectation of an order, or (2) a case where, such as it is customary for a Supplier to start manufacturing products without a formal order in a continuous transaction, etc., the Supplier is deemed to

normal business practices, therefore it causes a problem as abuse of superior bargaining position[36].

Specifically, if an Orderer whose bargaining position is superior to that of the Supplier takes advantage of that position to engage in any of the following acts, it may be problematic as an abuse of superior bargaining position.

- Even in cases where a product that takes one week to produce is ordered just one day before the requested delivery date—thereby forcing the Manufacturer to engage in Make-to-stock production—the Orderer actually places an order for a smaller quantity than the estimated production volume and unilaterally imposes the resulting disposal costs, etc., on the Manufacturer.
- Unilaterally setting the same unit price as that for an order with a normal delivery deadline, even though the Supplier's production costs, etc. have increased significantly due to an order with a delivery deadline shorter than the time required for production.
- Unilaterally setting the same unit price as the unit price for a normal order, even though the Supplier's transportation costs, etc. have increased significantly due to a unilateral change in the delivery frequency that had been agreed upon in advance.

(c) Prohibition of delivery of reversed-date products

The same view as in (a) above applies to the case where if an Orderer who has superior bargaining position against a Supplier refuses to accept or returns products once received without justifiable reason because of the Prohibition of delivery of reversed-date products business practice. In this case, for example, if the cause of the Reversed-date products is due to the ordering method of the Orderer or due to congestion at the distribution center, it is not considered to be a justifiable reason.

Specifically, if an Orderer whose bargaining position is superior to that of the Supplier takes advantage of that position to engage in any of the following acts, it may be problematic as an abuse of superior bargaining position.

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need to start manufacturing products even without an explicit order.

[36] See ASBP GLs IV 3(5)(c).

- A case such as refusing to accept delivery of Reversed-date products without discussion with the Supplier and unilaterally requiring the Manufacturer to bear the costs of returning or disposing of the products, even though the cause of the Reversed-date product was due to road conditions or other circumstances for which the Supplier is not responsible.

(d) Prohibition of delivery of mixed-date products

The same view as in (a) above applies to the case where if an Orderer who has superior bargaining position against a Supplier refuses to accept or returns products once received without justifiable reason because of the Prohibition of delivery of mixed-date products business practice. In this case, for example, if the reason for the Mixed-date products is that the Orderer did not follow the pre-arranged order lot, it is not considered to be a justifiable reason.

Specifically, if an Orderer whose bargaining position is superior to that of the Supplier takes advantage of that position to engage in any of the following acts, it may be problematic as an abuse of superior bargaining position.

- Placing an order without complying with the pre-agreed order lot (e.g. placing an order for 250 pieces even though the order lot is for 100 pieces) and then unilaterally making the Manufacturer comply with the order, thereby making it difficult to manage deliveries in order of production date, while not allowing delivery of Mixed-date products and requiring the Manufacturer to bear the costs associated with disposal, etc.
- Placing an undue burden on the Supplier for the sorting work, etc., in exchange for accepting delivery of Mixed-date products.

(e) Out-of-stock penalty

If an Orderer who has superior bargaining position against a Supplier unilaterally sets an Out-of-stock penalty without sufficiently discussing with the Supplier the amount of the penalty and the basis for its calculation in the event of a failure to deliver by the delivery deadline, and imposes a penalty that exceeds the profit that would have been earned if the products had been delivered and sold, and if such conduct unjustly imposes a disadvantage on the Supplier in light of normal business practices, it may be problematic as an abuse of superior bargaining position[37].

In addition, if an Orderer who has superior bargaining position against a Supplier substantially reduces the price—without justifiable reason and without changing the consideration stipulated in the contract—by deducting the amount equivalent to the Out-of-stock penalty after the products have been purchased, and if it is unavoidable for the Supplier to accept the request due to concern about the possible effects on future transactions, etc., such conduct unjustly imposes a disadvantage on the Supplier in light of normal business practices and therefore cause a problem as an abuse of superior bargaining position[38].

Specifically, if an Orderer whose bargaining position is superior to that of the Supplier takes advantage of that position to engage in any of the following acts, it may be problematic as an abuse of superior bargaining position.

- A case where the Orderer makes the Manufacturer unilaterally compensate for the Out-of-stock situation caused by circumstances beyond the Manufacturer's control, such as natural disasters, by paying an amount equivalent to the planned profit or sales.
- In addition, in the same case as above, unilaterally changing the transaction conditions of the next and subsequent transactions to the disadvantage of the Supplier.

3 JFTC's View under the Subcontract Act

It should be noted that when an Orderer, such as a retailer, commissions a Supplier to manufacture private brand products, the transaction may also be subject to the Subcontract Act.

VI Response by the JFTC

Based on the results of the web-based questionnaire survey and the interview survey, it can be said that the Business Practices are in a transitional stage, being reviewed in response to the 2024 problem in logistics and the need to reduce food loss. In light of this, it is expected that there will be more and more cases in the future where the parties involved in transactions in the Food Supply Chain do not necessarily have the same understanding of the content of business practices.

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[37] See ASBP GLs IV 3(5)(c).

[38] See ASBP GLs IV 3(4).

In this context, in order to ensure that the acts of each business operator in the Food Supply Chain does not become a problem under the AMA and to promote improvement of transactions, it is important that the parties involved in transactions have a thorough discussion about the terms and conditions of the transaction, considering business practices, and that both parties agree to the terms and conditions of the transaction.

Based on the results of this study, from the perspective of prevention of violations and improvement of transactions, the study results shall be made public and this study report shall be disseminated to the food and beverage industry in cooperation with the relevant ministries and agencies.

The JFTC will continue to closely monitor the trade practices in the Food Supply Chain, strive to grasp any acts that may be problematic under the AMA, etc., and strictly respond against any violations.