

Fact-finding Survey on the Status of Design and Implementation of an Antimonopoly Act Compliance Program in Companies and Revision of the Guide for the Design and Implementation of an Effective Antimonopoly Act Compliance Program (Summary)



Purpose of the Survey

- To promote fair and free competition, it is important to promote compliance related to the Antimonopoly Act (hereinafter referred to as “AMA”) in individual companies, etc.
- ⇒ We conducted questionnaires and interviews to TSE prime-listed companies and interviews to small and medium-sized companies, and revised the above guide.

Survey Results

Contents of the AMA Compliance Guide

- We Conducted questionnaires about the status of the implementation of the various initiatives listed in the above guide. Then, we compared and analyzed the results of the responses from companies with and without a history of disciplinary actions under the AMA within the past 20 years.
- ⇒ Companies with a history of disciplinary actions under the AMA within the past 20 years tended to implement various measures more.
- For example, about half of the companies with a history of disciplinary actions against them had top management send specific messages referencing the AMA. In contrast, less than 10% of the companies without a history of disciplinary actions had top management send such messages.
- We conducted questionnaires about the timing of the formulation of internal rules and manuals related to the AMA compliance. Then, we compared and analyzed the timing of these with disciplinary actions under the AMA.
- ⇒ Without the Code of Conduct, documents tend to be formulated just a little before or just a little after disciplinary actions under the AMA.
- ⇒ We suggested that the internal rules and manuals related to the AMA compliance may have been formulated in response to identified problems under the AMA.
- In the interviews with the listed companies, there were various efforts to improve AMA compliance, such as creating dramas based on past AMA violation cases for new employees to watch. (These examples have been added to the “Examples of Good Practices” section of the guide.)
- In the interview with SMEs, all interviewed companies recognized that they had nonexistent or very low risk of violating the AMA, and no initiatives focused on the AMA are implemented. However, some initiatives, such as top messages, are considered feasible for SMEs.

Recent Topics

[The use of AI in audits related to the AMA]

- Some companies have used AI for monitoring email and other purposes.

[Responses to the risk of the AMA violation such as cartels in the use of algorithms]

- Some companies have collected information on problems related to the use of algorithms and provided guidance to related departments.

[Design and implementation of compliance programs for the pass-through labor and other costs]

- More than 70% of all responding companies had some kind of measures in place, such as organizational structure development, education and awareness-raising activities, audits, and consultation/reporting systems.

[Efforts for prevention and early detection of private monopolization and unfair trade practices]

- About half of all responding companies had implemented some kind of initiatives, such as education and awareness-raising activities, encouragement of early consultation, and involvement of the legal department.

Economic Analysis

- An economic analysis of the survey responses revealed the following trends:
 - ✓ In industries where a relatively large number of companies have a history of disciplinary actions under the AMA, there tend to be a higher number of affirmative responses to the questionnaire asking whether each items in above guide has been implemented.
 - ✓ Regarding the relationship between the measures introduced in the above guide, companies that implement overall measures tend to implement more specific measures.
 - ✓ Companies that provide internal training, introduce incentive programs, establish and disseminate rules for contact with competing companies, and conduct internal audits tend to have a higher number of internal consultations.
 - ✓ Companies that conduct internal training tend to receive more whistleblowing reports.

Recommendations for Further Improving the Effectiveness of AMA Compliance

- Based on the results of the fact-finding survey, we suggested that your company check for any omissions in its compliance program.
- As you work to strengthen and improve your company’s compliance program, we suggested that you keep in mind each of the following points:
 - ✓ Transitioning from passive to proactive responses.
 - ✓ Fostering an organizational culture that faces competition head-on.
 - ✓ Considering the risk of the AMA violation of antitrust risk in the company-wide risk assessment process.
 - ✓ Managing the risk of the AMA violation in day-to-day business processes.
 - ✓ Raising awareness and knowledge of the AMA compliance among executives and employees.
 - ✓ Monitoring from a third-party perspective by the internal audit department or external personnel.
 - ✓ Proactively using the leniency program.

Future Initiatives

- The JFTC will continue to actively support and advocate corporate efforts to comply with the AMA through the dissemination of the report and the AMA Compliance Guide.

Revision of the AMA Compliance Guide

- Key Points of Revision (1); Based on the results of the fact-finding survey, the following topics were added:
 - ✓ Responses to the risk of the AMA violation such as cartels in the use of algorithms.
 - ✓ Design and implementation of compliance programs for the pass-through labor and other costs.
 - ✓ Efforts for the prevention and early detection of private monopolization and unfair trade practices.
 - ✓ The use of AI in audits related to the AMA.
 - ✓ Efforts by SMEs related to the AMA compliance.
- Key Points of Revision (2); Examples of good practices in the AMA compliance collected in this fact-finding survey have been added to the AMA Compliance Guide.
- Key Points of Revision (3); Additional materials providing key reference points for designing internal rules and manuals on the AMA compliance have been added.