

Fighting against Anticompetitive Activities with the Amended AMA

*----- Challenge for Japanese economy
to compete in a global market -----*



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Fighting against Anticompetitive Activities

Top Five Priorities of the JFTC

(towards sustainable growth of Japanese Economy)

1. Rigorous enforcement of the amended AMA
2. Promotion of competition advocacy
3. Ensuring fair competition
4. Support for further review of the AMA
5. Enhancement of the JFTC's international profile

Fighting against Anticompetitive Activities

(Table 1) Administrative dispositions by the JFTC

| | FY 2000 | FY 2001 | FY 2002 | FY 2003 | FY 2004 | FY 2005 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Cartels | | | | | | |
| Price cartels | 1 | 3 | 2 | 3 | 2 | 4 |
| Bid-riggings | 10 | 33 | 30 | 14 | 22 | 13 |
| Others | 1 | 0 | 1 | 0 | 0 | 0 |
| Private Monopolization | 0 | 0 | 0 | 1 | 2 | 0 |
| Unfair Trade Practices | 6 | 2 | 3 | 7 | 8 | 2 |
| Others | 0 | 0 | 1 | 0 | 1 | 0 |
| Total | 18 | 38 | 37 | 25 | 35 | 19 |

Fighting against Anticompetitive Activities

Harms of Anticompetitive Activities

1. Imposing supra-competitive prices on consumers and taxpayers
2. Impeding efficient structural adjustment of Japanese economy responding to globalization & innovations
3. Preventing potential entry of foreign firms

Fighting against Anticompetitive Activities

Measures to deal with bid-rigging cartels

1. Improvement of bidding system & procedures
2. Critical review of relation between public & private sector
3. Rigorous antitrust enforcement

Fighting against Anticompetitive Activities

Amendments to AMA

1. Introduction of Leniency Program

1st applicant before initiation of investigation → **total immunity**

2nd applicant before initiation of investigation → **50% deduction**

3rd applicant before initiation of investigation → **30% deduction**

Note: Total number of undertakings to which leniency is granted is no more than three.

2. Compulsory measures for criminal investigation

3. Increase of surcharge rates

Manufacturers: 6 (3) % → 10 (4) %

Wholesalers: 1 % → 2 (1) %

Retailers: 2 (1) % → 3 (1.2) %

Note: 1) % in () shows rates for SMEs.

2) Repeated offenders within 10 years: 50% added

Fighting against Anticompetitive Activities

(Table 2) Estimates of unlawful gains by cartels

| | Average of unlawful gains (1998 - 2002) |
|------------------------|---|
| Bid-rigging cartels | 18.6 % |
| Other types of cartels | 12.4 % |
| Total | 16.3 % |

(Estimated by Economic Affairs Bureau, the JFTC (2004))

Fighting against Anticompetitive Activities

Measures against undertakings engaged in bid-riggings

1. Criminal Prosecution (based on the JFTC's accusation)
2. Administrative dispositions by the JFTC
3. Debarment from future public sector contracts
4. Damages actions (by local governments)

Fighting against Anticompetitive Activities

Enforcement of the Amended AMA

(Jan. 4, 2006 .)

1. Filing criminal accusation with the Public Prosecutor General by utilizing new criminal investigation power on bid-riggings cases (in May & June, 2006)
2. Receiving 26 leniency applications from Jan. to Mar. 2006 and granting immunity in Sep. 2006