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Agenda Item: 8

Updates of Competition Law in Japan

Purpose: Information
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Updates of Competition Law in Japan

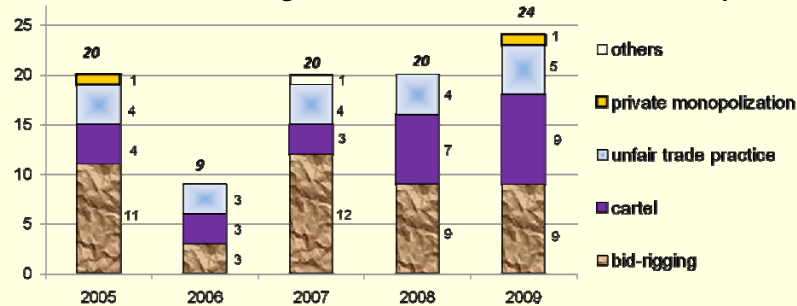
March 1, 2010
APEC-CPLG meeting in Hiroshima

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Recent trend of legal measures based on AMA

- In 2009, JFTC took legal measures against 24 cases in violation of Antimonopoly Act. Out of 24 cases, 9 cases are bid-riggings, 9 cases are cartels, 5 cases are unfair trade practices and 1 case is private monopolization.
- From 2005 to 2009, JFTC took legal measures against 93 cases (44 cases (57%) are bid-riggings, 26 cases (28%) are cartels).

Numbers of cases where legal measures were taken and their recipients

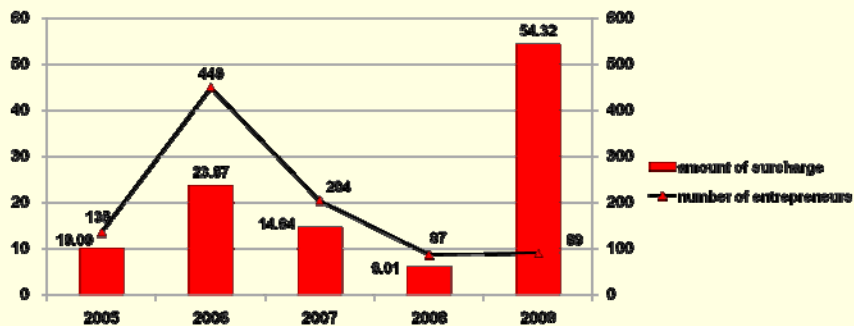


Recent trend of surcharge payment orders

- With respect to surcharge payment orders, the amount of payment confirmed in 2009 was about 54.3 billion yen against 89 entrepreneurs. (new high)

Trend in amount of surcharge, etc.

Unit: billion yen



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Leniency Program

- In Japan, leniency program has introduced with amendment in 2005 (put into force in January 2006)
- In FY 2008, 85 leniency applications were received (264 applications were received from January 2006 until March 2009).
- In FY 2008, JFTC published the names of a total of 21 entrepreneurs that received lenient treatments in 8 cases. (the names of 95 entrepreneurs of 40 cases were published to received lenient treatments from January 2006 to July 2009).

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Major violation cases in 2009

- **Cease and desist order and surcharge payment order against air freight forwarders**
The JFTC found that air freight forwarders had been involved in price cartel activities with regard to international air freight forwarding business etc., and issued cease and desist orders and surcharge payment orders against them (March 2009).
- **Cease and desist order and surcharge payment order concerning bid-riggings for vehicle management jobs ordered by Ministry of Land, Infrastructure, Transport and Tourism (MLIT)**
The JFTC issued cease and desist orders and surcharge payment orders against bid-rigging activities for vehicle management jobs ordered by MLIT. Further, the JFTC found the involvement of the staffs of the MLIT in the bid-riggings and issued a demand to MLIT to take improvement measures (June 2009).

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Amendment of the Antimonopoly Act in 2009 (1)


The bill to amend the Antimonopoly Act passed the Diet in June 2009, and was put into force in January 2010.
(Some provisions was put into force in July 2009)

- **Review of surcharge system etc.**
- ✓ **Expansion of the scope of surcharge to certain types of violation**

	Manufacturer, etc.	Retailer	Wholesaler	
Types of conduct which are subject to surcharge under the previous law	Types of conduct which are subject to surcharge under the current law	10%(4%)	3%(1.2%)	2%(1%)
	Unreasonable restraint of trade			
	Control type of Private monopolization	10%	3%	2%
Types of conduct which are expanded to be subject to surcharge under the new law	Types of conduct which will be expanded to be subject to surcharge under the bill	6%	2%	1%
	Exclusionary type of Private monopolization			
	Discriminatory pricing, Resale price restriction etc.	3%	2%	1%
	Abuse of superior bargaining position		1%	

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Amendment of the Antimonopoly Act in 2009 (2)

- Review of surcharge system etc. (continued)
 - ✓ Increase in surcharge rate applicable to ring-leaders of cartels and bid-riggings (1.5 times of normal surcharge rate)
 - ✓ Expansion of the number of leniency applicants from 3 to 5
 - ✓ Extension of the statute of limitations for administrative orders from 3 years to 5 years
- Increase in maximum jail term for cartels and bid-riggings
3 years  5 years
- Review of notification system with respect to M&A
 - ✓ Introduction of pre-notification system for share acquisitions (previously post-notification system)
 - ✓ Change of notification thresholds

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Basic policy for further amendment of the Antimonopoly Act

- Basic policy for Amendment of the Antimonopoly Act
(issued in December 2009 by the chief cabinet secretary, senior vice-minister and parliamentary secretary of the Cabinet Office in charge of the JFTC)
 - ✓ A bill to amend the Antimonopoly Act will be introduced in the Diet session from January 2010 so as to totally abolish the hearing system of the JFTC, and to refer the first instance jurisdiction to the district court.
 - ✓ Measures to assure the appropriate right to defense of the party subject to disposition will be studied and a conclusion will be reached within one year.

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**Thank you very much
for your kind attention.**

**(Opinions expressed in this presentation are those
of the speaker and are not those of JFTC.)**