

Rules on Hearings by the Fair Trade Commission

(Fair Trade Commission Rule No. 8 of October 19, 2005)

Pursuant to the provisions of Article 76, paragraph (1) of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947), the rules that fully amend the Rules on Investigation and Hearing by the Fair Trade Commission (Fair Trade Commission Rules No. 8 of 2001) are provided as follows.

Chapter I General Provisions

(Purport and Definitions of These Rules)

Article 1 (1) The hearing procedures of the Fair Trade Commission (hereinafter referred to as "the Commission") are governed by these Rules in addition to the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947) (hereinafter referred to as "the Act"; including as applied mutatis mutandis pursuant to Article 95-4 of the Fisheries Industry Cooperatives Act (Act No. 242 of 1948), and Article 108 of the Small and Medium-Sized Enterprise Cooperatives Act (Act No. 181 of 1949)), and the Act against Unjustifiable Premiums and Misleading Representations (Act No. 134 of 1962); provided, however, that the hearing procedures prescribed in Article 53, paragraph (1) and Article 70-12, paragraph (1) of the Act, and Article 12, paragraph (6) of the Act against Unjustifiable Premiums and Misleading Representations are provided separately.

(2) The terms used in these Rules that are the same as those used in the Act are to be used as those having the same meaning as those used in the Act.

(Computation of Period of Time)

Article 2 (1) The computation of any period of time is governed by the provisions related to period of time of the Civil Code (Act No. 89 of 1896).

(2) If the last day of a period falls on any of the days set forth in the items of Article 1, paragraph (1) of the Act on Holidays of Administrative Organs (Act No. 91 of 1988), the period of time expires on the following day.

(Language)

Article 3 The Japanese language is used for hearing procedures.

(Method of Service by Publication)

Article 4 The Commission may publish the fact that service by publication has

been carried out, in an official gazette or a newspaper. With respect to service by publication in a foreign country, the Commission may provide notice that service by publication has been carried out, instead of publishing this in an official gazette or newspaper.

(Preparation of Documents)

Article 5 (1) Except as otherwise provided, any document that is to be prepared in hearing procedures must be dated, and must have the name and seal affixed thereto.

(2) Where the document referred to in the preceding paragraph is a transcript that is to be prepared by the Commission, the official who prepares the transcript must add a note in a space below that the transcript is consistent with the original copy, and affix their name and seal to that transcript, and must affix their seal to each one of the transcripts to confirm page continuation or take other measures equivalent thereto.

(Correction of Documents)

Article 6 No letter or character must be altered in preparing documents for hearing procedures. If any letter or character is added, deleted, or written in the margin of a page, a seal of approval must be affixed to it. In this case, any deleted letter or character must be left visible so that it can be read.

(Submission of Documents by Using Facsimile)

Article 7 (1) Documents to be submitted in hearing procedures may be transmitted by using facsimile, excluding the following documents:

- (i) documents to be submitted based on any of the dispositions specified in the items of Article 47, paragraph (1) of the Act made by the hearing officer pursuant to the provisions of Article 56, paragraph (1) of the Act;
 - (ii) written hearing requests and written withdrawal requests of the hearing requests;
 - (iii) documents for filing an objection under the provisions of Article 35, paragraph (1);
 - (iv) documents for filing an objection under the provisions of Article 75; and
 - (v) documents proving the delegation of authority that is necessary for carrying out hearing procedures or the powers of an agent, and any other document certifying the important matters for hearing procedures.
- (2) Where a document is submitted via facsimile, it is deemed to have been submitted to the Commission or the hearing officer at the time when the Commission receives it.
- (3) The Commission or the hearing officer may, when they find it necessary in a case prescribed in the preceding paragraph, have the submitter submit the

original of the transmitted document.

(Provision of Information Contained in the Document to be Submitted to the Hearing Officer by Electronic or Magnetic Means)

Article 8 If the hearing officer or the respondent or their agent has an electronic or magnetic record (meaning a record made in an electronic form, a magnetic form, or any other form not recognizable to human perception which is used in information processing by computers; hereinafter the same applies in this Article) of the information contained in the document that has been submitted to or is to be submitted to the hearing officer, the administrative judge may request the person to provide the information recorded in the electronic or magnetic record by electronic or magnetic means (meaning a method using an electronic data processing system or any other method using information and communications technology) specified by the hearing officer if they deem it necessary.

Chapter II Commencement of Hearing Procedures

(Written Hearing Requests)

Article 9 (1) In order to file a request for hearing under the provisions of Article 49, paragraph (6) of the Act or Article 50, paragraph (4) of the Act, a written hearing request prescribed in Article 52, paragraph (1) of the Act must be submitted to the Commission.

(2) A written hearing request referred to in Article 52, paragraph (1) of the Act must be prepared using Form No. 1 and, whenever possible, contain a detailed description of the claim supporting the hearing request and also contain, for each of the grounds to be proved, significant facts related to the claim and evidence.

(3) The Commission may, if it finds that a hearing request fails to comply with the provisions of Article 52, paragraphs (1) and (2) of the Act but can be corrected, request correction of the hearing request by specifying a reasonable period of time for such correction. In this case, if the defect is minor, the Commission may correct the hearing request ex officio.

(Withdrawal of Hearing Requests)

Article 10 A hearing request under the provisions of Article 52, paragraph (4) of the Act, the withdrawal must be withdrawn by using a Form No. 2.

(Commencement of Hearing Procedures)

Article 11 The written notice of commencement of hearing prescribed in Article 55, paragraph (1) of the Act must contain the following particulars:

- (i) indication of the relevant disposition;
- (ii) the hearing case number; and
- (iii) the fact that the respondent or their agent must appear on the hearing date.

Chapter III Designation of the Hearing Officer and Persons Concerned with the Hearing

(Designation of the Hearing Officer)

- Article 12 (1) If the Commission, after commencing hearing procedures, decides to designate a hearing officer for each case and have the hearing officer carry out all or part of the hearing procedures pertaining to the case pursuant to the provisions of Article 56, paragraph (1) of the Act, it must notify the respondent or their agent of the name of the hearing officer.
- (2) In the case referred to in the preceding paragraph, if the Commission intends to limit the scope of hearing procedures to be carried out by the hearing officer, the Commission must also notify the respondent or their agent of the scope of hearing procedures to be carried out by the hearing officer, in addition to the name of the hearing officer prescribed in the preceding paragraph.
- (3) In the case referred to in paragraph (1), if the Commission decides to have multiple hearing officers carry out the hearing procedures, they must nominate one of the hearing officers as a person who presides over the affairs pertaining to the hearing procedures, and notify the respondent or their agent to that effect.
- (4) In the case prescribed in the preceding paragraph, unless otherwise provided for by these Rules, any disposition of a trial officer in the hearing procedures pertaining to the case must be implemented by a panel of multiple hearing officers. In this case, a decision of the panel must be made by a majority vote.

(Duties and Authority of the Hearing Officers)

- Article 13 (1) The hearing officer is to exercise the authority of the Commission with regard to the hearing procedures pursuant to the provisions of Article 56 of the Act and the provisions of these Rules.
- (2) The hearing officer must perform their duties in a fair, prompt, and independent manner.

(Hearing Administrative Officials)

- Article 14 (1) The Commission has its officials perform affairs related to hearings.
- (2) The officials referred to in the preceding paragraph (hereinafter referred to as "hearing administrative officials") perform affairs related to preparation,

retention, serving, and sending of records and any other documents in hearing procedures and affairs concerning notification under the provisions of these Rules as ordered by a person nominated as the person who presides over the affairs pertaining to the hearing procedures referred to in Article 12, paragraph (3) (if only one hearing officer has been designated pursuant to the provisions of Article 56, paragraph (1) of the Act, the hearing officer; hereinafter referred to as the "chief hearing officer").

(Agent)

- Article 15 (1) The authority of an agent who is an attorney at law or a legal professional corporation must be proved by means of a written document.
- (2) The document referred to in the preceding paragraph must clearly state the name of the bar association of which the agent holds a membership and the agent's office, and must also indicate the scope and extent of the agent's authority to represent.
- (3) Where the agent is a legal professional corporation, the name of the attorney at law in charge of the case in question as a member of the corporation, the name of the bar association of which the attorney at law holds the membership, and the scope and extent of the legal practice that each attorney at law may perform must be clearly stated in the document referred to in paragraph (1).
- (4) When the respondent intends to obtain approval for the appointment of a person other than an attorney at law or a legal professional corporation as the agent, the respondent must submit a document providing the person's name, address, and occupation, and their relationship with the respondent, and other documents sufficient enough to show that the person is appropriate as an agent to the hearing officer.
- (5) A document clearly indicating the agent's authority and the scope thereof must be attached to the document referred to in the preceding paragraph.
- (6) Where the hearing officer has received the document referred to in paragraph (4), the officer must notify the respondent and the investigator when they have decided to approve or not approval the person pertaining to the request as the agent.
- (7) The respondent must, where the agent's authority to represent ceases, notify the hearing officer of the cessation in writing without delay.

(Interrogation and Ruling for Interventions)

- Article 16 (1) If the Commission interrogates the respondent and a third party pursuant to the provisions of the proviso to Article 70-3 of the Act, the Commission may do so in writing.
- (2) The Commission may have the hearing officer carry out the interrogation referred to in the preceding paragraph. In this case, the hearing officer who

carries out the interrogation must report the outcome of the interrogation to the Commission, together with their comments attached thereto.

- (3) When the Commission makes a ruling to have a third party intervene as a party, the Commission must notify the respondent and the third party (hereinafter referred to as the "intervenor") to that effect.

(Actions of Intervenors)

Article 17 In hearing procedures, an intervenor may make factual and legal statements, offer evidence, or perform any other necessary actions.

(Achieving Proper and Speedy Procedures)

Article 18 (1) The hearing officer is to set a target to conclude hearing procedures in the shortest possible time not exceeding two years, and is to endeavor to achieve the target by implementing the efficient procedures.

- (2) The hearing officer, the investigator, and the respondent or their agent must have a systematic approach to hearing procedures in order to achieve proper and speedy proceedings.

Chapter IV Hearing Date and Preparations Therefor

(Designation of Date of Hearing)

Article 19 (1) Date of hearing is designated by the hearing officer.

- (2) Notice of the date of hearing to be issued to the investigator and the respondent or their agent must be given by means of a written notice containing the date and time and the place to appear and any other necessary matters; provided, however, that the hearing officer may notify this vocally to any person attending or appearing in the office on the date of hearing.
- (3) The hearing officer may, if they find it to be necessary, change the date of hearing.
- (4) The hearing officer must, if they change the date of hearing pursuant to the provisions of the preceding paragraph, promptly notify the investigator and the respondent or their agent to that effect.

(Court of Hearing)

Article 20 (1) A hearing on the date of hearing must be conducted at the court of hearing of the Commission; provided, however, that the hearing officer may, if they find it to be necessary, designate the court of hearing as the place appropriate for making the hearing on the date of hearing.

- (2) The hearing officer must, if they designates the court of hearing as a place appropriate for conducting the hearing on the date of hearing pursuant to the provisions of the proviso to the preceding paragraph, promptly notify the

investigator and the respondent or their agent to that effect.

(Persons Present at Inquiries)

Article 21 (1) On the date of hearing, a hearing is held in the presence of the hearing officer and hearing administrative officials, and with attendance of the investigator.

(2) The respondent or their agent is to appear on the date of hearing.

(Notification of Nonappearance of the Respondent or Their Agent)

Article 22 The respondent or their agent must, if they are unable to appear on the date of hearing, notify the hearing officer to that effect without delay and clarify the reasons therefor.

(Request for Closed Hearing)

Article 23 (1) A request for a closed hearing must be filed by specifying the scope of and reason for the request and the period during which the hearing must be closed to the public.

(2) The hearing officer must, when conducting a closed hearing, announce that the hearing is closed to the public and the reason therefor.

(Opening Procedures)

Article 24 (1) The respondent or their agent must, at the beginning of hearing proceedings, make a statement on the object of claim and reason for the request for hearing based on the written request for hearing.

(2) Following the statement made by the respondent or their agent under the preceding paragraph, the investigator must make a statement on the details of the relevant disposition, the facts that led to the relevant disposition, the application of laws and regulations thereto, and the appropriateness of the relevant disposition, based on a brief (meaning a document containing the matters to be stated on the date of hearing; the same applies hereinafter).

(3) A transcript of the written cease and desist order or the written surcharge payment order pertaining to the request for a hearing must be attached to the brief containing the statements referred to in the preceding paragraph.

(Deemed Statements)

Article 25 When the respondent or their agent fails to appear on the date of hearing, the hearing officer may deem that the respondent or their agent has made a statement on the matters contained in the written request for a hearing or the brief that has been submitted by the respondent or their agent.

(Examination of Evidence)

Article 26 (1) The hearing officer may carry out examination of evidence when they find it necessary upon request or ex officio.

(2) Examination of evidence must be carried out in accordance with the procedure prescribed in the following Chapter.

(3) Unless otherwise provided by these Rules, examination of evidence must be carried out on the date of hearing.

(Closing Statements for Hearing)

Article 27 (1) Upon completion of examination of evidence, the investigator may make a statement as to the facts that led to the relevant disposition, the application of laws and regulations thereto, and the appropriateness of the relevant disposition.

(2) The respondent or their agent must be given an opportunity to make a statement at the end.

(3) If the respondent or their agent fails to appear on the date referred to in the preceding paragraph without reasonable grounds, the hearing procedures may be concluded without giving the respondent or their agent another opportunity to make a statement.

(Changes in Investigator's Assertion)

Article 28 (1) The investigator may, based on the provisions of Article 58, paragraph (2) of the Act, change their assertion with regard to the facts that led to the relevant disposition and the application of laws and regulations thereto, to the extent that the identity of the case will not be lost.

(2) If the changes referred to in the preceding paragraph may cause a considerable delay in the hearing proceedings, the investigator may not implement the changes, notwithstanding the provisions of the preceding paragraph.

(3) When the investigator implements the changes referred to in paragraph (1), the hearing officer must give consideration so that the changes will not be a substantial disadvantage for the defense of the respondent.

(4) The hearing officer must, when they do not approve the changes referred to in paragraph (1) by the investigator, clarify such fact and the reasons therefor on the date of hearing.

(Maintaining the Order)

Article 29 The chief hearing officer may give orders regarding the matters or take measures necessary to maintain the order in the court of hearing.

(Limitations on Arguments)

Article 30 When a statement made by the investigator, the respondent, or their

agent overlaps with their previous statement or the statement includes the matters unrelated to the case, or when the chief hearing officer otherwise finds it particularly necessary, the chief hearing officer may limit such statement.

(Authority to Ask for Clarification and Right to Question)

Article 31 (1) The chief hearing officer may, in order to clarify the case, question the investigator, the respondent, or their agent or urge them to offer proof with regard to factual or legal matters on the date of hearing or other than the appearance date.

(2) A hearing officer other than the chief hearing officer may take the measures prescribed in the preceding paragraph after notifying the chief hearing officer to that effect.

(3) When the outline of a statement made by the other party is unclear, the investigator, the respondent, or their agent may request that the chief hearing officer ask a question of the other party, or may directly ask a question of the other party with the permission of the chief hearing officer on the date of hearing or on a date other than the appearance date.

(4) If the chief hearing officer or a hearing officer other than the chief hearing officer takes a measure under the provisions of paragraph (1) or (2) with regard to a matter that may cause a material change to allegations or evidence on a date other than the appearance date, they must notify the other party of the details of the measure.

(Consolidation and Separation of Hearings)

Article 32 (1) When the hearing officer consolidates or separates hearing procedures pursuant to the provisions of Article 64 of the Act, they must notify the investigator and the respondent or their agent to that effect.

(2) Consolidation of hearing procedures may be carried out prior to the first date of hearing.

(Concluding and Reopening Hearing)

Article 33 (1) The hearing officer may, if they find it to be appropriate, conclude hearing procedures or reopen concluded hearing procedures ex officio or upon request.

(2) The hearing officer must, when reopening hearing procedures pursuant to the provisions of the preceding paragraph, notify the investigator and the respondent or their agent to that effect.

(Filing an Objection with the Hearing Officers)

Article 34 (1) If the investigator, the respondent, or their agent is dissatisfied with a disposition concerning the hearing procedures conducted by the hearing

officer (excluding the dispositions referred to in the items of Article 47, paragraph (1) of the Act implemented by the hearing officer under the provisions of Article 56, paragraph (1) of the Act), they may file an objection with a panel of hearing officers (if only one hearing officer has been designated pursuant to the provisions of Article 56, paragraph (1) of the Act, the hearing officer; hereinafter the same applies in this Article) without delay.

- (2) If the panel of hearing officers referred to in the preceding paragraph finds that the requestor has grounds for objection, the panel is to revoke, invalidate, or alter the disposition against which the objection was filed.
- (3) When the panel of hearing officers referred to in paragraph (1) rejects the filing of an objection, the panel must provide the reason therefor.

(Filing an Objection with the Commission)

Article 35 (1) If a person who has received any of the dispositions referred to in Article 47, paragraph (1) of the Act implemented by the hearing officer under the provisions of Article 56, paragraph (1) of the Act is dissatisfied with the disposition, the person may file an objection with the Commission by means of a document containing the reason therefor, within one week from the date of disposition.

- (2) If the Commission finds that the requestor has grounds for objection, the Commission is to order the hearing officer to revoke, invalidate, or alter the disposition against which the objection was filed, and notify the person filing the objection to that effect.
- (3) When the Commission rejects the objection, they must notify the person filing the objection to that effect. In this case, they must provide the reason therefor.

(Brief)

Article 36 (1) Assertions to be made on the date of hearing must be prepared using a form for a brief.

- (2) A brief must be submitted to the hearing officer while allowing the other party to have enough time to make preparations for the particulars contained therein.

(Submission Period of Briefs)

Article 37 The chief hearing officer may specify a period during which briefs may be submitted or evidence may be offered.

(Preparatory Proceedings)

Article 38 (1) The hearing officer may, if they find it to be appropriate, carry out preparatory proceedings by requesting the investigator to attend and the respondent or their agent to appear in the office, in order to sort out the issues

and evidence of the case. In this case, if the hearing officer finds it necessary, they may have the investigator or the respondent or their agent submit a brief or any other document in lieu of or to supplement such method.

- (2) The hearing officer may conduct an examination of evidence (including the items prescribed in Article 50) on the preparatory proceeding date.
- (3) The hearing officer may allow any person deemed appropriate to observe the proceedings on the preparatory proceeding date; provided, however, that the hearing officer must allow persons requested by the respondent or their agent to observe the proceedings unless the hearing officer finds that the observer may interfere with the proceedings.
- (4) If the respondent or their agent resides in a faraway place or if the hearing officer otherwise finds it to be reasonable, the hearing officer may carry out the proceedings on the preparatory proceeding date by using a method that enables the hearing officer, the investigator, and the respondent or their agent to make voice calls with one another by audio transmission simultaneously. In this case, the respondent or their agent who participated in the preparatory proceedings without appearing in the court on the appearance date is deemed to have appeared on the preparatory proceeding date.
- (5) When carrying out the proceedings on a preparatory proceeding date by using a method that enables the hearing officer, the investigator, and the respondent or their agent to make voice calls with one another simultaneously by audio transmission pursuant to the provisions of the preceding paragraph, the hearing officer must confirm the identities of the calling parties and their locations.
- (6) The investigator and the respondent or their agent must make a statement on the outcome of the preparatory proceedings on the date of hearing.

Chapter V Evidence

Section 1 Offer of Evidence and Examination of Evidence

(Procedure to Offer Evidence)

Article 39 (1) The investigator must offer evidence that is found to be necessary for the hearing of the case before starting the examination of evidence.

- (2) The respondent or their agent may offer evidence that is found to be necessary for the hearing of the case after the offer referred to in the preceding paragraph has been made.

(Method of Offering Evidence)

Article 40 In order to offer evidence, the offer of evidence must be made by submitting a document providing the means of evidence, and the particulars to be proved thereby must be submitted.

(Request for Examination of Witness)

- Article 41 (1) A request for an examination of a witness must be filed by specifying the name, address, and occupation of the witness, the matters to be examined, and the need for the examination.
- (2) A request for an examination of the respondent to be filed by themselves must be filed by specifying the name and address of the respondent, the matters to be examined, and the need for the examination.

(Request for Inspection)

- Article 42 A request for an inspection must be filed by providing the objective of and the need for the inspection.

(Request for an Expert Opinion)

- Article 43 A request for an expert opinion must be filed by specifying the matters for which the expert opinion is requested and the need for the expert opinion.

(Written Expert Opinion)

- Article 44 The chief hearing officer must, when they have had an expert witness give an expert opinion pursuant to the provisions of Article 47, paragraph (1), item (ii) of the Act pursuant to the provisions of Article 56, paragraph (1) of the Act, have the expert witness report the progress and outcome thereof by submitting a written expert opinion.

(Offer of Documentary Evidence)

- Article 45 (1) An offer of documentary evidence must be made by submitting a document or by filing a request to order the person possessing the documentary evidence to submit it.
- (2) When offering documentary evidence by submitting a document, the offer must be made by specifying the title of the document and the facts to be proved as evidence, unless they are clear from the contents of the document.
- (3) When submitting a document, a copy thereof may be submitted in lieu of the document with the permission of the chief hearing officer.

(Request for a Court Order to Submit a Document)

- Article 46 (1) A request for a court order to submit a document or any other item must be filed by means of submitting a document specifying the following particulars:
- (i) presenting the document or any other items;
 - (ii) the purport of the document;

- (iii) the holder of the document or other items;
 - (iv) the facts to be proved; and
 - (v) the reason and the need for the request.
- (2) The hearing officer must, if they find that the requestor has grounds for the request referred to in the preceding paragraph, issue an order to the holder of the document or other items (hereinafter referred to as the "document, etc." in this Article) to submit the document.
- (3) The hearing officer may, if they deem it necessary, retain the document, etc. that has been submitted.

(Return or Temporary Return of Retained Objects)

- Article 47 (1) Any retained item that no longer needs to be retained must be returned without waiting for the case to be concluded.
- (2) Any retained item may be temporarily returned upon the request of its owner or submitter.

(Documents Submitted Voluntarily)

- Article 48 Where the hearing officer receive documents or any other items that has been voluntarily submitted, the hearing officer is to, if they find it necessary, request that the submitter of the item submit a document that includes the names, occupations, and addresses of the owner and the submitter of the items, as well as a list of the items and the date on which they were submitted.

(Translation Attached to the Documents)

- Article 49 When offering documentary evidence by submitting a document prepared in a foreign language, a translation of the part of the document for which examination is requested must be attached thereto.

(Application Mutatis Mutandis to Items Equivalent to Documents)

- Article 50 The provisions concerning documentary evidence apply mutatis mutandis to drawings, photographs, audio tapes, video tapes, and any other items prepared for representing the information, which are not documents.

(Examination of Evidence)

- Article 51 (1) When evidence has been offered, the investigator, the respondent, or their agent may state their opinion as to whether or not the evidence should be admitted in court.
- (2) The hearing officer may choose not to admit any evidence offered by the investigator, the respondent, or their agent in court which is found to be unnecessary. In this case, the hearing officer must provide the reason therefor.

- (3) If there is any obstacle to examination of evidence for an uncertain period of time, the hearing officer may choose not to conduct the examination of evidence.

Section 2 Interrogation

(Submission Period of Documents Used for Examination)

Article 52 Any document expected to be used in the examination of a witness, an expert witness, or the respondent themselves must be submitted well in advance prior to the commencement of the examination of the witness, the expert witness, or the respondent themselves, except for those that are to be used as evidence for denying the credibility of statements made by the witness, the expert witness, or the respondent himself/herself; provided, however, that, when they are not able to submit such document, it is sufficient to submit a copy thereof.

(Writ of Summons)

Article 53 (1) A writ of summons for a witness must contain the following particulars and the chief hearing officer must affix their name and seal thereto and serve it:

- (i) the date, time and place for court appearance;
- (ii) the hearing case number;
- (iii) the matters to be examined;
- (iv) legal sanctions against a failure to appear in court; and
- (v) any other particulars that are found to be necessary.

(2) The provisions of the preceding paragraph apply mutatis mutandis to a writ of summons for an expert witness or the respondent themselves.

(3) When a witness, an expert witness, or the respondent themselves is present in court, they may be examined or be made to give an expert opinion immediately, notwithstanding the provisions of the preceding two paragraphs.

(Examination of Individuals)

Article 54 (1) When examining a witness, an expert witness, or the respondent themselves, they must be examined separately.

(2) When a witness or an expert witness who is to be examined later is present in court, the chief hearing officer must have the witness or expert witness leave the court; provided, however, that this does not apply when their presence is found to be necessary.

(Questions for Identity Verification)

Article 55 The chief hearing officer must verify the identity of the witness, the expert witness, or the respondent themselves first.

(Oaths)

Article 56 (1) The oath must be taken prior to the examination.

(2) The oath must be taken according to a written oath.

(3) The written oath of a witness must contain a statement that the witness swears to tell the truth according to the dictates of their own conscience without concealing anything or adding anything.

(4) The written oath of an expert witness must contain the fact that the expert witness swears to give an expert opinion sincerely according to the dictates of their own conscience.

(5) The chief hearing officer must have the witness or expert witness read aloud the written oath and have the witness or expert witness affix their signature and seal thereto.

(6) In the case referred to in the preceding paragraph, when the witness or expert witness is unable to sign the written oath in person, the witness or expert witness must have another person sign it on their behalf, and when the witness or expert is unable to seal the written oath, their fingerprint must be affixed thereto; provided, however, that if another person signs it on behalf of the witness or expert witness, the person who signed the written oath must state the reason therefor in the written oath and sign and seal it.

(7) The person taking an oath must stand up and solemnly swear an oath.

(8) Notwithstanding the provisions of the preceding three paragraphs, an oath by an expert witness may be made by submitting a written oath to the hearing officer. In this case, the explanation of the purpose of an oath and the notification of the punishment for giving a false expert opinion pursuant to the provisions of the following Article by the chief hearing officer must be provided by using the method of sending a document containing these matters to the expert witness.

(Notification of the Penal Provisions)

Article 57 The chief hearing officer must notify a witness or an expert witness who has taken an oath, prior to the examination, that a false statement or a false expert opinion constitutes a crime pursuant to the provisions of Article 92-2 of the Act and that their refusal to provide a statement or an expert opinion without reasonable grounds constitutes a crime pursuant to the provisions of Article 94 of the Act.

(Interpretation)

Article 58 (1) When a person who does not understand the Japanese language makes a statement, the chief hearing officer must have an interpreter interpret the statement.

- (2) In the case referred to in the preceding paragraph, the chief hearing officer must have the interpreter take an oath. In this case, the provisions of Article 56 (excluding paragraphs (3) and (8)) apply mutatis mutandis to the oath taken by the interpreter.

(Method of Examining Witness)

Article 59 (1) The investigator, the respondent, or their agent may conduct an examination of a witness, an expert witness, or the respondent themselves after notifying the chief hearing officer to that effect. In this case, if the examination of the witness, the expert witness, or the respondent themselves has been requested by the investigator, the respondent, or their agent, the person who has filed the request conducts an examination of the witness, etc. first.

- (2) The hearing officer may conduct an examination of the witness, the expert witness, or the respondent themselves after the examination referred to in the preceding paragraph is completed.
- (3) If the chief hearing officer finds it appropriate, they may change the order of the examinations referred to in the preceding two paragraphs after hearing the opinions of the investigator and the respondent or their agent.
- (4) In addition to the provisions of paragraph (2), the chief hearing officer may, if they find it necessary, directly conduct an examination of a witness, an expert witness, or the respondent themselves at any time.
- (5) A hearing officer other than the chief hearing officer may conduct an examination of a witness, an expert witness, or the respondent themselves after notifying the chief hearing officer to that effect.
- (6) Neither a witness nor the respondent themselves may make a statement based on a document; provided, however, that this does not apply when they have obtained the permission from the chief hearing officer.

(Limitations of Questions)

Article 60 (1) Questions must be asked separately and specifically whenever possible.

- (2) The investigator and the respondent or their agent must not ask the following questions; provided, however, that this does not apply to the questions set forth in items (ii) through (v) if they have reasonable grounds:
- (i) questions that insult or confuse the witness, the expert witness, or the respondent themselves;
 - (ii) leading questions;
 - (iii) questions that overlap with previously asked questions;
 - (iv) questions unrelated to the issues;
 - (v) questions seeking a statement of opinion.

- (3) The chief hearing officer may, if they find that a question violates the provisions of the preceding paragraph, restrict such question ex officio or upon request.

(Cross-Examination)

Article 61 The chief hearing officer may, if they find it to be necessary for a witness, an expert witness, or the respondent themselves, have each other ask questions in a cross-examination.

(Expert Witness)

Article 62 The provisions concerning examination of witnesses apply to the examination of expert witnesses.

(Examination through Voice Calls over the Video Conferencing System)

Article 63 (1) In the case of an examination of a witness, an expert witness, or the respondent themselves, if the witness, the expert witness, or the respondent themselves lives in a faraway place or if the hearing officer otherwise finds it reasonable, the examination may be carried out by using any method that enables the parties living far away to make voice calls over the video conferencing system while mutually recognizing the situation of other party by watching the video with sound.

(2) In the case where a witness or an expert witness is examined by using any method prescribed in the preceding paragraph, the examination must be carried out, after hearing the opinion of the investigator and the respondent or their agent, by having the respondent or their agent appear in the court of hearing, or by having the witness or expert witness appear in the office of the Fair Trade Commission where equipment necessary for the examination is installed.

(3) If the respondent themselves is to be examined using the method prescribed in paragraph (1), the examination must be carried out, after hearing the opinion of the investigator and the respondent or their agent, by having the respondent themselves appear in the office of the Fair Trade Commission where equipment necessary for the examination is installed.

(4) If an examination is to be carried out by using the method prescribed in paragraph (1), facsimile may be used to transmit and submit copies of documents or to take any other measures necessary for the examination to be conducted.

(5) When an examination is carried out by using the method prescribed in paragraph (1), the fact and the office of the Fair Trade Commission where the witness, the expert witness, or the respondent themselves have appeared must be provided in the record.

Section 3 Examination of Evidence Conducted on a Date Other than Appearance Date

(Examination of Evidence Conducted on a Date Other than Appearance Date)

Article 64 (1) The hearing officer may, if they find it necessary, carry out examination of evidence on a date other than appearance date. In this case, the hearing officer must give the investigator and the respondent or their agent the opportunity to attend the examination.

(2) The chief hearing officer may, if they find it reasonable, have a hearing officer other than the chief hearing officer carry out the examination of evidence referred to in the preceding paragraph. In this case, the chief hearing officer must notify the investigator and the respondent or their agent of the name of the hearing officer who will carry out the examination of evidence.

Chapter VI Records of Hearings.

(Records of Hearings)

Article 65 (1) The hearing administrative official must prepare a record for each date of hearing. A record must contain the following particulars, and the hearing administrative official must affix their name and seal thereto, and the hearing officer must affix their seal of approval thereto:

- (i) the date and place of the hearing;
- (ii) the names and official titles of the hearing officer and the hearing administrative official who were present at the hearing and the investigator who attended the hearing, and the names of the respondent and their agent who appeared in the court of hearing and any stenographer and interpreter who attended the hearing;
- (iii) if the respondent or their agent fail to appear in the court of hearing, the failure to attend;
- (iv) if the hearing was not open to the public, the relevant fact and the reason therefor;
- (v) the names of the witnesses or expert witnesses who were examined, and if any of them did not take an oath, the relevant fact and the reason therefor;
- (vi) any offer of evidence or any filing of a motion;
- (vii) an outline of the factual and legal statements made by the investigator, the respondent, or their agent and a summary of the questions asked of and statements made by any witnesses, expert witnesses, or the respondent themselves (this may be substituted by quoting a stenographic record or a document);
- (viii) any documents or any other items examined;

- (ix) any decisions made and any other matters pronounced by the hearing officer; and
 - (x) any matters which the chief hearing officer ordered to include.
- (2) Notwithstanding the provisions of the preceding paragraph, the hearing administrative official may, with the permission of the chief hearing officer, record the statements made by a witness, an expert witness, or the respondent themselves during the examination on an audio or video tape (including an object which can record certain matters by using a method equivalent thereto), and substitute it for the entry of statement in the record.
- (3) The investigator, the respondent, or their agent may file an objection with the hearing officer as to the accuracy of the entries of statement in the record. If an objection is filed, the hearing administrative official must enter the objection in the record.
- (4) The hearing officer must order the hearing administrative official to alter the portion of the statement entered pertaining to the objection, and notify the investigator, the respondent, or their agent to that effect, if the hearing official finds that the requester has the grounds for objection referred to in the preceding paragraph.

(Records of Retained Items)

- Article 66 (1) When the hearing officer retains any submitted item pursuant to the provisions of Article 47, paragraph (1), item (iii) of the Act pursuant to the provisions of Article 56, paragraph (1) of the Act, they must prepare a record of the retained item. In this case, the hearing officer may have the hearing administrative official prepare the record.
- (2) The record referred to in the preceding paragraph must include the hearing case number, the name, occupation, and address of the owner and the submitter of the retained items, and the date and place of retention, and the hearing officer or the hearing administrative official must affix their name and seal thereto, and the hearing officer must affix their seal of approval thereto.
- (3) A list of the retained items must be attached to the record referred to in paragraph (1).
- (4) A copy of the list must be issued when the owner of the retained items so requests.

(Record of Examination of Evidence Conducted on a Date Other than Appearance Date)

- Article 67 (1) If examination of evidence has been carried out on a date other than appearance date pursuant to the provisions of Article 64, the hearing administrative official must prepare a record thereof. The record must contain the results of the examination of evidence and any other necessary matters,

and the hearing administrative official must affix their name and seal thereto, and the hearing officer must affix their seal of approval thereto.

- (2) The record referred to in the preceding paragraph must be presented on the date of hearing.
- (3) The provisions of Article 65, paragraphs (2) through (4) apply mutatis mutandis to the record referred to in paragraph (1).

(Records of Preparatory Proceedings)

Article 68 (1) If preparatory proceedings have been carried out, the hearing administrative official must prepare a record thereof. The record must contain the outcome of the proceedings and any other necessary matters for each date of preparatory proceedings, and the hearing administrative official must affix their name and seal thereto, and the hearing officer must affix their seal of approval thereto.

- (2) If the proceedings referred to in Article 38, paragraph (4) have been carried out, the hearing administrative official must provide the fact and the telephone number of the called party in the record referred to in the preceding paragraph. In this case, the location of the called party must be included in the record in addition to the telephone number.
- (3) The provisions of Article 65, paragraphs (3) and (4) apply mutatis mutandis to the record referred to in paragraph (1).

(Quotations Used in Records)

Article 69 A document, photograph, or those which the chief hearing officer finds to be appropriate may be cited in the record under the provisions of Article 65 through the preceding Article, which may be attached thereto so as to constitute a part of the record.

(Stenographic Record)

Article 70 (1) The chief hearing officer may, if they find it to be necessary, have a stenographer attend the hearing on the date of hearing and have the stenographer take stenographic notes of the statements.

- (2) The stenographer who has attended a hearing must prepare a stenographic record, affix their name and seal thereto, and submit it to the hearing officer.
- (3) The hearing officer must affix their seal of approval to the stenographic record referred to in the preceding paragraph.

Chapter VII Hearing Procedures Carried Out by the Commission

(Hearing Procedures Carried Out by the Commission)

Article 71 (1) When the Commission holds a hearing procedures, the hearing

procedures may not be held without the presence of the chairman and two or more commissioners.

- (2) With regard to the application of the provisions of the preceding paragraph, when the chairman is unable to perform their duties, the person representing the chairman prescribed in Article 33, paragraph (2) of the Act is deemed to be the chairman.

(Mutatis Mutandis Application of the Provisions Concerning Hearing Procedures Carried Out by Hearing Officers)

Article 72 When the Commission holds a hearing procedures, the provisions concerning hearing procedures to be carried out by hearing officers (excluding the provisions concerning a draft of the decision of the court of hearing) apply mutatis mutandis.

Chapter VIII Decisions of the Court of Hearing

(Preparation of Drafts of Decisions of the Court of Hearing)

Article 73 The hearing officer is to prepare a draft of decision of the court of hearing without delay after the hearing procedures have been concluded, submit it to the Commission together with the case record, and serve a transcript of it to the investigator and the respondent or their agent.

(Particulars to Be Included in Drafts of Decisions of the Court of Hearing)

Article 74 (1) The hearing officer must, if they considers it to be reasonable to render a decision pursuant to the provisions of Article 66 of the Act, include the main text of the judgment which they find reasonable, as well as the facts, evidence, and application of laws and regulations (if they consider it to be reasonable to render the decision of the court of hearing referred to in paragraph (3) of that Article pertaining to a payment order, the basis for calculation of the surcharge must be included therein in addition to these particulars) in the draft of decision by the court of hearing; provided, however, that evidence may not be included in the draft of decision of the court of hearing if a decision of the court of hearing is rendered pursuant to the provisions of paragraph (1) of that Article.

- (2) The hearing officer must affix their signature and seal to the draft of decision of the court of hearing.
- (3) If the hearing officer is unable to affix their signature and seal to the draft of decision of the court of hearing, another hearing officer must attach their signature and seal thereto, by adding the grounds therefor in the draft of decision of the court of hearing.

(Filing an Objection Against a Draft of Decision of the Court of Hearing)

Article 75 The investigator and the respondent or their agent may file an objection with the Commission by submitting a document, within two weeks from the date on which the transcript of the draft of decision of the court of hearing was served.

(Request for Making a Statement)

Article 76 (1) The respondent or their agent must, if they intend to file a request for making a statement pursuant to the provisions of Article 63 of the Act, submit a document containing the request and an outline of the statement to the Commission by the date on which the period referred to in the preceding Article elapses.

(2) When the request for making a statement referred to in the preceding paragraph has been filed, the Commission must designate the hearing date without delay after the period referred to in the preceding Article elapses, and serve a written notice containing the date, time, and place of hearing and any other necessary particulars to the respondent or their agent.

(Conducting Statement Hearings)

Article 77 (1) The respondent or their agent must, if they are unable to appear in the court of hearing on the date for statement hearing, notify the chairman to that effect without delay, by giving a clear reasons therefor.

(2) The chairman may, if they find it to be necessary, change the date for statement hearing.

(3) On the date for statement hearing, the chairman presides over the hearing of the statement.

(4) On the date for statement hearing, the respondent or their agent is to make a statement based on the document submitted pursuant to the provisions of paragraph (1) of the preceding Article.

(5) With regard to the statement hearing, the hearing administrative official must prepare a record containing an outline of the stated opinion and any other necessary matters, and must affix their name and seal thereto, and the chairman must affix their seal of approval thereto.

(6) If the respondent or their agent fails to appear in the court of hearing on the date for statement hearing without reasonable grounds, the request for making a statement is deemed to have been withdrawn.

(7) The provisions of Article 71 apply mutatis mutandis to statement hearings.

(Decision of the Court of Hearing Based on a Draft of their Decision)

Article 78 (1) The Commission may, after the period referred to in Article 75 elapses (if a request for making a statement has been filed based on the

provisions of Article 63 of the Act, after giving an opportunity to make the statement), immediately render a decision which is the same as the draft of decision of the court of hearing, if it finds the draft of decision of the court of hearing to be appropriate after having examined the draft of the decision of court of hearing based on the case record submitted pursuant to the provisions of Article 73, the written objection submitted pursuant to the provisions of Article 75, and the statement made pursuant to the provisions of the preceding Article.

- (2) Based on the examination result referred to in the preceding paragraph, if the Commission finds that the requestor has grounds for filing an objection or making a statement, or if the Commission otherwise finds it to be necessary, they may render a decision different from the draft of decision of the court of hearing, or directly hold a hearing on the case, or order the hearing officer to reopen the hearing procedures by giving instructions to the hearing officer as to the points that needs to be re-examined.

(Reopening of Hearing Proceedings After a Draft of Decision of the Court of Hearing is Submitted)

Article 79 The Commission must, if the Commission has held a hearing pursuant to the provisions of paragraph (2) of the preceding Article or has made a decision to order the hearing officer to reopen the hearing procedures, prepare a written decision and serve a transcript thereof to the respondent or their agent.

(Written Decision)

Article 80 (1) If a decision of the court of hearing is rendered pursuant to the provisions of Article 66 of the Act, the main text of the judgement and evidence must be included in the written decision in addition to the particulars prescribed in Article 70-2, paragraph (1) of the Act; provided, however, that the evidence may not be included in the written decision if a decision of the court of hearing is rendered pursuant to the provisions of Article 66, paragraph (1) of the Act.

- (2) A transcript of the written decision must be served to the respondent or their agent.

(Decisions to Make Corrections)

Article 81 (1) When a written decision contains any clerical error or any other obvious error, the Commission may make a decision to make corrections ex officio or upon motion.

- (2) An objection against a decision to make corrections may be filed with the Commission by submitting a document within two weeks from the date on

which the transcript of the written decision is served.

- (3) When the Commission rejects the objection referred to in the preceding paragraph, they must notify the rejection thereof to the requestor.

(Hearing Procedures After a Decision to Remand the Case Becomes Final and Binding)

Article 82 (1) When a case is remanded pursuant to the provisions of Article 81, paragraph (3) of the Act, the Commission must promptly determine the date of hearing.

- (2) The Commission may, if they find it appropriate, have a hearing officer carry out the hearing procedures after the case has been remand, in the case referred to in the preceding paragraph.

Form No. 1 (The paper size of the form must be the A4 size under the Japanese Industrial Standards.)

Form No. 2 (The paper size of the form must be the A4 size under the Japanese Industrial Standards.)