

Rules on Japan Fair Trade Commission Commitment Procedures

(Fair Trade Commission Rule No. 1 of January 25, 2017)

The Rules on Japan Fair Trade Commission Commitment Procedures are established as follows, pursuant to the provisions of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947).

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Chapter I General Provisions

(Purpose of and Definitions in These Rules)

Article 1 (1) Beyond what is provided for in the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947; hereinafter referred to as "the Act"), the commitment procedures (meaning the procedures referred to in Articles 48-2 through 48-9 of the Act; the same applies hereinafter) carried out by the Fair Trade Commission (hereinafter referred to as "the Commission") are governed by these Rules.

(2) The terms used in these Rules that are the same as those used in the Act are

used here with the same meanings as in the Act.

(Calculation of Periods of Time)

Article 2 (1) Periods of time are calculated in accordance with the provisions of the Civil Code (Act No. 89 of 1896) that concern periods of time.

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

(Language Used)

Article 3 Japanese is the language used for commitment procedures.

(Means of Effecting Service by Publication)

Article 4 The Commission may publish the fact that service by publication has been carried out, in the Official Gazette or a newspaper. For service in a foreign country, the Commission may notify the relevant parties that service by publication has been carried out, instead of publishing this in the Official Gazette or a newspaper.

(Preparation of Documents)

Article 5 (1) Except as otherwise provided, any document that is to be prepared in commitment procedures must be dated, and must be signed or bear the name and seal of the person in question.

(2) If a document referred to in the preceding paragraph is a certified copy that is to be prepared by the Commission, the official who prepares it must add a note adjacent to the written content indicating that the certified copy is identical to the original, and must affix their name and seal to the certified copy and affix their seal across the boundary of each page to confirm continuation, or take other similar measures.

(Correction of Documents)

Article 6 Text must not be altered to prepare documents in commitment procedures. If text is added, deleted or, written in the margin of a page, a seal of approval must be affixed to it. In such a case, the original text must be left in the document in a way that makes it possible to read the part that has been deleted.

Chapter II Notice Under the Provisions of Article 48-2 of the Act

(Service of Notices)

Article 7 The Commission is to give the notice under the provisions of Article 48-

2 of the Act by serving the person engaging in the acts that gave rise to the suspicion or that person's agent with a document giving the particulars set forth in the items of that Article.

Chapter III Commitment Plans

Section 1 Applying for Approval of Commitment Plans

(How to Apply for Approval of a Commitment Plan)

Article 8 (1) A person seeking to file an application under the provisions of Article 48-3 (1) of the Act must submit to the Commission an application using Form No.1.

- (2) The application referred to in the preceding paragraph is to be accompanied by the following documents. In such a case, if any of the documents have not been prepared in Japanese, a Japanese translation must accompany it:
- (i) documents showing that the commitment measures are sufficient in terms of ceasing the acts giving rise to suspicion;
 - (ii) documents showing that the commitment measures are expected to be implemented reliably;
 - (iii) documents giving other particulars that should serve as a reference to enable the Commission to give the approval referred to in Article 48-3 (3) of the Act.

Article 9 A person that has filed an application under the provisions of Article 48-3 (1) of the Act (hereinafter referred to as the "applicant" from this Section through Section 3) may submit to the Commission a written report giving the details of any change that occurs to a particular that has been stated in the application documents, until the end of the period referred to in that paragraph; provided, however, that this does not apply if an administrative disposition has already been made in connection with that application.

Article 10 When submitting documents pursuant to the preceding two Articles, a person must make their submission to the Commission by any of the means set forth in the following items, or through a combination of them:

- (i) by bringing them in person;
- (ii) by sending them through registered mail, through correspondence delivery services provided for in Article 2 (2) of the Act on Correspondence Delivery by Private Sector Operators (Act No. 99 of 2002) which are provided by a general correspondence delivery service as provided in Article 2 (6) of that Act or by a specified correspondence delivery service as provided in Article 2 (9) of that Act and in which acceptance and delivery are recorded, or by other equivalent means.

Article 11 An applicant may make additional submissions consisting of the documents provided for in Article 8 (2) (iii) at any time, from the date of the application up until the administrative disposition is made in connection with that application.

Section 2 Approval

(Service of the Written Approval)

Article 12 A certified copy of the written approval provided for in Article 48-3 (5) of the Act must be served on the applicant or their agent.

Section 3 Dismissal

(Service of the Written Decision)

Article 13 (1) A certified copy of the written decision provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 48-3 (7) of the Act, must be served on the applicant or their agent.

(2) The written decision referred to in the preceding paragraph must include the following:

- (i) a statement that the application for approval of the commitment plan has been dismissed;
- (ii) the reason for the dismissal.

Section 4 Modifications to Approved Commitment Plans

(How to Apply for Approval of Modifications to Approved Commitment Plans)

Article 14 (1) A person that has received the approval referred to in Section 48-3, paragraph (3) of the Act and that seeks to modify the commitment plan that is subject to that approval (hereinafter referred to as the "approved commitment plan" in this Section) pursuant to the provisions of paragraph (8) of that Article must submit to the Commission an application using Form No.2.

(2) The application referred to in the preceding paragraph is to be accompanied by the following documents. In such a case, if any of the documents has not been prepared in Japanese, a Japanese translation must accompany it:

- (i) documents showing that the commitment measures are sufficient in terms of ceasing the acts giving rise to suspicion;
- (ii) documents showing that the commitment measures are expected to be implemented reliably;
- (iii) documents giving other particulars that should serve as a reference to

enable the Commission to give the approval for modifications under the provisions of Article 48-3 (8) of the Act.

Article 15 A person that has filed an application for approval of modifications to an approved commitment plan (hereinafter referred to as the "applicant" in this Section) may submit to the Commission a written report giving the details of any change that occurs to a particular that has been stated in the application documents, up until the time that an administrative disposition is made in connection with that application.

Article 16 The provisions of Article 10 apply mutatis mutandis when a person submits documents pursuant to the provisions of the two preceding Articles.

Article 17 An applicant may make additional submissions consisting of the documents provided for in Article 14 (2) (iii) at any time, from the date of the application up until the administrative disposition is made in connection with that application.

(Service of the Written Approval)

Article 18 A certified copy of the written approval provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis pursuant to Article 48-3 (9) of the Act, must be served on the applicant or their agent.

(Service of the Written Decision)

Article 19 (1) A certified copy of the written decision provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 48-3 (7) of the Act, as applied mutatis mutandis pursuant to Article 48-3 (9) of the Act, must be served on the applicant or their agent.

(2) The written decision referred to in the preceding paragraph must include the following:

- (i) a statement that the application for approval of modifications to the approved commitment plan has been dismissed;
- (ii) the reason for the dismissal.

Chapter IV Rescission of Approval for Commitment Plans

(Service of the Written Decision)

Article 20 (1) A certified copy of the written decision provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 48-5 (2) of the Act, must be served on the person

that has received the approval or their agent.

- (2) The written decision referred to in the preceding paragraph must include the following:
- (i) a statement that the approval of a commitment plan has been rescinded;
 - (ii) the reason for the rescission.

Chapter V Notice Under the Provisions of Article 48-6 of the Act

(Service of Notices)

Article 21 Notice under the provisions of Article 48-6 of the Act is to be given by serving the person set forth in paragraph (1), item (i) of that Article or their agent with a document giving the particulars set forth in item (ii) of that Article.

Chapter VI Plans to Ensure Cessation

Section 1 Applying for Approval of Plans to Ensure Cessation

(How to Apply for Approval of a Plan to Ensure Cessation)

Article 22 (1) A person seeking to file an application under the provisions of Section 48-7(1) of the Act must submit to the Commission an application using Form No.3.

- (2) The application referred to in the preceding paragraph is to be accompanied by the following documents. In such a case, if any of the documents has not been prepared in Japanese, a Japanese translation must accompany it:
- (i) documents showing that the measures to ensure cessation are sufficient to ensure that the acts giving rise to suspicion have ceased;
 - (ii) documents showing that the measures to ensure cessation are expected to be implemented reliably;
 - (iii) documents giving other particulars that should serve as a reference to enable the Commission to give the approval referred to in Article 48-7 (3) of the Act.

Article 23 A person that has filed an application under the provisions of Article 48-7 (1) of the Act (hereinafter referred to as the "applicant" from this Section through Section 3) may submit to the Commission a written report giving the details of any change that occurs to a particular that has been stated in the application documents, until the end of the period referred to in that paragraph; provided however, that this does not apply if an administrative disposition has already been made in connection with that application.

Article 24 The provisions of Article 10 apply mutatis mutandis when a person

submits documents pursuant to the provisions of the two preceding Articles.

Article 25 An applicant may make additional submissions consisting of the documents provided for in Article 22 (2) (iii) at any time, from the date of the application up until the administrative disposition is made in connection with that application.

Section 2 Approval

(Service of the Written Approval)

Article 26 A certified copy of the written approval provided for in Article 48-3 (5) of the Act as applied mutatis mutandis pursuant to Article 48-7 (4) of the Act must be served on the applicant or their agent.

Section 3 Dismissal

(Service of the Written Decision)

Article 27 (1) A certified copy of the written decision provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 48-7 (6) of the Act, must be served on the applicant or their agent.

(2) The written decision referred to in the preceding paragraph must include the following:

- (i) a statement that the application for approval of the plan to ensure cessation has been dismissed;
- (ii) the reason for the dismissal.

Section 4 Modifications to Approved Plans to Ensure Cessation

(How to Apply for Approval of Modifications to Approved Plans to Ensure Cessation)

Article 28 (1) A person that has received the approval referred to in Article 48-7 (3) of the Act and that seeks to modify the plan to ensure cessation that is subject to that approval (hereinafter referred to as the "approved plan to ensure cessation" in this Section) pursuant to the provisions of paragraph (7) of that Article must submit to the Commission an application using Form No.4.

(2) The application referred to in the preceding paragraph is to be accompanied by the following documents. In such a case, if any of the documents has not been prepared in Japanese, a Japanese translation must accompany it:

- (i) documents showing that the measures to ensure cessation are sufficient for ensuring that the acts giving rise to suspicion have ceased;

- (ii) documents showing that the measures to ensure cessation are expected to be implemented reliably;
- (iii) documents giving other particulars that should serve as a reference to enable the Commission to give the approval under the provisions of Article 48-7 (7) of the Act.

Article 29 A person that has filed an application for approval of modifications to an approved plan to ensure cessation (hereinafter referred to as the "applicant" in this Section) may submit to the Commission a written report giving the details of any change that occurs to a particular that has been stated in the application documents, up until the time that an administrative disposition is made in connection with that application.

Article 30 The provisions of Article 10 apply mutatis mutandis when a person submits documents pursuant to the provisions of the two preceding Articles.

Article 31 An applicant may make additional submissions consisting of the documents provided for in Article 28 (2) (iii) at any time, from the date of the application up until the administrative disposition is made in connection with that application.

(Service of the Written Approval)

Article 32 A certified copy of the written approval provided for in Article 48-3 (5) of the Act as applied mutatis mutandis pursuant to Article 48-7 (4) of the Act, as applied mutatis mutandis pursuant to Article 48-7 (8) of the Act, must be served on the applicant or their agent.

(Service of the Written Decision)

Article 33 (1) A certified copy of the written decision provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 48-7 (6) of the Act, as applied mutatis mutandis pursuant to Article 48-7 (8), must be served on the applicant or their agent.

(2) The written decision referred to in the preceding paragraph must include the following:

- (i) a statement that the application for approval of modifications to the approved plan to ensure cessation has been dismissed;
- (ii) the reason for the dismissal.

Chapter VII Rescission of Approval of Plans to Ensure Cessation

(Service of the Written Decision)

- Article 34 (1) A certified copy of the written decision provided for in Article 48-3 (5) of the Act, as applied mutatis mutandis following the deemed replacement of terms pursuant to Article 48-9 (2) of the Act, must be served on the person that has received the approval or their agent.
- (2) The written decision referred to in the preceding paragraph must include the following:
- (i) a statement that the approval of the plan to ensure cessation has been rescinded;
 - (ii) the reason for the rescission.

Chapter VIII Auxiliary Provisions

(Submission of Documents by Facsimile)

- Article 35 (1) Documents to be submitted in commitment procedures may be submitted by facsimile, excluding the following:
- (i) application forms;
 - (ii) documents accompanying application forms (other than those submitted pursuant to the provisions of Article 11, Article 17, Article 25, and Article 31);
 - (iii) written reports.
- (2) If a document has been submitted by facsimile, it is deemed to have been submitted to the Commission at the time that the Commission received the transmission.
- (3) In a case provided for in the preceding paragraph, the Commission may have the submitter submit the documents used to make the transmission, if it finds this to be necessary.

(Omission of Signatures and Seals)

- Article 35-2 (1) A person may omit a signature or seal from documents to be submitted in commitment procedures, if their name appears on the document in its place.
- (2) In a case provided for in the preceding paragraph, a Commission official is to verify the content of a document referred to in the preceding paragraph by instructing the submitter to submit a document evidencing its authenticity or by other means, if the official finds this to be necessary.

(Withdrawing an Application)

- Article 36 (1) An application under the provisions of these Rules may be withdrawn at any time up until the administrative disposition is made in connection with that application.
- (2) The withdrawal of an application under the provisions of the preceding

paragraph must be done in writing.

(Decision to Make Corrections)

Article 37 (1) If there is a clerical or other clear error in a written approval or written decision, the Commission may correct the error on its own authority or pursuant to a petition.

(2) An objection to a decision to make corrections may be filed with the Commission in writing, within two weeks from the date on which service of the certified copy of the written decision was effected.

(3) If the Commission dismisses an objection referred to in the preceding paragraph, it must notify the person that filed the objection of this.

Supplementary Provisions

These Rules come into effect as from the date of enforcement of the Act on the Development of Related Legislation Following the Conclusion of the Trans-Pacific Partnership Agreement and the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (Act No. 108 of 2016).

Supplementary Provisions [Fair Trade Commission Rule No.2 of July 18, 2018]

These Rules come into effect as of the date of promulgation.

Supplementary Provisions [Fair Trade Commission Rule No. 1 of May 10, 2019]

These Rules come into effect as of the date of promulgation.

Supplementary Provisions [Fair Trade Commission Rule No. 2 of June 28, 2019]

These Rules come into effect as of July 1, 2019.

Supplementary Provisions [Fair Trade Commission Rule No. 7 of December 25, 2020]

These Rules come into effect as of December 25, 2020.