

Rules on Japan Fair Trade Commission Investigations

(Fair Trade Commission Rule No. 5 of October 19, 2005)

The Rules on Investigations by the Japan Fair Trade Commission are established as follows based on the provisions of Article 76 (1) of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 54 of 1947).

Table of Contents

Chapter I General Provisions (Articles 1 through 6)

Chapter II Investigation Procedures

Section 1 General Investigations (Articles 7 through 23)

Section 1-2 Handling of Items Containing Records of Specified
Communications (Articles 23-2 through 23-5)

Section 1-3 Method of Estimation in Calculation of Surcharges (Articles 23-6)

Section 2 Service of Written Cease and Desist Orders (Articles 24 and 25)

Section 3 Warnings (Articles 26 to 28)

Chapter III Auxiliary Provisions (Articles 29 to 31)

Supplementary Provisions

Chapter I General Provisions

(Purpose of and Definitions in These Rules)

Article 1 (1) The investigation procedures of the Japan Fair Trade Commission (hereinafter referred to as "the Commission") are as prescribed 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 Cabinet Order on Designation of Investigators as prescribed in Article 47 (2) of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Cabinet Order No. 264 of 1953; hereinafter referred to as "Cabinet Order on Designation of Investigators"); provided, however, that the procedures for reporting facts and submitting materials regarding reduction of or release from surcharges, commitment procedures (meaning the procedures referred to in Articles 48-2 through 48-9 of the Act), and procedures for hearing of opinions conducted by the Commission are as

otherwise provided for separately.

- (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) concerning 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 (1) Japanese is the language used for investigation procedures.

- (2) If the Commission has a person who cannot communicate in Japanese give a statement, it must have an interpreter interpret.

(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, a document that is to be prepared in investigation procedures must be dated, and must 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 investigation 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 Investigation Procedures

Section 1 General Investigations

(Initiation of Investigation Procedures)

- Article 7 (1) When the Director General of the Economic Affairs Bureau or Investigation Bureau of the General Secretariat becomes aware of a fact triggering a case, they must report this to the Commission, including their opinion on the need to conduct an investigation.
- (2) The Director General must make the following particulars as clear as possible in the report referred to in the preceding paragraph:
- (i) the trigger;
 - (ii) a summary of the facts of the case; and
 - (iii) the relevant provisions of the Act.
- (3) In a case referred to in paragraph (1), the Commission is to designate an investigator for a case for which it finds that a disposition provided for in Article 47, paragraph (1) of the Act is necessary, and assign the investigator to investigate the case based on Article 47, paragraph (2) of the Act and the Cabinet Order on the Designation of Investigators.

(Investigator's Identification Card)

- Article 8 The format of the identification card that indicates the status referred to in Article 47, paragraph (3) of the Act is as shown in the appended form.

(Disposition by an Investigator)

- Article 9 (1) When an investigator carries out a disposition provided for in Article 47, paragraph (1) of the Act based on the provisions of Article 47, paragraph (2) of that Act, they must do so after serving the documents that each of the following items prescribes for the category that item prescribes:
- (i) if a person concerned with a case or a witness is being ordered to appear for interrogation: a written order to appear;
 - (ii) if an opinion or report is being collected from a person set forth in the preceding item: a written order to report;
 - (iii) if an expert is being ordered to appear to provide an expert opinion: a written order to provide an expert opinion; and
 - (iv) if a person in possession of books, documents, or other such items is being ordered to submit the items: a written submission order.
- (2) The documents referred to in the preceding paragraph must give the following information, and a seal to confirm continuation must be affixed across the boundary of each page:
- (i) the title of the case;
 - (ii) the name or title of the other party;

- (iii) what the other party is being asked for;
 - (iv) in the case of a written order to appear or a written submission order, the date and place of the appearance or submission; and
 - (v) legal sanctions in the event of noncompliance with the order.
- (3) A written submission order must state the items that the person is ordered to submit or be accompanied by a list stating those items.

(Preparation of Written Evidence)

- Article 10 (1) An official of the Commission, when preparing a written evidence provided for in this Section for a case based on the provisions of Article 48 of the Act, must state the date of its preparation and the name of the bureau, and affix their signature and seal to the written evidence.
- (2) If any letter or character has been added, deleted, or indicated in the margin of a page in preparing the written evidence referred to in the preceding paragraph, the number added, deleted, or indicated must be stated in the written evidence.
- (3) Documents, photographs, and other appropriate items may be cited; an official may make these a part of the written evidence referred to in paragraph (1) by annexing them to that written evidence.
- (4) A seal to confirm page continuation must be affixed across the boundary of each page of the written evidence referred to in paragraph (1).

(Record of Interrogation)

- Article 11 (1) If an investigator has interrogated a person concerned with a case or witness pursuant to the provisions of Article 47, paragraph (1), item (i) of the Act based on the provisions of Article 47, paragraph (2) of the Act, the investigator must prepare a record of the interrogation, read it to the deponent or have the deponent inspect it, ask the deponent whether it contains any errors, and if the deponent petitions for any addition, deletion, or change to the record, enter the deponent's statement into the record.
- (2) If the deponent states that there are no errors in the written evidence referred to in the preceding paragraph, the investigator may ask the deponent to sign and seal the record.
- (3) In a case referred to in the preceding paragraph, if the deponent is unable to sign the record, another person may sign on their behalf, and if the deponent is unable to affix a seal to the record, the deponent is to affix their fingerprint thereto; provided, however, that if another person signs on behalf of the deponent, that person must state the grounds for this in the record and sign and seal it.
- (4) In the case referred to in paragraph (2), if the deponent refuses to sign and seal the record, an indication of this is to be entered into the record.

(Special Provisions for Interrogation Through an Interpreter)

- Article 12 (1) If an investigator has interrogated a person concerned with a case or a witness through an interpreter, the investigator must state this in the record of the interrogation, as well as the fact that the investigator read the record to the person through an interpreter.
- (2) The investigator may ask the interpreter to sign and seal the record referred to in the preceding paragraph.

(Written Statement)

- Article 13 (1) If a person concerned with a case or a witness has voluntarily given a statement and a Commission official finds it to be necessary, the official is to prepare a written statement which records the statement.
- (2) The provisions of the preceding two Articles apply mutatis mutandis to the record referred to in the preceding paragraph.

(Written Expert Opinion)

- Article 14 If an investigator has had an expert give an expert opinion pursuant to the provisions of Article 47, paragraph (1), item (ii) of the Act based on the provisions of Article 47, paragraph (2) of the Act, the investigator must have the expert make a written report on the progress and outcome of their expert opinion.

(Retention Record)

- Article 15 (1) If an investigator retains a submitted item pursuant to the provisions of Article 47, paragraph (1), item (iii) of the Act based on the provisions of Article 47, paragraph (2) of the Act, the investigator must prepare a retention record.
- (2) The record referred to in the preceding paragraph must state the title of the case, the name, occupation and address or workplace of the owner and the sender of the retained items, and the date and place of retention.
- (3) A list of the retained items must be attached to the record referred to in paragraph (1).

(Notifying the Relevant Persons in Connection with Retained Items)

- Article 16 (1) If an investigator retains a submitted item pursuant to the provisions of Article 47, paragraph (1), item (iii) of the Act based on the provisions of Article 47, paragraph (2) of the Act, the investigator must notify the sender that the items have been retained in writing.
- (2) A copy of the list referred to in paragraph (3) of the preceding Article must accompany the document referred to in the preceding paragraph.

(3) A copy of the list referred to in paragraph (3) of the preceding Article must be issued if the owner of the retained item so requests.

(Return or Temporary Return of the Retained Items)

Article 17 (1) A retained item that no longer needs to be retained must be returned without waiting for the case to be closed.

(2) A retained item may be temporarily returned at the request of its owner or sender.

(Inspection and Copying of Items Ordered to Be Submitted)

Article 18 (1) A person ordered to submit books, documents, and other such items pursuant to the provisions of Article 47, paragraph (1), item (iii) of the Act may inspect or copy those items; provided, however, that this does not apply if the inspection and copying of the items would impede the investigation of the case.

(2) When allowing a person to inspect or copy an item pursuant to the provisions of the preceding paragraph, an investigator is to designate the date and time, place, and method, taking into consideration the opinion of the person ordered to submit the item.

(Voluntarily Submitted Documents)

Article 19 If a Commission official finds it to be necessary to do so when accepting books, documents, or other such items that a person concerned with a case or witness has voluntarily submitted, the official is to ask the person to submit a document that states the names, occupations, and addresses of the owner and the sender of the submitted items, as well as a list of the items and the date of submission.

(Notification of Alleged Facts)

Article 20 When carrying out an inspection pursuant to the provisions of Article 47, paragraph (1), item (iv) of the Act based on the provisions of Article 47, paragraph (2) of the Act, an investigator is to deliver a document stating the following information to the persons concerned:

(i) the title of the case;

(ii) an outline of the alleged facts in violation of the Act; and

(iii) the relevant Articles of the Act.

(Inspection Records)

Article 21 (1) When an investigator has carried out an inspection pursuant to the provisions of Article 47, paragraph (1), item (iv) of the Act based on the provisions of Article 47, paragraph (2) of the Act, the investigator must prepare

an inspection record.

- (2) The record referred to in the preceding paragraph must state the title of the case, the purpose, date, time, and place of inspection, the name and occupation of the person present at the inspection, and the results of the inspection.

(Filing of an Objection to an Investigator's Disposition)

Article 22 (1) If a person subject to a disposition provided for in the items of Article 47, paragraph (1) of the Act that was made by an investigator based on the provisions of Article 47, paragraph (2) of the Act is dissatisfied with the disposition, the person may file an objection with the Commission within one week from the day the person became subject to the disposition, by means of a document stating the grounds for objection.

- (2) If the Commission finds that there are grounds for filing an objection, it is to order the investigator to withdraw, rescind, or change the disposition against which the objection was filed and notify the petitioner.
- (3) If the Commission dismisses an objection, it must notify the petitioner of this. In such a case, it must indicate the grounds for this.

(Report on the Investigation Results)

Article 23 (1) Once the investigation of a case has been closed, the Director General of the Economic Affairs Bureau or Investigation Bureau of the General Secretariat must promptly report the results to the Commission.

- (2) In the case referred to in the preceding paragraph, if an investigator has made a disposition provided for in Article 47, paragraph (1) of the Act based on the provisions of Article 47, paragraph (2) of the Act, the following particulars must be made clear in the report:
 - (i) the trigger;
 - (ii) the investigation process;
 - (iii) a summary of the facts of the case;
 - (iv) the relevant Articles of the Act; and
 - (v) the opinion of the investigator.

Section 1-2 Handling of Items Containing Records of Specified Communications

(Handling of Items Containing Records of Specified Communications)

Article 23-2 (1) If an investigator issues an order to submit accounting books, documents, or any other such item pursuant to the provisions of Article 47 (1)(iii) of the Act based on the provisions of Article 47 (2) of the Act (limited to when that order is issued in a case involving an act that is suspected to be a violation prescribed in Article 7-2 (1) of the Act (including as applied mutatis

mutandis pursuant to Article 8-3 of the Act following the deemed replacement of terms) for which it is has been established that immunity from or reduction of the surcharge set forth in Article 7-4 or Article 7-5 of the Act is applicable (such a violation is referred to as a "violation to which the leniency program applies" in Article 23-3 (1)(iii)) (an act suspected of being such a violation is referred to as an "act suspected of being a violation subject to the leniency program" hereinafter)), but the person in possession of the item (limited to the enterprise engaging in the act suspected of being a violation subject to the leniency program (or a constituent enterprise of the trade association that committed the act suspected of being a violation subject to the leniency program, if that act is suspected of being a violation provided for in Article 7-2 (1) of the Act as applied mutatis mutandis pursuant to Article 8-3 of the Act following the deemed replacement of terms; hereinafter the same) or an officer or employee of the same) makes a written submission indicating that the item contains a record of the substance of privileged communications that have taken place between the enterprise and an attorney (including a law firm; but only if the attorney's law practice is independent from the relevant enterprise) concerning a legal opinion about the act suspected of being a violation subject to the leniency program (such communication is referred to as "specified communications" hereinafter) and asks, in writing, for the handling set forth in the following Article; and if the item bears a notation that it contains a record of the substance of specified communications, and the investigator finds that the item appears to be being stored separately from other items in a specific place of storage (limited to a place managed by the division or an officer or employee of the enterprise that handles the work involved in consulting with attorneys; hereinafter the same applies in Article 23-3 (1)(v)), the investigator is to issue the order to submit the item after having placed it under seal, and is to retain it.

- (2) Unless there are extraordinary circumstances, for each of the specified communications, the enterprise that a request referred to in the preceding paragraph involves (hereinafter referred to as the "specified party") must submit to the Commission a document concerning the item retained pursuant to the provisions of the preceding paragraph (hereinafter individually referred to as a "specified item"), stating the item's title, the date it was prepared or acquired, the persons that engaged in the specified communications, the persons with knowledge of their content, the item's place of storage, and an outline and other necessary particulars (such a document is referred to as a "log" in Article 23-3 (1)(vi)) within two weeks from the day on which the submission order referred to in the preceding paragraph was issued.

(Handling of Specified Items)

Article 23-3 (1) If it is confirmed that the specified item meets all of the conditions referred to in the following items, it is to be decided that it is no longer necessary for the item to be retained, and it is to be returned without waiting for the case to be closed:

- (i) it contains a record of the content of specified communications;
 - (ii) it does not include a record of the facts on which the content of the specified communications is based or any other record whose content is outside the scope of the content of the specified communications, or, if it does include a record whose content is outside the scope of the content of the specified communications, the specified party has submitted or reported to the Commission something of the same content;
 - (iii) it does not contain a record whose content concerns the commission of a violation to which the leniency program applies, the facilitation of its commission, the obstruction of an inspection or any other illegal conduct;
 - (iv) the specified item bears an indication on its surface, or on any other such easily visible place, to show that it is an item containing a record of the content of specified communications;
 - (v) the specified item has been being stored appropriately as, in addition to bearing the indication provided for in the preceding item, it is being stored visibly separately from things other than itself in a specific storage place, and measures are being taken with respect to the scope of persons who know the content of the specified communications with the aim of keeping this confidential; and
 - (vi) the log contains no misrepresentations.
- (2) An official engaged in the investigation of a case involving an act suspected of being a violation subject to the leniency program referred to in paragraph (1) of the preceding Article is not to inspect or copy a specified item related to that case (excluding, however, an item corresponding to the item that is submitted or reported pursuant to item (ii) of the preceding paragraph), neither while the confirmation referred to in the preceding paragraph is taking place, nor once it has been confirmed that all of the conditions referred to in the items of the preceding paragraph have been met.

(Procedures for Confirmations Respecting Specified Items)

Article 23-4 (1) The confirmation referred to in paragraph (1) of the preceding Article is carried out by an official that the Commission designates from among officials of the Secretariat of the General Secretariat, for each case involving an act suspected of being a violation subject to the leniency program (hereinafter referred to in this Article and the following Article as the "assessing officer").

(2) The Commission is not to designate an official who has been engaged in work

related to the investigation of a case involving an act suspected of being a violation subject to the leniency program referred to in Article 23-3 (1), as the assessing officer for that case, and it is not to allow any official who has been designated as an assessing officer in such a case engage in the investigation of that case.

- (3) The assessing officer is to ask the specified party to submit materials or provide other such necessary cooperation if the officer finds it necessary do so in order to carry out the confirmation referred to in paragraph (1) of the preceding Article.
- (4) If the assessing officer confirms that a specified item satisfies all of the conditions referred to in the items of paragraph (1) of the preceding Article, the officer is to notify the specified party of this.
- (5) If the assessing officer confirms that a specified item does not satisfy a condition referred to in one of the items of paragraph (1) of the preceding Article, the officer is to notify the specified party of this and of the reason.

(Inspection and Copying of Specified Items)

Article 23-5 The provisions of Article 18 apply mutatis mutandis to the inspection and copying of a specified item. In such a case, the term "investigation of a case" in Article 18 (1) is deemed to be replaced with "investigation of a case or confirmation by an assessing officer".

Section 1-3 Method of Estimation in Calculation of Surcharges

(Method of Estimation in Calculation of Surcharges)

- Article 23-6 (1) The reasonable method provided in the Rules of the Fair Trade Commission which is provided for in Article 7-2 (3) of the Act (including as applied mutatis mutandis pursuant to Article 8-3 of the Act following the deemed replacement of terms) is the method of first dividing the amounts set forth in the items of Article 7-2 (1) of the Act (including as applied mutatis mutandis pursuant to Article 8-3 of the Act following the deemed replacement of terms) for the part of the period of implementation during which the fact that serves as the basis of calculation for the surcharge has been detected, by the number of days in that part of the period, and then multiplying the amounts arrived at by the number of days in the period of implementation during which that fact cannot be detected.
- (2) The reasonable method provided in the Rules of the Fair Trade Commission which is provided for in Article 7-2 (3) of the Act as applied mutatis mutandis pursuant to Article 7-9 (3) of the Act following the deemed replacement of terms is the method of first dividing the amounts set forth in the items of Article 7-9 (1) of the Act for the part of the period of implementation during

which the fact that serves as the basis of calculation for the surcharge has been detected, by the number of days in that part of the period, and then multiplying the amounts arrived at by the number of days in the period of implementation during which that fact cannot be detected.

- (3) The reasonable method provided in the Rules of the Fair Trade Commission which is provided for in Article 7-2 (3) of the Act as applied mutatis mutandis pursuant to Article 7-9 (4) of the Act following the deemed replacement of terms is the method of first dividing the amount prescribed in Article 7-9 (2) of the Act for the part of the period of violation during which the fact that serves as the basis of calculation of the surcharge is detected, by the number of days in that part of the period, and then multiplying the amount arrived at by the number of days in the period of violation during which that fact cannot be detected.
- (4) The reasonable method provided in the Rules of the Fair Trade Commission which is provided for in Article 7-2 (3) of the Act as applied mutatis mutandis pursuant to Article 20-7 of the Act following the deemed replacement of terms is the method of first dividing the amounts prescribed in Articles 20-2 to 20-6 of the Act for the part of the period of violation during which the fact that serves as the basis of calculation for the surcharge is detected, by the number of days in that part of the period, and then multiplying the amounts arrived at by the number of days in the period of violation during which that fact cannot be detected.

Section 2 Service of Written Cease and Desist Orders

(Service of Written Cease and Desist Orders and Similar Documents)

- Article 24 (1) A certified copy of a written cease and desist order, written surcharge payment order, or written competition restoration order, or of a written decision prescribed in Section 2 of Chapter VIII of the Act (hereinafter referred to as a "written cease and desist order or similar document") must be served on the addressee or their agent.
- (2) When a certified copy of a written cease and desist order or similar document is served, it is to be accompanied by a notice indicating that an action to revoke the cease and desist order or similar disposition may be brought, if this is the case.

(Notifying an Enterprise Not Being Ordered to Pay a Surcharge)

- Article 25 (1) The Commission is to give the notice under the provisions of Article 7-4 (7) of the Act (including as applied mutatis mutandis pursuant to Article 8-3 of the Act following the deemed replacement of terms; the same applies in the following paragraph) and Article 7-7 (3) of the Act (including as

- applied mutatis mutandis pursuant to Article 7-9 (3) or Article 7-9 (4) of the Act following the deemed replacement of terms; the same applies in the following paragraph) by serving a document indicating that this is the case.
- (2) The time provided in the Rules of the Commission which is provided for in Article 7-4 (7) and Article 7-7 (3) of the Act, is the time at which an enterprise other than the relevant enterprise is notified that an order under the provisions of Article 7-2 (1) (including as applied mutatis mutandis pursuant to the provisions of Article 8-3 of the Act following the deemed replacement of terms), or Article 7-9 (1) or Article 7-9 (2) will not be issued.

Section 3 Warnings

(Warnings)

- Article 26 (1) The Commission gives warnings (meaning instructions that the Commission gives to an enterprise or trade association to cease, or refrain from resuming, or take other necessary action with regard to acts that it finds are or were likely to be in violation of the provisions of Article 3, Article 6, Article 8, or Article 19 of the Act; the same applies in the following paragraph and Article 30) in writing; it indicates the purpose and details of the warning in the written warning itself, and the Director General of the Investigation Bureau of the General Secretariat must cause their name and seal to be affixed to it.
- (2) A written warning must be sent to the addressee or their agent.
- (3) Before the Commission issues a warning, it must first give the person that would be the addressee of the warning an opportunity to express an opinion and submit evidence.
- (4) A person that will become the addressee of a warning may appoint an agent (limited to an attorney-at-law, legal professional corporation, or other appropriate person approved by the Fair Trade Commission) to express an opinion or submit evidence pursuant to the provisions of the preceding paragraph.
- (5) When the Commission gives a person that would become the addressee of a warning an opportunity to express an opinion and submit evidence pursuant to the provisions of paragraph (3), it must notify the person of the following particulars in writing, leaving a sufficient period of time prior to the deadline for expressing an opinion and submitting evidence:
- (i) the purpose and details of the planned warning; and
 - (ii) the fact that the person may express an opinion in writing and submit evidence on the particulars set forth in the preceding item to the Commission, and the deadline for doing so.
- (6) If the Commission finds that there is a justifiable reason to do so, it may extend the deadline provided for in item (ii) of the preceding paragraph on its

own authority or pursuant to a petition.

(Certification of the Status of Agents)

Article 27 (1) The status of an agent referred to in paragraph (4) of the preceding Article must be certified in writing.

(2) If an agent referred to in paragraph (4) of the preceding Article loses the status of agent, the person that appointed the agent must promptly file written notification of this with the Commission.

(Format for Statements of Opinion)

Article 28 (1) A person that has been notified as referred to in Article 26, paragraph (5) may state an opinion in writing to the Commission regarding the particulars set forth in Article 26 (5) (i) and provide the Commission with evidence, by the designated deadline.

(2) If a person submits evidence under the provisions of the preceding paragraph, the person must clarify what matter it is meant to prove.

(3) Notwithstanding the provisions of paragraph (1), if the Commission finds it particularly necessary to do so, it may have a person state an opinion orally. In such a case, the Commission is to designate an official to hear the opinion, and is to notify the person seeking to state the opinion of the date, time, and place for stating it.

(4) Before notifying a person pursuant to the provisions of the preceding paragraph, the Commission is to first hear the opinion of the person seeking to state the opinion, regarding the date, time, and place for the opinion to be heard.

Chapter III Auxiliary Provisions

(Notifying the Reporting Person)

Article 29 (1) Notice under the provisions of Article 45, paragraph (3) of the Act is to be given if the report under the provisions of paragraph (1) of that Article was made using a document stating the particulars set forth in each of the following items:

(i) the name or title and address of the reporting person;

(ii) the name or title of the person that is or was engaging in acts considered to be in violation of the Act; and

(iii) concrete details of the manner, time, place, and other facts of the acts considered to be in violation of the Act.

(2) The notice set forth in the preceding paragraph is also to be given when a report stating the particulars set forth in each item of the preceding paragraph has been transmitted via electrical telecommunication lines using an electronic

data processing system, and when the report is clearly presented in a document through the use of a computer (including its peripheral devices) or other equipment used by the Commission.

- (3) In the cases set forth in the following items, the notice referred to in paragraph (1) is to be given using a document indicating that such is the case; provided, however, that if a notice referred to in the following item (i) has been given in a case to which the same report pertains, no subsequent notice is to be given:
- (i) if a cease and desist order is issued in the case;
 - (ii) if a payment order is issued in the case; and
 - (iii) if a plan of cessation or a plan to ensure complete cessation was approved in the case; and
 - (iv) if it has been decided that none of the measures set forth in the preceding items will be taken in the case.
- (4) In the document referred to in the preceding paragraph, in addition to the particulars that are to be stated based on the provisions of that paragraph, particulars that are found to be appropriate may also be stated.

(Submission of Documents by Facsimile)

Article 30 (1) Documents to be submitted during investigation procedures may be submitted by facsimile, excluding the following:

- (i) documents to be submitted based on the dispositions set forth in each item of Article 47, paragraph (1) of the Act;
 - (ii) documents containing the filing and request referred to in Article 23-2 (1);
 - (iii) written opinions on the pre-warning notice and evidence;
 - (iv) documents provided for in Article 27, paragraph (1) and (2); and
 - (v) written objections to dispositions by investigators.
- (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) If the chairman or an investigator finds it to be necessary to do so in a case provided for in the preceding paragraph, it may have the submitter submit the documents used to make the transmission.

(Omission of Seals)

Article 30-2 (1) A person may omit a seal from a document to be submitted during an investigation, except for a document to be submitted based on a disposition set forth in in Article 47 (1) (i) of the Act.

- (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.

(Decision to Make Corrections)

Article 31 (1) If there is a clerical or other clear error in a written cease and desist order or similar document 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 filer of this.

Supplementary Provisions

These Rules come into effect as from the date of enforcement of the Act Partially Amending the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 35 of 2005) (January 4, 2006).

Supplementary Provisions [Fair Trade Commission Rule No. 6 of August 28, 2009]

These Rules come into effect as from the date of enforcement of the Act for Establishment of the Consumer Affairs Agency and Consumer Commission (Act No. 48 of 2009) (September 1, 2009).

Supplementary Provisions [Fair Trade Commission Rule No. 10 of October 28, 2009]

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

Supplementary Provisions [Fair Trade Commission Rule No. 11 of October 28, 2009]

These Rules come into effect as from the date of enforcement of the Act Partially Amending the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 51 of 2009) (January 1, 2010).

Supplementary Provisions [Fair Trade Commission Rule No. 2 of January 21, 2015]

These Rules come into effect as from the date of enforcement of the Act

Partially Amending the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 100 of 2013) (April 1, 2015).

Supplementary Provisions [Fair Trade Commission Rule No. 2 of January 25, 2017]

These Rules come into effect as from the date of enforcement of the Act on Adjust Related Acts to Coordinate with the Conclusion of the Trans-Pacific Partnership Agreement and the Conclusion of 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 July 7, 2020]

- (1) These Rules come into effect as from the date of enforcement of the Act Partially Amending the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 45 of 2019).
- (2) The provisions of Section 1-2 of the Rules on Investigations by the Fair Trade Commission as amended by these Rules, do not apply to the case where the disposition was carried out pursuant to Article 47 (1) (iv) of the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade before this Rules come into effect.

Supplementary Provisions [Fair Trade Commission Rule No. 4 of September 2, 2020]

These Rules come into effect as from the date of enforcement of the Act Partially Amending the Act on Prohibition of Private Monopolization and Maintenance of Fair Trade (Act No. 45 of 2019) (December 25, 2020).

Supplementary Provisions [Fair Trade Commission Rule No. 7 of

December 25, 2020]

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

**Supplementary Provisions [Fair Trade Commission Rule No. 2 of March 31,
2021]**

These Rules come into effect as of April 1, 2021.