

-CONCERTED ACTS AND TRADE ASSOCIATIONS

Guideline on Applying for Approval of Concerted Acts and Competition-Restraining Acts
(Notification No. 1999-10)

**GUIDELINE ON APPLYING FOR APPROVAL OF
CONCERTED ACTS AND COMPETITION-RESTRAINING ACTS**

Enacted by Economic Planning Board Notification No. 41
May 13, 1981

Enacted by Economic Planning Board Notification No. 42
May 13, 1981

Amended by Economic Planning Board Notification No. 1985-4
October 12, 1985

Amended by Economic Planning Board Notification No. 1987-16
October 28, 1987

Amended by Fair Trade Commission Notification No. 1990-4
May 26, 1990

Amended by Fair Trade Commission Notification No. 1993-10
May 13, 1993

Amended by Fair Trade Commission Notification No. 1997-16
April 7, 1997

Amended by Fair Trade
Commission Notification No. 1999-10
June 10, 1999

We hereby designate the Guideline on applying for the approval of or notifying the abolition of concerted acts and acts restraining competition (hereinafter referred to as "Concerted Acts") as prescribed in Article 19 (Restrictions on Undue Concerted Acts) and Article 26 (Prohibited Activities of Trade Associations) of the Monopoly Regulations and Fair Trade Act (hereinafter, the "Act") and Articles 30 (Procedures for Authorization of Concerted Acts, etc.), 32 (Discontinuance of Authorized Concerted Acts) and 40 (Authorization of Trade Association Acts Restraining Competition) of its Enforcement Decree (hereinafter, the "Decree").

June 10, 1999

The Fair Trade Commission

Article 1 Application for Approval of Collaborative Acts and its Applicants

A. Applicant

1. Two (2) or more enterprises conducting any of the businesses prescribed in Article 2 (Definition), Subparagraph 1 of the Act.

2. A trade association as prescribed in Article 2 (Definition), Subparagraph 4 of the Act; provided, however, that if such trade association has branches, sub-branches, or sub-offices which act independently or is a separate legal entity, each of them shall be deemed to be a separate trade association.

B. Application Forms

1. An applicant who applies for the approval of Concerted Acts shall submit,

to the Fair Trade Commission, the application set forth in Exhibit 1, documents proving that the conditions for approving concerted acts according to their types and limits on authorization are met, as prescribed in Articles 24-2 (Criteria for Concerted Acts for the purpose of Industry Rationalization) and 29 (Limits on Authorization for Concerted Acts) of the Decree.

(a) Documents certifying that the applicant is a representative of a participating enterprise or trade association.

(b) Documents with the names and addresses of the participating enterprises and the name and address of the representative director and documents detailing the criteria for and the scope of participating enterprises in case the applicant is a trade association.

(c) The business report, the balance sheet and income statement of the participating enterprises for the past two (2) years and documents showing the business and financial status of the participating enterprises in case the applicant is a trade association.

(d) Copies of the agreement, the resolution and the minutes on Concerted Acts of a participating enterprise or a trade association.

2. If a business entity or a trade association which obtained approval for Concerted Acts intends to change the approved matters, it shall submit to the Fair Trade Commission the application form set forth in Exhibit 1 detailing the matters to be changed, together with documents and the certificate of approval which relate to such changed matters from among the documents mentioned in the above Paragraph 1.

Article 2 Verification of the Conditions for Approval

The applicant shall describe matters prescribed in the following Paragraphs A through F in accordance with the type of Concerted Acts in the documents proving that the conditions for approving concerted acts according to their types and limits on authorization.

A. Concerted Acts for Industrial Rationalization

1. Specific details of Concerted Acts that will be conducted and the method thereof;

2. General status of the relevant and related types of businesses, in which the Concerted Acts will be conducted;

3. Explanation of the need to carry out industrial rationalization through Concerted Acts and the specific effects expected therefrom;

4. Explanation of the difficulty in attaining the objective of rationalization through individual efforts by participating enterprises; and

5. The effects on consumers and related enterprises which are expected from the Concerted Acts.

B. Concerted Acts for Research and Development

1. Specific contents of Concerted Acts that will be conducted and the method thereof;
2. General status of the relevant and related types of businesses, in which the Concerted Acts will be conducted;
3. Explanation of the necessity of research and technical development in the concerned business and the specific effects expected therefrom;
4. Explanation of the difficulty in attaining its objective through individual research and technical development efforts made by participating enterprises;
5. Explanation of why it is uncertain whether the research and technical development will be successful or not; and
6. The effects on consumers and related enterprises that are expected from the Concerted Acts.

C. Concerted Acts to overcome Economic Depression

1. Specific contents of Concerted Acts that will be conducted and the method thereof;
2. General status of relevant and related types of businesses, in which the Concerted Acts will be conducted;
3. Annual change of production capacity, supply and demand, and the change in transaction price at distribution stages for the past three (3) years with respect to the relevant goods and services (they are to be classified monthly for the past one (1) year);
4. Expected changes in supply-demand conditions with respect to the relevant goods and services and the future monthly prospects of supply and demand for the upcoming year;
5. Details of costs computation that are prepared by the participating enterprises at the time of the application for approval of the Concerted Acts;
6. Status of income and loss of the relevant types of business and status of the changes in the number of enterprises for the past three (3) years;
7. Status of self-help efforts made by participating enterprises to overcome the economic depression such as improvements in facilities and labor productivity, reductions in general administrative and sales expenses, etc.; and
8. The effects on consumers and related enterprises that are expected from the Concerted Acts.

D. Concerted Acts for Industrial Restructuring

1. Specific contents of Concerted Acts that will be conducted and the method thereof;
2. General status of the relevant and related types of businesses, in which the Concerted Acts will be conducted;
3. Changes in the domestic and foreign economic circumstances which require industrial restructuring;
4. Annual changes in production capacity, supply and demand, and transaction price at each distribution stage for the past three (3) years with respect to the relevant goods and services (classified monthly for the past one (1) year);
5. Long-term prospects of supply and demand for the relevant goods and services and the main substitutes therefor;
6. International comparisons of price, production efficiency, etc. of the relevant goods and services;
7. Status of self-help efforts by the participating enterprises to improve efficiency, reduce costs, etc.; and
8. The effects on consumers and related enterprises that are expected from the Concerted Acts.

E. Concerted Acts to Rationalize Transaction Conditions

1. Specific contents of the Concerted Acts that will be conducted and the method thereof;
2. General status of relevant and related types of businesses, in which the Concerted Acts will be conducted;
3. Status of trading conditions of the relevant goods and services and the resultant inefficiency thereof, or matters of inconvenience in transaction;
4. Specific effects expected from rationalization through Concerted Acts;
5. Whether or not the rationalization of trading conditions can be achieved, technically and economically, by most entities in the relevant industry; and
6. The effects on consumers and related enterprises that are expected from the Concerted Acts.

F. Concerted Acts to Strengthen Competitiveness of Small-and-Medium-Sized Enterprises

1. Specific contents of the Concerted Acts that will be conducted and the method thereof;
2. General status of relevant and related types of businesses, in which the Concerted Act will be conducted;
3. Whether or not the participating enterprises are deemed to be

small-and-medium-sized business enterprises as prescribed in Article 2 of the Framework Act on Small-and-Medium-Sized Enterprises;

4. Whether or not the relevant industry is designated as an industry for small-and-medium-sized enterprises as prescribed in Article 6 (2) of the Small-and-Medium-Sized Business Adjustment Act;

5. Competition or transaction with respect to the relevant goods and services between large enterprises and small-and-medium-sized business enterprises for the past three (3) years;

6. Reasons for the difficulty in attaining improvements in productivity or strengthening its negotiating power through individual efforts made by participating enterprises;

7. Specific effects of the Concerted Acts on improvements in productivity or strengthening the negotiating power of small-and-medium-sized enterprises; and

8. The effect on consumers and related enterprises that are expected from the Concerted Acts.

Article 3 Issuance of Certificate

When the Fair Trade Commission approves Concerted Acts, it shall deliver to the applicant the certificate set forth in Exhibits 4 or 5 certifying such approval and register the approved matters in the registry of Concerted Acts and to be offered for the perusal of interested parties.

Article 4 Report on Abolition

If any representative of participating enterprises or business groups abolish Concerted Acts, it shall submit to the Fair Trade Commission the report set forth in Exhibit 2, together with the certificate of approval of the Concerted Acts.

ADDENDUM

1. Effective Date

This Guideline shall take effect on the date of notification.

2. Supersession

As of its Effective Date, this Guideline shall supersede the Guidelines for Applying for Approval of Concerted Acts and Competition-Restraining Acts, Fair Trade Commission No. 1997-16.

3. Interim Measures

Any applications for the approval, withdrawal, and abolition of Concerted Acts made before the effective date hereof shall be deemed to be submitted or reported in accordance with this Guideline.

<Exhibit 1>

Application for Approval of Concerted (Competition-Restraining) Act (and Changes Thereof)	processing period				
	Thirty(30) days				
Representative of Participating Enterprises (Trade Association)	1. Name of Corporation		2. Number of participating Enterprises		
	3. Address (Tel:)				
	4. Name of Representative (in Chinese Character:)				
5. Duration of the Concerted (Competition-Restrictive) Act					
6. Details of the Concerted (Competition-Restrictive) Act					
7. Methods of conducting the Concerted Act					
8. Reasons for conducting the Concerted Act					
<p>To the Fair Trade Commission</p> <p style="text-align: center;">I hereby apply for the approval of Concerted Acts (Competition-Restrictive Acts) or changes thereof pursuant to Article 19 of the Monopoly Regulation and Fair Trade Act and Article 30 of its Enforcement decree.</p> <p style="text-align: right;">Date: Representative of the Applicant: (Seal affixed)</p>					

<Method of Entry>

1. Details of the Concerted Act shall be entered in accordance with the types of Concerted Acts prescribed in Article 19 (1) of the Act.
2. Methods of conducting Concerted Act shall concretely describe methods to realize the Details of the Concerted Act and can include methods to secure the Concerted Act's effectiveness.
3. Reasons for conducting Concerted Act shall specify one of the reasons for approving Concerted Acts as set forth under Article 19 of the Act and Articles 24-2 through 28 of its Enforcement Decree.
4. In applying for a change in the approved contents, the reasons for and description of the change shall be entered.

<Exhibit 3>

	Approval No.	
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Certificate of Approval of Concerted Act

1. Name of Concerted Act:
2. Participating Enterprises: and others
3. Details of Concerted Act:
4. Duration: from to (year, month)
5. Incidental Conditions:

We hereby deliver this certificate of approval of Concerted Act pursuant to Article 19 of the Monopoly Regulation and Fair Trade Act and Article 30 of its Enforcement Decree.

Date:

FAIR TRADE COMMISSION

(seal)

	Approval No.	
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Certificate of Approval of Competition-restrictive Act

1. Name of Trade Association

2. Participating Enterprises: and others

3. Details of Competition-restrictive Act:

4. Duration: from to (year, month)

5. Incidental Conditions:

We hereby deliver this certificate of approval of Competition-restrictive Act pursuant to Article 26 of the Monopoly Regulation and Fair Trade Act and Article 40 of its Enforcement Decree.

Date:

FAIR TRADE COMMISSION

(seal)