



公正取引委員会

Japan Fair Trade Commission

Achieving an efficient and effective leniency programme - in light of Japan's experience

Cartel Workshop in Madrid
October 3, 2016

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Topics:

1. Outline of Japanese Leniency Programme

- Factors Contributing to an Efficient and Effective Leniency Programme

2. Future Amendments

3. Summary

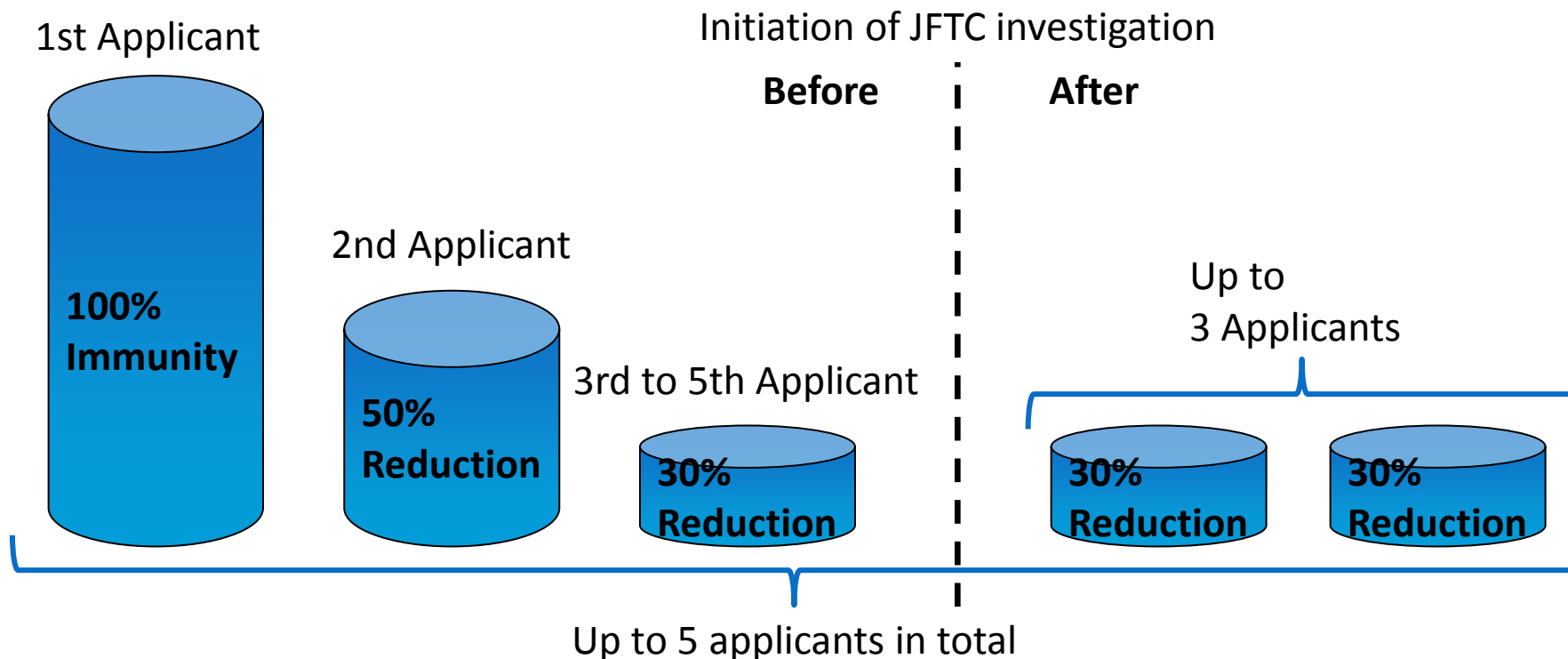


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1. Outline of Japanese Leniency Programme

Overview



- 1st applicant can also get immunity from criminal prosecution
- Providing false information/evidence can disqualify leniency
- Later applicants (4th and 5th / after investigation) are required to submit information/evidence unknown to JFTC
- Cartel ringleader is not eligible for immunity/reduction

Features

A. Incentives for (early) self-reporting

- Marker system
 - Reserving a leniency position before submitting a formal application
 - Anonymous prior consultation is accepted
- Substantial advantages according to priority
 - Significant gap between 1st and 2nd+ applicants / applications before and after investigation
- Oral statements
 - Protection from exposure to civil litigation in multiple jurisdictions
- Confidentiality of application information
 - Duty of secrecy (Article 39 of AMA), limitation for third party access
- Transparent procedure
 - Clear conditions for granting leniency are stated in the leniency rules

Features (cont.)

B. Effectiveness as an investigative tool

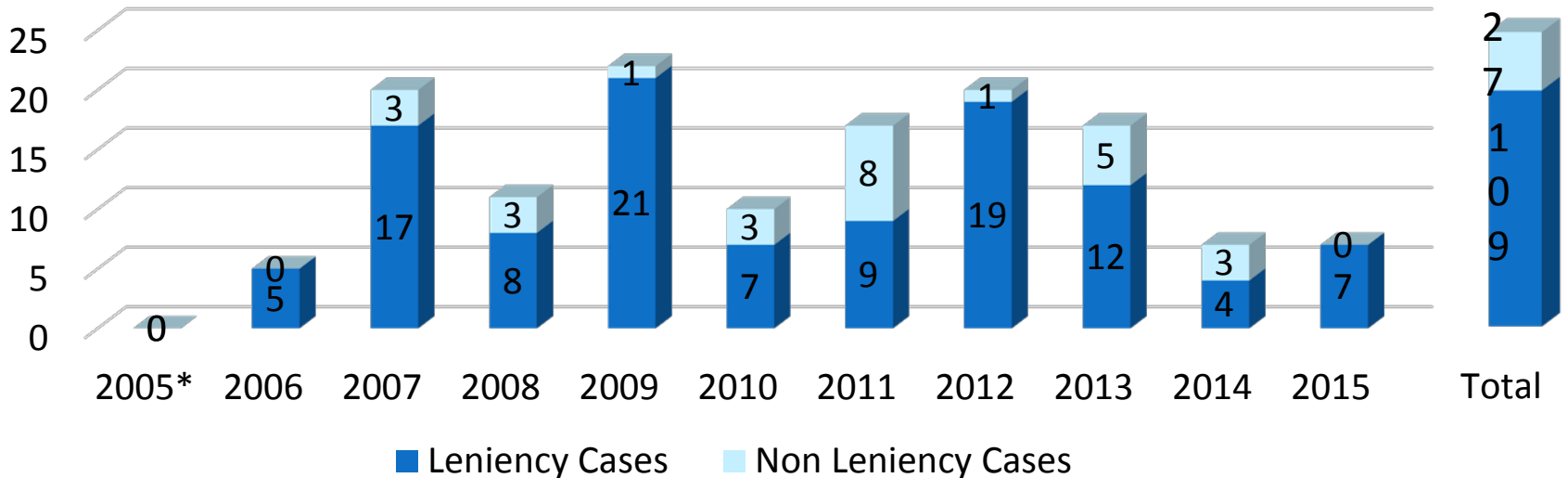
- Joint application
 - Available for parent/subsidiary companies
- Continuous cooperation is required for companies
 - Providing false information/evidence can disqualify leniency
 - Must respond to JFTC's additional requests for information/evidence
 - Final leniency decision takes place at the end of the enforcement process
- International cooperation amongst competition authorities
 - Waiver

Statistics

➤ Number of Leniency Applications

FY	2005*	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Total
No.	26	79	74	85	85	131	143	102	50	61	102	938

➤ Number of Cartel Cases Triggered by Leniency (published)



* From January 4, 2006 (introduction of leniency program) to March 31, 2006 (end of FY2005)



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2. Future Amendments

Issues for Consideration

- Strengthening potential fines?
 - More severe penalties for non-applicant(s)
- JFTC's discretion on reduction rates? (e.g. "up to" 50%)
 - Depending on the quality of information/evidence provided/the degree of cooperation



3. Summary

Key to a Successful Leniency Programme

- A. Incentives for (early) self-reporting
 - Encourage a race to contact JFTC
 - Remove disincentives for making application

- B. Effectiveness as an investigative tool
 - Gather valuable information/evidence
 - International cooperation



“Checklist for efficient and effective leniency programme”

“Leniency Checklist”

- SG1 project in 2016-2017
- A list of the elements for an effective and efficient leniency programme
- Particularly beneficial to younger agencies
- Elements:
 - Scope of application
 - Evidential thresholds for granting leniency
 - Behavioural conditions
 - Application proceedings
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Thank you for your attention.