

What We Expect from Economics ~ Practitioners' Viewpoints ~ (経済学への期待～実務の観点から～)

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I. Cartel Enforcement

カルテル規制

- Detection of Illegal Activities
違法行為の発見
 - Monitoring of market trends
市場動向の監視
 - Assessment of bidding behavior
入札状況の分析
- Competitive Effects
競争への影響
 - Substantial restraint of competition in the market
市場における競争の実質的制限

- Proof
立証
 - Utilization of economic analysis as evidence
経済分析の証拠としての活用
- Penalties
罰則
 - Assessment of effective sanctions to deter cartels
カルテル抑止に効果的な罰則の分析
- Private Enforcement
民事訴訟
 - Existence of cartels and calculation of damages
違法行為の存在と損害額の算定

II. Possible Use of Economic Analysis 経済分析の活用

1. Detection of Illegal Activities

違法行為の発見

- Effective leniency programs
効果的なりニエンシー制度
 - Combination of rewards for voluntary disclosure and severe penalties
任意の情報提供への報償と厳しい罰則
- Monitoring and assessment of the market
市場の監視と分析
 - Price and output
価格及び供給量
 - Bidding behavior
入札状況

2. Competitive Effects

競争への影響

- Impact on competition in a market varies depending on types of conducts
行為類型毎に異なる市場への影響
 - Hardcore cartels
ハードコア・カルテル
 - Competitor collaborations and alliances
競争者間の協調行為と業務提携
- Economic analysis helps clearer and more predictable assessment of anti-competitive effect
経済分析の活用による一層明確且つ予見可能な競争制限効果の分析

3. Proof 立証

- How to communicate with lawyers and judges
法律家及び裁判官への説明方法
 - Economic evidence and factual evidence
経済的証拠と実証的証拠
- Detection of cartels where there is no leniency application
リニエンス申請がない場合のカルテル発見
- Finding of cessation of cartels based on economic analysis
経済分析によるカルテル終期の認定

4. Penalties

罰則

- Total amount of surcharges and amount per entity are increasing
課徴金総額及び一事業者毎の課徴金額は増加
 - Estimates of overcharges
価格引上げ分の推計
 - Analyze deterrence effect of sanctions
罰則によるカルテル抑止効果の分析
 - Effect of criminal fines and imprisonment
刑事上の罰金及び懲役刑の効果

5. Private Enforcement

民事訴訟

- Proof of illegal activities where there is no government decision
当局の認定が存在しない場合の違法行為の証明
- Calculation of amount of damages
損害額の算定
 - Estimate competitive bid/price, if no conspiracy
競争的な入札価格等の推定
 - Evaluation of low bid after detection
摘発後の低い落札価格の評価
 - Role of economics where section 248 of Code of Civil Procedure applies
民訴法第248条の適用と経済分析の役割