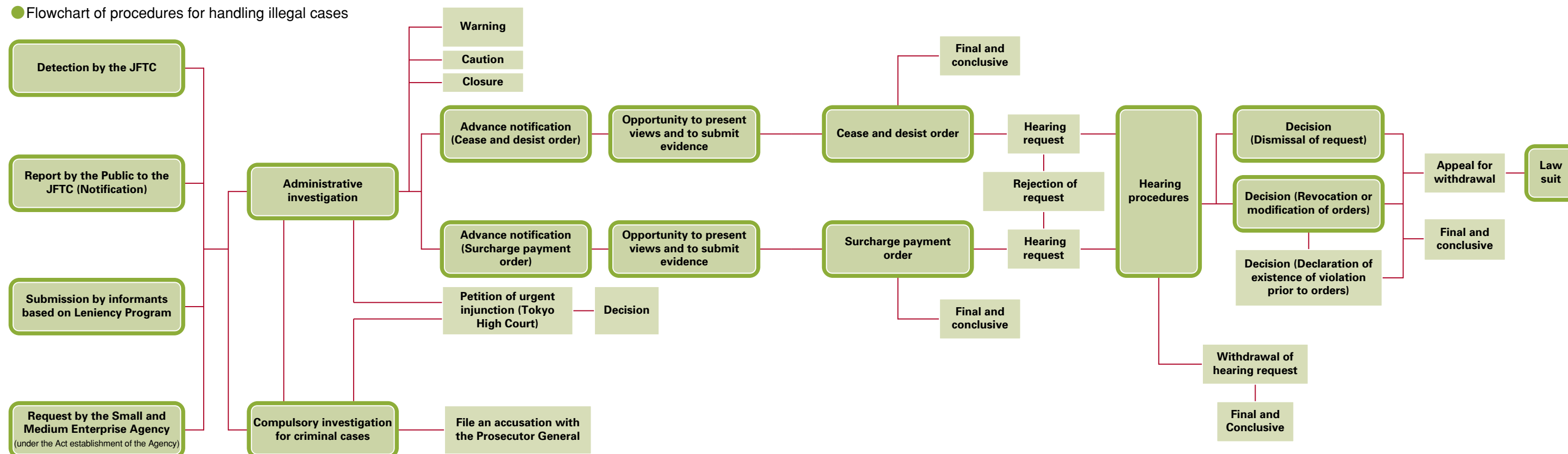


The JFTC regulates illegal acts promptly, and takes strict measures.

When there is a suspected violation of the Antimonopoly Act, the JFTC carries out investigations through the on-the-spot inspections and hearings. When illegal acts have been recognized, it orders the violators to take measures to eliminate such acts. Strict measures including the imposition of surcharges and criminal penalties are taken against malicious acts such as cartels.

● Flowchart of procedures for handling illegal cases



A clue for starting investigations When the JFTC detects suspected acts through its ex officio investigation, information offered by the public and applications for Leniency Program, it launches an investigation.

Administrative investigation On-the-spot inspection is made to the entrepreneurs suspected of illegal acts in order to collect and investigate accounting books and related documents, and the concerned parties are ordered to appear for hearing details, if necessary.

Compulsory investigation for criminal cases In accordance with the warrants issued by the judge, visit and search to the entrepreneurs concerned are carried out for seizure of necessary objects. If criminal accusation is deemed reasonable as a result of investigations, an accusation is filed with the prosecutor-general.

Advance notification When illegal acts are recognized as a result of investigations, the JFTC decides on the contents of cease and desist orders and surcharge payment orders, which are deemed reasonable, and gives the entrepreneurs in question an advance notification on the contents of such orders.

Opportunity to present views and to submit evidence Entrepreneurs can present their views on the contents of orders notified in advance. In order to ensure the decision of fair administrative measure, they can not only present their views, but submit evidence.

Cease and desist orders Cease and desist orders are the administrative measure aimed at a prompt elimination of illegal acts. In the case of price cartels, the entrepreneurs involved are ordered to withdraw price raises, and so on.

Surcharge payment orders Surcharge payment orders are the administrative measure given to such cases as cartels, bid riggings, and private monopolization, in addition to elimination of illegal acts. Surcharge payment is calculated in accordance with a certain formula and made to the national treasury.
⇒ For particulars, see “Surcharge calculation rates” on page 21.

Hearing procedures and decision When a request for hearing procedures is made, establishment of facts of violation and review of applicable measure are carried out. After hearing procedures, decision is made depending on facts of violation.

Lawsuit Entrepreneurs dissatisfied with decision can appeal to Tokyo High Court asking for revocation. In the absence of substantial evidence for decision or in the case of breach of the Constitution, the court repeals such decision.

Surcharge calculation rates

Surcharges are applied to those entrepreneurs carrying out cartels, bid riggings, private monopolization, and certain types of unfair trade practices. The sum of surcharges is calculated on the basis of sales amounts of products or services in question during the period of violation (3 years at a maximum) by multiplying such sales amounts by calculation rates as determined according to operation scales and business categories.

$$\text{Sum of surcharges} = \text{sales amounts of products or services in question during the period of violation}^* \times \text{surcharge calculation rates}$$

*purchase amount in the case of purchasing cartels

● Cartels and bid riggings

● Large enterprises

● Large enterprises				● Medium and small enterprises			
		Early termination	Repeated violation / Leading entrepreneur			Early termination	Repeated violation / Leading entrepreneur
Manufacturing, etc.	10%	8%	15%	Manufacturing, etc.	4%	3.2%	6%
Retail	3%	2.4%	4.5%	Retail	1.2%	1%	1.8%
Wholesale	2%	1.6%	3%	Wholesale	1%	0.8%	1.5%

- “Early termination” means that the period of illegal acts is less than 2 years, and such acts are discontinued not later than one month before the commencement of investigations (not applicable in the case of private monopolization of the control type).
- “Repeated violation” means cases where surcharge payment orders have been given during the period of 10 years before the commencement date of investigation.
- “Leading entrepreneur” means entrepreneur who plays a leading role, such as “organizer” in bid-rigging, cartel, etc.

● Private monopolization

	Control type	Exclusionary type
Manufacturing, etc.	10%	6%
Retail	3%	2%
Wholesale	2%	1%

● Unfair trade practices

	Concerted refusal to trade, Discriminatory pricing, Unjust low price sales, Resale price restriction <small>*Levied against the second offence of the same type of violation within ten years</small>	Abuse of superior bargaining position
Manufacturing, etc.	3%	1%
Retail	2%	
Wholesale	1%	

Leniency program

A leniency program is a system whereby surcharges are immunized or reduced on condition that the entrepreneurs, which have been involved in cartels and bid riggings, voluntarily report them to the JFTC. The more rapidly they make such report to the JFTC before its initiation of investigation, the more surcharges they are exempted. This system applies to a total of 5 applicants on a first-come-first-served basis including reports on such illegal cases after initiation of investigation. This system makes it easier to detect and clarify cartels because entrepreneurs report on the contents of violation and submit related documents.

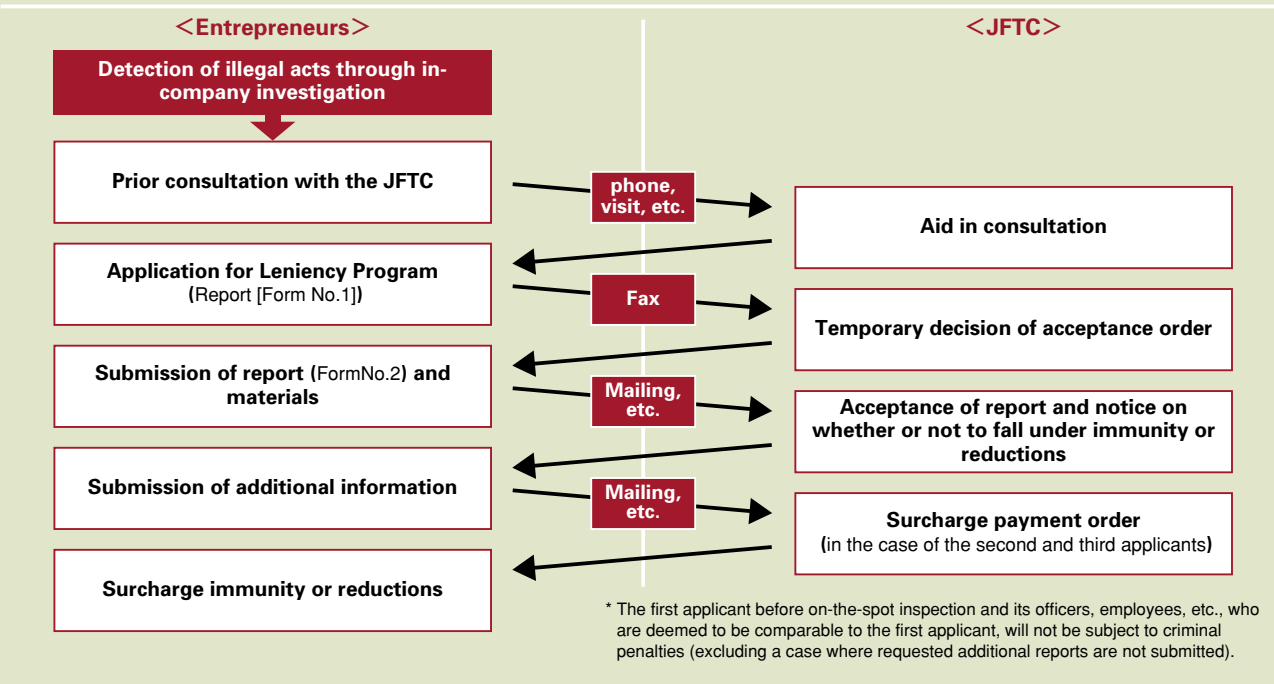
* The leniency program applies to cartels (including purchasing cartels) and bid riggings.

- The first applicant before initiation of investigation ----- immunity from total surcharges
 - The second applicant before initiation of investigation ---- reduction of 50% of surcharges
 - The third to fifth applicant before initiation of investigation ... reduction of 30% of surcharges
 - The applicants after initiation of investigation reduction of 30% of surcharges
- } Surcharge immunity or reductions apply to a total of 5 applicants (up to 3 applicants after the investigation start date)

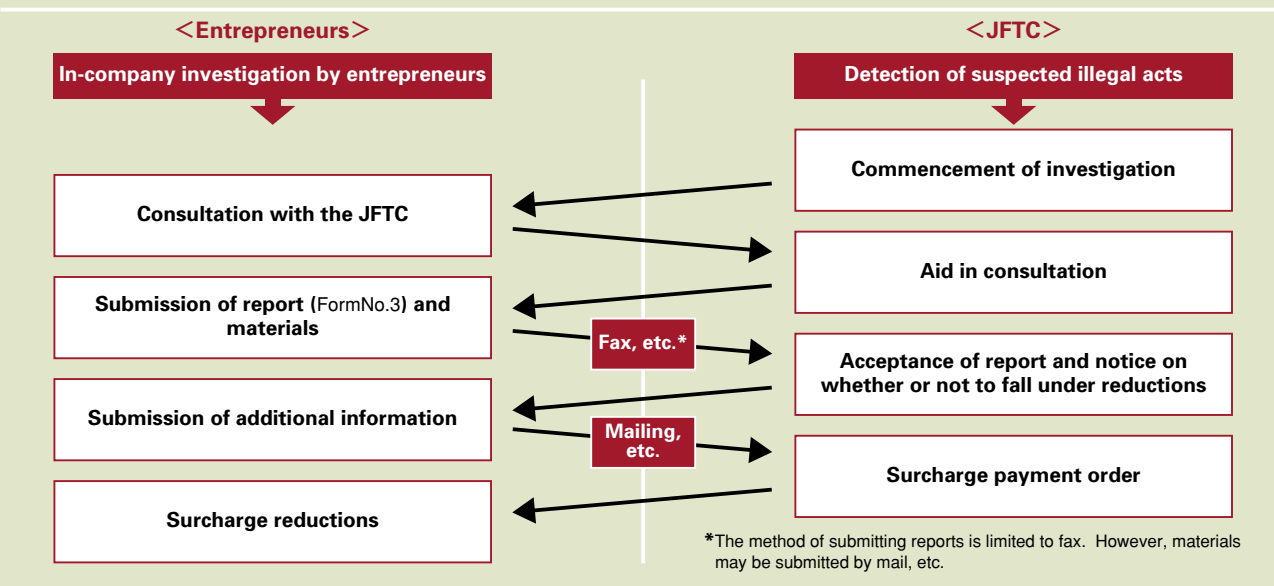
* Until surcharge payment orders, etc. are given, it is necessary to make additional reports on illegal acts, etc. at the request of the JFTC.
* Joint application is accepted. Upon certain condition being met, two or more applicants in the same company group are granted with the same order of application.

● Flowchart of Leniency Program

In the case of report before the commencement date of investigation by the JFTC



In the case of report after the commencement date of investigation of the JFTC



Inquiries about leniency program will be accepted by Senior Officer for Leniency Program.

- Advance consultation on Leniency Program : Tel: 81-3-3581-2100 (direct line) Office hours: 9:30 to 17:45
 - Transmission of report involving Leniency Program (Form No.1 and Form No.3) : Fax: 81-3-3581-5599 (by fax only)
 - Submission of report and materials involving Leniency Program (Form No.2 and Form No.3) : Japan Fair Trade Commission 1-1-1, Kasumigaseki, Chiyoda-ku, Tokyo 100-8987, Japan
- Forms of reports are as set forth in the website of the JFTC.

Criminal penalties

In some cases, criminal penalties such as imprisonment with work or fine are imposed against violation of the Antimonopoly Act. If entrepreneurs are engaged in cartels, an individual who has decided to carry out such cartels is subject to criminal penalties, and a fine is also imposed on the entrepreneurs and trade associations involved.

Types of illegal acts	Individual	Entrepreneurs	
Private monopolization, unreasonable restraint of trade, illegal acts of trade associations	Imprisonment with work of up to 5 years or fine of up to 5 million yen	Fine of up to 500 million yen	
Illegal acts of trade associations, such as execution of specific international agreements	Imprisonment with work of up to 2 years or fine of up to 3 million yen	Fine of up to 3 million yen	
Violation of final cease and desist order	Imprisonment with work of up to 2 years or fine of up to 3 million yen	Fine of up to 300 million yen*	
Violation of prohibition of stockholding of companies, violation of prohibition of interlocking directorates, etc.	Imprisonment with work of up to one year or fine of up to 2 million yen	Fine of up to 2 million yen (excluding violation of prohibition of interlocking directorates)	
Failure to report to the JFTC, etc.	Fine of up to 2 million yen	Fine of up to 2 million yen	
Obstruction of on-the-spot inspection, etc.	Refusal to appear or report, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen
	Refusal of order of expert examination, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen
	Refusal of order of submission, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen
	Obstruction of on-the-spot inspection, etc.	Imprisonment with work of up to one year or fine of up to 3 million yen	Fine of up to 3 million yen

* A fine of up to 3 million is imposed on violation of injunctions against private monopolization, unreasonable restraint of trade or illegal acts of trade associations.

Adjustment of surcharges and fines

In case both surcharges and fines are imposed, the amount corresponding to half the amount of fines is deducted from surcharges.

Filing of injunctions

Consumers or entrepreneurs can file an injunction with the court if they have incurred a remarkable damage or are likely to incur such damage due to the illegal acts falling under unfair trade practices.

Compensation for damage

Consumers or entrepreneurs that have incurred damage due to the violation of acts prohibited by the Antimonopoly Act, they can demand damages from the violators. If damages are demanded in accordance with the Antimonopoly Act, in particular, entrepreneurs or trade associations so demanded cannot be exempted from their liabilities regardless of the existence of their intentions or negligence.

Developments in Japanese competition policies

Development of competition policy in Japan		
High Growth Period of Japanese Economy	Introduction of Competition Policy	<ul style="list-style-type: none"> 1947 • Enactment of the Antimonopoly Act (AMA) 1953 • Promulgation of the 4th Amendment of the AMA (Introduction of various exemptions etc.) 1956 • Enactment of Act Against Delays in Payment of Subcontract Proceeds, etc. to Subcontractors(Subcontract Act) 1962 • Enactment of Act Unjustifiable Premiums and Misleading Representations(Premiums and Representations Act)
Economic Collapse by Skyrocketing Prices	Strengthening and Promotion of Competition Policy	<ul style="list-style-type: none"> 1974 • Criminal Accusation Against cartel involving 12 oil wholesalers for violation of the Antimonopoly Act 1977 • Promulgation of the 10th Amendment of the AMA (Introduction of surcharge system etc.) <ul style="list-style-type: none"> • First bilateral meeting between Japanese and U.S. competition authorities 1980 • First bilateral meeting between Japanese and EC competition authority
Low Growth Period		<ul style="list-style-type: none"> 1989 • The Structural Impediments Initiative talks between Japan and U. S. started. 1991 • Promulgation of the 11th Amendment of the AMA (Increase of the Surcharge Rate)
Bubble Economy Period	Aggressive Development of Competition Policy	<ul style="list-style-type: none"> 1992 • Promulgation of the 12th Amendment of the AMA (Reinforcement of criminal penalties) 1995 • Criminal Accusation against bid rigging case concerning electric equipment installation work 1996 • Promulgation of the 13th Amendment of the AMA (Establishment of General Secretariat) 1997 • Promulgation of the 14th Amendment of the AMA(Lifting of ban on holding company) <ul style="list-style-type: none"> • Promulgation of the omnibus law for abolishing exempted cartels and other exemptions under various laws 1999 • Bilateral Antimonopoly Cooperation Agreement Between Japan and U.S. was concluded
Heisei Recession Period		<ul style="list-style-type: none"> 2003 • The JFTC was transferred from an external organ of the Ministry of Internal Affairs and Communications to the Cabinet Office. <ul style="list-style-type: none"> • Bilateral Antimonopoly Cooperation Agreement Between Japan and EC was concluded 2005 • Promulgation of the 19th Amendment of the AMA (Increase of the Surcharge Rate, Introduction of a Leniency Program, Introduction of the Compulsory Measures for Criminal Accusations, Revision of the Hearing Procedures) <ul style="list-style-type: none"> • Criminal Accusation against the bid rigging case concerning steel bridge construction projects • Bilateral Antimonopoly Cooperation Agreement Between Japan and Canada was concluded 2009 • Expansion of types of conduct subject to surcharges to exclusionary type of private monopolization and certain types of unfair trade practices. <ul style="list-style-type: none"> • Introduction of the prior notification system of share acquisitions and revision of the notification threshold. • Increase in maximum jail terms for cartels and bid riggings.
Sluggish Economy under Deflation		

Annual data

1.The number of remedial measures (FY2003-FY2009)

Fiscal Year	2003	2004	2005	2006	2007	2008	2009
Formal Action *1	25	35	19	12	22	16	26
Warning **2	13	9	7	9	10	4	9
Criminal Accusation	1	0	2	2	1	1	0

Source : JFTC's annual reports.

Note 1 : "Formal Action" includes recommendations and surcharge payment orders issued without recommendations.

Note 2 : "Warning" is a kind of administrative guidance.

2.Surcharge payment orders (FY2003-FY2009)

Fiscal Year	2003	2004	2005	2006	2007	2008	2009
Number of cases	24	26	20	13	20	11	24
Number of recipients of orders	468	219	399	158	162	87	106
Total amount (Mil Yen)*	3,870	11,150	18,870	9,263	11,296	27,036	36,074

Source : JFTC's annual reports.

Note : "Total amount" includes the amount of the surcharge payment orders through decisions via hearing procedures, excludes the amount of the surcharge payment orders that JFTC initial hearings on.

Statistics Change of the number of staff of the competition agency in main countries



DOJ : Department of Justice Antitrust Division (US)

FTC : Federal Trade Commission (US)

EU : Directorate-General for Competition (EU)