

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS
COMPETITION COMMITTEE**

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Working Party No. 3 on Co-operation and Enforcement

DISCUSSION ON LENIENCY FOR SUBSEQUENT APPLICANTS

-- Japan --

23 October 2012

The attached document is submitted to Working Party No. 3 of the Competition Committee FOR DISCUSSION under item III of the agenda at its forthcoming meeting on 23 October 2012.

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1. Overview of the leniency program

1. The Japan Fair Trade Commission (hereinafter referred to as the “JFTC”) introduced a leniency program following the amendment of the Act Concerning Prohibition of Private Monopolization and Maintenance of Fair Trade (hereinafter referred to as the “Act” or “Antimonopoly Act”) in 2005. Subsequently, the JFTC revised the leniency program according to the amendment of the Act in 2009. The leniency program is stipulated in Article 7-2 of the Act, while the practical procedure for the program is stipulated in the Rules on Reporting and Submission of Materials Regarding Immunity From or Reduction of Surcharges (hereinafter referred to as the “Leniency Rules”). Under Japan’s leniency program, immunity from or reductions in surcharges may be granted for the limited number of applicants including subsequent applicants.

2. Described below are (1) the types of violations which are covered by the leniency program, (2) the introduction of the leniency program upon the amendment of the Act in 2005, (3) the revision of the leniency program upon the amendment of the Act in 2009, and (4) the operational situation of the leniency program.

1.1 Types of violations covered by the leniency program

3. Types of violations covered by the leniency program are those that fall under unreasonable restraint of trade¹ that is subject to surcharges (Article 2, paragraph 6 of the Act), including cartels and bid rigging. Although international as well as domestic cartels are included in the violations for which the leniency program is applicable, if a party seeks immunity from or reductions in sanctions such as surcharges regarding international cartels outside Japan, it is necessary for the party to apply for such immunity or reductions with the competition authorities in the relevant jurisdictions, in addition to making an application with the JFTC. On the other hand, private monopolization that is subject to surcharges (Article 2, paragraph 6 of the Act) and certain unfair trade practices that is subject to surcharges (Article 2, paragraph 9 of the Act; concerted refusal to trade, discriminatory pricing, unjust low-price sales, resale price restriction, and abuse of superior bargaining position) does not fall under violations for which the leniency program is applicable.

4. Details concerning the relationship between the time schedule of leniency application and rates of immunity or reduction for surcharges, etc. are presented in section II below.

1.2 Introduction of the leniency program

5. The leniency program was introduced by the amendment of the Act in 2005, and it was subsequently put into effect on January 2006.

6. At the time of the introduction of the leniency program, up to 3 applicants before, during or after the investigation start date may be granted immunity from or a reduction in surcharges, under the sole condition that an enterprise applies for the program independently.

7. The relationship between the time and order of application and rates of immunity or reduction of surcharges at the time of introduction of the leniency program is presented in table 1 below.

¹ The leniency program is also applicable to unreasonable restraint of trade by trade associations (Article 8, items 1 of the Act).

Table 1: Time and order of application and immunity/reduction rate

Time and order of application	Immunity/reduction rate
1 st applicant before the investigation start date	Total(100%) immunity
2 nd applicant before the investigation start date	50% reduction
3 rd applicant before the investigation start date	30% reduction
Applicants on and after the investigation start date	30% reduction irrespective of orders (Note)

Note: The total number of applicants, including applicants before the investigation start date, that may be granted reductions in surcharges under the leniency program is limited to 3.

1.3 Revision of the leniency program

8. In light of the leniency program's operations since 2006, the program was revised by the amendment of the Act in 2009. A new leniency program has been in operation since January 2010.

9. In the new leniency program, (i) joint application is permitted under certain conditions for enterprises within the same company group (Article 7-2, paragraph 13 of the Act) (See also 2.3 a); (ii) up to 5 applicants before, during and after the investigation start date may be granted surcharge immunity or reductions (Article 7-2, paragraph 11 of the Act), although up to 3 applicants on and after the investigation start date may be granted surcharge reductions (Article 7-2, paragraph 12 of the Act) (See also 2.3 b (c)).

1.4 Operational situation of the leniency program

10. During Fiscal Year (FY) 2011, the JFTC received a total of 143 applications for the leniency program (Since the program became effective in January 2006, the JFTC has received 623 applications in total).

2. Leniency for subsequent applicants

11. Under Japan's leniency program, not only may the first leniency applicant be granted immunity from surcharges but also may subsequent applicants (second applicant to last applicant of a specified time order) be granted a reduction in surcharges.

12. Described below are (1) policy reasons for granting subsequent applicants a reduction in surcharges, (2) granting incentives to leniency applicants, (3) requirements and procedures for a leniency application, and the method of determining the rate of immunity from or reduction in surcharges, (4) prior consultation and marker system, (5) deadline for submitting a leniency application, and (6) criteria for disqualification.

2.1 Policy reasons for granting a reduction to subsequent applicants

13. As described above, under Japan's leniency program, immunity from or a reduction in surcharges may be granted for up to the first 5 applicants without regard to the application before, on or after the investigation start date (Article 7-2, paragraph 10 and 11 of the Act). However, it must be noted that a total of up to three applicants on and after the investigation start date may be granted such a reduction (Article 7-2, paragraph 12 of the Act).

14. When the leniency program was introduced following the amendment of the Act, it was decided that a reduction in surcharges would be granted for the first 3 leniency applicants; this was deemed the minimum number of informants necessary to react to the situation where, considering past experiences in investigations, it was difficult to grasp the overall picture of cartels or bid rigging. Such acts were

conducted in private and are therefore difficult to uncover based solely on information from the first informant. When deciding on the minimum number of informants, a comparison was taken into consideration between the advantage of being able to grasp a full understanding of a cartel or bid rigging incident that might contribute to an early resolution, and the disadvantage of allowing a “first do, first win” meaning that the party actually responsible for committing the violations may be granted total immunity from or a reduction in surcharges.

15. When the leniency program was revised upon amendment of the Act, a comparison was made between the advantage of facilitating clarification of violations by obtaining more information from an increased number of entrepreneurs, to which the leniency program is applicable, and the disadvantage of weakening the incentive to come forward early to provide information to the JFTC. As a result it was determined that reductions in surcharges were to be granted for up to the fifth leniency applicant. With respect to the fourth and fifth applicants, it was decided that they could qualify for leniency under the condition that they provide information that had not yet been obtained by the JFTC.

2.2 *Granting incentives to leniency applicants*

16. The leniency program in Japan is basically a system under which the earlier an entrepreneur applies for leniency, the higher the immunity and reduction in surcharges that is granted. For example, the first leniency applicant apply for the leniency program before the investigation start date may be granted full immunity from surcharges (Article 7-2, paragraph 10 of the Act) as well as immunity from criminal accusation (See also 3.1), while the second applicant may be granted only a 50% reduction in surcharges (Article 7-2, paragraph 11 of the Act). The third to fifth applicants that apply before the investigation start date or any applicants that apply on and after the investigation start date may only be granted a 30% reduction (Article 7-2, paragraph 12 of the Act). As such, entrepreneurs are given the incentive to make early an application for leniency, and the size of the incentive will differ between the first and subsequent applicants accordingly.

2.3 *Requirements and procedures for a leniency application and the method for determining the rate of immunity or reduction*

a. General requirements

17. Procedures for obtaining leniency vary depending on the time and order of application. We will start by describing general requirements for obtaining leniency.

18. The first requirement (Article 7-2, paragraph 10, 12 and 13 of the Act and Forms No.1, No.2 and No.3 of the Leniency Rules) is that an application for leniency must be made by entrepreneurs (e.g. corporations) not by individuals (e.g. executives and employees). This is because entrepreneurs are the subject of cartels and bid rigging not individuals, and so it is entrepreneurs that are subject to surcharge payment orders. Although internal investigations would be required in order for entrepreneurs to receive immunity from or a reduction in surcharges under the leniency program, it is unlikely that individuals would offer such levels of cooperation.

19. The second requirement (Article 7-2, paragraph 10, 11 and 12 of the Act) is that individual entrepreneurs must make the leniency application independently. There are two reasons for this; firstly, the deterrent effect of preventing violations by exposing entrepreneurs to the risk that other corporate conspirators may provide information to the authorities, and secondly the necessity to rule out the possibility of coordination among the conspirators, in order to ensure an appropriate reporting of violations. In principle, it is therefore inappropriate to grant immunity from or a reduction in surcharges for joint applications for leniency from entrepreneurs. However, entrepreneurs may make a joint application for

leniency (Article 7-2, paragraph 13 of the Act) if the entrepreneurs have relationships such as parent and subsidiary (relationships in which entities belong to the same business group) at the time of their leniency application and the relationships were kept for the entire period that they took part in the illegal activity in collusion with each other. In this case, entrepreneurs within the same company group are deemed to have made a single leniency application and are granted the same time order in their leniency application and the same rate of surcharge immunity or reduction. However, it should be noted that this does not mean that corporate conspirators are allowed to determine the time order for their individual leniency application on a joint basis. Corporate conspirators are prohibited internal discussions to determine the time order for collectively making a single leniency application.

20. The third requirement (Article 8 of the Leniency Rules) is that leniency applications may not be disclosed to any third parties without a justifiable reason. This is to prevent other participants in cartels, bid rigging, etc. from concealing evidence or making secret arrangements once they have been informed of applications.

21. The fourth requirement (Article 7-2, paragraph 10, item 2, paragraph 11, item 4 or paragraph 12, item 2 of the Act) is that a leniency applicant before the investigation start date cannot be conducting the illegal act on or after the investigation start date (in the case of leniency application on or after the investigation start date, on and after the date of submission of the prescribed report and materials using Form No. 3). This is to prevent applicants, who may be granted immunity from or a reduction in surcharges, from continuing to take advantage of carrying out the illegal activity.

b. Necessary procedures for leniency application

22. When applying for leniency, the applicant must adhere to the following procedures. Procedures for leniency application vary depending on the time and order of application.

(a) Before the investigation start date

23. The leniency applicant that makes an application before the investigation start date is required to provide an overview of the illegal activity by submitting a report using Form No. 1² (Article 1 of the Leniency Rules). Subsequently, by the deadline indicated by the JFTC (Article 2 of the Leniency Rules), the applicant is also required to report details of the illegal activity by submitting a report using Form No. 2 and materials (Article 3 of the Leniency Rules). There is hardly any difference among the first three applicants in the volume and quality of evidence required, regardless of the time order of leniency application.

24. Even after the submission of Form No. 2, the applicant will be required by the JFTC to make reports on the illegal activity until an order for a surcharge payment is issued (Article 7-2, paragraph 16 of the Act and Article 6-3 of the Leniency Rules).

25. The fourth or fifth leniency applicant is additionally required to provide information that the JFTC has not yet obtained from any other source at the time of application (at the time of the submission of Form No. 2), in addition to the requirements described above (Article 7-2, paragraph 11, item 3 of the Act).

26. As described above, the bar is generally set higher for applicants that submit reports later because the JFTC will have already received a large amount of information.

² <http://www.jftc.go.jp/dk/genmen/newyosiki1.pdf> (in Japanese only) Entries shall be made in Japanese with respect not only to Form No. 1 but also to Forms No. 2 and No. 3 (Article 9, paragraph 1 of the Leniency Rules).

27. With respect to whether a report submitted by a leniency applicant includes the necessary content, this requirement can be satisfied by submitting an additional report after the submission of a report using Form No. 2 and materials because the JFTC usually makes a judgment upon the deadline for submitting Form No. 2.

(b) On and after the investigation start date

28. An applicant that makes a leniency application on and after the investigation start date must report details of the illegal activity by submitting a report using Form No. 3 (Article 4 of the Leniency Rules), and subsequently submitting materials within 20 days of the investigation start date (Article 5 of the Leniency Rules).

29. Even after submission of Form No. 3, the applicant will be required by the JFTC to make reports on the illegal activity until an order for a surcharge payment is issued (Article 7-2, paragraph 16 of the Act and Article 6-3 of the Leniency Rules).

30. In addition, unlike cases of leniency application before the investigation start date (other than the fourth or fifth application), the applicant is required to provide information that the JFTC has not yet obtained from any other source at the time of application (at the time of submission of Form No. 3), regardless of the time order of leniency application (Article 7-2, paragraph 16, item 1 of the Act).

31. Consequently, the bar is generally set higher for applicants that submit reports later because the JFTC will already have received a large amount of information.

32. With respect to whether a report submitted by a leniency applicant includes the necessary content, this requirement can be satisfied by submitting an additional report after the submission of a report using Form No. 3 and materials because the JFTC usually makes a judgment 20 days after the investigation start date.

(c) Method of determining the rate of immunity or reduction

33. Finally, the rate of immunity from or reduction in surcharges is automatically and uniformly determined based on the time and order of the leniency application, in accordance with the procedures described in (b) above, on the condition that the requirements for the immunity or reduction described in (a) above are satisfied. Accordingly, even if an applicant offers a significantly higher degree of cooperation with the authorities than is required in the procedures described in (b) above, the applicant will not receive the benefit of additional immunity or reduction. However, if an applicant offers further cooperation, the possibility of adherence to the procedures in (b) above is increased, and this may benefit their leniency application by decreasing the risk of immunity or reduction not being granted.

34. The relationship between the time and order of leniency application and the rate of immunity from or reduction of surcharges is shown in table 2 and 3 below.

Table 2: Immunity/reduction rate before the investigation start date

Order of application	Immunity/reduction rate
1 st applicant	Total(100%) immunity
2 nd applicant	50% reduction
3 rd applicant	30% reduction
4 th and 5 th applicants	

Table 3: Immunity/reduction rate on and after the investigation start date

Order of application	Immunity/reduction rate
Up to 3 applicants	30% reduction (Note)

Note: Together with the parties before the investigation start date, a maximum of 5 companies may be granted (e.g. if three applicants are granted leniency before the investigation start date, a maximum of two applicants may be granted leniency on and after the investigation start date).

2.4 Prior consultation and marker system

a. Prior consultation

35. Before making an application, a party that intends to apply for leniency may learn the expected time order of its application by holding a prior consultation (not a statutory system) with the Senior Officer for Leniency Program. Although the prior consultation may be held anonymously, the JFTC does not deal with consultations if their sole purpose is to gather information; this is because the prior consultations are only to be held for parties that intend to apply for leniency.

36. Specifically, when a consuler has requested a prior consultation before the investigation start date, the Senior Officer for the Leniency Program will inform them of the time order of their application if the application is made at the time of the prior consultation. On the other hand, when a consuler has requested a prior consultation on or after the investigation start date, the Senior Officer for the Leniency Program will inform them of the possibility of being granted a reduction in surcharges if the application is made at the time of the prior consultation.

37. Although prior consultation is not a statutory system, it is structured in such a way that subsequent leniency applicants will not be discouraged to apply due to the uncertainty of the time order of leniency application. Prior consultation offers an opportunity to receive instruction about the time order of leniency application from the Senior Officer for Leniency Program.

38. It should be noted that the JFTC will not commence investigations, before formal applications for leniency, based on the information obtained during the prior consultation in order to ensure that a party with the intention of applying for leniency can easily receive consultation³.

b. Marker system

39. Under Japan's leniency program, the adopted marker system is limited to applications before the investigation start date (Article 7, paragraph 1 of the Leniency Rules). The reason for adopting the marker system is if the leniency application time order of an applicant who has conducted rigorous internal investigations in order to report the details of illegal activity is behind that of another applicant who has conducted a simple internal investigation in order to report an outline of the illegal activity, the incentive for applicants to make more detailed reports to the JFTC would be diminished.

40. First of all, the JFTC notifies an applicant of its tentative time order for leniency application (Article 2 of the Leniency Rules) upon submission of the outline of illegal activity using Form No. 1 (Article 1 of the Leniency Rules). Subsequently, the tentative time order is finalized as the formal time order (Article 7, paragraph 1 of the Leniency Rules) if the applicant reports the details of the illegal activity

³ It goes without saying that in some cases investigations may be commenced based on information obtained from sources other than a consuler of prior consultation concerning leniency application (e.g., report by any person described in 3.4 below).

by submitting Form No. 2 and materials by the deadline specified by the JFTC (Article 3 of the Leniency Rules). The tentative time order will be formalized unless the applicant fails to make the required reports using Form No. 2 and materials within the specified time frame.

41. Even if the applicant submits the required reports using Form No. 2 and materials later than other applicants, its formal time order for leniency application will not be affected by the delay as long as the reports are submitted within the specified time frame. However, if the applicant fails to submit said reports within the time frame, their application becomes invalid and time orders for other leniency applicants are prioritized.

42. Moreover, the marker system is applicable not only to the first applicant but to subsequent applicants if their leniency applications are made before the investigation start date. However, the system is not applicable to any application made on and after the investigation start date, regardless of the time order of application. For this reason, if a party applies for leniency on and after the investigation start date, the party needs to submit Form No. 3 to report the details of illegal activity at the time of the first application (Article 4 of the Leniency Rules). Time order for leniency application on and after the investigation start date shall be determined based solely on the time order of the submission of Form No. 3 (Article 7, paragraph 2 of the Leniency Rules).

2.5 *Deadline for submitting a leniency application*

43. The deadline for submitting a leniency application on and after the investigation start date is within 20 days of that date. Public holidays are not included in the 20 days (Article 7-2, paragraph 12 of the Act and Article 5 of the Leniency Rules). After the 20 days have elapsed, applications are no longer accepted, regardless of the time order of leniency application. This deadline is prescribed because clarification of an incident of a cartel, bid-rigging, etc. is expected to make significant progress when the JFTC is gathering and examining various information before, on and immediately after the investigation date, while the desired progress is unlikely to be made long time after an onsite inspection.

44. It should be noted that the investigation start date is determined by each incident. Even if onsite inspections are conducted for two or more entrepreneurs over two or more dates concerning an incident, the date of the first onsite inspection will be the investigation's start date. Consequently, there is a possibility that the onsite inspection date at a leniency applicant's location may not correspond with the investigation start date.

2.6 *Criteria for disqualification*

45. In the event of any of the following cases (criteria for disqualification) after determination of formal time orders for leniency applications, a leniency applicant will be disqualified (Article 7-2, paragraph 17 of the Act): (i) false information included in the reports or materials submitted by the applicant; (ii) the applicant failed to submit additional report or submitted a false report or materials in response to a request from the JFTC; (iii) the applicant coerced other entrepreneurs to participate in illegal activity; (iv) the applicant obstructed other entrepreneurs from ceasing to violate the Act. However, it should be noted that if an applicant with a formal time order for leniency application falls under any of the criteria for disqualification, the time orders of the other leniency applicants will not be affected.

3. Relationships with other enforcement policies and tools

3.1 *Criminal penalties*

46. Below is an explanation of the relationship between the leniency program and criminal penalties.

a. Accusation policy

47. Any party that has caused private monopolization, unreasonable restraint of trade, etc. is subject to criminal sanctions pursuant to the Act (Article 89 of the Act). The JFTC has the exclusive authority to file an accusation (Article 96 of the Act: A public prosecutor may not prosecute a violation of the Antimonopoly Act without an accusation filed by the JFTC). In October 2009, the JFTC announced the amendment of its policy on criminal accusation⁴. According to this revised policy, the JFTC has filed accusations concerning criminal cases since January 1, 2010. The relationship between the leniency program and the revised policy on criminal accusation are outlined as follows.

(a) Entrepreneurs

48. The JFTC will not file an accusation against the first party to submit a standalone leniency application (the first applicant for leniency) before the investigation start date. Similarly, an accusation shall not be filed against entrepreneurs that belong to the same corporate group and make a joint application as the first applicants for leniency.

(b) Executives and employees of entrepreneurs

49. The JFTC will not file an accusation against executives, employees, etc. of the first entrepreneur to submit a standalone application for leniency or the first entrepreneurs to submit a joint application for leniency (the first applicant[s] for leniency) before the investigation start date, on the condition that such executives, employees, etc. cooperate with the JFTC's investigations in the same manner as the entrepreneur(s).

50. On the other hand, regarding filing an accusation against subsequent applicants (applicants that were the second to last to file a leniency application before the investigation start date or applicants that submitted leniency applications after the investigation start date) other than the first applicant(s) to submit an application for leniency before the investigation start date, it is at the JFTC's discretion whether or not to file an accusation against a subsequent applicant including its executives and employees, taking into account the applicant's degree of cooperation with the JFTC's investigation.

b. Increased criminal penalties

51. With respect to criminal sanctions against any party that has caused private monopolization or unreasonable restraint of trade, the maximum jail terms (Article 89 of the Act) were increased from three to five years upon amendment of the Act in 2009. As a result of the amendment, there is a large difference in the penalty between an entrepreneur that may be subject to a criminal sanction but is the first party to submit a leniency application before the investigation start date and is therefore exempt from having an accusation filed by the JFTC, and the entrepreneur who is otherwise subject to the JFTC's discretion.

c. Summary

52. The current leniency program is a system under which the first party to submit an application for leniency before the investigation start date may receive immunity from criminal accusation. With the increased criminal penalties, the leniency program is structured to provide incentives for corporate conspirators to apply for leniency early.

⁴ The Fair Trade Commission's Policy on Criminal Accusation and Compulsory Investigation of Criminal Cases Regarding Antimonopoly Violations (revised in October 2009).

3.2 *Increased rate of surcharges*

53. Below is an explanation of the relationship between the leniency program and other surcharge systems, including application of increased rates of surcharges applicable to those repeatedly committing violations and playing a leading role in violations.

54. If a party that has received an order for surcharge payments, etc., (limited to cases where said order has become final and binding) as a result of violations of the provisions of Article 3 of the Act (private monopolization or unreasonable restraint of trade) commits another violation of Article 3 of the Act within 10 years and becomes subject to a surcharge payment order, the rate of calculating surcharges shall be increased by 50%. The same increase applies to an entrepreneur who plays a leading role in the illegal activity prescribed under Article 3 of the Act (limited to unreasonable restraint of trade).

55. Even when an increased rate of calculating surcharges is applicable, a surcharge immunity or reduction under the leniency program may also be applicable (exemption from or reduction of the newly calculated surcharge rate). For this reason, there is a large difference in penalty between the cases where a party that is subject to a surcharge payment calculated using an increased rate is granted leniency, and the cases where it is not granted. The increased surcharge rates are therefore a strong incentive for an entrepreneur to apply for leniency early.

56. With respect to the relationship between increased surcharge rates and time order in leniency application, a reduction of surcharges based on the leniency program shall be applicable even to subsequent applicants subject to surcharge payments at an increased rate.

3.3 *Civil lawsuits for damages*

57. Below is an explanation of the relationship between the leniency program and civil lawsuits for damages.

58. In Japan, there is no legal provision for the adjustment of monetary amounts where an entrepreneur that is granted leniency receives a lower amount for damages in civil lawsuits.

59. However, in order to avoid weakening the incentive for an entrepreneur to come forward and apply for leniency, an applicant may verbally report part of the report content that is to be submitted to the JFTC using Forms No. 2 and No. 3 (Article 3, item 4 and Article 4 of the Leniency Rules). This reflects consideration for preventing any disadvantage to a party that submits an application for leniency in Japan with respect to an incident of an international cartel for which a foreign court may, in relation to a civil lawsuit for damages outside Japan, issue an order to the applicant to submit or disclose the documents that the applicant has submitted to the JFTC for the leniency application.

60. With respect to the relationship between civil lawsuits for damages and time order in leniency application, even a subsequent applicant for leniency may verbally report part of the report content that is to be submitted to the JFTC using Form No. 2 (if such reporting is made before the investigation start date) or Form No. 3 (if such reporting is made on and after the investigation start date).

3.4 *Others (compatibility with the JFTC's own ability to detect information)*

61. To ensure the effectiveness of the leniency program, it is important that the relevant authority has the superior ability to detect information about the illegal activity. The higher the authority's own ability to detect information about the illegal activity, the greater is the possibility for corporate conspirators participating in the illegal activity to become subject to surcharge payments, hence there is stronger incentive for such corporate conspirators to come forward early for leniency application. Below is a

description of a report of antitrust concerns submitted to the JFTC (Article 45, paragraph 1 of the Act) as a method for detecting information about illegal activity that does not rely on leniency applications.

62. In Japan, the report on violations of the Antimonopoly Act is accepted from general consumers (individuals), executives and employees of entrepreneurs, and entrepreneurs, etc., in addition to reports from entrepreneurs under the leniency program. In FY2011, the number of such report cases (except for cases under the leniency program) stood at 8,759 (compared to 11,773 in FY2009 and 10,769 in FY2010).

63. Unlike in cases of leniency application, an informant is not necessarily required to report violations of his or her own company or specific facts concerning violations. An informant can offer a wide range of information to the JFTC when there is doubt that a violation has taken place.

64. An informant may also provide the Information Analysis Office with information about illegal activity using a free form and method (reports via telephone/internet or anonymous reports are also accepted), whereas when applying to the Leniency Program Office that is a completely different section to the Information Analysis Office, Leniency Rules require the use of specific methods (e.g. when submitting reports using Form No. 1 or Form No. 3, transmission by fax with a company name, etc. is mandatory).

65. On the other hand, based on the condition that an informant reports antitrust concerns to the JFTC in accordance with the provisions of the Fair Trade Commission Rules, the JFTC is obliged to notify the informant of whether or not measures have been taken concerning the reported incident (there is no such system in the leniency program). In the case of the report of antitrust concerns, there is an advantage that the informant is allowed to know the authority's response to the reported matter.

66. It should be noted that making a report of antitrust concerns does not mean that the informant has applied for leniency, and vice versa.