



# Administrative Surcharge and Criminal Fine System in Japan

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ICN Cartel Workshop  
Mini Plenary 9 “Fine setting: considerations and methodologies”  
October 5, 2016



# Overview of Fine System in Japan

## Administrative Surcharges

- JFTC determines the amount through administrative procedure and imposes on Companies (Not on Individuals) for deterrence, disgorgement, and sanction
- Calculation formula: Sum of surcharges = Sales amounts in question multiplied by Surcharge calculation rate (see the next page for detail)
- No limits as to the maximum amount
- Immunity and reductions up to five companies under leniency program

## Criminal Fines

- Court determines the amount through criminal procedure and imposes on Companies and/or Individuals for deterrence, and punishment
- JFTC's exclusive authority to bring an accusation of vicious and serious cartels
- Unlike administrative fine, court determines appropriate level of fines based on the totality of the circumstances (No use of calculation formula)
- Not more than five million yen for individuals, not more than five hundreds million yen for companies

# Surcharge Calculation Formula

## Cartels and Bid-riggings

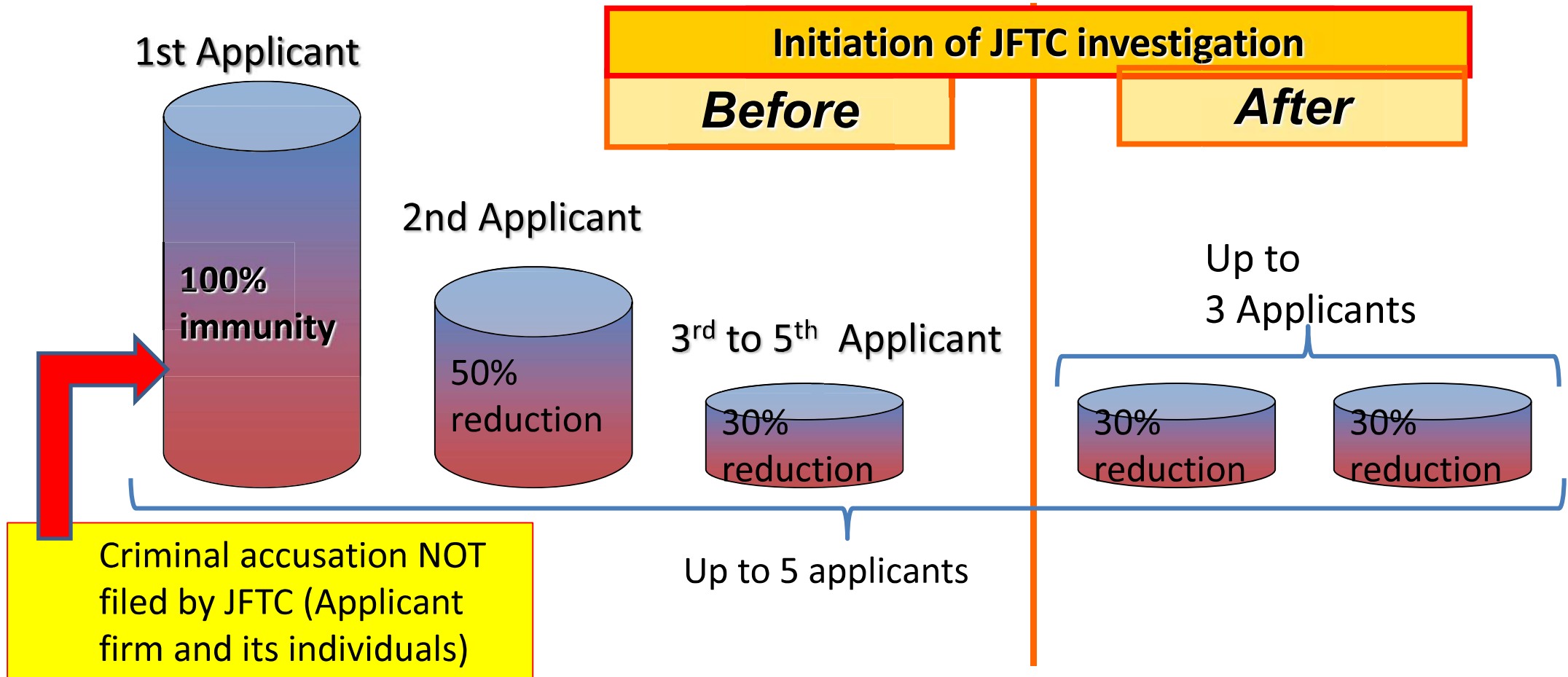
$$\begin{array}{|c|} \hline \text{Surcharge} \\ \text{calculation} \\ \text{rates} \\ \hline \end{array} \times \begin{array}{|c|} \hline \text{Sales amounts of products in question} \\ \text{during the period of violation} \\ \text{(3 years at a maximum)} \\ \hline \end{array} = \begin{array}{|c|} \hline \text{Sum of surcharges} \\ \hline \end{array}$$

	Normal	Repeated violation/Leading entrepreneur	Early termination
Manufacturing	10% (4%)	15%(6%)	8%(3.2%)
Retail	3% (1.2%)	4.5% (1.8%)	2.4%(1%)
Wholesale	2% (1%)	3% (1.5%)	1.6%(0.8%)

\*Rates in case of medium and small enterprises in parenthesis

- “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.
- “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.

# Overview of Leniency Program in Japan



- The amount of surcharge to be reduced is stipulated and decided only by the timing/order of application, irrespective of
  - the degree of cooperation
  - the value of information