



Japan Fair Trade Commission

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ICN Cartel Workshop Tel-Aviv

Mini Plenary #1

# How to start an investigation

## - in light of Japanese experience

Naohiko KOMURO

Director of Information Analysis Office,  
Investigation Bureau, Japan Fair Trade Commission



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# 1. Overall picture of investigative procedure

## (1) Case initiation (preliminary investigation)

- Complaint (report from the public)
- Ex-officio investigation
- Leniency application



## (2) Formal investigation

- Dawn raid (on-the-spot inspection)
- Order to report
- Interview



## (3) Decision

- Cease and desist order
- Surcharge (fine) payment order
- Criminal accusation

## 2. Gaining case leads

### 2-1. Two units in charge

#### Information Analysis Office

- Complaint (Report from the public)
- Ex-officio investigation

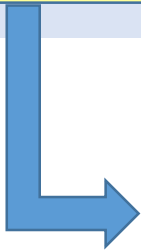
#### Senior Officer for Leniency Program

- Leniency application

## 2-2. Complaint and detection

Information Analysis Office gains case leads by:

- receiving complaints
- detecting violation at its own initiative  
(ex-officio investigation)



- from newspapers and magazines
- from the results of past investigations
- from procurement agencies

# Notification on bid-rigging from procurement agencies

- Notification based on the Article10 of “the Act for Promoting Proper Tendering and Contracting for Public Works
- Voluntary Notification

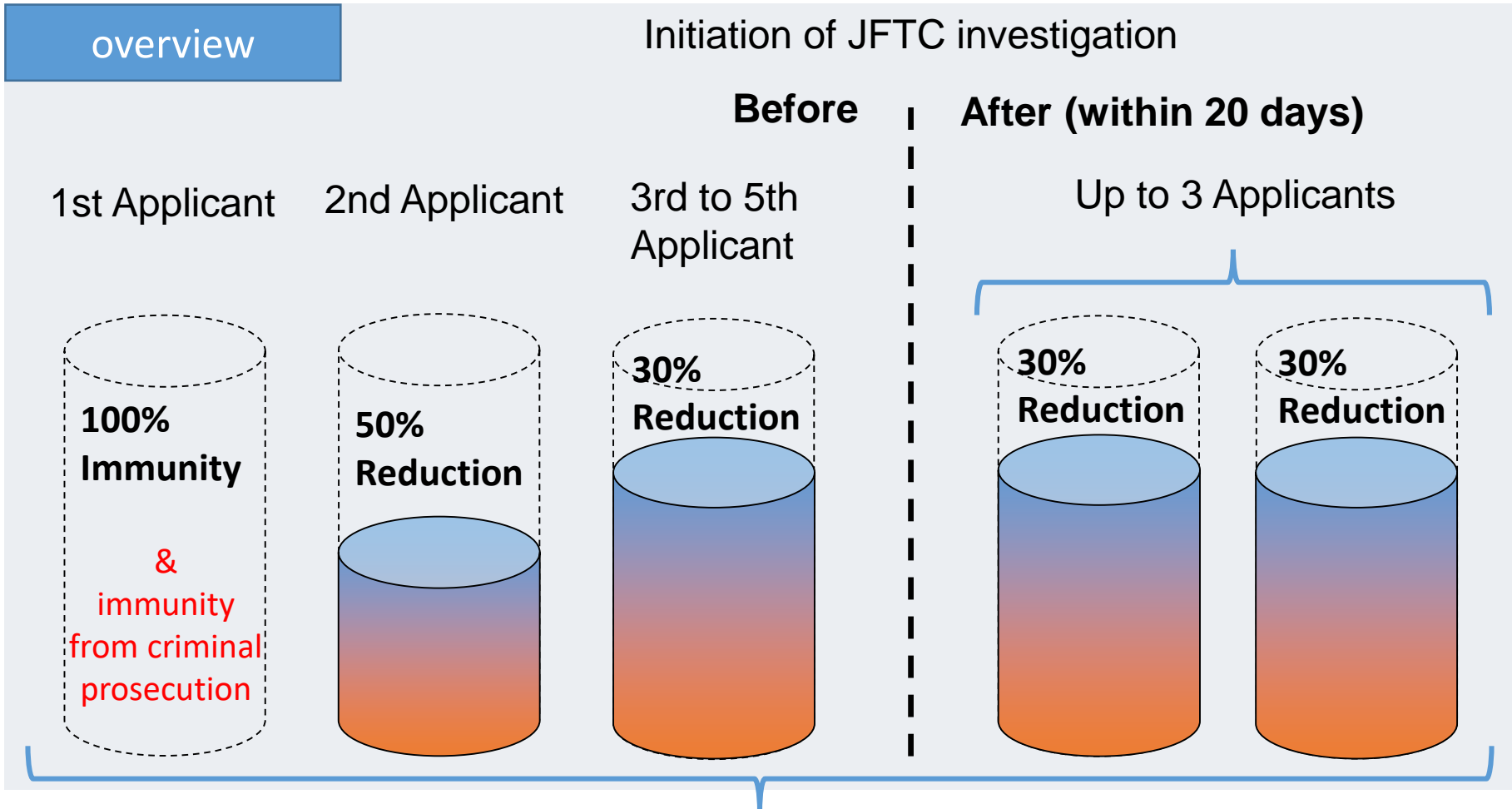
	Notice based on Article10 of the Act	Voluntary Notification
<b>FY2012</b>	<b>14</b>	<b>632</b>
<b>FY2013</b>	<b>15</b>	<b>421</b>
<b>FY2014</b>	<b>14</b>	<b>369</b>
<b>FY2015</b>	<b>7</b>	<b>433</b>
<b>FY2016</b>	<b>1</b>	<b>415</b>

Notified information may include:

- bidding results with suspicious patterns
- results of interview with tender participants

## 2-3. Leniency application

Handled by the Senior Officer in charge



### 3. Bridging the gaps - supplementary investigation

Information insufficient as a lead  
(almost all cases)

Sufficient  
information  
(very rare)

#### Supplementary investigation

- Type, characteristics and delivery of the targeted product
- Outline of the company, industry, and trade association
- Price trend, etc...

#### Utilizing database

- Analyze past complaints

Formal investigation



## 4. Combining multi-leads

### Reactive methods

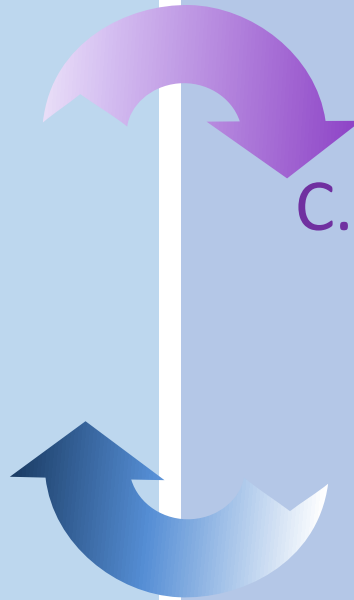
A. Complaint

B. Leniency application

### Proactive methods

C. Ex-officio investigation

- information from newspaper
- result of past investigation
- information from procurement agencies



## Study of screening

“A Study of Screening Approach as a Tool to Detect Violations of the Antimonopoly Law” (CPRC\*, 2016.)

- CPRC verified the effectiveness of three types of screening approach into the past cases which included concerns under the Antimonopoly Act.
  1. “industry” screening
    - ⇒ Estimation of the top ten least competitive industries based on statistical charts on industry etc.
  2. “market” screening
    - ⇒ Screening approaches into the specific cement market based on variation of share of companies etc. to detect cartels.
  3. “company” screening
    - ⇒ Screening based on the bid data of specific procurement agencies.
- The results of the simulations confirmed that we could conduct screening in Japan by using existing data. However, it still remains impractical and needs to be established.
- For more details, CPRC published the summary paper of this study :

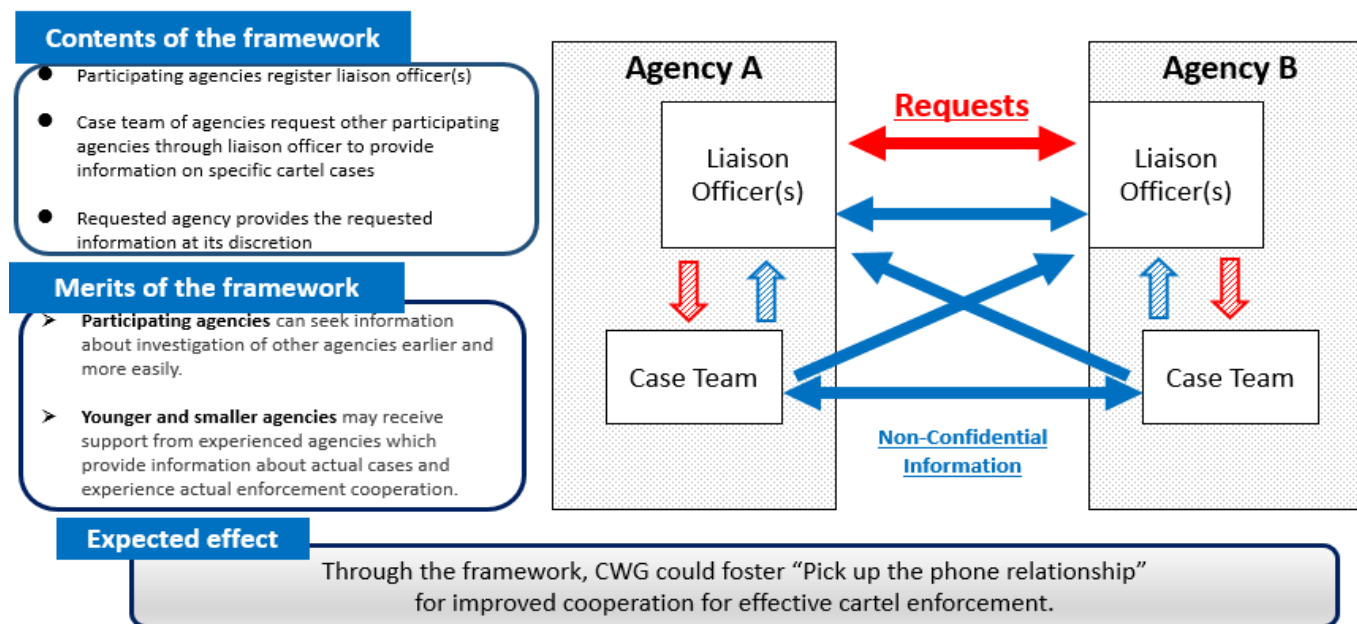
[http://www.jftc.go.jp/en/cprc/reports.files/cr-0116abstract\\_english.pdf](http://www.jftc.go.jp/en/cprc/reports.files/cr-0116abstract_english.pdf)

\* : Competition Policy Research Center,  
established in the JFTC in which legal experts, economists and JFTC staff members participate in joint research.

Thank you very much  
for your kind attention.

Opinions expressed in this presentation are those of the speaker  
and are not necessarily those of the JFTC.

- The ICN Framework for Promotion of Sharing Non-Confidential Information for Cartel Enforcement (“Info-Sharing Framework”) since January 2016



- Survey Questionnaire on the Info-Sharing Framework in October 2018

In order to promote use of the Info-Sharing Framework,  
**CWG SG2 will circulate to the CWG authorities an online-based questionnaire mid-October 2018.**  
We truly appreciate your kind understanding and cooperation on the questionnaire above!