

**The Application and Improvement of the Competition Law Leniency Program:
A Study on Transnational Cartel Cases**

Chen, Hui-Chun*

Yan, Ting-Dong

Ma, Tay-Cheng

Chang, Hung-Hao

Abstract

This article introduces the experience of applying the competition laws & regulations in relation to restrictions on cartels in the United States, the European Union, Japan and Korea, and makes a thorough inquiry into the legislation of the Cartels and Leniency Program, and the jurisdiction of important transnational cartel cases and law enforcement. Through the establishment of economic models and empirical data analysis, it seeks to verify the results of the application of the Leniency Program in transnational cartels, thereby deconstructing the development direction of cartel control legislation and the most appropriate application of the Leniency Program.

According to the research results of this article, the existence of the Leniency Program still has certain value. However, based on the effectiveness of law enforcement by the R.O.C, the current judicial system of the Fair Trade Act is not sufficient to exert an intimidating effect, which should be limited by the legislation surrounding the “administration first, judiciary later” rule. Therefore, this article suggests that the legislation surrounding the “administration first, judiciary later” rule should be annulled, and the rights of the Fair Trade Commission to search and seize should be strengthened. Furthermore, by referring to Japanese law, the exclusive rights of the Fair Trade Commission to bring a lawsuit should be increased. Such measures are expected to increase the probability of detecting cartel cases and enhance the punishment effect. At the same time, it is suggested that reference should be made to US law to reduce the number

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* Chen, Hui-Chun, Assistant Professor, Department of Law, Ming Chuan University, School of Law; Yan, Ting-Dong, Professor, Department of Financial Law, Ming Chuan University, School of Law; Ma, Tai-Cheng, Professor and Director, Department of Economics, Chinese Culture University; Chang, Hung-Hao, Professor and Chair, Department of Agricultural Economics, National Taiwan University.

of preferential companies under the Leniency Program to only a single whistleblower that can be exempted from punishment, so that the enterprises involved in the case will be incentivized to compete with each other, thereby making it difficult for the businesses involved in the case to have room for trickery. It will also make better use of whistleblowers' bonuses, and exempting the civil liability for compensation to increase the disincentives should increase the effectiveness of the Leniency Program from the point of view of law enforcement.

Keywords: Leniency Program, Transnational Cartel Cases, Concerted Action, Effects Doctrine, Extraterritorial Jurisdiction.