

The Application and Improvement of the Competition Law Leniency Policy thought the case of Cross-Border Cartel Cases

Abstract

Keyword(s): leniency policy, cross-border cartel cases, concerted action, effects doctrine, extraterritorial jurisdiction

This plan intends to examine the experience of the competition law authorities of the United States, the European Union and Japan in the legal system of cartel control and the enforcement of important cross-border cartel cases recently.

With deep research on the application and refinement of the competition law leniency policy, establish theoretical models, deconstruct the competition law issues involved in international cartels and the monopoly interests and legal risks of the undertakings involved in those cases, assess the current implementation of the leniency policy in R.O.C., and evaluate the implementation effect of the leniency policy through the establishment of an empirical model. Deconstruct the competition law issues involved in cross-border cartel cases and the legal risks faced by the enterprises involved, analyze the considerations for the business decision whether to apply for the leniency policy, and the timing and benefits of the application for the leniency policy for the business involved.

According to the result of research, the leniency policy is effective for mutual understanding cartels. Whether administrative leniency or criminal leniency is adopted, the emphasis should be on the starting point of the rational manufacturers and the alternate use of prior scare Prevent and investigate and dismantle illegal cartels afterwards. It is recommended to first strengthen the part of the immediate deterrent effect on the basis of the current legal system in the immediately feasible part, and the key is heavy fines/penalties and reporting bonuses. This can be done through: (1) Strengthening system publicity (especially in the service industry) to raise awareness of compliance, so that manufacturers are aware of the high risks of participating in cartels and the high incentives for whistleblowers to receive bonuses; (2) Strengthening the clarity of the standard for calculating the amount of fines, so that manufacturers can clearly foresee the cost of their violations. In order to deter

manufacturers and refuse to participate in the cartel; (3) Use the system design of the leniency policy with limited quota to strengthen the function of disintegration after the event.

Secondly, in the long-term development part, it is recommended that the Fairness Council (1) promote the deletion of the current "administration first, then the judicial principle", introduce the "exclusive reporting" system, strengthen the criminal penalties and administrative investigation powers for illegal joint acts, and increase the number of joint acts being punished. Investigate and deal with risks; (2) According to the order in which illegal enterprises apply for forgiveness clauses, the Fair will "should" or "shall" exempt the perpetrator from reporting the perpetrators, which should greatly increase the incentives for illegal joint acts (including transnational cartels) to apply for forgiveness clauses first; (3) After the amendment of the law, to ensure the smooth operation of the exclusive whistle-blowing system, it still depends on the FTC and the judicial units cooperate with each other, and the provision of administrative investigation evidence. Strengthen the effectiveness of fairness law enforcement.