



**Asia-Pacific
Economic Cooperation**

2016/SOM1/CPLG/006

Agenda Item: 9.1

Leniency Program As a Tool for Detecting Anticompetitive Behaviors: A Case About Capacitors

Purpose: Information
Submitted by: Chinese Taipei



**Competition Policy and Law Group Meeting
Lima, Peru
27-28 February 2016**

Leniency Program as a Tool for Detecting Anticompetitive Behaviors: A Case about Capacitors

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February 27, 2016



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Outline

- + Introduction of Chinese Taipei's Leniency Program
- + Case Study – A Case about Capacitors
 - Capacitors' Application
 - Market Structure
 - Enterprises Involved in this Case
 - Methods of Mutual Understanding
 - Mutual Understanding Content
 - Impact on Domestic Market
 - Leniency Application
 - Administrative Fine

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Chinese Taipei's Leniency Program

◆ Before November 2011

▶ Non-leniency

- ◆ Obtaining substantive evidence of concerted actions has become increasingly difficult
- ◆ Corresponding to international trends in competition law

◆ After November 2011

▶ Creating the legal basis

- » Article 35 of the Fair Trade Act (FTA): The Fair Trade Commission (FTC) may grant exemption from or reduction of fines to be imposed in violation of Article 15 of the FTA

▶ Enacting the settlement procedure

- » "Regulations on Immunity and Reduction of Fines in Illegal Concerted Action Cases"

Chinese Taipei's Leniency Program

- ◆ Who can apply for leniency? ➡ Enterprises which have partaken in concerted actions and with concrete evidence
- ◆ When is the effective time for applying? ➡ Before FTC initiates an investigation / During the investigation period
- ◆ What kind of evidence should be provided? ➡ Concrete details of the concerted action
- ◆ How many applicants may gain the leniency? ➡ Five applicants at most
- ◆ Extent of the reduction of fines? ➡ The 1st applicant: Full immunity
The 2nd to 5th applicants: 50%~10%
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Chinese Taipei's Leniency Program

- ◆ Immunity of Fines:
 - ▶ For the 1st applicant
 - ▶ The evidence provided shall allow FTC to be aware of the concerted action or initiate a cartel investigation
- ◆ Reduction of Fines: in the period of investigation
 - ▶ 1st applicant: 30%~50% off
 - ▶ 2nd applicant: 20%~30% off
 - ▶ 3rd applicant: 10%~20% off
 - ▶ 4th applicant: 10% or less off
- ◆ Marker System:
 - ▶ allowing the 1st enterprise to come forward applying for full immunity even though it has inefficient evidence, provided it can gather sufficient evidence within a specified time period

Chinese Taipei's Leniency Program

- ◆ All applicants are required to provide concrete content of the violation and evidence that the applicants have already obtained at the time of application
 - ▶ Evidence that is capable of proving the violation of the concerted action
 - ▶ Content and evidence being able to facilitate FTC to initiate the investigation
 - ▶ Statement and evidence that are able to significant assist FTC in the investigation on the concerted action in question or able to enhance the probative value of the evidence FTC has already obtained
 - ▶ Giving an outline of the concerted action in question as well as the time and location where the mutual understanding has been established and the content of the mutual understanding

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Chinese Taipei's Leniency Program

- ◆ After examining the evidence provided by the applicants, FTC would issue a “conditional consent” to approve the applications from enterprises
- ◆ The attached conditions include:
 - ▶ Immediately ceasing all participation in the concerted action
 - ▶ Following the instructions of FTC and provide honest, full, and continuous assistance during the investigation
 - ▶ Do not disclose to any other parties about filing the application

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Case Study

- ◆ 7 aluminum capacitor companies and 3 tantalum capacitor companies participated in meetings or bilateral communications to exchange sensitive business information
- ◆ The conducts were in violation of Paragraph 1, Article 14 of the Fair Trade Act at the time.



Aluminum Capacitors



Tantalum Capacitors

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Capacitors' Application

Aluminum Capacitors

- Larger electronic products
- PCs
 - Household Appliances
 - Home Video Game Consoles
 - Power Supplies

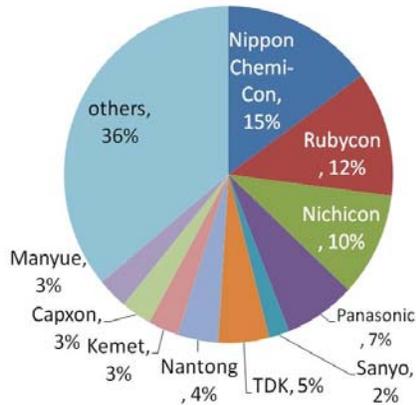
Tantalum Capacitors

- Thin and small electronic products
- Notebooks
 - Mobile Phones
 - Handheld Game Consoles

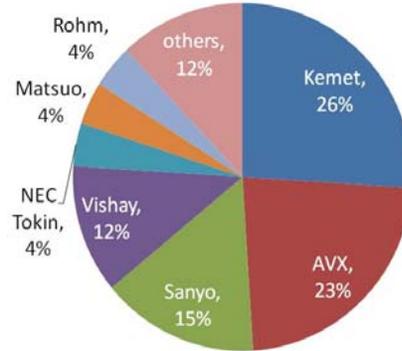


Market Structure

Market Share of Aluminum Capacitor Companies

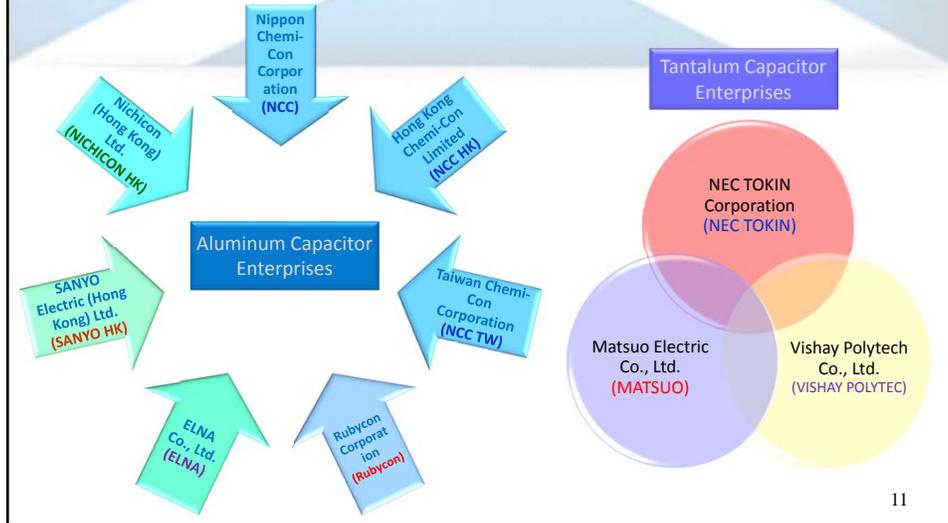


Market Share of Tantalum Capacitor Companies



Source: Sangyo-Joho Limited

Enterprises Involved in this Case



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Methods of Mutual Understanding

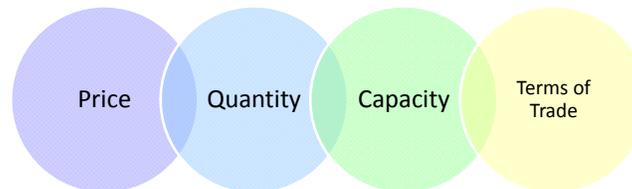
Method	Meeting Name	Meeting Time	Meeting Place	Frequency	Involved Companies	Discussion Content
Multilateral Meetings	Market Study Meeting (MK Meeting)	2005-2014	Japan	Every Month	Aluminum/ Tantalum Companies	Japan and Foreign Markets
	Capacitors Up Meeting (CUP Meeting)	2006-2009	Japan	Every Month or Every 2 Months	Aluminum Companies	Japan and Chinese Taipei Markets
	Sales Manager Meeting (SM Meeting)	2008-2013	Hong Kong	Every 3 Months	Aluminum Companies	China and Chinese Taipei Markets
Bilateral Communication		2005-2013	Japan and Chinese Taipei	Irregular	Aluminum/ Tantalum Companies	Specific Trading Counterpart

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Mutual Understanding Content

Since 1980s...

- ◆ exchange sensitive business information



- ◆ reach agreements on price strategy and adjusting price synchronously

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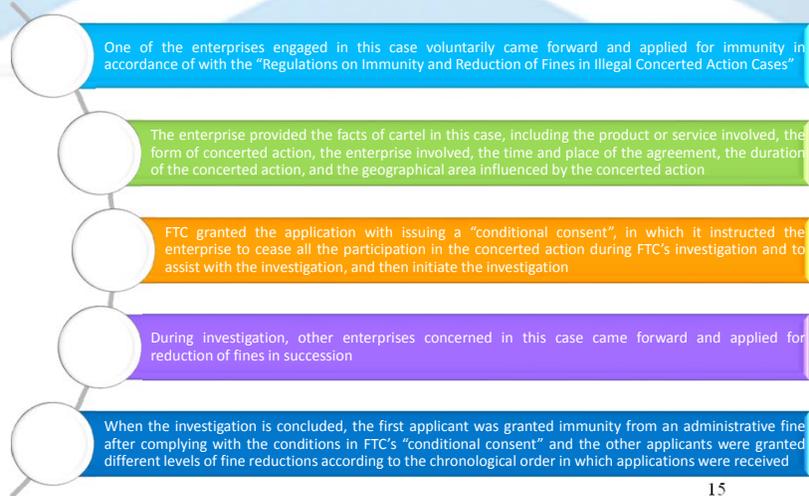
Impact on Domestic Market

	Aluminum Capacitor	Tantalum Capacitor
Market Competition	<ul style="list-style-type: none"> • NCC, RUBYCON, and NICHICON are the top three aluminum capacitor companies in the world • The scale of the aluminum capacitor companies in Chinese Taipei is far smaller than that of the Japanese ones 	<ul style="list-style-type: none"> • The US tantalum capacitor companies are the main tantalum capacitor companies but the enterprises involved in this case also have considerable global market shares • All tantalum capacitors are fully imported
Domestic Demand	<ul style="list-style-type: none"> • The total sales revenue of the aluminum capacitors involved in this case is estimated at NT\$50 billion • Chinese Taipei's electronic companies are the main customers of those capacitor companies which engaged in this case 	<ul style="list-style-type: none"> • The total sales revenue of the tantalum capacitors involved in this case is estimated at NT\$16 billion • Chinese Taipei's electronic companies are the main customers of those capacitor companies which engaged in this case

The companies involved in this case have had a direct, substantial impact on the domestic markets with reasonably foreseeable effects

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Leniency Application



Administrative Fine

Aluminum Capacitor Companies



NCC	NT\$1,868,300,000
NCC HK	NT\$82,900,000
NCC TW	NT\$293,800,000
RUBYCON	NT\$1,248,000,000
ELNA	NT\$76,600,000
SANYO HK	NT\$842,000,000
NICHICON HK	NT\$111,300,000

Tantalum Capacitor Companies



NEC TOKIN	NT\$1,218,200,000
VISHAY POLYTEC	NT\$31,200,000
MATSUO	NT\$24,300,000

Total Amount:
NT\$5,796,600,000
(approx. \$173,000,000)



**Thank you
for your attention !**



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