

Nihon Keizai Shinbun (NIKKEI)
2006/2/6

Title: Policy Reinforcement Towards Fair Competition: Asking for firms' recognition

Page 1 of 4: Panel Discussion

Topic: Can Japanese business culture change?

Prof. Harrington: I'd like to ask. Are Japanese firms really cooperative each other? In international cartels, participated firms have been cheating other participated firms. There are a lot of examples of thwarting in the back each other even though firms agreed to raise price. Standards of the video recording were not able to be united in the past. The enterprise cannot often cooperate in an international case. Where is there a spirit of cooperation?

Page 2 of 4: Panel Discussion

Topic: How do we evaluate the scheme?

Prof. Harrington: I evaluate the Japanese system in that the administration does not have discretion power when it operates the leniency program. The firms always remain distrust in the decision of administrative authorities when there is discretion. As a result, the firms cause the appeal that assumes the judgment of authorities to be an objection. One reason of many plea deals in the U.S. is that it is cheaper for the authorities to end up by the plea deal rather than to collect evidence for prosecutions.

Topic: What is the problem of Japanese system?

Prof. Harrington: Any system doesn't have a complete form. The leniency program is used to manage the cartel, and it has been effective in the prosecution so far. However, because we cannot see a whole number of violations, it is extremely difficult to see how the program reduces the number of violations.

Page 4 of 4: Your Speech.

Title: Award Amnesty for Spontaneous Reporting of Collusion

Subtitle: Corporate leniency programs and the role of the antitrust authority in detecting collusion

By Mr. Joseph Harrington, Professor at the Johns Hopkins University.

1. We would like to consider design and implementation of a leniency program for its effective usage.

2. At a stage that antitrust authority has no knowledge of collusion, it is difficult to induce firms to report collusion spontaneously. The authority should award amnesty to induce spontaneous reporting of collusion.
3. There is also a problem in a program which awards leniency to multiple firms. Since firms can receive leniency even though they don't report first, they have less incentive to do it.
4. For encouraging firms to report illegal activities, it may be beneficial for authority to pre-announce the starting date of an investigation. It may serve to compress the race among cartel members and induce firms to come forward.
5. Let me introduce an effective method of detecting cartel in the U.S. Authority asks a "witness" "Do you have any information with respect to other products in this industry or in any other industry?" If the witness perjures itself, it loses amnesty. This method is called the "omnibus question" and there exists a cartel that was detected by this method. It is, however, questionable if this method works in Japan due to the lack of individual penalties.
6. It is worthwhile broadening the domain of leniency program. It is because information from people who are not cartel members is useful to detect illegal actions.
7. One hopeful candidate is industrial buyers. Since they have very good information about price, industrial buyers can suspect the existence of cartel. A cost of reporting suspected collusion for buyers is that this reporting may induce less cooperative relationship with suppliers. It is necessary to consider financial reward to industrial buyers.
8. Uninvolved company employees is another candidate because they can observe suspicious actions of their managers. We can also expect reports from a competing firm who is not a member of the cartel. For an effective detection of the cartel, programs inducing these candidates to report their suspicious are complementary to leniency programs.