

Decision Making Safeguards

Naohiko Komuro
Japan Fair Trade Commission

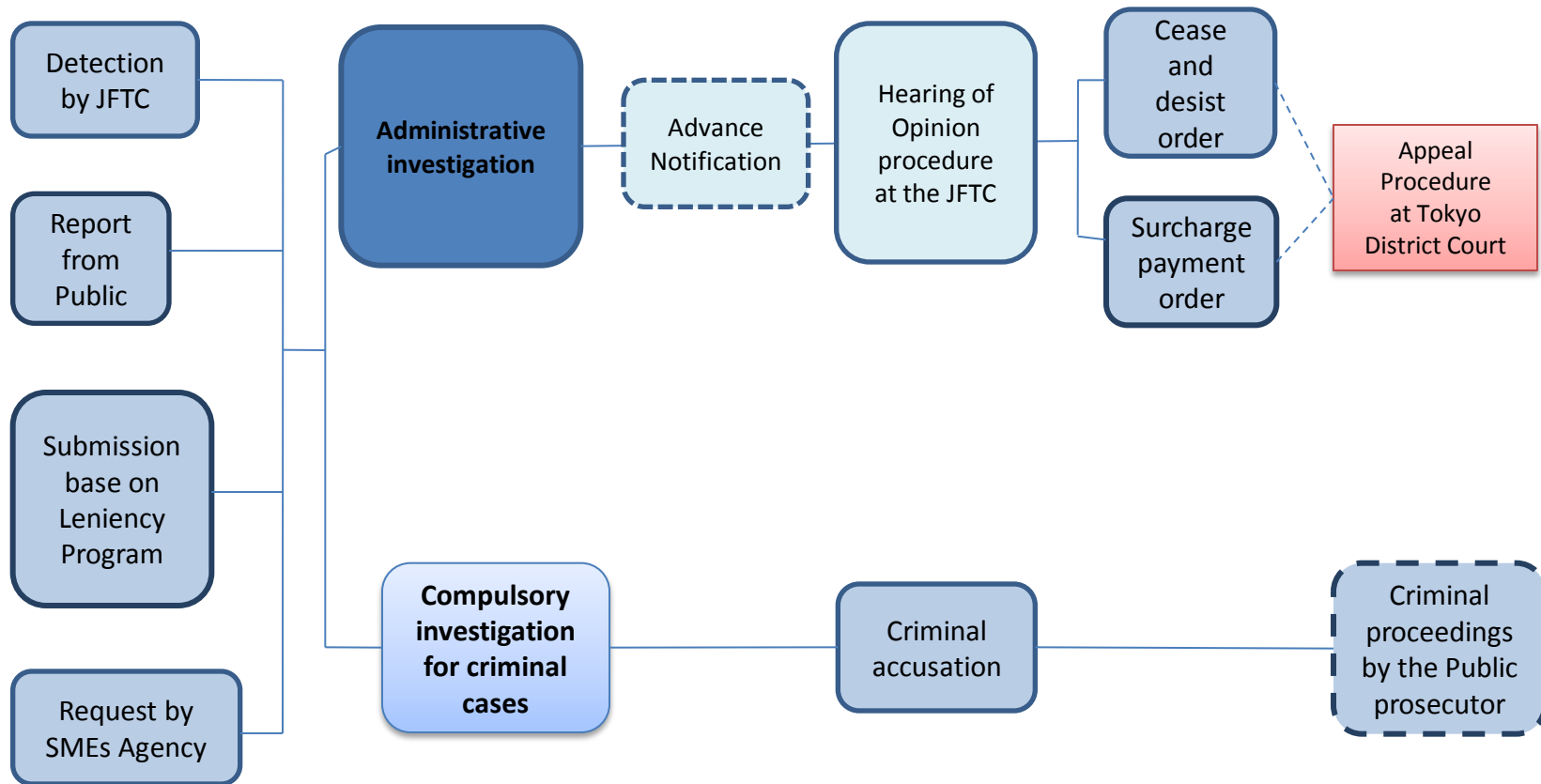
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Procedural Fairness By Competition Law Enforcement Authorities

- **The key to both ensuring effective enforcement and promoting legitimacy of agency decisions is that agencies establish investigation practices of fully finding and properly evaluating the relevant facts.**
- **It is essential for investigators to gather necessary information accurately, to share the information with other colleagues including top officials, and, on that basis, to hold in-depth discussion on the evaluation of the fact.**
- **When evaluating evidence, JFTC's investigators hold intense discussion not only among them, but also with the review team in the Investigation Bureau, so that the team can give these investigators practical advice.**
- **For discussion with the Commission after evidence-gathering process, investigators make detailed reports including not only their views on the cases and facts sustaining them, but also problematic points in finding and evaluating the relevant facts.**

Investigation Procedure of the JFTC



□ Report of the results of the investigation to the Commission

- When an investigation of a case has been completed, the Director General of the Investigation Bureau reports the result to the Commission. (Article 23 of the Investigation Rules)
- The report shall include, among others, (i) a summary of the facts, (ii) relevant articles, and (iii) the opinions of the investigators. The summary of the facts shall also include supporting evidence, namely contents of records of interviews with persons concerned with the case and/or witnesses and written evidence collected as part of the investigation.



□ Role of the Planning Office

- Legal interpretation and enforcement of the AMA necessary for the investigation
- Planning and proposing the essential issues necessary for the investigation

□ During the investigation, the Planning Office

- provides advice on legal issues if requested and comments at the important internal meetings leading to decisions.
- checks the drafts of orders to report, etc.



□ In drafting decisions, the Planning Office

- checks whether the fact found by the JFTC is supported by evidence
- provides advice on drafting decisions and checks whether the orders are adequately drafted

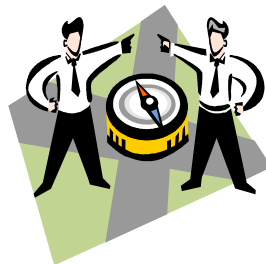
Investigation Divisions at the Investigation Bureau

(Investigators in charge of conducting investigations)

- ✓ Conducts investigations
- ✓ Prepares drafts of the orders/requests to report
- ✓ Prepares drafts of cease and desist order/surcharge payment order

Drafting orders

Review of drafts



Planning Office

(cross-cutting review of the cases with regard to the interpretation of the legal provisions and the consistency with the previous cases)

- ✓ Based on the experiences of past cases, reviews the drafts of orders/requests to report objectively from the viewpoints of whether the orders contains questions enough to establish facts.
- ✓ Provide comments at important internal meetings leading to decisions.
- ✓ Reviews the drafts of cease and desist order/surcharge payment order from the viewpoint of whether the orders are adequately drafted in terms of established facts and application of legal provisions

Planning office co-works with the investigation divisions in drafting orders, etc, but provides a kind of second pair of eyes

□ Senior Planning Officer in the Investigation Bureau

- A team of specialists in procedural issues in investigations
- Investigation Divisions can ask the SPO when they are in need of advice with regard to procedural issues
- Conducts training programs within the Investigation Bureau, (for management level, investigators as well as freshmen)

□ Establishment of the Economic Analysis Team (April, 2016)

- Consists of experts in economic analysis
- Supports investigators, especially in considering the views of the parties concerned

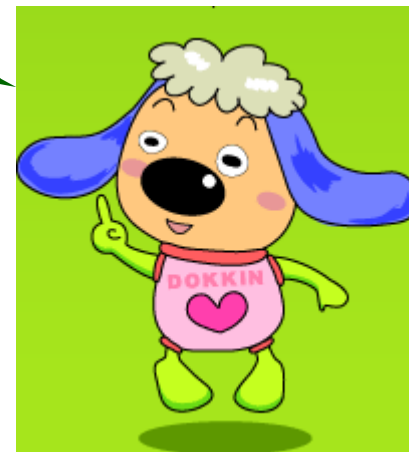




Thank you very much !!
Please visit our English website at:
<http://www.jftc.go.jp/en>

Disclaimer: the views expressed in this presentation is solely those of the speaker and do not necessarily reflect those of the agency that the speaker belongs to.

All errors in this presentation are mine.



Dokkin
(JFTC mascot character for kids)