



Enhancing the Effectiveness of the Leniency Program, Strengthening Sanctions on Repeat Cartel Offenders

September 23, 2026

Legislative Notice on Amendment to the Enforcement Decree of the Monopoly Regulation and Fair Trade Act, and Administrative Notice on Amendment to the Leniency Notice

Even a first-priority applicant who self-reports after an investigation has begun will now receive only a 75% reduction in the fine

Stronger restrictions on leniency for repeat cartel offenders

The Korea Fair Trade Commission (KFTC, Chairperson Biung-Ghi Ju) is pursuing amendments to relevant legislation in order to improve the leniency program for cartel self-reporting under the Fair Trade Act. Accordingly, the KFTC will give legislative notice of a proposed amendment to the Enforcement Decree of the Monopoly Regulation and Fair Trade Act from September 23 to November 2, and administrative notice of a proposed amendment to the Notice on Operation of the Leniency Program, including Corrective Measures, for Self-Reporting Parties to Unfair Concerted Practices ("Leniency Notice") from September 23 to October 13.

This amendment is intended to reasonably reflect the timing of self-reporting and the reporting party's contribution to the case in the level of leniency granted—thereby increasing incentives to self-report before an investigation begins—while also strengthening restrictions on leniency for repeat cartel offenders, so as to improve the leniency program and enhance deterrence against cartel conduct.

The leniency program is designed to reduce or exempt sanctions for those who voluntarily report cartel conduct or cooperate with investigations, making it easier to detect cartels that are otherwise formed and operated in secret, while also undermining trust among cartel participants to help prevent cartel formation in the first place. Despite its usefulness, however, repeated cartel conduct that undermines market competition and harms the public continues to persist. In response, the KFTC is pursuing reforms to rationalize the level of leniency—strengthening deterrence against violations of the law while avoiding an excessive chilling effect on incentives to self-report.

The key contents of the proposed amendments to the Enforcement Decree and the Leniency Notice are as follows.

1. Differentiating the level of fine reduction for self-reporting parties depending on whether they report before or after an investigation begins

Under current law, the first-priority self-reporting party receives a full exemption from fines regardless of whether they report before or after the KFTC has begun its investigation.

However, since a party who voluntarily self-reports and a party who self-reports only after the KFTC has already become aware of suspected cartel conduct and begun an investigation contribute differently to case handling, fairness and equity require differentiating the benefits accordingly. In addition, treating pre- and post-investigation self-reporting parties the same risks creating a perverse incentive for parties to maintain the cartel for as long as possible until an investigation actually begins.

Accordingly, the KFTC plans to clearly differentiate the benefits: the first-priority self-reporting party who reports before an investigation begins will continue to receive a full exemption from fines as under current law, while the first-priority party who reports after an investigation has begun will instead receive a 75% reduction in fines. This is expected to strengthen incentives to report before an investigation begins, leading to earlier detection and faster collapse of cartels.

2. Strengthening restrictions on leniency for repeat cartel offenders

Under current law, a business that has received leniency, or that has been sanctioned by the KFTC for cartel conduct, is barred from receiving leniency again if it is caught engaging in cartel conduct a second time within five years. However, concerns have been raised that this is insufficient to sanction and prevent repeat cartel conduct, since no such restriction applies to violations occurring more than five years later. This calls for stronger sanctions against repeat violations of the law in order to improve deterrence.

First, even where repeat cartel conduct occurs more than five

but within ten years [of the earlier violation], the amendment will reduce the level of fine-reduction benefits by half, thereby raising the fine amounts imposed on repeat cartel offenders and preventing the leniency program from being exploited as a means of evading sanctions.

* (First priority, pre-investigation) full exemption → 50% reduction; (first priority, post-investigation) 75% reduction → 37.5% reduction; (second priority) 50% reduction → 25% reduction

In addition, the scope of leniency restrictions applicable to businesses previously sanctioned for cartel conduct will be expanded. Current law limits repeat-offender leniency restrictions to cases where a business that received leniency engages in cartel conduct again, or a business sanctioned for cartel conduct again commits cartel conduct that violates the same corrective order. However, because the scope of "conduct that violates the same corrective order" is overly narrow, businesses operating across multiple sectors have an opportunity to exploit this loophole. The amendment removes the "violates the same corrective order" requirement, so that leniency restrictions will apply whenever a business previously caught for cartel conduct commits new cartel conduct, regardless of business sector.

* Corrective orders are generally issued with respect to the specific market and product categories related to the cartel conduct that was detected.

3. Improving the criteria for determining repeat violators

Previously, there was no explicit provision addressing cases where a business previously caught for cartel conduct transferred its business through corporate spin-off, establishment of a new entity, or business transfer, and then repeated cartel conduct through the new entity—leaving it unclear whether leniency restrictions would apply to that new entity.

The amendment establishes an explicit legal basis so that leniency restrictions arising from repeat cartel conduct also apply to any entity that has succeeded to the relevant business through merger, spin-off, spin-off merger, or business transfer, among other means. This is intended to prevent corporate spin-offs, business transfers, and similar arrangements from being exploited as a means of evading sanctions for repeat cartel conduct.

4. Refining provisions of the Leniency Notice

In light of the above amendments to the Enforcement Decree and consistency with higher-level legislation, the Leniency Notice will also be revised accordingly. First, criteria for determining "repeat" violations will be newly established. The statutory phrase "newly violating Article 40(1)" in connection with repeat cartel conduct will be clarified to mean agreeing to or carrying out a new cartel, or continuing an existing cartel, after having received a KFTC sanction or leniency—thereby improving predictability for self-reporting parties.

In addition, the criteria for restricting leniency for businesses

previously sanctioned for cartel conduct—previously set out in the Leniency Notice—will now be provided for in the Enforcement Decree and accordingly deleted from the Leniency Notice. Article 17 (Whether to Refer for Prosecution) of the current Leniency Notice will also be deleted to bring it in line with the scope of delegation under the relevant provisions of the Fair Trade Act, thereby enhancing legal consistency and the predictability of the program's operation.

The KFTC plans to carefully review comments submitted by stakeholders and relevant government agencies during the legislative/administrative notice period, and, following review by the Ministry of Government Legislation and other procedures, to complete the amendments to the Enforcement Decree and the Leniency Notice by the first quarter of 2027.