

INTERNATIONAL CARTEL SETTLEMENTS WORLDWIDE: HOW HIGH ARE THEY?

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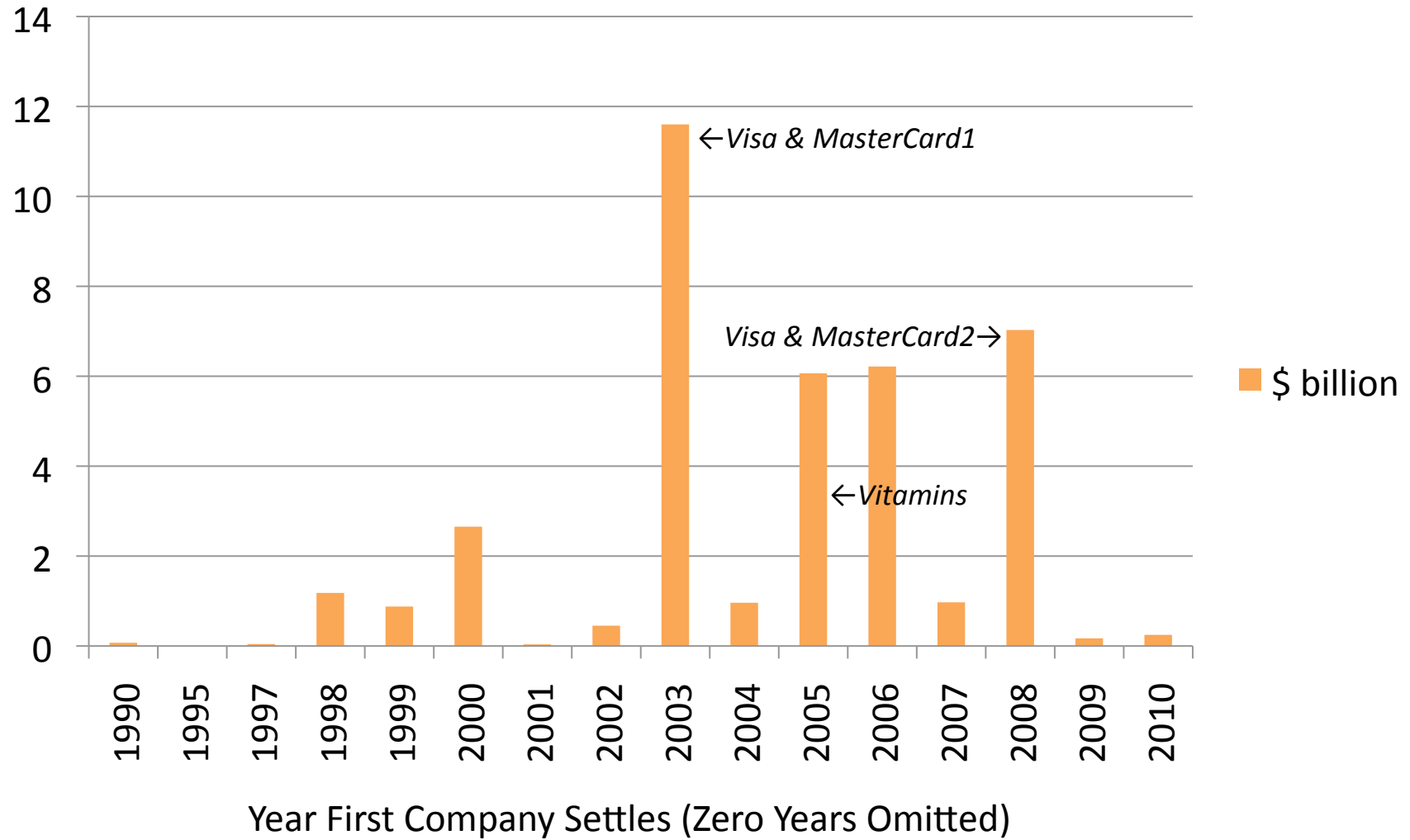
INTRODUCTION

- The purpose of this paper is to examine the size and role played by private damages recoveries in antitrust enforcement directed at contemporary hard-core international price-fixing cartels.

DATA SOURCE

- Data analyzed in this paper are derived from the Private International Cartels (PIC) data set.
- "International" cartels have participants from two or more nations.
- Includes all cartels either formally investigated by an antitrust authority or a complaint filed after Jan. 1990 and before Dec. 2010.
- There are 106 cartels with US settlements

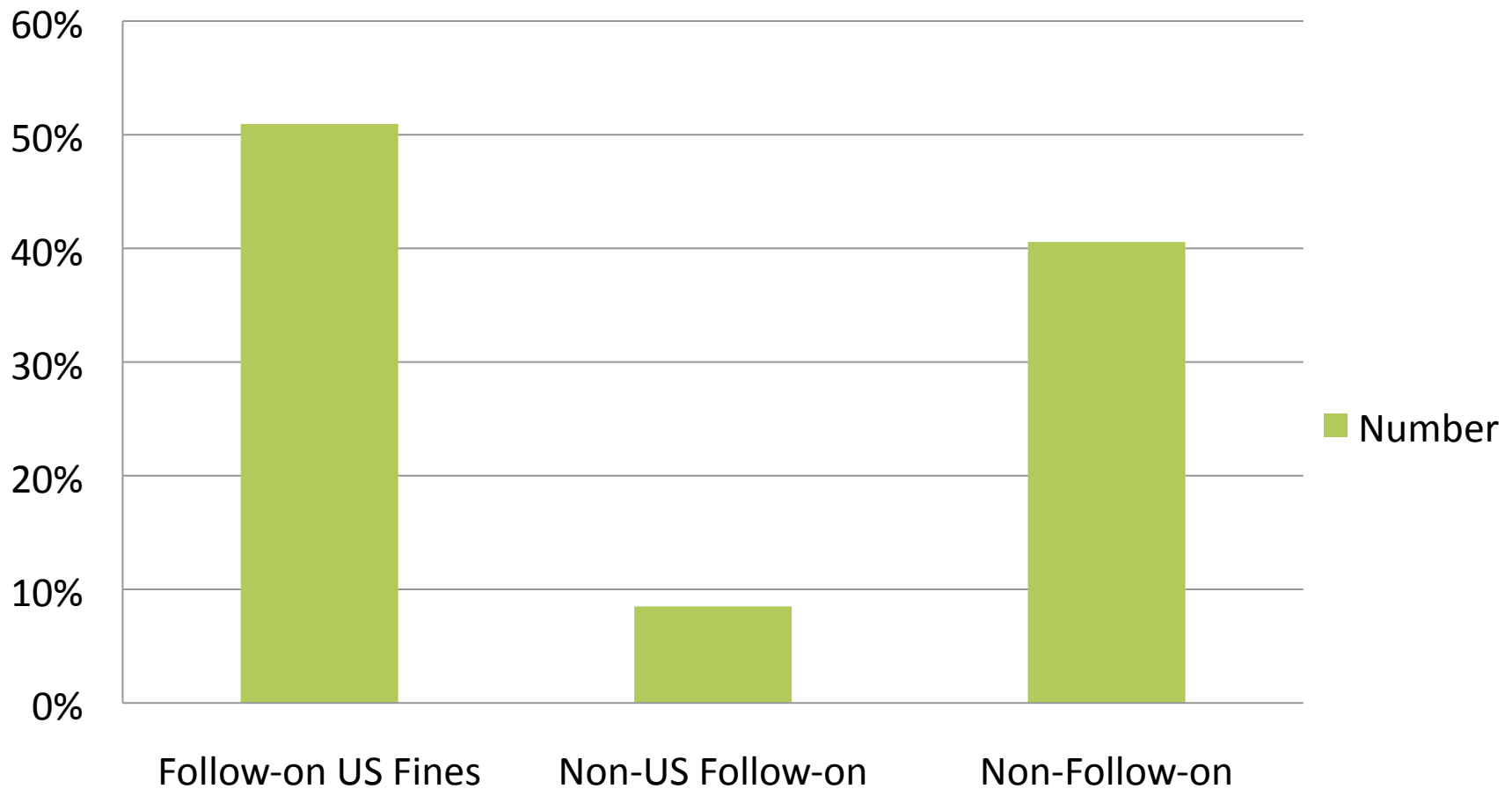
Intl. Cartel **Private Recoveries** in the US Are Uneven, 1990-2009



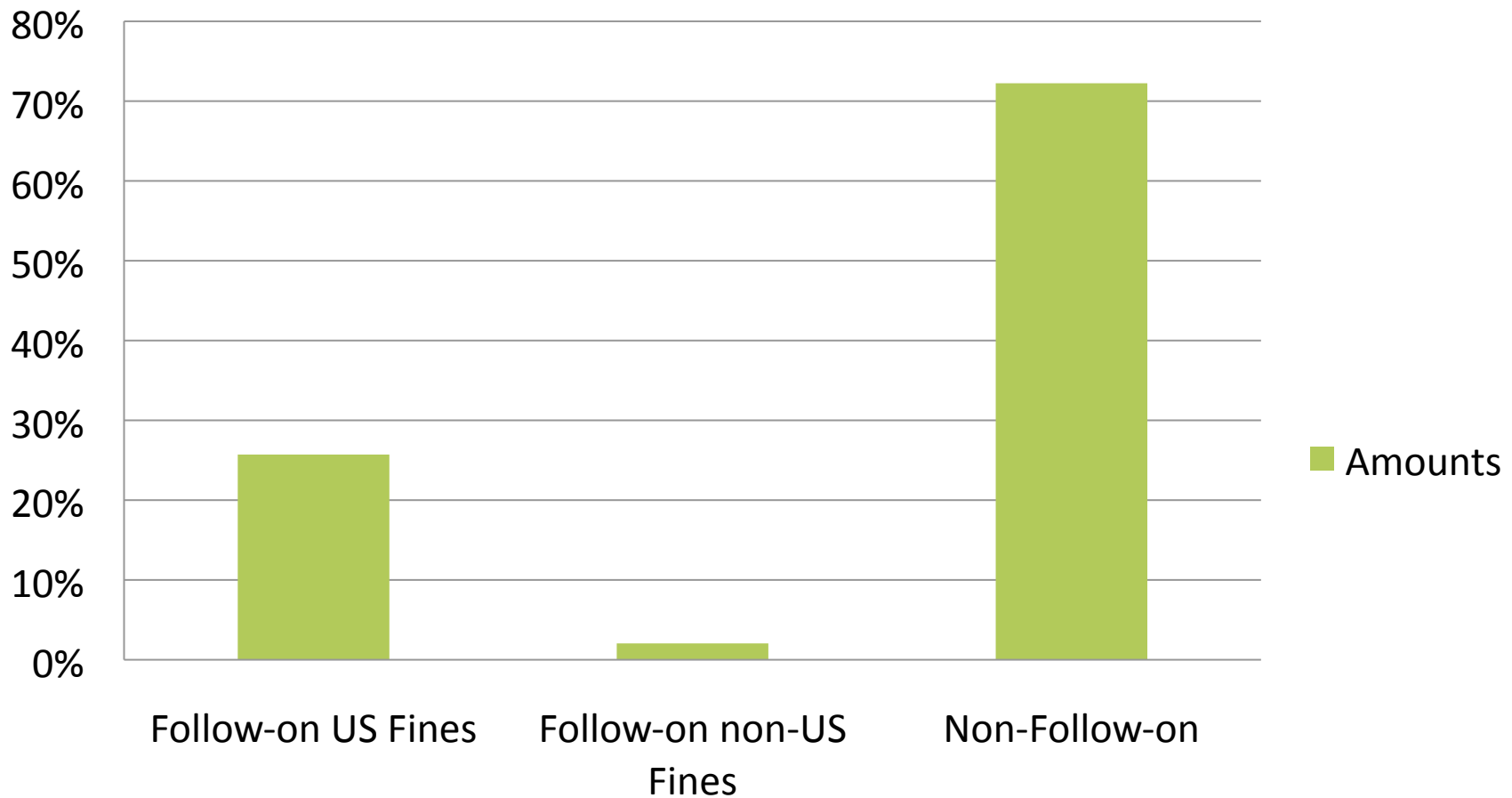
Half Follow U.S. Guilty Pleas

- But 41% follow **NO** government convictions; these types take longer but result in the largest recoveries
- Increasingly US private actions follow non-US convictions (about 8% of total)
- And **ALL** US DOJ convictions result in successful settlements (with a long lag)

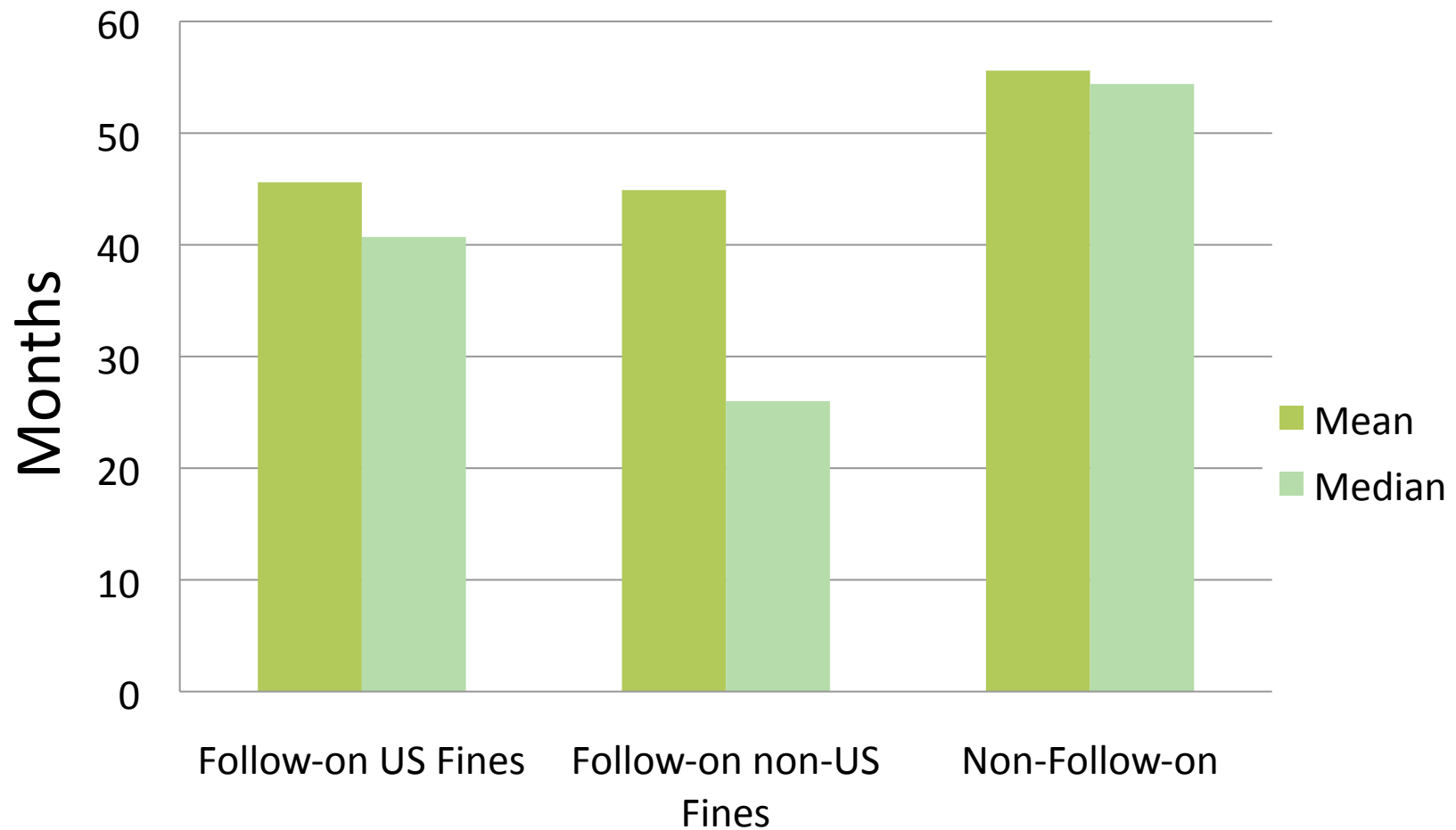
U.S. Private Actions on International Cartels (1990-2010)



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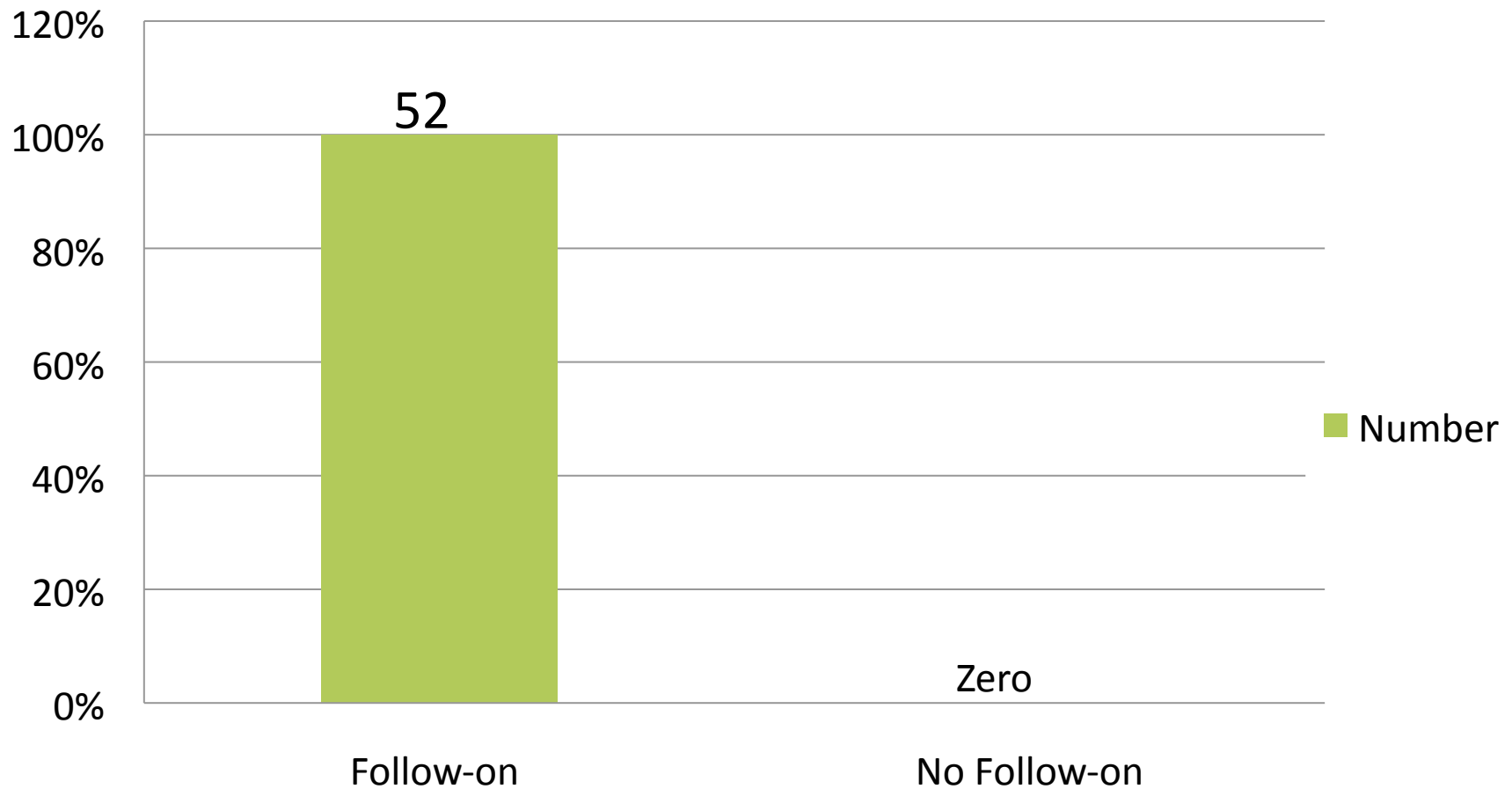


Length of U.S. Private Actions on International Cartels (1990-2010)



Criminally Fined Cartels, U.S.

Private Actions (Fined 1990-2005)



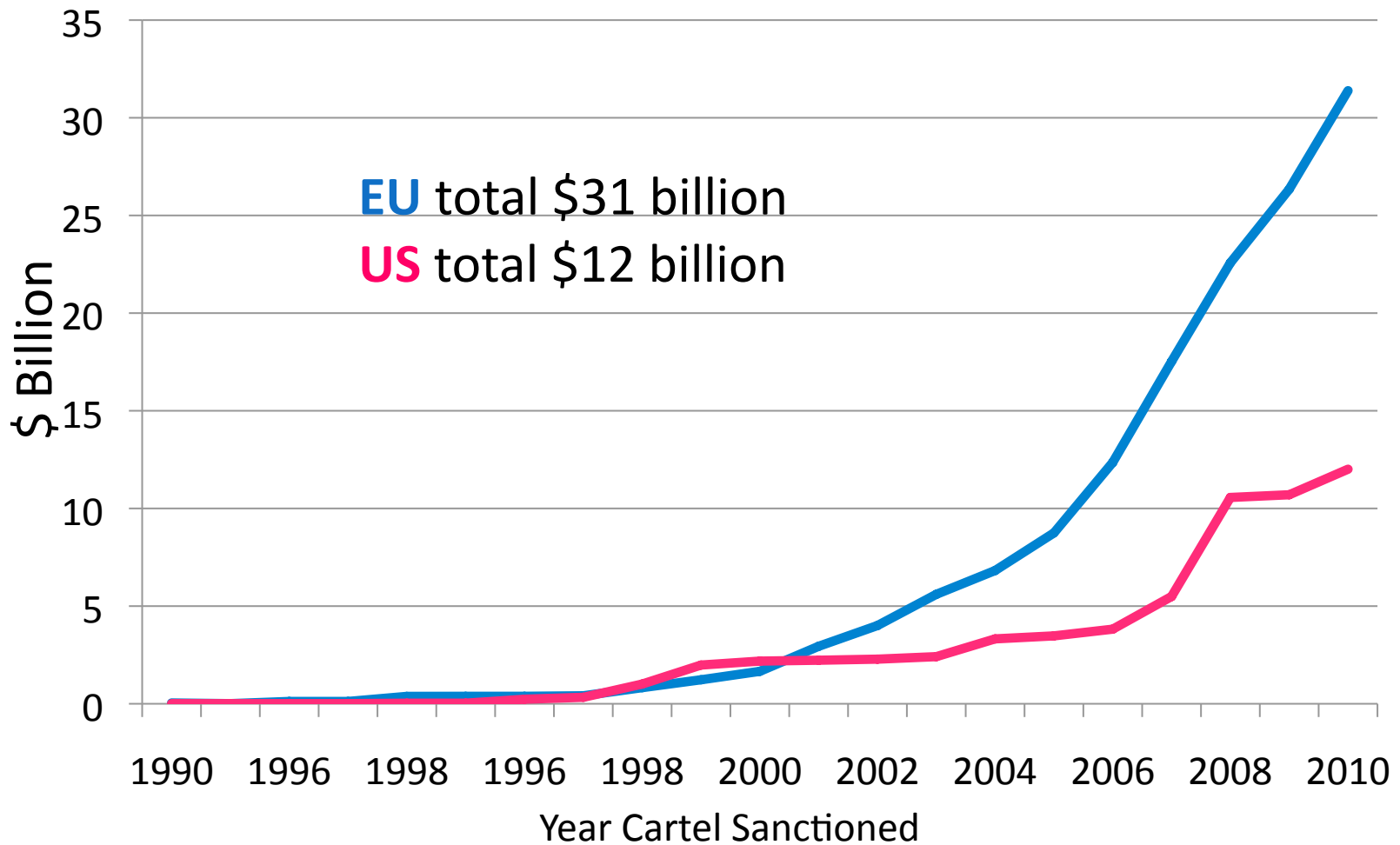
Narrative on Total Penalties

- Total penalties include private settlements, which are rare in Europe, common in US.
- Total **penalties** are now \$53 billion in US, 70% higher than the EU's total.
- US clearly surpassed EU after 1997.
- If present trends continue, by 2015 total penalties will reach \$75 billion in US & EU.

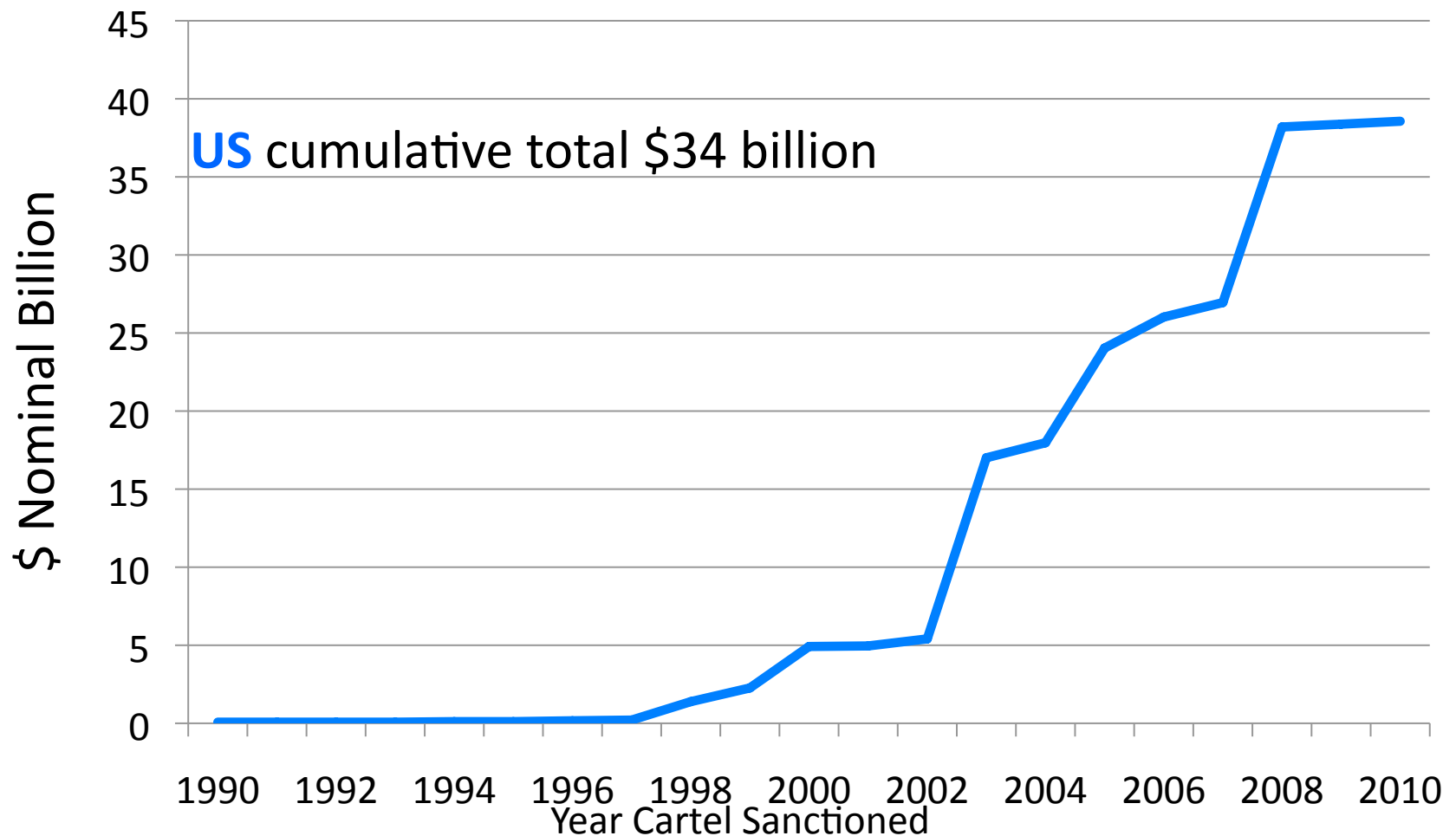
Total Penalties on International Cartels \$91.5 Billion (1990-2010)



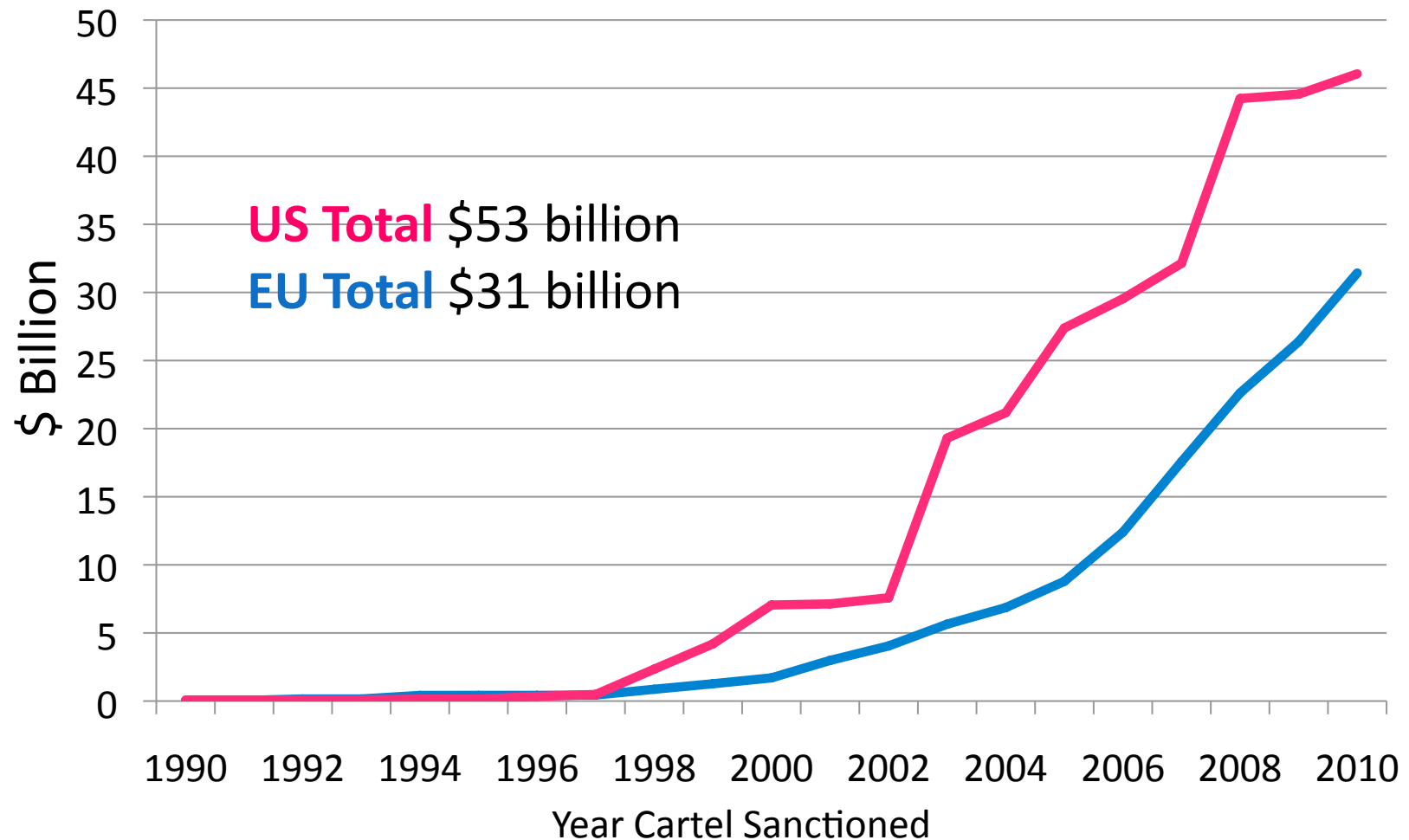
Cumulative Government Penalties Imposed: after 2000, **EU** Pulls ahead of **US**



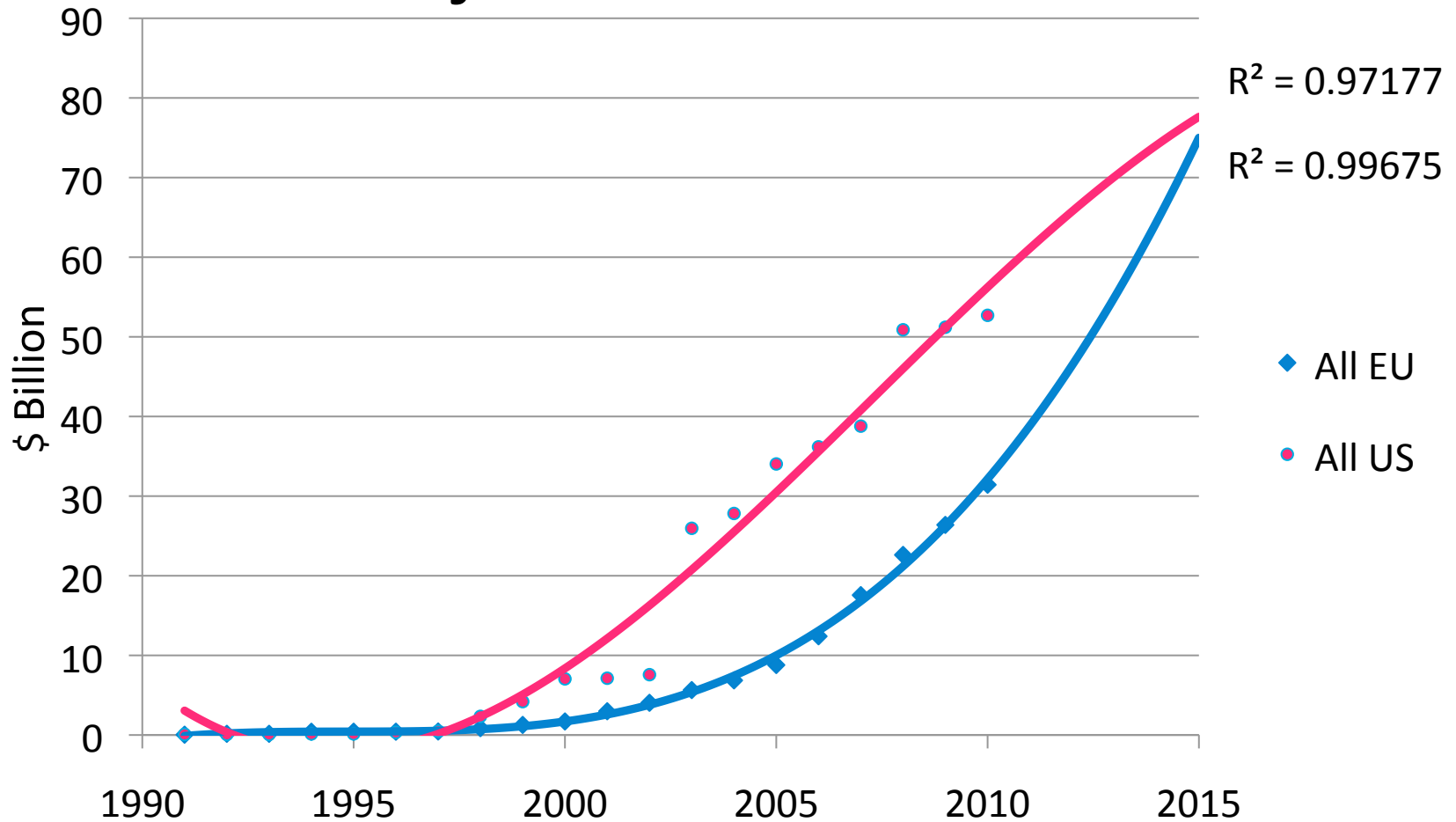
Cumulative U.S. **Private Penalties**, International Cartels, 1990-2010



Counting Private Settlements, After 1997 **US** Sanctions Exceed **EU's**



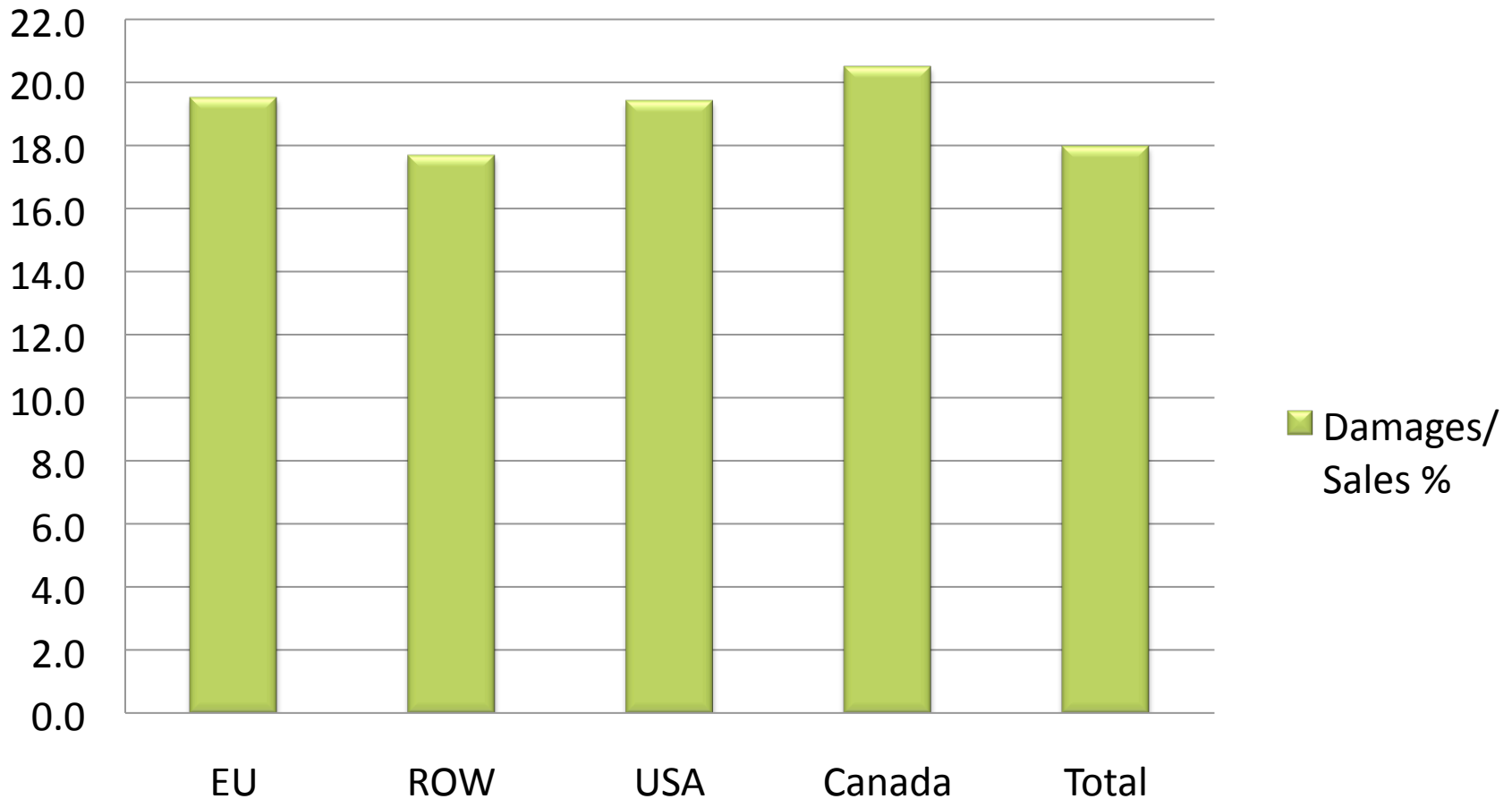
EU and U.S. Cumulative Penalties, Projections to 2015



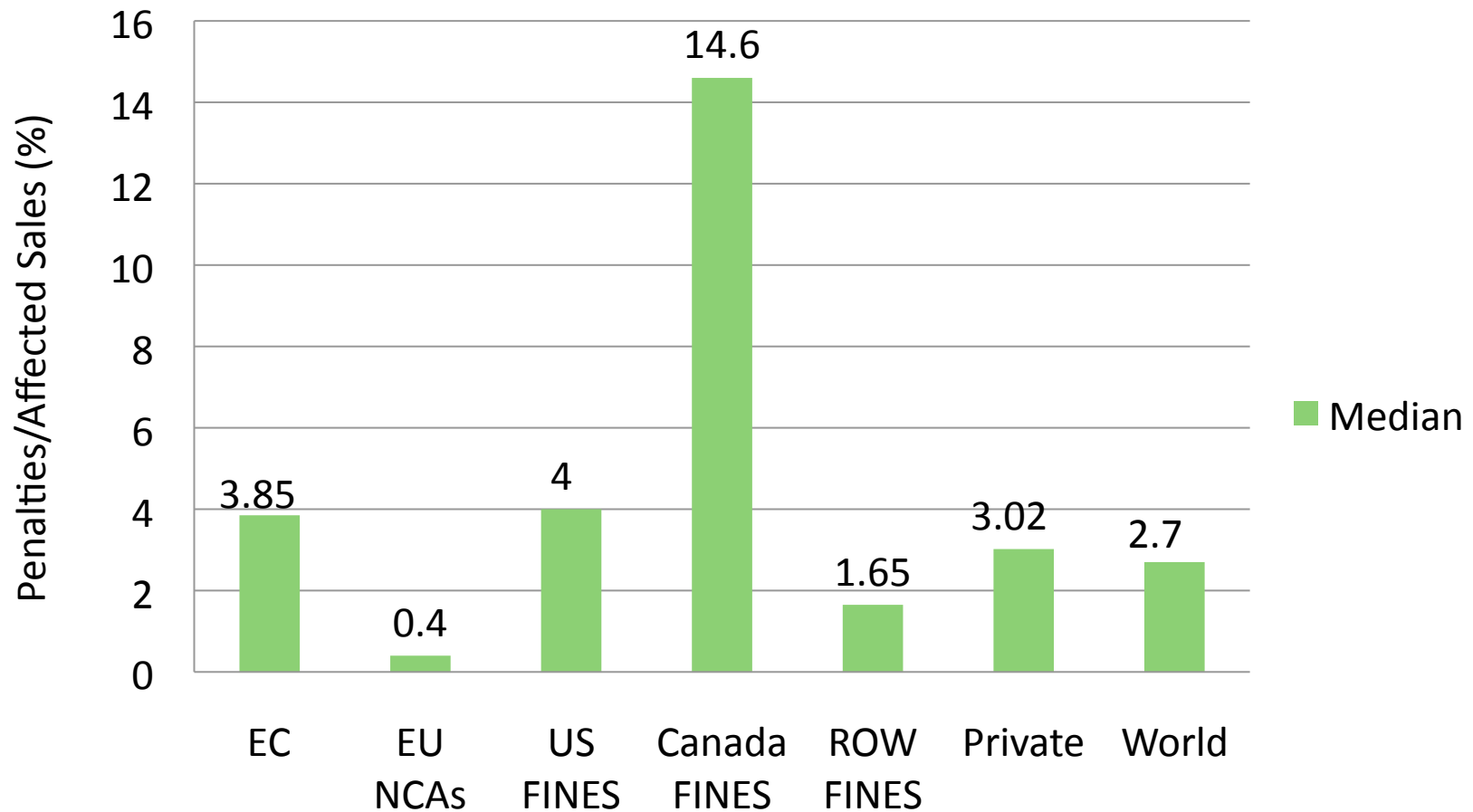
PARTIAL DAMAGES

- Data on price effects available for 200 cartels
- Median overcharges vary from 17% to 21% of sales
- Median penalties are lower -- 2 to 12% of sales.
- Severity of fines for *localized* cartels is rising.
- Severity of *fines* for *global cartels* fell in the late 2000s, though severity of private *settlements* trended upward.

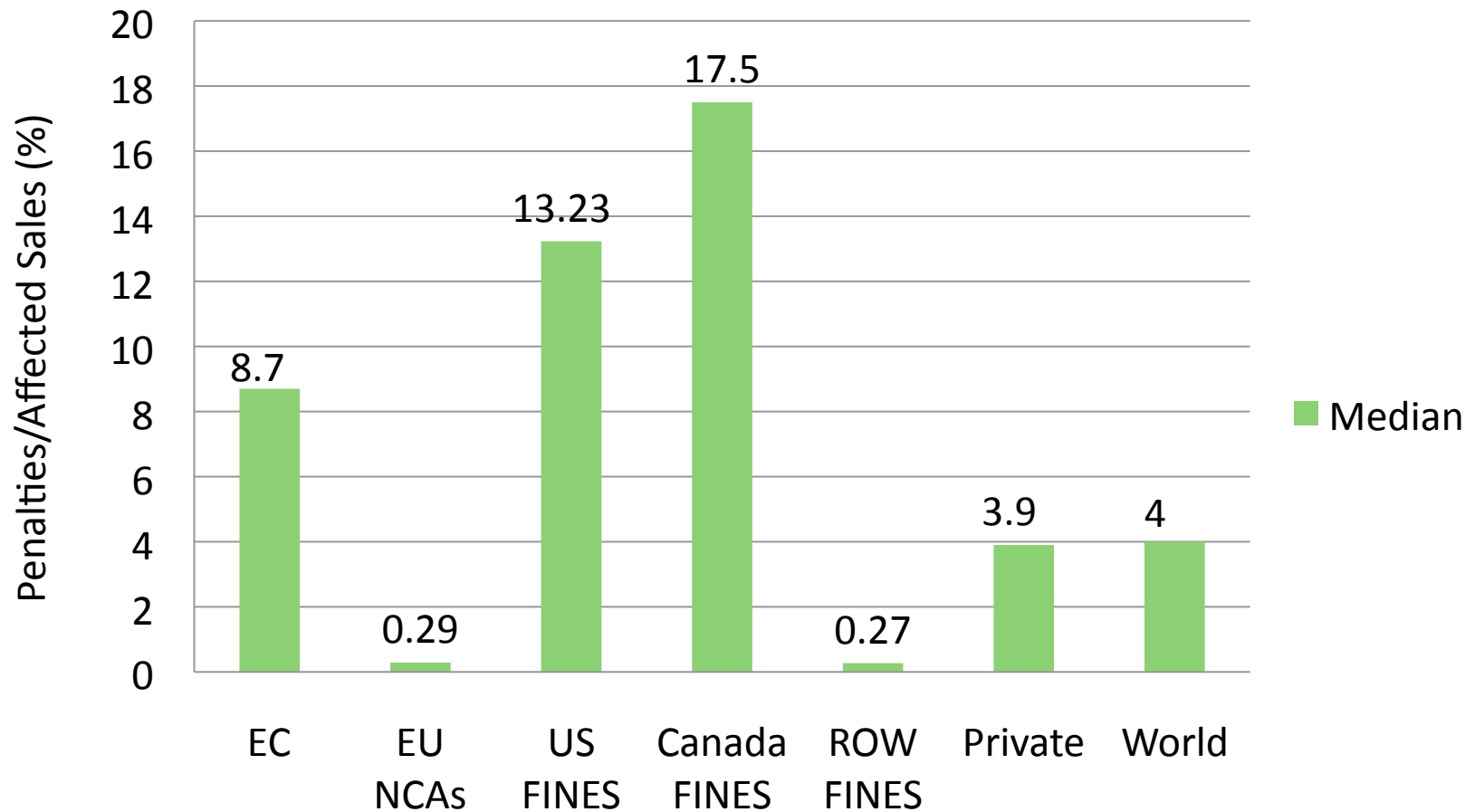
Median **Intensity of Damages** Varies Little by Jurisdiction



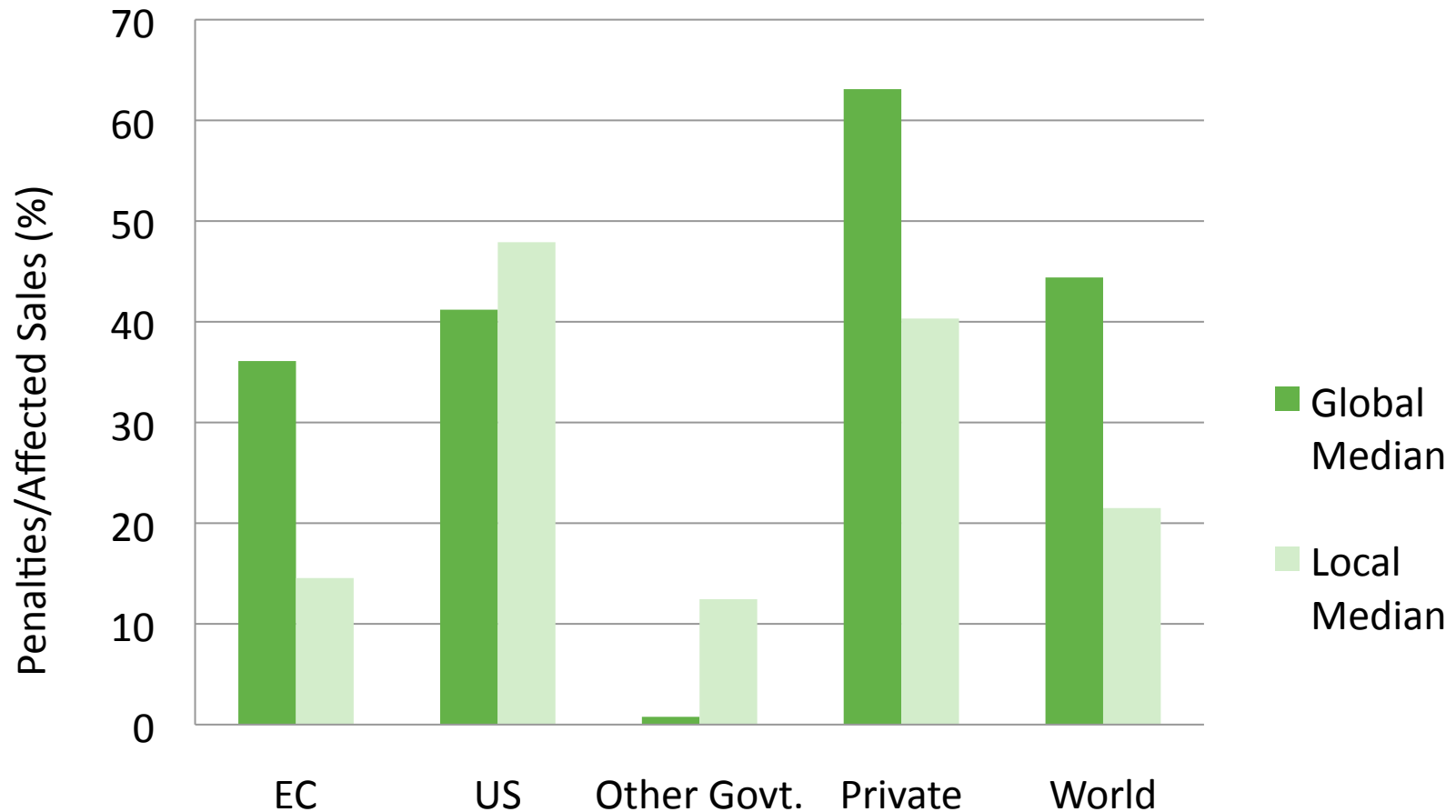
Severity of Penalties on Non-Global Cartels, 1990-2010



Severity of Penalties on Global International Cartels, 1990-2010

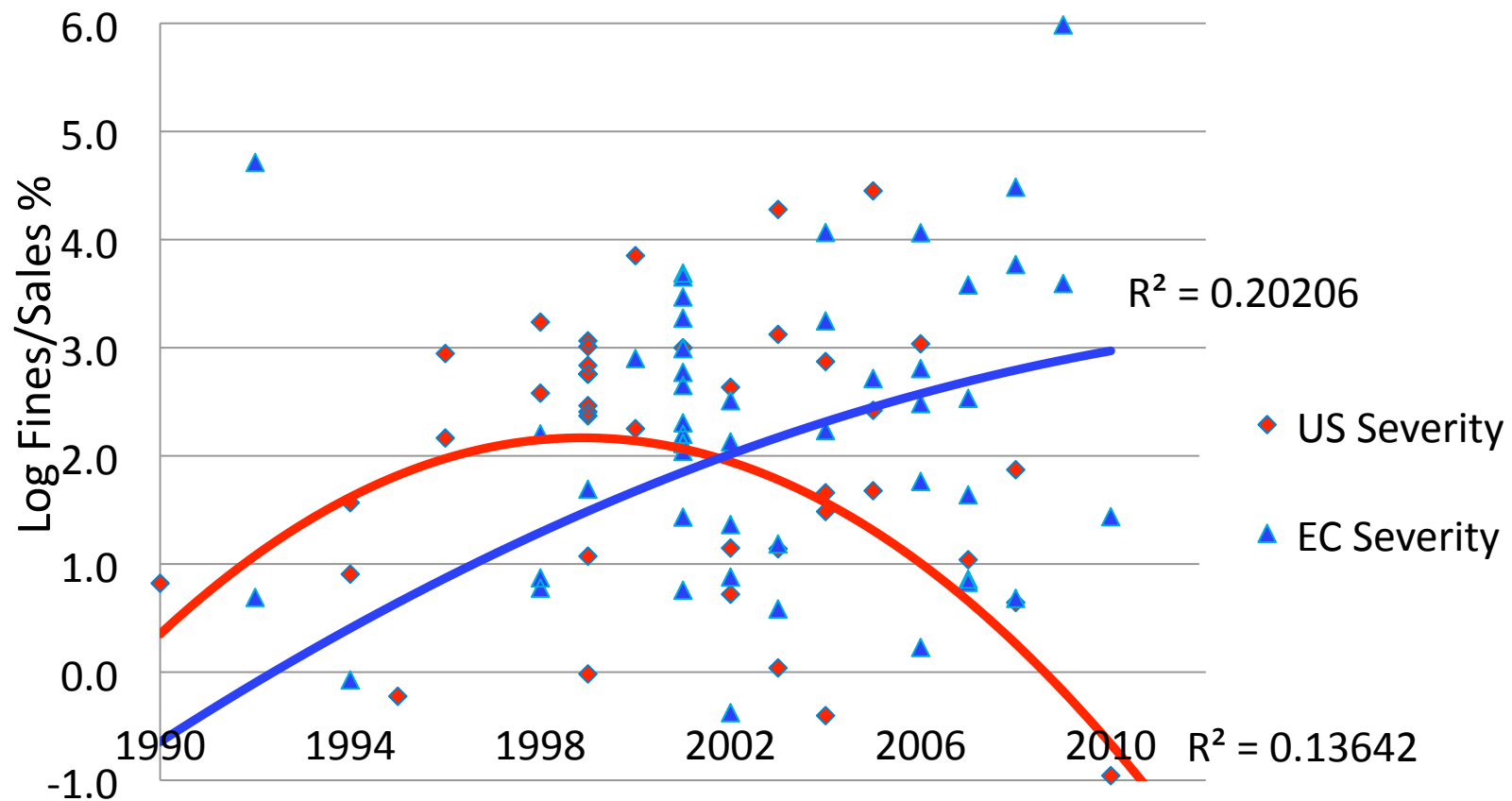


Severity of Penalties on Global Cartels Is Generally Higher than Local

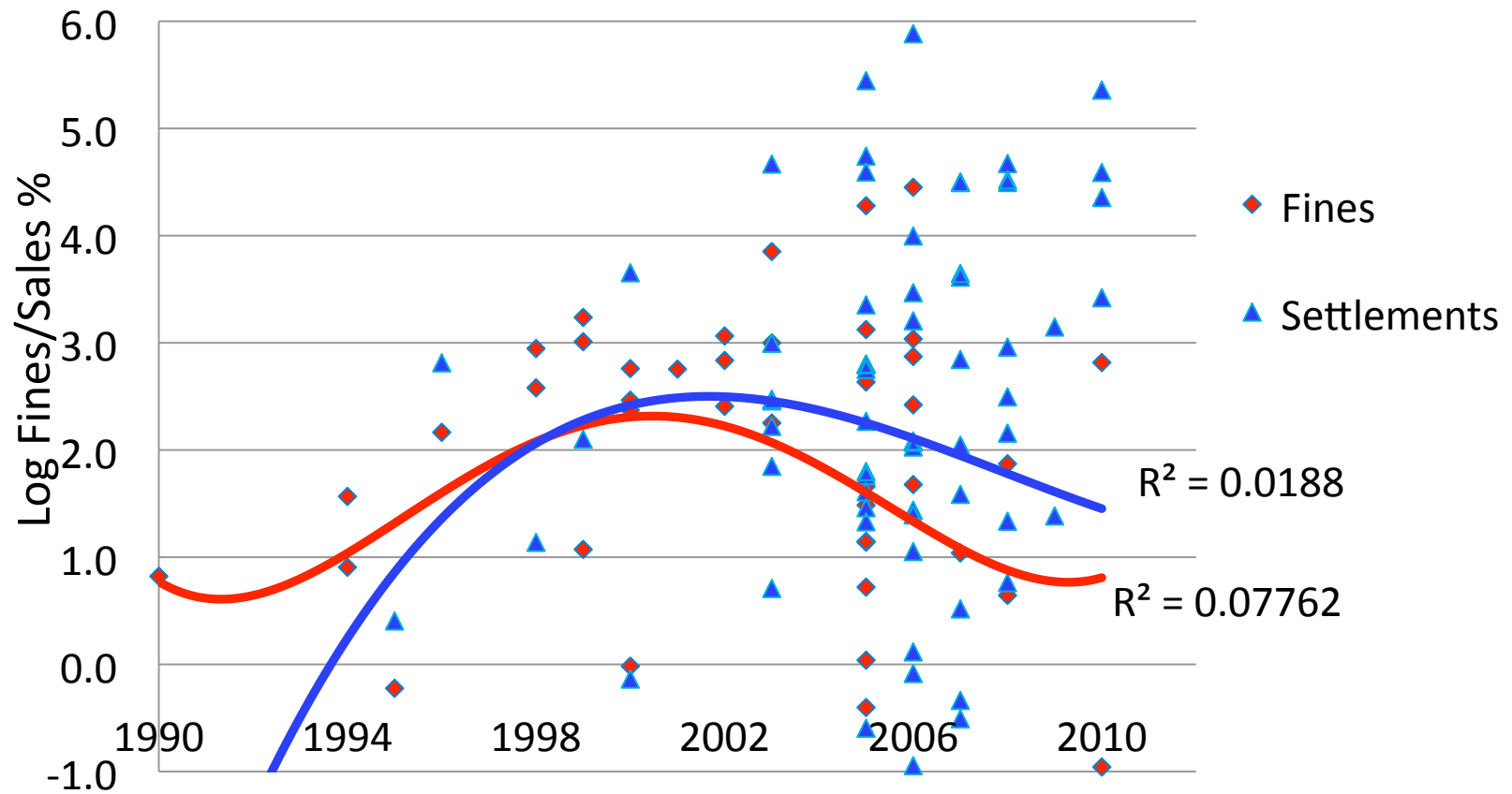


Note: Penalties are skewed, so the median is the more meaningful measure

Trends in Severity of Fines, US Peaks and Falls, EC Rises



Trends in Severity: Both **US Fines** and **Private Settlements** PEAK ca. 2002

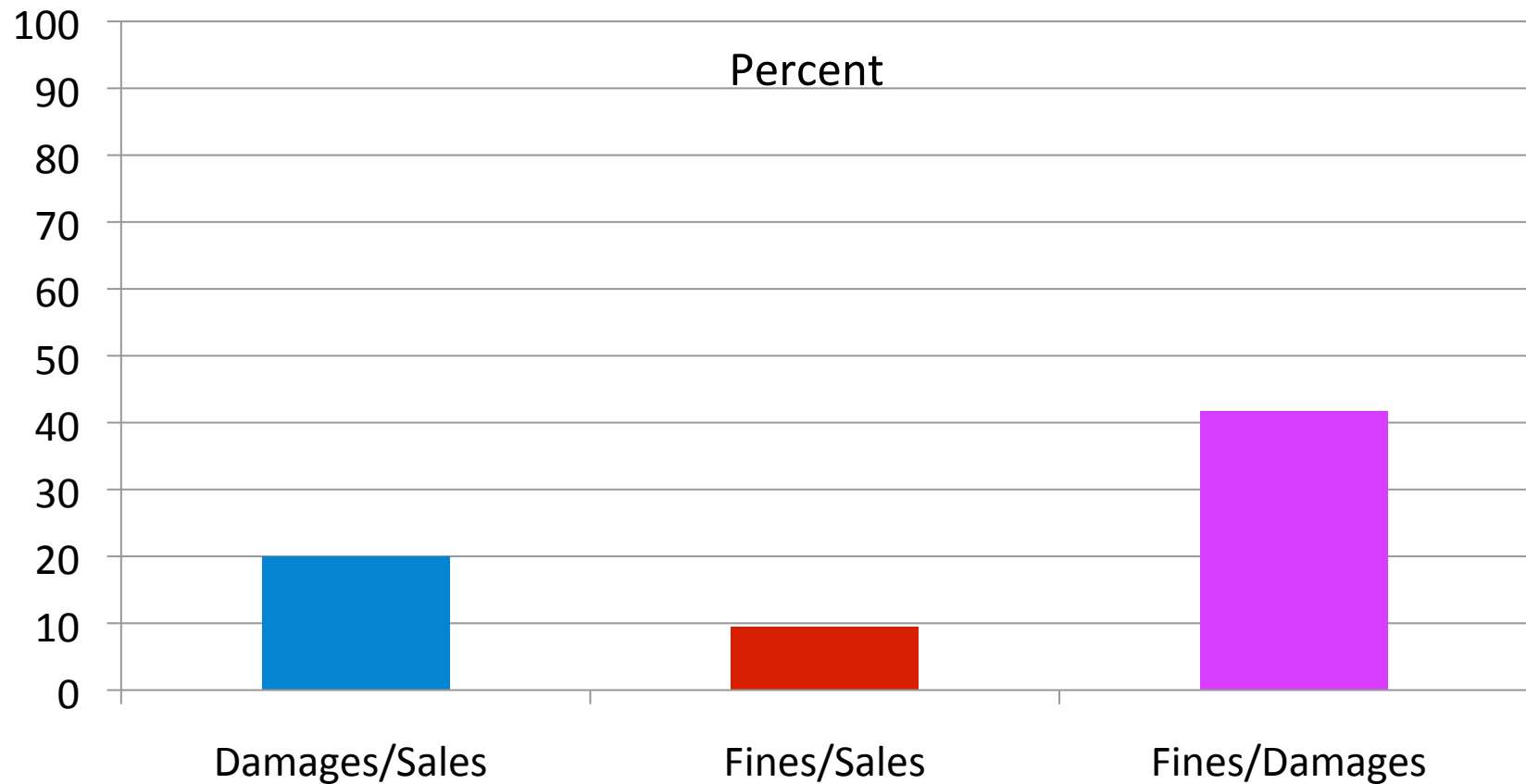


DETERRENCE AND PENALTIES

Here we examine 202 **penalty/damages ratios**:

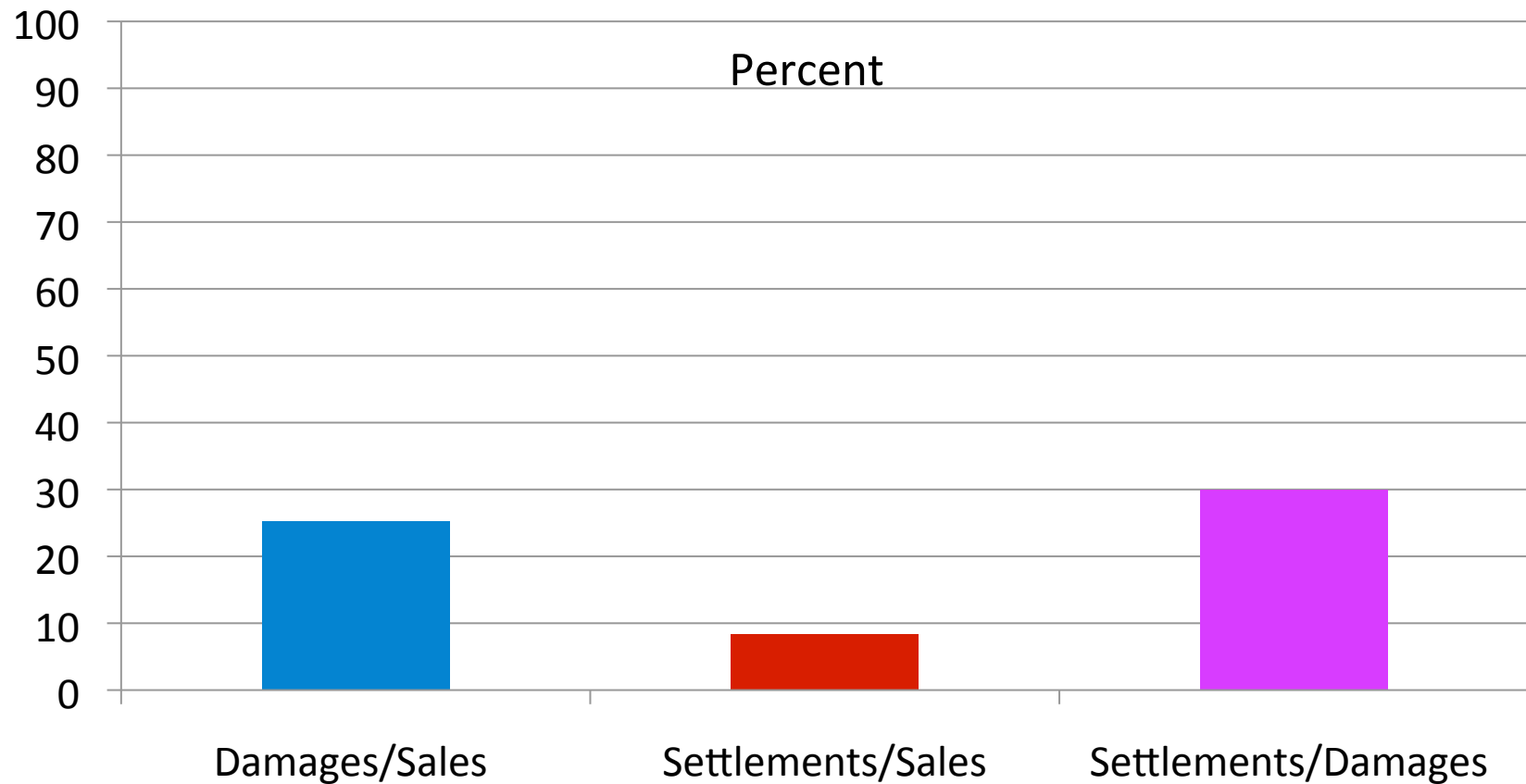
- *Ex post*, no region has median ratios above 100% (the level of full disgorgement).
- However 60 cases above 100% : 23 EU, 37 US
- The highest ratio is 90% for U.S. public and private sanctions combined.
- EU fines average 23% of damages.
- Global cartel sanctions are only 38% of damages and falling after 2000.
- The U.S. ratio is falling, EU's ratio is rising.

U.S. Overcharges, Fines, and Fines/ Damages Ratio



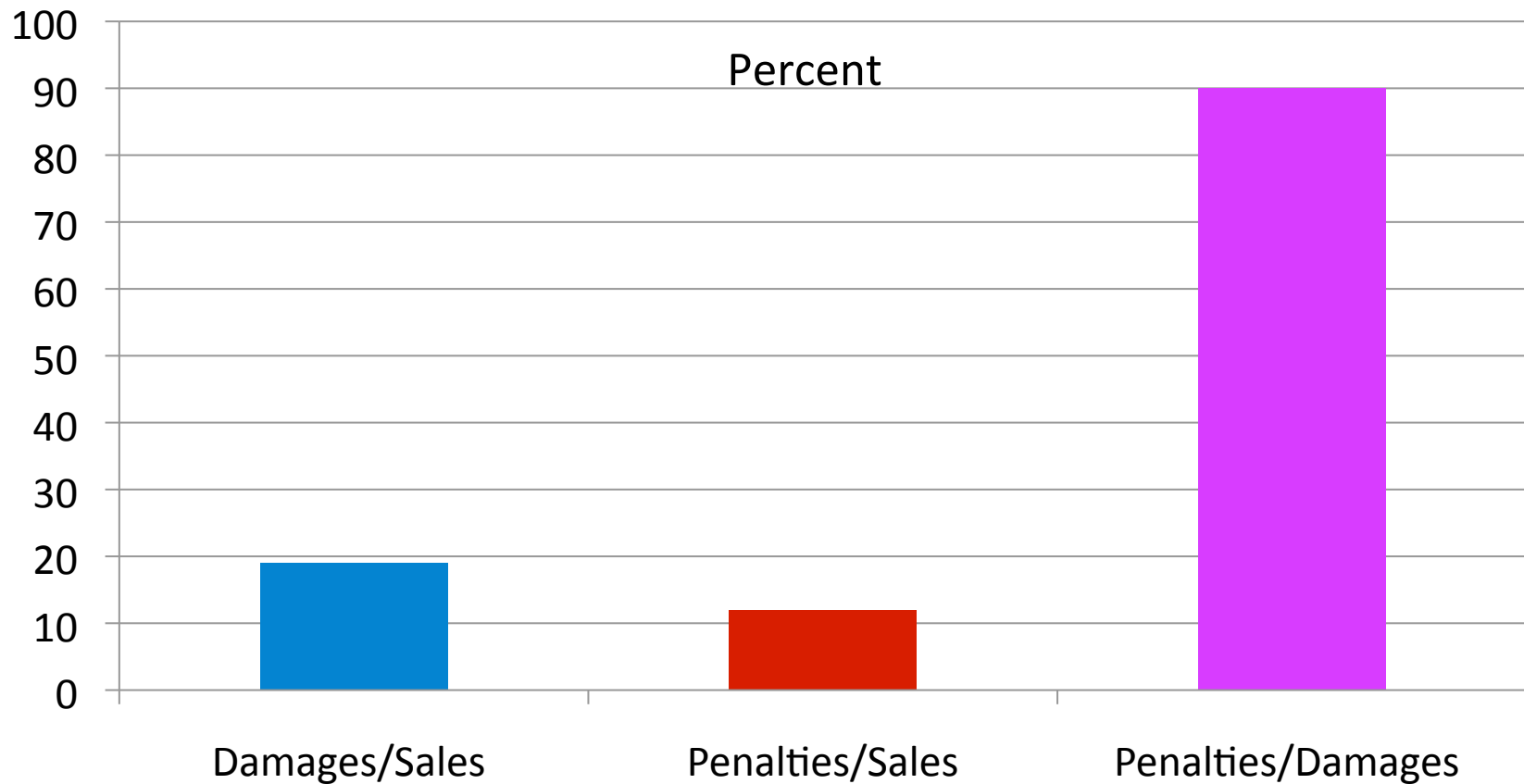
Note: A 100% ratio means full disgorgement of profits.

U.S. Overcharges, Settlements, and Settlements/Damages Ratio



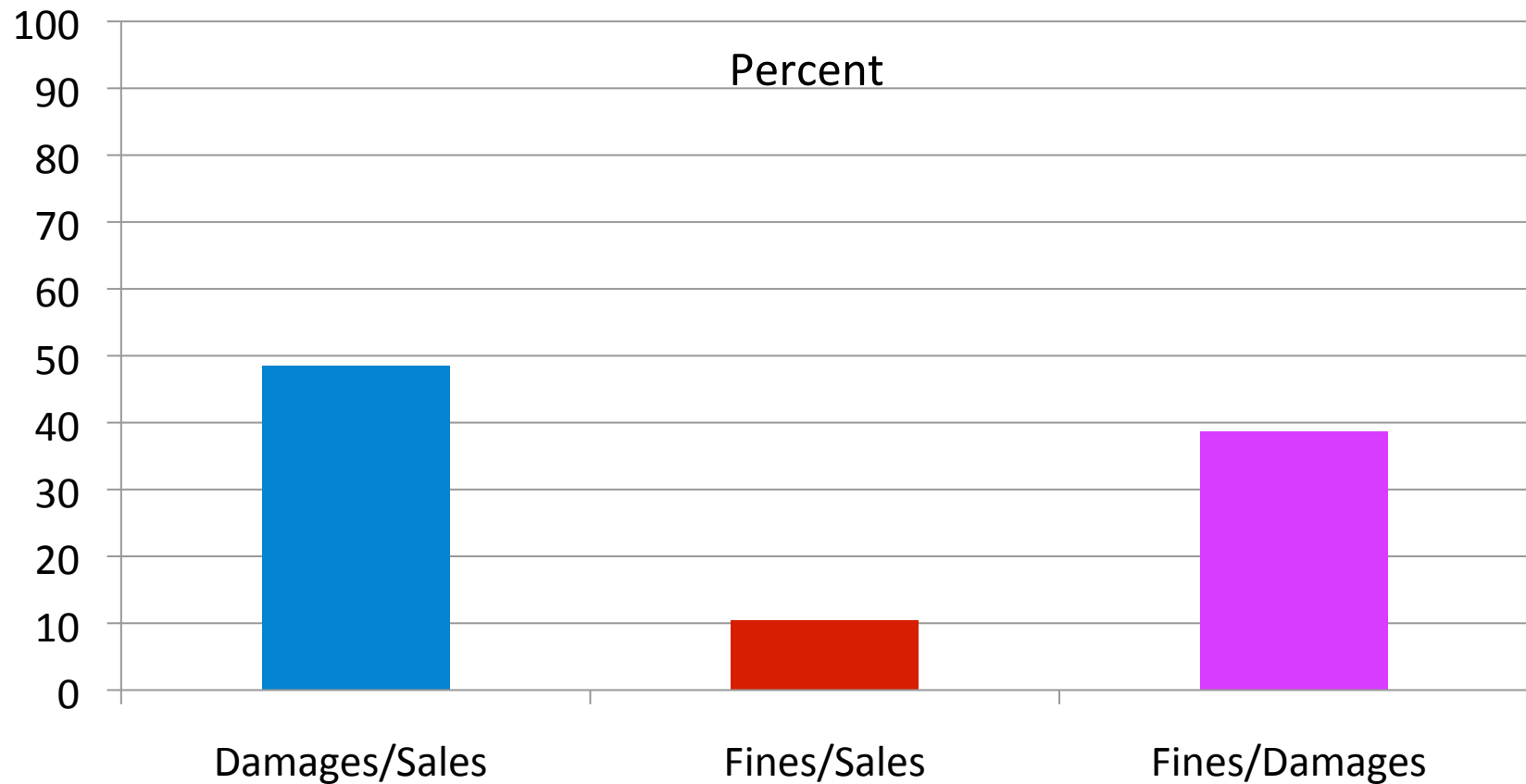
Note: A 100% ratio means full disgorgement of profits.

U.S. Overcharges, Total Penalties, and Total Penalties/Damages Ratio



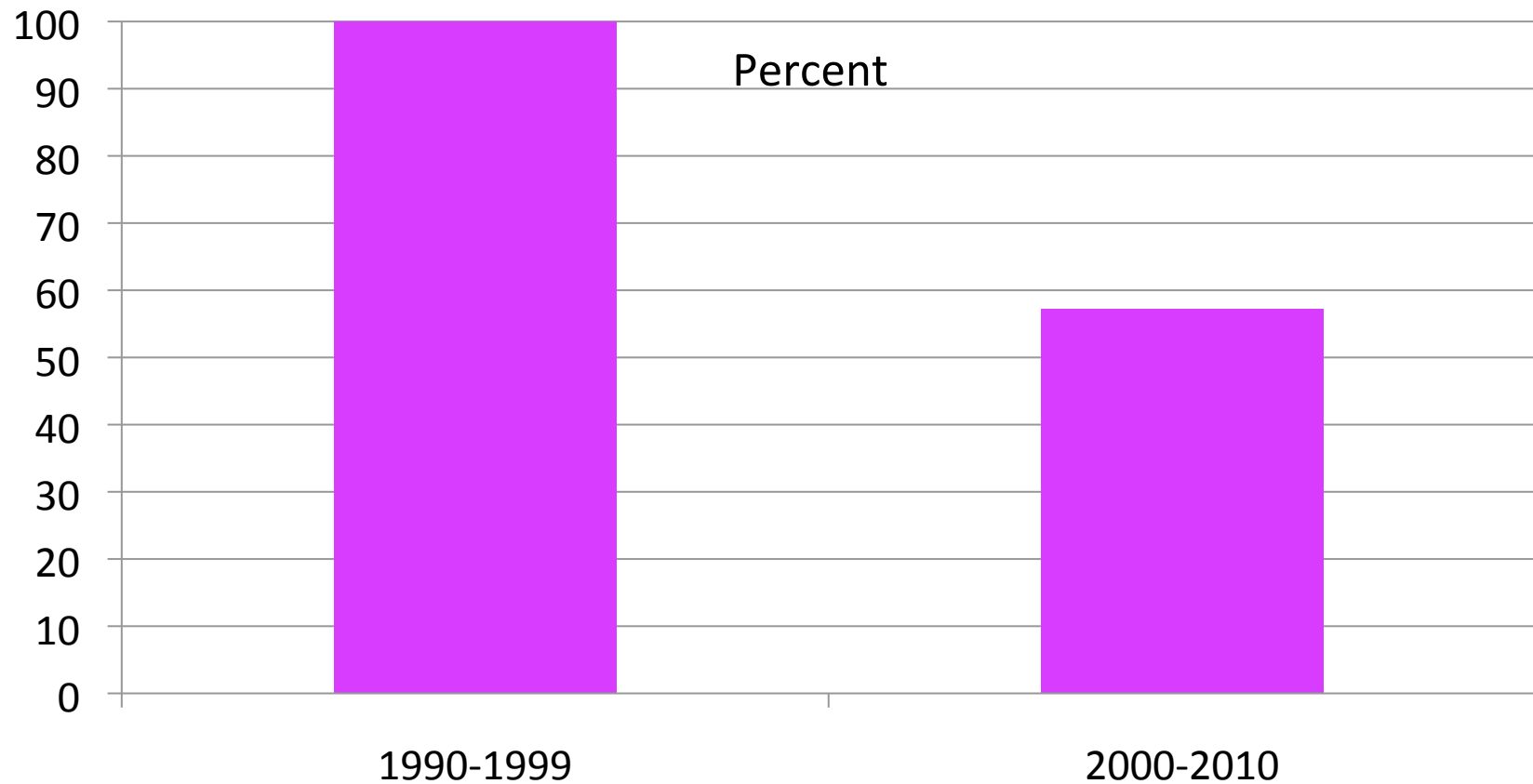
Note: A 100% ratio means full disgorgement of profits.

Global Cartels' **Overcharges**, **Fines**, and **Total Penalties/Damages Ratio**



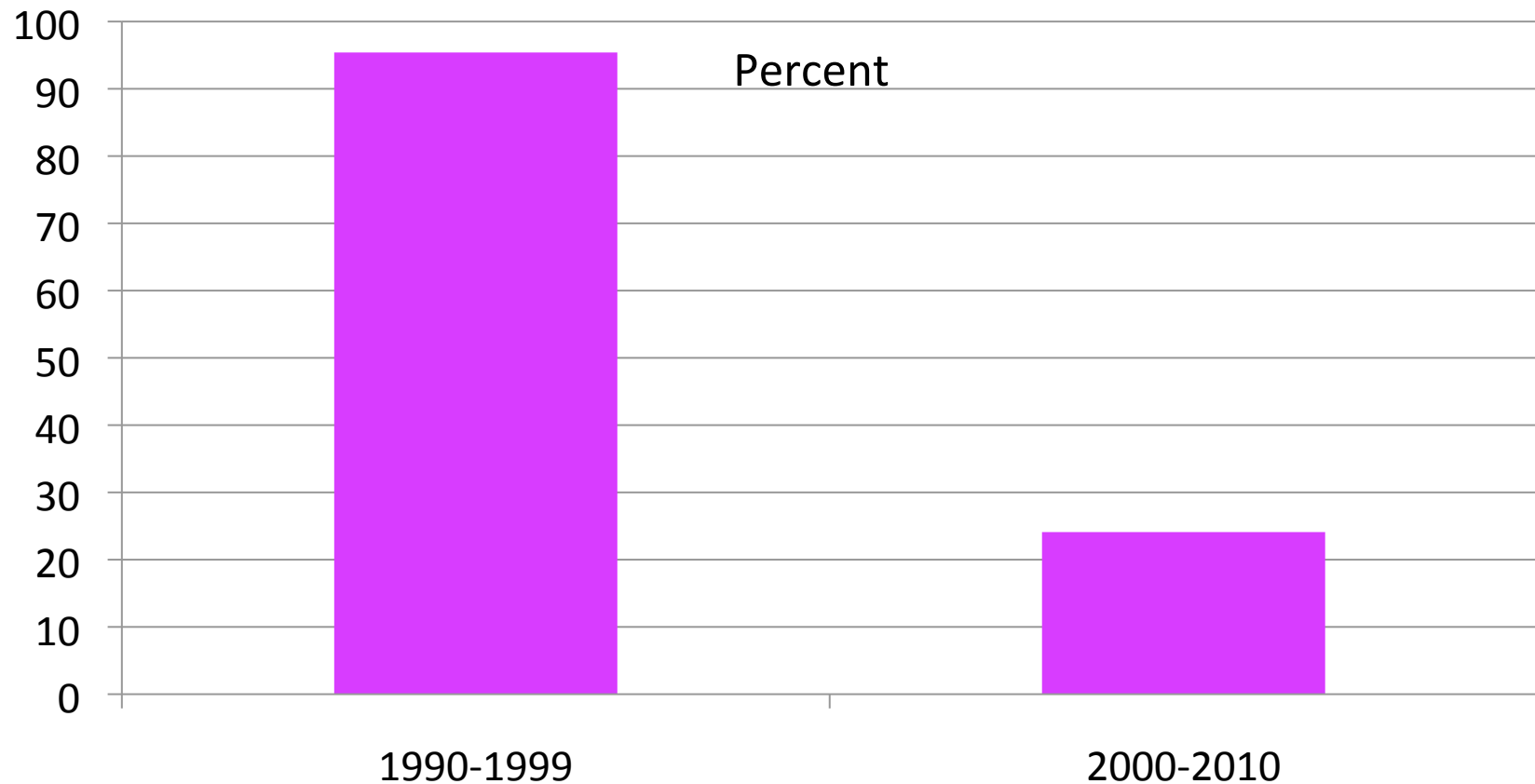
Note: Penalties from all jurisdictions

Changes in the US Total Penalties/Damages Ratio



Note: Penalties from all jurisdictions

Global Cartels: Changes in the Total Penalties/Damages Ratio



Note: Penalties from all jurisdictions

Sources

John M. Connor. *Private International Cartels: Full Data*. [The *PICs* spreadsheet, first created about 1998, is continuously updated. As of March 2011, the full data file was 11MB and consisted of 640 observations of suspected or convicted cartels and 8500 cartelists (companies and individual participants) with 2.8 million cells of data. There are also 13 back-up spreadsheets.]

John M. Connor. *DOJ Cartel Enforcement 1990-2010*. [A spreadsheet created late 2007 that contains annual budgets, activities, and criminal enforcement actions of the U.S. DOJ with respect to hard-core cartels.]

John M. Connor and Gustav Helmers. *Statistics on Modern Private International Cartels: Working Paper 07-01*. Washington, DC: American Antitrust Institute (January 2007). [<http://www.antitrustinstitute.org/recent2/567.pdf>]

John M. Connor. *Cartel Amnesties Granted: Worldwide Whistleblowers* (October 2008, updated). [at SSRN: <http://ssrn.com/abstract=1285469>]