

Cartel leniency in the United States: overview

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REGULATION

1. What laws provide for a leniency programme and which regulatory authority administers it? Is there any published guidance?

Applicable laws and guidance

Leniency programme. The Antitrust Division of the US Department of Justice (Division) administers the leniency programme through its Corporate Leniency Policy and Leniency Policy for Individuals. The Division first implemented a leniency programme in 1978, which was substantially revised in 1993. Through the leniency programme, corporations or individuals can avoid criminal prosecution, including substantial fines and imprisonment, if they are the first company or individual to:

- Report cartel conduct to the Division.
- Take steps to end their participation in the conduct.
- Admit to their crimes.
- Co-operate with the Division's investigation.
- Satisfy the other commitments outlined in the policies.

Only one corporation (which can include a corporate parent and its subsidiaries) involved in a criminal anti-trust conspiracy can be granted leniency for each conspiracy.

The Division's leniency programme is an exercise of prosecutorial discretion and is not governed by statute. However, the Division has made available on its website several guidance documents to increase the programme's transparency, including:

- Frequently Asked Questions Regarding the Antitrust Division's Leniency Program and Model Leniency Letters.
- The Corporate Leniency Policy.
- The Leniency Policy for Individuals.
- A Model Corporate Conditional Leniency Letter.
- A Model Individual Conditional Leniency Letter.
- A Model Dual Investigations Leniency Letter.
- A Model Dual Investigations Acknowledgement Letter for Employees.

(<https://www.justice.gov/atr/leniency-program>.)

A separate federal statute, the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 (ACPERA), limits the exposure a leniency applicant may face in follow-on civil anti-trust lawsuits based on conduct for which it received leniency.

Crediting Corporate Compliance Programs. On 11 July 2019, the Division announced a new policy, effective immediately, to incentivise corporations to create effective anti-trust compliance programmes. For the first time, the Division will consider the adequacy and effectiveness of a corporation's compliance programme at the charging and sentencing stage of a criminal anti-

trust investigation. Under the new policy, a corporation can still receive some benefits, even if it is not the first to self-report and therefore does not qualify for full immunity and other benefits under the leniency programme. These benefits can be in the form of:

- A reduced sentence.
- Avoidance of probation.
- A deferred prosecution agreement (DPA).
- Consideration by the Division on whether and to what extent to bring criminal charges against a corporation.

The existence of a compliance programme does not guarantee these benefits. Prosecutors are instructed to conduct a fact-specific inquiry into whether the relevant programme is adequately designed for maximum effectiveness in preventing and detecting wrongdoing by employees. The Division does not provide any checklist or requirements for evaluating the effectiveness of compliance programmes. However, it set out what questions to ask and what factors to consider in a written guidance document published in July 2019, which is available on its website (www.justice.gov/atr/page/file/1182001/download).

Regulatory authority

The Division administers the cartel leniency programme and evaluates corporations' anti-trust compliance programmes at the charging and sentencing stages in criminal anti-trust investigations.

SCOPE OF APPLICATION

2. What infringements of competition law does the leniency programme cover?

The Division's leniency programme covers "hard core" criminal cartel conduct, such as horizontal agreements between competitors involving:

- Price fixing.
- Bid-rigging.
- Capacity restriction.
- Allocation of markets, customers, or sales or production volumes.

These agreements are per se violations, because they have been found to be illegal, without the need for an inquiry into the specific harm caused or any possible business justifications for the conduct. The leniency programme only covers criminal anti-trust violations. Any corporation or individual that did not engage in criminal violations of the anti-trust laws will not qualify under the leniency programme.

In addition to anti-trust crimes, the leniency programme covers criminal offences committed in connection with the commission of an anti-trust violation (including mail or wire fraud, or conspiracies to defraud). However, the leniency programme only binds the Division, which has exclusive jurisdiction to prosecute federal anti-trust violations. The leniency programme does not prohibit other federal or state prosecuting agencies from prosecuting mail or wire

fraud, or state anti-trust criminal violations. However, in situations where the additional criminal conduct is integral to the commission of the anti-trust crime, separate prosecuting agencies have historically declined to prosecute leniency applicants for this conduct.

RECENT CASES AND TRENDS

3. What notable recent cases have applied the leniency programme?

In recent years, the leniency programme encouraged several large international cartel conspiracy prosecutions, including prosecutions related to the financial services, air cargo, automotive parts and electronic components industries. These prosecutions resulted in criminal sentences with fines totalling over USD5 billion between 2014 and 2018 and convictions of several executives. In the automotive parts cases alone, the leniency programme has resulted in criminal charges against more than 60 individuals and more than 45 companies, and criminal fines totalling more than USD2.8 billion. The leniency programme has also resulted in prosecutions of purely domestic US cartels, including:

- The ongoing investigation and prosecution of a conspiracy to fix prices for packaged seafood, with criminal fines totalling USD125 million.
- The prosecution of separate bid-rigging conspiracies at public real estate foreclosure auctions across multiple jurisdictions that resulted in the convictions of several individuals.

In the past few years, there has been a sharp decline in enforcement activity, both in terms of the number of criminal anti-trust cases filed and the amount of criminal anti-trust fines collected by the Division. Observers have speculated that the decline in leniency applications is one of the factors for the decline in enforcement actions, because the leniency programme has always been the primary tool for identifying and prosecuting cartel conduct. The Division has rejected claims that leniency applications are declining. It stated that the number of leniency applications received in 2018 was on par with the historical average since 2010 and that the number of leniency applications increased in 2017 and 2018.

AVAILABILITY OF LENIENCY

Administrative liability

4. Is full immunity from administrative penalties available? What conditions must be met for immunity to be granted?

Leniency programme

The Division's leniency programme only covers criminal penalties and fines, not administrative penalties (for example, civil anti-trust fines or debarment from contracting with government agencies). If a corporation or individual receives leniency, it only receives complete immunity from the Division for criminal prosecution.

There are different conditions a corporation must meet to be granted leniency, depending on whether the Division has received any information about or begun an investigation into the relevant conduct. "Type A" corporate leniency covers corporations that report conduct before the Division has received any information about the activity from another source. "Type B" applies to situations where the Division already has information about the illegal activity before the corporation comes forward to seek leniency. (*The Division's Corporate Leniency Policy*.)

Type A leniency. This requires corporations to satisfy the following six conditions:

- At the time the corporation reports the illegal activity, the Division has not received information about the illegal activity from any other source.

- The corporation, on discovering the reporting of the illegal activity, took prompt and effective action to terminate its part in the activity.
- The corporation reports the wrongdoing with candour and completeness and provides full, continuing and complete co-operation to the Division throughout the investigation.
- The confession of wrongdoing is truly a corporate act, instead of isolated confessions of individual executives or officials.
- Where possible, the corporation makes restitution to injured parties.
- The corporation did not coerce another party to participate in the illegal activity and clearly was not the leader in, or originator of, the activity.

Type B leniency. This requires the corporation to be the first to come forward with respect to the activity and the Division must not yet have sufficient evidence against the corporation that is likely to result in a sustainable conviction. Further, the corporation must meet the same conditions under Type A leniency regarding:

- Promptly terminating its part in the activity.
- Co-operating in the Division's investigation.
- Confessing to the wrongdoing.
- Making restitution to injured parties.

Additionally, under Type B leniency, the Division must determine that granting leniency would not be unfair to others, considering the nature of the illegal activity, the confessing corporation's role in it and when the corporation comes forward.

Crediting Corporate Compliance Programs

Charging. A corporation could potentially be offered a DPA at the charging stage of a criminal anti-trust investigation, if the prosecutor concludes that the relevant factors (listed below) allow it. Although full immunity is only available under the leniency programme, a DPA offers the possibility of criminal charges being dismissed after certain negotiated conditions are met. The new guidance document lists the relevant questions and factors that prosecutors will consider in evaluating the effectiveness of corporate anti-trust compliance programmes. Prosecutors have complete discretion in determining whether to grant a DPA on a case-by-case basis.

The guidance asks prosecutors to consider whether:

- The corporation's compliance programme is well-designed.
- The programme is being applied earnestly and in good faith.
- The corporation's compliance programme works.

The guidance also identifies elements of an effective anti-trust compliance programme, including:

- The design and comprehensiveness of the programme.
- The culture of compliance within the company.
- Responsibility for, and resources dedicated to, anti-trust compliance.
- Anti-trust risk assessment techniques.
- Compliance training and communication to employees.
- Monitoring and auditing techniques, including continued review, evaluation and revision of the anti-trust compliance programme.
- Reporting mechanisms.
- Compliance incentives and discipline.
- Remediation methods.

For each of these elements, the guidance provides additional questions prosecutors may consider. These questions depend on the factors that relate to the effectiveness of the anti-trust compliance programme in deterring and detecting criminal anti-trust conduct.

To help focus the analysis on relevant factors, the guidance asks prosecutors to consider three questions about a company's compliance efforts at the outset of any inquiry into the efficacy of its anti-trust compliance programme:

- Does the company's compliance programme address and prohibit criminal anti-trust violations?
- Did the anti-trust compliance programme detect and facilitate prompt reporting of the violation?
- To what extent was a company's senior management involved in the violation?

Sentencing. The guidance provides three ways in which the effectiveness of compliance programmes can affect sentencing recommendations of corporate defendants.

First, a corporation could get a three-point reduction in its culpability score if it has an effective compliance programme. It does not apply in cases in which there has been an unreasonable delay in reporting the illegal conduct to the government. There is a rebuttable presumption that a compliance programme is not effective when certain high-level personnel or substantial authority personnel participated in, condoned or were wilfully ignorant of the offence.

Second, the Division may recommend probation and, in appropriate cases, periodic compliance reports as a condition of probation, if a corporation has not established an adequate compliance programme and declines to take measures to implement or improve its anti-trust compliance programme. The Division will also consider whether an external monitor is necessary to ensure implementation of a compliance programme and timely reports. Prosecutors are more likely to recommend an external monitor in egregious cases where any of the following apply:

- The corporation refuses to improve its corporate culture to encourage compliance with the law.
- The corporation refuses to implement an adequate anti-trust compliance programme or it has a grossly inadequate compliance programme after the anti-trust violation.
- It has engaged in recurrent anti-trust violations.

Third, a compliance programme may be relevant to determining the appropriate corporate fine to recommend within the United States Sentencing Guidelines (Guidelines) range, or in extraordinary circumstances, whether to recommend a fine below the Guidelines range. The Guidelines are an advisory policy that federal district court judges consult when sentencing individuals and organisations convicted of felonies and serious (Class A) misdemeanours in the US federal court system.

5. Is there a sliding scale of available leniency from administrative penalties?

Under the leniency programme, there is no fixed sliding scale. Only the first corporation to admit to its role in the illegal conduct and meet the conditions of the leniency policies is guaranteed full immunity. This "first-in-the-door" requirement creates a massive incentive for corporations to report their conduct quickly before one of their co-conspirators seeks leniency. However, the Division has stated that early co-operators will receive greater co-operation discounts than later co-operators. The Division has not quantified the precise level of discount for early co-operators.

The new policy of crediting corporate anti-trust compliance programmes at charging and sentencing stages applies equally to all corporations being investigated for criminal anti-trust violations.

6. Is immunity or leniency for administrative penalties available to individuals? If so, what conditions apply?

In addition to the corporate leniency policy, the Division has a separate leniency policy for persons who approach the Division individually. Individual leniency provides immunity from criminal prosecution by the Division, similar to the corporate leniency policy.

7. Is immunity or leniency available for companies and/or its employees in relation to criminal prosecution? What are the implications for employees when an undertaking has been granted immunity or leniency?

Circumstances

The Division's leniency programme is designed to allow for leniency against criminal prosecution and only applies to criminal conduct. The Division's leniency programme covers criminal anti-trust violations, such as price fixing, bid-rigging, capacity restriction or allocation of markets.

Proceedings against employees

If a corporation qualifies for Type A leniency, all current directors, officers and employees of the corporation who admit to their involvement in the reported activity and assist the Division's investigation will also receive immunity and will not be separately prosecuted. If a corporation does not qualify for Type A leniency, but qualifies for Type B leniency, all employees of a corporation who come forward will be considered for immunity on the same basis as if they had approached the Division individually, but it is not guaranteed.

The Division generally provides immunity to all qualifying current employees, regardless of whether the corporation receives Type A or Type B leniency. However, according to recent guidance, the Division can exercise its discretion to exclude from the protections of the conditional leniency letter those current directors, officers and employees who are determined to be highly culpable. The Division also has the authority to immunise former directors, officers and employees who come forward to co-operate and immunisation is generally granted. Former employees are provided immunity from prosecution at the discretion of the Division, under both Type A and Type B leniency.

If an individual director, officer or employee covered by a corporation's leniency letter fails to comply with his/her co-operation obligations, the Division may revoke the leniency given to that employee and prosecute him/her. Additionally, the Division reserves its right to prosecute individuals who continue to participate in the illegal conduct after the corporation reports the activity or who obstruct the Division's investigation at any time.

Employees' interests

The current officers, directors and employees of a corporation that is granted leniency typically receive leniency, if they co-operate with the Division's investigation and have not obstructed the investigation.

If a corporation's leniency protection is revoked for its failure to meet its commitments, the conditional leniency agreement as to the corporation's employees is similarly void. However, in these cases, the Division may decide as a matter of prosecutorial discretion not to prosecute individual employees, if they have fully co-operated with the investigation.

If an employee of a corporation that received leniency fails to cooperate with the Division's investigation or otherwise comply with the corporation's commitments, the Division can revoke the protection granted to that individual. In this case, the Division normally gives the individual (through his or her legal counsel) the opportunity to meet with the Division staff and Office of Criminal Enforcement regarding the potential revocation. During the time that a revocation recommendation is under consideration, the Division suspends that individual's requirement to co-operate with the investigation, so that the individual is not continuing to provide evidence that could be used against him/her if the leniency is revoked.

APPLICATION PROCEEDINGS

8. When should an application for leniency be made?

A corporation must approach the Division to seek leniency as soon as its management and legal counsel learn that its employees committed a criminal anti-trust violation and the corporation is prepared to admit to its conduct. It is vital that the Division is approached quickly, because only the first corporation to self-report may receive leniency, and a corporation's co-conspirators may also be considering whether to report the conduct. There have been instances where co-conspirator corporations have sought leniency just hours apart, and the second to report received a dramatically worse result.

If the corporation and its legal counsel learn of a possible anti-trust violation, but the corporation does not yet know with certainty whether the conduct was criminal, the corporation may seek a "marker" to secure its place in the line.

A corporation does not need to make any application for the evaluation and crediting of corporate compliance programmes. Prosecutors will evaluate compliance programmes throughout the course of their investigations and ask witnesses relevant compliance-related questions. They are instructed not to wait for corporations to offer a compliance presentation before beginning their evaluation.

9. What are the procedural rules for leniency applications?

Relevant authority

Requests for leniency must be submitted orally, either by phone or in person, to the Division. The Division's Deputy Assistant Attorney General for Criminal Enforcement (DAAG) reviews and evaluates all requests for leniency. An applicant's counsel should directly contact the DAAG or the Director of Criminal Enforcement to request leniency or a "marker" to remain first in line for leniency.

Applicant

A corporation's outside legal counsel must contact the Division to request leniency.

Informal/confidential guidance

In limited circumstances, legal counsel can secure a short-term "anonymous" marker without identifying the corporate client. An anonymous marker is appropriate where the corporation wants to secure its place in line but needs more time to seek additional information. These anonymous markers are for a very short period, such as two or three days, but can be extended on request.

Form of application

In limited circumstances, legal counsel can secure a short-term "anonymous" marker without identifying the corporate client. An anonymous marker is appropriate where the corporation wants to secure its place in line but needs more time to seek additional

information. These anonymous markers are for a very short period, such as two or three days, but can be extended on request.

Markers

If a corporation and its legal counsel learn of possible criminal anti-trust violations, but are not yet certain that a violation occurred, the corporation can apply for a marker to hold its place in line. That marker will secure the corporation's position for a certain period until it has gathered enough information to assure itself a violation did not occur or that it can admit to criminal conduct. The length of time the marker secures is limited but can vary depending on the circumstances. Generally, a marker lasts about one month.

To obtain a marker, counsel for a corporation must:

- Report that the corporation has uncovered some information indicating that a criminal anti-trust violation occurred.
- Disclose the general nature of the conduct discovered.
- Identify the industry or product involved in specific enough terms to allow the Division to determine whether leniency is still available.
- Identify the client.

Information/evidence

By the end of the marker process, to receive a conditional leniency letter, a corporation must be in a position to admit to its participation in a criminal anti-trust violation. The Division can interview key executives of the corporation who were involved in the violation before issuing the conditional leniency letter.

The Division's model corporate leniency letter outlines the type of co-operation a leniency applicant must provide. That co-operation typically involves:

- Providing documents, information and materials related to the illegal conduct.
- Securing the co-operation of employees.
- Submitting employees to interviews.
- Paying restitution to victims.

Oral statements

The Division will typically accept oral statements or attorney proffers to secure a marker and begin the leniency co-operation requirements. However, to secure the formal leniency letter, the Division will generally expect a company to provide relevant pre-existing business records and schedule employee interviews.

Short-form applications

Not applicable.

10. What are the applicable procedures and timetable?

If a corporation seeks a marker to secure its place in line, that corporation will have a period of time (about one month but can vary depending on the circumstances) before it will need to admit to the criminal conduct and agree to the commitments covered in the conditional leniency letter. Once the marker has been perfected, the corporation must begin its co-operation before the conditional leniency letter is signed, through:

- Oral attorney proffers.
- Production of business records.
- Witness interviews.

This period of co-operation can last from six to 18 months before the conditional leniency letter is signed by the Division and the leniency applicant. Due to the ongoing co-operation requirements of the

leniency applicant, leniency remains conditional until the investigation and any prosecution of the applicant's co-conspirators are completed, which could last several years.

WITHDRAWAL OF LENIENCY

11. In what circumstances and at what stage of the proceedings can leniency be withdrawn? What implications does the withdrawal of leniency from one company have for other applicants?

If the Division determines, before a corporation has been granted final, unconditional leniency, that the corporate leniency applicant is not eligible for leniency or has not met its co-operation obligations, it can revoke the conditional leniency. Before the Division revokes the grant of conditional leniency, it will notify the corporation's counsel of the staff's recommendation and provide counsel with an opportunity to meet with the staff and the Office of Criminal Enforcement regarding the potential revocation. While the Division is considering whether to revoke the leniency, the leniency applicant's co-operation requirements will be suspended, so that it is not continuing to provide evidence that could be used against it if the leniency is revoked. The Division rarely revokes a grant of conditional leniency.

SCOPE OF PROTECTION

12. What is the scope of leniency protection after it has been granted?

Conditional leniency covers the scope of the anti-trust violations reported by the leniency applicant. If, during the investigation, the corporation and the Division learn that the anti-competitive conduct was broader than originally reported (geographically or by product), it is possible to expand the scope of the leniency protection. This expansion can cover additional conduct if all of the following apply:

- The corporation did not try to conceal that conduct.
- The corporation co-operates in the investigation into that conduct.
- The corporation can meet the criteria for leniency related to the newly discovered conduct.

If necessary, the new leniency protection will be provided in a separate conditional leniency letter.

13. Does the competition authority offer any further reduction in fines for an undertaking's activities in one market if it is the first to disclose restrictive agreements and practices in another market (leniency plus)?

The Division refers to this practice as "amnesty plus". Many of the Division's conspiracy investigations originate when participants in one conspiracy report cartel conduct in another conspiracy. If a corporation is a target or defendant in one anti-trust conspiracy but comes forward to admit to its involvement in a separate anti-trust conspiracy, it can receive amnesty plus treatment. In these cases, the corporation will receive leniency on the newly discovered conspiracy through the normal leniency process. Additionally, the Division will recommend to the sentencing court in the original conspiracy that the corporation receive a discounted fine in return for its co-operation in both investigations. Amnesty plus co-operation discounts are dependent on the facts of the case and the size of the commerce on the new conduct being reported. It is not unusual to receive an additional 10% co-operation discount under the amnesty plus programme.

The Division has separate model leniency letters to implement in instances of amnesty plus treatment. The Model Dual Investigations Leniency Letter is used when a corporation comes forward as a leniency applicant but is already a target or defendant in an earlier investigation. The Model Dual Investigations Acknowledgment Letter for Employees explains to employees how their statements may be used with respect to multiple investigations involving their corporate employer.

14. Does the grant of leniency affect a third party's ability to bring a follow-on damages action against a leniency applicant?

A defendant in a civil anti-trust action is typically subject to treble damages with joint and several liability with its co-conspirators.

The civil exposure of leniency applicants is reduced. In 2004, the US Congress passed a statute limiting the civil liability leniency that applicants face in civil anti-trust actions related to the cartel conspiracies for which the applicants received leniency. The Antitrust Criminal Penalty Enhancement and Reform Act of 2004 (ACPERA) provides that a civil defendant that has received criminal leniency from the Division can limit its liability in related civil anti-trust actions to single damages without joint and several liability, if it has provided satisfactory co-operation to the civil claimants. This is another significant incentive to encourage potential leniency applicants to come forward.

The new policy on crediting corporate compliance programmes does not affect civil liabilities faced by corporate defendants for anti-trust violations.

CONFIDENTIALITY AND DISCLOSURE

15. What are the rules relating to confidentiality during a leniency application?

Identity disclosure

The Division does not disclose the identity of leniency applicants and the information they provide. It will not publicly disclose that information, absent an agreement with that applicant, unless it is required to do so by court order.

Information disclosure

Similar to the identity of the leniency applicant, the Division will not disclose any information provided by the applicant, absent an agreement with the applicant or a court order to do so.

Confidentiality requests

There is no need to request the Division to maintain the confidentiality of the leniency applicant or the information they provide. See *Identity disclosure* and *Information disclosure*.

16. What are the rules concerning disclosure of statements made in support of a leniency application?

Domestic submissions and domestic discovery

Although the Division will keep the information or materials that the leniency applicant provides to it confidential, a court can require the leniency applicant to produce that information to civil claimants in civil litigation.

Domestic submissions and foreign discovery

This is a matter subject to the laws of each foreign jurisdiction, which can vary. However, in some foreign proceedings (including those before the UK civil courts), information produced to the Division must be disclosed by the corporation.

Foreign submissions and domestic discovery

Generally, the information that parties submit in foreign jurisdictions is subject to discovery orders in US courts. Similar to information a leniency applicant submits to the Division, a US court can require leniency applicants to produce in civil litigation documents it has disclosed to foreign anti-trust enforcement agencies. In some cases, the US courts have declined to require the production of materials produced to foreign agencies on the grounds of international comity, but those decisions are not uniform and can vary depending on the courts and parties involved.

INTER-AGENCY CO-OPERATION

17. Does the regulatory authority in your jurisdiction co-operate with regulatory authorities from other jurisdictions in relation to leniency? If so, what is the legal basis for and extent of co-operation?

The Division co-operates with foreign anti-trust enforcement authorities, and Division officials have recently expressed an aim to increase that co-operation. The Division will co-operate with foreign authorities to co-ordinate simultaneous searches on targets (known as "dawn raids"). In addition, the Division has recognised that the continuing development and growth of anti-trust enforcement authorities internationally require that the various authorities do more to co-ordinate discovery demands, such as document productions and interviews, to make a corporation's involvement in multiple investigations less burdensome. However, the Division will not disclose the identity of a leniency applicant or the information it provides to the Division without agreement from the leniency applicant.

WHISTLEBLOWERS

18. Are there any whistleblower tools for individuals to report competition violations/cartels?

Whistleblower tools

Individuals can report anti-trust violations to the Division through email, letters and phone calls. The "Report Violations" page on the Division's website explains how to report anti-trust concerns to the Division and how the Division handles such reports (www.justice.gov/atr/report-violations).

Whistleblower protection

The Division has a Leniency Policy for Individuals that grants leniency to the first individual conspirator to confess participation in

an anti-trust crime. There are three conditions that must be met before leniency is granted:

- At the time the individual comes forward to report the illegal activity, the Division has not received information about the illegal activity from any other source.
- The individual reports the wrongdoing with candour and completeness and provides full, continuing and complete co-operation to the Division throughout the investigation.
- The individual did not coerce another party to participate in the illegal activity and clearly was not the leader in, or originator of, the activity.

Any individual who does not qualify for leniency will be considered for statutory or informal immunity from criminal prosecution. Such immunity decisions will be made by the Division on a case-by-case basis in the exercise of its prosecutorial discretion. The application process is similar to the one for corporate leniency applicants.

Apart from the Leniency Policy for Individuals, there is no statute that provides specific whistleblower protection for non-culpable individuals who report anti-trust violations. General protection mechanisms, such as the OSHA Whistleblower Protection Program that investigates claims of retaliation against employees for reporting employers' wrongdoing, do not extend to the reporting of anti-trust violations.

19. Is there a reward for individuals who report competition violations/cartels?

Currently, there are no monetary rewards paid to informants. Individuals who self-report may receive immunity from prosecution (see Question 18, *Whistleblower protection*).

PROPOSALS FOR REFORM

20. Are there any proposals for reform?

There are currently no major reforms proposed. However, the US Congress is currently considering passage of the Criminal Antitrust Anti-Retaliation Act of 2019 (S. 2258), a Bill that would protect whistleblowers who report violations of US anti-trust law. The Bill will require whistleblowers to first file a complaint with the Secretary of Labor before going to federal court. The Bill has passed the US Senate and waits for consideration by the US House of Representatives. It is not expected to have a substantial impact on the current leniency programme.

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