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Incentives to Comply with Antitrust Law: Corporate Leniency Policy in the United States and in Europe

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Research Guides

Incentives to Comply with Antitrust Law: Corporate Leniency Policy in the United States and in Europe

Guide Information

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Topic Overview

Antitrust law, also known as Competition Law, promotes market competition by prohibiting anticompetitive conduct between businesses. The Corporate Leniency Policy is an anticompetitive conduct deterrence policy adopted by both the U.S. Department of Justice and the European Commission. Also known as “corporate amnesty” or “corporate immunity policy,” this policy aims to deter corporations from engaging in anticompetitive conduct (i.e. price fixing, cartel conduct, market allocation, bid-rigging, predatory pricing, exclusive dealing etc.) by providing immunity or leniency to the first party to defect from a cartel.

Those parties (corporations) that do not qualify under the Corporate Leniency Policy may enter into plea negotiation in the US with the Department of Justice and settlement process with the European Commission in Europe. Both in the U.S. and in Europe, latecomers are expected to come in full transparency with the Department of Justice and provide helpful information for the investigation.

Scope of the Topic

The main difference of the Corporate Leniency Policy in the US and in Europe is that in the former jurisdiction, only the first party that defects from a cartel may qualify for immunity while in the latter system, latecomers may get a discount of the fine.

Under the Corporate Leniency Policy in the US, the first party that provides accurate information necessary for an investigation of the illegal activity to the relevant regulatory body receives full immunity from a heavy fine that would be imposed after an investigation. There is a large incentive for a party involved in an anticompetitive conduct to defect before everyone because only the firstcomer may benefit from full amnesty. Under the Corporate Leniency Policy as enforced by the European Commission, latecomers (parties that come clean to the regulatory agency after the firstcomer) provide for a “partial leniency,” awarding percentage discounts of the fine to latecomers, while the U.S. Department of Justice does not.

Also, antitrust violations have criminal sanctions in the US, and the Department of Justice can engage in plea negotiations with the late-comers. In the European system, the European Commission may enter into a settlement process with the accused parties, which is a more predictable system with usually a fixed discount of 10% of the final fine.

About the Author

Sofia Jeong is a second year law school student at Georgia University College of Law, a member of the Georgia State University Law Review, and an Intellectual Property scholarship recipient. She has bachelors in International Relations from the University of Virginia. She worked as a staigiare at in the Brussels office of a large antitrust law firm called Howrey after her first year of law school and worked at the Office of Chief Justice Hunstein at the Supreme Court of Georgia. Before law school, she was a clerk at a large South

Korean law firm called Kim & Chang in Seoul, South Korea, and she was an Antitrust and IP database research manager. She is currently clerking for the Honorable Justice Harold D. Melton at the Supreme Court of Georgia and working as a Graduate Research Assistant to Professor Michael Landau in the area of Intellectual Property. She is a summer associate at the Atlanta office of Kilpatrick Stockton LLP.

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Primary Sources

United States: Controlling Antitrust Law Statutes

Sherman Act, 15 U.S.C §§ 1-2 (2006).

This statute is the foundation for private antitrust litigation in the United States. Prohibits all agreement, conspiracy, and monopoly that restricts trade or commerce among several states and prescribes fine and penalties for both corporations and individuals.

Clayton Antitrust Act of 1914, 15 U.S.C. §§ 12-27, 29 U.S.C. §§ 52-53 (1914).

This statute is the foundation for private antitrust litigation in the United States. It specifies the kinds of prohibited conduct under the Sherman Act such as price discrimination, exclusive dealings, mergers and acquisitions, and the same person being a director of two or more competing corporations. Under this Statute both the Department of Justice Antitrust Division and the Federal Trade Commission may prohibit mergers that result in market domination.

Robinson-Patman Act of 1936, 15 U.S.C. § 13 (1936).

This Act prohibits sales that discriminate in price and thereby restrict competition. The primary goal of Congress behind this Act was to prevent injury of discrimination to the competitor. This Act only applies to sales of commodities of like grade and quality in commerce. It requires a price discrimination that may substantially injure competition. The Corporate Leniency Policy allows a competitor involved in a price discrimination cartel to defect (self-report) and qualify for a full immunity.

Corporate Leniency Policy

The Department of Justice issued the Corporate Leniency Policy in 1993, aiming to deter cartel activity by providing a financial incentive for corporations to defect from anticompetitive agreements

http://www.justice.gov/atr/public/guidelines/0091.htm

U.S. Antitrust Sentencing Guidelines

When the Department of Justice enters into a plea bargaining process with a party accused of violating antitrust laws, they apply the Sentencing Guidelines drafted by the American Bar Association. They provide specific factors considered in evaluating the degree of severity of the anticompetitive conduct also referred as “aggravating factors.” Such factors are used to calculate the final amount of fine by analyzing the severity of the anticompetitive conduct, the length of a party’s involvement in the conduct, the level of sales affected by the cartel activity etc.

Antitrust Criminal Penalty Enforcement and Reform Act of 2004 (ACPERA)

This Act amended the Sentencing Guidelines by increasing the statutory maximum term of imprisonment for antitrust offenses of price fixing from three years to ten years and the maximum fine from $10 million to $100 million.

Europe: Competition Law Regulations

1. Treaty Establishing the European Community art. 81(1), Jan. 1, 1958, O.J.C. 325.

Article 81 of the Treaty Establishing the European Community: Enumerates and prohibits all anticompetitive conduct that restricts competition in the European market. All such conduct is subject to find by the European Commission or the national competition authorities in Europe.

2. Corporate Leniency Policy in Europe: Commission Notice on immunity from fines and reduction of fines in cartel cases 2006.

The European Commission adopted the US Corporate Leniency Policy in 1996 and it was called the Commission Notice on the Non-Imposition or Reduction in Fines in Cartel Cases. It has been amended in 2006 to set more explicit conditions for immunity and reduction of fines.

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52006XC1208(04):EN:NOT

3. The European Commission's Settlement Procedure for Cartels: Commission Regulation (EC) No 622/2008 (June 30 3008) amending Regulation (EC) No 773/2004.

The European Commission informs an individual or a corporation of its intent to carry out its investigations for anticompetitive conduct and its specific objections against the party by issuing a formal Statement of Objections (SO). A party must respond to the SO in timely manner and may have the option to engage in a settlement process with the European Commission.

http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32008R0622:EN:NOT

Case Law in the United States and in Europe

1. Stolt Nielsen, S.A. v. United States, 442 F.3d 177 (2006).

Most cited case illustrating the lack of predictability for antitrust fines imposed on corporations that enter into negotiations with the Department of Justice. This case held denied certiorari to the Third Circuit's holding that the DOJ Antitrust Division's unilateral indictment of Stolt-Nielsen and revocation of the leniency agreement was proper.

2. Case COMP/C 38.281/B.2, O.J. L 353/45 (2006).

The Italian tobacco case is the closest case in Europe to the "Stolt-Nielsen problem" of the United States. In this case the European Commission received an application for leniency and the Commission granted conditional immunity status in pursuant to the Leniency Notice. The Commission, however revoked theconditional immunity for breaching the cooperation obligations and prohibited a reduction of the fine.

3. United States v. Booker, 543 U.S. 220 (2005).

The United States Supreme Court struck down the provision in the Federal Sentencing statute that requires federal district judges to impose sentences within the Federal Sentencing Guidelines range and prohibited federal appeals courts from reviewing sentences imposed outside the Guidelines range. The implications of this decision for corporations involved in anticompetitive conduct is that the potential fine for corporations violating antitrust law may dramatically increase and such system may reserve a much bigger prosecutorial power.

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Secondary Sources

A. Main Regulatory Body of Antitrust/Competition Laws

United States: U.S. Department of Justice Antitrust Division: http://www.justice.gov/atr

The US Department of Justice Antitrust Division is the regulatory body of antitrust laws in the United States. This Division initiates investigations, prosecutes, and imposes penalties on violators of antitrust law.

Europe: European Commission Competition Law Division:http://ec.europa.eu/competition/index_en.html

The European Commission Directorate-General Competition (DG-Comp) initiates investigations, prosecutes, and imposes penalities on violators of Euorpean competition law. It is the executive of the European Union. While there are national competition law authorities in Europe that focus on violations of competition law harmful to the national economies, the European Commission's purpose is to implement a consistent competition law policy throughout the European Union, focusing on mergers, antitrust (violations of Article 81 and Article 82), liberalization, state aid, and international cooperation. The Corporate Leniency Program is an incentive program to discourage violations of antitrust.

B. Speeches & Presentations

1. United States: Corporate Leniency Policy

a. The Corporate Leniency Policy: Answers to Recurring Questions

Gary Spratling, Deputy Assistant Attorney General, U.S. Dep't of Justice Antitrust Div., Address before the ABA Antirust Section 1998 Spring Meeting, The Corporate Leniency Policy: Answers to Recurring Questions (April 1, 1998) (transcript available at http://www.justice.gov/atr/public/speeches/1626.htm).

The concept of "partial amnesty" is nonexistent under the Corporate Leniency Policy in the US. The Department of Justice considers "amnesty" as not criminally charging a firm "for the activity reported," therefore under if a party loses its opportunity to be the "firstcomer" in coming clean before the Department of Justice, it cannot receive a percentage discount of fines as it is done under the European Commission. If the party provides useful evidence of another anticompetitive activity, it can qualify for a full amnesty under the Corporate Leniency Policy.

b. Cornerstones of an Effective Leniency Program

Scott D. Hammond, Former Director of Criminal Enforcement, U.S. Dep't of Justice Antitrust Div., Address before the ICN Workshop on Leniency Program, Cornerstones of an Effective Leniency Program (Nov. 22-24, 2004) (transcript available at http://www.justice.gov/atr/public/speeches/206611.htm).

Scott D. Hammond addresses the developments of the Corporate Leniency Program and the reasons for its effectiveness in encouraging corporations to be the firstcomer to the Department of Justice and apply for leniency under the Corporate Leniency Policy.

c. Recent Developments, Trends, and Milestones in the Antitrust Division's Criminal Enforcement Program

Scott D. Hammond, Director of Criminal Enforcement, U.S. Dep't of Justice Antitrust Div., Address to the ABA Section of Antitrust Law, Recent Developments, Trends, and Milestones in the Antitrust Division's Criminal Enforcement Program (March 26, 2008) (transcript available at http://www.justice.gov/atr/public/speeches/232716.htm).

Scott Hammond of the Department of Justice identifies exemplar cases of international cartels benefiting from the leniency program in 2007. Corporations in the air transportation industry, DRAM (Dynamic Random Access Memory) industry, the rubber chemicals industry, the vitamins industry and the graphite electrodes industry have either participated in the Corporate Leniency Program to qualify for full leniency or have been investigated by the Department of Justice for cartel activity.

d. The Antitrust Division's Corporate Leniency Policy – An Update

Gary Spratling, Deputy Assistant Attorney General, U.S. Dep't of Justice Antitrust Div., Address before the Bar Association of the District of Columbia's 35th Annual Symposium on Associations and Antitrust: Making Companies an Offer they Shouldn't Refuse, The Antitrust Division's Corporate Leniency Policy – An Update (Feb. 16, 1999) (transcript available at http://www.justice.gov/atr/public/speeches/2247.htm).

This presentation highlights the success of the Corporate Leniency Program in deterring international cartels. It also clarifies the details of the application process of the Corporate Leniency Policy, defines some of the terms of the Leniency Policy and stipulates the goal of the Department of Justice Antitrust Division.

2. US and EU: Cartel Settlement

a. Ann O'Brien, Senior Counsel to the Deputy Assistant Attorney Gen. for Criminal Enforcement, U.S. Dep't of Justice Antitrust Div., Address before the 13th Annual EU Competition Law and Policy Workshop: Cartel Settlement in the US and EU: Similarities, Differences & Remaining Questions (June 6, 2008) (transcript available at http://www.usdoj.gov/atr/public/speeches/235598.htm).

This press release compares and contrasts cartel settlement process in the US and in the EU. The goals, timing, the level of transparency, and the settlement discounts under the Department of Justice and the Commission are discussed in detail. This press release also addresses remaining questions of the cartel settlement system in the US and in EU such as whether the Commission will accept settlements where only some cartel participants are willing to settle and whether the fixed 10% settlement reduction offered by the Commission is large enough to motivate cartel participants to cooperate, especially since they are able to assess their fine with reasonable certainty unlike the high level of uncertainty in the United States.

3. United States: Plea Bargaining Process

a. The U.S. Model of Negotiated Plea Agreements: A Good Deal with Benefits for All

Scott D. Hammond, Former Director of Criminal Enforcement, U.S. Dep't of Justice Antitrust Div., Address at the OECD Competition Committee Working Party No. 3, The U.S. Model of Negotiated Plea Agreements: A Good Deal with Benefits for All, (Oct. 17, 2006) (transcript available at http://www.justice.gov/atr/public/speeches/219332.htm).

In the United States, the benefits of the leniency program (such as full immunity from fines) are only available for the first company to come forward to be participate in the program. However, late comers that provide timely and beneficial inofmraiton about the cartel can receive significant benefits by entering in plea agreement. This paper discusses the essential role of the plea agreements in deterring anticompetitive conduct and the key federal rules that apply to this process.

b. Measuring the Value of Second-In Cooperation in Corporate Plea Negotiations

Scott Hammond, Former Deputy Assistant Attorney General for Criminal Enforcement, Address before the 54th Annual American Bar Association Section of Antitrust Law Spring Meeting: Measuring the Value of Second-In Cooperation in Corporate Plea Negotiations (Mar. 29, 2006) (transcript available at http://www.usdoj.gov/atr/public/speeches/215514.htm).

This paper discusses the benefits for latecomer corporations engaging in plea negotiation process with the Department of Justice. It analyzes the benefits of the a second comer by assessing the case study of a corporation formerly involved in the rubber chemical cartel (Crompton Corporation).

C. Law Review Articles & Periodicals

1. United States: Corporate Leniency & Plea Bargaining Process

Williams, M. Ryan, ***Recent Development: The Devil They Know: The DOJ's Flawed Antitrust Leniency Program and Its Curious Pursuit of Stolt-Nielsen***, 85 N.C.L. Rev. 974 (2007). The Stolt Nielsen case is one of the primary cases used by those who criticize the Department of Justice Antitrust Division's leniency program for lack of transparency and predictability.

Douglas Border & Shari Alexander, ***United States: Procedure – Leniency Arrangements***, E.C.L.R. 2006, 27(8), N150-151 (2006). This article highlights the main points of the Corporate Leniency Program in a speech by Scott D. Hammond, the former Deputy Assistant Attorney-General for Criminal Enforcement of the Antitrust Division of the US Department of Justice.

Tilley, Iris, Comment, ***A Sour Carrot and a Big Stick: Reviving Antitrust Enforcement After Stolt Nielsen***, 6 Seattle J. Soc. Just. 391 (2007). This student note/comment provides possible solutions to the issue of prosecutorial breach of the immunity granted under the Corporate Leniency Policy.

Sarah Baumgartel, ***Nonprosecution Agreements as Contracts:*** Stolt-Nielsen ***and the Question of Remedy for a Prosecutor's Breach***, 2008 Wis. L. Rev. 25 (2008). This article proposes the aplication of contract law to the problem of prosecutor's breach after the Division has granted a party to qualify for Corporate Leniency Program. It prohibits unilateral termination of a leniency agreement with a corporation by the antitrust authority and proposes that the

Division and the corporation negotiate terms regarding specific conduct that would be trigger a revocation of leniency agreement.

John M. Connor & Robert H. Laude, ***How High Do Cartels Raise Prices? Implications for Optimal Cartel Fines***, 80 Tul. L. Rev. 513 (2005). This article analyzes the cartel fines imposed under the United States Sentencing Guidelines and examines whether the guidelines are appropriate to deter cartels optimally. The author concludes that the Sentencing Commission should increase the levels of cartel penalties because the presumption that cartels overcharge on average by 10% is much too low.

Jason D. Medinger, ***Antitrust Leniency Programs: A Call for Increased Harmonization as Proliferating Programs Undermine Deterrence***, 52 Emory L. J. 1439 (2003). This article compares the deterrence effect and the problems of the Corporate Leniency Program in the United States and in Europe. It also addresses the discrepancy between the two systems by suggesting a harmonization of leniency programs and reciprocity of leniency for multi-jurisdictional actors (corporations doing business both in the United States and in Europe).

Jonathan T. Schmidt, ***Keeping U.S. Courts Open to Foreign Antitrust Plaintiffs: A Hybrid Approach to the Effective Deterrence of International Cartels***, 31 Yale J. Int'l L. 211 (2006). This article analyzes the complex issues involving international cartels and proposes that the United States should make legislative and policy changes to achieve maximum deterrence of international cartels. Part IV especially addresses how the United States reduced the costs of participating in the Corporate Leniency Policy and how it has increased the cost of continuing a cartel.

A Critique of Partial Leniency For Cartels by the U.S. Department of Justice John M. Connor, Address at the 6TH International Industrial Organization Conference: A Critique of Partial Leniency for Cartels by the U.S. Department of Justice (May 17, 2008), *available at:* http://www.agecon.purdue.edu/staff/connor/papers/Critique_DOJ_Cartel_Fine_Discounts_SSRN_Working_Paper.pdf/.

This article discusses the variation in percentage discounts from the plea bargaining in criminal fixing-cases in the United States. It proposes to identify the characteristics and factors of a cartel not included in the Department of Justice policy states that increase or decrease the amount of fine.

James H. Mutchnik & Christopher T. Casammassima, ***United States v. Hynix Semiconductor, Inc.: Opening the Door to the Inability-to-Pay Defense?***, The Antitrust Source, Sept. 2005, at 1, *available at:* http://www.kirkland.com/siteFiles/kirkexp/publications/2321/Document1/Sep05-MutchnikC.pdf.

This article highlights a major international cartel case that illustrates the Department of Justice's Antitrust Division's high level of discretion in decreasing the amount of fine. The Department of Justice secured the third-largest fine in antirust history at the time against a high profile DRAM corporation but later reduced the fine due to its "inability to pay" the full amount of its fine as calculated under the Federal Sentencing Guidelines. The author argues that Hynix was not a company that needed this particular special break and that it would be helpful for the Division to articulate the different factors that affects the final amount of antitrust penalties.

2. Europe: Corporate Leniency Policy & Settlement Process

Andreas Stephan, ***An Empirical Assessment of the European Leniency Notice***, 5 J. Competition L. & Econ. 537 (Oxford University Press, Sept. 2000). This article analyzes the challenge of the European Commission in deterring competition law violators (or cartelists) to use the leniency program as a strategy to either put their competitors at a disadvantage or as a way to get the best deal before they suffer the consequences of being involved in a cartel. This article discusses that although the original goal of the Corporate Leniency Policy was to encourage parties to self-report their illegal acts before the Commission initiates an investigation or prosecutes them for a violation of competition law, leniency was being awarded mostly in cases where self-reporting was failing.

Most importantly, this article contains tables that lay out the major differences between the original 1996, 2002, and the 2006 version of the European leniency policy and compares them to the original 1993 leniency policy in the United States (Table 4). It also includes an appendix listing out major international cartels that have been detected by the European Commission through the implementation of the leniency program and indicates whether they have also been detected in the United States (Appendix A). These charts are helpful for a researcher assessing the difference of the policies and the effectiveness of the policies.

Christof R.A. Swaak & D. Jarrett Arp, ***A Tempting Offer: Immunity from Fines for Cartel Conduct under the European Commissions' Leniency Notice***, 16-SUM Antitrust 59 (2002). This article discusses the European Leniency Notice (also known as the Corporate Leniency Policy) and the difference between the European version of the leniency policy and the U.S. version of the leniency policy.The Corporate Leniency Policy in Europe and in the U.S. makes a tempting offer to parties fixing prices,rigging bids, and restricting output. This article discusses the two biggest differences - in Europe, there are no criminal sanctions for violations of competition law and the later-reporting companies can still apply for immunity. In the US, there are criminal penalties including jail time and only the first-reporting company can apply for immunity.

Massimo Motta, ***On Cartel Deterrence and Fines in the European Union***, E.C.L.R. 2008, 29(4), 209-220 (2008). This article evaluates the European Commission's cartel deterrence practices especially through the imposition of fines. It analyzes the level of impact required for the Commission to attain an optimal level off deterrence. It also references all the major cartels from the 1980s and the number of companies and the length of each cartel.

Italian Tobacco Companies Fined, EU Focus, 2005 at 6–7 ***available at*** EUF 2005, 176, 6–7. This article discusses the European Commission's decision regarding four Italian tobacco processors engaged in collusion in breach of Article 81 of the Treaty Establishing the European Community. The European Commission had granted conditional immunity at the beginning of the procedure to Deltafina, but the Commission withheld the immunity alleging a breach by Deltafina in its obligation to cooperate with the Commission to carry out a surprise investigation of other tobacco processors engaged in violating the law.

Phillippe Billet, ***How Lenient is the EC Leniency Policy? A Matter of Certainty and Predictability***, E.C.L.R. 2009, 30(1), 14-21 (2009). This article investigates the level of leniency of the Corporate Leniency Policy in Europe, identifies the reasons for the failure of the leniency policy to reach its aims, and addresses ways bridge the gap.

D. Textbooks/Books

a. Einer Elhauge & Damien Gerardin, Global Antitrust Law and Economics (Foundation Press 2007).

This casebook focuses on the international aspect of antitrust law, analyzing global antitrust issues from both the US and European legal perspectives. Damien Gerardin is currently a practicing attorney at Howrey's Brussels office. He has a distinguished academic career in the area of economics and antitrust law. He is also a professor of European Competition law in the University of Michigan Law School and a visiting professor of major American law schools such as Yale, Harvard, and Columbia.

b. Giorgio Monti, EC Competition Law (Cambridge University Press 2007).

This textbook focuses on the political and economic perspective and its impact in European Competition law. Giorgio Monti is a senior lecturer of law in the London School of Economics.

c. Michele Polo & Massimo Motta, Leniency Programs, Issues in Competition Law and Policy (2008).

This book addresses a range of legal issues of international competition law policy. The specific chapter provided analyzes the difference between the Us and European regulation of leniency programs and identifies factors that make these programs effective. Chapter 89 is especially relevant to leniency programs and describes the main features of the U.S. and European regulation of leniency programs. It also proposes a simple framework to identify that key elements that make leniency programs effective and provides empirical evidence of leniency program cases from both the US and Europe.

E. Treatises

Callmann on Unfair Competition, Trade, and Monopolies § 4:23 (4th Ed. Louis Altman & Malla Pollack).

This treatise section provides basic background information about conspiracy in general which constitutes violation of the antitrust laws.

Matthew Bender & Company, Lexstat 5-97 Antitrust Laws and Trade Regulation § 97.07.

This treatise section discusses the difference in the leniency policy for corporation reporting illegal activity before an investigation and after an investigation has begun. It also discusses the potential rewards for those corporations that do not qualify as first reporters under the Corporate Leniency Program suchas a discount in fines, favorable treatment for culpable executives, and a reduction of the scoep fo the volume of affected commerce used to calculate the company's Setnencing Guidelines fine.

Jeffrey L. Kessler & Spencer Weber Waller, International Trade and U.S. Antitrust Law § 5:2 and § 5:10 (2009).

These treatise sections lay out the purpose and the basic requirements for immunity under the Corporate Leniency Policy in the United States for a corporation and Individual Leniency Policy for individuals personally involved in an antitrust violation.

F. American Jurisprudence

54 Am. Jur. 2d Monopolies and Restraints of Trade §§ 46-52 Restraints in Trade, in General.

54 Am. Jur. 2d Monopolies and Restraints of Trade §§ 1.

G. Practice Materials

J. Anthony Chavez, ***The Carrot and the Stick Approach to Antitrust Enforcement,*** 1603 PLI/Corp 725, May-June 2007.

This article describes the changes to the enforcement policy against international cartels by the Department of Justice and the European Commission. It specifically addresses the recent improvements to the Corporate Leniency Policy by the Department of Justice and the European Commission and compares the different penalty calculation process in the US and in Europe.

Harvey I. Saferstein, ***The Practical Aspects of Corporate Antitrust Compliance Programs***, 1436 PLI/Corp 691, July 2004.

This article addresses some of the practical issues of the Corporate Leniency Program such as the pros, cons, and difficulties of the program and the effects of compliance program at trial.

Gary Spratling, ***Negotiating the Waters of International Cartel Prosecutions: Antitrust Division Policies Relating to Plea Agreements in International Cases***, 1436 PLI/Corp 691 March 4, 1999.

H. Newsletters & Alerting Services

Competition Weekly News Summary

The weekly news summary of the latest important competition information including speeches by major competition law authorities, case law, and news about mergers, antitrust, and state aid. It also includes the European Commission's decision on applicants of Corporate Leniency Program. One can subscribe to the weekly summary by going to the European Commission website at:

http://ec.europa.eu/coreservices/mailing/index.cfm?form=register&serviceid=7375&lang=en

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Computerized Research

A. Westlaw

Westlaw is a fee-based computer research legal database that allows a wide range of research methods including search by case name, keywords, sources, jurisdictions, statutes, regulations, etc. Westlaw also has a KeyCite feature that facilitates checking whether a certain case has been overruled or is still valid law.

Search terms useful for finding information about Corporate Leniency Policy and antitrust plea-bargaining/settlement process include:

"Corporate Leniency Policy" & Antitrust (in the Antitrust tab)

"Corporate Leniency Policy" & e.u. & u.s.

Search by Using Key Numbers:

Antitrust and Trade Regulation: 29T k939 k. Collective bargaining agreements.

West's Key Number Digest, Antitrust and Trade Regulation 521, 523 to 526, 528 to 531, 612 to 621

Search from the Main Page to Directory:

Directory - International/Worldwide Materials - EU - European Competition Law Review - search for "corporate leniency" "corporate policy"

B. LexisNexis

Lexis-Nexis is a fee-based computer research legal database that allows a wide range of research methods including search by case name, keywords, sources, jurisdictions, statutes, regulations, etc. Lexis-Nexis has a Shepard's feature that facilitates checking whether a certain case has been overruled or is still valid law.

Lexis-Nexis may be better suited for research relating to international law, especially European sources, because Lexis-Nexis carries a greater number of international treatises. Access Lexis-Nexis treatises by using a keyword search or by checking on the plus signs next to the relevant subject.

By source - Find laws by country/region - European Union - Commentaries and Treatises - Competition Law of the European Community

Area of Law by Topic - International Law - Smit & Herzog on the Law of European Union

Under most European sources, the keyword search should be immunity instead of leniency.

Search terms in Lexis-Nexis useful for finding information about Corporate Leniency Policy and antitrust plea-bargaining/settlement process include:

corporate leniency policy & antitrust

corporate s/ competition

All topics - Antitrust & Trade Law à Sherman Act - Penalties [Select U.S. Supreme Court cases, US Supreme, Appellate, District and Claims Court Trade cases, US Appellate Courts Trade cases, and US District Court Trade cases.

"Emerging Issues" are current issue discussions by practitioners.

D. Jarrett Arp & Cynthia E. Richman, ***Stolt-Nielsen's DOJ-challenged Corporate Leniency Decree***, 2008 Emerging Issues 2455.

C. Low Cost Websites

EISIL (Electronic Information System of International Law)

This website is a cost-free website useful for international sources including international statutes, regulations, and treaties. It is a user friendly website that divides the major subjects of international law and guides the user to select the types of sources.

For primary sources related to US and Europe:

International Economic Law - Competition (Antitrust) - Agreement Between the Government of the United States of America and the Commission of the European Communities Regarding the Application of their Competition Laws (1991 EU/US Cooperation Competition Law Agreement)

The Antitrust Case Browser (last visited March 20, 2010)

This website provides a list of major antitrust cases divided by subjects. While most of the cases are from 1930s until 1970s, the website conveniently provides great examples of the types of violations in which the parties may qualify for leneicny as long as they meet the criteria provided in the policy.

http://www.stolaf.edu/people/becker/antitrust/index.htm

Questia (last visited March 20, 2010)

Questia is a cost-based, online research database that allows a subscriber to read full-texts of copyright-cleared books.

http://www.questia.com/Index.jsp

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Interest Associations and Other Sources

Blogs

The Antitrust Hotch Podge http://professorgeradin.blogs.com/professor_geradins_weblog/

Damien Gerardin is a partner in the area of European Competition Law in the Brussels office of Howrey LLP. He is also a professor of Competition Law and Economics at Tilberg University in the Netherlands and has published books and articles about competition law.

The US Antitrust Law Blog: Current Antitrust News and Regulatory Developments www.antitrustlawblog.com

Sponsored by Sheppard Mullin Richter & Hampton LLP, a general law practice firm focused in California area.

Antitrust and Competition Policy Blog http://lawprofessors.typepad.com/antitrustprof_blog/

The European Competition Law Blog http://competitionlawboard.blogspot.com/

Giorgio Monti is a senior lecturer of law in the London School of Economics. This blog contains summaries and discussions related to current competition law issues. The headings of each entry in the blog correspond to the chapter headings of his casebook called EC Competition Law (Cambridge University Press 2007).

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