



Competition Commission of Mauritius
10th Floor, Hennessy Court
Corner Suffren Road & Pope Hennessy Street
Port Louis
Tel.: (230) 211-2005
Fax.: (230) 211-3107
Website: www.ccm.mu

MEDIA RELEASE

Date: 23 January 2018

CCM'S ENHANCEMENT OF ITS LENIENCY PROGRAMME TO FIGHT CARTELS MORE EFFECTIVELY

Cartels, referred to as **collusive agreements** in the Competition Act 2007, are agreements between businesses to collaborate unlawfully instead of independently competing with each other to make sales. The aim of such collaboration is to illegally fix prices, share markets and customers, or rig bids (call for tenders) to the detriment of customers and the economy in general. A breach of the cartel prohibition carries the risk of severe financial penalties of up to **10 per cent** of the turnover realised over the duration of the agreement (up to a maximum of five years).

The Competition Commission (CCM) has had a **leniency programme** since its inception in 2009, under which enterprises which have taken part in cartels may benefit from immunity, or reduction in fines (up to 100 per cent) when they self-report the cartel activity and hand over evidence thereof to the CCM. In that respect, leniency is a tool to uncover such anti-competitive practices. However, leniency was not available to **initiators**, i.e. an enterprise which is the initiator of a collusive agreement or **coercers**, i.e. an enterprise which has coerced other enterprises into a collusive agreement. The CCM has previously held temporary amnesty programmes for cartel initiators on 3 occasions which have successfully resulted in leniency applications.

In its endeavour to advance its combat against cartels further, the CCM today announces that **initiators of cartels or coercers of cartels** may henceforth apply for leniency and benefit from a **50 per cent** reduction in fines. This is an important change brought to the CCM's leniency programme. Whereas the previous amnesty programmes for cartel initiators were temporary offers and open only to initiators, the present amendment is a permanent change to the CCM's leniency programme which is open not only to initiators but to coercers as well. Many competition authorities around the world have recognised the need to extend leniency to initiators and coercers and have reshaped their leniency policies accordingly.

With the enhanced leniency programme of the CCM, a cartel initiator or coercer may henceforth be granted **50 per cent** reduction in financial penalty if it discloses the cartel to the CCM. The Guidelines on Collusive Agreements have been amended to this effect and an explanatory note is available on the CCM's website. Enterprises are encouraged to contact the CCM to know more about the **leniency programme** in general and the new provisions on **leniency for initiators or coercers**. Enterprises can also come anonymously through third parties, such as their legal representatives, to talk to the CCM.

Mr Deshmuk Kowlessur, Executive Director of the CCM said *'The fight against cartels is one of the high priorities of the CCM. Enforcement against cartels is either by hard-enforcement where the CCM employs its wide powers of investigation to gather information by way of mandatory orders, or through collaboration from the enterprises concerned by way of leniency.'*

With respect to leniency programmes, we have observed that several advanced competition authorities have adopted leniency for cartel initiators and coercers. The EU Competition Commission, where 90% of cartel cases come through leniency, has already implemented a leniency system for initiators and coercers. And since 2016, the Competition Commission of Singapore grants up to 50% discount on fines to initiators and coercers.

Likewise, the CCM has taken a step beyond traditional leniency programmes and we are now extending the possibility for initiators or coercers to apply for leniency. This is expected to benefit the CCM, by allowing it not only to pierce the cloak of secrecy in which cartels operate but also to obtain insider evidence of the cartel infringement.

We place much emphasis on both the strengthening of our anti-cartel detection strategy and on intensifying enforcement. The extension of leniency to initiators or coercers is another pro-active measure in-line with our aim to enhance competition by dismantling cartels. It adds to our toolkit in this combat. We firmly believe that enterprises in Mauritius will be receptive to this change, thus making the CCM's leniency programme more efficient and our enforcement endeavours against cartels more effective.

By preventing the market forces to operate freely, cartels hit consumers directly in their pockets as cartels force consumers to pay higher prices. Cartels also stifle innovation so that product variety, quality and associated services remain poor. The dismantling of cartels is thus imperative to safeguard, to restore and to boost the spending power of consumers by bringing prices down. Finally, the economy in general will benefit from the restored competition between businesses.'

For more information please consult CCM 3 Guidelines on Collusive Agreements and the Explanatory notes on leniency for cartel initiators and coercers available on our website www.ccm.mu.

23 January 2018
/End of media release