

Cartel Working Group (CWG)

Subgroup 1: Legal Framework

Working group paper: Survey on the key elements for an efficient and effective leniency programme and its application

In the 2017-2018 ICN year, CWG Subgroup 1 launched a wide survey on the “Key elements for an efficient and effective leniency programme and its application” with a questionnaire. The aim was to explore how certain policies and circumstances influence the willingness of undertakings to make use of leniency programmes.

The SG1 Co-Chairs led an international team that analysed the replies from 33 competition agencies¹ and 43 NGAs representing 19 jurisdictions (18 countries and the European Union).² The outcome is a working group paper that takes the form of a fact-finding report and describes the views and opinions received. More precisely this paper:

- Provides an overview of the most frequently used elements of national leniency systems and the key leniency incentives and disincentives on the basis of the replies received.
- Presents the replies in relation to the obligation to file leniency applications in more than one jurisdiction; as well as the interaction between leniency and other policies i.e. ex officio investigations; reporting obligations to public procurement agencies and sectoral regulators; sanctions on individuals; private damages claims; and settlements.

The report leaves the drawing of conclusions, suggestions, recommendations or good practices for the continuation of the project in the next ICN year (2018-2019).

The CWG Co-Chairs wish to express their gratitude to the respondents of the questionnaire, to the drafting team and to all colleagues who have contributed generously and in many ways to the preparation of this paper. Specific gratitude is owed in particular to the colleagues working at the Hong Kong Competition Commission, the Hungarian Competition Authority, the Turkish Competition Authority and the NGAs that took part in drafting this report, in alphabetical order Yüksel Kaya (ENRE - Turkey), Grant Murray (Baker & McKenzie - United Kingdom), Mikhail Voronin and Andrey Zakataev (Anti-Monopoly Bureau - Russian Federation).

¹ The list of Agencies that replied the questionnaire are Albania, Australia, Brazil, Colombia, Croatia, Cyprus, Czech Republic, El Salvador, European Union, Finland, France, Germany, Hong Kong, Hungary, Ireland, Italy, Japan, Korea, Lithuania, Malaysia, Mauritius, Mexico, the Netherlands, New Zealand, Poland, Russia, Spain, Sweden, Switzerland, Taiwan, Turkey, United Kingdom and the United States of America.

² The jurisdictions that NGAs filled the questionnaire for are Australia, Belgium, Brazil, Canada, United Kingdom, European Union, France, Germany, Greece, Hong Kong, Hungary, Italy, Mexico, the Netherlands, Poland, Singapore, Spain, Sweden and the United States of America.