



Ten Strategies For Winning The Fight Against Hardcore Cartels

Scott D. Hammond

Deputy Assistant Attorney General for Criminal Enforcement

Antitrust Division, U.S. Department of Justice

OECD Competition Committee

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1: Dedicate Sufficient Resources to Make Anti-cartel Enforcement a Top Priority

- Detection and prosecution of hard core cartels is the highest priority of USDOJ Antitrust Division
- Dedicated Cartel Units
- Trained Investigators
- Support proactive outreach efforts to assist in the detection of hard core cartels



2: Treat Hard Core Cartels As Crimes, And Cartel Members As Criminals

- In our experience, individual accountability through the imposition of jail sentences is the single greatest deterrent.
- We have recently discovered numerous cartels that violated competition laws around the world but chose not to extend cartel activity to U.S. market, because they feared U.S. detection and sanctions.
- The risk of under-punishment is that cartels will target your businesses and consumers.



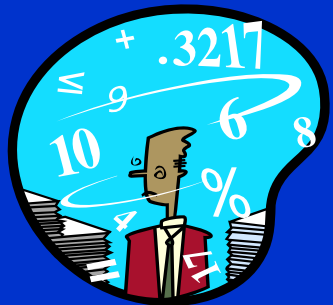
3: Use All Available Criminal Investigative Tools

- Search Warrants
- Use of Informants
- Consensual Monitoring / Wiretap Authority
- International Cooperation Agreements
- INTERPOL Red Notices / Border Watches
- Extradition



4: Use Trained Investigators to Obtain Sworn Witness Statements

- When No “Hot Documents” Are Uncovered by Investigators — a Frequent Event As Increased Deterrence Will Cause Cartels to Become More Sophisticated — Individual Admissions Are Needed to Prove Existence of Cartels
- The Ability to Compel Testimony Under Oath and Under Penalty of Perjury Is an Invaluable Tool
- Use Investigators Trained in Interviewing



You Can't Catch a Thief With an Economist



5: Reward Cooperation and Penalize Those Who Fail to Accept Responsibility

- Heightened importance of obtaining the cooperation of inside participants in cartel cases
- Inducing self reporting by implementing an effective leniency program
- Significant rewards for the second in the door



Using “the stick” on those who lose the race

6: Maximize Transparency and Predictability Across Enforcement Policies

- Prospective cooperating parties come forward in direct proportion to the predictability and certainty of their treatment following cooperation
- Establish transparent standards also for:
 - opening “hard core” cartel investigations
 - deciding whether to bring charges
 - calculating and imposing sanctions



7: Vigorously Prosecute Conduct Aimed At Obstructing An Investigation

- Results of ICN cartel workshop survey
- High incidence of document destruction, false statements, and witness tampering in cartel investigations
 - Highly sophisticated offenders with a lot to lose
- To deter obstruction, punishment for obstruction needs to be on par with potential sentence if convicted of cartel offense
- Proof of obstruction is the best evidence of consciousness of guilt



8: Develop Cooperative Relationships With Other Law Enforcement Agencies

- Cooperation and Coordination With:
 - Public Prosecutor
 - Other Domestic Investigative Agencies
 - Foreign Competition Authorities
 - Government Procurement and Debarment Agencies
- Cooperative Relationships:
 - Generate New Leads
 - Assist Investigations



9: Investigate Cartel Offenses Together With Other Related Offenses

- Great source for leads and for creating “inducements” to cooperate
 - Exposure to sanctions for a collateral offense can lead to cooperation on the cartel offense
- E.g., Kickbacks paid to purchasing agents in order to corrupt the competitive bidding process charged as fraud and/or bribery
 - Tax offenses for failing to report kickbacks as income



10: Close The Information Gap

- Take Proactive Steps to Change the Corporate Culture Towards, and Public Perception Of, Hardcore Cartels
- Advocate Strong Anti-cartel Deterrent Message to the Media, Business Community, Consumer Groups, and Defense Bar
- Engage in Outreach Efforts to Help Others Identify and Report Hardcore Cartel Offenses

