Collusion in Industrial Economics and Optimally Designed Leniency Programmes - A Survey

BACKGROUND

• Collusion among firms is one example of a situation in which free markets fail to efficiently allocate the scarce resources of an economy.
• The negative effect of collusion on the welfare of consumers calls for government intervention.
• The goals of antitrust policy are to dissolve existing cartels and to deter new cartels from forming in the future.
• Leniency programmes are a powerful tool at the disposal of antitrust authorities. These aim to incentivise colluding firms to come forward and denounce their unlawful conduct.

METHODOLOGY

• The aim of this paper is to enhance our understanding of how leniency policies impact on cartel formation and sustainability.
• The author provides a critical and systematic overview of the most influential contributions to the economics literature on collusion and leniency programmes in antitrust.
• Also provided is a review of the literature on the economics of generic law enforcement, with a focus on self-reporting schemes, for crimes committed either by individuals or groups of individuals.

KEY FINDINGS

• Post-investigation leniency may provide colluding firms with incentives to reveal evidence of significant added value to the antitrust authority. As a result, the judicial procedure accelerates and the costs of investigation diminish.
• The deterrence effects of a leniency programme may be indirectly amplified to the extent that the savings made by the authority are used to conduct further market investigations.
• The punishment strategy adopted by colluding firms to enforce their illegal agreement influences the deterrence effects of leniency programmes.
• The restriction of eligibility to the first reporting firm curbs the ability of colluding firms to exploit the leniency programme.
• The offer of a reward to the first self-reporting firm provides a powerful incentive to firms to self-report.
• When colluding firms retain asymmetric evidence, the extension of eligibility for leniency to more than one firm facilitates the procedure for prosecuting cartels.
• A more transparent leniency programme allows firms to accurately estimate the benefits accruing from a leniency application.
• More severe punishment for repeat offenders enhances the efficacy of a leniency programme.
• A confidential application procedure restricts firms’ abilities and scope to exploit the leniency programme.
• A leniency programme for individuals is more effective than a corporate leniency programme.
• Reduced fines (because of lenient treatment) make collusion less costly ex-ante (a pro-collusive effect).
• Wrongly designed leniency programmes may provide firms with a credible mechanism to curb the opportunism which is inherent to illegal cartel agreements. Thus, contrary to policy objectives, a poor leniency programme may exacerbate cartel formation and/or render an existing cartel more robust.
• A poorly designed leniency programme for individuals may have adverse effects on intra-firm hiring strategies and inter-firm benign cooperation.

THE CCP
The ESRC Centre for Competition Policy (CCP), at the University of East Anglia, undertakes competition policy research, incorporating economic, legal, management and political science perspectives that have real-world policy relevance without compromising academic rigour.

FOR MORE INFORMATION
The full working paper (Number) and more information about CCP and its research is available from our website: www.competitionpolicy.ac.uk

ABOUT THE AUTHOR
Panayiotis Agisilaou is a PhD student in the School of Economics and a member of the ESRC Centre for Competition Policy.