Leniency Considerations in Multi-Jurisdictional Investigations

ICN Cartel Working Group
SG 1 call series on Leniency

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Immunity and Leniency

Immunity
- First-in applicant
- Full immunity from prosecution
- Immunity Bulletin + FAQs

Leniency
- Second-in and subsequent applicants
- Reduction in penalty
- Leniency Bulletin + FAQs
Confidentiality

• Section 29 of the *Competition Act* permits the communication of confidential information “for the purposes of the administration or enforcement of the *Competition Act*”.

• The Competition Bureau (Bureau) provides Immunity and Leniency applicants with increased confidentiality protections.
Waivers

• The Bureau requires waivers from immunity and leniency applicants to share their information with foreign counterparts.

• Waivers are expected as part of an applicant’s participation in the Immunity or Leniency Programs in international cartel cases.
Markers

• Immunity and Leniency Programs operate with a marker system.

• Markers are granted on the basis of products, subject to an alleged cartel agreement.
Proffers

• Under our Immunity and Leniency Programs, applicants must complete their proffers within 30 days of receiving their marker.
The Immunity/Leniency Process

• Upon completion of an applicant’s proffer, if they satisfy all requirements of the Immunity or Leniency Programs, the Bureau will make a recommendation to the Public Prosecution Service of Canada (PPSC) for a grant of immunity or lenient treatment in sentencing.

• The PPSC retains full discretion whether to follow the Bureau’s recommendation, but will give the Bureau’s recommendation due consideration.

• After the Immunity Agreement or Plea Agreement is signed, the applicant is required to complete its production of evidence, information, records, and other materials as soon as possible.