



International
Competition
Network

CHARTS SUMMARISING INFORMATION SHARING MECHANISMS

CARTEL WORKING GROUP
Subgroup 2: Enforcement Techniques

Canada
July 2012

QUESTION		
MECHANISMS FOR INFORMATION SHARING		
1	Details of the relevant point of contact at your agency for information requests	
a)	Position	Senior Deputy Commissioner of Competition
b)	Branch or office	Criminal Matters Branch
c)	E-mail address (please include a general e-mail address for a group inbox, if possible)	ICNCartels.Enforcement@cb-bc.gc.ca
d)	Telephone number (please include a general branch or office telephone number, if possible)	N/A
2	What formal and informal mechanisms does your agency make available to alert other competition agencies to matters currently being investigated by your agency? (Please put a cross next to all those that apply)	
a)	Markets or conduct that the agency has identified as investigative priorities are listed on the official agency website	
b)	Obligations under bilateral competition agreements to notify agencies in jurisdictions that may be affected by the investigation	X
c)	Obligations under multilateral cooperation agreements	
d)	Public announcement of cartel investigations on agency website	X
e)	Formal/informal internal obligations	X
f)	Other (please specify)	Regular bilateral meetings with international counterparts.
g)	None	
3	Do you currently have any cooperation agreements relating to information sharing (bilateral and/or multilateral)? Y/N	Yes. Canada currently has cooperation agreements or arrangements with: Korea, Japan, the United States, Mexico, the European Communities, Australia, the

		United Kingdom, Chile, Costa Rica, and Brazil.
4	If you answered Y to Question 3 above, please indicate the scope of the cooperation agreement. (Please put a cross next to all those that apply)	
a)	Provides for a specific section on information exchanges	X
b)	Provides for a general section on cooperation in enforcement	X
c)	Other (please specify)	
5	Has your agency established any other cooperation agreements? Y/N	Yes
6	Has your agency tried to establish a cooperation agreement with another agency and been unsuccessful? Y/N	No
7	Does your agency publish information about its past cartel investigations? Y/N. If Y, where?	Yes
a)	Website	X
b)	Annual reports and/or other reports	X
c)	Other (please specify)	
8	Which of the following types of anti-cartel enforcement regimes does your agency operate? (Please put a cross next to the most appropriate answer)	
a)	Criminal	X
b)	Civil/Administrative	
c)	Hybrid	
9	Do your answers vary depending on the anti-cartel enforcement regime in which you operate and the anti-cartel enforcement regime of the agency with	Yes

	which you are cooperating/sharing information? Y/N. If Y, please provide a brief explanation.	
10	Does your agency have a leniency policy? Y/N	Yes
11	Does your agency have a marker system? Y/N	Yes
12	Are applicants required to provide a waiver? Y/N	- Not required, but providing a waiver is expected, as it is considered to be a sign of good cooperation.
a)	If N, does your agency seek waivers (either general or specific) from leniency applicants to allow nominated agencies to share information contained in leniency applications? Y/N	Yes
13	Does your agency have experience in requesting/sharing information with a foreign competition agency? Y/N	Yes
14	During the last 3 years, has your agency provided information to or requested information from another agency in relation to a cartel case using an <u>informal</u> cooperation mechanism? Y/N If Y, the type of information requested and/or shared was:	Yes
a)	Product and market information	X
b)	Agency internal information	X
c)	Confidential information	X
d)	Case specific information	X
15	Does your agency have formal powers to obtain evidence in relation to a cartel case on behalf of a foreign agency? Y/N If Y, which of the following is the legal basis for obtaining such evidence:	Yes

a)	Mutual Legal Assistance Treaty (MLAT) – bilateral	X
b)	MLAT – multilateral	
c)	Cooperation Arrangement	X
d)	Other (please specify)	
16	If you have provided information in relation to a cartel investigation to foreign competition agencies, have you received any feedback from that agency regarding the utility of the information? Y/N	Yes
17	For your agency, the most useful mechanism for sharing information in relation to cartel investigations has been:	
a)	Information cooperation	
b)	Formal cooperation	
c)	Both	X
d)	Neither	
e)	Not applicable	
18	Has your agency taken any steps to improve or increase the sharing of information in relation to cartel investigations with other agencies in the last 3 years? Y/N	Yes
TERMS AND CONDITIONS UNDER WHICH INFORMATION IS PROVIDED TO FOREIGN COMPETITION AGENCIES		
19	Publicly available information	
a)	Upon formal request	X
b)	Upon informal request	X
c)	Available through the competition agency website and/or other publications	X
d)	Other (please specify)	- Bilateral meetings and regular officer-level contact (e.g. case team update calls)

20	Agency internal information	
a)	Upon formal request	X
b)	Upon informal request	X
c)	Upon grant of judicial or administrative authorization (please specify)	
d)	Under an international agency-to-agency cooperation agreement	X
e)	Other (please specify)	- Bilateral meetings and regular officer-level contact (e.g. case team update calls)
21	Information covered by professional secrecy	NA
a)	Under no conditions	
b)	If a confidentiality waiver is granted by the parties under investigation	
c)	If a waiver is granted by the party, the agency will evaluate the risks and benefits of sharing the information	
d)	Upon grant of judicial or administrative authorization	
e)	Under an international agency-to-agency cooperation agreement	
f)	Other (please specify)	
22	Confidential information	
a)	Under no conditions	
b)	If a confidentiality waiver is granted by the parties under investigation	X
c)	If a waiver is granted by the party, the agency will evaluate the risks and benefits of sharing the information	X
d)	Upon grant of judicial or administrative authorization	X
e)	Under an international agency-to-agency cooperation agreement	X
f)	Only at certain stages of the investigative process (please specify)	
g)	Other (please specify)	- Pursuant to s. 29 of the Competition Act
20	Investigation stage at which publicly available information can be shared	
a)	Pre-investigation	X
b)	Investigation	X

c)	When the investigation is completed	X
d)	When no investigation is conducted	X
e)	During litigation	X
21	Are the following types of information generally treated by the jurisdiction as: (i) publicly available; (ii) agency internal information; (iii) information covered by professional secrecy; (iv) privileged information; or (v) confidential? (Please select the most appropriate answer)	
a)	Factual information (e.g. evidence obtained by the agency during an investigation)	v
b)	Information provided voluntarily	v
c)	Investigative methodology (without indication of parties under investigation)	ii
d)	Results of market studies into markets where cartel behaviour is suspected	ii
e)	Legal information	v
f)	Information on sanctions	v
g)	Information on the timing of a case	v
h)	Other (please specify)	- Settlement details are privileged
22	In the absence of an information sharing agreement or formal information sharing powers, your agency is likely to respond to an information sharing request in the following manner: (please put a cross next to all those that apply)	
a)	Will not share information except that which is open to the public	
b)	May share information provided that certain conditions are met	X
23	If you put a cross next to Question 22(b) above, which of the following conditions (if any) must a foreign agency requesting information meet before your agency will share confidential or agency internal information? (please put a cross next to all those that apply)	
a)	Keep the information confidential	X

b)	Keep the information confidential unless subject to a court order	X
c)	Use best endeavours to keep the information confidential	
d)	Use the information only for its originally intended purpose	X
e)	Other (please specify)	
24	If another agency provides your agency with information on a confidential basis, will it be treated as confidential, subject to the relevant laws of the recipient agency's jurisdiction? Y/N	Yes
25	Is there any law or situation that may require information received from another agency to be divulged? Y/N. If Y, please specify.	- Yes, subject to a court order. The Bureau will provide notice to, and seek the consent of, the foreign agency if it intends to or is required to use the information for any other purpose than for which the information was provided.
26	If your agency maintains the relevant statistics, please assess the average time required for your agency to:	
a)	Assess the possibility of responding to the information request	NA
b)	Respond to the information request	NA
c)	The timing required to process information requests from foreign agencies is not tracked	
NATURE OF INFORMATION REQUESTED		
27	Please rank in order of importance to your agency (rank 1 being the highest and 8 the lowest) the following types of information about current/completed cartel investigations that may be requested from foreign agencies.	
a)	Factual information (e.g. evidence obtained by the agency during an investigation)	- Case by case basis
b)	Information provided voluntarily	- Case by case basis
c)	Investigative methodology (without indication of parties under investigation)	- Case by case basis

d)	Results of market studies into markets where cartel behaviour is suspected	- Case by case basis
e)	Legal information	- Case by case basis
f)	Information on sanctions	- Case by case basis
g)	Information on the timing of a case	- Case by case basis
h)	Other (please specify)	
28	On average, how many times per year does your agency: (please provide NA answer if you have difficulties with assessing frequency of sharing/receiving information from foreign agencies as described below)	
a)	Request confidential information in relation to cartel investigations	See above
b)	Provide confidential information in relation to cartel investigations	See above
c)	Request publicly available information or internal agency information	See above
d)	Provide publicly	See above
29	Does your agency have formal information sharing powers? Y/N	Yes
30	Are you aware of any imminent legislation or policy changes regarding information sharing in your jurisdiction? Y/N. If Y, please provide a brief explanation and/or a link to further information.	No
REGIONAL COOPERATION NETWORKS		
31	Is your agency part of a regional competition network? Y/N. If Y, please list.	No
32	Are there types of information that your agency can share with other members of the regional competition network, which would not be able to be shared in the absence of the network? Y/N. If Y, please provide a brief explanation.	
33	Are there types of information that your agency can share in the absence of the network? Y/N. If Y, please list.	

