JUNE 27, 2019

Is Business Becoming Immune to the Canadian Competition Bureau's Immunity Program?

Recent Developments in Antitrust Cartel Enforcement

Author: Charles Tingley

Antitrust commentators are questioning the continuing significance of immunity and leniency programs that have been at the forefront of anti-cartel enforcement internationally since the U.S. Department of Justice introduced the first leniency program in the early 1990s. Amid evidence of declining applications for leniency, some are asking whether a turning point in criminal antitrust enforcement has been reached, requiring adapted investigatory tools and approaches, or whether this is simply a temporary lull that will soon be forgotten.

In Canada, the appointment of a new Commissioner of Competition with an aggressive stance on enforcement amidst a downturn in leniency applications has raised questions about where the Bureau may be heading on cartel enforcement and the role of its immunity and leniency programs. In our view, the near-term future of cartel enforcement in Canada is likely to be characterized by the following general trends:

- reduced effectiveness of the Bureau's Immunity and Leniency Programs as enforcement tools;
- the Bureau's development of non-leniency techniques for detecting and deterring cartel conduct; and
- entrenchment and proliferation of adverse consequences of cartel allegations.

In this article, we explore each of these trends, their underlying causes and their implications for the future of Canadian cartel enforcement in 2019 and beyond.

Read the article.

Key Contacts: John Bodrug, Charles Tingley and Léon H. Moubayed

This information and comments herein are for the general information of the reader and are not intended as advice or opinions to be relied upon in relation to any particular circumstances. For particular applications of the law to specific situations the reader should seek professional advice.

© 2024 DAVIES WARD PHILLIPS & VINEBERG LLP