

AMNESTY FOR CARTEL INITIATORS

The CCM is providing an amnesty to cartel initiators for a period of 6 months, with effect as from 16th November 2011. The CCM will therefore allow even the initiators of cartels to apply for and take advantage of leniency in relation to prohibitions under Sections 41-43 of the Competition Act 2007 (the Act).

What provisions are there in the Competition Act 2007 regarding collusion (also known as cartels)?

Sections 41-43 of the Act deal with collusive agreements (price fixing, market sharing, and bid rigging among others). These are seen to be the most serious breaches of the Act and the penalties imposed can be in the form of fines of up to 10% of the turnover of an enterprise for a maximum of 5 years.

What is the Leniency Programme?

The Leniency Programme allows members of a cartel to come forward to the CCM and provide evidence of cartel activities to which they have been part of. The first to come forward may get a reduction of fines of up to 100%, the second 50% and subsequent applicants may have up to 25% reduction in fines.

What is the amnesty being offered by the CCM?

It has to be noted that under the Leniency Programme, initiators of cartels, the so called 'ring leaders', cannot apply for leniency. This amnesty allows cartel initiators as well to take advantage of the Leniency Programme and therefore benefit from immunity from or reduction in fines.

What happens after the six months amnesty?

After the period of six months, initiators of cartels will not be allowed to take advantage of the Leniency Programme. If members other than the initiator of a cartel apply for leniency, the initiator will not be able to come forward and seek leniency as well. Therefore, whilst the other members of the cartel might be exempt from fines or pay reduced fines, the initiator of the cartel will have to pay the full amount of the fines imposed by the Commission.

More information about Leniency Programme

For more information on the Leniency programme, please read the CCM3 guidelines on Collusive Agreements, available on the website of the Competition Commission – www.ccm.mu. The CCM3 guidelines provides information on:

- What is leniency?
- The benefits of leniency.
- The conditions to be met to qualify for leniency
- Information about amnesty for cartel initiators.

How can enterprises contact the CCM regarding Leniency Programme?

Sometimes enterprises may wish to anonymously contact the CCM for more information about the Leniency Programme and whether they qualify for it. We encourage enterprises to contact us through their lawyers or legal representatives, without revealing the identity of the enterprises.