



March 2020

2019 IN REVIEW: OVERVIEW OF CARTEL INVESTIGATIONS

The Department of Justice Antitrust Division (DOJ) was active in 2019. At the beginning of 2019, the DOJ was preparing for trial in six matters and had 91 pending grand jury investigations. Throughout 2019, the DOJ made public several new investigations, including in the commercial flooring industry, online auctions for surplus government equipment, the insulation installation industry and suspension assemblies used in hard disk drives. The DOJ also announced developments in other ongoing investigations.

In April 2019, the DOJ held a public roundtable discussion on the Antitrust Criminal Penalty Enhancement & Reform Act (ACPERA). ACPERA, which is due to sunset in June 2020, reduces the civil damages exposure of companies and individuals who are granted leniency under the DOJ's Leniency Program for cooperating in investigations into cartel and other anticompetitive conduct. A series of panel discussions allowed judges, lawyers, economists, academics and other stakeholders to weigh in on how the law can be improved. The DOJ was particularly interested in the public's views on whether ACPERA has properly incentivized the self-reporting of criminal conduct and whether there are issues that have impeded the law's intended effect.

In July 2019, the [Antitrust Division announced](#) that it would begin considering corporate compliance programs at the charging stage of criminal antitrust investigations. Under this new policy, prosecutors are instructed to evaluate the effectiveness of companies' antitrust compliance programs in making charging decisions. The DOJ released a [guidance document](#) outlining factors that prosecutors should consider in evaluating corporate compliance programs. In general, when analysing a program, prosecutors will ask whether the compliance program is well designed, whether is being applied earnestly and in good faith, and whether it works. The DOJ's new approach permits prosecutors to enter into deferred prosecution agreements with companies that are not eligible for leniency if the relevant factors, including the adequacy and effectiveness of the company's antitrust compliance program, weigh in favor of doing so. Assistant Attorney General Makan Delrahim clarified in a speech that the DOJ will continue to disfavor non-prosecution agreements for companies that do not receive leniency under its Corporate Leniency Policy.

In September 2019, the DOJ held a public workshop on the role of antitrust enforcement in labor markets. The workshop covered a variety of labor competition issues, including anticompetitive no-poach and wage-fixing agreements, approaches to labor market definition, labor monopsony in merger enforcement, and antitrust exemptions for collective bargaining and other labor union activity.

In November 2019, the DOJ announced the formation of a new Procurement Collusion Strike Force (PCSF) focused on deterring, detecting, investigating and prosecuting antitrust crimes, such as bid-rigging, that undermine competition in government procurement, grant and program funding. The PCSF will be an interagency partnership consisting of prosecutors from the DOJ's Antitrust Division, prosecutors from 13 US Attorneys' Offices, and investigators from the FBI, the Department of Defense Office of Inspector General, the US Postal Service Office of Inspector General and other partner federal Offices of Inspector General. The formation of the PCSF shows that government procurement enforcement will be a significant focus for the DOJ moving forward.

Also in November 2019, Deputy Assistant Attorney General Richard Powers delivered a speech summarizing recent developments in DOJ's criminal antitrust investigations and outlining enforcement priorities and goals for the future. Powers stated the DOJ remains committed to individual accountability for antitrust offenses, safeguarding "critical markets" and rooting out collusion affecting government procurement. Powers also noted the DOJ continues to prioritize its investigations into no-poach agreements and the generic pharmaceuticals industry.

The European Commission (Commission) entered into settlements with parties in three cartel cases: Occupant Safety Equipment, FOREX and Canned Vegetables. The Commission imposed total fines of €1,469 million in 2019.

In March 2019, the Commission launched an online tool to submit documents and information in the context of leniency and settlement proceedings.

US DEVELOPMENTS

- The first new investigation disclosed by the DOJ was in the commercial flooring industry. The DOJ charged a former vice president of a commercial flooring contractor in Chicago of exchanging price information with rivals to fix the prices of commercial flooring contracts. Assistant Attorney General Delrahim of the Antitrust Division said the indictment was "the first of what we expect to be many in this ongoing investigation into bid rigging" in the commercial flooring industry.
- The DOJ disclosed a second new investigation into bid rigging of Government Services Administration (GSA) contracts. The owner of a Texas company pleaded guilty to rigging bids for surplus government equipment—computers for resale and for recycling—in online GSA auctions.

- The DOJ announced a third new investigation into bid rigging by insulation installation contractors. A manager for a Connecticut-based insulation contractor pleaded guilty for his role in rigging \$45 million worth of bids for insulation installation contracts in New England from 2011 to 2018.
- The DOJ's investigation into fuel-supply contracts for the armed services remains active. Two more Korean companies pleaded guilty for their involvement in a bid-rigging conspiracy that targeted contracts to supply fuel to US Armed Forces in South Korea.
- The DOJ's investigation into price fixing in the promotional products space appears quite active.
- The DOJ's investigation into price fixing, bid rigging and customer allocation in the generic pharmaceutical industry also remains active. The DOJ charged two companies, Heritage and Rising, in connection with the investigation. Both companies entered into deferred prosecution agreements with the DOJ. In May 2019, state attorneys general for 43 states and Puerto Rico brought federal and state antitrust, consumer protection, and common law claims against 19 generic drug manufacturers and 15 individuals for what the States call an "overarching conspiracy" to fix the prices of at least 114 generic drugs. Several putative classes of private plaintiffs, as well as opt-out plaintiffs, also filed complaints alleging an overarching, multi-drug conspiracy.

EU DEVELOPMENTS

- The European Commission (Commission) entered into settlements with parties in three cartel cases: Occupant Safety Equipment, FOREX and Canned Vegetables.
- The Commission also sent Statement of Objections to German car manufacturers for colluding on emission cleaning technology and to banks acquiring and trading European government bonds.

US DOJ CARTEL INVESTIGATIONS

Electrolytic Capacitors

- This investigation involves price fixing of electrolytic capacitors, which regulate electrical current in electronic products, such as computers, televisions, car engines, airbag systems and home appliances.
- Eight companies have pleaded guilty and have been ordered to pay criminal fines of \$150 million. Ten individual executives have been charged: three have pleaded guilty and seven remain under indictment.
- There were no new charges or sentences in connection with this investigation in 2019.
- Follow-on civil litigation: *In re Capacitors Antitrust Litigation*, No. 17-md-02801 (N.D. Cal.).

Packaged Seafood

- This investigation relates to price fixing of packaged seafood products, particularly albacore, skipjack and yellow fin tuna in shelf-stable foil or cans. The parent-owner of Chicken of the Sea, Thai Union Group, planned to acquire Bumble Bee for \$1.5 billion in 2014. That deal never materialized, as the DOJ's routine antitrust review of that proposed acquisition sparked its investigation into the packaged seafood industry.
- The DOJ secured guilty pleas in 2016 from two senior vice presidents of Bumble Bee Foods, LLC, and in 2017 from a former senior vice president of StarKist Co. Bumble Bee pleaded guilty in 2017 and was ordered to pay a \$25 million crime fine. StarKist pleaded guilty in 2018. Chicken of the Sea received conditional leniency under the DOJ's Corporate Leniency Program.

2019 Update:

- » In September 2019, a California federal judge ordered StarKist to pay a \$100M criminal fine and to serve 13 months' probation for its role in the conspiracy to fix the prices of canned tuna.
- » In December 2019, a California federal jury found the former CEO of Bumble Bee guilty of conspiring to fix the prices of canned tuna. Along with executives at rivals StarKist and Chicken of the Sea, the co-conspirators agreed to illegally raise and fix prices. The jury deliberated for just a few hours in a trial that lasted four weeks. The ex-CEO faces up to 10 years in prison. Sentencing is scheduled for April 8, 2020.
- » In the middle of trial, Bumble Bee Foods filed for bankruptcy. One of Bumble Bee's suppliers has agreed to buy the company for \$925 million.

Foreign Currency Benchmarks

- This investigation relates to global price fixing and bid rigging of financial benchmarks in the broader foreign currency market (Forex or FX), specifically the London Interbank Offered Rates (LIBOR), US Dollar International Swaps and Derivatives Association Fix (ISDAFIX), Euro Interbank Offered Rate (EURIBOR), Singapore Interbank Offered Rate (SIBOR) and Swap Offer Rate (SOR), the Australian Bank Bill Sweep Rate (BBSW), and Central and Eastern European, Middle Eastern, and African currencies (CEEMEA).
- The DOJ obtained guilty pleas in May 2015 from five major banks. The DOJ has collected more than \$2.5 billion in fines to date.
- Follow-on civil litigation: *In re Foreign Exchange Benchmark Rates Antitrust Litigation*, No. 13-cv-07789 (S.D.N.Y.).

2019 Update:

- » In November 2019, a Manhattan federal jury found a former Forex trader guilty of conspiring to fix prices and rig bids in CEEMEA currencies. The DOJ alleged that from October 2010 to at least January 2013, the former trader betrayed his clients to strengthen his own trading positions and boost his own earnings in direct-to-customer and bank-to-bank currency trades. Sentencing is scheduled for April 3, 2020.
- » This was the third trial involving collusion by Forex traders. Two defendants were convicted in October 2018, and three defendants were found not guilty in a 2018 trial.

Financial Instruments – Pre-Release ADRs

- This investigation relates to bid rigging in auctions for American Depository Receipts (ADRs). The US Securities and Exchange Commission permits four US depository banks to create ADRs, which are used by US investors to purchase or sell stock for companies that are only listed on foreign stock exchanges. During the conspiracy, one of those US banks began using auctions for pre-release ADRs and invited broker-dealers to submit competitive bids for rates to borrow ADRs.

Generic Drugs

- This investigation involves allegations of price fixing, bid rigging and customer allocation in the generic pharmaceutical industry.
- In December 2016, the DOJ charged two former executives of Heritage Pharmaceuticals, Inc. for their roles in fixing the prices of doxycycline hyclate and glyburide. The two executives pleaded guilty.
- Beginning in 2016, several putative class actions were filed on behalf of direct purchasers, end-payors and indirect resellers. The class actions were consolidated into a multi-district litigation in the Eastern District of Pennsylvania. In August 2017, the class plaintiffs filed complaints alleging that

various generic pharmaceutical manufacturers participated in individual conspiracies to fix prices for 18 drugs. Later in 2018, class plaintiffs filed additional complaints alleging that numerous defendants engaged in a larger, overarching conspiracy to fix prices and allocate markets across the industry.

- Also in 2018, the attorneys general of 47 states, DC, and Puerto Rico filed a civil suit alleging that 18 companies and two individuals participated in a conspiracy to fix prices and divide markets for 15 generic pharmaceutical drugs. The attorneys general suit was consolidated into the multidistrict litigation.
- Follow-on civil litigation: *In re Generic Pharmaceuticals Pricing Antitrust Litig.*, No. 16-MD-2724 (E.D. Pa.).

2019 Update:

- » In May 2019, 43 states and Puerto Rico filed a new 524-page complaint against 19 manufacturers and 15 individuals alleging an industry-wide “overarching conspiracy” centered around Teva Pharmaceuticals to allocate customers, divide markets and fix the prices of 114 generic pharmaceutical drugs. Along with its 33 federal antitrust claims under Section 1 of the Sherman Act, the complaint adds antitrust, consumer protection and common law unjust enrichment claims under the laws of 43 states and Puerto Rico. The States’ earlier, June 2018 complaint also alleged an industry-wide overarching conspiracy, but centered around Heritage Pharmaceuticals. The States’ new “Teva-centric” complaint has also been consolidated into the MDL. Putative classes of end-payor and indirect reseller plaintiffs, as well as several opt-out plaintiffs, also filed new complaints alleging multi-drug, overarching conspiracies.
- » In June 2019, Heritage Pharmaceuticals Inc. entered into a deferred prosecution agreement with the DOJ on a single felony count of conspiring to fix prices, rig bids and allocate customers for the generic diabetes drug glyburide in violation of Section 1 of the Sherman Act. This was the third formal charge in the DOJ’s ongoing investigation into the generic pharmaceuticals industry—Heritage’s former CEO and its former president previously pleaded guilty to Section 1 violations for glyburide and another drug, doxycycline hyclate. Under the deferred prosecution agreement, which is subject to court approval, Heritage admitted that it conspired to fix prices, rig bids and allocate customers for glyburide, will pay a \$225,000 criminal penalty, and will cooperate fully with the ongoing criminal investigation.
 - Heritage also agreed to pay \$7.1 million to resolve related allegations under the False Claims Act. The government alleged that between 2012 and 2015, Heritage’s sale of glyburide, the high blood pressure drug hydralazine, and the respiratory drug theophylline, resulted in claims submitted to or purchased by federal healthcare programs that violated the Anti-Kickback Statute.
- » In December 2019, a second company, Rising Pharmaceuticals Inc., also entered into a deferred prosecution agreement with the DOJ. This was the fourth charge in the DOJ’s ongoing investigation into the generic pharmaceuticals industry. Under the deferred prosecution agreement, Rising

admitted that it conspired to fix prices and allocate customers for Benazepril HCTZ and agreed to pay a \$1.5 million criminal penalty and \$438,066 in restitution. Rising also agreed to pay approximately \$1.1 million in civil damages for False Claims Act violations predicated on its antitrust conduct.

International Ocean Shipping

- This investigation relates to price fixing, bid rigging and other anticompetitive conduct in the international roll-on, roll-off ocean shipping industry.
- To date, the DOJ's investigation has led to charges against 13 executives, including nationals of Germany, Sweden, Japan and Chile. In total, six individuals have pleaded guilty and been sentenced to serve prison terms, while others remain international fugitives. Five companies have also pleaded guilty for their roles in the conspiracy, resulting in total criminal fines of over \$255 million.
- Follow-on civil litigation: *F. Ruggiero & Sons, Inc., et al v. NYK Line (North America) Inc. et al*, No. 13-cv-03306 (D.N.J.).

2019 Update:

- » In June 2019, an indictment was unsealed against two former executives at Höegh Autoliners AS, a Norwegian shipping company. Höegh has already pleaded guilty, was sentenced to pay a \$21 million fine, and has agreed to serve a three-year term of probation to ensure compliance with the antitrust laws.
- » The indictment alleges that from at least 2006 until September 2012, the two former executives conspired with their competitors to allocate customers and routes for the shipment of cars and trucks. They attended meetings and agreed not to compete against each other by refraining from bidding or agreeing on the prices they would bid for certain customers and routes. They also agreed with competitors to fix the rates charged to customers of international ocean shipping services.
- » Also in 2019, the Australian Competition and Consumer Commission announced that Australia filed its first ever criminal charges against two corporations under the criminal cartel provision of its competition law. The Australia Federal Court ordered NYK Line to pay \$17.5 million and ordered K-Line to pay \$23.4 million for their respective roles in the international ocean shipping conspiracy.

Heir-Location Services

- In 2016, a federal grand jury indicted Kemp & Associates and its vice president and COO, Daniel J. Mannix, for allocating customers and dividing the market for heir-location services in the United States. During probate proceedings, heir-location services companies locate unknown claimants to a decedent's estate and help them to substantiate their claims in exchange for a percentage of the claimant's inheritance. Two companies and two

executives agreed to split fees and not to contact each other's clients. One company and its executive pleaded guilty, while the other company and its executive proceeded to trial.

- Prior to trial, the district court ruled that the rule of reason would apply, not the *per se* rule. *Per se* treatment was inappropriate, the court reasoned, for an agreement “structured in an unusual way,” affecting only a small number of estates in a “relatively obscure industry.” The court also held that the statute of limitations barred prosecution, because mere ministerial tasks like distributing payments did not extend the conspiracy beyond the agreement's stated termination date in July 2008. *United States v. Kemp & Assocs., Inc.*, No. 16-cr-00403 (D. Utah Aug. 28, 2017). The government appealed both rulings to the Tenth Circuit Court of Appeals.
- The Tenth Circuit reversed the district court's second ruling—that the statute of limitations barred prosecution—but found that it lacked jurisdiction to review the district court's rule of reason decision. However, the appeals court suggested that the district court might want to revisit its rule of reason order on remand, since the additional briefing at the appellate stage might be helpful in determining whether the rule of reason should apply. *United States v. Kemp & Assocs., Inc.*, 907 F.3d 1264 (10th Cir. 2018).

2019 Update:

- » In February 2019, the district court heeded the appeals court's advice and reversed its earlier rule of reason decision, holding that the defendants' agreement was “a horizontal customer allocation agreement, and therefore subject to the *per se* approach.”
- » Following the district court's decision to apply the *per se* rule, Kemp & Associates and its VP both pleaded guilty. The court ordered the VP to pay a \$77,596 fine and ordered Kemp & Associates to pay a \$1.53M fine.

Freight Forwarding

- This investigation relates to price-fixing and bid-rigging in the freight-forwarding industry. Freight forwarders arrange for and manage the shipment of goods, including by receiving, packaging and otherwise preparing cargo destined for international ocean shipment.

2019 Update:

- In October 2019, a criminal information in the Southern District of Florida was unsealed against Dip Shipping Company, LLC, for engaging in a conspiracy to fix prices of freight forwarding services provided in the United States and elsewhere from approximately September 2010 through March 2015.

- Also in October 2019, the DOJ announced a third guilty plea in its ongoing investigation into the freight forwarding services industry. The president and owner of a large, Houston-based freight forwarding company pleaded guilty to an antitrust charge in the Southern District of Florida for her role in a multi-year, nationwide conspiracy to fix prices for international freight forwarding shipments from the United States to Honduras. This is the third individual to face charges for participating in this conspiracy. Two other individuals have pleaded guilty and were sentenced to 18- and 15-month prison terms, respectively.

No-Poach Agreements

- In 2016, the FTC and DOJ released joint guidance arguing that anti-poaching agreements are *per se* illegal. Such “no-poach” or “no-hire” clauses in employment contracts prohibit companies from soliciting one another’s employees. The guidance also stated that certain no-poach agreements that are ancillary to otherwise pro-competitive conduct will be subject to a “quick look” or “rule of reason” level of scrutiny.
- In early 2018, DOJ Assistant Attorney General Makan Delrahim stated that the DOJ will criminally investigate and prosecute so-called “no-poach” agreements. The DOJ brought its first case since the policy was announced, reaching a civil settlement with two firms, Knorr-Bremse AG and Westinghouse Air Brake Technologies Corp., for allegedly agreeing not to recruit and hire each other’s employees. In announcing the settlement, DOJ specified that it was handled civilly, rather than criminally, only because the conduct ceased when the guidance was announced in 2016.
- Since then, numerous state attorneys general have initiated antitrust investigations into the use of “no-poach” agreements by franchise-based fast food operations. The Washington Attorney General has led the charge:
 - » The Washington AG has obtained agreements with 30 nationwide chains to eliminate the use of no-poach clauses in their franchise contracts. The Washington AG’s investigation has expanded from fast-food chains to other industries, including hotels, car repair, gyms, home healthcare, convenience stores, cleaning, tax preparation, parcel, electronics repair, child care, custom window covering, travel and insurance adjuster services.
 - » A number of follow-on civil class actions have since been filed by employees of certain franchise-based companies.

2019 Update:

- » The DOJ filed statements of interest in three civil suits in the Eastern District of Washington to inform the court of the DOJ’s view as to what standard the court should apply to individual no-poach agreements—*per se* or rule of reason. The DOJ maintains that strictly horizontal no-poach agreements between competitors should be governed by the *per se* rule, whereas vertical no-poach agreements between franchisors and franchisees that are reasonably related to a legitimate business goal should be governed by the rule of reason.

- » In May 2019, the DOJ intervened in a class action alleging that Duke University and the University of North Carolina agreed not to permit the hiring of each other's medical faculty. In 2018, the court certified a class consisting of faculty members with an academic appointment at either facility, and in April 2019, the parties entered a proposed settlement. The DOJ intervened to join the proposed settlement and to obtain the right to enforce an injunction to prevent any future unlawful no-poach agreements. *Seaman v. Duke University and Duke University Health System*, No. 15-cv-00462 (M.D.N.C.)

Promotional Products

- This investigation relates to price fixing of customized promotional products, such as wristbands and lanyards. Five companies and six executives have been charged with fixing the prices of customized promotional products sold online. Two companies and two executives have pleaded guilty, and the companies have been ordered to pay nearly \$8.5 million dollars in criminal fines.
- The DOJ alleged that the individuals met in person and used encrypted messaging apps to reach and implement the price-fixing agreements.

2019 Update:

- » In 2019, the DOJ obtained guilty pleas from:
 - Gennex Media LLC, which was fined \$752,717
 - Gennex Media's owner and president, who was fined \$20,000 and sentenced to eight months in prison
 - Netbrands Media Corp., which was fined \$6,531,687
 - Two Netbrands executives, who were each fined \$20,000 and sentenced to six months and three months in prison, respectively
 - A former Trod Limited executive, who was sentenced to six months in prison.
- » The DOJ also announced criminal charges against G Nova Corporation and its CEO for conspiring to fix the prices of insulated beverage containers, known as "koozies."
- » The DOJ's investigation into the promotional products space appears quite active.

Fuel-Supply Contracts

- In November 2018, the DOJ revealed a new investigation into bid rigging of fuel-supply contracts for US armed forces abroad. From approximately March 2005 to 2016, South Korean petroleum and refinery companies conspired to suppress competition during the bidding process for US

government fuel supply contracts. Three South Korea-based companies have agreed to plead guilty to criminal charges and pay approximately \$82 million in criminal fines and \$154 million in civil fines relating to antitrust and False Claims Act violations.

2019 Update:

- » The DOJ obtained guilty pleas in March 2019 from two more Korean companies for their involvement in a bid-rigging conspiracy that targeted contracts to supply fuel to US Army, Navy, Marine Corps and Air Force bases in South Korea. The companies agreed to pay approximately \$75 million in criminal fines and approximately \$52 million in civil antitrust and False Claims Act fines.

Real Estate Foreclosure Auctions

- The DOJ has charged three companies and more than 130 individuals with rigging bids in public real estate foreclosure auctions in Alabama, California, Georgia, North Carolina, Florida and Mississippi. Before foreclosure auctions on the courthouse steps, the conspirators would agree on bidding schemes to depress the selling price of foreclosed properties. Across the country, the conspiracies operated similarly and involved separate, mini auctions (sometimes called “rounds”) to award the properties to members of the conspiracy and to determine payoffs for the co-conspirators who had agreed not to bid up the selling price. These “rounds” were often held near the courthouse steps. Some of the bid-rigging schemes even operated online.
- In 2019, the DOJ did not file any new charges in connection with this investigation. However, 12 individuals were sentenced for their participation in the cartel and were ordered to pay fines ranging from \$20,000 to \$180,000, as well as restitution. Nine individuals were sentenced to prison time.

Commercial Flooring—*New for 2019*

- In 2019, the DOJ announced a new investigation into price fixing and bid rigging in the commercial flooring industry. Commercial flooring contractors remove existing flooring, prepare the floors for new installation and install the new flooring. The conspirators allegedly shared prices and submitted complementary bids, which allowed the contractors to obtain jobs at supra-competitive prices.
- In August 2019, an Illinois-based commercial flooring contractor was charged for its role in a long-running conspiracy to rig bids and fix prices for commercial flooring services and products sold in the United States from 2009 until June 2017. The company agreed to plead guilty and pay a \$150,000 criminal fine. The charges cite 11 instances of bid-rigging for certain jobs valued from \$11,000 to more than \$3.3 million. The victims include hospitals, schools, a non-profit, an electronics company, a professional services firm and a broadband provider.
- The former vice president of a different commercial flooring contractor has also pleaded guilty.

GSA Auctions—*New for 2019*

- In 2019, the DOJ revealed a new investigation into bid rigging of Government Services Administration (GSA) online auctions for surplus government equipment. GSA auctions offer the public the opportunity to bid online on a wide variety of federal assets, including computers that are no longer needed by government agencies. The proceeds of the GSA auctions are distributed to government agencies or the US Treasury general fund.
- In April 2019, the DOJ announced that the owner of a Texas company had pleaded guilty to rigging GSA bids online for computers meant for resale and recycling from February 2017 until approximately May 2018.
- In September 2019, the DOJ announced that a second individual had pleaded guilty and agreed to cooperate in the DOJ's ongoing investigation. According to the one-count felony charge, from July 2012 to May 2018, the Pennsylvania resident conspired with others to rig bids at online public auctions of surplus government equipment conducted by the GSA. The co-conspirators agreed which co-conspirators would submit bids for particular lots and which co-conspirator would be designated to win a particular lot.

Insulation Installation—*New for 2019*

- The DOJ announced three guilty pleas in connection with its investigation into bid-rigging by insulation installation contractors. The three defendants admitted to rigging bids and engaging in fraud on insulation installation contracts in New England between 2011 and 2018.
- The DOJ continues to actively investigate fraud and bid rigging in the insulation contracting industry.

Suspension Assemblies/Hard Disk Drives—*New for 2019*

- In July 2019, a Japanese manufacturer agreed to plead guilty for its role in a global conspiracy to fix prices of suspension assemblies used in hard disk drives from May 2008 until April 2016. Hard disk drives store electronic information by using magnetic recording heads to read from and write onto rapidly spinning disks. Suspension assemblies hold the recording heads in close proximity to the disks and provide the electrical connection from the recording heads to the hard disk drives' circuitry.
- The company and its co-conspirators exchanged pricing information, including anticipated pricing quotes, and agreed to refrain from price competition and allocate their respective market shares for suspension assemblies used in hard disk drives.
- The company agreed to plead guilty and to pay a \$28.5 million criminal fine.

EUROPEAN CARTEL INVESTIGATIONS

Power Cables

- On July 12, 2018, the General Court of the EU upheld a decision of the Commission imposing a fine on an investment bank for its indirect subsidiary's participation in the power cables cartel.
- In its decision of April 2, 2014, the Commission applied its case law according to which a parent company that exercises “decisive influence” over a subsidiary can be found liable for the competition law infringements of that subsidiary. More specifically, the Commission applied its parental liability presumption according to which a parent company is presumed to exercise such decisive influence when it wholly owns its subsidiary or holds almost all of the shares of its subsidiary.
- The investment bank appealed the Commission's decision, arguing that it held less than 91% of the shares of the subsidiary that had participated in the cartel.
- The General Court rejected this argument and held that the parental liability presumption can be applied even if the parent company holds less than 100% of the shares of its subsidiary but is able to exercise all the voting rights in the subsidiary.
- The investment bank has appealed the General Court's ruling to the European Court of Justice.

Supra-Sovereign, Sovereign and Agency (SSA) Bonds

- On December 20, 2018, the Commission sent a Statement of Objections to banks involved in trading supra-sovereign, sovereign and agency bonds denominated in US dollars.
- The Commission will determine whether the banks exchanged commercially sensitive information and coordinated prices concerning “SSA bonds” through traders that allegedly communicated principally via online chatrooms.
- Bonds are debt securities that are used by entities to raise funds in international financial markets. Supra-sovereign bonds are issued by supranational institutions or agencies, sovereign bonds are issued by central governments under another law and in another currency than their own, and agency bonds are issued by government-related agencies.

European Government Bonds

- On January 31, 2019, the Commission sent a Statement of Objections to banks for having participated in a cartel. The Commission alleges that they exchanged commercially sensitive information and coordinated on strategies when acquiring and trading European government bonds. Similarly to the SSA bonds case (see above), the cartel was apparently implemented through traders that communicated mainly via online chatrooms.
- European government bonds are sovereign bonds issued in Euro by the governments of Member States that have adopted the Euro as a currency.

Car Safety Equipment Suppliers

- On March 5, 2019, the Commission imposed a fine of €68 million on suppliers of car seatbelts, airbags and steering wheels. This is the second time the Commission fines car safety equipment suppliers for participating in a cartel. While the first cartel concerned the supply to Japanese car manufacturers in the EEA, this second case focuses on the supply to European car producers.
- The companies exchanged commercially sensitive information and coordinated their behaviour on the market. All companies acknowledged their participation in the cartel and agreed to enter into a settlement with the Commission.
- This is the latest Commission decision in the automotive parts sector. The Commission has already fined suppliers of automotive bearings, wire harnesses, flexible foam used in car seats, parking heaters, alternators and starters, air conditioning and engine cooling systems, lighting systems, spark plugs, and braking systems. The total amount of fines imposed by the Commission on companies that participated in auto parts cartels is €2.15 billion.

Car Emissions

- On April 5, 2019, the Commission sent a Statement of Objections to German car manufacturers for colluding on emission cleaning technology.
- The Commission's preliminary view is that the companies colluded to avoid competition on the development and roll-out of technology to clean emissions from petrol and diesel passenger cars.
- The emissions control systems concerned by the investigation are selective catalytic reduction systems (which reduce nitrogen oxide in diesel engines) and "Otto" particulate filters (which reduce particulate matter in petrol engines).

FOREX

- On May 16, 2019, the Commission imposed a fine of \$1.07 billion on five banks for taking part in two separate cartels in the Spot Foreign Exchange market for 11 currencies. This is the fifth highest cartel fine per case imposed by the Commission since 1969.

- Companies usually exchange amounts of a certain currency against another through a trader. Spot order transactions take place on the same day at the applicable exchange rate.
- The Commission found that traders employed by the banks had used online professional chatrooms to exchange sensitive information—such as outstanding customer orders, bid-ask spreads (*i.e.*, prices) applicable to specific transactions, open risk positions held by the banks, and trading plans—and to coordinate their trading strategies. This behaviour had an influence on the banks’ decisions to sell and buy the currencies in their portfolios and on whether or not to “stand down” (*i.e.*, to refrain from trading activities to avoid interfering with each other’s activities). The Commission’s investigation revealed that the cartel was based on very close personal relationships between a few individual traders who had extensive conversations, often on a daily basis.

Canned Vegetables

- On September 27, 2019, the Commission fined two canned vegetable suppliers. The companies participated in a “textbook” cartel: they fixed prices, allocated specific markets and customers to each other, set volume quotas, coordinated their bid responses, and exchanged sensitive information. The cartel lasted for more than a decade.
- Both companies settled with the Commission and benefitted from a fine reduction. A third company that decided not to settle is still subject to the Commission’s investigation.

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