

Collusion in Industrial Economics and Optimally Designed Leniency Programmes - A Survey

BACKGROUND

- Collusion among firms is one example of a situation in which free markets fail to efficiently allocate the scarce resources of an economy.
- The negative effect of collusion on the welfare of consumers calls for government intervention.
- The goals of antitrust policy are to dissolve existing cartels and to deter new cartels from forming in the future.
- Leniency programmes are a powerful tool at the disposal of antitrust authorities. These aim to incentivise colluding firms to come forward and denounce their unlawful conduct.

METHODOLOGY

- The aim of this paper is to enhance our understanding of how leniency policies impact on cartel formation and sustainability.
- The author provides a critical and systematic overview of the most influential contributions to the economics literature on collusion and leniency programmes in antitrust.
- Also provided is a review of the literature on the economics of generic law enforcement, with a focus on self-reporting schemes, for crimes committed either by individuals or groups of individuals.

KEY FINDINGS

- Post-investigation leniency may provide colluding firms with incentives to reveal evidence of significant added value to the antitrust authority. As a result, the judicial procedure accelerates and the costs of investigation diminish.
- The deterrence effects of a leniency programme may be indirectly amplified to the extent that the savings made by the authority are used to conduct further market investigations.
- The punishment strategy adopted by colluding firms to enforce their illegal agreement influences the deterrence effects of leniency programmes.
- The restriction of eligibility to the first reporting firm curbs the ability of colluding firms to exploit the leniency programme.
- The offer of a reward to the first self-reporting firm provides a powerful incentive to firms to self-report.
- When colluding firms retain asymmetric evidence, the extension of eligibility for leniency to more than one firm facilitates the procedure for prosecuting cartels.
- A more transparent leniency programme allows firms to accurately estimate the benefits accruing from a leniency application.
- More severe punishment for repeat offenders enhances the efficacy of a leniency programme.
- A confidential application procedure restricts firms' abilities and scope to exploit the leniency programme.
- A leniency programme for individuals is more effective than a corporate leniency programme.

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- Reduced fines (because of lenient treatment) make collusion less costly ex-ante (a pro-collusive effect).
- Wrongly designed leniency programmes may provide firms with a credible mechanism to curb the opportunism which is inherent to illegal cartel agreements. Thus, contrary to policy objectives, a poor leniency programme may exacerbate cartel formation and/or render an existing cartel more robust.
- A poorly designed leniency programme for individuals may have adverse effects on intra-firm hiring strategies and inter-firm benign cooperation.

THE CCP

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