

September  
2008Cartel  
Organization  
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Enforcement

CCP Policy Briefings

## Cartel Organization and Antitrust Enforcement

### BACKGROUND

- Modern cartels are well-organized with sophisticated organizational structures. Disclosing the structure of a cartel organization is essential to understand how collusive agreements are reached and enforced among cartel firms and how duties of running cartels are allocated inside a cartel firm, all of which are primary questions to the practice of antitrust enforcement.
- However, empirical studies from the cracked cartels are never sufficient to disclose the sophistication of cartel organization since the most successful cartels are so well-organized that they are unlikely to be detected; moreover, due to confidentiality, details on the organizational form of cracked cartels are rarely disclosed.
- Theoretical research on cartel organization is therefore quite essential to uncover the internal structure of cartels.

### METHODOLOGY

- The author incorporates the economic theory of organizations into the framework of public law enforcement, and characterizes the dual-coalition structure of cartel organization to highlight the strategic interactions between cartel participants under different antitrust policies.
- The paper argues that when engaged in collusive activities the relationship between the top executives and managers can only be sustained by ongoing relational contracts.
- Thus the temptation of renege becomes the main challenge to the success of cartels, and antitrust enforcement should take advantage of this internal conflict.

### KEY FINDINGS

- The author shows that delegation of authority over collusive decisions from top executives to subordinates can mitigate the temptation of renege on collusive relationships and thus contributes to facilitating collusion.
- Moreover, the efficiency gains of delegation in facilitating collusion can be mitigated when the corporate leniency program is introduced, in particular whenever it is unlikely to detect cartels absent leniency and the corporate liability is much significant than individual liability.

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- On the other hand, however, granting generous leniency to the whistleblower would make cartels more profitable and thus more robust. In particular, the policy of rewarding the whistle-blower, which can encourage the agent to denounce the cartel, would also benefit the principal since the agent can get amnesty only if the principal applies for corporate leniency.
- These two opposite effects on facilitating collusion bring a trade-off in the optimal design of leniency programs and thus determine the optimal leniency rate which is related to the effectiveness of antitrust enforcement.

## POLICY IMPLICATIONS

- Antitrust enforcement is unlikely to be effective if the antitrust authority has little knowledge about how cartels are organized and operated. This paper makes the first attempt to establish the theory of cartel organization, and calls for further studies to disclose the sophisticated organizational structure of cartels.
- When the Corporate Leniency Program is adopted, delegating the decision rights to the manager cannot be beneficial to facilitating collusion if the corporate fine is much higher than the individual fine.
- However, cartels can still benefit from delegation in facilitating collusion when the individual liability is relatively significant, in which cases the temptation of renege under delegation is less significant than under integration.
- Our analysis thus shows that the evolution of antitrust policy will change the organizational form of the cartels, in particular, the allocation of authorities over decision rights in the hierarchy.

## THE CCP

The ESRC Centre for Competition Policy (CCP), at the University of East Anglia, undertakes competition policy research, incorporating economic, legal, management and political science perspectives, that has real-world policy relevance without compromising academic rigour.

## FOR MORE INFORMATION

The full working paper (CCP Working Paper 08-21) and more information about CCP and its research is available from our website: [www.ccp.uea.ac.uk](http://www.ccp.uea.ac.uk)

## ABOUT THE AUTHORS

- **Dr Zhijun Chen** is a post-doctoral research fellow at CCP. He gained his PhD from the Toulouse School of Economics. His research interests include industrial organisation, competition policy and contract theory.

W: [www.ccp.uea.ac.uk](http://www.ccp.uea.ac.uk)  
 T: +44 (0)1603 593715  
 A: UEA, Norwich, NR4 7TJ

