

Survey of Public Attitudes to Price-Fixing and Cartel Enforcement in Britain

June 2007

Survey of
Public Attitudes
to Price-Fixing
and Cartel
Enforcement in
Britain

CCP Policy Briefings

BACKGROUND

- Public attitudes are important to cartel policy in four respects:
 - Weight of social stigma imposed upon offenders if caught can have a strong deterrent effect; perceptions of how bad such behaviour is will also determine willingness to report offenders.
 - Authorities rely heavily on leniency programmes as cartels are difficult to detect; public attitudes could oppose the use of such methods of detection, which allow some guilty parties to go unpunished.
 - Cartel enforcement has been dramatically stepped up in the last decade; public support is required to ensure its success.
 - Public attitudes give some indication of the willingness to convict individuals at jury trial: in particular, the extent to which price-fixing is considered *dishonest* for the purposes of the UK criminal offence.

METHODOLOGY

- This paper presents an overview of the results of a survey gauging public attitudes in Britain to price-fixing and cartel enforcement mechanisms. It is the first ever survey of consumer attitudes to cartels.
- A representative sample of 1,219 residents of Great Britain, aged 18 or over, was surveyed. The survey was carried out between 28th and 30th March 2007 by YouGov plc and was commissioned by the ESRC Centre for Competition Policy.
- In conducting the survey, YouGov selected a sub-group from their pool of over 160,000 adults that was representative of the population as a whole. The response rate was about 41%.
- The raw data was adjusted, taking account of age, gender, social class, newspaper readership and past vote (in a general election), to ensure that the results were representative.

KEY FINDINGS

Is Price-Fixing Wrong?

- Respondents prefer prices to be different between shops, and enjoy shopping around, even if they sometimes fail to locate the lowest price.
- There is a strong understanding amongst respondents that when competitors collude in setting prices, they will look to inflate these prices in order to increase their collective profits, to the detriment of their customers.
- However, there is indication that where forms of collusion other than price-fixing bring some benefit to consumers, they are more likely to be acceptable.
- A majority of respondents recognise that price-fixing is harmful and feel it should be punished.
- Experience as a consumer could be an important source of knowledge about price-fixing as age seems to have a significant impact on attitudes towards price-fixing.

Appropriate Punishments

- While there appears to be substantial public support for imposing fines on price-fixing firms, interestingly the support is far stronger for fines that exceed the extra profits earned through the cartel, rather than fines proportionate to those profits.
- A weak majority believe that offending firms should be made to compensate affected customers.
- The sanction with the strongest support is public naming and shaming: consumers made aware of a firm's bad behaviour may make efforts to take their business elsewhere.
- The most popular sanction for individuals again proves to be naming and shaming, while bans from holding senior managerial positions, and personal fines, both have significant public support.

June 2007

 Survey of
 Public Attitudes
 to Price-Fixing
 and Cartel
 Enforcement in
 Britain

CCP Policy Briefings

Implications for the UK Criminal Cartel Offence

- Individuals can now face up to five years' imprisonment if convicted; the survey reveals weak public support for the imprisonment of individuals who have committed price-fixing (with only 11% feeling it is appropriate).
- 63% believe that price-fixing is dishonest; this figure is lower than one would expect given that 73% of respondents recognise that price fixing is wrong and feel it should be punished.
- Some results may reflect insufficient knowledge about the nature of price-fixing, its harmful effects, and the laws which ban such behaviour. 7% of respondents felt that price-fixing is comparable to theft, while 8% felt it was comparable to fraud; but a strong majority had trouble relating price-fixing to an illegal act with which they were familiar.

When Should Price-Fixing be Punished?

- A majority of those who support punishment believe it should be imposed whenever price-fixing has occurred, even if prices have not gone up.
- In response to an open question regarding exceptions to punishment, the survey shows there is limited support for justification on the basis of benefits to consumers or protection of employment or small businesses. However, when presented with a specific scenario (a factory closing down in a poor area of high unemployment), those choosing exemption rose, although not as much as one might expect. This may signal respondents' greater acceptance of job mobility and declining sympathy towards failing companies.
- Support for exemption is weak even for two small shops in a village or firms that invest most of their profits in R&D; and respondents are particularly unforgiving when it comes to pharmaceutical companies, estate agents and supermarkets.

Other Findings

- The survey reveals weak but significant support for leniency programmes.
- The majority of respondents would only consider reporting price-fixing (within the company where they worked) if they (at the very least) could be granted anonymity. A significant proportion would not report an infringement, fearing the consequences, even where rewards are available in return.
- In response to a private enforcement question, greater importance was placed on the imposition of punishment than on ensuring those 'injured' by price-fixing are compensated.

POLICY IMPLICATIONS

- With regards attitudes towards exceptions to punishment, the survey results should give competition authorities greater courage in imposing fines on firms that accurately reflect the infringement they have committed.
- In terms of individuals' willingness to report infringements, the responses suggest that competition authorities should have clear mechanisms in place guaranteeing anonymity to potential whistleblowers.
- While a social stigma against price-fixing exists, it may not be strong enough to support imprisonment. This may make it hard to secure a conviction under the UK criminal offence.

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 07-12) and more information about CCP and its research is available from our website: www.ccp.uea.ac.uk

ABOUT THE AUTHOR

- **Andreas Stephan** is a PhD student at the Norwich Law School. His thesis analyses how deterrence in cartel enforcement can be strengthened. From 1 August 2007, Andreas will be taking up a lectureship at the Law School.

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

