

## **Christine Parker**

### **The Futility of Getting Tough on Cartels?**

Business regulators generally seek to enforce the law and encourage compliance through two strategies: punishment (to deter non-compliance) and moral education and stigmatization (to encourage compliance). Criminalization of conduct appears to be a powerful way to “get tough” on misconduct in business and achieve both greater punishment and a stronger moral message about the social undesirability of the conduct. Many countries, including Australia, have therefore recently criminalized cartel conduct (including price fixing and market sharing) in order to try and stamp out this behaviour. This paper however presents survey and interview evidence that suggests that cartel criminalization will often fail to have an impact on cartel behavior. There is a large gap between the assumptions behind cartel criminalisation about how punishment and compliance work and the business people’s everyday relationships with the law. In particular small business people are likely to deny the relevance of both the deterrent and moral messages of anti-cartel law to their own conduct; while business people at the top of large companies will often feel that they can avoid its application.