

[COORDINATION BETWEEN COMPETITION AGENCIES AND PUBLIC PROSECUTORS]

[INTRODUCTION - PAUL O'BRIEN, Attorney, U.S. Federal Trade Commission]

PAUL O'BRIEN: Welcome to the ICN's Training on Demand videos covering competition law and policy. This module focuses on the coordination between competition authorities and public prosecutors in the fight against cartels. Cartels have been called the "supreme evil," most egregious violations of competition law. Accordingly, the practice is subject to severe sanctions around the world. It is a top priority for competition law enforcers.

In recent years, an increasing number of jurisdictions have criminalized collusion or established some form of penalties for individuals involved in cartels. In many countries, there are two types of independent federal or state government agencies involved in investigating and trying cartel cases, both in the administrative and criminal context.

On one hand, there's the competition authority, which is the legal body with jurisdiction to enforce anti-cartel legislation. On the other hand, you have the public prosecutor, the authority responsible for representing the public interest as government representatives for courts and tribunals for the prosecution of all kinds of crimes. Even though in some cases public prosecutors may not be specialists in competition law, as criminal enforcers, they can play a very important role in the fight against cartels in many jurisdictions.

And, of course, criminal offenses are prosecuted in a variety of ways that can differ from place to place. Common law countries are usually linked to an adversarial legal system, while civil law countries generally adopt a more inquisitorial system. In some places, the competition authority must decide whether to try a case administratively or criminally. Other agencies in other places, depending on the seriousness of the offense or the available evidence, may pursue

both. Regardless, effective cooperation and coordination between the competition authority and the public prosecutor is essential and must entail a common understanding of enforcement goals and processes to be pursued in different stages of proceedings.

Just a couple of examples: Leniency coordination. Of course, leniency programs are extremely important tools for uncovering cartels. The ITOD has a whole separate module on leniency programs. They rely on predictability to ensure their effectiveness and, therefore, require close coordination between competition authorities and the public prosecutors. To be effective, once granted, leniency should not be jeopardized or renegotiated by a different government body.

Second, competition authorities must pay special attention to the evidence-gathering processes and rules and all the other safeguards which are built into the requirements of their legal systems. You must be aware of the implications of the use of evidence in both competition proceedings and criminal prosecution.

Finally, even during the criminal phase, the support and expertise provided from competition agency lawyers who have experience prosecuting cartels may be critical to public prosecutors to secure a criminal conviction. In this module, colleagues from the Canadian Competition Bureau, Brazilian Administrative Council for Economic Defense, and the Chilean Fiscalía Nacional Económica will be sharing their experiences, their expertise working with public prosecutors and the initiatives taken to foster a more collaborative relationship.

Thank you and enjoy the rest of the module.

**[ANN SALVATORE, Deputy Commissioner, Cartels Directorate, Competition Bureau
Canada]**

[VALÉRIE CHÉNARD, Team Leader and Senior Counsel, Public Prosecution Service of

Canada]

ANN SALVATORE: My name is Ann Salvatore. I am the Deputy Commissioner of the Cartels Directorate at the Competition Bureau. I have been at the Bureau for over 30 years and many of those years have been dedicated to cartel enforcement.

VALÉRIE CHÉNARD: And I'm Valérie Chénard. I am the Team Leader for the Competition Law Section with the Public Prosecution Service of Canada. I have been practicing competition law for the last 20 years and I have been a federal prosecutor for most of my career.

Together, we'll be discussing the working relationship between the Competition Bureau and the Public Prosecution Service of Canada, also known as the PPSC.

ANN SALVATORE: In Canada, agreements amongst competitors to fix prices, allocate markets or restrict output and bid rigging are criminal offenses under the Competition Act. Conspiracies are punishable by a fine of up to 25 million, imprisonment for up to 14 years, or both. The maximum punishment for bid rigging is a fine in the discretion of the Court, imprisonment for up to 14 years, or both.

The Competition Bureau investigates alleged offenses under the Competition Act and may refer matters to the Public Prosecution Service of Canada for prosecution. Given this division of roles, we continually seek ways to facilitate working together while respecting each other's independence. In order to collaborate effectively, we need to have a clear understanding of our respective roles, mutual respect, and trust.

VALÉRIE CHÉNARD: Our roles are outlined in the PPSC Deskbook, the Immunity and Leniency Programs and the 2020 Memorandum of Understanding between the Commissioner of Competition and the Director of Public Prosecutions. We will refer to it as the MOU throughout this video. These documents also provide transparency and predictability for stakeholders.

First, we would like to describe our roles during the two main stages of a case, the investigation and the prosecution.

[INVESTIGATION]

ANN SALVATORE: Let's start with the investigation. Bureau officers conduct investigations under the Competition Act while seeking legal advice from the PPSC. It is the Competition Bureau officer's role to identify the object and targets of the investigation to determine the structure and scope of the investigation and how to carry it out and to gather, preserve, and organize evidence. If charges are made, the Bureau prepares a disclosure package that will be provided to the accused. Generally, the Competition Bureau requests that counsel be assigned to a case at the beginning of the investigation.

VALÉRIE CHÉNARD: Counsel will provide advice relating to four main areas. First, legal issues likely to impact an investigation or any subsequent prosecution. Here, counsel aims to reduce the risk that operational decisions, such as methods of obtaining evidence, will affect the admissibility of evidence at trial; second, court applications made by officers, for instance, to obtain search warrants; third, the referral of evidence to the PPSC to ensure that the referral package meets all legal and policy requirements; and fourth, any legal issues related to witness interviews.

[IMMUNITY AND LENIENCY]

ANN SALVATORE: Parties may apply under the Immunity and Leniency Programs, which are jointly administered by the Competition Bureau and the Public Prosecution Service. In Canada, we use the term "immunity" to mean full immunity for prosecution, which may be provided to the first party either to disclose to the Bureau an offense pursuant to the Competition Act that it has not yet detected, or to provide evidence leading to a case referral to the PPSC. We

use the term “leniency” to refer to lenient treatment upon sentencing for subsequent qualifying applicants who are required to plead guilty under the program.

VALÉRIE CHÉNARD: The Public Prosecution Service has the sole authority to grant immunity or leniency to a party implicated in an offense under the Competition Act. The Public Prosecution Service follows the principles set out in its Deskbook to decide whether to enter into immunity or plea agreement with an applicant. The PPSC Deskbook is available on its website at www.ppsc-sppc.gc.ca.

ANN SALVATORE: The Bureau’s role is to investigate the alleged offense and make recommendations to the PPSC to grant immunity or leniency.

VALÉRIE CHÉNARD: The Public Prosecution Service consults with the Bureau and gives due consideration to its recommendations, but has the independent discretion to accept or reject the Bureau’s recommendations. As outlined in the MOU, Bureau officers and counsel for the PPSC consult one another as necessary throughout the immunity or leniency process to ensure that all criteria is satisfied and the public interest may be served by granting immunity and leniency in appropriate cases.

ANN SALVATORE: There are four main steps during the immunity process. First, the initial contact or marker request; second, the proffer; third, the grant of interim immunity, which is a conditional grant of immunity that sets out the obligations that the applicant must fulfill for the PPSC to finalize the immunity agreement. The fourth and last stage, an immunity agreement granting final immunity will be provided when the applicant’s cooperation and assistance are no longer required.

You can find more information about our immunity and leniency programs on the Competition Bureau’s website at www.competitionbureau.gc.ca.

The Bureau's responsible for managing the Immunity and Leniency Programs, which includes accepting markers, taking proffers, interviewing witnesses, and collecting documentary evidence. If the applicant meets the condition of the program, the Bureau will recommend that the PPSC issue a grant of interim immunity.

VALÉRIE CHÉNARD: If the PPSC decides to grant interim immunity, the applicant, the Director of Public Prosecution, and the Commissioner of Competition all sign the grant of interim immunity which forms agreement between the parties.

ANN SALVATORE: Once applicants have fulfilled their obligations under the grant of interim immunity and their cooperation and assistance are no longer required, the Bureau recommends that the Public Prosecution Service grant them immunity.

VALÉRIE CHÉNARD: As I mentioned earlier, the Public Prosecution Service has the sole discretion to grant immunity.

ANN SALVATORE: Under the Leniency Program, a party implicated in cartel activity may cooperate with the Bureau's investigation in exchange for lenient treatment in sentencing, as long as they apply for leniency before the Bureau has referred the matter to the PPSC for prosecution. The process is similar to the immunity process. Step one is the initial contact or marker request. Step two is the proffer. Once this is complete, the Bureau will ordinarily conduct interviews with key witnesses. At step three, the Bureau makes a leniency recommendation to the PPSC. In the recommendation, the Bureau describes the leniency applicant's role in the cartel, assesses the cooperation and evidence the applicant has provided, and recommends the terms of a plea agreement based on all evidence gathered over the course of the investigation.

VALÉRIE CHÉNARD: As with immunity, public prosecutors have independent discretion to accept or reject the Bureau's leniency recommendation. However, the PPSC

Deskbook provides that the Public Prosecution Service should consult with the Bureau and give due consideration to its recommendations. Public prosecutors conduct and lead plea discussions with the leniency applicant.

ANN SALVATORE: The Bureau may attend plea discussions to assist the PPSC with any details about the leniency applicant's cooperation and the value of such cooperation to the Bureau's investigation.

VALÉRIE CHÉNARD: The plea agreement establishes the terms and conditions under which the PPSC recommends to the Court that the applicant be provided with leniency and sentencing. The Public Prosecution Service and counsel for the leniency applicant make a joint sentencing submission based on an agreed statement of facts. Under the terms of the leniency program, the applicant must plead guilty. The Court alone ultimately determines the appropriate sentence.

ANN SALVATORE: Once the plea agreement is concluded, the applicant is expected to provide records to the Bureau. Interviews of the applicant's witnesses will then taken place. These witnesses are expected to testify in any prosecutions of other parties to the cartel as required.

With respect to outstanding parties, in other words, those that are not part of the Immunity or Leniency Programs or have not come forward to settle their liability, the Bureau may refer evidence to the PPSC with a request that it commences a prosecution. The Bureau typically provides all relevant records pursuant to disclosure obligations at that time. Counsel ultimately determines what is disclosed to the accused if charges are laid.

VALÉRIE CHÉNARD: Counsel for the Public Prosecution Service reviews the evidence and determines whether a prosecution is in the public interest by exercising their own

independent discretion. Counsel assesses the evidence in accordance with the principles set out in the PPSC's Deskbook. First, counsel determines if there is sufficient evidence and, second, determines for each of the accused whether it is in the public interest to initiate a prosecution. Counsel then informs the Bureau of their decision as soon as possible. If counsel does not authorize the laying of charges, they will explain the reasons to the Bureau or recommend further investigation.

ANN SALVATORE: [Audio issue] Bureau and the PPSC consult each other throughout the investigation regarding any decision that is likely to have an impact on a prosecution emanating from a Bureau investigation. Competition Bureau officers also support the PPSC throughout the prosecution stage of a case. For example, the Bureau continues to preserve and maintain continuity and security of all evidence as it does during the investigation phase, provides all new relevant information to counsel pursuant to disclosure obligations, is available to review the facts of the case and disclosure issues with counsel, takes all necessary steps to ensure the availability of witnesses, attends pretrial interviews of prospective witnesses by counsel, and keeps notes of such interviews for disclosure purposes, attends court proceedings when required, and carries out additional investigative tasks that are reasonably required by counsel.

However, during a prosecution, the Bureau cannot dictate litigation positions to prosecutors or impose specific courses of action. The Public Prosecution Service has final authority over all decisions related to the prosecution.

[PLEA AND RESOLUTION DISCUSSIONS]

VALÉRIE CHÉNARD: Earlier, we talked about settlements under the Leniency Program. Now, we will cover settlements outside of the program. Public Prosecution Service

counsel are responsible for conducting all plea and sentencing discussions in accordance with the PPSC's Deskbook.

ANN SALVATORE: Number 21. The Bureau provides detailed sentencing recommendations to the PPSC. When developing sentencing recommendations, the Bureau considers factors outlined in the Criminal Code of Canada, case law, as well as the maximum penalties stipulated in the Competition Act.

VALÉRIE CHÉNARD: Public Prosecution Service counsel consult with Bureau officers to elicit their views regarding the appropriateness of any proposed plea, sentence, or other resolution, and the Bureau's views are considered. If a plea agreement is reached, counsel will convey the substance of the agreement and its reasoning to the Bureau officers.

ANN SALVATORE: Bureau officers can be present and assist prosecutors at plea and sentencing negotiations upon consent of the parties.

[How to Foster Relationships]

VALÉRIE CHÉNARD: The MOU and the Immunity and Leniency Programs formalize how the Bureau and the PPSC work together during the investigation and prosecution phases. But we also work to foster a collaborative relationship in other ways. The PPSC has a special Competition Law Section that prosecutes offenses under the Competition Act. These prosecutors have expertise in the legislation and understand the seriousness of cartel offenses. Having a specialized unit dedicated to prosecuting cartel offenses ensures that these types of prosecutions remain a priority. It also enhances the relationship between our two organizations because Bureau officers regularly work with the same group of counsel.

In addition, over the years, investigators from the Competition Bureau have come to work at the PPSC. This can help improve the relationship between our two organizations as these

counsel have formed strong relationships with their former investigator colleagues. They bring the Competition Bureau's perspective to their work at the PPSC and the prosecutor's perspective to investigations as they return to the Bureau.

The public prosecutors may also provide legal advice on Bureau policies and procedures. They may also provide information and training sessions often in conjunction with Bureau trainers. This advice and training helps ensure that investigations follow the appropriate legal standards and that operational decisions during an investigation to the extent possible do not harm future prosecutions.

ANN SALVATORE: Valérie and I meet regularly to discuss priorities, consult each other on the use of resources and talk about any broad issues that come up on any particular case. We are very open and honest in our discussions. These meetings are extremely valuable, particularly since Valérie's position of team leader enables her to have a broad overview of all the cases in the Competition Law Section. This can help foster consistency in our approach to cases and policy issues.

We have also hosted gatherings over meals to try to build the personal relationships among employees at the two agencies.

[Challenges]

ANN SALVATORE: Although our organizations generally work well together, we do face some challenges. One challenge results from the division of roles. Most of the cases investigated by the Bureau are complex and investigators can work on them for years. Sometimes it is difficult for the case team to accept a prosecutor's decision once the case has been referred to them; for instance, if the prosecutor decides not to prosecute the case.

We try to overcome this challenge by assigning counsel to the file at the start of an

investigation and involving them throughout to ensure that the investigators and prosecutors are on the same page and can address issues and problems early on. However, this is not always successful. Owing to resource constraints, cases are sometimes reassigned, requiring a new prosecutor to start from scratch. Different counsel may have varying views on approach, which could lead to different outcomes. In addition, it is not uncommon to assign a new counsel to review the referral package.

Investigators also try to facilitate the PPSC's decision by providing the referral and disclosure packages in their desired format. As is the case in many types of long and complex investigations, unexpected issues can sometimes arise, creating additional tension.

VALÉRIE CHÉNARD: Resource constraints represent a challenge for both of our agencies. To make the best use of our limited resources, we meet regularly to discuss priorities, as Ann mentioned.

ANN SALVATORE: Resource constraints sometimes make it difficult to get the PPSC's input on policy matters because they are so busy with case work. The Bureau seeks to continually update or implement new policies and procedures to improve its work and facilitate the work of our prosecutor colleagues. But sometimes they do not have time to provide input. To address this, together we prioritize which ones are the most important or will have the greatest impact on investigations.

VALÉRIE CHÉNARD: As we described, there can be some challenges when two separate agencies work together. To address these challenges, we have formalized our roles in the MOU and the Immunity and Leniency Programs. We also work continuously to enhance our relationship. We are on the right track and look forward to our future work together in the fight against cartels.

ANN SALVATORE: Should you have any questions, please don't hesitate to reach out to Valérie and me.

VALÉRIE CHÉNARD: We hope this was helpful and thank you for taking the time to view this video.

[Rodrigo de Grandis, Coordinator of the Cartel Enforcement Division, Federal Public Ministry in Sao Paulo]

[Alden Caribé de Sousa, General Coordinator, Leniency Unit, Administrative Council for Economic Defense]

RODRIGO de GRANDIS: Good morning, Alden. It is a pleasure talking to you. I hope our talk inspires good relationship practices between criminal and administrative authorities of ICN member countries. First, it would be interesting if you briefly explained why coordination between administrative and criminal bodies can be useful for fighting cartels.

ALDEN CARIBÉ de SOUSA: Morning, Rodrigo. It is a pleasure indeed. Thank you for accepting our invitation to share good relationship experiences of our institutions.

To answer your questions, we need some context. From a comparative perspective, some countries prosecute cartels only administratively while others do so only in the criminal sphere. In such countries, coordination is a marginal issue, which applies in cases in which cartels are associated to other violations. Many countries, however, prosecute cartels administratively and criminally, sometimes with different approaches, depending on whether it involves individuals or firms.

Coordination in these countries is clearly a necessity, considering the economics involved in the exercise of powers. This is the case in Brazil.

RODRIGO de GRANDIS: If in dual accountability systems, criminal and administrative

decisions are, as a rule, independent. Why would cooperation make sense then?

ALDEN CARIBÉ de SOUSA: Good point. Criminal and administrative laws serve different social purposes. That's why they are independent. As a rule, there is no mandatory exchange of information or consonance between their decisions. However, while legal definitions may vary according to the purpose of each sphere, the facts are of common interest. Thus, information gathered by one side can be used by the other.

Second, considering policies of agreement to identify violations, such as leniency programs and award-winning collaborations, these are positive externalities in the performance of CADE and the Prosecution Services. That is, the more effective the application of criminal or administrative laws, the greater the interest of violating agents in reporting. Low effectiveness of law enforcement, on the contrary, decreases interest in the agreement because there is less fear of suffering consequences due to wrongdoing.

Third, again, taking into account the antitrust leniency policy, cooperation increases the attractiveness of the program because it increases the stability of the agreement, ensuring administrative and criminal benefits to agents who fulfill their obligations.

So, yes, despite the independence of the bodies, there are strong reasons to cooperate.

RODRIGO de GRANDIS: Let's talk more about joint action procedures between CADE and the Prosecution Services in leniency agreements. In Brazil, the body responsible for receiving applications for antitrust leniency agreements is CADE. How and when do you contact the Prosecution Services about a case?

ALDEN CARIBÉ de SOUSA: We contact the Prosecution Services when we have a consistent application, and the case deserves their attention for an agreement to be signed. Not all applications result in agreements. Many are denied. In general, due to insufficient evidence or

lack of information that causes us to expect that we will have to gather evidence in our own due diligence. Statistically, two out of every three applications are denied for one of these reasons. Therefore, it is reasonable that we only contact the Prosecution Services when we have a consistent case.

Exceptionally, we may reach out in the beginning of the negotiation, when we have a case that is in progress and it seems appropriate, intercepting phone calls, for example. Since the Constitution of Brazil requires criminal charges for interceptions, it may be advisable contacting the Prosecution Services early on when a case proves to be promising and it involves an ongoing violation.

The procedure goes as follows: First, we contact the Prosecution Services with jurisdiction over the case and greater proximity to the facts by sending a letter reporting that CADE is investigating an antitrust violation. Then a confidential meeting is scheduled to share the details of the case and finally any adjustments requested by the Prosecution Services are made to clarify the facts or adjust specific clauses of the agreement. Afterwards, the Leniency Agreement is signed in three copies which are given to CADE, the Prosecution Services, and the Signatory. CADE then launches administrative proceedings and the Prosecution Services commence criminal proceedings.

In administrative proceedings, firms and individuals are held responsible, while in criminal proceedings, only individuals are liable.

Now that we discussed the importance of coordination between the bodies, I would like you to explain how administrative investigations can be of help to the Prosecution Services.

RODRIGO de GRANDIS: Of course. Investigating is a labor-intensive activity. Thus, when we consider fact-finding actions, a greater number of investigators will always increase the

amount of information obtained. The Brazilian Prosecution Services pursue and investigate a vast array of violations, facts of all sorts, most of which are unrelated to antitrust matters. And this is the reality not only of the Prosecution Services but of many police departments in the country.

What CADE brings to the matter of fighting cartels is the specialization. Being an agency solely dedicated to economic defense, its investigators are dedicated only to clarifying facts related to cartels or other antitrust violations. So we gain experience and economies of scale. As the factual basis of the administrative violation can be fully used in the criminal process, it is in the interest of the Prosecution Services to access the agency's investigations and contribute to them.

ALDEN CARIBÉ de SOUSA: Is it true also in the case of joint action in leniency negotiations?

RODRIGO de GRANDIS: Yes, the negotiation of leniency agreements mostly involves clarifying facts. The applicant's cooperation is aimed at clarifying facts. The only difference concerns the source of the investigation, which is usually more qualified for confessing their involvement and knowing the arrangement from the inside.

ALDEN CARIBÉ de SOUSA: Still regarding the leniency program, how can the intervention of the Prosecution Services contribute to the negotiation and signature creating value?

RODRIGO de GRANDIS: The Prosecution Services are responsible for formalizing criminal charges before the Judiciary, including cartel charges. Court processes must follow the highest standards of due process and the Prosecution Services are well acquainted with it in many contexts. The participation of the Prosecution Services in the negotiation of agreements

brings this judicial view of due process. This can certainly improve the quality of collaboration about leniency agreements. Also, the participation of the Prosecution Services in the drafting of agreements provides legal certainty, as it reduces the chances of litigation involving the process and content of agreements.

ALDEN CARIBÉ de SOUSA: What is the best strategy for fruitful cooperation between competition agencies and prosecutors?

RODRIGO de GRANDIS: It is important to know the limits, vocations, powers and abilities of each authority to identify complementarities that can make a successful partnership possible.

From CADE's point of view, what is the most challenging aspect of coordinating with the Prosecution Services?

ALDEN CARIBÉ de SOUSA: Nowadays, the main challenge is reducing the time frame required for coordination in some cases. When we are unable to work with specialized prosecutors, such as the Anti-Cartel Team, their lack of experience with competition matters requires more talking. It is natural and expected, so I am not sure whether we can overcome it, but it is a challenge.

From the point of view of the Prosecution Services, what is the biggest issue in the relationship with CADE?

RODRIGO de GRANDIS: It would be great if CADE had a better understanding of the specifics and principles of criminal proceedings, as this would maximize the achievements resulting from our cooperation efforts.

For other administrative authorities that intend to cooperate with the Prosecution Services of their countries, what do you think should be the first step?

ALDEN CARIBÉ de SOUSA: The basic requirements for effective cooperation are identifying complementary qualities of both institutions and concluding the relationship would be mutually beneficial. It is also necessary to comply with the legal provisions of your country and be enthusiastic about creating public value. In practice, the first step is making a phone or video call, or arranging a meeting, and start talking about the partnership.

[ISABEL ASENJO, Economic Coordinator, Anti-Cartel Division, Fiscalía Nacional Economica de Chile]

ISABEL ASENJO: Since August 2016, a criminal cartel offense is officially being reintroduced into Chilean competition laws. Price fixing, market sharing and bid rigging can now be punished with a ten-year prison sentence for the individuals involved. This is in addition to the fines that will be imposed by a specialized competition court.

The Competition Act provides that the administrative and criminal prosecution should be consecutive, the latter being conditioned to the submission of a claim by the competition agency, the FNE, once the competition court has delivered a final and binding decision establishing the existence of a collusive agreement.

The Act also provides some of the steps through which the FNE and the public prosecution must coordinate their actions. After a claim is submitted, the FNE is conferred the rights of a private claimant. This means that when the administrative investigation and the litigation before the competition court is concluded, the FNE will act as a plaintiff alongside the public prosecution and will intervene actively at every stage of the criminal procedure until a final judgment is issued by the criminal court.

The evidence obtained by the FNE using intrusive measures, such as dawn raids, phone tapings, et cetera, is understood by law to comply with the provisions of the criminal procedure

and may be adduced at the criminal trial. Thus, it is expected that the FNE will convey all the evidence gathered during the administrative investigation phase to the public prosecution. The Competition Act states that if the public prosecution intends to adduce confidential information as evidence of the criminal process, it must seek the approval of the competition tribunal. Thus, the disclosure of commercially sensitive information will be subjected to the prior assessment of a specialized tribunal on the basis of a reasoned decision.

The law also provides that first-in applicants rewarded with amnesty by the FNE are exempted to criminal liability, while the second applicant rewarded with a reduction of an administrative fine shall be also granted a reduction of the criminal penalty. However, beneficiaries of the leniency program are expected to appear before the criminal court at the request of the public prosecution and ratify all depositions submitted before the FNE during the leniency process. Failing to do so without justified cause may lead to harsh consequences, the revocation of all leniency-related rewards, triggering complete criminal liability.

In June 2018, the FNE launched the internal guidelines for filing criminal claims for cartels. This document specifies the general criteria under which the FNE will exercise its authority to file criminal claims for cartel offenses. The FNE has thereby recognized the importance and the deterrent effect of criminal sanctions for this type of anti-competitive behavior and has commended to prosecute all forms of hardcore cartels that seriously affect competition in the markets.

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