

## **Petreski, Sonya**

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**From:** Cartel Information Network  
**Sent:** Monday, 3 September 2012 11:01 AM  
**To:** Petreski, Sonya  
**Subject:** FW: TRIM: ACCC Cartel Information Network Update [DLM=For-Official-Use-Only]

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**From:** Cartel Info Service  
**Sent:** Wednesday, 19 January 2011 10:26 AM  
**Subject:** TRIM: ACCC Cartel Information Network Update

19 January 2011

### **ACCC Cartel Information Network**

Dear CIN members,

Welcome to ACCC's *Cartel Information Network*. This newsletter is designed to help you be aware of the way cartels operate so that you can identify and avoid cartel conduct.

Cartel conduct adversely affects consumers as cartels generally result in higher prices and reduced choice of products and services. Cartel conduct also affects the large majority of businesses who are committed to lawful competition and fair trading.

It is important for you to remain up-to-date with key information about cartels to minimise the risk of your organisation being the target of a cartel or inadvertently becoming involved in cartel or other anti-competitive conduct.

This edition of the *Cartel Information Network* provides an update on international action in the air cargo market, a recent outcome in relation to a New Zealand waste oil cartel and a major Italian cartel case.

#### **Update on international air cargo cartel**

Since 2006, the ACCC has been investigating alleged cartel conduct by a number of different airlines in relation to fixing the fuel surcharge component of the price for air cargo services. So far, \$41 million in penalties have been agreed with a number of parties.

The Department of Justice in the United States of America and the European Commission have taken action on similar conduct. Substantial penalties have been imposed on a number of airlines including the most recent fine of €799 million on 11 airlines in November 2010.

This ongoing international enforcement action in the air cargo market illustrates the need for all businesses to be aware of the risks associated with engaging in cartel conduct and the substantial penalties which may be imposed when businesses engage in such conduct.

#### **New Zealand settles oil price fixing case**

The New Zealand Commerce Commission recently reached an agreement with waste oil company ERS NZ following allegations of attempted price fixing which is illegal under the New Zealand laws and also Australian cartel laws. ERS NZ has agreed to pay a significant sum to the New Zealand Commerce Commission to settle

all claims. The company has also agreed that its employees will undertake competition law compliance training.

The case highlights that businesses do not need to give effect to anti-competitive agreements to breach New Zealand's cartel laws. Similarly in Australian law, a provision of a contract, arrangement or understanding is a cartel provision where it has the purpose or likely to have the effect of fixing the price for a good or service. Making such a contract, arrangement or understanding will be in breach of the competition laws regardless of whether it has been put into effect. Businesses must be careful when negotiating terms with other businesses that they are not breaching the law.

### **Cosmetic companies fined in Italy**

The Italian Competition Authority recently fined 15 personal care product producers over €81 million for operating a cartel in Italy between 2000 and 2007. The conduct involved several prominent companies and came to light after one of the companies, Henkel, reported the cartel under the Competition Authority's leniency scheme. Reporting the cartel entitled Henkel to immunity. Colgate-Palmolive and Procter & Gamble also cooperated with the Competition Authority in the course of investigations and received fine reductions as a result.

Corporations and individuals in Australia can also apply for immunity from ACCC-initiated proceedings. The ACCC's [immunity policy](#) outlines the circumstances where the ACCC may grant immunity to a cartel participant from ACCC-initiated cartel proceedings. The ACCC also has a [cooperation policy](#) for enforcement matters which sets out how businesses may cooperate with investigations and how the ACCC may recognise cooperation.

### **Further information**

In addition to this newsletter, the ACCC has a number of resources available to you which explain the way cartels operate and provide advice on how to identify and avoid cartel conduct, including specific guides for both government procurement officers and businesses. To obtain copies of either of these publications, to seek further information on cartel conduct or to report a suspected cartel, contact the ACCC Infocentre on **1300 302 502** or go to the ACCC website <http://www.accc.gov.au/cartels>.

*Please feel free to pass this information on to others who might find it useful.*

*Kind regards,*

Australian Competition & Consumer Commission



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