

Petreski, Sonya

From: Cartel Information Network
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To: Petreski, Sonya
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11 April 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.

A cartel exists when businesses agree to act together instead of competing against one another. Cartel conduct is designed to increase the profits of cartel members while maintaining the illusion of competition. By controlling markets and restricting goods and services, cartels can put honest and well-run firms out of business while protecting inefficient members of the cartel. Cartels steal billions of dollars in Australia and abroad from competing businesses, taxpayers and ultimately from consumers.

It is important to protect your business from the operation of cartels. If cartels successfully target your purchasing budgets, they will raise the prices of your inputs and may even compromise your competitive position in the marketplace.

This edition of the *Cartel Information Network* provides an overview of a recent outcome in relation to a photocopy paper cartel and a Korean decision in a digital music case.

\$4.2 million penalty for photocopy paper price fixing club

Last month the Federal Court ordered Singapore-based company, Asia Pulp & Paper Co Ltd (APP Singapore), and a related Indonesian Company, PT Indah Kiat Pulp and Paper Tbk (Indah Kiat) to pay penalties totalling \$4.2 million for price fixing photocopy paper and uncoated woodfree folio paper. These products were supplied to Australian customers.

APP Singapore and Indah Kiat both admitted that they had taken part in 16 meetings with competitors between December 2000 and January 2004 at what was referred to as the AAA Club. At the meetings, they made arrangements or understandings with competitors about the average price of paper sold, and the companies gave effect to these arrangements in their Australian pricing.

The Federal Court noted that the case highlighted that the meetings took place in a systematic, sophisticated and long-running cartel arrangement between the participants. The conduct was deliberate and coordinated over the course of a 3 year period. The motivation of the conduct was to achieve stability in pricing by avoiding competition amongst competitors.

The Federal Court imposed penalties of \$8.2 million on the corporations involved in the AAA Club. These penalties were discounted due to the cooperation of the two companies.

This outcome sends a strong message that Australia's laws apply to foreign cartels which cause harm to Australian consumers.

Companies and organisations should be aware of the requirements of the law when attending conferences or meetings where competitors are present. Discussing issues such as prices to charge customers, market sharing, or contract bidding arrangements may raise concerns under the cartel provisions in the *Competition and Consumer Act 2010* which carry significant penalties.

Related media release

<http://www.accc.gov.au/content/index.phtml/itemId/975295>.

Music download cartels fined

Korea's Fair Trade Commission recently fined 15 music distributors 18.8 billion won (approximately \$16.4 million) for price fixing in the digital music market (DRM music). DRM refers to digital rights management, which prevents downloadable music from being freely copied or moved to unauthorised devices.

The Commission stated that the companies not only rigged prices, but also attempted to block competition from a smaller music provider, which launched cheaper download services for non-DRM files and by doing so the companies placed great harm on the consumers and other businesses in the industry.

Fixing prices and trying to block third parties from entering the market also carry significant penalties under Australian law and businesses should be careful to ensure that they do not breach the competition and consumer protection laws in the Competition and Consumer Act.

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>.

Are you involved in cartel conduct?

If you are concerned that your business may be involved in cartel conduct, you should review the ACCC *Immunity policy for cartel conduct*. See <http://www.accc.gov.au/immunity> for further information.

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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