

Impact of Cartel Enforcement on Compliance in the Chemical Industry*

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*The views expressed are those of the author and may not be regarded
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<https://ssrn.com/abstract=3922923>

Why Chemicals Cartels as Pattern

- Magnitude of EU (and global) enforcement against cartels in the chemical industry
- Large proportion of the success of the EU leniency programme
- “Structural competition problems across markets”

Methodology of the Study

- Public statements of the fined companies, in particular Annual Reports in the year of: the fine, leniency application and/or earlier
- Imperfect data: companies are not required to report compliance in their Annual Reports, which is why the work is qualitative and not empirical

Enforcement for Chemicals Cartels

- One third of all EU cartel fines in 2000-10: 28 out of 69 decisions
- Over €5 billion in fines before appeal
- 107 separate undertakings (or 236 legal entities)

(Antitrust) Compliance in response to enforcement

- Out of 107, 26 undertakings (or just under a quarter) announced investment in antitrust specific compliance measures
- 16 of the 26 companies explicitly link the strengthening of compliance to enforcement
- These 26 companies accounted for 65% of the fines
- Companies more heavily fined appear to have made the biggest investment in such measures

Compliance Initiatives

Code of
conduct

Compliance
program

Staff
education

Compliance
Officer

Compliance
Department

Acknowledg
ment of
wrongdoing

Letter from
Chairman

Audit

Hotline

Internal
Amnesty

Impact of Strengthened Compliance

Short term: more leniency applications

- All of the 28 chemical cartel investigations involved leniency (though in one case no immunity was granted)
- Wide cartelization + overlapping membership + M&A = Domino effect
- Immunity applicant was not the same across all investigations

Impact of Strengthened Compliance (cont.)

Long-term: fewer infringements

- Cartel recidivism concerned generally contemporaneous cartels
- Of the 107 undertakings (236 legal entities), only one was investigated and fined in a subsequent cartel
- Proportion of chemical cartel cases fell from around one quarter in 2000-10 to just 3% of EU cartel enforcement in 2011-20