Reorganisation of cartel work in DG Competition

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In recent years greater priority has been given to anti-cartel work. The fight against cartels has been identified by Commissioner Neelie Kroes as one of the key areas where DG Competition will concentrate its efforts in the future. In order to support this key activity, a new Directorate, devoted exclusively to cartel enforcement has been established. The Directorate will implement the European Commission’s ‘zero tolerance policy’ in relation to this most damaging type of anti-competitive practice. The work of this Directorate will put the spotlight on the costs of cartels to consumers and their adverse effects on competitiveness and growth in Europe.

The Cartel Directorate has prime responsibility for the handling of cartels and deals with immunity application under the Commission’s leniency notice. That being said, the Cartel Directorate will not have a monopoly on handling cartel cases and some flexibility will remain. It is expected that it will handle the majority of cartel cases.

Cartel work has a strong legal focus, both in the investigation and development of a case, and in the need to apply correct procedures and ensure that rights of defence are respected. Given these aspects, a certain degree of specialisation is needed for effective action against cartels. DG Competition’s aim is to develop a body of specialized case-handlers to deal with cartel cases. The Directorate will be a point of focus for the outside world.

Together with the Directorate for Policy and Strategic Support, the Cartel Directorate will formulate policy in this area and coordinate the Commission’s contributions to the work on international fora, such as the ICN and the OECD. The new directorate will take the lead in developing policy in the area of cartel enforcement and leniency.

The Commission’s leniency programme has been very successful, and today many cartel investigations begin with an application for immunity from fines in return for providing evidence about a cartel. Furthermore, it encourages other participants to try and obtain reduced fines as a result of providing information to the Commission on voluntary basis. In 2004, the Commission dealt with 49 applications for immunity and leniency in 25 different cases.

The first months of the current year have seen a sharp rise in applications for immunity giving rise to new cases. On the other hand major new investigations have also been launched as a result of information received in other ways, and notably through good cooperation with national competition authorities within the European Competition Network (ECN).

Whilst being very successful, the Commission’s programme can be improved and like all sets of rules, needs to be adapted to changing circumstances. Particularly important in this regard is the interplay between the Commission’s leniency programme and the existence of leniency programmes in many Member States (17 today). Also the application of personal sanctions on individuals involved in cartels in certain Member States raises legal and policy issues. These developments, and the very success of the leniency programme in uncovering cartels, will give rise to new challenges to address the burden of multiple leniency applications in different jurisdictions and to streamline and accelerate the handling of cartel cases, so that the incentives to cooperate with the Commission are maximised.

In the light of the priority given to the fight against cartels, additional staff are being allocated to these duties in the context of the creation of the Directorate, and the resource needs will be kept under review.

In close cooperation with the national competition authorities of the Member States, the Commission aims to act effectively and efficiently against cartels, and to uncover many more of them. It will also continue to make clear that such behaviour not only attracts high fines and potential personal liability under Member States’ law. The combined efforts of all involved will guarantee that cartels are effectively and severely sanctioned for the benefit for consumers and the competitiveness of European industry.