Organization and resources

Cartels and Mergers Unit
- 1 head of unit, 1 deputy head of unit, ~18 lawyers and ~5 economists
- Handling investigations of mergers and horizontal agreements (with a focus on cartels)
Leniency: SCA handling

SCA internal leniency group handles all applications:

Leniency group / leniency application

- Assessment → Decision → Support

Case team / infringement investigation

Investigation → Decision

Leniency group also:
- Improve routines / best practice
- Coordinate information activities re leniency program
Leniency: regulation

- Swedish leniency regulation:
  - Applies not only to cartel infringements, but to all infringements of the prohibition against anti-competitive cooperation (Chapter 2, Section 1 Swedish Competition Act / Article 101.1 TFEU)
  - Since 2002: a company can get total immunity from fines or a reduction of fines (up to 50%)
  - Since 2008: individuals can apply for immunity from a trading prohibition
  - Since 2014: marker system
- Now, in general aligned to ECN Model Leniency Program
- SCA issues two notices:
  - Notice re immunity from fines and reduction of fines
  - Notice re trading prohibition
  - Given to companies and company representatives during dawn raids
Grants of immunity from trading prohibition

• If the person has a position at an undertaking that has been granted immunity or reduction of the competition administrative fine, or

• If the person has personally cooperated to a significant extent in facilitating the Competition Authority’s investigation of the infringement

- There are no restrictions on how many persons may be granted immunity from a trading prohibition for the same infringement
Forced other undertakings or persons to participate in the infringement

"An undertaking who, by threat or pressure, has compelled other undertakings to participate in the infringement does not fulfil the conditions for immunity from fines.

However, the fact that an undertaking has acted as the instigator or played the leading role in the infringement does not exclude grants of immunity.
Information facilitating the investigation of the infringement

If an undertaking during the on-going investigation applies for leniency, the Competition Authority will assess the value of the information submitted to it after an analyse of the material collected at the inspection.
Marker - Background

- Easier for an undertaking to report an infringement to the Competition Authority
- Harmonisation of the ECN Model Leniency Programme
Eligibility for grants of a marker

To be eligible to secure a marker, the applicant must provide information concerning;

• The affected product(s),

• The parties to the alleged cartel, and

• The nature of the alleged cartel conduct (e.g. fixing prices or share markets)
"The applicant should inform the Competition Authority of their planned measures, the nature of the information that will be submitted and the period for collecting the necessary information. The Competition Authority determines the period within which the applicant have to perfect the marker by submitting the information required to be granted immunity. Only in exceptional circumstances may the Authority grant a period longer than two weeks."
Efficient leniency programs

- Attractiveness
- Ex officio detection
- Awareness
- Deterring sanctions
Some statistics - cartel investigations

- Leniency applications
- Anonymus tip-offs
- Tip-off from a company
- Tip-offs from procurement officials
Measures taken in order to increase awareness of the leniency programme and the discovery rate

• A mixed approach, not always possible to draw a clear red line between “reactive” and “proactive” measures

• A few examples:
  1. Outreach to procurement officials
  2. Making better use of advocacy opportunities
  3. Making better use of available information streams
  4. Economic screening pilot project
Exclusion from public procurement - implications for the leniency program

- If an undertaking risks being excluded from future procurements it reduces its incentive to apply for leniency.

- If, however, an undertaking would avoid exclusion by applying for leniency that would increase the incentive to apply for leniency.
Future challenges

- Continue and broaden our out-reach activities
- Cartel detection activities
- Leniency and the exclusion of companies in public tenders due to participation in cartel activity
- Confidentiality
Thank you for your attention!

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