

Morgan Lewis

ANTITRUST & COMPETITION

**GLOBAL CARTEL
ENFORCEMENT
REPORT
YEAR-END 2018**



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INTRODUCTION

While total overall fines have not returned to their historic levels from a few years ago, antitrust enforcers continue to impose significant fines around the world.

In fact, two countries imposed their largest cartel fines to date in 2018: **Australia** for **\$46 million Australia (\$34.6 million)** against a wire harnesses manufacturer and **Singapore** for **\$26.9 million Singapore (\$19.6 million)** against 13 suppliers of fresh chicken products.

There is also a strong pipeline of new investigations and enforcement actions across all industry sectors and geographies. It is likely that 2019 will see some of these develop into multi-jurisdictional cases as there is a domino effect from enforcement actions in leading jurisdictions such as the United States, Asia, and European Union into other jurisdictions.

Global fines for 2018, **\$3.6 billion**, were lower than global fines for 2017, **\$4.2 billion**. In large part, this decrease can be attributed to a declining rate of enforcement activity by the European Commission in the second half of 2018, perhaps owing to the fact that Commissioner for Competition Margrethe Vestager is entering the final months of a mandate that arguably has prioritized landmark abuse-of-dominance and state aid decisions over cartel enforcement.

Notably, 2018 saw renewed enforcement activity in the financial services sector, with both the US Department of Justice (DOJ) and European Commission launching investigations into alleged collusion on prices and sharing of competitively sensitive information by traders at four investment banks in relation to certain supranational, sub-sovereign and agency (SSA) bonds issued by foreign government-related entities.

Additionally, the DOJ fined three South Korean companies in relation to bid-rigging activity pertaining to contracts to supply fuel for US military operations in South Korea. The significance of the decision is in the DOJ's willingness to investigate and sanction anticompetitive behavior that harms the United States, even where such behavior and the parties involved are located in a foreign jurisdiction. Furthermore, the civil penalties awarded under Section 4(a) of the Clayton Act represent the largest settlements ever obtained under that provision.

Significant fines issued by other enforcers in 2018 included:

- **395 million euros (\$486.5 million)** European Commission: five maritime car carriers for participating in a cartel concerning intercontinental maritime transport of vehicles
- **254 million euros (\$311.6 million)** European Commission: eight producers of capacitors for coordinating future behavior and avoiding price competition
- **5.58 billion Egyptian pounds (\$316.2 million)** Egypt: four pharmaceutical companies for fixing prices on small and medium-sized pharmacists
- **91 million euros (\$112.8 million)** Spain: four banks for agreeing to offer interest-rate derivatives

- **119.4 billion won (\$106.1 million)** South Korea: six steel companies for colluding to fix rebar prices
- **76 million euros (\$93.6 million)** European Commission: three spark plug companies for agreeing on prices and the share of supplies to specific customers and the respect of historical supply rights
- **301 million reais (\$92.8 million)** Brazil: cartel involving processors of frozen orange juice concentrate
- **75 million euros (\$92.4 million)** European Commission: three car part suppliers involved with hydraulic braking systems (HBS) and the supply of electronic braking systems (EBS) for coordinating pricing elements
- **\$90 million** United States: an international financial services company for conspiring in the foreign currency exchange (FX) market
- **68 million euros (\$83.8 million)** Spain: nine courier companies for carving up the market for courier and business-parcel delivery services
- **289.5 million reais (\$79.5 million)** Brazil: 18 companies, 39 individuals, and three unions for cartel conduct in the sea salt market
- **\$68 million** United States: a financial institution for manipulating the LIBOR benchmark
- **31 million euros (\$38 million)** Cyprus: eight banks for fixing the domestic interchange fee for bank and credit cards as well as merchant service charges
- **29.9 million euros (\$34.9 million)** Spain: 11 companies for creating a cartel in the provision of computer services and data processing to the government
- **22.7 billion won (\$20.9 million)** South Korea: five marine-cable companies for rigging bids for cables used on LNG, container, and other ships
- **\$26.9 million Singapore (\$19.6 million)** Singapore: against thirteen suppliers of fresh chicken products

A key issue that continues to gain attention concerns the **costs and burdens of the leniency program**. The role of international cooperation and options to make the process more efficient is being considered by leading enforcers. In addition, the US Department of Justice (DOJ) has revised its **policy toward corporate cooperation** to move away from an “all or nothing” approach to focus on the individuals who play significant roles in setting a company on a course of criminal conduct. (See p. 53)

The role of **algorithms in antitrust enforcement** is an issue addressed by enforcers around the world, including most recently by the Competition Commission of India (CCI) in relation to an alleged hub-and-spoke cartel in the taxi aggregation sector. Algorithms will be the subject of continuing debate, study, and hearings in the foreseeable future by a number of enforcers. (See p. 63)

Competition authorities around the world continue to address the issue of **information exchanges** in their enforcement practice as exemplified by the recent decision of the CCI in relation to information exchanges between manufacturers of flashlights and of the DOJ in relation to information exchanges between six broadcast television companies. (See p. 61)

TRENDS

Emerging and Continuing Trends in Cartel Enforcement

- **Revising US Department of Justice Policy Toward Corporate Prosecutions to Reflect the Real World of Limited Investigative Resources:**

The DOJ announced that its policy was being modified from the current “all or nothing” approach reflected in the 2015 Yates Memo of having to identify all individuals involved in misconduct in order to receive cooperation credit. The revised policy will instead allow corporate defendants to identify only those individuals who were “substantially involved in or responsible for wrongdoing.” The impact on corporate defendants remains to be seen in terms of practical enforcement but it should allow corporate defendants and their advisers to negotiate with the DOJ to conduct more focused investigations than at present. There will always, however, be some element of judgment and risk of not gaining full cooperation credit in so doing. It is furthermore unclear to what extent the revised policy will affect individuals as Deputy Attorney General Rod Rosenstein specifically noted that pursuing individuals will remain a top priority for DOJ. However, it may be that there will be a secondary effect on individuals from more limited reporting by corporate defendants.

- **International Cooperation in Cartel Enforcement:**

The DOJ commemorated the 25th anniversary of its modern Leniency Program, which was substantially revamped and revitalized in August 1993. Over the past few decades, the US program has been a model for other global enforcers. In a June 2017 speech, Acting Deputy Assistant Attorney General Richard Powers noted that international enforcers “can increase

our cooperation and our shared commitment to coordinating, where and to the extent possible, to decrease burdens on applicants” and noted the need to “engag[e] with foreign enforcers, and also the defense bar, to examine possible ways to reduce unnecessary burdens on leniency applicants.” This review may result in enhancing the attractiveness of leniency and promoting greater efficiencies. However, there has been some skepticism in response to the US approach of creating a new, separate international institutional framework—the Multilateral Framework for Procedures in Competition law (MFP). In particular, the European Commission and Germany’s Bundeskartellamt have indicated that the initiative should be folded into the existing institutional framework of the International Competition Network or the Organisation for Economic Co-operation and Development to avoid duplication. (See page 53).

- **Recent Developments in Enforcement Practice and Policy in Relation to Information Exchanges.**

In November 2018, the Competition Commission of India (CCI) and the DOJ closed investigations into coordinated competitive behavior among competitors in various industries. The CCI found that information exchanges among manufacturers in the Indian flashlight market did not amount to cartelization due to a lack of evidence showing an actual meeting of the minds despite the open and admitted sharing of competitively sensitive information. In contrast, the DOJ investigated an unlawful agreement to share information by six broadcast television companies in the United States, and found that the exchanges distorted the

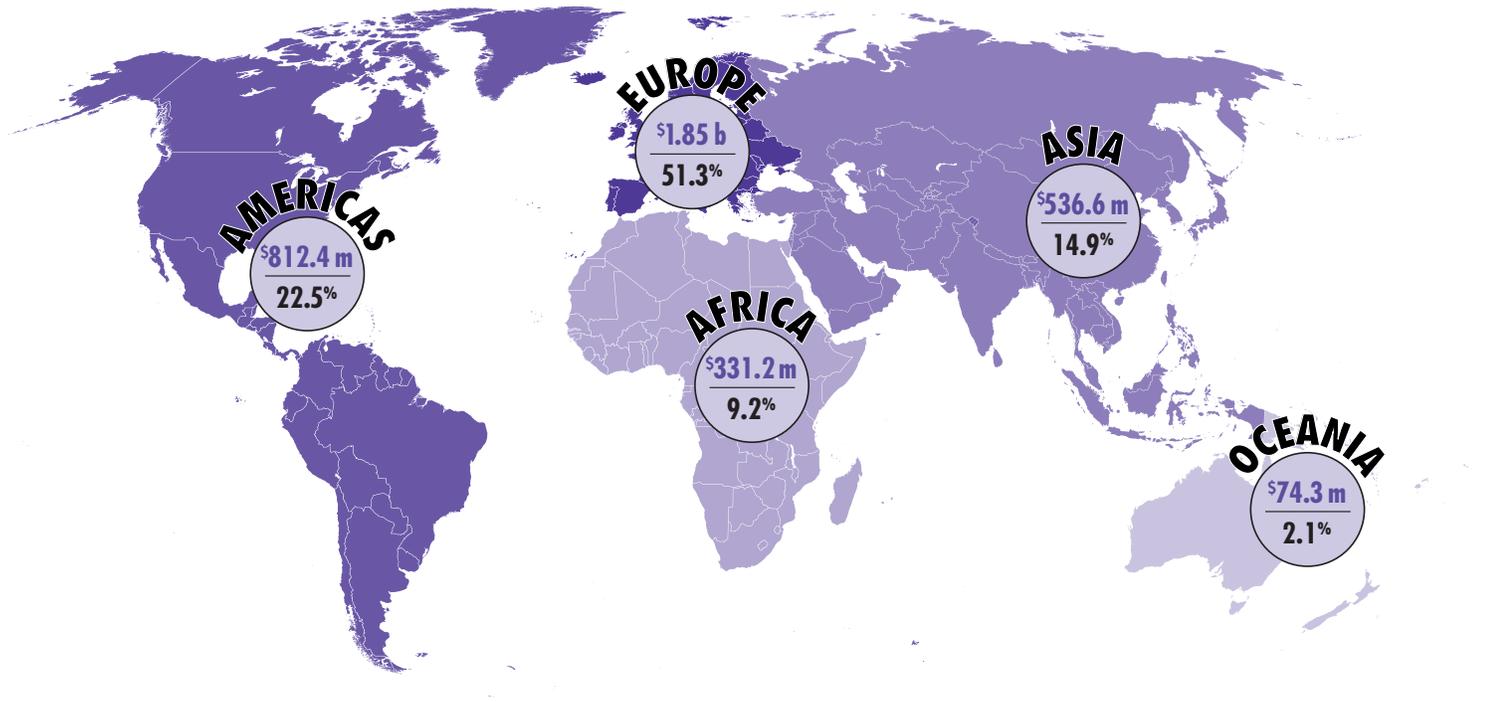
competitive process in violation of US antitrust laws tainting negotiations for advertising spots. Lastly, there has been significant debate in South Korea as to how the Monopoly Regulation and Fair Trading Act (MRFTA) should be revised to account for information exchanges, particularly whether information exchanges should constitute an independent violation, and to what extent such exchanges should be presumed to constitute an “agreement” subject to the MRFTA’s prohibition against “improper concerted acts.”

- **Algorithms and Antitrust Enforcement:** The use of algorithms has raised new questions for antitrust enforcers. Some algorithm cases have been prosecuted as cartel violations most recently in India in relation to an alleged hub-and-spoke arrangement between taxi aggregators. The issue has also been raised in speeches by leading enforcers. The role of antitrust enforcement in addressing the effects of pricing algorithms is part of a continuing debate. (See page 68).
- **China: Consolidation of Antitrust Agencies:** On September 30, the Office of the Central Organizing Committee issued its Regulations on the Function Configuration, Internal Institution, and Staffing of the State Administration for Market Regulation (SAMR). Under these regulations, SAMR is responsible for the unified enforcement of anti-monopoly regulation, the implementation of competition policy, and guidance on the implementation of fair competition review. SAMR will undertake the daily work of the Anti-Monopoly Committee of the State Council. Finally, SAMR will set up an Anti-Monopoly Bureau, which is responsible for the specific implementation of the anti-monopoly responsibility of SAMR.
- **New Enforcement Actions and Investigations Focus on No-Poaching and Wage-Fixing Agreements:** In 2018, the DOJ has commenced enforcement actions for no-poaching agreements and made clear that criminal investigations are pending for conduct after October 2016. A significant civil enforcement action was filed in April involving two of the world’s largest rail equipment suppliers. The no-poaching agreements in that case preceded October 2016 when the DOJ and Federal Trade Commission (FTC) jointly announced their focus in this area. International issues and exposure are raised based on potential enforcement activity in other jurisdictions, including in Hong Kong and Japan.
- **Major Forex Trial Developments:** In October, three UK citizens, formerly London-based traders at international banks, were acquitted after a two-week trial by a New York jury on charges that they conspired to fix prices in the FX market. The group, known as “The Cartel,” were alleged to have rigged the market from 2007 to 2013 by coordinating trades and manipulating prices on the spot exchange rate for euros and US dollars. The jury foreman noted after the verdict that “[i]t was a microscope that was placed on something that probably was happening all the time. At the end, we found there was not enough evidence.”

GLOBAL CARTEL FINES

2018: \$3.6 BILLION

Fines by jurisdiction, with percentages of total global fines



	FINES* BY JURISDICTION	% OF TOTAL GLOBAL FINES
EUROPE	\$1.85 b	51.3%
European Union	\$890.5 m	
Other	\$957.3 m	
AMERICAS	\$812.4 m	22.5%
United States	\$406.0 m	
Brazil	\$279.6 m	
Canada	\$1.1 m	
Other	\$125.7 m	

	FINES* BY JURISDICTION	% OF TOTAL GLOBAL FINES
ASIA	\$536.6 m	14.9%
South Korea	\$275.3 m	
Japan	\$17.6 m	
Russia	\$16.4 m	
India	\$13.2 m	
China	\$8.8 m	
Other	\$205.3 m	

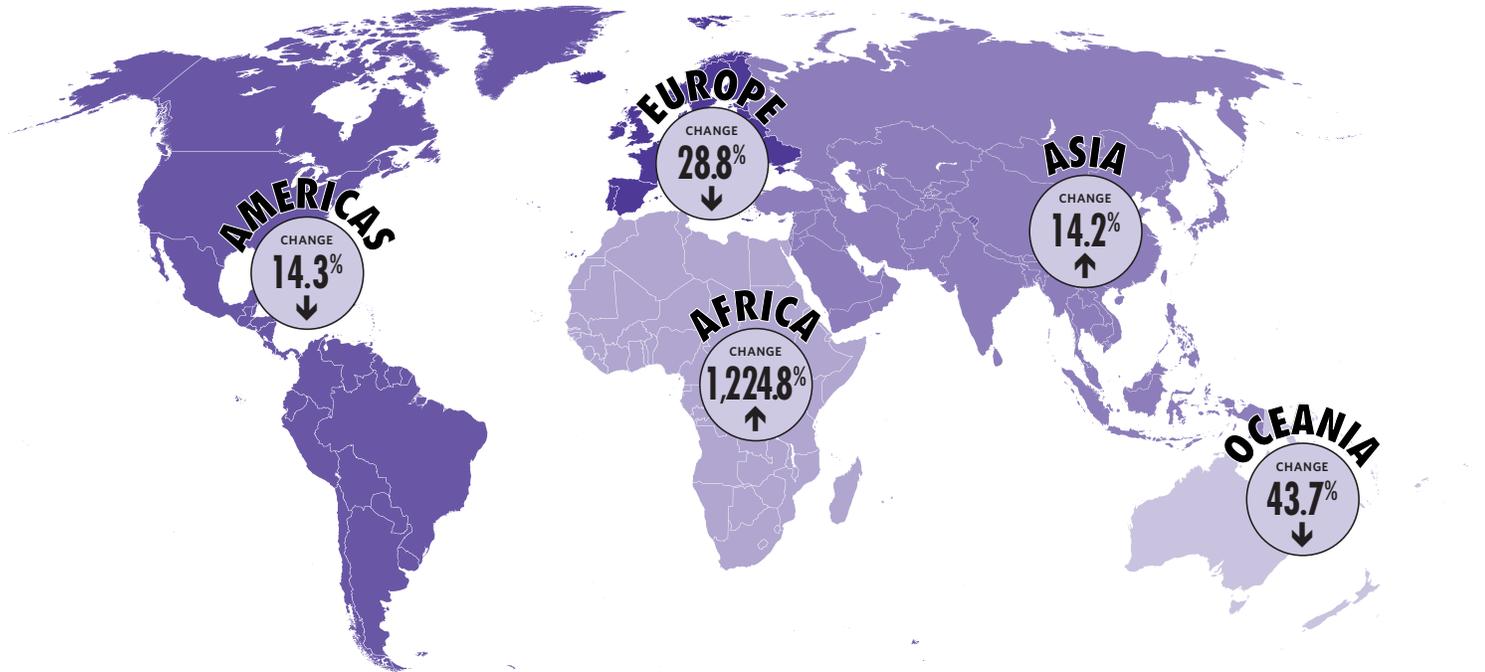
	FINES* BY JURISDICTION	% OF TOTAL GLOBAL FINES
AFRICA	\$331.2 m	9.2%
Egypt	\$316.5 m	
South Africa	\$14.6 m	

	FINES* BY JURISDICTION	% OF TOTAL GLOBAL FINES
OCEANIA	\$74.3 m	2.1%
Australia	\$57.9 m	
New Zealand	\$16.4 m	

*Through December 31, 2018, and based on publicly available information where available.

GLOBAL CARTEL FINES

HOW 2018 COMPARES WITH 2017



	2018	2017	% CHANGE
TOTAL GLOBAL FINES*	\$3.6 b	\$4.2 b	14.3% ↓
EUROPE	\$1.85 b	\$2.6 b	28.8% ↓
European Union	\$890.5 m	\$1.3 b	31.5% ↓
Other	\$957.3 m	\$1.3 b	26.4% ↓
AMERICAS	\$812.4 m	\$984 m	17.4% ↓
United States	\$406 m	\$603 m	32.7% ↓
Brazil	\$279.6 m	\$149 m	87.7% ↑
Canada	\$1.1 m	\$10 m	89.0% ↓
Other	\$125.7 m	\$222 m	43.4% ↓

	2018	2017	% CHANGE
ASIA	\$536.6 m	\$470 m	14.2% ↑
South Korea	\$275.3 m	\$259 m	6.3% ↑
Japan	\$17.6 m	\$61 m	71.2% ↓
Russia	\$16.4 m	\$18 m	8.9% ↓
India	\$13.2 m	\$32 m	59% ↓
China	\$8.8 m	\$82 m	89.3% ↓
Other	\$205.3 m	\$50 m	410.6% ↑
AFRICA	\$331.2 m	\$25.0 m	1,224.8% ↑
Egypt	\$316.5 m	\$0.0 m	
South Africa	\$14.6 m	\$25 m	41.6% ↓
OCEANIA	\$74.3 m	\$132 m	43.7% ↓
Australia	\$57.9 m	\$130 m	55.5% ↓
New Zealand	\$16.4 m	\$2 m	720% ↑

*Through December 31, 2018, and based on publicly available information where available.

2018 CARTEL FINES

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Notable Cartel Fines

July 1 through December 31

(January 1 through June 30 was covered in our [Global Cartel Enforcement Report Mid-Year 2018](#).)

AMERICAS

United States: Government Contracts—Fuel. On November 14, three South Korea-based companies agreed to plead guilty to criminal charges and pay a total of approximately **\$82 million** in criminal fines for their involvement in a decade-long bid-rigging conspiracy targeting contracts to supply fuel to US Army, Navy, Marine Corps, and Air Force bases in South Korea. In separate civil resolutions, the three South Korea-based companies have agreed to pay a total of approximately \$154 million to the United States for civil antitrust and False Claims Act violations related to the bid-rigging conspiracy. These settlements reflect the important role of both Section 4A of the Clayton Act and the False Claims Act to ensure that the United States is fully compensated when it is the victim of anticompetitive conduct.

Criminal Case: According to three felony charges filed in the US District Court for the Southern District of Ohio in Columbus, the Defense Logistics Agency and the Army and Air Force Exchange Service are two US Department of Defense (DOD) agencies that contract with South Korean companies to supply fuel to the numerous US military bases throughout South Korea. Beginning at least in or around March 2005 and continuing into 2016, South Korean petroleum and refinery companies and their agents, including the defendants and their co-conspirators, participated in a combination and conspiracy to suppress and eliminate competition during the bidding process for these fuel supply contracts. The plea agreements are subject to court approval.

Civil Case: The US Department of Justice's Antitrust Division filed a civil antitrust complaint in the US District Court for the Southern District of Ohio, and at the same time filed proposed settlements that, if approved by the court, would resolve the lawsuit against the three South Korea-based companies for their anticompetitive conduct targeting the US military. As a result of this conduct, the DOD paid substantially more for fuel supply services in South Korea than it would have had the three South Korea-based companies competed for the fuel supply contracts. Under Section 4A of the Clayton Act, the United States may obtain treble damages when it has been injured by an antitrust violation. The proposed settlement provides that one Korean company will pay **\$90.4 million**, another will pay **\$57.5 million**, and the third will pay **\$6.2 million** to the United States to resolve the civil antitrust violations. In addition to the payments, the three South Korea-based companies have agreed to cooperate with the ongoing civil investigation of the conduct and to abide by antitrust compliance program requirements. The amount paid by each defendant exceeds the amount of the individual overcharge and reflects the value of defendants' cooperation commitments and the cost savings realized by avoiding extended litigation.

The payments will also resolve civil claims that the United States has under the False Claims Act against the three South Korea-based companies for making false statements to the government in connection with their agreement not to compete. The Civil Division has entered into separate settlement agreements with the companies to resolve these claims.

Except where based on admissions by defendants in the criminal pleas, the claims resolved by the civil agreements are allegations only.

Brazil: Flexible Packaging. On July 4, the Administrative Council for Economic Defense (CADE) fined eight companies and eight individuals for cartel practices in the flexible packaging market. Two Brazilian associations were also punished for facilitating collusion. These companies will have to pay, in all, approximately 306 million reais in fines for engaging in these practices. A total of **303.5 million reais (\$77.8 million)** was imposed on the companies; 2.3 million reais (\$598,000) on the individuals; and 5.2 million reais on associations. CADE's investigation began in 2006 on the basis of a complaint lodged by an individual. CADE found that an agreement was signed between the companies for customer allocation and price fixing in order to maintain market share, as well as the exchange of sensitive commercial information between competitors. The anticompetitive practices, which lasted from 2001 to 2006, facilitated and coordinated attempts to standardize prices and commercial strategies in the sector. No prison sentences were imposed.

United States: LIBOR Benchmark. On December 21, international bank UBS agreed to pay 40 states **\$68 million** to resolve allegations that the bank manipulated the London Interbank Offered Rates (LIBOR) benchmark by making fraudulent submissions regarding borrowing costs between 2007 and 2010. The states alleged UBS misrepresented the integrity of LIBOR to state and local governments, nonprofits, and other counterparties by concealing, misrepresenting, and failing to disclose the bank's US dollar LIBOR submissions that reflected management directives to "err on the low side" or to stay in the "middle of the pack" to avoid reputational harm, and that the bank manipulated its yen LIBOR submissions to increase the profits of its derivative traders. UBS is the fourth US dollar LIBOR-setting panel bank to resolve claims

after investigations by state attorneys general, who have recovered \$488 million from the banks.

United States: Capacitors. On October 3, a Japanese company was sentenced to pay a **\$60 million** criminal fine for its role in a conspiracy to fix prices for electrolytic capacitors sold to customers in the United States and elsewhere. The \$60 million fine is the largest fine imposed in the Justice Department's investigation into collusion in the capacitors industry. In addition to the \$60 million criminal fine, the Japanese company was sentenced to a five-year term of probation during which the company must implement an effective compliance program and submit annual written reports on its compliance efforts.

In May 2018, the Japanese company pleaded guilty to conspiring with others to suppress and eliminate competition for electrolytic capacitors from at least as early as November 2001 to January 2014. The Japanese manufacturer was charged by indictment filed in October 2017 in the US District Court for the Northern District of California. The indictment charged the company with carrying out the conspiracy by agreeing with co-conspirators to fix prices of electrolytic capacitors during meetings and other communications. Capacitors were then sold in accordance with these agreements. As part of the conspiracy, the Japanese company and its co-conspirators took steps to conceal the conspiracy, including the use of code names and providing misleading justifications for prices and bids submitted to customers in order to cover up their collusive conduct. In total, eight companies and 10 individuals have been charged for their participation in this conspiracy. All eight companies have pleaded guilty and have been sentenced to criminal fines collectively totaling over \$150 million.

Electrolytic capacitors store and regulate electrical current in a variety of electronic products, including computers, televisions, car engine and airbag systems, home appliances, and office equipment.

Colombia: Diapers and Tissues. On November 20, the Superintendence of Industry and Commerce (SIC) imposed a fine of **25.8 million pesos (\$8.1 million)** on a diapers and tissues manufacturer because it paid for the fines that were imposed by the SIC in 2016 on five of its employees for participating in a price-fixing cartel. The Colombian Antitrust Regulation prohibits companies from paying for or reimbursing its employees for any fines derived from cartel conducts. This was the first time the SIC imposed a fine on a company for reimbursing the fines of its employees.

Colombia: Cranes and Courtyards. On August 22, the SIC sanctioned five companies for bid rigging in public procurement processes related to cranes and courtyards. The companies agreed to not compete in the procurement process in exchange for a compensation of 30% of the utilities of the contract. They were fined **22.3 million pesos (\$6.9 million)**.

Brazil: Resin Production. On August 22, the Administrative Council for Economic Defense (CADE) concluded a settlement agreement with a company in the scope of an investigation into an alleged cartel practice in the domestic resin production and distribution market. Under the agreement, the company is required to pay **25.4 million reais (\$6.2 million)**.

Mexico: Financial Services. On November 13, the Federal Economic Competition Commission fined seven companies and 10 individuals a total of **123.5 million pesos (\$6 million)** for participating in a cartel in the provision of services related to the transfer and storage of valuables and money. The companies and individuals colluded in setting fees for other companies to access their facilities and in setting minimum industry prices and allocating customers during certain periods. The conduct occurred from at least 2005 through 2011.

Colombia: Health, Safety, and Environment. On June 26, the Superintendence of Industry and Commerce imposed a fine of **13.4 billion pesos (\$4.1**

million) on two companies for bid rigging in a health, safety, and environment contract that took place in 2013 with an oil and gas government entity. One of the companies submitted a fake bid to ensure the other was awarded the contract. The relevant contract had an estimated value of 27 billion pesos (\$8.3 million).

Brazil: Gas-Insulated Switchgear. On August 9, CADE condemned two companies for involvement in an international cartel of gas-insulated switchgear (GIS). CADE applied fines of about **4.9 million reais (\$1.3 million)** for both companies. The GIS system is the main element of a power station, used to control the energy flow in electricity distribution grids. The investigations were initiated in 2006, after the signature of a leniency agreement between the Secretariat of Economic Law of the Ministry of Justice and a multinational GIS manufacturer, which presented evidence on the anticompetitive practice. From 1988 to 2004, the cartel members coordinated the allocation of GIS projects on an international basis, following accorded rules and principles, respecting estimated market shares, fixing price levels, and dividing geographic markets.

Brazil: Freight Forwarding. On September 19, CADE signed two cease and desist agreements to conclude an investigation into the maritime and aerial freight market. Under the agreement, two companies are liable to pay, respectively, 1.5 million reais and 3.6 million reais in pecuniary contributions, totaling over **5.1 million reais (\$1.2 million)**. The administrative proceeding was filed in 2010 aiming to probe the formation of an alleged international cartel with effects in Brazil in the market of international air freight and maritime cargo, with origin or destination in Brazil. The investigation found that the companies participated actively in cartel conduct. One company was involved in discussions on the transfer of a security surcharge fee and an air automated manifest system fee; the other company participated in discussions regarding both the fuel surcharge and air automated manifest system fees.

Brazil: Components for Computers and Tube Televisions. On August 22, CADE condemned two international cartels in the market of cathode ray tubes (CRTs). CADE concluded that the manufacturers of TV color picture tubes and computer color display tubes had colluded in the Brazilian market for over a decade. The anticompetitive practices occurred from 1995 to 2007, and involved the biggest worldwide CRT manufacturers. The cartels were characterized by the regular exchange of commercially sensitive information, price fixing, market division, and the restriction of the product assembly. According to the investigations, the arrangements among competitors were agreed through the exchange of emails and bilateral and multilateral meetings. The fees amount to more than **4.9 million reais (\$1.2 million)**.

Canada: Plastic Interior Auto Parts. On October 19, the Ontario Superior Court of Justice imposed a **\$1.3 million Canada (\$992,000)** fine on a Japan-based auto parts manufacturer in connection with its guilty plea to rig bids with other auto parts manufacturers for the supply of plastic interior car parts to Toyota from 2008–2014.

Brazil: Liquefied Petroleum Gas. On August 22, CADE concluded a settlement agreement in respect to a cartel investigation into liquefied petroleum gas (LPG) for cooking gas markets. One of the agreements was signed with a company and two individuals in a process that investigated the formation of a cartel in the LPG market of the Federal District and surroundings, as well as other locations in the Midwest region. A fine of **2.3 million reais (\$564,000)** was imposed.

Colombia: Cement. On August 9, the Colombian Highest Court in charge of litigation with administrative public entities confirmed the fine imposed in 2008 by the SIC to a cement company for engaging in a price-fixing cartel and market allocation with two other cement companies. The company was fined **923 million pesos (\$289,000)**.

The conduct took place from 2005 to 2008. The court previously confirmed sanctions imposed on the two other cement companies in the cartel in June 2018.

Brazil: Operation and Commercial Exploration of Parking Lots. On August 20, CADE condemned a company by imposing fines of **437,000 reais (\$115,000)**. The conviction occurred within the scope of an administrative proceeding that investigated a cartel in the market for services contracts for the operation and commercial exploration of parking lots in São Paulo. In 2011, during a bid process aimed at replacing the current parking services provider, rival bidders exchanged sensitive information by sharing the bid notice and coordinating their bid tenders.

El Salvador: Government Contracts. On October 1, the Superintendence of Competition (SC) announced that two construction companies conspired to rig bids during a public tender, convened in 2015, for improvements in a government facility. Following the investigation, which was initiated in 2017, it was confirmed that both companies communicated, coordinated their bids, and shared bid-related presentation materials. The SC fined each company 20 minimum monthly salaries in the industry, corresponding to 2015, the year in which they committed the infraction. The amount is equivalent to a fine of **\$10,000** (\$5,000 for each company).

Brazil: Taxi Distribution. On August 8, CADE condemned six associations and six individuals for cartel conduct in the market for the taxi distribution services in the city of Curitiba and metropolitan region of the state of Paraná. The anticompetitive conduct consisted of setting a maximum discount, stipulated at 3%, to be offered by radio taxi associations in bidding processes conducted by the state. No prison sentence was imposed. A total fine of 96,000 reais (\$26,000) was imposed.

Brazil: Refrigeration Compressors. On September 5, CADE approved a settlement agreement with a natural person in respect of a cartel investigation in

the international market for hermetic compressors for refrigeration. The pecuniary contribution was set at 33,500 reals (\$9,000). Under the agreements, signatories admitted participation in anti-competitive conduct, committed to cease the infringement, and cooperate with the antitrust body in all aspects of the investigation. No prison sentence was imposed.

EUROPE

Germany: Special Steel. On July 12, the Federal Cartel Office (FCO) imposed total fines of **205 million euros (\$239.7 million)** on six special steel companies, a trade association, and 10 individuals for fixing prices and exchanging competitively sensitive information. The special steel products concerned were sold based on a price model, which consisted of a base price and surcharges for certain inputs. The FCO held that from at least 2004, the steel companies had agreed on a uniform method for the surcharge calculation. The FCO proceeding was initiated by a sector-wide dawn raid following a leniency application by another company.

Romania: Car Insurance. On December 4, Romania's Competition Council imposed fines totaling **246.7 million lei (\$60.2 million)** on nine insurance companies for exchanging sensitive information. It was held that the companies' collusion restricted competition on the car insurance market between October 2012 and November 2016.

Spain: Data Processing. On August 1, the National Commission of Markets and Competition (CNMC) fined 11 companies **29.9 million euros (\$34.9 million)** for creating a cartel in the provision of computer services and data processing to the government. The cartel participants agreed on prices and commercial conditions, and exchanged sensitive commercial information to make public procurement more expensive. The companies operated throughout Spain offering computer services and data processing, from

consultants in the installation of computer equipment and application of programs, to data preparation services for their treatment and database services. In most cases, these contracts involve the physical integration of the personnel of the initiated companies or their subcontractors into the staff of the clients as support personnel. Among the agencies affected by the cartel are the Tax Agency, the computer management of Social Security, and the Public Employment Service.

Germany: Newspapers. On September 9, the FCO imposed total fines of **16 million euros (\$18.5 million)** on one newspaper publisher and two individuals for concluding an illegal market sharing agreement with a competing newspaper publisher. The FCO held that in December 2000 the parties agreed that one of the two publishers largely withdraw its distribution from specific areas of Germany. The proceeding was initiated following a leniency application by one of the newspaper publishers involved.

Slovakia: Automotive. On November 30, the Antimonopoly Office imposed fines totaling **9.4 million euros (\$10.6 million)** on 15 passenger car and light commercial vehicle sales entities for market allocation, price fixing, and exchange of sensitive business information in public procurement procedures.

Spain: Car Batteries. On July 19, the CNMC fined two companies engaged in the purchase of used batteries **5.4 million euros (\$6.2 million)** for its participation in a cartel that, from 2008 to 2012, coordinated the purchase prices of used vehicle batteries. At the end of 2015, the CNMC conducted inspections at the headquarters of several companies for possible anticompetitive practices. These practices consisted in the exchange of sensitive information to coordinate or align the purchase prices of the components. Subsequently, the CNMC filed a disciplinary action against companies that engage in purchasing used lead acid batteries, generally from the automotive sector, in order to obtain from them the lead or alloys necessary for the manufacture of new batteries. The

CNMC has found that several companies competing with each other in this market, at least from the year 2008 until 2012, maintained a continuous and fluid contact to develop a common strategy to coordinate the purchase price of used batteries and preserve their positions in the market against the competition.

Czech Republic: Transportation. On September 21, three rail operators were found to be in breach of European Union and Czech competition rules as a result of illegal cooperation in a rail freight transport project. One of the cartelists requested immunity under the leniency program. All three participants actively cooperated with the Office for the Protection of Competition (OPC) during the investigation. As a result, the first cartel member was granted full immunity from fines and the fines of the remaining two cartelists were significantly reduced (by 20% from the initial amount) resulting in fines of **3.7 million koruny (\$173,000)** for the second cartel member and **48 million koruny (\$2.2 million)** for the third.

Austria: Medical Rubber Gloves. On July 19, the Austria's Competition Authority imposed a fine of **1.6 million euros (\$1.9 million)** on an Austrian manufacturer of disposable rubber gloves for concluding a territory allocation agreement with its Asian joint venture partner between July 2002 and March 2017. The joint venture agreement exclusively allocated the European market for natural rubber gloves and all types of medical gloves to the Austrian manufacturer. The Asian partner received full immunity due to its leniency application.

Germany: Asphalt Mixes. On December 14, the FCO imposed total fines of **1.4 million euros (\$1.6 million)** on a manufacturer of asphalt for participating in an anticompetitive supply consortium. The FCO found that members of the consortium had agreed on prices, sales areas, customers, and quotas for the supply of asphalt to construction companies in Germany between 2005 and 2013. The cartel agreement was disclosed in 2013 by a leniency applicant who received full immunity.

Turkey: Meal Vouchers. On November 19, the Turkish Competition Authority fined the local arms of meal voucher firms a total of **7.7 million liras (\$1.4 million)** for breaching competition law as a result of collusive conduct.

Cyprus: Ready-Mixed Concrete. On October 10, the Commission for the Protection of Competition (CPC) fined nine ready-mixed concrete producers a total of **1.2 million euros (\$1.3 million)** for bid rigging in three public tenders between November 2011 and June 2012. The CPC instructed the companies to immediately cease the anticompetitive conduct and to avoid any recurrence.

Greece: Press Distribution. On December 11, the Hellenic Competition Commission (HCC) settled a case against two press distribution firms that had established a common commercial policy, fixed prices, limited supply, engaged in market allocation, and exchanged competitively sensitive information. Pursuant to the settlement, the fines imposed on the two entities totaled **500,000 euros (\$570,000)**.

Romania: Advertising. On November 21, Romania's High Court of Cassation and Justice upheld a Competition Council decision fining two media companies a total of **1.8 million lei (\$446,000)** for participating in a cartel.

Slovakia: Construction. On October 5, the Antimonopoly Office imposed fines totaling **308,000 euros (\$354,000)** on two companies for rigging a 2010 state tender for the construction of accommodation for retirees.

Greece: Dairy Products. On November 29, the HCC decided to settle a case against two companies active in the production and marketing of dairy products. The case concerned bid rigging by the two companies. The fines imposed totaled **171,000 euros (\$196,000)**.

Slovakia: Construction. On November 7, the Antimonopoly Office imposed fines totaling **118,000 euros (\$135,000)** on three companies for bid rigging in seven public procurements in September and October 2014 for the construction of sports playgrounds and the supply of related products and services.

Czech Republic: Reconstruction Work and Furnishings. On September 10, the OPC imposed administrative fines on three furniture and interior goods manufacturer for bid rigging in two public tenders in November and December 2016. The first was for the supply of floor coverings for reconstruction of a cafeteria; the second was for the supply of furniture to the cafeteria. The total fine was reduced by 20% due to request settlement by the parties to **1.6 million koruny (\$68,000)**.

Czech Republic: Flooring. On October 1, the OPC fined four flooring suppliers a total of **993,000 koruny (\$46,000)** for bid rigging tenders for the supply of materials for reconstruction of floors in 2016. Administrative proceedings and onsite inspections of the companies were initiated by the OPC at the end of 2017 at the request of the tender organizer. The companies agreed to apply for settlement procedures. As a result of fulfillment of conditions of settlement the amount of fines was reduced by 20%.

ASIA

South Korea: Rebar. On September 7, the Korea Fair Trade Commission (KFTC) announced that six steel companies had colluded to fix rebar prices from May 2015 to December 2016. The KFTC imposed a total fine of **119.4 billion won (\$106.2 million)** and referred five companies for potential criminal prosecution.

South Korea: Aluminum and Tantalum Capacitors, On September 14, the KFTC announced that nine Japanese condenser companies had colluded to fix

aluminum and tantalum capacitor prices from July 2000 to January 2014. The KFTC imposed a total fine of **36.1 billion won (\$32.3 million)** and referred four companies and one executive for potential criminal prosecution.

Singapore: Fresh Chicken Products. On September 12, the Competition and Consumer Commission of Singapore (CCCS) announced its findings that 13 distributors engaged in anti-competitive agreements to fix prices and allocate customers in the market for fresh chicken products. The distributors agreed to pay penalties totaling **\$26.9 million Singapore (\$19.6 million)**. The total penalty is the largest imposed by the CCCS in a single case to date.

China: Container Yard Services. On November 16, 17 container yard service companies were sentenced for signing proposals, organizing meetings, sending emails, and making phone calls to fix the price of container yard services since 2010. As one company reported its conduct and provided important evidence, the Tianjin Development and Reform Commission decided to exempt it from an administrative penalty. As for the other 16, the commission imposed a fine amounting to 2% to 5% of the companies' respective sales in 2017. The cumulative fines amounted to **45.1 million renminbi (\$6.5 million)**.

India: Sugar/Ethanol. On September 19, the CCI fined 18 sugar mills and two trade associations **80 million rupees (\$5.3 million)** for rigging bids of a joint tender issued by government-owned oil marketing companies for the procurement of ethanol. The CCI determined the bids issued were, in some instances, identical up to the decimal point and unreasonably high.

Russia: IT. In June and August, the Federal Antimonopoly Service (FAS) imposed fines totaling **69.5 million rubles (\$4.3 million)** on four companies for rigging bids and exchanging business-sensitive information during state tenders announced by the

Federal Center for Informational Support of Central Election Commission of Russia for a supply of automated devices used for tabulation of votes.

Japan: Retail. On October 3, the Japan Fair Trade Commission (JFTC) fined five retailers of seasonal gifts a total of **194 million yen (\$1.7 million)** for rigging the delivery charge of seasonal gifts. The JFTC instructed the companies to immediately cease the anticompetitive activities.

South Korea: Communications Facilities and Equipment Installation. On October 18, the KFTC announced that nine companies had rigged bids to install communications-related facilities for Parnas Tower, a newly constructed skyscraper in Seoul. The KFTC fined the companies a total of **1.4 billion won (\$1.2 million)** and referred one of the companies for potential criminal prosecution.

Russia: IT. On October 23, the FAS imposed fines totaling **72.2 million (\$1.1 million)** on two companies for rigging a state tender for the development of an automatic speed control system for use in the Novgorod region.

China: Pharmaceuticals. On December 5, three pharmaceutical companies were sentenced for agreeing to jointly increase the sales price of the active pharmaceutical ingredient of acetic acid from November 2017 to February 2018. The State Administration for Market Regulation (SAMR) imposed a fine amounting to 4% of the companies' respective 2017 sales. The cumulative fines amounted to **6.3 million renminbi (\$912,000)**.

South Korea: Broadcasting Equipment. On December 28, the KFTC announced that seven companies and a trade association had colluded with respect to bids to sell broadcasting equipment to Korea's Public Procurement Service and various local governments. The KFTC imposed a total fine of **541 million won (\$485,000)** and referred one of the companies, the trade association, and various employees for potential criminal prosecution.

South Korea: Scrap Auto Purchases. On September 17, the KFTC announced that a trade association and six regional affiliates had fixed prices for scrap car purchases. The KFTC imposed a total fine of **544 million won (\$484,000)** and referred the trade association and one of the affiliates for potential criminal prosecution.

China: Tallying Service. On July 9, two tally companies were sentenced for entering into an agreement to divide the market and push up the price of the tally market together. The SAMR believed the agreement would divide the sales market and fix or change the price of goods and imposed a fine amounting 4% of the companies' respective 2017 sales. The cumulative fines amounted to **3.2 million renminbi (\$457,000)**.

South Korea: Online Design Services. On November 23, the KFTC announced that three companies had rigged bids to design "online model homes" for the Korea Land and Housing Corporation, a state-owned enterprise seeking such services to provide information about apartment lots for sale. The KFTC fined the companies a total of **450 million won (\$398,000)** and referred the ringleader company for potential criminal prosecution.

Japan: Uniforms. On July 12, the Japan Fair Trade Commission (JFTC) fined three distributors of uniforms a total of **31.9 million yen (\$283,000)** for rigging orders by All Nippon Airways Co. Ltd. The JFTC also instructed the companies to immediately cease the anticompetitive activities.

China: River Sand. On August 14, two river sand mining management companies were sentenced for reaching an agreement to adjust the price of river sand. Guangdong Development and Reform Commission imposed a fine amounting 1% of the companies' respective sales in 2017. The cumulative fines amounted to **1.8 million renminbi (\$268,000)**.

Japan: Construction Work. On July 26, the JFTC fined six survey-related companies a total of **25 million yen (\$225,000)** for rigging public tenders. The JFTC instructed the companies to immediately cease the anticompetitive activities.

Indonesia: Energy. On October 19, the Commission for the Supervision of Business Competition fined two companies **2.4 trillion rupiahs (\$164,000)** after it held that they had been involved in a bid-rigging scheme for underwater services.

South Korea: Helicopter Rental Services. On September 28, the KFTC announced that 10 companies had rigged bids to rent helicopters used in combatting wildfires to various local governments. The KFTC fined the companies a total of **153 million won (\$138,000)**.

South Korea: Optical Measuring Equipment. On November 28, the KFTC announced that two companies had rigged bids to sell optical measuring equipment to Korea's Public Procurement Service from 2008 to 2014. The KFTC imposed a total fine of **139 million won (\$123,000)** and referred one of the companies for potential criminal prosecution.

China: Engineering Inspection Services. On October 22, three engineering inspection service companies were sentenced for reaching an agreement and setting up a "quality inspection service hall" to carry out activities together. Henan Administration of Industry and Commerce imposed a fine of 6% to 7% of the companies' 2016 revenue respectively. The cumulative fines amounted to **692,000 renminbi (\$100,000)**.

Japan: Uniforms. On October 18, the JFTC fined three uniform manufacturers a total of **10.3 million yen (\$91,000)** for rigging of orders by NTT DOCOMO. JFTC instructed the companies to immediately cease the anticompetitive activities.

South Korea: Construction and Design Services. On October 22, the KFTC announced that two

companies had rigged bids to provide design services for the construction of facilities at a local elementary school. The KFTC fined the companies a total of **36 million won (\$32,000)**.

China: Gas Management. On August 14, a gas-related association in Zhongshan was sentenced for publishing a policy in 2010 to prohibit its members from cooperating with other gas-operated enterprises and imposed several measures to ensure the implementation of the policy. In addition, the association implemented a policy to set unreasonable market access barriers for gas appliance manufacturers to access the market. Guangdong Development and Reform Commission imposed a fine of **150,000 renminbi (\$22,000)** on the association.

China: Fireworks. On July 25, three fireworks companies were sentenced for entering into an agreement to divide the sales market. Under a management agreement executed in 2014, the three companies divided the sales market of fireworks, and they also forced their retailers to prepay a certain amount of the orders. The Guangxi Administration of Industry and Commerce imposed a fine amounting to 5% to 8% of the companies' respective sales in 2014. The cumulative fines amounted to **114,000 renminbi (\$17,000)**.

Russia: Pharmaceuticals. On November 13, the FAS imposed a fine of **1 million rubles (\$15,000)** on one of two cartel participants for rigging 14 state tenders for supply of medicines and medical devices to local hospitals. One of the cartel participants successfully applied for leniency.

China: Gas Management. On November 14, a local gas association was sentenced for organizing its members to reach an agreement on coordination of prices. The Local Price Bureau imposed a fine of **100,000 renminbi (\$14,000)** on the association. Other companies involved in this case are still under investigation.

OCEANIA

Australia: Air Cargo Transport Services. On June 27, Australia's Federal Court ordered an international air cargo carrier to pay a **\$15 million Australia (\$11 million)** fine for participating in a global air cargo cartel and entering into agreements with other air carriers to fix prices for fuel surcharges on flights from Hong Kong to Australia and from Singapore to Australia.

New Zealand: Real Estate Services. On November 23, the Court of Appeals determined that a group of real estate companies engaged in price fixing reversing a High Court ruling that had previously held them not liable. The price fixing related to an agreement to pass through certain fees and the court has so far imposed penalties of **\$16.4 million New Zealand (\$10.9 million)** on a total of 10 companies and individuals.

AFRICA

South Africa: Fertilizer. On September 7, the CC announced a settlement agreement with a fertilizer manufacturer and distributor, following an investigation that uncovered evidence of price fixing and customer allocation in the fertilizer industry. As part of the settlement, the fertilizer company will pay a fine of **30 million rand (\$2 million)**.

South Africa: Airbags. On July 4, the CC settled with an airbag manufacturer accused of price fixing and collusive conduct. As part of the settlement, the manufacturer agreed to pay a fine of **6.2 million rand (\$449,000)**. The CC is continuing to investigate price-fixing and collusion charges against other airbag manufacturers allegedly involved in the conspiracy.

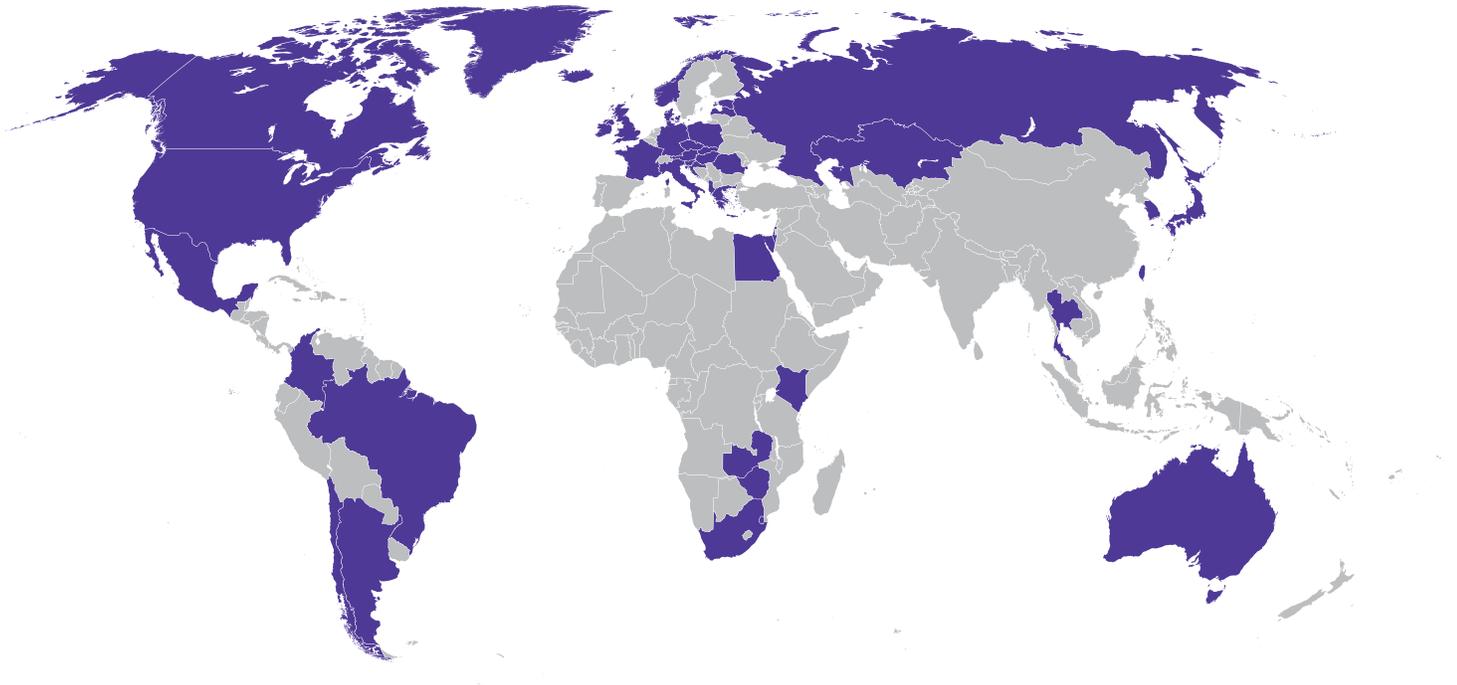
South Africa: Beef. On October 29, the CC announced it was prosecuting beef processing companies for cartel conduct. One processing company pleaded guilty and agreed to pay a fine of **2.7 million rand (\$186,000)**. The CC is continuing to prosecute the other beef processing companies.

South Africa: Fire Control and Protection Systems. On September 13, the CC announced a settlement agreement to resolve claims of price fixing and collusive conduct with a provider and installer of fire control and protection systems in buildings. As part of the settlement, the company will pay a fine of **500,000 rand (\$34,000)**.

South Africa: Sports agents. On July 10, the CC announced that a sports agency representing players and coaches in professional soccer leagues pleaded guilty to fixing commission fees and trading conditions. As part of the plea, the agency will pay a fine of **114,000 rand (\$9,000)**. The CC is continuing to investigate price-fixing claims against dozens of other sports agencies.

Algeria: Digital Screen and Billboard Ads. On July 19, Algeria's Competition Council found that three digital screen and billboard advertisement companies were guilty of bid rigging that kept competitors out of the market and increased the likelihood one of the three companies would secure the winning bid. The companies were fined a total of **467,000 dinar (\$4,000)**.

43 COUNTRIES HAVE CRIMINAL PENALTIES FOR CARTEL VIOLATIONS OR CONVICTIONS



Argentina

Australia

Austria

Brazil

Canada

Chile

Colombia

Croatia

Czech Republic

Denmark

Egypt

Estonia

France

Germany

Greece

Greenland

Hong Kong

Hungary

Iceland

Ireland

Israel

Italy

Japan

Kazakhstan

Kenya

Latvia

Malta

Mexico

Norway

Poland

Romania

Russia

Slovakia

Slovenia

South Africa

South Korea

Swaziland

Taiwan

Thailand

United Kingdom

United States

Zambia

Zimbabwe

Significant Individual Prison and Other Sentences for Cartel Offenses

ALREADY IMPOSED

United States: Electrolytic Capacitors. On October 10, a citizen and resident of Japan, and a former head of capacitor sales for a major manufacturer of electrolytic capacitors, agreed to voluntarily travel to the United States, enter a guilty plea, and be sentenced to serve a prison term of a 12 months and one day for a cartel conspiracy in respect of electrolytic capacitors.

PENDING TRIAL OR SENTENCING

United States: Real Estate. On July 19, a Mississippi real estate investor pleaded guilty in connection with the ongoing investigation into bid rigging at public real estate foreclosure auctions in Mississippi. Felony charges against the investor were filed on June 28 in the US District Court for the Southern District of Mississippi. According to the charges, from at least as early as August 20, 2009, through at least as late as December 14, 2016, the investor conspired with others not to bid against each other for selected public real estate foreclosure auctions. Co-conspirators made and received payoffs in exchange for their agreement not to bid.

United States: Real Estate. On August 9, a real estate investor pleaded guilty in West Palm Beach in connection with an ongoing investigation into bid rigging at online public foreclosure auctions in Florida. Felony charges of bid rigging were filed against the investor on November 2, 2017, in the US District Court for the Southern District of Florida. According to court documents, from around January 2012 through around June 2015, the investor conspired with others to rig bids during online foreclosure auctions in Palm Beach County.

United States: Financial Services. On October 17, two former bank traders were found guilty by a New York jury of manipulating the Libor benchmark interest rate between 2005 and 2011. A US citizen, the first US citizen to be charged in connection with Libor, who once led an international bank's pool trading desk in New York, and a UK citizen, who worked on the bank's London desk, were convicted of wire fraud and conspiracy. The two traders were indicted in June 2016. A sentencing date will not be set until after the judge has considered motions by the defendants challenging the verdict.

United States: Packaged Seafood. On October 18, a purveyor of packaged seafood agreed to plead guilty for its role in a conspiracy to fix prices of packaged seafood sold in the United States. According to a one-count felony charge filed in the US District Court for the Northern District of California in San Francisco, the company and its co-conspirators agreed to fix the prices of canned tuna from as early as November 2011 through at least as late as December 2013. In addition to pleading guilty, the company has agreed to cooperate in the investigation. The company faces a criminal fine of up to \$100 million. The exact value of fine will be determined at a sentencing hearing and the plea agreement is subject to court approval.

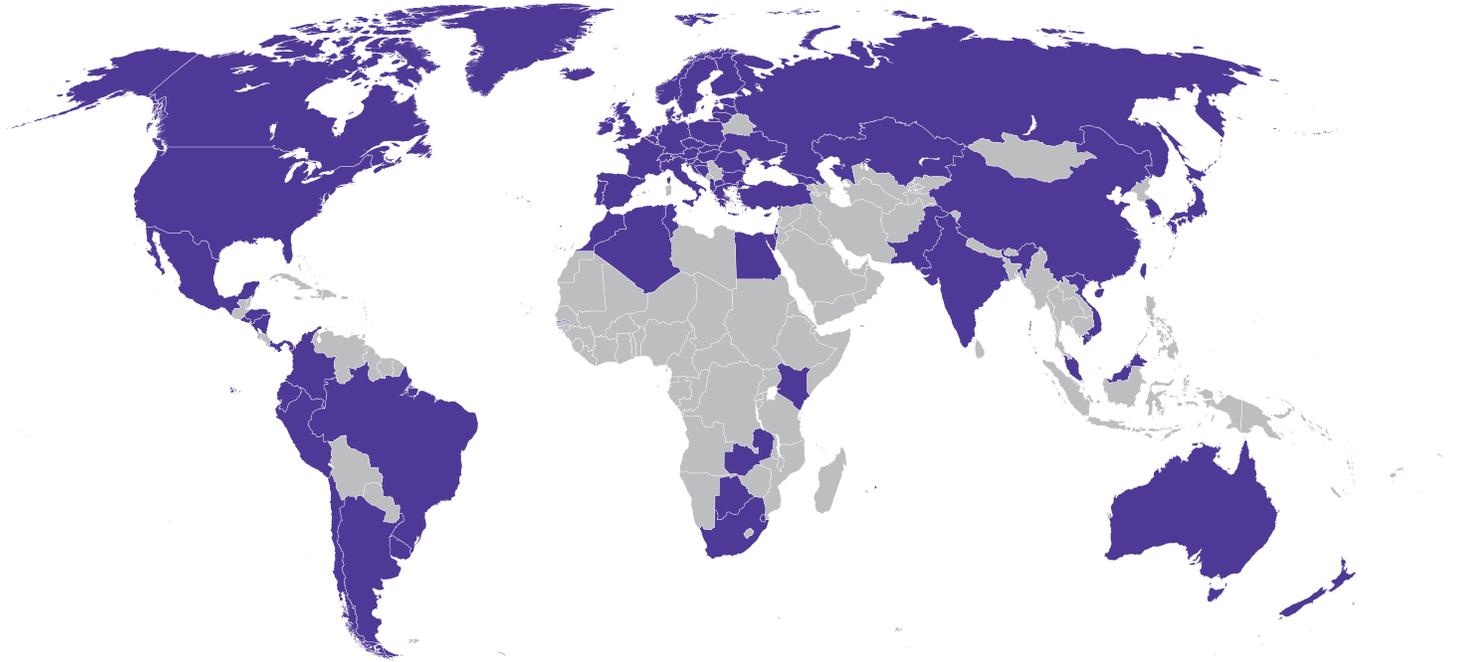
United States: Real Estate. On November 9, a second real estate investor pleaded guilty in West Palm Beach in connection with an ongoing investigation into bid rigging at online public foreclosure auctions in Florida. Felony charges of bid rigging were filed against the real estate investor on November 2, 2017, in the US District Court for the Southern District of Florida. According to court documents, from around January 2012 through around June 2015, the investor conspired with others to rig bids during online foreclosure auctions in Palm Beach County.

United States: Real Estate. On November 27, two Mississippi real estate investors pleaded guilty for their roles in a conspiracy to rig bids at public real estate foreclosure auctions in Mississippi. A total of nine real estate investors have entered guilty pleas in this conspiracy. Separate felony charges were filed against these real estate investors on November 9 and on November 19 in the US District Court for the Southern District of Mississippi. According to court documents, from at least as early as June 9, 2011, through at least as late as February 8, 2017, one real estate investor conspired with others not to bid against one another for selected public real estate foreclosure auctions. The other participated in the conspiracy from as early as August 20, 2009, through at least as late as December 11, 2014. Co-conspirators made and received payoffs in exchange for their agreement not to bid.

United States: International Freight Forwarding. On November 30, the owner and CEO of a freight forwarding company and one other managerial employee pleaded guilty in Miami for their roles in orchestrating a nationwide conspiracy to fix prices for international freight forwarding services, marking the first convictions in this investigation.



78 COUNTRIES HAVE CARTEL IMMUNITY/LENIENCY PROGRAMS



- | | | | |
|----------------------|----------------|-------------|----------------|
| Albania | El Salvador | Kenya | Singapore |
| Algeria | Estonia | Latvia | Slovakia |
| Argentina | European Union | Lithuania | Slovenia |
| Australia | Finland | Luxembourg | South Africa |
| Austria | France | Macedonia | South Korea |
| Belgium | Gambia | Malaysia | Spain |
| Bosnia & Herzegovina | Georgia | Mauritius | Sweden |
| Botswana | Germany | Mexico | Switzerland |
| Brazil | Greece | Morocco | Swaziland |
| Bulgaria | Greenland | Netherlands | Taiwan |
| Canada | Honduras | New Zealand | Tunisia |
| Chile | Hong Kong | Nicaragua | Turkey |
| China | Hungary | Norway | Ukraine |
| Colombia | Iceland | Pakistan | Uruguay |
| Croatia | India | Panama | United Kingdom |
| Czech Republic | Ireland | Peru | United States |
| Cyprus | Israel | Poland | Vietnam |
| Denmark | Italy | Portugal | Zambia |
| Ecuador | Japan | Romania | |
| Egypt | Kazakhstan | Russia | |

DAWN RAIDS, NEW INVESTIGATIONS, AND NEW CASES

Cartel enforcement authorities around the world were active in the second half of 2018, launching many new investigations and bringing many new cases.

[Please see our Global Cartel Enforcement Report Mid-Year 2018 for activity in the first half of the year.](#)

Multiple investigations were initiated with dawn raids, where enforcement agencies exercise their authority to search and seize documents, electronic media, and other tangible materials. These search-and-seizure exercises are often carried out in the early morning, which is why they are often referred to as dawn raids. Dawn raids are generally not publicized by enforcement authorities. Here we highlight dawn raids that were publicly reported.

Companies are advised to have plans in place to deal with dawn raids should they occur so employees know how to react and how to avoid creating problems through obstructive behavior. Please see our [Dawn Raid Golden Rules](#).

New Investigations and Enforcement Actions

Some cartel investigations are publicly announced by enforcement agencies in contrast to unannounced dawn raids. In this section, we highlight some noteworthy new investigations and enforcement actions.

Dawn Raids in the Second Half of 2018

AMERICAS

Brazil: Orthotics, Prosthetics of Orthopedics, and Hospital Equipment. On July 4, the Administrative Council for Economic Defense (CADE) announced dawn raids to investigate potential anticompetitive conduct in the market for orthotics, prosthetics of orthopedics, and hospital equipment. The investigation mainly involves bids for equipment, implantable medical devices, and related surgical

instruments of this market, as well as the acquisition of imported medical equipment of high complexity. The conduct occurred in the State of Rio de Janeiro between at least 1996 and April 2017. The anticompetitive conduct consisted of price fixing in relation to public bids, market division, manipulating notices and price proposals, determining the winning company, pricing of domestic products more expensively than imported ones, and exchanges of sensitive competitive information. In addition to

arrest warrants, 43 search warrants were executed in Rio de Janeiro, São Paulo, Paraíba, Minas Gerais, and the Federal District.

Brazil: Asphalt Paving Services. On July 17, CADE announced it is investigating potential bid rigging relating to the contracting of asphalt paving services by state agencies in the state of Espírito Santo. The anticompetitive practice took place mainly through price-fixing agreements, customer allocation, and presentation of proposals for coverage and suppression of proposals.

Brazil: Garbage Collection. On July 24, CADE announced dawn raids to investigate cartels in relation to tenders issued by local authorities to contract for garbage collection services. Since 2010, it is alleged that participants in the cartel conduct divided the market and presented proposals for coverage to ensure the eventual contract respected the agreed portfolio of contracts for each company.

EUROPE

Belgium: Immunoglobulin Sector. On July 3, the Investigation and Prosecution Service of the Belgian Competition Authority (BCA) conducted inspections at the premises of producers of human immunoglobulins. The BCA confirmed that the inspections had been conducted at the request of the Romania's Competition Council, which has information about possible infringements of Article 101 of the Treaty on the Functioning of the European Union.

Slovakia: Children's goods. On August 6 and 7, the Antimonopoly Office of the Slovak Republic executed dawn raids on an entity acting in the area of purchase, distribution and sale of children's goods in the territory of Slovak Republic suspected of price fixing and determining other business conditions for sale of the products to retail customers.

Spain: Road Services. On September 17, the National Commission of Markets and Competition (CNMC) announced its investigation into possible anticompetitive practices in the market for the provision of roadworthiness testing services for commercial vehicles throughout Spain. The practices may have included the distribution and manipulation among companies in the sector of tenders issued by the Directorate General of Traffic. On September 11 and 12, inspections were carried out at the headquarters of several companies operating in this market.

European Union: Clean Emission Technology. On September 18, the European Commission confirmed that it had opened an in-depth investigation to assess whether five car manufacturers colluded, in breach of EU antitrust rules, to avoid competition in the development and roll-out of technology to clean the emissions of petrol and diesel passenger cars. In October 2017, the EC carried out inspections at the premises of these companies in Germany as part of its initial inquiries into possible collusion between car manufacturers on the technological development of passenger cars. The EC's probe focusses on information indicating that these companies, also called the "circle of five," participated in meetings where they discussed the development and deployment of technologies to limit harmful car exhaust emissions, among other things. In particular, the EC is assessing whether the companies colluded to limit the development and roll-out of certain emissions control systems for cars sold in the European Economic Area, namely, selective catalytic reduction systems to reduce harmful nitrogen oxide emissions from passenger cars with diesel engines and Otto particulate filters to reduce harmful particulate matter emissions from passenger cars with gas engines.

Spain: Solid Fuel. On October 2 and 3, the CNMC performed inspections at the headquarters of

several companies operating in the metallurgical coke, petroleum coke, coal, anthracite, foaming agents, and fuels markets in Spain. The CNMC is investigating possible anti-competitive practices and the inspections are part of the investigation opened by CNMC after being provided with information by the Basque Competition Authority.

Portugal: Retail Food. On October 8, the Competition Authority (CA) confirmed that it had carried out dawn raids at the premises of an association of the retail food sector, following suspicions of price fixing in the sector. The raids were carried out in the district of Oporto, by case handlers of the CA, in cooperation with the Department of Criminal Investigation and Police Officers.

Portugal: Advertising. On October 10, the CA confirmed that it had carried out dawn raids at the premises of two associations of advertising companies, following suspicions of concerted practices in procurement procedures launched by advertisers. In the context of this investigation for anticompetitive practices and under the powers provided by the Competition Act, the AC carried out these dawn raids in the district of Lisbon by case handlers in cooperation with the Department of Criminal Investigation and Police Officers.

Spain: Professional Services. On October 23, 24, and 25, the CNMC carried out inspections at the headquarters of several companies operating in the professional services sector, specifically in the field of consulting services, consisting of exchanges of information and distribution of contracts of various kinds. The CNMC is investigating possible anticompetitive practices and the inspections are part of the investigation opened by the CNMC following the information transferred by the Basque Competition Authority.

Cyprus: Cement. On October 30, the Commission for the Protection of Competition conducted a dawn raid on the offices of a Cypriot cement manufacturer,

suspecting possible anticompetitive agreements and abuse of dominance.

Poland: Fruits and Vegetables. On November 14, the Office of Competition and Consumer Protection (UOKiK) instigated proceedings against eight companies that competed in tenders for the supply of fruits and vegetables. The UOKiK believes the entrepreneurs participated in tender collusion, which involves withdrawing a winning advantageous bid forcing the contracting party to choose the more expensive offer of the other participant in the collusion. The penalty for such an allegation could be as much as 10% of their turnover.

Spain: Radiopharmaceutical Products. The CNMC is investigating possible anti-competitive practices in the Spanish market for radiopharmaceutical production and marketing used in positron-emission tomography procedures. On November 6 and 7, the CNMC carried out inspections at the headquarters of several companies operating in this market. The CNMC suspects possible anti-competitive practices, consisting of possible market sharing, price fixing, and information exchange agreements implemented by manipulating tenders issued, among others, by the Health Services and hospitals of different regions.

Romania: Road Signs. On November 12, the Competition Council (CC) conducted a dawn raid on the premises of a manufacturer of road signs and traffic safety equipment. The CC had opened the probe in May 2017 with dawn raids at the premises of other manufacturers, on the suspicion they manipulated three public tenders for the supply of road signs and traffic safety equipment.

Slovakia: Construction. On December 5, the Antimonopoly Office executed dawn raids on entities operating in the field of construction works and supply of technology necessary for intensification of a waste water treatment plant suspected of bid rigging in public procurement.



Cyprus: Fresh Fruit and Vegetables. On December 11, the Commission for the Protection of Competition raided the offices and premises of multiple companies operating in the fresh fruit and vegetable sector in Nicosia, Limassol, and Larnaca, as well as the Nicosia and Limassol wholesale markets, in relation to possible anticompetitive agreements and abuses of dominance.

Italy: Waste Collection. On December 18, the Italian Antitrust Authority carried out unannounced inspections at several Italian waste collection companies in relation to suspected cartel infringements relating to public tenders for waste collection services.

Portugal: Telecommunications. On December 21, the CA confirmed that it had carried out dawn raids in five locations of four telecommunications companies on suspicion of anticompetitive activities. The raids were carried out by case handlers of the CA in cooperation with the Department of Criminal Investigation of Lisbon and Police Officers.

Other New Investigations and Enforcement Actions

AFRICA

South Africa: Airbags and Seatbelts. On July 3, the Competition Commission of South Africa announced it was bringing 21 cartel charges against a global airbag and seatbelt manufacturer for collusive tendering, price fixing, and market division.

South Africa: Animal Feeding Equipment. On July 10, the Competition Commission of South Africa announced it was prosecuting a manufacturer of poultry feeding equipment for market division and territory allocation. The Competition Commission of South Africa will not be seeking any penalties against the co-conspirator of the alleged plot under South Africa's corporate leniency policy.

Egypt: Clay Bricks. On August 14, the Competition Protection and Prohibition of Monopolistic Practices Authority (CPPMPA) decided to refer 70 brick factory owners for prosecution after they proved violations of the Competition Protection Law to raise and stabilize the sale prices of clay bricks. The Egyptian Competition Authority described this case as the largest in the history of the competition protection system.

Egypt: Ground Shipping Services. On August 14, the CPPMPA decided to refer some land transport companies in Damietta for prosecution after proving three violations of the Competition Protection Law involving agreements to raise ground shipping rates by 30%.

Namibia: Automobile Panels. On August 20, the Namibian Competition Commission confirmed that it had made a preliminary investigation finding that various short-term insurance companies had engaged in collusive conduct, specifically price fixing, in contravention of section 36 of the Competition Act by setting maximum mark-up rates and labor rates that panel beaters should charge for repairs to insured vehicles.

South Africa: Books. On August 29, the Competition Commission of South Africa announced an investigation into dozens of book publishers, distributors, and sellers over suspected price fixing on hardcopy and electronic books.

Namibia: Pharmacy associations. On September 25, the Namibian Competition Commission confirmed it had begun an investigation for price fixing against a voluntary association of pharmacies and over 200 registered pharmacies based on allegations that they had imposed a uniform 50% mark-up on the dispensing of medicines.

Namibia: Auto Insurance and Windscreens. On October 8, the Namibian Competition Commission confirmed it had made a preliminary investigation finding that various short-term insurance companies entered into exclusive agreements with various windscreen retailers in contravention of Section 3 of the Competition Act.

South Africa: Liquefied Petroleum Gas. On October 18, the Competition Commission of South Africa announced it was prosecuting multiple liquefied petroleum gas companies for price fixing, where the companies agreed on the amount to be paid as a deposit fee for first-time customers.

AMERICAS

Canada: Public Infrastructure Work. On June 26, four individuals were charged with rigging bids for 21 infrastructure contracts issued by the City of Gatineau. The individuals worked at various engineering companies, and divided the contracts among themselves before submitting bids.

Colombia: Food Industry. On July 5, the Superintendence of Industry and Commerce (SIC) opened an investigation against 10 companies and 18 individuals for allegedly participating in bid-

rigging conduct (allocation of territories) in 21 public procurement processes in the food industry that took place for 10 years. The cartel affected procurement processes that were valued in approximately \$1.5 billion pesos (\$469 million).

Brazil: Medical Services. On July 19, the Administrative Council for Economic Defense (CADE) announced an administrative proceeding to investigate alleged anticompetitive practices by representative entities and medical cooperatives of Espírito Santo. The investigation of the case began in March 2016, based on a complaint from the Evangelical Beneficent Association of Espírito Santo, which runs a hospital in Vitória, Espírito Santo. CADE is investigating alleged collusion in respect of the negotiation of contracts with the State Department of Health.

Colombia: Highway Construction. On August 10, the SIC opened an investigation into four companies for alleged bid rigging in a public procurement process of a major highway construction project. The companies allegedly coordinated their bids, submitted fake offers to arrange the winner of the public procurement process, and exchanged sensitive information that facilitated the bid-rigging conduct. Eight individuals were also included in the investigation.

Colombia: Highway Construction. On September 13, the SIC opened an investigation into construction companies and individuals for bid-rigging in a major highway construction project involving the construction of roads and highways in main cities. During the preliminary investigation the SIC found facilitation payments and bribes paid to a Colombian government officer to obtain one of the construction contracts, conflict of interests in the public procurement process, and irregular contracts awarded to companies in breach of the public procurement regulation. The SIC also found that the companies participating in the public procurement processes attempted to collude in the prices and

conditions of the bids and to allocate contracts. During the investigation, a leniency application was filed by one of the companies and was accepted in August 2018.

Peru: Pharmaceuticals. On October 16, the Ministry of Health submitted a complaint to the National Institute for the Defense of Competition and the Protection of Intellectual Property alleging price fixing in relation to six types of medication. The competition watchdog announced it would review the information and develop a preliminary investigation. It is unclear which medicines or companies the complaint targeted.

Mexico: Personal Care. On October 22, the Federal Economic Competition Commission (COFECE) announced to several unnamed companies that they were subject to a Statement of Probable Responsibility, and that it had initiated the trial-like portion of the investigation into potential monopolistic practices (including bid rigging) in the market for the production and sale of toothbrushes.

Colombia: Construction and Urban Development. In October, the SIC opened an investigation against four companies and seven individuals (employees and directors) for rigging bids in 14 public procurement processes for the construction and urban development of a mid-sized city. The investigation is ongoing.

Mexico: Corn Tortillas. On November 7, the COFECE announced it had issued a Statement of Probable Responsibility against several companies for engaging in alleged price fixing and price manipulation of the market for corn tortillas, and customer allocation. The notification of the statement marks the start of a trial-like process, which is conducted by COFECE's Technical Secretariat.

Mexico: Professional Sports. On November 7, the COFECE announced that it had opened an investigation into potential anticompetitive conduct in the market for professional soccer players.

ASIA

Russia: Construction. On July 13, the Federal Antimonopoly Service (FAS) held three companies and an individual entrepreneur liable for bid-rigging of a state tender for refurbishment of facilities and utility lines of the Infant Hematology, Oncology, and Immunology National Medical Research Center with a value totaling 13.2 million rubles. The agency has yet to impose fines on the cartel participants.

Kazakhstan. Coal Wholesale. On July 19, Antimonopoly Committee of East-Kazakhstan region completed an investigation of several entities and found there was a cartel agreement to boost their prices and divide the market. The case was transferred to the local administrative court for its consideration.

Russia: IT. On July 20, the FAS held four companies liable for bid rigging of 18 state tenders for the supply of software and provision of maintenance services to various state customers across the whole Russia and the exchange of commercially sensitive information for division of the customers. The agency has yet to impose fines on the companies.

Russia: Pharmaceuticals. On July 22, the FAS announced an investigation into two companies suspected of fixing prices during state tenders for supply of medical devices and consumables to local hospitals in Nizhny Novgorod from early 2016 through the end of 2017.

Singapore: Hotels. On August 2, the Competition and Consumer Commission of Singapore issued a proposed infringement decision alleging certain hotels to have exchanged commercially sensitive information in violation of Singaporean competition law.

Russia: Pharmaceutical. On August 27, the FAS held 13 entities liable for bid rigging at 29 state tenders for supply of medicines and medical devices to local hospitals in Republic of Khakassia in 2016. The agency has yet to impose fines on the cartel participants.

The case file has been sent to prosecutors to decide whether to initiate a criminal investigation.

Hong Kong: Housing. On September 6, the Competition Commission (CC) began proceedings in the Competition Tribunal against three construction and engineering companies providing house renovation services and two individuals, alleging they allocated customers and coordinated pricing in relation to the provision of renovation services. The CC has sought remedies including pecuniary penalties and injunction.

Russia: Construction. On September 21, the FAS announced an investigation into six companies suspected of having engaged in anticompetitive agreements to fix prices during state tenders for the construction and repair of public roads in the Karachai-Circassian Republic with a value totaling 3.9 billion rubles. The agency is to consider the case early next year.

Russia: Food and Beverage. On September 28, the FAS held three companies liable for price collusion of 50 state tenders for supply of food and beverage to local schools and nursery schools in Saint Petersburg from 2015 through 2017. The agency has yet to impose fines on the cartel participants.

Russia: Construction. On October 9, the FAS opened an investigation into three companies suspected of having engaged in an anticompetitive agreement and concerted actions in respect of a state tender for the repair of 22 kilometers of public road in the Omsk region.

Russia: Construction. On October 9, the FAS opened an investigation into three companies suspected of fixing prices in respect of a state tender for the reconstruction of public roads in Teyrizkiy district of the Omsk region. The companies admitted to the cartel agreement and voluntarily submitted documents evidencing the cartel to the agency before the first hearing of the case.

Russia: Construction. On October 10, the FAS held three companies liable for bid rigging of 13 state tenders for the repair of public roads in Samara and Ulyanovsk regions with a value totaling over 4 billion rubles. The case file has been sent to public prosecutors to decide on whether to initiate a criminal investigation into the cartel participants.

Russia: Pharmaceuticals. On October 16, the FAS opened an investigation into five wholesalers suspected of concerted practices in relation to state tenders for the supply of various medicines, medical devices, and consumables to state hospitals located in eight different regions in 2015-2016. The agency is to consider the case in January 2019.

India: On November 6, 2018, the Competition Commission of India found that four flashlight manufacturers and related trade associations did not engage in an unlawful cartel despite the fact that the involved parties admitted to the exchanging production and sales data on a monthly basis through one of the trade associations.

Russia: Food and Beverage. On November 20, the FAS held four companies liable for price collusion of 22 state tenders for the supply of food and beverages to local schools in the Voronezh region with a value totaling 280 million rubles in 2018. The companies applied for leniency before the first hearing of the case.

Turkey: Medium-Density Fiberboard and Flakeboard. On November 29, Turkey's Competition Authority opened an investigation into 12 firms operating in the medium-density fiberboard and flakeboard sectors for suspected price fixing.

Russia: Petroleum. On December 4, the FAS held two companies liable for rigging two state tenders for a supply of diesel fuel with a value totaling 709 million rubles (\$10.6 million) to a local state customer in Kamchatka. The agency has yet to impose fines on the companies.

Russia. Urban Amenities. On December 5, The Moscow Department of the FAS reported the completion of its investigation of a potential cartel of the public tender for procurement of services for disposal of garbage. The estimated damage caused by cartel amounts to 206 million rubles. The FAS is preparing to commence administrative proceedings based on the results of the investigation.

Turkey: Tourism. On December 15, the Competition Authority launched an investigation into 30 hot air balloon operators and tourist agencies working in Cappadocia following claims that operators in the region were excluding competitors by not offering services to clients of hotels and agencies that did not rent flights from them or were not part of the same hotel groups.

Russia: Construction. On December 18, the FAS held two companies liable for maintenance of prices during 14 state tenders for construction and repair of public roads in the Voronezh region with a value totaling 87 million rubles (\$1.3 million). The agency has yet to impose fines on the cartel participants.

Russia: Aviation. On December 28, the FAS announced an investigation into the largest Russian air carrier and another company in the field of warehousing and storage of various types of cargo at Sheremetyevo airport. The companies are suspected of concerted practices that could lead to foreclosure of other companies on the market.

EUROPE

Romania: Immunoglobulin. On July 2, the Competition Council (CC) launched an investigation into whether immunoglobulin manufacturers participated in a cartel on the national market. The CC suspects that companies belonging to the Plasma Protein Therapeutics Association agreed to limit and cut the supply of normal human immunoglobulin on the Romanian market in order to eliminate the tax

clawback and to obtain more favorable fiscal terms from the government. Officials carried out dawn raids at the premises of seven undertakings.

Turkey: Customs Brokers Services. On July 6, the Turkish Competition Authority (TCA) decided to open an investigation into whether a customs brokers association entered into an anticompetitive agreement.

Norway: Grocery. On July 16, the Ministry of Trade, Industry, and Fisheries asked the Norwegian Competition Authority (NCA) to contribute to the government's work in increasing competition in the grocery sector. The NCA will focus its contribution on an analysis of the conditions for competition in the grocery market, unfair trading practices in the food supply chain, price discrimination by domination suppliers, and conditions related to distribution.

France: General Merchandise. On July 16, the Competition Authority announced its decision to reinforce its investigations into purchasing agreements in food retail sector, and opened an inquiry in order to assess the competitive impact of these purchasing partnerships on the concerned markets, both upstream for the suppliers, and downstream for the consumers.

France: Professional Association. On July 16, the Competition Authority decided to investigate the Toulouse Bar Association in relation to an alleged concerted practice involving several bar associations and the foreclosure caused as a result of the publication of negative opinions by the National Bar Council.

Turkey: Traffic Signals. On July 18, the TCA launched a probe into eight companies operating in the traffic signal sector for potential collusion. The TCA will investigate allegations that the firms coordinated bids in tenders.

Spain: Meteorological Services. On July 23, the National Commission of Markets and Competition (CNMC) initiated an enforcement action against

three companies for possible anticompetitive conduct, which would consist of agreements or concerted practices between the competing companies for pricing and market sharing in relation to tenders for the installation, maintenance, and supply services of meteorological installations and meteorological radars in Spain.

European Union: Financial Services. On July 26, the European Commission issued an international bank with a Statement of Objections alleging that it had engaged in anticompetitive conduct in relation to its foreign exchange business. A number of other banks are also under investigation and may be in settlement discussions with the European Commission.

Romania: Food. On August 6, the CC opened an investigation into three suppliers of food for school lunches over possible collusion in tenders. The CC is scrutinizing activity by three undertakings in tenders issued by Botosani County Council. The tenders between 2013 and 2018 were to supply dairy products and apples to schools, the item said, adding that they were part of a national program to encourage schoolchildren to eat healthy food.

Romania: Maintenance. On August 7, the CC opened an investigation into five road maintenance companies suspected of colluding in a public procurement tender. Officials believe the five road maintenance companies may have agreed to divide work on five road segments in Pitesti city among themselves.

Portugal: Insurance. On August 21, the Competition Authority (CA) issued a Statement of Objections to five insurers for a price fixing and market sharing cartel. Fourteen members of the board and directors are also accused of being allegedly involved in the infringement. The agreement lasted approximately seven years and had an impact in the cost of insurance acquired by large companies in the sub-sectors of occupational accidents, health, and motor vehicles. Companies involved have a combined market share of about 50% in each sub-sector. The CA opened

the investigation in May 2017, followed in June and July by dawn raids of the companies' premises near Lisbon. The CA's investigation was initiated following leniency applications by companies involved in the cartel.

Slovenia: Driving Schools. On August 30, the Competition Protection Office opened an investigation against six driving schools for suspected price fixing of driving classes in the IC Krško area.

Spain: Railway Services. On September 6, the CNMC announced it has initiated sanctions proceedings against eight companies and four managers in the provision of security and communications services in the railway network. Anticompetitive practices have been detected in the provision of the supply, installation, commissioning, and maintenance services of the safety, traffic control and management, communications, and railway protection systems for the conventional rail network and high-speed railway in Spain. In some of the inspections carried out from January 18-20, 2017, in relation to electrification and rail electro mechanics services, certain information was collected regarding electromechanical equipment on railway lines, including signaling, safety, and rail communications systems, both for the high-speed network and for the conventional rail network. Subsequently, new inspections were carried out. All these inspections relate to various agreements for handling and the distribution of tenders issued by the Railway Infrastructure Administrator for the supply, installation, repair, maintenance, and improvement of the systems of signaling systems, safety, and rail communications.

Portugal: Railway Maintenance. On September 13, the CA issued a Statement of Objections to five railway maintenance companies for taking part in a cartel in public tenders to provide maintenance services for equipment of the national railway network, such as gates and traffic lights, in 2014 and 2015. Six members of the board and directors are

also accused of being involved in the infringements. The investigation undertaken by the CA revealed that between 2014 and 2016, the undertakings manipulated their tender proposals to artificially determine the winner of each tender and the level of the prices of the services involved. The CA's probe was initiated following a complaint submitted during the Fighting Bid-Rigging Campaign launched by the CA in June 2016 to address public procurement entities. The CA opened the investigation in October 2016, and was followed by dawn raids in company premises near Lisbon and Porto.

Turkey: Fuel Distribution Services. On September 26, the TCA launched an investigation into collusion claims between four fuel distributors.

Spain: Construction and Repair Work. On October 11, the CNMC began infringement proceedings for practices involving agreements and exchanges of information between competitors for the purpose and/or with the effect of restricting competition in relation to procurement processes organized by different public sector bodies in Spain for the construction and renovation of infrastructure and buildings. The competitors allegedly decided on a weekly basis whether to contract jointly for the different aspects included in the technical proposals for procurement processes. These proceedings originate from documents found during the investigation stage of another set of unrelated proceedings.

Netherlands: Roof Repair Services. On October 15, the Authority for Consumers & Markets opened an investigation into potential bid rigging in the market for roof renovation and maintenance services.

Germany: Furniture. On October 16, the Federal Cartel Office (FCO) announced that it had initiated administrative proceedings against Germany's largest furniture purchasing organization. The probe follows a public announcement by another retailer plans to join the organization in 2019.

Germany: Soccer Broadcasting Rights. On October 16, the FCO announced that it will examine the cooperation between two pay TV broadcasters with respect to airing soccer UEFA Champions League. In 2017, the broadcasting rights for all Champions League matches up to 2021 were purchased by one broadcaster. Subsequently, the broadcaster entered into a cooperation with an online streaming service to divide the rights between them.

Spain: Employment Market. On October 17, the CNMC initiated enforcement proceedings against parties to anticompetitive restrictions in an employment stability agreement for mooring and launching at the Bay of Gibraltar Harbour. In particular, some of the clauses in the agreement affect the freedom and hiring cost for new operators and limit access to mooring and launching at Algeciras Harbour. Following information received from the Puertos del Estado association, the CNMC began a confidential preliminary investigation to determine whether the initiation of enforcement proceedings was justified. As a result, the CNMC has found evidence of anticompetitive practices.

Romania: Cement. On October 24, the CC announced it is investigating whether since 2010 certain cement firms divided the market by reducing or controlling their cement outputs, coordinating equipment updates, and agreeing on investments and pricing policies.

Turkey: Container Shipping. On November 1, the TCA opened an investigation into a container transporter association and 10 of its members for suspected price fixing.

Bulgaria: Petrol and Diesel Fuel. On November 5, the Commission on Protection of Competition announced it had launched a fuel sector inquiry, following suspected coordinated price increases in the national market.

Switzerland: Mobile Payment. On November 13, Switzerland's Competition Commission announced

that it has initiated an investigation into several Swiss financial institutions. The financial institutions are suspected of having jointly agreed not to enable their credit cards for use with mobile payment solutions from third parties in order to protect their proprietary payment solution. Against this background, the commission also carried out on-site inspections at the premises of the accused financial institutions.

United Kingdom: Financial Services. On November 13, the CMA initiated an investigation into a suspected cartel involving bond traders at a group of international banks. The CMA is investigating suspected breaches of competition law under Chapter I of the Competition Act of 1998. The details of the investigation are unclear at this stage, including which entities are being investigated and the specific nature of the conduct under investigation. A spokesperson for the CMA commented that "the CMA has not reached a view as to whether there is sufficient evidence of an infringement of competition law for it to issue a statement of objections to any of the parties under investigation".

Romania: Work Safety Equipment. On December 12, Romania's Competition Council (CC) announced that it had opened a probe into four manufacturers of work safety equipment. The CC suspects the firms may have colluded to fix prices and divide the market and clients among themselves on Romania's personal protective equipment market since 2016.

European Union: Financial Services. On December 20, the European Commission informed four banks of its preliminary view that they have breached EU antitrust rules by colluding to distort competition in secondary market trading in the European Economic Area of supra-sovereign, sovereign, and agency (SSA) bonds denominated in US dollars. The commission has concerns that at different periods between 2009 and 2015 the four banks exchanged commercially sensitive information and coordinated on prices concerning the SSA bonds. The contacts allegedly took place mainly through online chatrooms.



OCEANIA

Australia: Construction Services. On August 16, a local union and a union employee were charged with attempting to induce steel fixing services and scaffolding services suppliers to enter into a cartel in connection with services provided to builders in 2012 and 2013. The case is in progress.

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Packaged Seafood

The US Department of Justice (DOJ) continues its ongoing investigation and prosecution concerning packaged seafood producers for conspiring fix prices in the United States.

On May 2018, the DOJ obtained an indictment charging the president and chief executive officer of a US company that produces packaged seafood for participating in a conspiracy to fix prices from November 2010 until December 2013. The case is due to be tried in the Northern District of California in San Francisco from November 5 to 22, 2019. The executive is the fourth individual to be prosecuted in the investigation.

The DOJ had obtained earlier convictions in the investigation including:

- May 2017: a US company that produces packaged seafood pleaded guilty for its role in a conspiracy to fix the prices of shelf-stable tuna, such as canned and pouch tuna, sold in the United States as early as the first quarter of 2011 through at least as late as the fourth quarter of 2013. Under the plea agreement, the company agreed to pay a \$25 million criminal fine, which will increase to a maximum criminal fine of \$81.5 million, payable by a related entity, in the event of a sale of the company subject to certain terms and conditions. This is the same US company for which the president and CEO was indicted in May 2018.
- June 2017 and December 2016: three executives—including two senior vice presidents of sales and a senior vice president of trade marketing—had pleaded guilty for conspiring to fix prices.

- **United States.** On October 18, a purveyor of packaged seafood agreed to plead guilty for its role in a conspiracy to fix prices of packaged seafood sold in the United States. According to a one-count felony charge filed in the US District Court for the Northern District of California in San Francisco, the company and its co-conspirators agreed to fix the prices of canned tuna from as early as November 2011, through at least as late as December 2013. In addition to pleading guilty, the company agreed to cooperate in the investigation. The company faces a criminal fine of up to \$100 million. The exact value of fine will be determined at a sentencing hearing and the plea agreement is subject to court approval.

For more information about how the criminal conduct was discovered during the course of a merger review, see [Merger Review in Seafood Industry Highlights Importance of Regular Antitrust Counseling and Compliance Training.](#)

Electrolytic Capacitors

A number of enforcers continue their investigation and fines involving ongoing capacitor investigations. Recent cases have resulting in significant fines.

- **European Commission.** On March 21, the European Commission fined eight producers of electrolytic capacitors **254 million euros (\$311.6 million)** for participating in a cartel. The commission determined that from 1998 to 2012 nine Japanese companies participated in multilateral meetings and engaged in bilateral or trilateral contacts to exchange commercially sensitive information.
- **United States.** On October 3, a Japanese company was sentenced to pay a **\$60 million** criminal fine for its role in a conspiracy to fix prices for electrolytic capacitors sold to customers in the United States and elsewhere. The \$60 million fine is the largest fine imposed in the Department of Justice's investigation into collusion in the capacitors industry. In addition to the criminal fine, the company was sentenced to a five-year term of probation during which it must implement an effective compliance program and submit annual written reports on its compliance efforts.
- **Singapore:** On January 5, the Competition and Consumer Commission of Singapore (CCCS) imposed a fine of **\$19.6 million Singapore (\$14.7 million)** on five capacitor manufacturers for fixing prices and exchanging confidential sales, distribution, and pricing information for aluminum electrolytic capacitors. The fine represents the highest imposed by the CCCS thus far.
- **South Korea: Aluminum and Tantalum Capacitors,** On September 14, the Korea Fair Trade Commission (KFTC) announced its finding that 9 Japanese condenser companies had colluded to fix aluminum and tantalum capacitor prices from July 2000 to January 2014. The KFTC impose a total fine of **36.1 billion won (\$23.4 million)** and referred four companies and one executive for potential criminal prosecution.
- **United States: Electrolytic Capacitors.** On October 10, a citizen and resident of Japan, and a former head of capacitor sales for a major manufacturer of electrolytic capacitors, agreed to voluntarily travel to the United States, enter a guilty plea, and be sentenced to serve a prison term of a 12 months and one day for a cartel conspiracy in respect of electrolytic capacitors.

Financial Services

Government prosecutions of the manipulation of various financial benchmarks—including LIBOR and various foreign exchange markets—continued in 2018 by international enforcers as well as by the US Department of Justice and state enforcers. Private litigation remains active. Recent cases are highlighted below.

LONDON INTERBANK OFFERED RATES (LIBOR)

- In January, the United Kingdom’s Financial Conduct Authority fined a former trader **250,000 pounds (\$340,000)** and banned him from “performing any function in relation to any regulated financial activity.” These penalties were imposed following a finding that he engaged in misconduct that included efforts to manipulate the Japanese yen LIBOR.
- In March, a federal judge in New York issued a mixed class certification ruling in the long-running US dollar LIBOR litigation denying entirely class certification for exchange-based and lender plaintiffs while denying in part class certification for over-the-counter (OTC) plaintiffs. Class certification was granted only with respect to the OTC plaintiffs’ claims against two financial institutions.
- In March, the FCA fined a former trader approximately **180,000 pounds (\$245,000)** and banned him from “performing any function in relation to any regulated financial activity” for allegedly engaging in misconduct that threatened the integrity of the Swiss franc and Japanese yen LIBOR benchmarks.
- In March, the UK Court of Appeal dismissed an appeal by former Barclays LIBOR trader Alex Pabon, who was one of three men convicted for conspiracy to defraud for LIBOR-rigging. On appeal, Mr. Pabon argued that an expert witness called by the Serious Fraud Office gave testimony outside of his expertise as demonstrated by texts and emails the expert sent while giving evidence. The court criticized the witness but upheld Mr. Pabon’s conviction. The ruling is significant as the expert was also a witness in other LIBOR trials
- In April, a federal judge in New York preliminarily approved settlements by two financial institutions (for **\$100 million** and **\$240 million**) in litigation accusing several banks of manipulating the LIBOR benchmark. These settlements bring the total settlement amount in the case to \$590 million.
- In June, a financial institution agreed to pay 41 states and the District of Columbia **\$100 million** to resolve allegations that the bank manipulated the LIBOR benchmark by making fraudulent submissions regarding borrowing costs in order to protect its reputation. Five million dollars will cover investigation costs and other expenses; the remaining \$95 million will be available for distribution to eligible governments and non-profits with “Libor-linked Citibank investment contracts.” <https://www.law360.com/competition/articles/1054239>
- In October, two traders were convicted by a New York jury for conspiracy and fraud for manipulating the LIBOR benchmark through exchanging information with competitors via emails and phone calls.
- In December, an international bank agreed to pay 40 states **\$68 million** to resolve allegations that it manipulated the LIBOR benchmark by making fraudulent submissions regarding borrowing costs between 2007 and 2010.

FOREIGN CURRENCY EXCHANGE (FX) MARKET

- In January, an international financial services company pleaded guilty to participating in a price-fixing conspiracy in the FX market between September 2011 and July 2013. In June, the company was sentenced to pay a criminal fine of **\$90 million**.
- In May, a financial services company was fined a total of **\$109.5 million** for ineffective oversight of its FX business. Though the bank had policies in place to regulate its FX business, inadequate enforcement allowed traders to share confidential customer information with competitors and use that information to adjust ask prices and generate higher profits. The total settlement amount was evenly distributed between the New York Department of Financial Services and the Federal Reserve Board, which each receiving \$54.8 million.
- In June, the New York State Department of Financial Services fined a financial services company **\$205 million** for improper conduct that occurred from 2007 to 2013 in the bank's FX business. This conduct included alleged coordination among banks to influence market prices by disclosing confidential customer information with traders from other banks in online chatrooms.
- In July, the European Commission issued an international bank with a Statement of Objections alleging it had engaged in anticompetitive conduct in relation to its foreign exchange business. A number of other banks are also under investigation and may be in settlement discussions with the commission.
- In October, three UK citizens, formerly London-based traders at international banks, were acquitted after a two-week trial by a New York jury on charges that they conspired to fix prices in the FX market. The group, known as "The Cartel," were alleged to have rigged the market from 2007 to 2013 by coordinating trades and manipulating prices on the spot exchange rate for euros and US dollars. The jury foreman noted after the verdict that "[i]t was a microscope that was placed on something that probably was happening all the time. At the end, we found there was not enough evidence."
- In December, the European Commission informed four banks of its preliminary view that they had breached European Union antitrust rules by colluding, in periods from 2009 to 2015, to distort competition in secondary market trading in the European Economic Area of supra-sovereign, sovereign, and agency (SSA) bonds denominated in US dollars.
- In December, a damages action was brought before the High Court in London by 350 asset management, hedge fund, and pension fund claimants against six banks for alleged manipulation of the FX markets between 2003 and 2013.

US DOLLAR INTERNATIONAL SWAPS AND DERIVATIVES ASSOCIATION FIX (USD ISDAFIX)

- In February, the US Commodity Futures Trading Commission issued an order settling charges that a German financial services company attempted to manipulate the USD ISDAFIX benchmark from January 2007 to May 2012 through false rate submissions and manipulative trading. The German bank agreed to pay a **\$70 million** penalty and to take steps to strengthen its internal controls to settle the matter.
- In May, a federal judge in New York granted final approval of a **\$408.5 settlement** with 10 banks accused of engaging in misconduct intended to manipulate the ISDAFIX benchmark between 2006 and 2014. In June, the five remaining defendants agreed to settle the class action for a combined **\$96 million**.
- In June, a financial services company agreed to pay the US Commodity Futures Trading Commission **\$65 million** to settle allegations that it engaged in conduct intended to manipulate the ISDAFIX benchmark between 2007 and 2012. The alleged conduct included trading interest rate swaps during the ISDAFIX polling window and making artificial rate submissions intended to manipulate the benchmark.
- In August, a financial services company agreed to pay the US Commodity Futures Trading Commission **\$90 million** to settle allegations that it had engaged in conduct intended to manipulate the ISDAFIX benchmark between 2007 and 2012. The alleged conduct included conspiring to influence the company's own derivatives positions in cash-settled options on interest rate swaps and certain exotic structured products.
- In September, a financial services company agreed to pay the US Commodity Futures Trading Commission **\$50 million** to settle allegations that it had engaged in conduct intended to manipulate the ISDAFIX benchmark between 2007 and 2012. The alleged conduct included assisting traders at its bank clients to manipulate the USD ISDAFIX to benefit the derivatives positions of their bank clients.
- In September, a financial services company agreed to pay the US Commodity Futures Trading Commission **\$30 million** to settle allegations that it had engaged in conduct intended to manipulate the ISDAFIX benchmark between 2007 and 2012. The alleged conduct included trading interest rate swaps during the ISDAFIX polling window and making artificial rate submissions intended to manipulate the benchmark.

EURO INTERBANK OFFERED RATE (EURIBOR)

- In March, a former trader pleaded guilty to conspiracy to defraud weeks before his trial in London on Euribor benchmark-rigging offenses. Before pleading guilty, he was in the process of challenging a UK Financial Conduct Authority decision to fine him as much as **10 million pounds (\$14 million)** for Euribor manipulation, which would be a record for the regulator. The action was put on hold pending the outcome of the criminal case.
- In May, a US federal judge granted final approval to investor settlements with three financial services companies totaling \$309 million (for **\$170 million, \$94 million, and \$45 million**). The banks settled with Euribor investors who accused them of conspiring to rig the interest rate benchmark. **\$68.7 million** in fees and **\$1.6 million** in class counsel expenses were also approved by the federal judge.
- In July, five traders and former traders at two international banks went on trial at Southwark Crown Court in London, facing charges of conspiracy to defraud. Each defendant was accused of collaborating to make false Euribor submissions in order to artificially influence the benchmark. The charges were brought against the five traders, and a sixth who pleaded guilty prior to trial, following an investigation into interbank lending and rate manipulation. One former trader was convicted of one count of conspiracy to defraud in connection with manipulating the process used to set Euribor between January 2005 and December 2009. He remained in Paris and did not appear at the trial and was not legally represented. He was sentenced to eight years imprisonment and in December was ordered to pay a confiscation order of £77,000 (\$97,000) within three months or face an additional three years on his sentence. The jury was unable to reach a verdict on three former traders and one trader was found not guilty. The sixth former trader, who pleaded guilty to conspiracy to defraud just before the trial began, was jailed in June for five years and four months and ordered to pay £2.5 million (\$3.2 million) in penalties and nearly £800,000 (\$1 million) in costs.

SINGAPORE INTERBANK OFFERED RATE (SIBOR) / SWAP OFFER RATE (SOR)

- In April, a federal judge in New York granted a motion to dismiss a suit brought against several banks alleging SIBOR and SOR manipulation from 2007 to 2011. The judge dismissed the suit for failure to adequately plead the conspiracy claim, and granted plaintiffs leave to amend the complaint.
- In October, a federal judge in New York allowed allegations against the so-called panel banks, which help calculate SIBOR and SOR each day by submitting the interest rates at which they would borrow US and Singapore dollars, but dismissed allegations against the other non-panel banks.

BANK BILL SWAP RATE (BBSW)

- In January, the Australian Securities and Investments Commission (ASIC) filed legal proceedings in the Federal Court against a bank alleging BBSW manipulation by CBA traders between January and October 2012. In May, the bank admitted that it attempted to engage in unconscionable conduct and agreed to pay \$25 million in penalties and costs as part of the settlement of a case alleging it manipulated the bank bill swap rate in 2012.

Generic Drugs and Pharmaceuticals

- **US Federal Investigations:** A federal grand jury believed to be located in the Eastern District of Pennsylvania, as well as various state attorneys general, have issued subpoenas to a growing list of companies requesting pricing and any other information regarding communications among competitors about various generic drugs. So far, more than a dozen drug companies have disclosed receiving subpoenas involving more than a dozen medications as part of the ongoing investigation into pricing. In mid and late 2016, putative class actions were filed by private litigants against certain generic manufacturers. Following the announcement of criminal charges and the filing of the state attorneys general civil complaint, dozens of putative class actions were filed by private litigants against a host of generic manufacturers and distributors with allegations similar to those made by the attorneys general.
 - **Prior Charges:** The US Department of Justice (DOJ) recently stated in prepared remarks that its investigation into the industry is ongoing. To date, the DOJ has not announced any specific developments in its investigation since criminally charging two executives of a pharmaceutical company in December 2016 for fixing prices and allocating customers for the medications doxycycline hyclate and glyburide. Those individuals pleaded guilty to the charges and sentencing is expected later this year.
 - **Investigative Challenges:** According to media reports, challenges faced by prosecutors have delayed their progress. On December 10, the Connecticut attorney general stated that the investigation had expanded to include additional companies and drugs.
- **US State Attorney General and Private Civil Litigation Activity:** On December 15, 2016, the day following the DOJ's unsealing of criminal charges against two pharmaceutical executives, 20 state attorneys general filed a civil complaint in the District of Connecticut against numerous generic pharmaceutical manufacturers alleging the companies conspired to fix prices, rig bids, and allocate customers for doxycycline hyclate and glyburide. Shortly thereafter, putative class actions were filed against dozens of generic manufacturers and distributors.
 - **State Enforcement Litigation:** State attorneys general recently amended their civil complaint to add new manufacturers as defendants, two individual executives as named defendants, and more medications. The amended complaint alleges an overarching conspiracy involving 15 drug products. In a news release accompanying the filing of the amended civil complaint, the state attorneys general noted their investigation is ongoing and "continues to uncover additional evidence, and we anticipate bringing more claims involving additional companies and drugs at the appropriate time."



- **Pending Class Actions:** In August 2017, the private plaintiff class actions were consolidated for discovery purposes in the Eastern District of Pennsylvania. Shortly thereafter, the state attorneys general's civil actions were consolidated for discovery purposes in the same court. Limited discovery in these cases was permitted to begin in early 2018, while certain types of discovery that could impact the DOJ's ongoing investigation are stayed at this time. There are now more than 15 medications named across the various complaints filed to date. On October 17, a federal court in Pennsylvania allowed the first round of multidistrict litigation to proceed in which potential classes of direct purchasers, end payors, and indirect resellers are claiming against the suppliers of clobetasol, a steroid cream used to treat skin conditions; blood pressure medication digoxin; seizure medication divalproex ER; antibiotic doxycycline; antifungal medication econazole; and cholesterol medication pravastatin.

Automotive Parts

- The US Department of Justice's auto parts investigation has largely concluded. However, some remaining new cases continue to be prosecuted.
- Outside the United States—most notably in the European Union, Australia, and Brazil—investigations and prosecutions continued in significant numbers and look set to continue for some time.

European Union: On February 21, the European Commission resolved cases against six companies involving automotive parts:

- **Spark Plugs.** Three suppliers of spark plugs to car manufacturers in the European Economic Area were fined a total of **76 million euros (\$93.6 million)** for a cartel from 2000 until 2011. According to investigators, the companies exchanged commercially sensitive information and in some instances agreed on the prices to be quoted to certain customers, the share of supplies to specific customers, and the respect of historical supply rights. The investigation began following an immunity application. The applicant received full immunity for revealing the existence of the cartel, thereby avoiding a fine of about 1 million euros.
- **Braking Systems.** Three suppliers were found to have participated in two braking system cartels involving the supply of hydraulic braking systems (HBS) from February 2007 to March 2011 and electronic braking systems (EBS) from September 2010 to July 2011. The commission imposed a total fine of **75 million euros (\$92.4 million)**. In both cartels, the coordination took place at bilateral meetings and through phone conversations or email exchanges. The investigation began following an immunity application. In the HBS cartel, an immunity applicant received full immunity for revealing the cartel, thereby avoiding a fine of about 54 million euros. In the EBS cartel, another applicant received immunity for revealing the cartel, avoiding a fine of 22 million euros.

United States: Automotive Steel Tubes. On May 31, a Japanese automotive parts manufacturer entered into a plea agreement and was sentenced to pay a **\$12 million** criminal fine for conspiring to fix prices, rig bids, and allocate customers for automotive steel tubes incorporated into vehicles sold in the United States and elsewhere. The plea agreement resolved an indictment filed in June 2016 in the Southern District of Ohio.

Australia: Wire Harnesses. On May 16, the Full Federal Court of Australia issued its largest fine to date under the Competition and Consumer Act of 2010 by fining an auto parts manufacturer **\$46 million Australia (\$34.6 million)** for engaging in anticompetitive cartel conduct in the provision of wire harnesses for the Toyota Camry. The fine, the largest ever ordered under the act, was based on conduct from 2003 until 2008.

Brazil: Automotive Spare Parts. On May 9, the Tribunal of the Administrative Council for Economic Defense announced settlement agreements in two cartel investigations related to auto spare parts including valves for engines, valve guides, and valve seats for one company and wire harness and electric and electronic components (including electronic control units, junction boxes, automotive dashboards and displays, systems with ABS sensor cable, high voltage cables, components for electric and hybrid vehicles, antenna and connectors) for a second company. The fines totaled **2.8 million reais (\$778,000)**.



South Africa: Airbags and Seatbelts. On July 3, the Competition Commission of South Africa announced it was bringing 21 cartel charges against a global airbag and seatbelt manufacturer for collusive tendering, price fixing, and market division. The Competition Commission imposed a fine of **6.2 million rand (\$450,000)**.

Canada: Plastic Interior Auto Parts. On October 19, the Ontario Superior Court of Justice imposed a **\$1.3 million Canada (\$992,000)** fine on a Japan-based auto parts manufacturer in connection with its guilty plea to rig bids with other auto parts manufacturers for the supply of plastic interior car parts to Toyota from 2008-2014.

Real Estate

The US Department of Justice continues to be active in its ongoing investigation in multiple states concerning bid-rigging at public real estate foreclosure auctions. More than 100 individuals have been convicted by plea agreement or following a trial in Alabama, Northern California, Georgia, Mississippi, and North Carolina. These cases also have resulted in a number of trial convictions which draw upon more enforcement resources.

In 2018, the DOJ prosecuted the following cases:

- **California:** On March 21, a real estate investor was sentenced to **30 months in prison** and ordered to pay a **\$1.3 million criminal fine** following his trial conviction in June 2017 for conspiring to rig bids at foreclosure auctions in northern California.
- **Northern California:** On May 9, five real estate investors were sentenced to prison terms of **15 months, eight months, six months, four years of probation** (including five months in a halfway house), **three years of probation** (including 10 months in a half-way house) along with total fines and restitution total **\$6.8 million** for conspiring to rig bids at auctions for selected properties in northern California.
- **Mississippi:** On June 18, the DOJ announced the sixth real estate investor to be convicted in Mississippi for bid-rigging at public real estate foreclosure auctions in Mississippi.
- **Florida:** On June 20, the DOJ announced the first conviction for a conspiracy to rig bids at online public foreclosure auctions in Florida.
- **Mississippi:** On July 19, a Mississippi real estate investor pleaded guilty in connection with the ongoing investigation into bid rigging at public real estate foreclosure auctions in Mississippi.
- **Florida.** On August 9, a real estate investor pleaded guilty in West Palm Beach in connection with an ongoing investigation into bid rigging at online public foreclosure auctions in Florida.
- **Florida.** On November 9, a second real estate investor pleaded guilty in West Palm Beach in connection with an ongoing investigation into bid rigging at online public foreclosure auctions in Florida.
- **Mississippi.** On November 27, two Mississippi real estate investors pleaded guilty for their roles in a conspiracy to rig bids at public real estate foreclosure auctions in Mississippi.

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Leniency Programs and Policies

Leniency programs remain a key part of the cartel enforcement framework, and many countries have adopted leniency programs modeled on the successful programs in the United States and European Commission. (For a list of countries with Leniency Programs, see page 22.) In many jurisdictions, leniency programs generate many or most of the cartel investigations for enforcement agencies. Recent debate has emerged concerning areas to improve the leniency process.

UNITED STATES

Revised policy on corporate prosecutions. On November 29, Deputy Attorney General Rod Rosenstein announced a revision of the US Department of Justice's (DOJ) policy on giving credit for cooperation in corporate prosecutions. Previously, in a 2015 memo entitled Individual Accountability for Corporate Wrongdoing (the so-called Yates Memorandum), the DOJ had signaled that it was implementing an "all or nothing" approach pursuant to which corporate defendants could only receive cooperation credit if they provided information on all employees who were involved in criminal conduct.

However, the DOJ has now recognized that the previous policy was not practical in the context of investigations spanning long periods and thus it was not being strictly enforced. Thus in order for the policy to work in the "real world of limited investigative resources," it is being softened to allow corporate defendants to identify only those individuals who were substantially involved in or responsible for wrongdoing.

The DOJ is following a similar approach in both civil and criminal cases but in civil cases explicitly requires corporate defendants to identify misconduct by members of senior management or the board of directors and to demonstrate good faith in its representations.

The impact on corporate defendants remains to be seen in terms of practical enforcement but it should allow corporate defendants and their advisers to negotiate with the DOJ to conduct more focused investigations than at present. There will always however be some element of judgment and risk of not gaining full cooperation credit in so doing. It is furthermore unclear to what extent the revised policy will affect individuals as Mr. Rosenstein specifically noted that pursuing individuals will remain a top priority for DOJ. However, it may be that there will be a secondary effect on individuals from more limited reporting by corporate defendants.

The above changes are being made to the Justice Manual (formerly the US Attorneys' Manual).

For further information, see:

<https://www.justice.gov/jm/jm-1-12000-coordination-parallel-criminal-civil-regulatory-and-administrative-proceedings#1-12.000>

<https://www.justice.gov/jm/jm-4-3000-compromising-and-closing#4-3.100>

<https://www.justice.gov/jm/jm-9-28000-principles-federal-prosecution-business-organizations#9-28.210>

<https://www.justice.gov/jm/jm-9-28000-principles-federal-prosecution-business-organizations#9-28.300>

<https://www.justice.gov/jm/jm-9-28000-principles-federal-prosecution-business-organizations#9-28.700>

International Cooperation. In 2018, the DOJ celebrated the 25th anniversary of the modern version of its Corporate Leniency Program. The DOJ first established its leniency program in 1978, however, few leniency applications were submitted under the original program.

In 1993, the DOJ substantially modified its Corporate Leniency Program, and in 1994, it established the Leniency Program for Individuals. Since the modern program was adopted, senior DOJ officials have noted consistently over the years that most DOJ investigations have begun under the program.

Notwithstanding the many cases that have arisen under the program, some recent questions have been raised concerning the effectiveness of, and costs associated with, the program in the United States and other jurisdictions. Some have asked whether the costs associated with seeking leniency have become too high for some cases based on the need to (1) seek leniency in multiple jurisdictions with different demands and requirements; and (2) face possible damages litigation in various jurisdictions throughout the world. In the United States, civil cooperation is governed by the Antitrust Criminal Penalty Enhancement and Reform Act of 2004 (ACPERA). Under ACPERA, an applicant that receives leniency in a criminal case may limit its civil liability to single damages without joint and several liability if it “has provided satisfactory cooperation to” the civil plaintiffs.

In a June 5 speech at the Organisation for Economic Co-operation and Development (OECD) in Paris, Acting Deputy Assistant Attorney General Richard Powers noted that enforcers can take concrete steps to cooperate and coordinate for a more efficient leniency process. The coordination steps can include efforts to:

- 1) try to coordinate timelines and deadlines to allow the applicant to meet them in multiple jurisdictions;
- 2) tailor our document demands to get the necessary evidence from the leniency applicant without unnecessary burden; and
- 3) where possible, coordinate the timing and locations of interviews to alleviate burdens on applicants and employees.

Mr. Powers remained open to “engaging with foreign enforcers, and also the defense bar, to examine possible ways to reduce unnecessary burdens on leniency applicants.” The operation, incentives, costs, and benefits for leniency remains an important policy issue in the United States and other jurisdictions.

However, there has been some skepticism in response to the US approach of creating a new, separate international institutional framework—the Multilateral Framework for Procedures in Competition law (MFP). In particular, the European Commission and Germany’s Bundeskartellamt have indicated that the initiative should be folded into the existing institutional framework of the International Competition Network (ICN) or the OECD to avoid duplication. For example, Commissioner Vestager remarked in a September 25 speech that “whatever we do in future to improve the rules and procedures that apply around the world, we need to do it through organizations like the OECD or the ICN”. It remains to be seen whether the United States will seek to proceed with a “coalition of the willing” to create a separate MFP or whether this initiative will be folded into the existing activities of the ICN or OECD.

PHILIPPINES

On November 11, the Philippine Competition Commission (PCC) released draft guidelines for its proposed leniency program. According to the draft, the first applicant will be entitled to immunity from suit (but only if the PCC has not received information about the activity from “any other source” and the entity is not the ringleader of the activity), while the second applicant will be entitled to a full reduction of fines. Commentators have noted that the limitation of leniency to only the first two applicants (which the PCC states is due to limitations provided under Philippine Competition Act) may create potential issues for cross-border cases, such as cases involving other Association of Southeast Asian Nations member states whose leniency regimes are open to a larger number of applicants.

US: Whistleblower Protection Legislation: Criminal Antitrust Anti-Retaliation Act

We continue to monitor the legislation passed by the US Senate in November 2017 that would establish whistleblower protection for cartel cases. The legislation, titled the Criminal Antitrust Anti-Retaliation Act of 2017, provides a civil remedy to individuals who are fired or otherwise discriminated against for reporting potential criminal antitrust violations. The legislation still must be adopted by the House of Representatives and signed by the president.

Austria: New Secure and Anonymous Austria Whistleblowing-System

On February 8, Austria’s competition authority initiated a new whistleblowing system to protect informants. Information can be securely sent to the agency and the individuals “remain completely anonymous.” Under this program, the “information can neither be traced back to [the agency] nor by other third parties. This ensures that you can remain completely anonymous and your documents are treated confidentially.” Find the program [here](#).

New Zealand

On August 1, the Commerce Commission launched a new whistleblowing tool to alert the commission to cartel activity anonymously. Users of the tool will be unable to submit a leniency application.

Peru

On September 8, the National Institute for the Defense of Competition and the Protection of Intellectual Property announced it will offer financial rewards to individual whistleblowers who disclose information that leads to successful detection and punishment of antitrust cartels. This scheme is in addition to the enforcer's existing cartel leniency program.

United Kingdom

On October 22, the Competition and Markets Authority (CMA) announced it was calling for more whistleblowers to expose business cartels with the launch of a national awareness campaign that also aims to educate businesses about illegal practices, such as fixing prices and rigging contracts. The CMA's announcement stated that of about 1,000 companies surveyed, only 57% knew it was illegal to fix prices, nearly 50% did not know or thought it was legal to discuss prices with competing bidders when quoting for new work, and 59% did not know or thought that dividing up and sharing customers with rivals was legal.

Compliance Programs

ASIA

Russia: On October 18, the Russian Federation adopted recommendations on implementation and maintenance of antitrust compliance by the federal executive authorities. At the end of November, the Federal Antimonopoly Service (FAS) and its subordinate organization adopted a set of similar documents on internal maintenance of antitrust compliance.

Introduction of antitrust compliance at all levels of state authorities must be completed by March 1, 2019, pursuant to the National Plan on Development of Competition in Russia in 2018–2020.

The FAS has also developed a new draft law introducing amendments to the Competition Law and the Administrative Code. Under the draft law, adoption of a compliance program should be considered as a mitigating factor when the penalty is imposed for anticompetitive behavior. The draft law was not supported by the Ministry of Economic Development and, reportedly, was put on hold by the Legal Unit of the Department of Presidential Affairs. At the moment it is unclear whether the draft law will be introduced to the State Duma.

Even if the draft law is adopted, introduction of compliance programs by commercial entities will not be mandatory, according to the FAS. Companies will be free to choose whether to adopt internal compliance regulations or not.

New Laws, Policies, and Guidance

URUGUAY

New Competition Bill. On August 13, Uruguay's government submitted a new competition law bill to the legislature, which proposes the introduction of per se antitrust infringements. The proposed legislation would introduce new per se infringement for price-fixing, bid-rigging, and market-allocation conspiracies. Uruguay's existing competition rules include only one general provision that bans collusion and abuse of dominance as anticompetitive practices, without providing a standard of review for that conduct.

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Recent Enforcement Practice and Policy Relating to Information Exchanges

In November, the Competition Commission of India (CCI) and the US Department of Justice (DOJ) closed investigations into coordinated competitive behavior among competitors in various industries. The CCI found that information exchanges among manufacturers in the Indian flashlight market did not amount to cartelization due to a lack of evidence showing an actual meeting of the minds despite the open and admitted sharing of competitively sensitive information. In contrast, the DOJ investigated an unlawful agreement to share information by six broadcast television companies in the United States, and found that the exchanges distorted the competitive process in violation of US antitrust laws tainting negotiations for advertising spots.

CCI: Information Exchange in the Indian Flashlight Market. Upon closing its investigation in November, the CCI found four Indian flashlight manufacturers and a trade association did not exchange competitively sensitive information in violation of competition laws. The CCI had opened its investigation in September 2016 following the filing of a leniency application with the regulator by one of the flashlight manufacturers. The application outlined details of over eight years of information sharing on a monthly basis among the flashlight manufacturers using a trade association as a conduit for the exchange. The manufacturers allegedly shared data on production and sales; draft press releases discussing price increases; and product pricing, wholesale pricing, margin, promotional schemes, and other data related to the launch of new products. Despite the admitted and open exchange of competitively sensitive information, the CCI ultimately found no evidence of anticompetitive conduct.

The CCI held that the mere exchange of competitively sensitive information among competitors is not sufficient to constitute a violation of Sections 3(3)(a) and 3(1) of the Competition Act of 2002. The CCI stated that the exchange of competitively sensitive information “indicates a possibility of collusion and can be considered as a ‘plus factor’” to establish the existence of an agreement among competitors under Section 2(a) of the act. *In Re: Alleged Cartelisation in Flashlights Market in India*, November 2018 Order, Paragraph 63. The CCI, however, did not clearly specify what additional conduct needed to occur to find that the parties exchanging competitively sensitive information violated the act. In its order, the CCI implied that if the manufactures explicitly discussed the methodology of a coordinated future price increase and implemented the price increase, it would have found a “meeting of minds” sufficient to conclude the parties coordinated to fix prices. *Id.* at Paragraph 94. Accordingly, despite the admitted exchange of competitively sensitive information by a leniency applicant and a complete investigation into the communications between the manufacturers and the trade association, the CCI closed its investigation without finding a violation of the act.

US Department of Justice: Coordination in the US Broadcast Television Market. In November, the DOJ entered into settlement agreements with six broadcast television companies to resolve a DOJ lawsuit against those companies for their unlawful agreements to share non-public competitively sensitive information. The DOJ’s investigation into the conduct of these broadcast companies reportedly began as the DOJ investigated Sinclair Broadcast Group’s \$3.9 billion proposed acquisition of Tribune Media.

According to the DOJ’s complaint, the broadcast companies exchanged competitively sensitive performance metrics for several metropolitan areas in real time, directly—between stations and/or corporate headquarters—and indirectly—through representatives that assist local stations in their negotiations with national advertisers. *US v. Sinclair Broadcast Group*, Case No. 1:18-cv-2609 (D.D.C. Nov. 13, 2018). The DOJ alleged that the exchange of such information enabled each broadcaster to anticipate how its competition would set its advertising prices in real time, which each broadcaster ultimately used to its advantage in its negotiations with advertisers. The DOJ argued that such “information exchanges therefore distorted the normal price-setting mechanism in the spot advertising market and harmed the competitive process.” *Id.* at 7.

The settlement agreements—each with a seven-year term—prohibit the continued information sharing, whether directly or indirectly, of competitively sensitive information among the six broadcast television companies. Moreover, the companies are required to cooperate in the DOJ’s ongoing investigation of information sharing in the industry and to adopt antitrust compliance and reporting measures. In contrast to the CCI’s findings in its investigation of the Indian flashlight market, here, the DOJ found sufficient evidence of coordinated behavior resulting in anticompetitive harm to warrant suing six broadcast companies for unlawful agreements to share non-public competitively sensitive information.

In both instances, the parties under investigation by the CCI and DOJ operated in competitive environments where their incentives and go-to-market strategies aligned to the extent that unlawful coordination had—or could have had—anticompetitive effects. This highlights the extent to which factual and policy divergences can influence the outcome of enforcement actions into information exchanges. The importance of this issue for competition policy is highlighted in the ongoing significant debate in South Korea as to how the Monopoly Regulation and Fair Trading Act (MRFTA) should be revised to account for information exchanges, particularly whether information exchanges should constitute an independent violation, and to what extent such exchanges should be presumed to constitute an “agreement” subject to the MRFTA’s prohibition against “improper concerted acts.”

Questions About the Use of Algorithms and Antitrust Enforcement

The explosion of information and data-driven business models based on automated systems has led to the digital transformation of business. Where algorithms were traditionally used to assess costs and divisional performance, many businesses are now using algorithms to improve their pricing models, customize services, sift through data, assess demand, and predict market trends. Despite the many advantages that the generalized use of algorithms can have on businesses and the economy, the rise of algorithmic pricing brings with it potential antitrust compliance issues. In particular, pricing algorithms may facilitate “tacit” coordination by providing companies with automated mechanisms to signal price changes, implement a parallel/common policy, and monitor or punish deviators. In other words, competitors may coordinate their prices (and/or any other variable) and jointly achieve supra-competitive profits, all without the adoption of an explicit agreement involving direct communication or human interaction.

In response to the rise of algorithms in business, competition regulators also are increasingly using algorithms as investigational tools. As in securities fraud enforcement, antitrust regulators are beginning to appreciate the potential of algorithms to detect aberrant pricing levels across industries as a potential indicator of cartel conduct. It has been reported that competition authorities from Brazil, India, Switzerland, the United Kingdom, and the European Union have begun to use of algorithms to detect suspected collusion. The goal, according to European Commissioner for Competition Margrethe Vestager is to “have our own algorithms to be out there, looking into the market, figuring out if there has been collusion taking place.” Such tools have the potential to lead to additional investigations beyond those initiated by more conventional investigatory sources, such as leniency applicants and whistleblowers.

The rise of algorithmic prices brings with it potential antitrust compliance issues. In 2015, the US Department of Justice (DOJ) brought its first criminal antitrust charges against two ecommerce retailers who used algorithms to fix the prices of posters sold through Amazon.com’s Marketplace. A UK national indicted by the DOJ for price-fixing posters is awaiting extradition proceedings in Spain, which, if successful, would be the sixth extradition for the DOJ’s Antitrust Division. (See page 63). In Russia, on April 27, the Federal Antimonopoly Service determined that two pharmaceutical wholesalers engaged in bid rigging by using automated robotics or “pricing bots” or algorithms. (See page 63).

FEDERAL TRADE COMMISSION HEARINGS

The US Federal Trade Commission (FTC) held hearings in September to address whether technological developments and changes in the economy require adjustment to competition laws, enforcement priorities, and policy. One focus of these hearings was the consumer welfare implications of algorithmic decision tools and artificial intelligence.

LUXEMBOURG COMPETITION AGENCY DECISION

Some competition agencies may conclude that under certain circumstances the use of algorithms may offer pro-competitive efficiencies. On June 8, Luxembourg's Competition Council considered a complaint concerning the use of algorithms to set rates used by horizontal taxi competitors. Notwithstanding that the agency concluded the competitors entered into a horizontal agreement, it granted an exemption after considering four factors: (1) the agreement provided for efficiencies; (2) a fair share of the efficiencies were offered to the consumer; (3) the service was indispensable; and (4) the agreement was necessary, adequate, and proportionate. The Competition Council concluded that neutral and objective criteria were applied to lower prices.

FRANCE AND GERMANY JOINT PROJECT

On June 19, the competition authorities of France and Germany jointly noted, "The increasing use of algorithms by companies is an issue of considerable debate as regards their effects on the competitive functioning of markets and to a wider extent on society." The agencies announced a joint project in which they plan to develop "a typology of algorithms and studying their potential anticompetitive effects" and "also assess algorithms' detection and examination" and review the issue with "a deeper understanding of algorithms."

CCI FINDS NO HUB-AND-SPOKE CARTEL BETWEEN APP-BASED TAXI AGGREGATORS

On November 6, a private complainant brought an action against two rival app-based taxi aggregators, alleging they engaged in a hub-and-spoke price-fixing arrangement with their respective drivers. The Competition Commission of India (CCI) considered whether the two rivals' pricing algorithms artificially manipulated supply and demand to generate higher fares to drivers who would otherwise compete against one another on price and would thus not be able to command such high prices. This was the alleged hub-and-spoke arrangement.

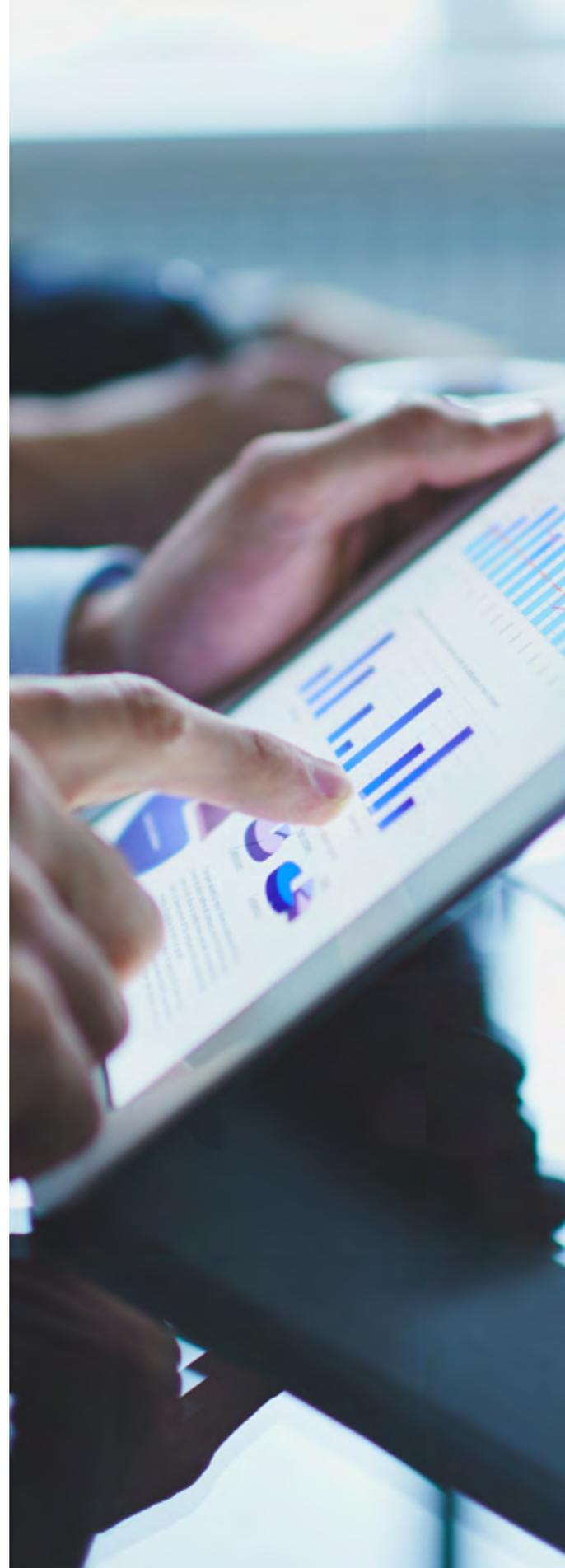
The CCI dismissed the complaint because it held that the algorithmic pricing models utilized by these companies did not amount to a hub-and-spoke arrangement. "[T]he drivers may have acceded to the algorithmically determined prices by the platform, [but] this cannot be said to be amounting to collusion between the drivers. In the case of ride-sourcing and ride-sharing services, a hub-and-spoke cartel would require an agreement between all drivers to set prices through the platform, or an agreement for the platform to coordinate prices between them. There does not appear to be any such agreement."

CURRENT DEBATE

The use of algorithms is challenging traditional concepts of antitrust law and the question for regulators is whether these traditional concepts can be stretched to cover entirely new, previously unforeseen collusive practices. How regulators will approach these growing issues remains an open question.

On the one hand, some commenters have called for a fundamental reexamination of what an “agreement” means under antitrust laws where humans may have no involvement in pricing after an initial set of rules is deployed. On the other, commenters like FTC Commissioner Maureen Ohlhausen have dismissed former algorithms as nothing unique under antitrust laws: “Whether it is phone calls, text messages, algorithms or Morse code, the underlying legal rule is the same—agreements to set prices among competitors are always unlawful.” In the most recent case in India, the CCI appears to have applied traditional antitrust principles to limit infringements involving hub-and-spoke arrangements to those involving all of the drivers.

Regardless of which side one is on, it’s clear that the use of algorithms in investigations and cartel detection will continue to rise, and the use of algorithmic pricing will continue to raise new compliance and enforcement issues.



Other Noteworthy Developments

AMERICAS

Brazil: In September, the Administrative Council for Economic Defense approved Resolution 21/2018, which regulates procedures to access documents and information contained in administrative proceedings and imposes sanctions to violations of the economic order, such as those originating from leniency agreements, cease-and-desist agreements, and dawn raids. The standard stipulates that the documents and information contained in these procedures be open to public access. However, a few categories of documents will be maintained as restricted and will not be made available for public consultation.

Canada/Mexico/United States: In November, the Canada's interim commissioner of competition met with the assistant attorney general of the US Department of Justice's Antitrust Division, the chairman of the US Federal Trade Commission, and the chairwoman of the Mexican Federal Economic Competition Commission to coordinate on cross-border cooperation in competition law enforcement.

Uruguay: In August, Uruguay's government submitted a proposed competition law to the legislature that would introduce per se antitrust infringements for price-fixing, bid-rigging, and market-allocation conspiracies. Uruguay's existing competition rules include only one general provision banning collusion and abuse of dominance as anticompetitive practices, without providing a standard of review for that conduct.

AFRICA

COMESA: In July, the Common Market for Eastern and Southern Africa (COMESA) inducted Tunisia and Somalia as its two newest member nations, with the bloc's competition regulations now taking effect in both countries.

Swaziland: In June, the Swaziland Competition Commission announced that it executed a memorandum of understanding with the Competition Commission of South Africa, which will facilitate cross-border cooperation on competition policy and enforcement. Public statements by leaders of both competition commissions have indicated that the memorandum of understanding is motivated in part by concerns about cross-border cartels in the region.

ASIA

China: In March, the Chinese legislature took a significant step to consolidate antitrust agencies into one agency, the State Administration for Market Regulation (SAMR). On September 30, the Office of the Central Organizing Committee issued the Regulations on the Function Configuration, Internal Institution and Staffing of the SAMR (anti-monopoly regulation). Under these regulations, SAMR is responsible for the unified enforcement of the anti-monopoly regulation, the implementation of competition policy and guidance on the implementation of fair competition review. SAMR will undertake the daily work of the Anti-Monopoly Committee of the State Council. Finally, SAMR will set up an Anti-Monopoly Bureau, which is responsible for the specific implementation of the anti-monopoly responsibility of SAMR.

Singapore/Indonesia: In August, the Competition and Consumer Commission of Singapore (CCCS) and Indonesia's Commission for the Supervision of Business Competition (KPPU) signed a Memorandum of Understanding to facilitate cooperation on competition enforcement between the two countries. The purpose is to enhance effective enforcement of competition laws in Indonesia and Singapore by encouraging notification of enforcement activities potentially affecting one party's interests, and to facilitate the exchange of information and enforcement coordination between the two competition authorities.

India: In September, the Competition Commission of India indicated that an agreement to rig a tender need not be written to be effective. Rather, unspoken cues such as nods and winks among co-conspirators are sufficient to find establish agreement to rig a bidding process.

ASEAN: In October, the Association of Southeast Asian Nations established its Competition Enforcers' Network and held its first meeting. The purpose of the network is to enable mutual understanding of competition enforcement goals and objectives and encourage information sharing among ASEAN competition authorities.

China: In October, the Anti-Monopoly Bureau of the General Administration of Market Supervision, Price Supervision and Competition Bureau, Directorate General of Competition of the European Commission, and Directorate General of Justice and Consumer Protection jointly held the 17th China-EU Competition Policy Week Seminar in Beijing. The seminar conducted in-depth discussions on key and difficult issues of competition law. The seminar has played a positive role in cooperation between China and the European Union in the field of anti-monopoly legislation enforcement and fair competition review and provided a brand-new platform for exploring the establishment of China-EU cooperation mechanism in the field of unfair competition. The two sides plan to use this platform to promote cooperation between China and the EU in competition policy and anti-monopoly law enforcement.

South Korea: The Korean government is developing a proposed major overhaul and modernization of the Monopoly Regulation and Fair Trade Act (MRFTA). Several of the proposed overhauls would affect certain legal principles and procedures applicable to Korea's prohibition against anticompetitive collusion. For example, under existing law, in order to initiate a criminal prosecution, the Korea Fair Trade Commission (KFTC) generally must first issue a "criminal referral" to the Prosecutor's Office. The proposed amendment would remove this requirement for the prosecution of "hardcore" collusion (including price-fixing and bid-rigging cartels), which would enable prosecutors to initiate their own investigation without first having the matter referred to them by the KFTC. There has also been significant debate as to how the MRFTA should be revised to account for information exchanges, particularly whether information exchanges should constitute an independent violation, and to what extent such exchanges should be presumed to constitute an "agreement" subject to the MRFTA's prohibition against "improper concerted acts."

OCEANIA

Australia: In August, Australia hosted the 14th East Asia Top Level Officials' Meeting on Competition Policy (EATOP) and the 11th East Asia Conference on Competition Law and Policy. Commissioners and senior staff of the Australian Competition and Consumer Commission attended the conference. EATOP is sponsored by the Japan Fair Trade Commission and the Asian Development Bank Institute.

KEY JUDICIAL DEVELOPMENTS

EUROPE

Iceland: On September 20, the European Free Trade Association's Surveillance Authority (ESA) submitted a written intervention to the Icelandic appeal court in relation to an appeal concerning a cartel fine imposed on a construction hardware retailer. The ESA is intervening in regard to the correct application of European Economic Area (EEA) law in an appeal concerning the decision taken by Iceland's Competition Authority (CA) to fine the parent company 650 million krona (\$5.6 million) for infringing—by way of its subsidiary—both EEA and Icelandic competition rules. The ESA's intervention raises important questions on the correct interpretation of EEA law, and the circumstances, as in this case, in which the EEA competition rules apply (i.e., when trade may be affected in the European economic area) and the importance of imposing an appropriate fine to ensure deterrence. National competition authorities and national courts are under an obligation to apply the EEA competition rules in cases where the facts fall under the scope of EEA law, and to ensure that the rules are applied effectively.

Iceland: On September 26, the ESA concluded that the state guarantees for an Icelandic energy company's hedging derivatives did not involve state aid.

Slovenia: On October 23, the European Court of Human Rights held that the Supreme Court of Slovenia had infringed human rights legislation when it refused to grant a media company an oral hearing in its appeal against a dawn raid obstruction fine. The European court held that by relying solely on evidence from Slovenia's Competition Protection Office that the company had obstructed the inspection, the Slovenian court had acted contrary to the company's right to a fair trial by refusing to grant an oral hearing.

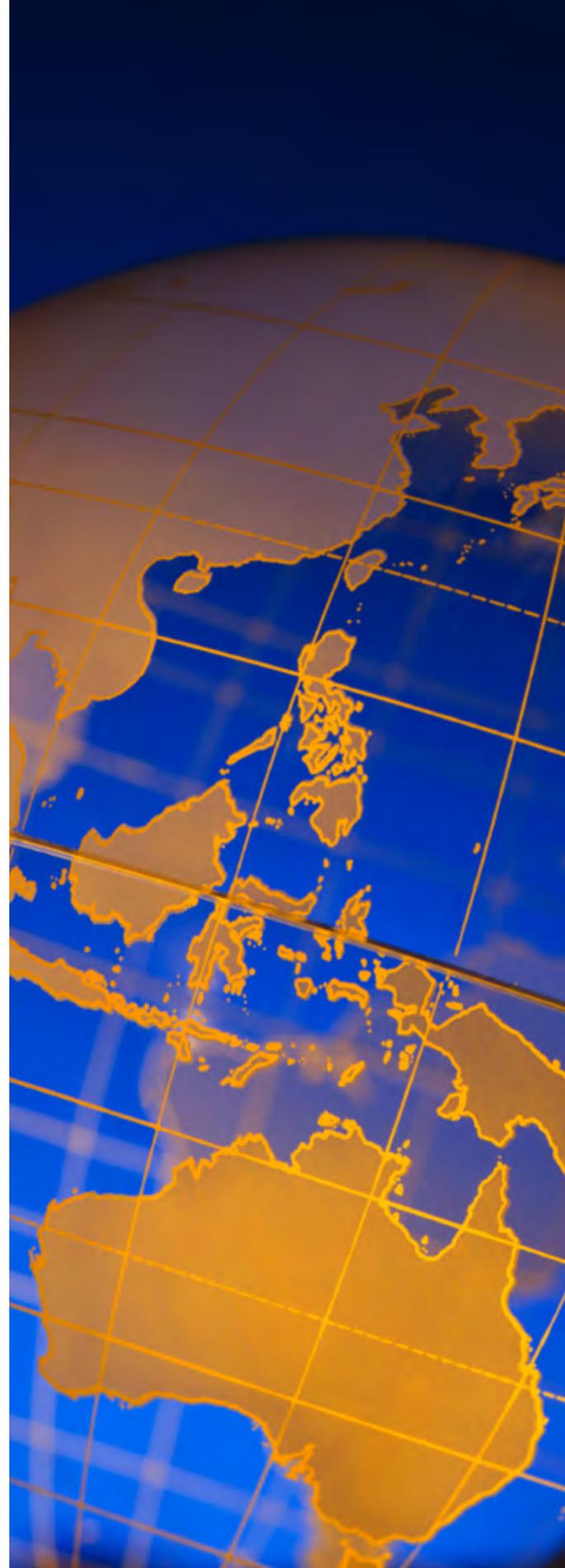
Netherlands: On October 30, a Dutch appeal court quashed a lower court judgment which had reduced the cartel fines imposed on two shipping waste companies by the Netherlands Authority for Consumers & Markets (ACM). In 2011, the ACM had fined three shipping waste companies as well as their parent firms for engaging in price fixing. The appeal court reinstated the original fines imposed by the ACM.

OCEANIA

Australia: On August 3, the Australian Competition and Consumer Commission appealed the Federal Court's dismissal of cartel charges against 11 companies for rigging bids in connection with the New South Wales Department of Primary Industries exploration license bid tender process for the Mount Penny and Glendon Brook coal mines in Bylong Valley. That appeal is pending.

Australia: On August 8, the Australian High Court dismissed a special leave to appeal by a high voltage land cable company in connection with a March 2018 decision by the Full Federal Court upholding the trial judge's decision that the company had participated in cartel conduct in connection with supplying high voltage land cables. The Full Federal Court agreed with the trial court that the company had participated in pricing and project allocation agreements with competitors, and the High Court declined the appeal.

Australia: On October 19, the Australian High Court dismissed an appeal by an auto parts manufacturer regarding the imposition of a \$46 million Australia (\$32.3 million) fine in connection with the auto parts manufacturer's bid rigging for wire harnesses used in certain automobiles. The fine is the largest imposed under the Competition and Consumer Act of 2010.



OUR CARTEL INVESTIGATIONS AND LITIGATION PRACTICE

Morgan Lewis has acted as US, European, and global coordinating counsel for multinational corporations in virtually every major international cartel investigation of the last 20 years, guiding clients through every stage of the process. Our antitrust lawyers have coordinated multijurisdictional cartel investigations and civil litigation and defended some of the world's largest corporations in high-stakes treble damages class actions involving allegations of price-fixing and other cartel conduct. We also assist clients in establishing compliance programs to prevent or detect potential cartel conduct that may result in substantial criminal liability. We help design compliance programs that mitigate the sentencing consequences in the criminal justice system that are consistent with recent US Department of Justice (DOJ) compliance standards. Our team includes a number of former high-level government enforcers with superior insights into enforcement agendas and practices around the world, including a former assistant chief of the National Criminal Enforcement Section in the DOJ's Antitrust Division, and several lawyers who have direct experience prosecuting cartel matters with the DOJ.

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