

Department of Justice Continues Crackdown on Price Fixing Conspiracies – Companies Should Exercise Caution in Communicating with Competitors

Federal prosecutors continue to seek harsh penalties—including sizable fines and lengthy prison terms—against companies and executives for price fixing violations. 2012 will mark the second straight year that the Department of Justice has collected more than \$1 billion in antitrust fines. Given this landscape, companies large and small should treat communications with competitors with great caution and be vigilant in training employees at all levels on compliance with antitrust laws.

In yet another example of the Justice Department's aggressive pursuit of price fixing conspiracies, it was announced in [Justice News](#) on September 26, 2013 that nine Japan-based automobile parts manufacturers and two executives have agreed to plead guilty to charges that they conspired to fix prices of automobile parts that were sold to car manufacturers in the United States and elsewhere. The companies have agreed to pay more than \$740 million in criminal fines and the two executives—one a U.S. citizen and former executive of a U.S. subsidiary of a Japan-based automotive products supplier and one a Japanese citizen and former executive of a U.S. subsidiary of a Japan-based automotive anti-vibration rubber products supplier—have each agreed to pay \$20,000 in criminal fines and serve sentences of 14 months and 12 months, respectively.

According to the Justice Department, some of the price fixing conspiracies lasted for more than a decade, and the price-fixed parts were allegedly sold to a number of major car manufacturers, as well as U.S. subsidiaries of large foreign car manufacturers. In total, 20 companies and 21 executives have been charged in an ongoing investigation by the Justice Department's Antitrust Division of price fixing in the auto parts industry.

The conduct of the companies, executives, and their co-conspirators allegedly included meetings and telephone communications in which the parties reached agreements to rig bids, set prices, and allocate the supply of parts sold to car manufacturers. According to the Justice Department, the conspirators used code names and met in remote locations in order to keep their conduct secret. In a separate but similar case, a federal district court in San Francisco required AU

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Optronics Corporation, a Taiwan-based liquid crystal display (LCD) producer, to pay a \$500 million criminal fine for fixing the prices of LCD screens used in televisions, computers, and other electronic devices last September. As discussed in our [October 12, 2012 e-alert](#), the complaint in that case alleged that AU Optronics executives met in hotel conference rooms, tea rooms, and karaoke bars around Taiwan.

But not all examples of price fixing involve such cloak and dagger efforts. As noted by Reinhart's Commercial and Competition Law Group last fall, conversations between competitors at trade shows or social events and at bars and restaurants that may start out innocently enough can turn into improper agreements to set prices, allocate customers, or otherwise restrain trade—conduct which is per se illegal under antitrust laws and can have serious consequences for companies and their executives.

Expect federal authorities to continue pursuing hefty fines and prison terms to deter anticompetitive conduct. In a statement on September 26, 2013, Ronald Hosko, Assistant Director of the FBI's Criminal Division, emphasized that charges against the automobile parts conspirators "should send a message to companies who believe they don't need to follow the rules." In addition, civil cases often follow criminal cases, and those cases can involve substantial legal fees and possibly large damage awards.

Considering the risk of civil and criminal penalties, companies must be aware of antitrust laws and should provide periodic antitrust compliance training to their officers, managers, and sales and marketing personnel.

If you would like to know more about antitrust compliance programs, or if you would like to know more about antitrust and competition laws, Reinhart's Commercial and Competition Law Group would be glad to help you. Please contact your Reinhart attorney or any member of our [Commercial and Competition Law Group](#).

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