

## **REWARDS FOR INFORMATION ABOUT CARTELS**

The CMA offers financial rewards of up to £100,000 (in exceptional circumstances) for information about cartel activity. If you have information, or have access to information, about cartels and you are considering approaching us to offer that information in exchange for a possible reward, you will find it useful to read the guidance set out here.

### **Why does the CMA offer financial rewards for information about cartel behaviour?**

Cartels, particularly illegal agreements between businesses to fix prices and share markets, cause serious damage to businesses and the economy and cost consumers money.

Cartels are illegal under both the civil and criminal law.

Under the civil law (the Competition Act 1998), the CMA is able to fine companies up to 10 per cent of their turnover if they are found guilty of cartel activity.

Individuals who engage in cartel activity may commit a criminal offence and may be imprisoned for up to five years and may be given an unlimited fine.

Any company directors implicated in cartel activities could also be disqualified from acting as a director in the future for up to 15 years.

Cartels are generally conducted in secret and they can be hard to detect and prove. For this reason the CMA believes it should offer financial rewards for information which helps in the detection and investigation of cartels and which, in appropriate cases, leads to the fining of the companies or the criminal prosecution of the individuals involved.

### **What is a cartel?**

The term 'cartel' is a catch-all that covers any of the following collusive arrangements between businesses:

- Directly or indirectly fixing prices between businesses - where two or more businesses agree to raise the price of their product or service instead of setting their prices independently of each other and competing in the market place. This is known as price fixing.
- Limiting or preventing supply or production between businesses - where two or more businesses agree to limit or prevent the supply or production of a product.
- Dividing up customers or prospective customers between businesses - where two or more businesses agree that they will not poach each other's customers and/or that business 1 will not compete with business 2 in area A if business 2 agrees to a similar arrangement for the benefit of business 1 in area B. This is known as market sharing.
- In response to a request by a third party to tender for a contract, a secret agreement between businesses that one or more of them will agree not to bid for the contract or one or more of them will put in an artificially high price for the contract to allow another business to win the contract - perhaps for a return of favour on another occasion when another contract is tendered. This is known as bid rigging.

### **If I have any information about cartels, who should I call?**

To contact us you can call our cartels hotline on 0800 085 1664 or 020 3738 6888. You will immediately be put through to a voice mailbox. Please leave a message with your contact details and an investigator will try to respond to your call within two business days. Alternatively email: [cartelshotline@cma.gsi.gov.uk](mailto:cartelshotline@cma.gsi.gov.uk).

### **At what stage should I approach the CMA?**

We prefer you to approach us before you have obtained all of the information about the cartel. This is so we can discuss with you in advance what risks there might be in obtaining that information and how those risks could be reduced - or whether they should be taken at all.

In addition, an early approach allows us to discuss with you what information will be of most value to us.

Of course, some people will already have the information that they wish to impart and there is no prospect they will be able to get anymore. Again, the earlier the approach the better. Old information relating to a cartel that was in operation some while ago is generally going to be of less importance to us than information about a cartel that is still ongoing or ended only recently. Having said that, if you have information about a really significant cartel which

ended some while ago, it is still worth approaching us as we may still wish to investigate.

### **How will I know that if I give information it will be treated in strictest confidence?**

We recognise that many people who want to give us information about cartel activity will only be prepared to do so if there is a guarantee that their identity as a 'whistle-blower' will not become known to third parties.

For this reason only specially trained officers, mostly with a law enforcement background, will deal with you. They will very carefully safeguard any information you give to protect your identity from disclosure.

### **How will the process of giving information actually work?**

Our officer will want to talk to you to obtain as much detail as possible. Initially the conversation could be conducted on a no-names basis if necessary, though we will always prefer to know your identity from the very start.

If the officer's initial assessment is that you have information and/or can gain information that is likely to be of value to us and might well give us a basis for further investigation, we will want to meet you to discuss the information in more detail. At that meeting we will need to know your identity as an essential part of assessing your credibility and the likely reliability of the information you may be able to give us.

People may be tempted to give information for all sorts of reasons and it is important that we can explore all of your motivations for approaching us. This is for our protection as well as that of any persons or businesses which might otherwise be susceptible to unfounded allegations.

### **When will I know if I will get a financial reward and how does the CMA calculate any amount?**

It is essential to understand that rewards are granted at the discretion of the CMA. The CMA is entirely free to reject offers of information and it does not have to give reasons for doing so. Furthermore, where the CMA has agreed to accept some information from a person and the information provides a credible basis for further investigation, the CMA is still free to decide, on the basis of other more pressing priorities, that it will not use the information given and will not therefore give a financial reward. This is another reason why it is

best to discuss with us in advance what information you may be able to gain for us and how useful that would be to us.

Where a reward is available, its amount will depend on a number of factors:

- the value of the information in terms of what we have been able to achieve from it
- the amount of harm to the economy and consumers which we believe the information given has helped to put a stop to and/or has helped to disclose
- the effort you have had to invest in order to give us the information
- the risk you have had to take in order to give us the information.

It is important to understand that we won't bargain over how much will be paid - but we do aim to pay a fair price.

The CMA cannot calculate 'up-front' what amount of reward you will get - in particular because it depends on the ultimate value of the information given which will only become fully apparent at the end of an investigation. It follows from this that we can only pay rewards at the end of the investigation. However, we will reimburse expenses as they are incurred. Although we will not calculate amounts up-front, we will try to give you some idea early on in our dealings with you as to the broad range within which a possible financial reward amount might fall. It should be understood though, that this very broad estimate will not bind us to give a reward falling within the estimate given - or indeed any reward.

### **Should I take legal advice before deciding whether to offer information to the CMA?**

Obviously the CMA will operate entirely within the law in the way in which it uses informants. In particular, if circumstances require it, a special form of authorisation will be obtained by the CMA under a piece of legislation known as the [Regulation of Investigatory Powers Act 2000](#). If obtained, this protects the actions of an informant in providing the CMA with information, provided those actions are in accordance with the authorisation. So, provided you only act in the way we have directed you, your actions in providing us with information cannot be subject to any civil or criminal liability.

Even so, you may still be concerned about other legal aspects such as your employment law position if, for example, you were planning to give information about your employer. It is entirely a matter for you whether to take legal advice in such circumstances. However, if you do want to take legal advice, you may wish to contact us first and see whether the information you

have, or may have access to, will be of possible use to us and what the risks to you would be in obtaining the information. If you then feel it would be good to take legal advice before proceeding further, you will have every opportunity to do so, but the CMA will not pay for you to take that advice. The CMA will not be able to offer you legal advice - though we will do our best to ensure that you have a reasonable appreciation of any risks involved which you can consider carefully.

The important additional thing to remember is that except in those rare cases where you agree to be a witness, we will only be using your information as intelligence so as to protect your identity from disclosure. As such, your employer should never know that you have assisted us. Nonetheless, it is worth noting that an employer cannot dismiss or otherwise victimise an employee for whistle-blowing on illegal activity. See the [Public Interest Disclosure Act 1998](#) on the [Public Concern at Work website](#).

The organisation Public Concern at Work also has useful information on its website about whistle-blowing in a workplace context and operates an advice line. Visit the [Public Concern at Work website](#) for more information.

### **I have been directly involved in the cartel activity I wish to report. Will I still be eligible for a financial reward?**

Under the CMA's leniency policy any company or individual who has been directly involved in a cartel can gain complete civil and criminal immunity from sanction provided that:

- they are the first to report and confess involvement in the cartel
- they cooperate fully with the CMA throughout the investigation
- the CMA did not have any pre-existing investigation into the cartel.

The CMA does not consider that an individual in such circumstances should ordinarily also gain a financial reward.

However, there may be circumstances where the CMA will consider a reward in addition to immunity from sanction under the leniency policy. This is most likely to be considered where the role of the person in the cartel was relatively peripheral - for example that of an employee who was occasionally directed by his superiors to attend a cartel meeting and who was not asked to take an active part in decision-making about the cartel.

**If I am running a business and believe that I have been the victim of a cartel, will I gain a reward for reporting my concerns?**

The financial reward programme is really intended for those who have what might be called 'inside' information about the existence of a cartel. The CMA often receives complaints from businesses that their competitors or suppliers have been involved in anti-competitive activities and generally such complaints are not, for obvious reasons, able to be supported by significant 'inside' information about the cartel. As such, a reward is highly unlikely to be available in cases where complainants simply report their general concerns about possible cartel activity by competitors - even if those concerns are backed up by at least some evidence.