Incentives to expose price-fixing

Immunity for cartel whistle-blowers proposed under new competition law

BY BRYAN LEE

INDUSTRY insiders tempted to blow the whistle on greedy price-fixing by fellow companies acting in cahoots could get an incentive to do so — freedom from being fined.

The offer of immunity is part of the latest set of draft guidelines, unveiled yesterday, for a tough new competition law which takes effect next year.

Such a law could have a big impact on the public. For example, last month's controversial move by three cinema operators to raise ticket prices in union could have been illegal under it.

The trouble is, it is hard to establish evidence of anti-competitive activities. These include price-rigging by groups of companies acting as a cartel to control a market, restrict output, or even rig bids in tenders.

This difficulty prompted yesterday's incentives. Under the Competition Commission guidelines, total immunity from financial penalties would be granted to the first company to volunteer evidence on the cartel it was in.

Any firm that came forward subsequently would also receive leniency: It would still face a fine, but it could be cut by up to half.

However, leniency will not be granted to firms that initiate cartels or coerce other companies to join.

Under the draft law, a company found guilty of anti-competitive behaviour will be fined up to a tenth of its turnover for up to three years.

Experts on competition law welcomed the incentives for whistle-blowers.

But they wondered if these would be enough to encourage insiders to come forward, as Asian business culture often banks heavily on trust and relationships.

Drew and Napier associate director Lim Chong Kin said: “Whether it’s effective may depend on business culture. In Asia, business is often built on a level of trust, unlike in the United States or Europe where competition is more cut-throat.”

He added that the success of the leniency programme would also depend on whether the authorities will grant real confidentiality to whistle-blowers.

The guidelines say the commission would try “to the extent that is consistent with its obligations to disclose or exchange information” to protect identities.

Assistant Professor Burton Ong, who teaches competition law at the National University of Singapore, said leniency programmes have been significant in busting cartels elsewhere.

“Cartels are notoriously difficult to crack as they involve very secretive practices. Intelligence from the industry is usually quite essential,” he said.

Draft guidelines details are at www.ccs.gov.sg.

They are open to the public for consultation until June 30.

A HARD NUT TO CRACK

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