

AN OVERVIEW OF GLOBAL CARTEL ENFORCEMENT AND FINES IN 2015

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Abstract: *This article offers an overview of the global cartel enforcement and fines in 2015. The number of cases closed in 2015 suggests that the level of cartel enforcement globally remains high, although global cartel fine totals in 2015 appear low compared to last year. Some jurisdictions, like Brazil and the European Union are more below average in enforcement and level of fines this year compared to 2014, while the United States, India and Indonesia report increases in their total fines.*

In 2015 competition enforcers have globally focused their investigation activities on critical and rapidly changing sectors and products. Auto parts and financial services fines led the global enforcement penalties in 2015. While financial services will remain a focus for enforcers, an increase in cartel enforcement activity is expected in 2016 in the digital, telecom, energy and consumer products sectors. Bid-rigging investigations remain under active review as well as vertical agreements

(especially on e-commerce markets) and practices aimed at coordinating or facilitating the coordination of market behaviour through exchange of commercially sensitive information via customers or suppliers. Lastly, in 2015 a number of competition enforcers around the world have tackled the issue of antitrust compliance. The debate as to whether and how to credit compliance programs prominently featured in 2015 and promises to remain an issue enforcers will deal with in 2016.

1. INTRODUCTION

The number of cases decided in 2015 globally, suggests that the level of cartel enforcement remains high, although global cartel fine totals in 2015 appear low compared to last year.

Global cartel fine totals stand at USD 4.19 billion so far in 2015, an amount that is substantially less than the USD 6.74 billion total assessed last year. Brazil and the European Union are more below average in enforcement this year, accounting for USD 3.30 billion less in total fines imposed in 2015 than in 2014.

Only the United States, India and Indonesia report increases in their totals, while two enforcement regimes (Australia and Singapore) have yet to report any cartel fines.

With nearly USD 2.85 billion in fines imposed, the United States has already amassed more in fines this year than the combined total of its record-breaking fines in the fiscal years 2012 and 2013.

¹ Lawyers. The authors wish to warmly thank their colleagues of Allen & Overy antitrust global network, who gathered and processed the impressive amount of data and information on which this article is based. All the countries' statistics in this article cover this calendar year up to December 2015, save for the U.S. statistics, which cover the U.S. fiscal year (from October 1st 2014 to September 30th 2015).

2. DEVELOPING TRENDS IN 2015

Competition enforcers have globally focused their investigation activities in particular on critical and rapidly changing sectors and products: financial services, digital, telecoms, energy and consumer products. We can expect that digital markets, in particular, will be further scrutinized by antitrust enforcers globally in the future.

Global investigations, including such areas as auto parts and financial services, and several important domestic bid-rigging investigations, remain under active review and are likely to result in further enforcement globally.

In 2015 several competition authorities continued to concentrate their enforcement efforts on vertical agreements (especially on e-commerce markets) as well as on practices aimed at coordinating or facilitating the coordination of market behaviour through exchange of commercially sensitive information *via* customers or suppliers.

Another developing trend in 2015 is the increasing focus on the individual accountability of executives targeted by cartel investigations:

- i) the United States continues to actively prosecute individuals, with United States Department of Justice (DOJ) Antitrust Division officials issuing serious warnings that the extradition of foreign national defendants will remain a top priority. This year the DOJ has already indicted and convicted as many as 63 people.
- ii) other competition authorities also attach importance to individual prosecutions,

including the newly set up Competition & Markets Authority (CMA) in the United Kingdom which commenced its first prosecution of an individual this month. The Serious Fraud Office (SFO) of the United Kingdom is also prosecuting an individual in the LIBOR rate-rigging case.

iii) the Asia Pacific enforcement regimes have also focused on holding individuals accountable, with five executives in South Korea, and two in Japan, having been sentenced to prison terms in 2015.

Lastly, in 2015 a number of competition enforcers around the world have tackled the issue of antitrust compliance.

3. CARTEL ENFORCEMENT AND FINES IN DIFFERENT JURISDICTIONS

3.1 AMERICAS

United States

With USD 2.85 billion in fines collected during the 2015 fiscal year so far, the DOJ is on track for a record-breaking year. Continuing the rising trend in enforcement and fine collection in the past few years, the DOJ has already issued more fines this year than it did during the entire record-breaking 2012 and 2013 fiscal years combined.

The vast majority of this record total comes from fines collected from the financial industry in the past months. The fine total is primarily the result of fines imposed in the DOJ's investigation into the foreign exchange (FX) market: the fines imposed in the FX

investigation account for 88% of all criminal antitrust fines imposed by the DOJ this year. In May, a number of financial institutions pleaded guilty to, or settled charges relating to, the manipulation of the FX market. These resolutions resulted in the imposition of USD 2.52 billion in fines, which included the Division's largest single fine in the fiscal year: USD 925 million levied against Citicorp. Fines imposed in the auto parts, capacitors, bearings, roll-on roll-off shipping, parking heaters and e-commerce investigations (totalling USD 333.6 million) reflect the final balance of the DOJ's antitrust fine total for 2015.

Though high, the figure of USD 2.52 billion is only a portion of all the fines raised against the industry. The financial institutions concerned agreed to pay other amounts to various regulators - including more than USD 1.8 billion to the Commodities Futures Trading Commission, and to other regulators outside the U.S. for the same activity - stemming from charges that major players in the financial industry conspired to manipulate the foreign exchange rate. Moreover, the total does not include fines issued in the framework of the financial industry's manipulation of the LIBOR rate, because the charges in question were treated as matters of fraud rather than antitrust matters.

The DOJ also continued to focus on individual accountability. So far, the DOJ has indicted and convicted altogether 63 people, bringing indictments against 35 individuals and securing guilty pleas from another 21. More specifically, Assistant Attorney General Bill Baer recently clarified the DOJ's stance on extradition. Baer cautioned defence counsel to be aware of the

latest tool that the DOJ can use to convince executives to agree to U.S. prison terms: Interpol red notices. If a client is travelling under an Interpol red notice, Baer stated, “[e]ven if you’re not immediately extradited from your home country, you may not be able to travel for fear you’ll get stopped...and detained somewhere else... There is thus a real cost to not coming to grips with antitrust misconduct even if you’re a foreign national.”

The Division is also breaking new ground in 2015, as the DOJ has successfully investigated the first ever criminal price-fixing cases specifically targeting e-commerce. On April 6, executive David Topkins pleaded guilty to conspiring to fix the price of certain posters sold online through the Amazon marketplace, admitting that schemers had coordinated listed pricing through algorithm-based software. Assistant Attorney General Bill Baer hailed the outcome as the Division's latest step in policing “a free and fair marketplace online.”

Another interesting development is the DOJ's fine premium of a sentencing credit for implementing an effective compliance programme after the start of an investigation. By tradition, it has been virtually impossible for a company pleading guilty to benefit from a sentencing credit based on an effective compliance programme; the guilty plea itself had been considered evidence that any corporate compliance efforts were ineffective. However, in Barclays' plea in the foreign exchange rate scheme, a single sentence suggests that this door may now be open: among other factors of improvement, the plea notes “the substantial improvements in the defendant's compliance and remediation programme to prevent the recurrence of the charged offence.” A speech by Deputy Assistant

Attorney General Brent Snyder heralded the DOJ's shifting stance on this matter, and defence counsel will welcome this evidence that sentencing credit for imposing compliance programmes is finally obtainable.

In another trend that indicates the Division continues to take compliance seriously, AU Optronics faces a potential USD 1.2 billion fine for violation of its probation agreement imposed as part of its conviction. Required to appoint a court-appointed antitrust compliance monitor as part of its probation, the company allegedly met a part-time compliance officer for only 30 or 60 minutes in 17 months, and had not "*proactively monitored the compliance programme or responded to risks of noncompliance*", leading the probation officer to conclude that its compliance programme has been ineffective. This case thus exemplifies the risk that the Division will take a hard-line stance with companies that fail to take compliance seriously.

In another case, the Division recommended that Kayaba Industry Co. Ltd. receive a discount on its fine for its participation in the auto parts price-fixing conspiracies because it had adopted an effective compliance program. The Division's recommendation further underscores the rising importance compliance programs will play in antitrust enforcement policy moving forward.

Brazil

In 2014, Brazil's Administrative Council for Economic Defence (CADE) passed decisions in 58 cases of anti-competitive conduct, totalling approximately USD 1.61 billion in fines. CADE had imposed cartel fines for

approximately USD 226 million, which proved to be considerably less than in the previous year. In spite of the level of fines in 2015, the prosecution of cartels clearly continues to be a priority for CADE, and in particular the prosecution of bid rigging.

More specifically, in August, following a leniency agreement, CADE concluded an investigation into the state-run oil company Petrobras and into related bid-rigging, corruption, and money laundering charges. CADE signed a cease and desist agreement with the company Construções e Comércio Camargo Corrêa S/A and two individuals, who agreed to pay a pecuniary contribution of USD 28 million to the Diffuse Rights Fund. In addition to the Petrobras investigation, in the second half of 2015, CADE concluded its investigation involving cartels in various markets, in such sectors as auto parts, airfreight and seafreight logistic services, paid parking services, distribution of liquefied petroleum gas, resin, haemotherapy services, healthcare, etc.

In recognition of its enforcement success in 2014, CADE received an award as Agency of the Year from the Global Competition Review, with its increase in leniency agreements and compliance programmes being praised in the award. Since 2003, CADE has signed 45 leniency agreements.

Canada

After imposing USD 39 million in fines in the first half of 2013 and nearly USD 10 million in the first half of last year, the enforcement efforts of the Canadian Competition Bureau have declined this year: Canadian enforcement

until December fell to less than USD 2 million. Despite this decline in enforcement, the Bureau remains active, and in June it published a new Corporate Compliance Programme bulletin. The bulletin highlights the modalities whereby effective compliance programmes create more competition awareness within a business, while also indicating that such programmes would be taken into consideration during any Bureau investigation.

Moreover, this year the Canadian Parliament introduced legislation to set up a new agency responsible solely for prosecuting competition cases.

The Bureau is also building more partnerships with domestic enforcement agencies for combating corruption and cartel conduct. In this respect, in November the Bureau and the Royal Canadian Mounted Police (RCMP) signed a memorandum of understanding to cooperate in fighting bid-rigging and price-fixing activities by organized crime groups. Notwithstanding these efforts, the setbacks suffered by the Bureau, and its ongoing lack of resources, have given rise to a decline in cartel enforcement in 2015.

Mexico

In the light of the Federal Economic Competition Commission's (CFCE) 2014-2017 Strategic Plan issued in February 2014, many people expected a marked increase in fines and cartel enforcement actions in 2015. These expectations have however remained unfulfilled, as the CFCE has collected only a USD 2.78 million fine issued to seven passenger transportation companies in the state of Chiapas. According to the CFCE, from 2010 to

2014, the companies adopted “*absolute monopolistic practices*” related to price-fixing.

Mexican antitrust officials recently met their U.S. and Canadian counterparts to discuss enforcement concerns and harmonise their approach, the first in a series of such annual trilateral meetings.

It is worth noting that the CFCE has several active investigations currently in progress. It has recently started an investigation into potential price and/or market fixing among pension fund operators, known as AFORES (administrators de fondos para retiro).

3.2 Europe, Middle East & Africa (EMEA)

European Union

2015 marks the first full year of Margrethe Vestager's leadership as the new Commissioner of the European Commission's Competition Directorate (the Commission). The Commission imposed five fines in 2015, for the following amounts: USD 17.02 million against broker ICAP for facilitating a number of cartels in the Yen interest rate derivatives sector, USD 77.39 million against parking heater producer Eberspächer for coordinating prices and sharing customers with a competitor, USD 130.26 million against producers and distributors for operating a retail food packaging cartel, USD 54.17 million against cargo train operators and USD 131.61 million against suppliers of optical disc drivers. Vestager's first year brought substantial fines, totalling approximately USD 410.4 million, but fell short of Alumnia's end-of-year levels in 2014 (USD 2.3 billion).

However, several simultaneous investigations are underway for the Commission, suggesting that an escalation in fines is imminent in the coming months.

A particularly interesting case under investigation is *Container Liner Shipping*, in which the Commission is investigating the practice of price signalling, with a view to assessing whether an unlawful agreement (or concerted practice) can be represented by firms sending information to each other regarding their future behaviour not through direct contact, but in the form of announcements made to third parties (for example in comments made to the media or in speeches delivered at conferences).

The Commission has yet to conclude its investigations into various financial service markets which, in other jurisdictions, have resulted in a number of penalties. The Commission has also issued two Statement of Objections to suspected participants in a car battery recycling cartel and to electrolytic capacitor manufacturers as part of a price-fixing investigation.

Additionally, the Commission reportedly has numerous new investigations underway. In March, Commission officials conducted dawn raids on companies involved in the production or trading of bioethanol for suspected violations of EU's antitrust laws prohibiting cartels. Other active investigations include alleged price-fixing and market sharing in the canned mushrooms market.

More specifically, the Commission appears to be shifting away from exclusive reliance on its leniency programme based on investigative

leads. According to statistics presented at this year's International Competition Network (ICN) conference, about 20% of cartel investigations in the EU are started by methods other than leniency, including third-party informants. A further element worth noting is that a significant percentage of the Commission's decisions in 2014 and 2015 were settlements: Cargo trains operators, on July 2015, was the 19th settlement since 2008, when the settlement procedure was adopted.

The Commission is currently considering potential changes favouring an increased convergence of the roles of the Community and of its member states in investigating and fining cartels.

Among other things, recently commissioner Margrethe Vestager has stressed the importance of "*empowering national competition authorities with the tools they need to play a full part in applying European competition law*", also stating that "*it's not about harmonising or determining the details. It's about empowering national competition enforcers. It's about working better together as a team in our shared interest for fair and open markets and so more competitive Europe.*"

Outside the framework of cartels, the Commission attracted attention earlier this year with an e-commerce sector inquiry centred on vertical restraints. This is part of the Commission's broader Digital Single Market initiative, which seeks to provide better access to digital services for consumers by removing digital restrictions across member states and adopting a number of common standards.

Lastly, this fall, the Commission published an updated version of the Explanatory Note it

issues to companies at the beginning of a dawn raid, noting that the Commission may search private devices (*i.e.* mobile phones and tablets) when those devices are used for work purposes.

Russia

Enforcement by the Russian Federal Antimonopoly Service (FAS) has been slow so far this year, raising just one cartel fine in the first half of 2015. The fine, the amount of which was less than USD 1 million, was levied against nine companies in the commercial fishing industry for colluding to rig the allocation of fishing rights in various parts of Russia.

Future fines are expected, though, as the FAS has also indicated that it has discovered cartel activities between four purchasers in the raw milk industry and several bid-rigging cartels in the construction sector. Though quiet on the enforcement front, 2015 has brought with it significant procedural changes in competition enforcement. More specifically, the FAS has introduced a new leniency programme that allows the first individual to participate in a cartel investigation to receive immunity after revealing the existence of the cartel and aiding the investigation, provided that the person concerned is not guilty of other violations of the law. The FAS has also added new appeal procedures against decisions passed by its regional offices. In addition, Russia's antitrust agency is to propose lowering fines for companies which employ staff trained in competition law compliance. The FAS's head, Igor Artemyev, announced that this measure would be included in the fifth antimonopoly package. These recent procedural developments

may indicate that the FAS is making preparations for future investigations.

South Africa

In 2015 the South Africa's Competition Commission (the Commission) imposed fines totalling USD 16.33 million. The Commission has submitted several alleged construction cartel cases to the Competition Tribunal, including cases involving the cement industry, bilateral collusive agreements in the construction industry and alleged bid-rigging cases. Three cases were submitted to the Competition Tribunal involving a number of collusive activities in auto body repair shops, retail arts stores and pipe manufacturers.

Following the Commission's investigation into collusive conduct on the part of shipping liners, it has reached a settlement agreement with a Norwegian shipping company, which has been found responsible for colluding in eleven tenders with competitors for the transportation of motor vehicles by sea to and from South Africa. The Norwegian company admitted its collusive conduct and agreed to pay a fine of USD 7.5 million.

Additionally, the Commission is continuing its investigation into the furniture removal industry (started in 2010) for bid rigging. The Commission has already reached settlement agreements with some of those companies, including Cape Express which has agreed to pay a fine for bid rigging and for offering "*cover prices*." More recently, the Commission filed a claim with the Competition Tribunal for prosecution on account of bid rigging against J&H Furniture Removals, Langs Removals and Stanley's Removals. It is applying for an order

declaring the furniture removal companies liable to pay a fine corresponding to 10% of their respective annual turnover for each instance of collusive tendering.

More specifically, on November 11 the Commission signed a memorandum of understanding with the Namibian Competition Commission which will consolidate their relations and cooperation on competition policy. This memorandum between the two Southern African Development Community (SADC) nations is the first of its kind in the African competition landscape.

The Commission used another component of its investigative toolkit this year when it invoked sector inquiries into the retail and healthcare industries. Additionally, the Commission launched an investigation into foreign currency trading, focusing on trades involving the South African Rand, which is one of the most heavily traded emerging market currencies. South Africa's competition commissioner, Tembinkosi Bonakele, stated that although the conduct took place outside South Africa, the Commission will pursue extraterritorial cartels involving South Africans.

Other developments in Europe

At the EU member state level, vertical issues are under scrutiny in numerous cases concerning online booking of hotel rooms. Many competition authorities throughout the EU – including the UK, France, Germany, Sweden and Italy – have already concluded their investigations on aspects of dealings between hotels and travel agencies, which reveal significant differences between the various positions adopted by the authorities

and discrepancies in their approach, leading to a fragmentary pattern in terms of the European position in the matter.

As to specific national jurisdictions, Germany's competition authority remains active in its cartel enforcement, as evidenced by a recent fine of USD 171 million against grocery chains for price-fixing and a fine of USD 11,66 million against ten companies for collusive agreements. The Belgian competition enforcement authority fined 18 consumer manufacturers a total figure of USD 197.7 million for their roles in a six-year cartel. In the United Kingdom, an individual has been sentenced to 14 years in jail after becoming the first person to be convicted by a jury of rigging the LIBOR interest rate. The Competition and Markets Authority (CMA) was created last April with the merging of the Office of Fair Trading and the Competition Commission. The CMA has about a dozen open cases, including a criminal cartel investigation into the supply of products to construction industries. In a recent criminal case, three individuals were charged with one cartel offence relating to four companies for allegedly conspiring to rig bids and share markets in the water storage industry, with one defendant pleading guilty and two others being acquitted following trial by jury. In addition to the criminal case, the CMA is conducting a civil probe in order to determine whether the companies have violated competition law. The Italian competition authority (ICA) has concluded eleven cartel investigations, issuing fines for a total amount of EUR 106.8 million (USD 116.2 million). It is worth noting that, out of eleven cartel proceedings, seven were bid rigging cases. Beside cartel cases, vertical

restraints have featured high on the ICA's enforcement agenda. In December, France's competition authority issued a near-record USD 738.27 million fine to 20 companies and a professional trade union in the delivery service industry for two anticompetitive agreements. Moreover, the French competition authority published revisions to its leniency programme in order to increase transparency and integrate the 2012 European Competition Network Model Leniency Programme.

Lastly, the Spanish competition authority was particularly aggressive this year, imposing USD 702 million in fines.

3.3 Asia Pacific (APAC)

Australia

Although the Australian Competition and Consumer Commission (ACCC)/Australian Federal Courts have issued no cartel fines so far this year, cartel conduct remains an enforcement priority. In November 2015, the ACCC's chairman, Rod Sims, confirmed that the ACCC had a dozen on-going in-depth cartel investigations underway. Media reports suggest that the ACCC is involved in a number of investigations in the financial sector, including BBSW rigging and foreign exchange. Sims stated that the ACCC will seek higher penalties in order to deter cartel activity. Criminal sanctions for serious cartel conduct were introduced in Australia in 2009. The Chairman also announced this year that the ACCC has set up a new group dedicated to investigating criminal cartel conduct.

Along with other antitrust authorities worldwide, the ACCC is investigating alleged attempted manipulation of the foreign exchange currency

benchmarks. In addition to its ongoing investigations, the ACCC also has ten cartel cases currently before the courts, including proceedings relating to an alleged laundry detergent cartel, recently filed proceedings for the alleged bid-rigging of a government tender for mining exploration licences, and an appeal against the air cargo cartel proceedings. More specifically, in August 2015 the ACCC sought special leave of the High Court of Australia to appeal the decision of the Full Court of the Federal Court of Australia in relation to allegations that Flight Centre Travel Group Limited attempted to induce three international airlines to enter into price fixing arrangements between 2005 and 2009.

This year the ACCC hosted the four-day ICN Conference, illustrating the ACCC's prominence as a global antitrust enforcement regime. At the conference, Japan and Australia agreed to considerably escalate international cooperation in pursuing and policing anticompetitive violations. In addition, on 5 November 2015, the ACCC announced that it had signed a memorandum of understanding with the National Development and Reform Commission of the People's Republic of China for increased coordination in international cartel investigations affecting the Australian and Chinese markets. This follows the ACCC's earlier announcement in April 2015 that it had signed a cooperation agreement with the Japan Fair Trade Commission.

China

China's National Development and Reform Commission (NDRC) has imposed minimal fines against cartel participants so far this year, raising approx. USD 63 million in sanctions in

2015. The NDRC raided several coffee companies - including Nestlé - earlier this year for alleged violations of China's antitrust law, with price-fixing as the possible focus of the investigation. The NDRC also announced a nationwide investigation into the prices of medicines for consumers, along with an investigation into suspected price-fixing and collusion activities among global shipping companies in the roll-on, roll-off shipping industry.

Outside the enforcement framework, the NDRC has been designated by the State Council's Antimonopoly Commission to take the lead in drafting new legislation regarding antitrust enforcement guidelines in the auto sector. These efforts follow the record USD 201.6 million in fines the NDRC imposed on Japanese car manufacturers in 2014. A senior official at the NDRC commented that, in addition to these new guidelines, the NDRC will be prioritizing further and better enforcement procedures and sector studies; it is currently conducting a study, authorized by the Anti-monopoly Commission of the State Council, on revising the Anti-Monopoly Law (AML). According to the NDRC, certain provisions of the AML had proved inadequate in guaranteeing rigorous antitrust enforcement and it was necessary to revise them in order to step up enforcement.

India

Although the Competition Commission of India (CCI) started slowly in 2015 – imposing only USD 28,000 in fines from January to May – the CCI issued over USD 166 million in fines in 2015. More specifically, the CCI levied USD 9.8 million in fines on two pharmaceutical

companies for their role in colluding to raise the price of vaccine bids. In the second half of 2015 the CCI has imposed a total fine of USD 106 million on four public sector insurance companies for manipulating the bidding process. Additionally, the CCI has recently concluded its investigation into airline services, imposing a fine of USD 39 million on IndiGo, Jet Airways and SpiceJet for allegedly colluding to fix fuel surcharge rates.

Outside the cartel framework, the CCI is investigating the Indian e-commerce sector in order to determine whether e-retailers are imposing floor prices on merchants using online platforms to sell their products.

In December 2015, the Competition Appellate Tribunal overturned the record-breaking USD 924.83 million fine the CCI imposed on eleven members of an alleged cement cartel in 2012, finding that CCI's investigation was procedurally unfair. CCI was instructed to restart the investigation and issue a new order within the next three months.

Japan

The Japanese Fair Trade Commission (JFTC) has not been as active in 2015 as it has been in recent years - collecting USD 31.7 million in fines in 2015 - a small fraction of the USD 398 million it levied in total last year. The bulk of the 2015 fines stem from the investigation of bid-rigging in the sector of manufacturing and installing a number of industrial facilities, including elevator and rice-milling equipment. The JFTC's largest individual fine was against NTN Corp., one of three companies indicted for the price-fixing of certain industrial bearings in the domestic bearings trade; two

executives were likewise sentenced to suspended prison terms for their roles in the same. Despite the low figures, the JFTC has not been idle: in early February, the JFTC raided the offices of 20 road builders suspected of collusion following the earthquake and tsunami of 2011. Recently, the JFTC has also issued a cease and desist order and a surcharge payment order to the eleven companies that had participated in bidding for snow-melting equipment works commissioned by the Japan Railway Construction, Transportation and Technology Agency, imposing around USD 9 million in fines. This was the first case in which a hearing procedure, introduced by the 2013 Antimonopoly Act amendment, was held.

In addition, the JFTC recently sent notifications to issue administrative orders to nine companies suspected of having engaged in collusive bidding for a water treatment chemical, polyaluminum chloride, with local municipalities.

On April 29, Japan teamed up with Australia to sign a memorandum of understanding, intended to increase cooperation between the countries in investigating and prosecuting anticompetitive violations. According to JFTC Chairman Kazuyuki Sugimoto, the agreement allows their respective agencies to share confidential information during administrative investigations, without the consent of the parties involved. The JFTC has four other standing memorandum of understanding with competition authorities in the Philippines, Vietnam, Brazil and South Korea.

Lastly, the JFTC is considering revising Japanese antitrust law by introducing an EU-style commitments system. A JFTC official said this system should be adopted soon because it

would help shorten a number of cases that can be resolved on a basis of commitments.

South Korea

South Korea's robust enforcement efforts have continued in 2015, with fines already totalling USD 490.7 million. Although, until now, the cartel fine level is far less than the USD 1.01 billion mark reached last year, South Korea is second only to the United States this year in both the total amount fined and the total number of cases (44) in which fines were levied. Following the pattern set in 2014, the Korea Fair Trade Commission (KFTC) imposed four of its largest fines this year - USD 161.4 million, USD 27.6 million, USD 28.34 million and USD 24.12 million - pursuing bid-rigging in government construction projects. The KFTC also imposed a USD 68.83 million fine on companies for agreeing prices in the local compound feed market and a USD 59.3 million fine for price-fixing on industrial explosive manufacturers.

Non-monetary sanctions continue to be at the forefront of Korean competition enforcement as well: a total of five executives have been sentenced to prison terms this year, including two railway executives for their roles in colluding to win supply contracts in a high-speed railway construction project. The KFTC also recently banned two companies, Hyundai Development Co. and Samsung C&T, from participating in any government tenders as a result of alleged bid-rigging.

After taking over as chairman of the KFTC in 2014, Jae-chan Jung stated that abuse of competition in the information technology sector - specifically within the mobile operating

systems market - would be of the utmost importance for the KFTC. The KFTC has already created a task force charged with monitoring all aspects of the IT industry this year, and there are rumours of KFTC investigations underway into such technology giants as Apple, Google, and Oracle, justifying the belief that significant enforcement action is imminent in this area.

Additionally, the KFTC shows no sign of easing its intense enforcement work: earlier this year it unveiled a new anonymous reporting system for alerting the KFTC to potential anticompetitive activities. With over 50 reports submitted within the first month of the programme's existence, all signs point toward increased enforcement in the future. Of note, on December 24, 2015, the Supreme Court of Korea overturned the KFTC's 2012 decision against Nongshim for ramen price-fixing due to lack of sufficient evidence, indicating the sizeable burden of proof imposed when cases are built entirely upon statements from leniency applicants and evidence of mere information exchange.

Lastly, on September 9, KFTC signed a memorandum of understanding on antitrust cooperation with the U.S. antitrust agencies regarding information exchange and case coordination between the two sides in competition law and policy.

Singapore

This year marks the tenth anniversary of the creation of the Competition Commission of Singapore (CCS). The CCS has emerged in the last decade as one of the most active competition enforcement regimes in the region,

with recent developments indicating a continuation of this trend. The CCS currently has 43 active cases, and although no fines have been levied this year, the CCS has just issued a proposed infringement decision against ten financial advisory companies for alleged anticompetitive activities. The CCS is also currently conducting complex investigations into the electronic capacitor and foreign exchange industries. These investigations should be closely followed.

In September, the CCS solicited a public consultation on proposed changes to its guidelines. Among other things, the proposed changes seek to: better reflect the CCS's current practice of assessing anti-competitive agreements; simplify and streamline the process of filing notifications to the CCS for guidance or decision; make the process of applying for leniency clearer and more efficient; and introduce a new Fast Track procedure for cases where this is possible in order to facilitate a more effective and efficient enforcement of antitrust law. In October, the CCS proposed new legislation that would offer a 50% discount to individuals guilty of anticompetitive behaviour who work with the CCS, underlining a renewed emphasis on cooperation with authorities.

Other developments in APAC

A relative newcomer to large-scale APAC cartel enforcement, Indonesia's Commission for the Supervision of Business Competition (KPPU) started in grand style in 2015, levying a total of USD 19.66 million in fines in fourteen different cartel matters. Although the vast majority of the amount of this fine – USD 12 million - can be attributed to a price-fixing conspiracy in the

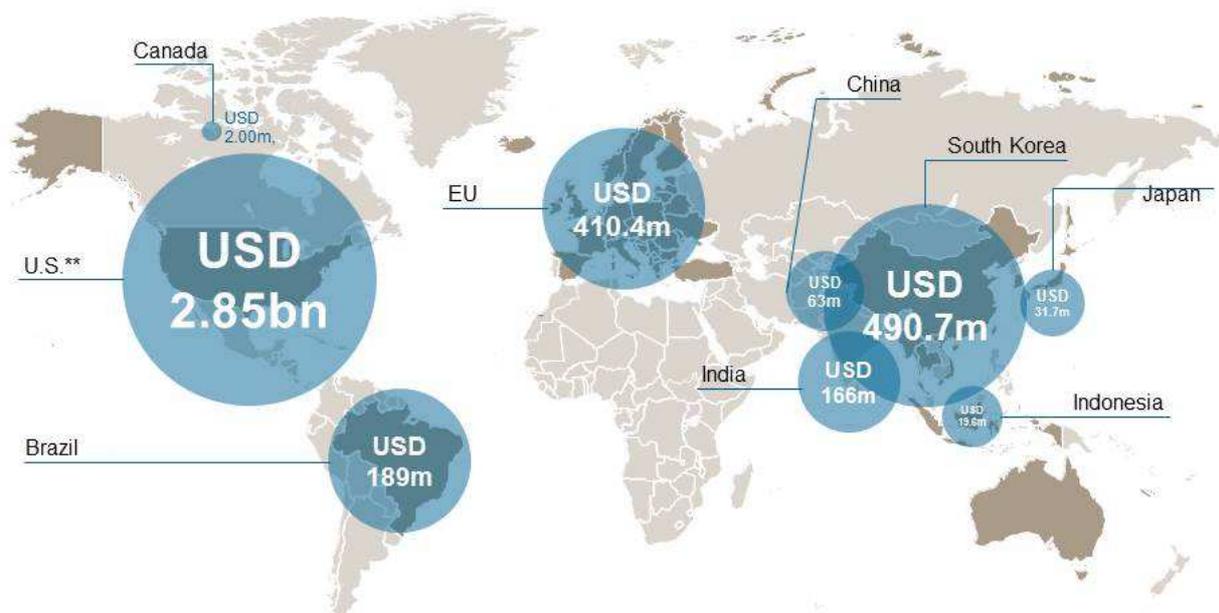
tire manufacturing industry, KPPU also brought several bid-rigging actions against major construction companies.

This upswing in enforcement is probably the effect of the Chairman Nawir Messi's decision to focus more strategically on investigating matters that affect the greatest number of people. KPPU commissioner Sukarmi noted that bid-rigging in public tenders is so rampant in Indonesia that 70% of the cases have

involved this practice. The KPPU is also actively seeking an amendment from the Indonesian Parliament to dramatically increase the fines the KPPU can raise. With the KPPU reporting several domestic cases currently under review and with an openly manifested interest in investigating international cartels, Indonesia's enforcement regime is quickly emerging on the international scene.

2015 Global cartel fines at a glance

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* Statistics from selected jurisdictions are approximate and reflect fine levels and exchange rates at the time of writing and may not be exhaustive.
** U.S. statistics cover the U.S. fiscal year, which runs from October 1 to September 30. All other countries' statistics cover the 2015 calendar year.

	U.S.	EU	Brazil	South Korea	Japan	China	India	Canada	Indonesia
USD	2.85bn	410.4m	189m	490.7m	31.7m	63m	166m	2m	19.6m
EUR	2.61bn	364.5m	174m	449.8m	29m	57.8m	153m	1.8m	18m

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Canadian Competition Bureau:
<http://www.competitionbureau.gc.ca/eic/site/cb-bc.nsf/eng/home;>

Federal Economic Competition Commission:
[https://www.cofece.mx/cofece/;](https://www.cofece.mx/cofece/)

European Commission's Competition Directorate:
http://ec.europa.eu/competition/index_en.html;

Russian Federal Antimonopoly Service:
[http://en.fas.gov.ru/;](http://en.fas.gov.ru/)

South Africa's Competition Commission:
[http://www.compcom.co.za/;](http://www.compcom.co.za/)

Bundeskartellamt:

[http://www.bundeskartellamt.de/DE/Home/home_node.html;](http://www.bundeskartellamt.de/DE/Home/home_node.html)

Competition and Markets Authority:
[https://www.gov.uk/government/organisations/competition-and-markets-authority;](https://www.gov.uk/government/organisations/competition-and-markets-authority)

Autorità Garante della Concorrenza e del Mercato: [http://www.agcm.it/;](http://www.agcm.it/)

Autorité de la concurrence:
[http://www.autoritedelaconcurrence.fr/user/index.php;](http://www.autoritedelaconcurrence.fr/user/index.php)

Australian Competition and Consumer Commission: [https://www.accc.gov.au/;](https://www.accc.gov.au/)

China's National Development and Reform Commission: [http://en.ndrc.gov.cn/;](http://en.ndrc.gov.cn/)

Competition Commission of India:
[http://www.cci.gov.in/;](http://www.cci.gov.in/)

Japanese Fair Trade Commission:
[http://www.jftc.go.jp/en/;](http://www.jftc.go.jp/en/)

Korea Fair Trade Commission:
[http://eng.ftc.go.kr/;](http://eng.ftc.go.kr/)

Competition Commission of Singapore:
[https://www.ccs.gov.sg/;](https://www.ccs.gov.sg/)

Indonesia's Commission for the Supervision of Business Competition:
[http://www.kppu.go.id/id/.](http://www.kppu.go.id/id/)