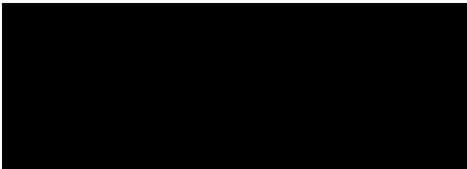


17 December 2020



By email only: 

Dear 

Official Information Act #20.095 – Cartel cases

1. We refer to your request received on 26 October 2020 for information about the Commerce Commission's (**Commission**) leniency programme. Specifically, you asked for the following information:
 - 1.1 details about the leniency applications that the Commission has received from 2000 to 2020; and
 - 1.2 the number of leniency applications that the Commission has received during the period from 2000 to 2010.
2. On 17 November 2020, we contacted you to clarify the scope of your request. On 23 November 2020, you advised that you are seeking the following information:
 - 2.1 the number of leniency applications received per year during the period from 2000 to 2010;
 - 2.2 the outcome of leniency applications received during the period from 2010 to 2020; and
 - 2.3 the area of each leniency application received during the period from 2010 to 2020.
3. On 19 November 2020, the Commission extended the time limit by which we must make a decision on your request to 21 December 2020.
4. We have treated this as a request for information under the Official Information Act 1982 (**OIA**).

Our response

5. We have decided to grant your request. However, we are providing some of the information you have requested in a different format. This is explained below.

The Commission's leniency programme

6. Please note that the Commission's cartel leniency programme was introduced by the Commission in 2004, not 2000.
- 6.1 Prior to 2004 the Commission had a cooperation policy which applied to all conduct, including cartel conduct.
- 6.2 From 2004, the cartel leniency programme replaced the cooperation policy in respect of cartel conduct. The Commission's cooperation policy is still operational,¹ but it does not apply to cartel conduct.

The information you have requested

7. We are preparing the information for release and it will be provided to you without undue delay. Please note that the information will relate to the period 2004-2020, for the reasons set out above.
8. Please note that we are not able to provide information that you have requested under [2.3] (as described above) regarding the areas of the leniency applications in the way you have requested.
- 8.1 This is because this information, when provided in combination with the other information you have requested, amounts to information that is subject to an obligation of confidence. Making the information available in the way you have requested would be likely to prejudice the supply of similar information in future, and it is in the public interest that such information continue to be supplied (section 9(2)(ba)(i) of the OIA).
- 8.2 Withholding the provision of the information in the way you have requested is not outweighed by other considerations which render it desirable, in the public interest, to make that information available (section 9(1) of the OIA).
9. We will however be able to provide you with information in response to [2.3] in a different format to that which you have requested. This information will not be linked to the information provided under [2.1] and [2.2], so that confidentiality over the combined information can be maintained.
10. If you are not satisfied with the Commission's response to your OIA request, section 28(3) of the OIA provides you with the right to ask an Ombudsman to investigate and review this response. However, we would welcome the opportunity to discuss any concerns with you first.

¹ The Commission's cooperation policy is described [here](#).

11. Please note the Commission will be publishing this response to your request on its website. Your personal details will be redacted from the published response.
12. Please do not hesitate to contact us at uia@comcom.govt.nz if you have any questions about this request.

Yours sincerely

Mary Sheppard
OIA Coordinator

Released Under Official Information Act 1982