

Unclassified

English - Or. English

30 November 2023

**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE**

**Global Forum on Competition**

**Alternatives to Leniency Programmes – Contribution from Kazakhstan**

**- Session II -**

7-8 December 2023

This contribution is submitted by Kazakhstan under Session II of the Global Forum on Competition to be held on 7-8 December 2023.

More documentation related to this discussion can be found at: [oe.cd/atlp](https://oe.cd/atlp).

Please contact Ms Lynn Robertson if you have questions about this document  
[[Lynn.Robertson@oecd.org](mailto:Lynn.Robertson@oecd.org)]

**JT03532998**

## *Alternatives to Leniency Programmes*

### *- Contribution from Kazakhstan -*

#### **1. Introduction**

1. The dynamic development of information technologies and the digitalization of the economy lead to a situation where traditional measures of antimonopoly regulation are not always equipped to face new challenges. Year after year, new difficulties emerge in establishing direct and indirect evidence, as businesses adapt to current situations and increasingly conceal traces of violations of antimonopoly legislation.

#### **2. Kazakhstan's leniency program**

2. In 2013, the Antimonopoly Authority of Kazakhstan (hereafter - the Authority, the Agency) implemented a leniency program aimed at incentivizing cartel participants to disclose information about their collusion. This program allows for the exemption of one cartel member from administrative responsibility if they approach the antimonopoly authority before an investigation commences.

3. However, in practice, this policy has not yielded the desired outcomes due to the typically covert nature of anti-competitive agreements. The reluctance of companies to self-report their involvement in cartel activities is often driven by their pursuit of maximum profit, regardless of the legal infringements and adverse effects on the market and consumers.

4. In response to these challenges, the Agency is exploring the introduction of a reward system. This system is designed to motivate individuals to come forward with information about cartel activities. As a benchmark, the European Union's antimonopoly regulation includes a similar mechanism, known as the "Reward System for Reporting Antitrust Violations". This system offers financial compensation to informants whose information leads to the successful detection and penalization of violators.

#### **3. Automation of the Monitoring Process**

5. The Authority has been restructured with a focus on automating the processes of monitoring and analyzing commodity markets, including the procurement of goods and bidding activities. A comprehensive analytical tool, known as the "Dashboard", has been developed to provide an information panel on 16 key commodity markets in Kazakhstan.

6. This list of markets is set to expand continuously, along with scaling efforts. The Authority is also exploring the integration of additional data sources into the Dashboard. These include export-import operations, economic activity reports, data from service aggregators, marketplaces, and more.

7. Once fully operational, the Dashboard will serve as an efficient tool for structuring, analyzing, and presenting market indicators. It will enable quick assessments of market conditions, identification of potential issues, and timely implementation of preventive

measures. This enhancement will allow the Antimonopoly Authority to prioritize its focus on specific commodity markets and enhance the effectiveness of its functions.

8. Additionally, the Authority has implemented the "Ormek" search information system, specifically designed to detect cartel collusion in public procurement. Ormek system analyzes bidding behaviors and establishes indirect connections between bidders, automatically flagging potential collusion indicators at auctions.

9. The introduction of these innovative tools has markedly improved the detection of cartel agreements, both in public procurement and broader commodity markets. However, it's essential to recognize the need for ongoing updates to these systems, ensuring that business entities cannot circumvent antimonopoly controls.

10. Furthermore, the Authority is considering a diversified strategy for identifying anti-competitive agreements (cartels). This approach will enable the use of various methods for detecting and suppressing such offenses and facilitate a more comprehensive analysis of the actions and behavior of cartel participants.

#### 4. Key Elements of a Diversified Cartel Identification Strategy

11. A comprehensive strategy for identifying cartels should encompass the following key elements:

- **Analysis of Economic Data:** This involves market research, analysis of statistical data, and examination of pricing policies and market shares of various companies. Econometric models and methods can be particularly effective in identifying potential signs of cartel activity.
- **Information Exchange with Industry Regulators:** Collaborating with industry regulators provides access to crucial market information and insights into company behaviors. Regulators can also supply specific data related to individual companies, aiding in the identification of cartels.
- **Joint Investigations with Law Enforcement Bodies:** Conducting covert investigations, including the surveillance of telephone conversations, monitoring of electronic correspondence, and analysis of financial records, is instrumental in detecting cartel agreements and activities.
- **Use of Indicators and Algorithms:** Implementing specialized indicators and algorithms enables the automatic detection of market anomalies and suspicious behaviors that may signify the presence of cartels.

12. Employing a multifaceted approach that combines various methods and tools will result in a more effective strategy for identifying and dismantling cartels.