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The Competition Council, the Romanian anti-trust regulatory authority, introduced a leniency policy in 2004 (see The Regulatory Authority).

The Competition Council published its Guidelines on Leniency (Leniency Guidelines) in 22 May 2004. These were inspired by the European Commission's Notice on immunity from fines and reduction of fines in cartel cases (OJ 2002 C45/03) (Leniency Notice).

The Leniency Guidelines apply to the most serious agreements or practices restricting competition, that is, cartels relating to (Chapter 1, Leniency Guidelines):

- Price-fixing.
- Fixing the level of production.
- Sales quotas.
- Market or client sharing.
- Bid-rigging.
- Import-export restrictions.

The Leniency Guidelines do not expressly exclude vertical agreements, and the Competition Council has not made a clear statement as to which breaches are eligible for leniency. However, given this restrictive definition of cartel, the Competition Council may follow the European Commission's practice and not give leniency to vertical agreements (especially those that require notification in Romania for an individual exemption).

A company that approaches the Competition Council can obtain immunity if it offers relevant proof of its participation in a cartel and it is either (Chapter II, Leniency Guidelines):

- The first to submit evidence which, in the Competition Council's view, may enable it to open an investigation (as long as the Competition Council does not already have sufficient evidence).
- The first to submit evidence which, in the Competition Council's view, may enable it to prove a breach of Article 5(1) of the 1996 Competition Law (as republished in 2005) in connection with an alleged cartel (as long as the Competition Council does not already have sufficient evidence).

Article 5(1) is the legislative section that prohibits agreements which have, as their object and/or effect, the restriction, prevention or distortion of competition. In addition, conditional immunity must not have already been granted to another company that has revealed information leading to the opening of an investigation into the cartel.

To read the entire article, please download the .pdf attached.