



ISRAEL ANTITRUST AUTHORITY

Leniency Program

1. Introduction

One of the main goals of the Israel Antitrust Authority (hereinafter: “**the Authority**”) is the detection of cartels and the indictment of their members.

In order to promote these goals, the Authority announces a leniency program: every person, including a corporation, a director or an employee of a corporation, will be granted full immunity from criminal prosecution relating to a restrictive arrangement offense under the Restrictive Trade Practices Law, if it will be the first to come forward to the Authority and provide all information known to it, in connection with the restrictive arrangement to which it was party (hereinafter: “**Immunity**”).

2. The Conditions for Granting Immunity

Immunity will be granted according to the following conditions and rules:

- a. The Immunity program applies only to criminal prosecution of cartel offenses and offenses of destroying evidence, obstruction of legal proceedings, subornation of perjury in an investigation or in testimony and witness harassment as provided in the Penal Law 5737-1977, which were carried out in connection with a restrictive arrangement offense as aforesaid. The Restrictive Trade Practices Law, 5748-1988 sets out several additional offenses. The Immunity program will not apply in connection with such further offences, or in connection with any other offence that is not included in the Restrictive Trade Practices Law, 5748-1988, except as detailed above. The Immunity program applies only to cartel-type restrictive arrangements. The term “cartel” shall have the meaning of any

arrangement between competitors, in which the competitors fix prices between themselves, set quotas or divide the market between themselves, according to territories, clients or type of products. Such collusion can be carried out either directly between the competitors themselves, or via a third party, such as a supplier who supplies his products to the competitors, or a major purchaser. Bid rigging between competitors, such as agreement between competitors in which the competitors agree upon the identity of the winner, the identity of those who will submit bids or the terms of the bids, is also counted as a cartel-type restrictive arrangement.

- b. Immunity will be granted only to the first applicant who comes forward to the Authority, from among the cartel members, provided all the conditions as detailed in this program are met.
- c. Immunity will be granted only if the applicant provides the Authority with full information, which is all the information known to him, all evidence that is within his reach and all the information and evidence that will come to his reach relating to the cartel that the applicant is part of, provided the information and the evidence are substantial.
- d. Immunity will be granted only if the applicant applies before an overt investigation has begun.
- e. When the applicant is a corporation, the application to the Authority should be as a result of a clear and binding decision taken by the corporation to come forward to the Authority and provide full and complete information, as opposed to an application of an isolated director or employee of the corporation. In such a case, when the corporation meets all other conditions of Immunity, the corporation itself as well as its directors and employees will receive Immunity, except for those directors or employees who do not provide full co-operation to the Authority (as described in section h. herein below). The degree of co-operation of a corporation will be measured by the number, position, significance and the

part in the cartel of the co-operating officers and employees of the corporation.

- f. When there is no such application from the corporation to the Authority, a director or an employee of the corporation may come forward to the Authority and provide full and complete information without the consent of the corporation and receive personal Immunity, , provided all the other conditions for receiving Immunity are met.
- g. Immunity will be granted only to one who terminated its part or participation in the cartel. The applicant shall not expose the essence of the application to any third party (except to its attorney), unless it received the consent of the Authority. The manner in which the applicant should terminate its part or participation in the cartel shall be coordinated with the Authority and shall be subject to the Authority's approval and according to its instructions. The aforesaid does not prevent one who terminated its part in the cartel prior to applying to the Authority and without connection to its application from receiving Immunity according to this program.
- h. Immunity is conditioned upon providing full and continuing co-operation with the Authority. Such co-operation will include providing full information that is in the possession of the Immunity applicant and within its reach, in truthful and detailed statements, including documents related to the cartel and the identity of its members. If it is a corporation that comes forward to the Authority to receive Immunity, then its directors and employees related to the matter shall give the statements. Moreover, the applicant should act according to the Authority's directions during and after the investigation, to assist the Authority in the investigation and testify fully in connection with the cartel, if and when required.
- i. Immunity will not be granted if the applicant is the clear leader in the cartel. The term "the clear leader in the cartel" means whoever clearly initiated the cartel, or coerced others to take part in it, or played the most dominant part in it.

- j. Where it is possible and justified to make restitution to the injured parties, the Authority will condition Immunity on making such restitution.
- k. Immunity will not be granted to one who was convicted in a cartel offence or received Immunity according to this program in the past.

3. Immunity Incidental to Another Investigation

A corporation, its director, its employee or any other applicant may come forward to the Authority, during or in connection with an investigation relating to it and provide the Authority with full details of another cartel, that is unrelated to the cartel that is being investigated, which they are part of. In such a case, the provider of the information will receive Immunity from criminal prosecution in connection with the other cartel, whose full details he provided, only if he meets all the conditions as described in paragraph 2 herein above. Furthermore, the Authority will consider the provision of information as mentioned above as a mitigating circumstance in connection with the pending investigation against the same applicant, provided that it did not impair, disturb or delay the investigation taking place against it by the Authority.

4. The Immunity Procedure

- a. Application of a corporation or an individual will be made to the Director of the Investigation Department of the Authority. The Director of the Investigation Department will inform the General Director of the Authority and the Chief Legal Advisor of the Authority or the deputy who is in charge of criminal enforcement about the application.
- b. A corporation or an individual that comes forward to the Authority will be asked to provide details and information concerning the cartel, prior to receiving Immunity, to a degree adequate to allow the Authority to consider its qualification for the Immunity program. If the Authority decides that the applicant does not qualify to receive Immunity, this

information will not be used as evidence against it by the State, provided the application to the Authority was made bona fide.

- c. Receiving Immunity from the Authority is subject to the approval of the General Director of the Authority and the District Attorney, that all the aforesaid conditions for receiving Immunity have been met.
- d. After the Authority verifies that all the conditions for receiving Immunity have been met, the Director of the Investigation Department will sign a written agreement with the applicant, which will receive the approval of the General Director of the Authority and the District Attorney.
- e. If the applicant materially breaches the Immunity agreement signed with the Authority, or provides false or misleading information, the Authority will be entitled, after receiving the consent of the General Director of the Authority and after receiving the approval of the District Attorney, to revoke the applicant's Immunity and to use the information provided by it as evidence against it..

The existence of the Immunity program will not derogate from the willingness of the State to make State's witness agreements or to enter into plea bargains not according to this program.