

March 2016

*"Success occurs when opportunity meets preparation".
Zig Zigler*

COMPETITION LAW: IMMUNITY FOR THE TRUTH SPEAKER

Cartel activity is a form of practice prohibited by the Competition Act. Cartel activities involves, but is not limited to the direct or indirect fixing of purchase or selling prices, the dividing of markets by allocating customers or suppliers and / or collusive tendering and other activities by a group of persons or trade organisations that promotes their self-interest. It is difficult for the competition authorities to detect cartel activities due to its intrinsic secret nature which renders both its detection and investigation difficult.

For this reason, competition authorities adopted a corporate leniency policy (the "CLP"). The CLP offers the first self-confessing cartel member who approaches the competition authority, immunity from prosecution and fines for his / her / its participation in cartel activities. The aim of the CLP is to encourage cartel members to disclose cartel activity and thus to contribute toward achieving the objects of the Competition Act.

However, such immunity may be revoked should a self-confessing cartel member not continue to collaborate with the competition authorities after his / her / its confession and during the investigations in order to uproot any cartel activities.

Law & Laughter

Joke: : What's the difference between a mosquito and a lawyer?
A: One is a blood-sucking parasite, the other is an insect.

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COMPANIES: SHOW US THE MONEY!

Companies that are required to have their annual financial statements audited in terms of the Companies Act must disclose any remuneration and other benefits distributed to each director and prescribed officer in any financial year.

According to a recent practice note issued by the Companies and Intellectual Property Commission it is not sufficient to disclose an aggregate amount of remuneration that was distributed to directors and prescribed officers. Each respective director's and / or prescribed officer's remuneration must be disclosed separately in the annual financial statements.

"Remuneration" as defined in the Companies Act include, but is not limited to salaries and any amounts of remuneration paid to persons for services rendered as a director or prescribed officer of the company or while being such a director, also for services rendered as a director or prescribed officer of any of the companies in the group, i.e. two or more companies that share a holding company or subsidiary relationship.

Should a company fail or neglect to disclose any director's benefits and remuneration to the full extent, a contravention of the Companies Act will be constituted.

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