

DOJ Warns of Widening Probe in Automotive Industry

March 6, 2013

The Department of Justice's Antitrust Division warns that its wide-ranging probe into price fixing in the automotive industry is broader than previously announced.

On February 15, 2013, Scott Hammond, Deputy Assistant Attorney General for Criminal Enforcement at the Department of Justice's Antitrust Division, presented to attorneys and members of the automotive industry at "Auto Parts and Antitrust: the Department of Justice's Criminal Cartel Program, Investigation Techniques Employed, and Recent Developments in the Auto Parts Investigation," an event organized by the Antitrust, Franchising and Trade Regulation Section of the State Bar of Michigan. At the program, Hammond discussed various cartel enforcement efforts by the DOJ and offered insight on the recent developments concerning the DOJ's ongoing auto parts investigation.

The ongoing auto parts probe is the largest criminal antitrust investigation ever pursued by the DOJ, Hammond said. "I say the biggest with respect to the impact on U.S. business and consumers, and the number of companies and executives that are subject to the investigation."

Prosecutions to date have netted twelve guilty pleas from individuals, as well as nine guilty pleas from auto part companies, resulting in over \$809 million in fines.

Hammond said the probe, which so far has involved many types of auto parts, such as seatbelts, air bags, fuel senders, instrument panel clusters, and wire harnesses, could expand to new products and additional companies. He noted that "the investigation is broader than what we've announced so far," and that the DOJ has discovered "additional wrongdoing affecting additional products." He declined to disclose the products, targets of inquiry, or when the probe might end.

Hammond also discussed the DOJ Antitrust Division's leniency program, which offers significant incentives to the first cartel member to voluntarily disclose antitrust crimes. Under the leniency program, the first company to report wrongdoing avoids criminal charges against the company and its cooperating employees. The first leniency applicant is also eligible for reduced civil damage exposure. The second leniency applicant, even if only by a few minutes, may not receive leniency, often resulting in a "race" among cartel members to be the first to report criminal activity. Hammond declined to discuss whether any leniency applicants are in the broadened probe, but confirmed that several auto manufacturers and suppliers are cooperating.

Hammond warned the audience of the serious implications for cartel activity such as bid-rigging and price-fixing. Aside from criminal penalties, the DOJ's probe has resulted in the filing of at least 50 civil antitrust lawsuits in federal courts around the country, many of which have been consolidated in the Eastern District of Michigan. The criminal investigation and civil lawsuits illustrate the need for domestic and international antitrust compliance programs and compliance audits. Miller Canfield's antitrust lawyers offer compliance training and audits to clients in many industries, including the automotive industry.

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The State Bar of Michigan's Antitrust, Franchising & Trade Regulation Section hosted Scott Hammond's presentation. Larry Saylor and Robert Murkowski are members of the Section, and Larry Saylor is a past chairperson. For additional information on the presentation or to discuss antitrust issues in the automotive industry, please contact Larry Saylor at 313.496.7986 or saylor@millercanfield.com or Robert Murkowski at 313.496.8423 or murkowski@millercanfield.com.

>> See the materials from Scott Hammond's "Auto Parts and Antitrust" presentation in PowerPoint.

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