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A Clutch of Cartels

Those who remember the early days of the European Communities' rules on competition may recall the Commission's practice of offering what used to be known as its "Christmas gifts". These usually took the form of new and welcome block exemption regulations or helpful policy guidelines; and it used to fit in with the Commission's schedule to publish them in the month of December. However, December 2001 marks a change in the way in which the Commission celebrates the season. During the month the Commission adopted no fewer than six Decisions on cartels and imposed fines amounting to many millions of Euros. This issue is therefore largely taken up with a description of the cases involving the Citric Acid Cartel, the Zinc Phosphate Cartel, the Carbonless Paper Cartel, the German Banks Cartel and the Belgian and Luxembourg Brewers Cartels. They make fascinating reading but are a grim warning to corporations willing to risk the consequences of joint price fixing and market sharing.

Leniency in Fines

Mr Monti's speech in Washington, reported in our last issue, dealt with an aspect of the Commission's competition policy figuring prominently in the cartel cases mentioned above. This concerns the draft, published in July 2001, of a new Notice on Leniency. Under it, complete immunity from fines will be granted to the first company to inform the Commission of an undetected cartel. To qualify for immunity, the company will have to provide sufficient information to allow the Commission to launch a surprise inspection (a "dawn-raid"). A company fulfilling the conditions for immunity will promptly receive a letter from the Commission confirming that immunity will be granted to the company if the conditions set out in the Notice are observed. The policy is based on the Commission giving adequate rewards to companies which, following the immunity application or any inspections (or both), provide "added value" evidence to the Commission. Successful applicants for reduction of fines will also be provided with a letter indicating the degree of immunity to which they will in principle be entitled. This letter will be sent no later than the day the Statement of Objections is issued. This will not only increase the legal certainty provided to companies but also enhance the overall transparency and credibility of the system. In devising these reforms, the Commission has paid a lot of attention to the success of the US Corporate Leniency Program of 1993. ■