



**U.S. DEPARTMENT OF JUSTICE**  
Antitrust Division

**MAKAN DELRAHIM**  
Assistant Attorney General

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RFK Main Justice Building  
950 Pennsylvania Avenue, N.W.  
Washington, D.C. 20530-0001  
(202)514-2401 / (202)616-2645 (Fax)

[Name and address]

Dear [Name]:

This letter sets forth the terms and conditions of an agreement between the Antitrust Division of the United States Department of Justice and [you/your client [Name]] (“Applicant”), in connection with [insert description of conduct: e.g., price fixing, bid rigging, market allocation] or other conduct constituting a criminal violation of Section 1 of the Sherman Act, 15 U.S.C. § 1, in the [insert generic description of industry: e.g., widget] industry [insert geographic scope: e.g., in the United States and elsewhere]. This Agreement is conditional and depends upon Applicant (1) establishing that [he/she] is eligible for leniency as [he/she] represents in paragraph 1 of this Agreement, and (2) cooperating in the Antitrust Division’s investigation as required by paragraph 2 of this Agreement. After Applicant establishes that [he/she] is eligible to receive leniency and provides the required cooperation, the Antitrust Division will notify Applicant in writing that [he/she] has been granted unconditional leniency. It is further agreed that disclosures made by counsel for Applicant in furtherance of the leniency application will not constitute a waiver of the attorney-client privilege or the protections of the work-product doctrine. Applicant represents that [he/she] is fully familiar with the Antitrust Division’s Leniency Policy for Individuals dated August 10, 1994 (attached), which is incorporated by reference herein.<sup>1</sup> The “date of this letter” as used herein means the date that the Antitrust Division executes this letter.

1. **Eligibility:** Applicant desires to report to the Antitrust Division [e.g., price-fixing, bid-rigging, market-allocation] activity or other conduct constituting a criminal violation of Section 1 of the Sherman Act in the [insert generic description of industry: e.g., widget] industry [insert geographic scope: e.g., in the United States and elsewhere] (“the anticompetitive activity being reported”). Applicant represents to the Antitrust Division that [he/she] is eligible to receive leniency in that, in connection with the anticompetitive activity being reported, [he/she] did not coerce any other party to participate in the activity and was not the leader in, or the

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<sup>1</sup> For a further explanation of the Antitrust Division’s Leniency Policy for Individuals and how the Division interprets the policy, see Frequently Asked Questions About the Antitrust Division’s Leniency Program and Model Leniency Letters (Jan. 26, 2017), <https://www.justice.gov/atr/leniency-program>.

originator of, the activity. Applicant agrees that [he/she] bears the burden of proving [his/her] eligibility to receive leniency, including the accuracy of the representations made in this paragraph, and that [he/she] fully understands the consequences that might result from a revocation of leniency as explained in paragraph 3 of this Agreement.

2. **Cooperation:** Applicant agrees to provide truthful, full, continuing, and complete cooperation to the Antitrust Division in connection with the anticompetitive activity being reported, including, but not limited to, the following:

- (a) producing in the United States all documents and records, including personal documents and records, and other materials in [his/her] possession, custody, or control, wherever located, not protected under the attorney-client privilege or work-product doctrine, requested by attorneys and agents of the United States;
- (b) making [himself/herself] available for interviews in the United States upon the request of attorneys and agents of the United States;
- (c) responding fully and truthfully to all inquiries of the United States in connection with the anticompetitive activity being reported, without falsely implicating any person or intentionally withholding any information, subject to the penalties of making false statements (18 U.S.C. § 1001) and obstruction of justice (18 U.S.C. §§ 1503 *et seq.*);
- (d) otherwise voluntarily providing the United States with any materials or information, not requested in (a) - (c) of this paragraph and not protected under the attorney-client privilege or work-product doctrine, that [he/she] may have relevant to the anticompetitive activity being reported;
- (e) when called upon to do so by the United States in connection with the anticompetitive activity being reported, participating in affirmative investigative techniques, including but not limited to making telephone calls, recording conversations, and introducing law enforcement officials to other individuals, with all such activity being conducted only at the express direction and under the supervision of attorneys and agents of the United States;<sup>2</sup>
- (f) when called upon to do so by the United States, testifying in trial and grand jury or other proceedings in the United States, fully, truthfully, and under oath, subject to the penalties of perjury (18 U.S.C. § 1621), making false statements or declarations in grand jury or court proceedings

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<sup>2</sup> *Counsel for the Applicant should discuss with the Division any concerns, such as safety concerns, regarding engaging in affirmative investigative techniques. The Division will take those concerns into consideration in assessing the Applicant's good faith and complete cooperation.*

(18 U.S.C. § 1623), obstruction of justice (18 U.S.C. §§ 1503 *et seq.*), and contempt (18 U.S.C. §§ 401-402), in connection with the anticompetitive activity being reported; and

- (g) not committing, participating in, or attempting to commit or participate in any additional crimes.

**3. Individual Leniency:** Subject to verification of Applicant's representations in paragraph 1 above, and subject to Applicant's truthful, full, continuing, and complete cooperation, as described in paragraph 2 above, the Antitrust Division agrees conditionally to accept Applicant into the Individual Leniency Program, as explained in the attached Leniency Policy for Individuals. Pursuant to that policy, the Antitrust Division agrees not to bring any criminal prosecution against Applicant for any act or offense [he/she] may have committed prior to the date of this letter<sup>3</sup> in furtherance of the anticompetitive activity being reported. The commitments in this paragraph are binding only upon the Antitrust Division, although, upon request of Applicant, the Division will bring this Agreement to the attention of other prosecuting offices or administrative agencies. If at any time before Applicant is granted unconditional leniency the Antitrust Division determines that Applicant (1) contrary to [his/her] representations in paragraph 1 of this Agreement, is not eligible for leniency or (2) has not provided the cooperation required by paragraph 2 of this Agreement, this Agreement shall be void, and the Antitrust Division may revoke the conditional acceptance of Applicant into the Individual Leniency Program. Absent exigent circumstances, before the Antitrust Division makes a final determination to revoke Applicant's conditional leniency, the Division will notify counsel for Applicant in writing of the recommendation of Division staff to revoke the conditional acceptance of Applicant into the Individual Leniency Program and will provide counsel an opportunity to meet with the Division regarding the potential revocation. Should the Antitrust Division revoke the conditional acceptance of Applicant into the Individual Leniency Program, the Antitrust Division may thereafter initiate a criminal prosecution against Applicant, without limitation. Should such a prosecution be initiated, the Antitrust Division may use against Applicant in any such prosecution any documents, statements, or other information provided by Applicant to the Division at any time pursuant to this Agreement. Applicant understands that the Antitrust Division's Leniency Program is an exercise of the Division's prosecutorial discretion, and [he/she] agrees that [he/she] may not, and will not, seek judicial review of any Division decision to revoke [his/ her] conditional leniency unless and until [he/she] has been charged by indictment or information for engaging in the anticompetitive activity being reported.

**4. Entire Agreement:** This letter constitutes the entire agreement between the Antitrust Division and Applicant, and supersedes all prior understandings, if any, whether oral or written, relating to the subject matter herein. This Agreement cannot be modified except in writing, signed by the Antitrust Division and Applicant.

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<sup>3</sup> *If there is a significant lapse in time between the date the Applicant terminated his or her participation in the anticompetitive activity being reported and the date the Applicant reported the activity to the Antitrust Division, the Division reserves the right to grant conditional leniency only up to the date the Applicant terminated his or her participation in the activity.*

The signatories below acknowledge acceptance of the foregoing terms and conditions.

Sincerely,

Date: \_\_\_\_\_

Makan Delrahim  
Assistant Attorney General  
Antitrust Division

\_\_\_\_\_  
[Applicant Name]

Date: \_\_\_\_\_

\_\_\_\_\_  
[Counsel Name]  
Counsel for [Applicant Name]

Date: \_\_\_\_\_