

PROPOSED CHANGES TO THE COMPETITION BUREAU'S IMMUNITY PROGRAM WILL UNDERMINE EFFECTIVE CARTEL ENFORCEMENT IN CANADA - COMMENTS OF MCMILLAN LLP ON THE CONSULTATION DRAFT DATED OCTOBER 26, 2017

Posted on January 1, 2018

Categories: [Insights](#), [Publications](#)

McMillan LLP believes that several proposed revisions to the Immunity Program under the *Competition Act* will have the unintended but serious consequence of decreasing applications for immunity and undermining the effectiveness of anti-cartel enforcement in Canada.

The provisions relating to (a) recording of proffers, (b) individual identification of potentially culpable corporate personnel, (c) more frequent and earlier use of recorded interviews, and (d) the apparent requirement to disclose privileged internal investigation work-product, will create substantial disincentives for Canadian companies to assist the Competition Bureau and the Public Prosecution Service of Canada by self-reporting illegal conduct in exchange for immunity from prosecution. The requirements are particularly incompatible with international cartel investigations and will discourage companies that are self-reporting in the United States, European Union and other jurisdictions from making parallel applications in Canada.

These changes are not necessary for effective investigation and prosecution of cartel conduct. While prosecutors may consider that such changes would make it easier to prosecute contested cases, the likely result will be that significantly fewer cartels are actually investigated and prosecuted.

For the full article, please click [here](#).