

ABA International Cartel Workshop: U.S. Enforcement Takeaways

A photograph of a modern building with a curved glass facade, showing multiple floors and windows, set against a light blue sky.

2 MIN READ

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The 2024 ABA/IBA International Cartel Workshop in Barcelona, Spain just wrapped up after three days full of demonstrations around a cartel hypothetical, substantive panels, and discussions with cartel enforcement officials from around the world.

Wednesday's finale showcased the final Enforcer's Roundtable of the conference, offering insights from senior enforcers of the European Union, Spain, and the United States on their enforcement priorities.

Of special note, Manish Kumar (Deputy Assistant Attorney General for Criminal Enforcement of the U.S. Department of Justice, Antitrust Division), delivered key insights into U.S. cartel enforcement trends. These are the key takeaways:

- **Leniency Program Comeback?:** After a significant decrease in the number of leniency applications during the pandemic, the Division reports year-on-year increases in the number of leniency applications for several consecutive years. Kumar did not share specific statistics, but said that in 2023 the Division received the second-highest number of leniency applications that it has received over the last decade. On this basis, the Division believes that the current leniency program (with recent revisions) continues to offer sufficiently attractive incentives to inspire self-reporting through the leniency program. Kumar declined to provide

the relative breakdown of applications between Type A and Type B but shared that the ratio between the two has remained stable over many years.

- **Rise of *Ex Officio* Investigations:** The Division also reports a continued significant increase in its own proactive efforts to identify, investigate, and prosecute cartel conduct without reliance on the leniency program. This aligns with trends in several other major jurisdictions where various cartel screening methods are advancing. This trend is expected to continue, as the Division puts additional resources into its detection capabilities.
- **Commitment to Cooperators:** In line with broader DOJ policies encouraging self-reporting, Kumar expressed the Division's commitment to "do right by cooperators" by working to ensure that companies and individuals providing valuable cooperation to the government not be disadvantaged for having done so. Notably, Kumar assured that this commitment extends to situations beyond the leniency applicant.
- **Labor Enforcement:** Despite the pause in new labor prosecution cases, considerable Division effort remains trained on labor market issues. Kumar stated that the Division had "learned some tough lessons" about how to present labor market cases in the last few years. But Kumar confirmed that the Division is still investigating no-poach and wage-fixing conspiracies and will prosecute more labor cases when it finds "the right set of facts."



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