

GARRIGUES

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- Background
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Background



- Federal Trade Commission (70's)
- Commission's Communication regarding the nonimposition of fines or the reduction of fines in cartel matters (1996, 2002, 2006)
- Regulation 1/2003
- Law 39/2006
- AdC's Regulation 214/2006



The Leniency Law objectives

More cases

 A powerful instrument for the filling of complaints and dismantling of cartels



Results obtained

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- "Catering Cartel" (2009)
- Price fixing and bid-rigging
- Fines in the amount of € 14,7 million / five undertakings



- There are no cartels?
- Insufficient awareness in relation to leniency?
- Improper leniency program?



If there are cartels, if there is some level of knowledge and if the program is not worst than other similar programs, why is there this apparent apathy for leniency?





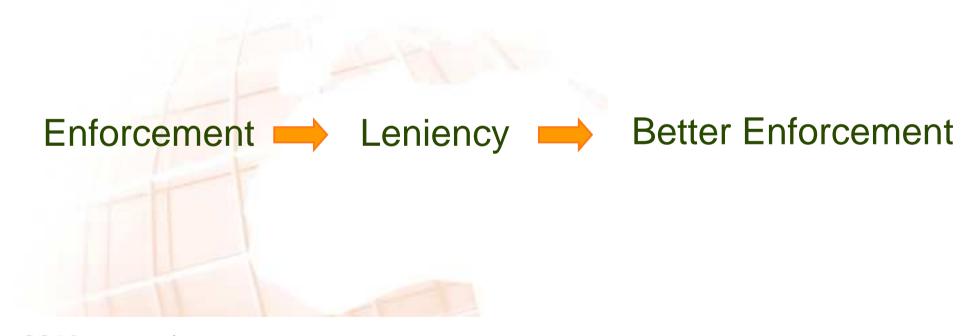


Enforcement

- Continuous flow of cases
- Effectiveness of decisions
- Quality
- Expedite judicial review



If leniency requires a high level of enforcement ... why do we need leniency?





Likelihood of detection	20%	80%
Fine	€ 1.000.000	€ 1.000.00
Advantage	€ 200.000	€ 800.000



Positive Aspects

Marker system

Amnesty plus



Suggestions of improvement



- Information on leniency applications
- First contacts in hypothetical terms
- Guidelines on the calculation of fines
- More flexible approach on the relevant moment to obtain leniency
- Intermediate levels of reduction of fines
- Legal protection of declarations made by leniency applicants



Conclusions

Is the Portuguese leniency producing the results that were expected?

Is it worth having it?

So, what do we need?

