

# Compliance in cartel cases in Hungary – From the Authority's viewpoint

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# Background

- Previously neutral approach towards competition compliance programs in cartel cases
- From 2018 mitigating factor when imposing fines (new fining guidelines)
- Reasons for the change
  - International trends
  - Demand by professional stakeholders
  - Potential for strengthening competition culture
  - Alignment of the fining guidelines for antitrust cases and for unfair commercial practices
  - Experience with imposing compliance programs on SMEs as a sanction

# Main principles

- Not to discourage leniency and settlement procedures
  - Compliance cannot lead to the avoidance of fines
  - Degree of fine reduction smaller than for leniency and settlement
- Foster voluntary compliance efforts
  - Actual compliance efforts need to be demonstrated
  - Ex ante programs are worth more than ex post programs
- Eliminate hindrances to compliance programs
  - Compliance is not an aggravating factor even in case of infringement (except in special circumstances)
  - Informant is not entitled to a reward if he/she circumvents the company's compliance program

# Actual conditions

- Meeting international standards and best practices
  - Commitment, Resources, Training, Control, Continuous improvement
- Ex ante compliance programs
  - Termination of the infringement and/or providing valuable evidence to the Competition Authority as a result of applying the program
  - High-rank company officers are not involved in the infringement
- Ex post compliance programs
  - Offered in addition to leniency / settlement / compensation
  - The Competition Authority, in its decision, obliges the company to introduce and apply the program offered

**Baker  
McKenzie.**

# **Compliance Credit – The Corporate Perspective**

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# Corporate Perspective

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*A reasonable and balanced compliance credit (CC) regime is a “win-win” situation*

*By recognizing meaningful compliance programs and giving guidance on minimum standards, a CC regime can help to “sell” compliance to different corporate stakeholders (i.e. shareholders, management, employees) in order to gain attention, recognition and get resources.*

*Change in the rules on payment to informants is also a „credit” granted by the legislator and the Hungarian Competition Authority to companies operating a good whistleblowing system.*