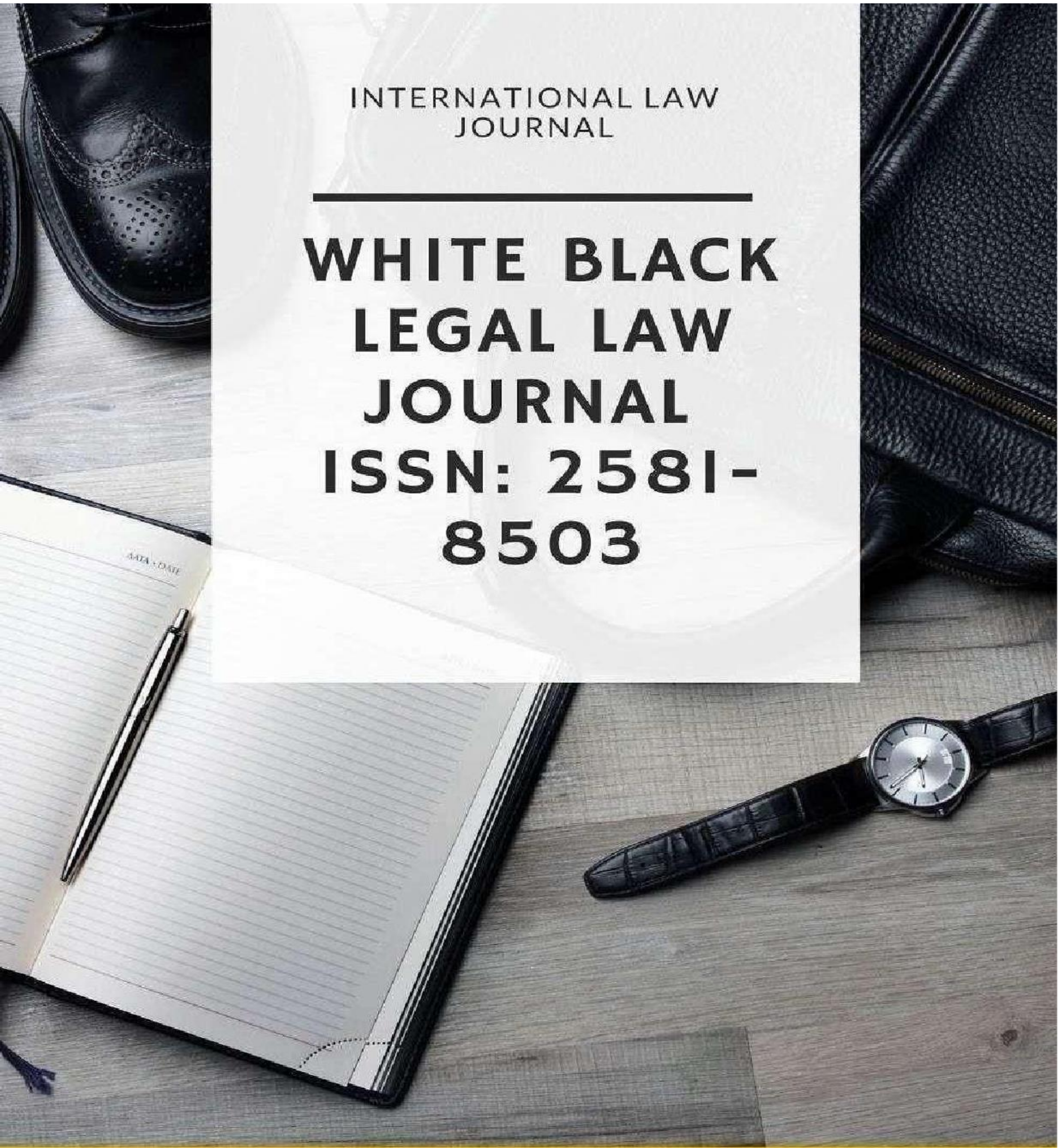

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THE PROMISE AND LIMITS OF CARTEL LENIENCY: EXAMINING DISCLOSURE AND DETERRENCE THROUGH THE LENS OF INDIA AND THE UNITED KINGDOM

AUTHORED BY - SADHANA YADAV & MAYUR PRIYAM BHUYAN

ABSTRACT

This paper analyzes lenient regimes in cartel enforcement using the example of comparison between India and the United Kingdom. Cartels are secret agreements that are known to include collusion (often in the form of price-fixing), bid-rigging, restricting the volume of output, or in a way that allows them to be hidden, are difficult to discover. Leniency programmes provide immunity or a significant reduction in penalties to the participants who inform on the other participants of the cartel and assist the authority in discovering them. The premise of this study is what happens in practice in the Indian and UK regimes and why they are strong or weak in relation to each other. It examines legislation, regulations, official guidance, enforcement materials and more recent empirical and experimental research and analysis using a doctrinal and comparative approach. Leniency is known to be a strong method to break up cartels and assist in detection. In India, however, uncertainty regarding penalties and their appeals have made the expectation of approaching the authority rather less effective. In the United Kingdom, the 2025 changes boosted the added value of early applications, curtailing some benefits given to late applicants. Recent studies have also demonstrated that leniency is more effective when the size and certainty of sanctions is greater, the potential applicant is more well-known, benefits for those who follow are properly designed, and there is an independent ability to detect cartels within the authority. The paper recommends that there must be transparent penalties, predictable procedures and complementary detection methods for a successful programme. The main caveat is a lack of public data on applications and outcomes.

KEYWORDS

Cartels; Leniency; Deterrence; Disclosure; Enforcement.

INTRODUCTION

Cartels are agreements among competitors to fix prices, rig bids, divide markets or restrict production. Their nature makes them hard to detect at first sight, and they run the risk of increasing prices, diminishing choice and depressing innovation, which is why they are illegal in India and the United Kingdom.[1&2] Hence, to get insider information from cartel participants, competition authorities have implemented leniency programmes. The statutory and procedural basis for reduced penalty is provided under section 46 of the Competition Act, 2002 along with the Competition Commission of India (Lesser Penalty) Regulations, 2024 in India.[3] Leniency also has gained wide application throughout the competition regimes, and has become a key tool in the fight against cartels.[4]

The United Kingdom's Competition and Markets Authority (CMA) reports that, since its previous guidance was issued, it received nearly 250 leniency applications and that cases involving leniency applicants produced more than £355 million in financial penalties and 24 director disqualifications.[5] The Competition Commission of India (CCI) operates its scheme under section 46 of the Competition Act, 2002 and the 2024 regulations. These are both in a broader enforcement approach aimed at discouraging cartels and maintaining competitive markets. However, there has been no race among the firms to come clean on the discovery of cartel activity in the Indian experience, reflecting ongoing impediments to the programme’s effective use.[6]

The paper provides a comparative study of cartel leniency programmes in India and the United Kingdom and highlights the differences between the leniency programmes. The key research

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[1] The Competition Act, 2002 (Act 12 of 2003), s. 3(3).
[2] The Competition Act 1998 (UK), c. 41, s. 2; The Enterprise Act 2002 (UK), c. 40, ss. 188–190.
[3] The Competition Act, 2002 (Act 12 of 2003), s. 46; The Competition Commission of India (Lesser Penalty) Regulations, 2024 (No. 2 of 2024), regs. 3–7, *available at:* https://www.cci.gov.in/images/whatsnew/en/gazzete1708451685.pdf (last visited on 20 March 2026).
[4] OECD, “The Future of Effective Leniency Programmes: Advancing Detection and Deterrence of Cartels” 3, 6, 8–10 (OECD Roundtables on Competition Policy Papers No. 299, OECD Publishing, Paris, 2023), *available at:* https://www.oecd.org/content/dam/oecd/en/publications/reports/2023/06/the-future-of-effective-leniency-programmes-advancing-detection-and-deterrence-of-cartels_a054b4db/9bc9dd57-en.pdf (last visited on 20 March 2026).
[5] Lucilia Falsarella Pereira, “Cartels: Being First to Apply for Leniency Matters More Than Ever,” Competition and Markets Authority Blog, 28 October 2025, *available at:* https://competitionandmarkets.blog.gov.uk/2025/10/28/cartels-being-first-to-apply-for-leniency-matters-more-than-ever/ (last visited on 20 March 2026).
[6] T.S. Somashekar and Praveen Tripathi, “Cartel Leniency Programme in India—Why No Race Here?” 12(3) *Journal of Antitrust Enforcement* 479–510 (2024), *available at:* https://doi.org/10.1093/jaenfo/jnad048 (last visited on 20 March 2026).

questions are: How are leniency programmes structured in India and the UK? Is there any actual evidence of their effectiveness? Are there any legal or policy considerations that come into play, such as the certainty of punishment, the outcome of appeals, confidentiality, collateral exposure and immunity provisions, etc. that have an impact on the decision to use? The theory is that leniency is vital to deterrence, but gaps have made the instrument ineffective in India, while the recent change in the UK has intended to focus the early entry advantage. The methodology is doctrinal and comparative, supported by recent empirical, experimental and policy literature. Particular attention is given to research on the long-term deterrent effects of leniency, the characteristics of likely applicants, the interaction between leniency and settlements, and the possible chilling effect of private damages actions.

LITERATURE REVIEW

Leniency theory and international experience:

In recent scholarly works, there is increasing doubt about the effectiveness of leniency programmes. Hinloopen, Onderstal and Soetevent review the theoretical, field-based and experimental literature and show that a leniency programme and its design have a significant impact on public notice of anti-competitive behaviour and on its deterrent effect.[7] Borrell, García, Jiménez and Ordóñez-de-Haro conclude that leniency can stimulate the identification of longer-lasting cartels in the short term but in the long term, it can reduce the duration of cartels and deter the re-formation of cartels.[8] Experimental studies, however, caution to the contrary. Law, Lai and Liu caution that laboratory studies may misrepresent the real-world effectiveness of leniency programmes when external-validity concerns are overlooked[9], while Kim and Noussair find that higher fines improve cartel detection but extending leniency to a second reporter does not necessarily provide any additional benefit.[10] These studies provide a qualified endorsement of the benefit of leniency, but they suggest that it is to be followed by sanctions, sequenced, and embedded in an institutional framework and enforcement context.

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[7] Jeroen Hinloopen, Sander Onderstal and Adriaan Soetevent, "Corporate Leniency Programmes for Antitrust: Past, Present, and Future" 63(2) *Review of Industrial Organization* 111–122 (2023), *available at:* https://doi.org/10.1007/s11151-023-09913-1 (last visited on 20 March 2026).

[8] Joan-Ramon Borrell, Carmen García, Juan Luis Jiménez and José Manuel Ordóñez-de-Haro, "Short and Long Run Effects of Leniency Programmes on Cartel Stability and Prosecution" 20(3) *Journal of Competition Law & Economics* 181–205 (2024), *available at:* https://doi.org/10.1093/joclec/nhae007 (last visited on 20 March 2026).

[9] Yui Law, Sinchit Lai and Ning Liu, "Leniency Experiments: An Evaluation of External Validity" 59(1) *European Journal of Law and Economics* 19–76 (2025), *available at:* https://doi.org/10.1007/s10657-025-09835-1 (last visited on 20 March 2026).

[10] Jeong Yeol Kim and Charles N. Noussair, "Leniency Policies and Cartel Success: An Experiment" 63(2) *Review of Industrial Organization* 187–210 (2023), *available at:* https://doi.org/10.1007/s11151-023-09915-z (last visited on 20 March 2026).

Leniency in India:

The existing legal framework for applications for lesser penalties is provided by Section 46 of the Competition Act, 2002 along with provisions of the Competition Commission of India (Lesser Penalty) Regulations, 2024. The provisions of the 2024 regulations superseded the provisions of the 2009 regulations and incorporated a lesser penalty plus mechanism.[11] Prior to the passage of the reform, Bhaduri claimed that 'leniency plus' would be ineffective in achieving the desired results and would likely negatively impact corruption if it made no attempt to resolve problems associated with the absence of credible sanctions and procedural uncertainty for prosecutions in India's current leniency programme.[12] Other on-going issues cited as of concern by Tiwari and Tiwari are uncertainty, confidentiality, possible leniency inflation and the interactions of leniency programmes with other enforcement measures.[13]

The practical evidence is equally important. Somashekar and Tripathi analysed the decisions of the CCI (2009-2021) and observed that there was no satisfactory evidence of a race to the agency after a detection of the cartel.[14] In the broader context, Bhattacharjea and De demonstrate that actual fines imposed by Indian cartels have frequently been somewhat vague and opaque, and could, in many instances, be less than the feasible deterrence thresholds.[15] The 2024 regulations offer more specific guidelines around marker status, cooperation requirements and lesser penalty plus, but success will ultimately rely on clear enforcement of the penalty calculations, on effective confidentiality protections and on a reliable appeal process.[16]

Leniency in the United Kingdom:

The UK regime is based upon the Competition Act 1998, the Enterprise Act 2002 and the CMA's published guidance. The revised guidance, which came into force on 28 October 2025,

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[11] *Supra* note 3

[12] Anik Bhaduri, "Sweeter Carrots, Same Stick: Transplanting Leniency Plus into Indian Competition Law" 7(1) *Indian Law Review* 26–50 (2023), *available at:* https://doi.org/10.1080/24730580.2022.2140909 (last visited on 20 March 2026).

[13] Sabin Tiwari and Asmita Tiwari, "Unraveling Antitrust Leniency: An Analytical Study on Recent Effectiveness Patterns" 14(1) *Kathmandu School of Law Review* 128–144 (2025), *available at:* https://doi.org/10.46985/kslr.v14i1.2246 (last visited on 20 March 2026).

[14] *Supra* note 6

[15] Aditya Bhattacharjea and Oindrila De, "Neither Crime Nor (Much) Punishment: India's Cartel Penalty Practices," in Kaushik Basu and Ajit Mishra (eds.), *Law and Economic Development: Behavioral and Moral Foundations of a Changing World* 225–256 (Palgrave Macmillan, 2023).

[16] Competition Commission of India, "General Statement on the Competition Commission of India (Lesser Penalty) Regulations, 2024" (2024), *available at:* https://www.cci.gov.in/images/stakeholderstopicsconsultations/en/general-statement-cci-lesser-penalty-regulations-20241708446556.pdf (last visited on 20 March 2026); Competition Commission of India, "FAQs on Lesser Penalty Regime" (2024), *available at:* https://www.cci.gov.in/images/whatsnew/en/faqs-on-cci-lp-regime1708500979.pdf (last visited on 20 March 2026).

places applicants in a queue and classifies them as Type A, Type B or Type C.[17] A qualifying Type A applicant might be immune from financial penalties, criminal prosecution and disqualification of the director, as well as any allowable procurement consequences. Limited and discretionary protection applies for Type B and C applicants, with an unlikely financial discount for Type B applicants of more than 75%.[18] The benefit of being applied first is therefore made more clear in the revision.

On the other side of the picture, recent research examines the broader issue of enforcement in the UK, projecting it into a comparative environment. According to Marvão and Spagnolo, excessive leniency, potential damages claims and soft sanctions can deter firms from reporting cartels and can restrict applications.[19] Bacharis and Kwan demonstrate that the development of private enforcement in the UK poses problems as to its coherence with public enforcement and the incentives for leniency.[20] The UK's response to the OECD also emphasizes the importance of complementary intelligence-driven investigations and whistleblowers and data-based detection mechanisms.[21]

Comparative insights:

Apart from formal immunity, applicant's features and anticipated exposure level may also impact the choice to self-report. Jiménez, Ojeda-Cabral and Ordóñez-de-Haro conclude that the group structure, anticipated penalties and the applicant's involvement in the cartel affect whether a company will be the first or second applicant.[22] Radoc, Libre and Prado's study also suggests that the decision to report a cartel is shaped by several factors and cannot be explained by financial incentives alone.[23] Dijkstra and Seifert go on to say that settlements can be

[17] Competition and Markets Authority, "Applications for Leniency and No-Action in Cartel Cases" (CMA210, 28 October 2025), *available at:* https://assets.publishing.service.gov.uk/media/68ffa89b394b8c2a6ddf5dce/___Applications_for_leniency_and_no-action_in_cartel_cases___.pdf (last visited on 20 March 2026).

[18] *Supra* note 5

[19] Catarina Marvão and Giancarlo Spagnolo, "Leniency Inflation, Cartel Damages, and Criminalization" 63(2) *Review of Industrial Organization* 155–186 (2023), *available at:* https://doi.org/10.1007/s11151-023-09920-2 (last visited on 20 March 2026).

[20] Grigoris Bacharis and John Kwan, "Public Redress in UK Competition Enforcement: A Study of Rationales and Techniques" 13(3) *Journal of Antitrust Enforcement* 621–645 (2025), *available at:* https://doi.org/10.1093/jaenfo/jnae056 (last visited on 20 March 2026).

[21] United Kingdom, "The Future of Effective Leniency Programmes—Note by the United Kingdom" DAF/COMP/WP3/WD(2023)18, paras. 3–20, 35–45 (OECD, 13 June 2023), *available at:* https://one.oecd.org/document/DAF/COMP/WP3/WD%282023%2918/en/pdf (last visited on 20 March 2026).

[22] Juan Luis Jiménez, Manuel Ojeda-Cabral and José Manuel Ordóñez-de-Haro, "Who Blows the Whistle on Cartels? Finding the Leniency Applicant at the European Commission" 63(2) *Review of Industrial Organization* 123–153 (2023), *available at:* https://doi.org/10.1007/s11151-023-09911-3 (last visited on 20 March 2026).

[23] Benjamin Radoc, Philip Amadeus Libre and Shanti Aubren Prado, "Determinants of Self-Reporting: An Experiment on Corporate Leniency Programs" 4(3) *SN Business & Economics*, Article 27 (2024), *available at:* https://doi.org/10.1007/s43546-024-00634-5 (last visited on 20 March 2026).

achieved or even used as a substitute for leniency if the reduction is available and the authority can provide enough evidence to support it.[24] The findings highlight the value of integrating remedy, immunity, resolution, private enforcement and independent agencies to create a successful regime, as each incentive alone is insufficient.

DISCUSSION

The rules that have been laid out in legislation or official guidance should not be considered the only measure of the effectiveness of a leniency programme. It rests on the ability of the firms to forecast the ramifications of disclosure and whether the expected benefits hold true and the general enforcement process provides any real motivation to cooperate. The subsequent discussion will therefore focus on the structure of the Indian and UK regimes, and the underlying enforcement conditions in each; and will compare and contrast them in terms of their operation in practice.

India:

Section 3 of the Competition Act, 2002 prohibits cartel agreements, while section 46 permits the CCI to impose a lesser penalty on a cartel participant that makes a full, true and vital disclosure. New rules were substituted for the 2009 rules and came into effect with the Competition Commission of India (Lesser Penalty) Regulations, 2024 that introduce detailed provisions on marker status, cooperation and lesser-penalty plus. Applicants shall make full and true disclosure, shall actively participate, shall stop participation if directed to do so and shall keep accurate and pertinent records. The first applicant is entitled to a maximum reduction of 100%, however, the amount of that reduction and the amount of the grant itself is still subject to the statutory conditions and the assessment by the Commission. It is difficult to assess this discretion when the aggravating or mitigating factors and underlying penalty base are not uniformly applied. Indian scholarly articles also recently explain the credibility of leniency as just being based on the predictable penalty calculation, confidentiality and providing clear reasons for the reduction awarded.[25]

[24] Peter T. Dijkstra and Jacob Seifert, "Cartel Leniency and Settlements: A Joint Perspective" 63(2) *Review of Industrial Organization* 239–273 (2023), *available at:* https://doi.org/10.1007/s11151-023-09910-4 (last visited on 20 March 2026).
[25] *Supra* notes 3, 13, 15 and 16.

United Kingdom:

The UK leniency regime is implemented under the provisions of the Competition Act 1998, the Enterprise Act 2002 and using detailed CMA guidance. This system operates with only one queue and differentiates between applicants who are classified as Type A, Type B or Type C. A qualifying Type A applicant may secure protection from consequential public procurement exclusion and debarment as well as protection from financial penalties or director disqualification and criminal prosecution before a director debarment investigation commences by securing guaranteed immunity. Type B applicant if comes forward after an investigation has begun; its discount is unlikely to exceed 75% and related director protection is discretionary. This guidance also covers confidentiality, cooperation, labour market applications and arrangements (both online and oral) and restrictions on innovation/sustainability.[26]

The UK criminal cartel offence was established under the Enterprise Act 2002 and changes came into effect in 2014 and eliminated the old dishonesty requirement. The consequences of civil penalties, criminal liability, disqualification of directors and the procurement consequences heightens the cost of non-co-operation. But recent research cautions that increased sanctions won't necessarily lead to more applications. The added element of leniency inflation and the possibility of exposure to damages or awards may weaken the incentive to be first and, in the case of public and private enforcement, they need to not unintentionally cancel each other out.

Comparing Outcomes and Incentives:

Empirical studies on outcomes continue to be quite limited and informative. In India, Somashekar and Tripathi found no sustained race to the agency following the detection of cartels. But from an international perspective, leniency appears to have the potential of decreasing the effectiveness of cartels and increasing long-term deterrence. Studies conducted into the behaviour of applicants indicate that the penalty to be faced would affect the report preference and the interplay of the corporate group and that of the participant's position in the cartel. Experimental studies also suggest that cracking down on credible fines and the design of incentives for first and subsequent applicants have an impact on the speed of cartel identification.[27] However, when comparing the two systems, they should not be compared merely in terms of the number of applications they receive for leniency.

[26] *Supra* note 17
[27] *Supra* notes 14, 8, 10, 14 and 22

A major distinction is that the first one offers a higher level of legal certainty than the second one. Within the OECD framework, those with commitment, clarity and credible sanctions are effective leniency conditions. The CMA's revised guidance clearly sets out how applications are ranked, what protection is available and how later applicants will be treated. India's regulations for 2024 establish the market process and the responsibilities of cooperation, although there is still some discretion in the imposition of the initial penalty and the extent of the reduction by the CCI. Experimental and comparative research indicates that such rules must be assessed within the institutional context in which they occur and not expected to be successful because they appear similar to a rule that has proven successful in another place. The CCI's explanatory materials are helpful, but their real value will depend on how consistently they are applied in decisions and upheld on appeal.[28]

Incentives also are influenced through institutional context. In India, the enforcement of cartels is primarily civil and administrative, with section 46 giving applicants the advantage of a monetary penalty reduction. But if penalties eventually levied are small or variable, firms do not have much incentive to come into the programme, as shown by Bhattacharjea and De.[29] In the UK, the threat of criminal prosecution and disqualification of the directors increases the cost of not co-operating, but the risks of over-sentencing and potential damages claims suggests there is a danger of imposing mismatched risks. Nevertheless, India does not need to replicate all of the features of the UK regime, but it should offer its citizens the same reliability of the practical and legal advantages of early reporting.

Interaction between Leniency, Settlements and Private Enforcement

Another crucial issue is the relationship between leniency and settlements and private damages actions. In addition to the lesser penalty faced by a firm about to announce a cartel, the risk of using their admission to file compensation claims or other proceedings may also factor into the decision. Marvão and Spagnolo note that this exposure might disincentivize companies from reporting, particularly when later submissions are also given significant cuts and the promotional advantage of the first submission diminishes. Bacharis and Kwan also highlight the importance of enforcement not undermining the incentive to cooperate while permitting affected parties to claim compensation. This is complicated by settlements further on.[30] When settlement and leniency bring separate advantages, they can complement each other, but an

[28] *Supra* notes 4, 9, 16 and 17.
[29] *Supra* note 15
[30] *Supra* notes 19, 20 and 24

attractive settlement discount may also result in fewer overall demands for leniency, especially if the authority already has adequate supporting evidence. India and the United Kingdom should clarify, therefore, how leniency will influence the settlement benefits, public penalties and private claim exposure. This would enable companies to better evaluate the consequences of disclosure without sacrificing victim rights.

Critical Analysis and Original Argument:

The evidence suggests that leniency is still not living up to its promise in India. The main problem is that applicants may be promised a reduced penalty without being able to predict the actual benefit of cooperating with the CCI. Without improving a country's existing deterrence framework there was little point to the additional promise of leniency plus, Bhaduri said. By contrast, the CMA's 2025 reforms make the advantages of applying first, as well as the more limited benefits available to later applicants, much clearer.[31]

In India, companies have a reduced incentive to opt out of the scheme, as those who opt-out may be subject merely to a small or uncertain penalty following adjudication and appeal. A real race to approach the CCI can develop only when the consequences of non-cooperation are clear and sufficiently serious. The Commission should therefore apply transparent principles to the calculations of penalty amounts, give reasons for each reduction in the amount of penalty and routinely provide legal defense of deterrent penalties to appellate tribunals. It should also offer greater assurances of confidentiality and of the application of leniency material to provide applicants with greater understanding of the consequences of disclosure.

Overall, greater awareness and enforcement should go hand-in-hand. While leniency can be part of a broader approach to detecting cartels, it cannot be the only tool relied upon by the authority. The OECD has recently underscored the importance of adding value from procurement screening, market intelligence and data analysis to detect cartels independently. In addition, Arai (2025) concludes that individuals are more likely to provide information about cartel activity when they think it will induce constructive action.[32] The CMA however offers a reward of up to £250k for useful information, demonstrating how a new informant scheme can assist in the feelings of leniency for participants; and the United Kingdom suggests to the OECD that intelligence-led investigations and detection should also be brought to participants,

[31] *Supra* notes 12 and 17

[32] Koki Arai, "From Silence to Vigilance: Overcoming Barriers in Public Reporting of Bid-Rigging and Cartel Violations" 13(1) *Journal of Antitrust Enforcement* 56–75 (2025), *available at:* https://doi.org/10.1093/jaenfo/jnae027 (last visited on 20 March 2026)

rather than vice versa.[33]

Both India and the United Kingdom must also deal with newer ways in which firms may coordinate their conduct. The UK guidance explicitly addresses labour-market arrangements, limitations on innovation and some agreements relating to sustainability, while much less is said about these matters in the Indian guidance. If the statutory thresholds are fulfilled, the CCI may interpret that no-poach agreements, coordination via algorithms and anti-competitive exchanges of information may qualify as cartels or horizontal agreements, respectively, under the laws governing such types of agreements.[34] In parallel, there needs to be clear and transparent evidentiary benchmarks to ensure that the leniency regime can apply to activities in the digital economy while preserving the ability to address such activity without confusing legitimate avenues of commercial cooperation with illegality.

Data transparency and periodic evaluation:

Another important issue is the lack of sufficient public information about the actual working of leniency programmes. Lack of data on applications, penalty reductions and the time required to dispose of cases makes it difficult to measure the impact of the programme on cartel detection and deterrence.[35] The CCI and the CMA could address this gap by publishing anonymized annual data while continuing to protect the identity and confidential information of applicants. This would facilitate and clarify the process of independent assessment and enable potential applicants to better understand what the programme involves in practice.

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Limitations:

This study is mainly doctrinal and qualitative. It is based on secondary literature and publicly available enforcement literature, since information on confidential applications and their success/fail results is not made public. This limits the scope for quantitative assessment as no interviews with practitioners or statistical experts were conducted. Within the scope of this paper it was not possible to examine the issue of differences in the structure of the markets, e.g. size of the economy, number of firms in each jurisdiction. More specific policy proposals, such as a formula for calculating penalties, would therefore require further empirical research.

[33] OECD, "Detecting Cartels for Ex Officio Investigations" 7–24 *(OECD Roundtables on Competition Policy Papers No. 311, OECD Publishing, Paris, 2024), available at:* https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/09/detecting-cartels-for-ex-officio-investigations_6836e489/1ea7cdba-en.pdf (last visited on 20 March 2026)

[34] Competition and Markets Authority, "Blowing the Whistle on Cartels," 6 June 2023, *available at:* https://www.gov.uk/government/news/blowing-the-whistle-on-cartels (last visited on 20 March 2026)

[35] *Supra* note 6

CONCLUSION

Leniency programmes remain an important means of detecting and prosecuting cartels in India and the United Kingdom. They have become a popular tool for recent scholarship and can be effective in undermining cartels and promoting disclosure if sufficiently well-designed and deployed in the right institutional context. In India, inconsistent penalties and the reduction of penalties on appeal have weakened the incentive to be the first to approach the CCI.[36] The Competition Commission of India (Lesser Penalty) Regulations, 2024 and the launch of a lesser penalty plus are relevant developments which would depend on transparency and consistency in their implementation.

The UK regime is not trouble free, but it does provide an unmistakable positive incentive to the first person to use the token. A qualifying Type A applicant will enjoy protection against financial penalty, prosecution, director disqualification and implications of procurement.[37] This offers the advantage of easier understanding of the practical value of early disclosure. Concurrently, evidence from damages claims and leniency inflation reveals that excessive risk for applicants and too much generosity for subsequent applicants can have detrimental effects on the race to report. So India should learn from the UK rather than take over all the characteristics of its system from there.

Both countries should continue to invest in other methods of cartel detection, including data analysis, protected reporting channels and intelligence-led investigations. Leniency is more effective if it is a component of a larger system of enforcement, not the primary source of information for the authority. In fact, research on public reporting and effort from the applicant also reveals that when citizens and companies believe that there will be some action on their reports and that cooperation will have a foreseeable legal advantage, they are more likely to cooperate. Members of a cartel should be evaluated not only according to the number of applications, but also taking into account the cartel duration, deterrence, recovered penalties, investigation time and the link between leniency and private enforcement as well.

A good leniency programme must simultaneously be supported by legal rules, the enforcement resources and incentives to implement them to their full effect. Value attached to cooperation is directly related to clarity, credibility and consistency. The comparative experience has

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36 *Id.*

37 *Supra* note 17

revealed that more transparency in the calculation of penalties, safeguarding the legitimate interest in maintaining confidentiality, detailing reasons for reduction in penalties awarded and making robust detection mechanisms, which rely on neither leniency application; can help to enhance India's programme. These changes would make the promise of a lesser penalty more likely to encourage the timely disclosure of cartels.

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