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What the DOJ Antitrust Division's New Whistleblower Rewards Program Could Mean for Antitrust Enforcement

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On July 8, 2025, the Department of Justice's Antitrust Division, acting in partnership with the U.S. Postal Service (USPS), launched its new Whistleblower Rewards Program, which offers to pay individuals who report eligible antitrust and related criminal offenses between 15% to 30% of any criminal fines imposed as a result of the prosecution of those offenses.

The new program joins other whistleblower initiatives from the Department of Justice DOJ, such as the Corporate Whistleblower Program, which the DOJ launched in Aug. 2024 to target general corporate crime.

This new program is the first time the DOJ has offered a whistleblower reward for antitrust offenses and reflects the DOJ's latest effort to incentivize internal reporting by individuals with information about potential anticompetitive conduct.

Program Details

To qualify, an individual must report an "eligible" offense, which includes not only criminal Sherman

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Act offenses but also federal offenses that may affect federal, state or local public procurement or affect antitrust investigations or proceedings.

The offense must also adversely affect the postal service or its revenues or property, though the program sets a low threshold for the level of harm to the postal service so that whistleblowers likely can demonstrate the requisite postal service impact. (*Memorandum of Understanding Between the Antitrust Div., U.S. Dep't of Just., the U.S. Postal Serv. & the U.S. Postal Serv. Office of Inspector Gen. Regarding the Whistleblower Rewards Program and Procedures*, May 7, 2025) (MOU).

The Antitrust Division will implement and oversee the program, and the U.S. Postal

Inspection Service (USPIS) and USPS will work with the Division on violation eligibility criteria and assist in determining the extent of the alleged conduct's harm to the USPS.

An individual who voluntarily reports original information about an eligible violation may receive between 15% to 30% of any resulting criminal fine. The voluntary report must be timely, specific and credible. The information must also be original, meaning that it is independent, non-public information about which the Antitrust Division did not previously know.

The award amount will be determined at the DOJ's discretion based on a number of factors, including (i) whether the reporting individual assisted with the investigation; (ii) whether the reporting individual suffered hardship as a result of reporting the violation; (iii) the impact and importance of the information on prosecution; and (iv) the report's reliability, completeness and help in saving government resources.

Whistleblowers may qualify for a reward under the program even if they participated in the anticompetitive practice or activity; however, they cannot have coerced another person to participate in the reported activity or led or initiated the activity. The DOJ will consider the extent to which the whistleblower participated in the activity when determining the amount of any reward.

Eligibility for the program is also qualified for whistleblowers in certain roles, such as employees in compliance or legal roles. Individuals in compliance or legal roles and individuals who are hired to review potential antitrust violations (such as an external investigation firm) are generally not eligible to receive an award as their reports would not be considered "original information."

Nevertheless, if an individual whose role primarily involves compliance or internal audit reports a violation to the DOJ after at least 120 days of first internally reporting the violation to the company's audit committee, chief legal or compliance officer, or their supervisor, then the individual's report could still be considered "original information" and eligible for an award.

In addition, officers, directors, trustees and partners who receive information or who learned about the potential violation through the company's internal processes are also eligible for the whistleblower award.

Comparison to Similar Antitrust Enforcement Programs

The new Whistleblower Program joins the Antitrust Division's existing leniency program in rewarding those who voluntarily report anticompetitive misconduct. The Division's leniency program includes Type A and Type B corporate leniency and individual leniency.

Type A corporate leniency provides protection from prosecution for an organization that promptly self-reports misconduct about which the Division had not previously received information. Type B corporate leniency also allows organizations to obtain protection from prosecution even if the Division already has received information about the conduct, provided that the Division does not have evidence that is likely to result in a "sustainable conviction" against the organization.

Under both Type A and Type B leniency, the organization must report the unlawful activity promptly, must use its best efforts to remediate the harm caused by its illegal activity, must not have coerced another party to participate in the illegal conduct, and must not have originated the illegal activity.

Under the individual leniency program, an individual can obtain protection if he or she promptly reports illegal conduct about which the Division had not previously received information about, did not coerce another party to participate in the illegal activity, and did not lead or originate the activity. (7-3.300 - Antitrust Division Leniency Policy and Procedures, Department of Justice).

The new Whistleblower Program is similar to the Division's individual leniency program in that it requires individual whistleblowers to report antitrust misconduct about which the Division had not previously received information from another source. The new program greatly incentivizes would-be whistleblowers to identify and report misconduct in order to receive a share of any ultimate criminal fines—a benefit that could amount to possibly millions of dollars.

Outside the U.S., the new Whistleblower Program is more generous than the European Commission's antitrust whistleblower program, which the EC launched in 2017. Like the new Division Whistleblower Program, the EC program protects an individual whistleblower from prosecution and from employer retaliation in response to anonymous reports about potential misconduct in which the individual is not involved. (Protection for whistleblowers, European Commission).

Unlike the new Division program, however, the EC program does not protect an individual who participated in the unlawful conduct and crucially does not offer any monetary awards as an incentive to report.

Significance of the Program and Potential Implications

The Division's new Whistleblower Program may signal the DOJ's increased investment and reliance on individual whistleblowers for antitrust enforcement. Under the existing leniency program, far fewer individuals than corporations sought leniency for alleged misconduct.

One of the most recent instances was an individual who reported concrete price-fixing in Georgia. The government brought Sherman Act charges, entered into a corporate deferred prosecution agreement with a $20 million penalty with one defendant, secured guilty pleas from three other defendants, and, after a trial in which the reporting individual testified for the prosecution, obtained guilty verdicts against two remaining defendants. (Coker, Margaret. "Federal jury convicts 2 for fixing concrete prices in Coastal Georgia," The Current (July 12, 2024).

The leniency applicant brought *qui tam* actions against his former employer and other co-conspirators to obtain monetary awards based on the conduct he reported. (*See generally* Young v. Argos USA LLC, No. 9:2019cv03073 - Document 12 (D.S.C. 2020).)

This case shows the potential effect of a financial incentive on the likelihood that an individual will come forward and report misconduct. By increasing the incentive to individuals, the Division's new Whistleblower Program could expand the existing leniency program.

Of course, there is a risk that this program may lead to more insubstantial or even frivolous reports, thereby increasing the burden on the Antitrust Division. The program may also encourage companies to enhance or change their internal processes for reporting possible antitrust misconduct and to be more proactive in addressing antitrust violations quickly within the 120-day window.

We will continue to monitor the impact and success of the program and report the results of that monitoring in upcoming columns.

The opinions expressed in this article are those of the authors and do not necessarily reflect the views of Skadden or its clients.

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