

April 2014

The US Department of Justice (DOJ) Antitrust Division announced today that Romano Pisciotti, an Italian national, was extradited from Germany on a charge of participating in a conspiracy to violate Section 1 of the Sherman Act. According to a one-count felony indictment filed under seal on August 26, 2010, and ordered unsealed on August 5, 2013, Mr. Pisciotti carried out a conspiracy to fix prices and divide markets in violation of the Sherman Act. Mr. Pisciotti's extradition marks the first successfully litigated extradition on an antitrust charge.

In this regard, Assistant Attorney General Bill Baer stated on April 4, 2014, that: "This first of its kind extradition on an antitrust charge allows the department to bring an alleged price fixer to the United States to face charges of participating in a worldwide conspiracy." No longer will individuals be able to escape trial and possible incarceration in the US by remaining overseas. Mr. Baer has stated that this "marks a significant step forward in our ongoing efforts to work with our international antitrust colleagues to ensure that those who seek to subvert US law are brought to justice."

With the increasing criminalization of antitrust offenses around the world, the number of extradition requests is likely to increase. The Antitrust Division has made it clear that it will work hard to extradite individuals for antitrust violations as well as violations of other laws committed in connection with an antitrust violation. This is exactly what happened in March 2010 when a retired CEO of a company located in the UK became the first person extradited to the US to face charges arising from a criminal antitrust investigation. Although he was not extradited on price-fixing charges, he was extradited on obstruction of justice charges in connection with an antitrust investigation.

The events of April 4 are clearly an evolution of a process that has been in the works for some time. Extradition for antitrust offenses is no longer a mere possibility, it is a reality. Given this reality, it is important that our clients understand they may not be protected from the reach of the DOJ even if they try to remain outside of the US.

International cartel investigations by the DOJ have been a priority. The ongoing investigation of the auto parts industry is one such example. To date, there have been at least 25 corporations that have pleaded guilty or agreed to plead guilty to the Department's auto parts investigation into price fixing and bid rigging in the auto parts industry. The companies have agreed to pay a total of more than US\$1.8 billion in fines. Additionally, at least 28 individuals have been charged, most of them non-US nationals. Given these numbers, it is only a matter of time before extraditions will occur from other countries where there is dual criminality and an extradition treaty with the US.

For global companies doing business around the world, the increasing likelihood of extradition makes antitrust compliance even more important than in the past. If you have any questions or concerns regarding this issue, please contact one of the individuals listed in this publication.

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