

# Hefty fines ahead: Minister intends to quadruple cartel fines

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A bill to enhance the deterrent effect of cartel fines by increasing the maximum fine that can be imposed for cartel infringements is afoot. Instead of keeping pace with the European Commission's cap of 10% of a company's total turnover in the preceding business year, the bill will increase the maximum fine to 10% of a company's turnover achieved during the cartel infringement, subject to a maximum duration of four years. Cartel infringements may therefore soon lead to even more serious financial setbacks. All the more reason to check whether the compliance programmes in place can effectively detect potential cartel violations.

Similar to the European Commission, the Dutch Competition Authority (ACM) can currently impose fines of up to a statutory maximum of 10% of a company's aggregate turnover achieved in the preceding business year. The [Minister](#) considers the current maximum insufficient to deter cartelists and repeat offenders. According to a [study](#) issued by the Minister, the ACM has had to reduce the level of the fines imposed for cartel infringements in about 60% of its cases in order to stay within the statutory maximum. The study states that the reason for this high percentage is that the basic amount used to set the fine is determined by the number of years of the infringement, whereas the statutory fine maximum is based on annual turnover. As a result, fines are more often reduced in regard of long-term cartels than short-term cartels. To resolve this issue, the Minister intends to link the level of the statutory maximum fine to the duration of the infringement instead of the company's annual turnover and subject the duration to a maximum of four years. In addition, the deterrent effect is to be even further increased by doubling the maximum fine level in the case of repeated infringement. The bill is currently in preparation and the Minister intends to consult the European Commission before finalising it by the end of this year, since the Commission as well as the ACM can impose fines for infringement of the European cartel rules.

To prevent hefty fines, it may be wise to check whether the compliance programmes currently in place are indeed sufficiently effective in detecting potential cartel infringements. Even though the chairman of the ACM's board recently [stated](#) that the ACM will not reduce the amount of a cartel fine merely because a compliance programme is in place, a compliance programme could nevertheless lead to lower fines. An effective compliance programme will not only prevent cartel violations from occurring, but will also detect violations at an early stage such that a leniency application could still result in immunity from fines or a significant reduction.

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