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Last month, the Department of Justice extracted guilty pleas [1] from a trio of companies on charges that they had conspired to fix prices of LCD screens for a period of five years. LG Display, Sharp, and Chunghwa Picture Tubes were slapped with fines ranging from $65 million to $400 million for jacking up the prices of the displays, which are used in—and affect the retail prices of—everything from TVs to computer monitors to cell phones.

The word *cartel* tends to evoke images of speedboats and kilos, but the truth is more prosaic—and much more widespread. Cartels are routinely caught tampering with the prices of everything from animal feed to vitamins. One 2007 report [2] that studied international cartels busted between 1990 and 2005 came up with a grand total of 283— which doesn't even count the ones that managed to escape detection. They're hard to ferret out because buyers might not even know they're being overcharged. If a cartel has international reach, even a customer with the wherewithal to shop around might not be able to find a better price. Increases usually get passed along until they reach retail shelves, and consumers are the ones who take it on the chin when they open their wallets.

In 1993, the DoJ rolled out an enhanced Corporate Leniency Program, which promises both a literal and figurative get-out-of-jail-free card to participants in price-fixing rings who fess up. Europe soon followed suit with a similar program. In the ensuing years, the industrialized world has ramped up both its prosecution and its punishment of cartels (although the U.S. is currently alone in its practice of incarcerating offenders). Ten years into the program, the DoJ reported [3] that the number of requests for amnesty from cartel members had gone from roughly one a year to anywhere from one to three a *month*.

Of course, authorities are seeing more cartels because they're looking harder for them, and the leniency program and its overseas equivalents have more guilty parties coming forward on their own than in the past. Even with this caveat, though, economists generally agree that cartel activity is on an upswing. Between the stepped-up scrutiny and penalties that include fines, damage awards, and possible jail time, why is price fixing still so common?

For starters, the money is great. Bert Foer, president of the American Antitrust Institute [4], estimates that cartel activity raises the price of a product by 25 percent to 30 percent. Even if a company is caught and fined or sued for damages, there's still a pretty good chance it'll come out ahead. Combine that with economists' collective assumption that only 10 percent to 25 percent of price-fixing instances are ever discovered, and it's not hard to see why the cost-benefit analysis looks pretty tempting to some.

Another reason for the increase in cartel activity is what John Connor, professor of economics at Purdue University and author of *Global Price Fixing [5]*, calls the "dark side of globalization." More than ever before, companies are more comfortable working across borders and with overseas partners. English has been increasingly adopted as the international business language, and MBA curricula have become standardized. The logistics of communicating, partnering, and executing an agreement have all gotten simpler; the downside is that it’s also easier to game the system.

Not all businesses are equally likely to collude. Companies most at risk for falling in with a bad crowd tend to be ones that manufacture some sort of industrial ingredient or component and sell to other companies as opposed to the general public. There are a couple of reasons for this. For starters, commercial buyers are sophisticated comparison shoppers and often have the clout to force a supplier down on price. Since the material in question is usually some kind of commodity, one seller can’t gain an edge over its rivals in areas like service.

But pursuit of profits isn't the only motivation—a counterintuitive fact on display in the lysine scandal of the 1990s. Lysine is a livestock feed additive, the price of which was for years controlled by major U.S. supplier Archer Daniels Midland and its counterparts in Europe and Asia. The story took a pop-star-marries-backup-dancer turn in 1992, when a top ADM exec spilled his guts to the FBI and agreed to wear a wire, only to get thrown in jail after the successful investigation for embezzling millions from his price-fixing employer. (The story was even Hollywood enough for Hollywood; a movie [6] based on a book about the case is set to be released next year, starring perennial good bad guy Matt Damon.)

Of all the hours of discussions taped over the course of the years-long investigation, one line stands out. ADM’s then-president told the other lysine manufacturers: “Our competitors are our friends. Our customers are the enemy.” Aside from its cynicism, the statement stands out for what it reveals about the other big motive of cartels. While maximizing profits is key, the achievement of stability, predictability, and control over the market runs a very close second. Customers—with their tendency to create volatility by demanding lower prices—are a greater threat to the status quo than the competition.

The ultimate goal of every cartel is to create a monopoly, but many don’t achieve the kind of permanence necessary to sustain one. While some cartels dissolve almost before they get off the ground and a legendary few exist for a decade or more [7], the average lifespan of a cartel is five to seven years; either someone gets cold feet and goes to the authorities, or one of the members gets antsy for a bigger piece of the pie and drops its agreed-upon price to steal market share from its co-conspirators.

Risks from both inside and out aside, economists agree that price-fixing schemes aren’t going to disappear any time soon. Cartels tend to form during lean economic times, which means right now is a perfect petri dish for their cultivation. By hitting the LCD-makers with more than $500 million in fines last month, the Justice Department was sending an unsubtle message that while crime might pay, it can also be expensive.

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(Sharp Tvs photo by YOSHIKAZU TSUNO/AFP/Getty Images)

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