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Cartel Leniency

Status: **Maintained** | Jurisdiction: **Switzerland**

Jurisdiction	Source Information	Competition authority	Is there a formal leniency program?	Is full immunity available for the "first-in" leniency applicant if there is no pre-existing investigation?
Switzerland			✔	✔
	Law stated as at 1 November 2025 (Nicolas Birkhäuser and Lukas Poschung, Niederer Kraft Frey Ltd)	Swiss Competition Commission (ComCo)	Under Article 49a of the Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act), undertakings may obtain leniency from administrative sanctions in respect of the following anti-competitive conduct: • Hard-core horizontal and vertical agreements under Article 5(3) and (4) of the Cartel Act. • Abuse of dominant position under Article 7 of the Cartel Act. The revised Explanatory Note and Form of the Swiss Competition Commission (ComCo) on the Leniency Programme (available in German, French, Italian and English (unofficial translation) on ComCo's website) sets out the cartel leniency programme. It provides that a partial reduction of the financial sanction is possible in abuse of dominance cases, as opposed to a full reduction of the sanction in cartel cases.	Full immunity from administrative sanctions is granted if an undertaking is the first to either: • Provide information enabling the Swiss Competition Commission (ComCo) to open an in-depth investigation under Article 27 of the Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act), provided that ComCo did not have, at the time of the leniency application, sufficient information to open either a preliminary or an in-depth investigation under Articles 26 or 27 (respectively) of the Cartel Act. • Provide evidence enabling ComCo to establish the existence of a hard-core horizontal or vertical agreement, provided that: – no undertaking has already been granted conditional immunity from sanctions; and – ComCo did not have, at the time of the leniency application, sufficient evidence to establish the infringement of Swiss competition law. However, immunity is only granted if the applicant: • Has not coerced any other undertaking into participating in the infringement and has not been the instigator or played a leading role. • Voluntarily submits all information or evidence in its possession concerning the unlawful practice to ComCo. • Co-operates on a continuous basis and expeditiously throughout ComCo's administrative procedure. • Discontinues its participation in the infringement on submitting the leniency application or being requested to do so by ComCo.

Jurisdiction	Is leniency credit available for the "first-in" leniency applicant where there is a pre-existing investigation?	Is leniency credit available for "second-in" and subsequent leniency applicants?	Are individuals covered by the leniency program?	Does the authority operate a marker system?	Is there a whistleblower program for individuals to report competition concerns?
Switzerland	✔	✔	✘	✔	✔
	Full administrative immunity is available for the first-in leniency applicant where there is a pre-existing investigation by the Swiss Competition Commission (ComCo), provided that: • No other undertaking has already been granted conditional immunity. • ComCo does not already possess sufficient evidence to prove the infringement. However, immunity is only granted if the applicant: • Has not coerced any other undertaking into participating in the infringement and has not been the instigator or played a leading role. • Voluntarily submits all information or evidence in its possession concerning the unlawful practice to ComCo. • Co-operates on a continuous basis and expeditiously throughout ComCo's administrative procedure. • Discontinues its participation in the infringement upon submitting the leniency application or being requested to do so by ComCo.	An undertaking that submits a leniency application (or marker) after the first undertaking can benefit from a reduction of the financial sanction of up to 50% if it has: • Co-operated on an unsolicited basis with the Swiss Competition Commission (ComCo). • Discontinued its involvement in the infringement upon submitting evidence. The amount of the reduction of the sanction depends on the importance of the undertaking's contribution to the success of the proceedings, in particular, the timing, quality, and quantity of the information and evidence submitted. A further discount is given for the conclusion of a settlement within a leniency application (maximum 20%). The settlement discount is part of the co-operation discount, but separate from the discount for the leniency application. First the discount for the settlement (co-operation) is applied and a subtotal is calculated, then the discount for the leniency application is applied, leading to a maximum discount of 60% (that is, the maximum 20% and the maximum 50% are not added together).	Only undertakings can be sanctioned for first-time infringements against the substantive law provisions of Article 5(3) and (4) or Article 7 the Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act), which are covered by the leniency programme. Individuals can act as private undertakings and, in such capacity, can be sanctioned and would be potentially eligible for the leniency programme. However, to date the Swiss Competition Commission (ComCo) has not imposed sanctions against individuals acting as undertakings and therefore the question of their eligibility for the programme remains a theoretical possibility only. Individuals (who do not qualify as undertakings) can only be sanctioned for wilful infringements of settlements and orders by ComCo or the courts, the obligation to provide information and certain merger control infringements (Article 54 et. seq., Cartel Act). Sanctions imposed for these infringements are criminal in nature and no immunity or leniency is available.	It is possible to submit and obtain a marker. The Explanatory Note and Form of the Swiss Competition Commission (ComCo) on the Leniency Programme (available in German, French, Italian, and English as unofficial translation) provides a marker form and can be downloaded from ComCo's website. The Explanatory Note recommends sending a leniency application (or marker) to ComCo by email (leniency@comco.admin.ch; selbstanzeige@weko.admin.ch) or via the e-Marker filing form (see ComCo: e-Marker). It is also possible to deliver a leniency application in person or to have it delivered by a representative. Postal delivery is also possible, but not recommended. The fastest is a submission by email (this also allows ComCo to clearly determine the date and time of the submission). The receipt of the email is automatically confirmed. It is not possible to submit a leniency application (or to set a marker) by telephone or fax.	There is currently no law or ordinance in Switzerland governing whistleblowing or protecting whistleblowers. However, the Swiss Competition Commission (ComCo) has introduced measures that allow whistleblowers to anonymously report cartels and other anti-competitive conduct. Generally, every communication channel is open to whistleblowers. If a whistleblower contacts ComCo by telephone, then they must ask for the head of the Investigations Competence Centre or their deputy. A whistleblower can also contact ComCo by email (whistleblowing@weko.admin.ch). The information submitted by a whistleblower is treated as confidential within ComCo. It is also possible to use the general contact form of ComCo. Whistleblowers can submit reports anonymously. If a whistleblower discloses their identity, ComCo must not disclose it. Any violation of official secrecy by ComCo is subject to prosecution. If ComCo wishes to use information submitted by a whistleblower, it must first discuss with the whistleblower how this information will be presented, so that no conclusions relating to the whistleblower can be drawn. ComCo notes that, if a person wants to report participation in a suspected cartel or another anti-competitive conduct in the name of, and on behalf of, an undertaking, then they should use a leniency application to do so, which can lead to a reduction of a potential sanction.

Jurisdiction	Is the leniency applicant expected to secure evidence from former employees?	Is the leniency applicant required to implement a competition compliance program or take other measures?	Is the "ringleader" or "coercer" disqualified from obtaining leniency credit?	Is the leniency applicant (corporate or individual) required to admit liability?
Switzerland	No express requirement	No express requirement	Not entirely	No express requirement
	There is no specific provision on securing evidence from former employees. However, the leniency applicant must comply with general statutory requirements for document and information retention under Article 958f of the Federal Act on the Amendment of the Swiss Civil Code, 220 (Code of Obligations) (for an unofficial English version see here; official versions in the languages of the Swiss Confederation can be accessed from that link) and the corresponding Ordinance on Keeping and Retaining Accounting Records, 221.431 (link is to German version; other versions of the Ordinance in the official languages of the Swiss Confederation can be accessed from that link). A leniency applicant is expected to provide the following information (see Form B of the Swiss Competition Commission (ComCo) on the Leniency Programme; available in German, French, Italian, and English (unofficial translation) on ComCo's website): • Information on the reporting undertaking, including, company name, legal form, address, place of residence or headquarters, contact person, and phone number. • Alleged infringement of competition. • Undertakings participating in the alleged infringement. • The relevant markets concerned and description of these markets. • Objects and effects of the restraint of competition. • Evidence. • Other leniency applications and procedures. • Other notes and comments. The more information a leniency applicant provides, the more likely it is that (ComCo) will accept the leniency application and that the potential discount to be granted will be higher.	There is no specific provision requiring the leniency applicant to implement a competition compliance programme for the unlawful practice covered by the leniency application or for the purpose of general competition compliance. However, if the leniency applicant does not discontinue its involvement in the unlawful practice upon submitting evidence of the infringement or being requested to do so by the Swiss Competition Commission (ComCo), then full or partial immunity may be withdrawn or reduced. Sanctions regarding other unlawful practices are unaffected by the submission of the leniency application.	An undertaking that acted as "ringleader" or "coercer" cannot benefit from full immunity. However, it can benefit from a reduction of the financial sanction of up to 50% if it submits a leniency application (or marker) and: • Co-operates on an unsolicited basis with the Swiss Competition Commission (ComCo). • Discontinues its involvement in the infringement upon submitting the evidence. The amount of the reduction of the sanction depends on the importance of the undertaking's contribution to the success of the proceedings, in particular, the timing, quality, and quantity of the information and evidence submitted. A further discount is given for the conclusion of a settlement within a leniency application (maximum 20%). The settlement discount is part of the co-operation discount, but separate from the discount for the leniency application. First the discount for the settlement (co-operation) is applied and a subtotal is calculated, then the discount for the leniency application is applied, leading to a maximum discount of 60% (that is, the maximum 20% and the maximum 50% are not added together).	The Swiss Competition Commission (ComCo) has repeatedly stated that a leniency application must at least include an admission of the participation in an agreement under Article 4(1) of the Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act) subject to potential administrative sanctions under Article 49a of the Cartel Act. According to ComCo practice, admission of the facts (including the existence of an agreement under Article 4(1) of the Cartel Act) is required. Further, according to ComCo, an undertaking making a leniency application must, in principle, also admit the (unlawful) effects on the market. It is not settled under Swiss law whether the information or evidence provided within a leniency application only relates to the facts of a case, and whether a leniency application prevents a party from holding a different legal opinion. However, although there is currently uncertainty on what a leniency applicant must admit and what it cannot contest, the practice of ComCo has become increasingly strict, in terms of requiring undertakings to formally admit facts and infringements at the latest when a settlement is concluded. The more information a leniency applicant provides, the more likely it is that ComCo will accept the leniency application and that the potential discount to be granted will be higher.

Jurisdiction	Is the leniency applicant required to keep the fact of its application confidential?	Is the leniency applicant required to make privileged material available to the authority?	Does the leniency applicant receive any protection against civil damages actions?	Can leniency applications be made orally (to minimise the risk of any subsequent disclosure in the context of civil damages actions)?	Can the leniency applicant be required to disclose evidence submitted in its leniency application?
Switzerland	Potentially	No, with exceptions	✘	✔	Potentially
	In principle, an undertaking that wishes to benefit from full or partial immunity must discontinue its involvement in the unlawful conduct as soon as it submits evidence of the infringement. In special cases, however, it may be appropriate for the undertaking to discontinue its involvement only when requested to do so by the Swiss Competition Commission (ComCo), to avoid endangering ComCo's investigation (for example, by causing other undertakings involved to become suspicious). Therefore, a leniency applicant can be ordered to keep the fact of its leniency application confidential, as well as to continue its involvement in the unlawful practice. This must be done in close co-operation with ComCo.	In principle, the leniency applicant is not required to make privileged material available to the authority. Subject to exceptions, attorney-client privilege does cover internal investigations, provided that the internal investigation: • Is conducted by external attorneys that are registered to practise law in Switzerland (and under certain circumstances, in member states of the EU and EFTA and in the UK). • Qualifies as a typical professional activity of an external attorney. However, there is currently uncertainty regarding which activities are specifically protected by attorney-client privilege. In a controversial decision, the Federal Supreme Court held that the work product of external attorneys performing compliance, controlling, or auditing tasks that their clients are legally obliged to carry out, is not protected (Federal Supreme Court, First Public Law Chamber, 20 September 2016, 1B_85/2016). More recently, the Federal Supreme Court ruled that the clarification, compilation, and preparation of legally relevant facts in connection with pending and potential legal disputes is protected by attorney-client privilege (Federal Supreme Court, Second Criminal Chamber, 6 August 2025, 150 IV 470). This still-evolving jurisprudence underscores the importance of carefully delineating the scope of legal services provided by external attorneys to ensure they qualify as typical activities of an external attorney and are thereby protected by attorney-client privilege.	The grant of leniency does not, in principle, affect a third party's ability to bring a follow-on damages action against a leniency applicant, as the leniency programme does not affect the civil consequences of a competition law infringement. However, the question does not yet appear to have been addressed by the Federal Supreme Court. Currently, the Swiss Competition Commission (ComCo) grants access to the files of leniency applicants more restrictively than to the files of parties that have not applied for leniency or it may not grant access at all. However, this practice is developing and subject to court decisions. ComCo's decisions are not binding on civil courts. Civil courts tend to follow ComCo's opinion so that a decision of ComCo or an appellate decision can generally be expected to facilitate follow-on actions. However, it is for the civil court to legally assess the evidence produced by the parties.		As a rule, access to the file of the leniency application is only granted when the Swiss Competition Commission (ComCo) sends its draft order (similar to the statement of objections) to the parties for comment. Exceptionally, access to the file may be granted earlier, particularly if an amicable settlement is being negotiated. The practice regarding access to the file is changing and not consistent within ComCo. Business secrets must be protected (for general guidance, see the Explanatory Note on Business Secrets; available in German, French, and Italian on ComCo's website). When granting access to the file during the proceeding, ComCo must balance the parties' right to an effective defence against both the public interest in preserving the leniency programme and the leniency applicant's interest in keeping the information and the documents confidential. ComCo observes the following principles, distinguishing between the actual leniency application (corporate statement), its annexes (that is, pre-existing evidence), and separate submissions (filings): • Access to the leniency application (corporate statement) is allowed exclusively at ComCo's premises, irrespective of whether the leniency application is written or oral. Any form of copying (scans, photos, and so on) is prohibited. However, the taking of notes or using a dictation device during access to the file is permitted. • Access to the annexes of the leniency application (that is, pre-existing evidence) and to separate submissions (filings), is usually granted by providing copies to the parties to the investigation (usually in electronic form), with restrictions on their use. These copies can only be used for the preparation of the defence in the ongoing administrative cartel proceeding before ComCo, but not in civil, criminal, and foreign procedures.

Jurisdiction	Does the authority collaborate with other jurisdictions?	Is leniency-plus available?	Is credit available for co-operation outside a leniency program?	Can leniency be withdrawn?	Is there a settlement process?
Switzerland	✔	✔	✔	✔	✔
	A co-operation agreement on competition between Switzerland and the EU was enacted on 1 December 2014. Information can be exchanged between the Swiss Competition Commission (ComCo) and the European Commission without consent of the undertaking concerned, provided that: • Both competition authorities are investigating the same or related conduct or transaction. • This conduct or transaction is also unlawful under Swiss law. However, certain provisions in the Federal Act on Cartels and other Restraints of Competition, 251 provide, among others, that the exchange of information or documents is not permitted if the information was provided under a leniency or settlement procedure or if the information is to be used in foreign criminal or civil proceedings, unless the undertaking concerned has consented. ComCo must notify the undertaking concerned and invite it to state its views before transmitting the information to the non-domestic competition authority. Further, a co-operation agreement between Switzerland and Germany was enacted on 1 September 2023. The relevant competition authorities do not transmit to each other any information obtained under the leniency or settlement procedures, unless the undertakings or natural persons that provided the information have given their express consent in writing.	An undertaking can benefit from a reduction of the sanction of up to 80% (amnesty plus) where both: • The undertaking provides information to the Swiss Competition Commission (ComCo) about further hard-core restrictions within the meaning of Article 5(3) and (4) of the Federal Act on Cartels and other Restraints of Competition, 251. • These further hard-core restrictions were unknown to ComCo at the time of denunciation.	Any undertaking that did not submit a leniency application but co-operates with the Swiss Competition Commission (ComCo) (which is taken into account as a mitigating factor) can, according to the Explanatory Note of ComCo on Amicable Settlements; available in German, French, and Italian on ComCo's website, benefit from a reduction of the financial sanction of up to 20%. ComCo considers acknowledgement of the facts of the case as good co-operation for undertakings that did not submit a leniency application, and rewards this with a maximum reduction of 20%. For settlements with ComCo without a leniency application, reductions of the financial sanction (according to the Explanatory Note of ComCo on Amicable Settlements) are in the range of about: • 5% (if made after ComCo sent the draft order to the parties). • 10% (if made late). • 15% (if made in the mid-term). • 20% (if made early). Both discounts are added together, leading to a maximum discount of 40% (according to the Explanatory Note of ComCo on Amicable Settlements).	Leniency can be withdrawn both before and after the Swiss Competition Commission's (ComCo) final decision. If leniency is withdrawn before ComCo's final decision, then the first-ranked leniency applicant can lose its position if either: • The first leniency application is deemed incomplete by ComCo. • The leniency applicant does not admit enough or contests certain facts and assumptions (such as the existence of an agreement under Article 4(1) of the Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act)). There is no legal certainty on the question of what a leniency applicant must admit and may not contest. • ComCo becomes aware of additional circumstances that disqualify an undertaking from leniency. It will then be determined, in the order of the markers, whether another leniency applicant, as the new first applicant, is in a position to submit a complete leniency application. If leniency is withdrawn after ComCo's final decision, then ComCo may withdraw immunity previously granted to a leniency applicant if the applicant appeals a decision and (necessarily) contests certain facts and assumptions.	If the Swiss Competition Commission (ComCo) considers a restraint of competition to be unlawful and has opened an investigation, both ComCo and the party or parties can propose an amicable settlement. The following applies regarding the calculation of the discount: • For settlements with ComCo without a leniency application, a maximum 20% discount is granted, and for the co-operative conduct, another maximum 20% is granted. Both discounts are added together, leading to a maximum discount of 40%. • For the conclusion of a settlement within a leniency application, a maximum 20% discount is granted, and for the leniency application, a maximum 50% is granted, if going in second or later. The settlement discount is part of the co-operation discount, while the discount for the leniency application is separate. First, the discount for the settlement (co-operation) is applied and a subtotal is calculated, then the discount for the leniency application is applied, leading to a maximum discount of 60% (that is, the maximum 20% and the maximum 50% are not added together; see Explanatory Note of ComCo on Amicable Settlements; available in German, French, and Italian on ComCo's website). The amount of the discount granted for an amicable settlement (that is, between 5% and 20%) is determined based on the stage of the proceeding in which a party proposes the settlement.

Jurisdiction	Is a settling company required to admit liability?	Does the authority exert extra-territorial jurisdiction?	Other factors	Links to existing guidance (where available)
Switzerland	No express requirement	✔	Reduction for civil damages	
	A settling undertaking is not formally required to admit liability to reach an amicable settlement. Undertakings and the Swiss Competition Commission (ComCo) can reach amicable settlements on restraints of competition that ComCo considers unlawful. An amicable settlement is directed at future behaviour. ComCo's practice has become increasingly strict and requires undertakings to formally admit facts and infringements at the latest when a settlement is concluded. ComCo considers acknowledgement of the facts of the case as good co-operation for undertakings that did not submit a leniency application, and rewards this with a maximum reduction of the financial sanction of 20%. However, if an undertaking violates the amicable settlement, it may not only be subject to sanctions under Article 49a of the Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act), but also to sanctions under Article 50 of the Cartel Act. Further, responsible individuals can be sanctioned under Article 54 of the Cartel Act.	The Federal Act on Cartels and other Restraints of Competition, 251 (Cartel Act) applies to all conduct that has an effect in Switzerland. Therefore, agreements concluded abroad or conduct that takes place outside of Switzerland but has anti-competitive effects within Switzerland, may fall under Swiss jurisdiction. Generally, the Swiss Competition Commission (ComCo) takes a broad interpretation of effects in Switzerland, and the Federal Supreme Court has confirmed that restrictions of competition committed outside of Switzerland fall within the Cartel Act (Federal Supreme Court, First Public Law Chamber 28 June 2016, BGE 143 II 297, 3.2.3). Therefore, it is sufficient that the restriction of competition may potentially have an effect on the Swiss market. Whether the restriction of competition actually had an effect on the Swiss market is not decisive.	The Swiss Competition Commission (ComCo) can reduce sanctions to account for civil damages that were paid before ComCo took an administrative decision. According to a current legislative project regarding the Federal Act on Cartels and other Restraints of Competition, 251, civil damages paid voluntarily after ComCo has taken an administrative decision, may also be taken into account and result in reduced sanctions. It remains to be seen whether this will be enacted.	• The Ordinance on Sanctions imposed for Unlawful Restraints on Competition, 251.5 (for an unofficial English version see here; official versions in the languages of the Swiss Confederation can be accessed from that link). • The Explanatory Note on the Ordinance on Sanctions imposed for Unlawful Restraints on Competition is available in German, French, and English (unofficial translation). • The Explanatory Note and Form of the Swiss Competition Commission (ComCo) on the Leniency Programme is available in German, French, Italian, and English (unofficial translation).