



Enterprise Act 2002

2002 CHAPTER 40

PART 6

CARTEL OFFENCE

Cartel offence

188 Cartel offence

- (1) An individual is guilty of an offence if he dishonestly agrees with one or more other persons to make or implement, or to cause to be made or implemented, arrangements of the following kind relating to at least two undertakings (A and B).
- (2) The arrangements must be ones which, if operating as the parties to the agreement intend, would—
 - (a) directly or indirectly fix a price for the supply by A in the United Kingdom (otherwise than to B) of a product or service,
 - (b) limit or prevent supply by A in the United Kingdom of a product or service,
 - (c) limit or prevent production by A in the United Kingdom of a product,
 - (d) divide between A and B the supply in the United Kingdom of a product or service to a customer or customers,
 - (e) divide between A and B customers for the supply in the United Kingdom of a product or service, or
 - (f) be bid-rigging arrangements.
- (3) Unless subsection (2)(d), (e) or (f) applies, the arrangements must also be ones which, if operating as the parties to the agreement intend, would—
 - (a) directly or indirectly fix a price for the supply by B in the United Kingdom (otherwise than to A) of a product or service,
 - (b) limit or prevent supply by B in the United Kingdom of a product or service, or
 - (c) limit or prevent production by B in the United Kingdom of a product.

Status: This is the original version (as it was originally enacted).

- (4) In subsections (2)(a) to (d) and (3), references to supply or production are to supply or production in the appropriate circumstances (for which see section 189).
- (5) “Bid-rigging arrangements” are arrangements under which, in response to a request for bids for the supply of a product or service in the United Kingdom, or for the production of a product in the United Kingdom—
 - (a) A but not B may make a bid, or
 - (b) A and B may each make a bid but, in one case or both, only a bid arrived at in accordance with the arrangements.
- (6) But arrangements are not bid-rigging arrangements if, under them, the person requesting bids would be informed of them at or before the time when a bid is made.
- (7) “Undertaking” has the same meaning as in Part 1 of the 1998 Act.