

In Recent Comments DOJ Antitrust Division Signals No Special Treatment for White Collar Defendants in Its New Whistleblower Rewards Program

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Summary

In recent remarks, DOJ's Antitrust Division signaled a shift toward more aggressive criminal enforcement when it comes to rooting out collusion with the roll out of its first-ever Whistleblower Rewards Program, and changes to the leniency program to require grand jury and trial testimony by leniency applicants. In remarks during an event last week, Deputy Assistant Attorney General (DAAG) for Criminal Enforcement Omeed Assefi suggested the shift will also mean a focused effort to afford no special treatment to white collar defendants. Division officials also marketed the new program last week during the 24th Annual Compliance and Ethics Institute in Nashville, passing around flyers announcing, "STOP CARTELS PROTECT COMPETITION GET REWARDED."

The Upshot

- DOJ's Antitrust Division appears to be taking an aggressive approach to criminal antitrust enforcement, aiming to increase the likelihood that violations are discovered, and signaling it will treat white collar and blue collar defendants alike.
- To this end, the Antitrust Division is ramping up its first-ever whistleblower rewards program in partnership with the United States Postal Service (USPS), and the USPS Office of Inspector General (USPS OIG), launched in July 2025.
- To be eligible, a whistleblower must voluntarily report original information about antitrust and related offenses that result in criminal fines or other recoveries of at least \$1 million, and that impact the USPS, its revenues, or its properties, requiring a showing that it "suffered an identifiable harm."
- Rewards can be up to 30 percent of the criminal fine or recovery, but amounts (and allocations if there are multiple whistleblowers) will be determined at the discretion of the Antitrust Division, using factors such as the reliability of the information and whether it led to one or more convictions.
- This comes in conjunction with an aggressive revamp of the Division's leniency program, which, according to recent comments made by DAAG Assefi, may soon be available only for those who testify before a grand jury and, if necessary, at trial.

The Bottom Line

Signaling a more aggressive approach to criminal antitrust enforcement, DOJ's Antitrust Division is ramping up its first-ever whistleblower rewards program in partnership with the USPS and the USPS OIG, launched in July 2025, and is likely to tighten the eligibility requirements under its leniency program, including requiring grand jury and trial testimony from those seeking leniency. The program offers financial incentives up to 30 percent of criminal fines or recoveries to whistleblowers who voluntarily report original information about antitrust and related offenses that result in fines or recoveries of at least \$1 million. The whistleblower must also show the violation impacted the USPS such that it "suffered an identifiable harm." In remarks during public antitrust events last week, DAAG Assefi

explained that the Division is seeking to increase the likelihood it identifies antitrust crimes and has shifted its philosophy to one that recognizes “there are no material differences between white collar and blue collar defendants.”

Senior officials from DOJ's Antitrust Division recently signaled a shift toward a more aggressive criminal enforcement strategy when it comes to rooting out collusion. Specifically, the Division is ramping up its first-ever whistleblower rewards program in partnership with the United States Postal Service Office of the Inspector General (USPS OIG). The program, launched in July 2025, offers financial incentives up to 30 percent of criminal fines or recoveries to whistleblowers who voluntarily report original information about antitrust and related offenses that result in fines or recoveries of at least \$1 million. The whistleblower must also show the violation impacted the Postal Service such that it “suffered an identifiable harm.” In remarks during a law school event last week, Deputy Assistant Attorney General (DAAG) Omeed Assefi explained that the Division is seeking to increase the likelihood it identifies antitrust crimes and has shifted its philosophy to one that recognizes “there are no material differences between white collar and blue collar defendants.”

According to DAAG Assefi, DOJ is taking action to level the playing field when it comes to enforcement against white collar defendants. “I’m not suggesting that somebody be treated poorly, but I will say that these are very serious offenses we’re investigating,” DAAG Assefi said during an Antitrust Fireside Chat hosted by the Cardozo School of Law in New York City and online on September 16. “We’ve really been pushing this idea that there’s no material differences between...white collar and blue collar defendants,” he said. According to DAAG Assefi, Antitrust Division Assistant Attorney General Abigail Slater has pushed for changes to how “white collar enforcement is treated.”

Division officials also marketed the new program last week during the 24th Annual Compliance and Ethics Institute in Nashville, held from September 14 to 17, passing around flyers announcing “STOP CARTELS PROTECT COMPETITION GET REWARDED.” According to Dan Glad, Director of the Division's Procurement Collusion Strike Force, the brand-new whistleblower rewards program is “already working.”

Under the program, whistleblowers who voluntarily report original information about antitrust and related offenses that result in criminal fines or other recoveries of at least \$1 million are eligible for a reward, though the decision is ultimately at the discretion of the Division. Rewards can be up to 30 percent of the amount of the criminal fine or recovery.

The parameters of the whistleblower program are detailed in a May 7, 2025, Memorandum of Understanding (MOU) Regarding the Whistleblower Rewards Program and Procedures between the Antitrust Division, the United States Postal Service, and the USPS OIG. According to the MOU, the program “provides a potential monetary incentive to whistleblowers who voluntarily provide the Antitrust Division with original information about Eligible Criminal Violations, which leads to a resolution including a criminal fine of at least \$1 million.”

Who qualifies as an eligible whistleblower?

An Eligible Whistleblower, according to the MOU, is a person who voluntarily provides original information about an Eligible Criminal Violation. Anyone who coerced another party or participated in the illegal activity is not eligible. The MOU also excludes anyone who was a DOJ, USPS, or law enforcement employee or contractor, or a family member.

Reporting is “voluntary” when the whistleblower provides credible, specific, and timely information directly to the Antitrust Division, USPS, or USPS OIG before receiving a grand jury subpoena or other formal demand regarding the same subject matter. The person must also not be under a preexisting obligation to disclose, such as part of an employer's obligations under the corporate leniency policy.

An individual is an original source of truthful and complete information if it is (1) derived from independent knowledge (meaning it is not publicly available), (2) not already known to the Division, USPS, or USPS OIG, (3) not exclusively derived from an allegation in a judicial or administrative hearing, government report, hearing, audit, investigation, or from news media, unless the whistleblower was the source, and (4) was first provided after May 7, 2025, when the MOU was ratified. The MOU also lays out several exceptions that do not qualify as original information, including if it was obtained in violation of state or federal criminal law.

What types of violations are eligible?

The reported violation must be an Eligible Criminal Violation. Whether the violation qualifies is within the Antitrust Division's discretion, but will not include allegations that the USPS violated certain antitrust laws. The MOU identifies certain categories of presumptive Eligible Criminal Violations, which include (1) criminal violations of Sections 1, 2, and 3 of the Sherman Act, (2)

federal criminal violations to effectuate, facilitate, or conceal Sherman Act violations, (3) federal criminal violations affecting public procurement, and (4) federal criminal violations affecting federal competition investigations or proceedings.

The violation must “affect the Postal Service, its revenues, or property.”

The whistleblower must also reasonably articulate violations “affecting the Postal Service, its revenues, or property.” This standard is met where enough evidence is provided to conclude that the Postal Service “has suffered an identifiable harm.”

What reward amounts?

Rewards can be up to 30 percent of the criminal fine or recovery. In determining the amount, and the allocation if there are multiple whistleblowers, the Antitrust Division may consider a set of 10 factors identified in the MOU, including whether information was reliable and complete, and whether it supported one or more criminal convictions.

Possible changes to leniency policy

In conjunction with the launch of its whistleblower rewards program, the Antitrust Division has foreshadowed that it is undergoing an aggressive revamp of its leniency program, which may soon be available only for those who testify before a grand jury and, if necessary, at trial. According to remarks last week by DAAG Assefi, while they might make applicants uncomfortable, “those are things that you need to do in order to get leniency.”

Conclusion

With the launch of its first-ever whistleblower rewards program, offering steep financial incentives to whistleblowers who volunteer original information about antitrust criminal violations impacting the USPS, DOJ’s Antitrust Division is taking a more aggressive approach to criminal antitrust enforcement, and has warned that white collar defendants will not receive special treatment. In addition, as part of its revamped leniency program, leniency applicants likely will be required to provide grand jury and, if necessary, trial testimony in order to receive leniency. These changes mean individuals and companies will need to be vigilant, and keep abreast of the latest developments in antitrust laws to ensure compliance. There are also implications for those interested in, or currently under obligations related to, the Antitrust Division’s corporate leniency program.

Attorneys in Ballard Spahr’s Antitrust and Competition and White Collar Defense and Investigations Practice Groups are well-versed in criminal antitrust laws and federal enforcement trends and processes in these and related areas and have a deep bench of counsel with experience on these issues.

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