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# The Role of the Media in Building a 'Competition Culture'

*IDRC Pre-ICN Forum. The Hague, 17 May 2011*



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## Why is the media important?

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- ✦ *The need for a culture of compliance.*
- ✦ *Public support / understanding of competition enforcement*
- ✦ *Changing normative perceptions – creating a stigma.*
- ✦ *Legitimacy of enforcement: deterrent effect; businesses lobbying government for ‘soft’ enforcement.*

## Attitudes currently weak?

- ✦ *British Airways promotion of Executive, while pending trial for price fixing*
- ✦ *Wiseman Annual Report – “charge”*
- ✦ *Firms settling while publically denying wrong-doing.*



**BA promotes executive facing price-fix charge**

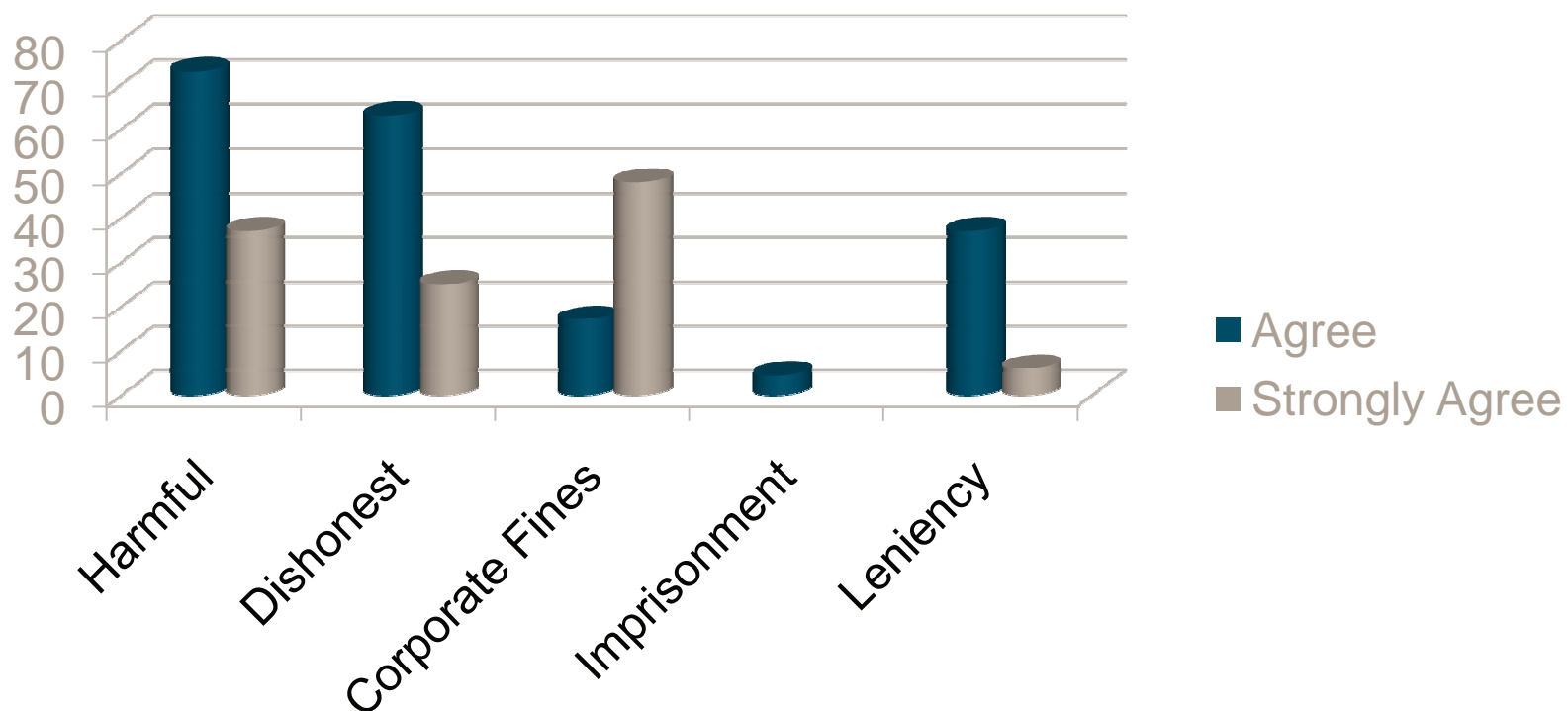
Fri, 28 Nov 2008



**TESCO**  
Every little helps

## Attitudes currently weak?

YouGov Survey, Britain. Stephan 2007



## Prior awareness in Australia

✦ ***Cartel Project. Caron Beaton-Wells et al, University of Melbourne.***

	NO (%)	YES (%)
The Australian Competition and Consumer Commission (ACCC)	21.4	78.6
Cartels or cartel conduct	71.3	28.7
Graeme Samuel	80.0	20.0
Allan Fels	64.3	35.7
Price fixing	19.4	80.6
A case involving Visy and Amcor for price fixing	60.8	39.2
Criminal penalties for cartel conduct	84.9	15.1
A case involving Richard Pratt and the Australian Competition and Consumer Commission	53.2	46.8
Haven't heard or read about any of these.	89.4	10.6

## How are competition law cases reported?

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- ✦ *Confined to business pages, if reported at all.*
- ✦ *A ‘symptom’ of free markets?*
- ✦ *Focus on size of fines, not in a positive way. Compare to other corporate fines*
- ✦ *Little focus on anticompetitive acts or effects.*

### Network Rail fined £3m over Potters Bar crash

- Seven people died in May 2002 crash in Hertfordshire
- Company admits breaching safety regulations
- Victims' families voice frustration at nine-year wait

## Why is media coverage poor?

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- ✦ *Remoteness of Harm – lack of visual images*
- ✦ *Lack of victim & image of wrongdoers.*
- ✦ *Faceless upstream industries nobody has heard of.*
- ✦ *Contradictory behaviour by Governments (UK Dairy case, Australia, OPEC).*
- ✦ *Leniency programme – clash with effective enforcement.*



## Why is media coverage poor?

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- ✦ ***The difficulty in most jurisdictions of portraying competition as a fundamental social value.***

***“The American Revolution was a rejection of political oppression, to be sure. But an inextricable part of the American’s complaint against England was the imposition of royal monopolies and the economic oppression and suffocation that inevitably resulted (...) It is a fact that Thomas Jefferson included a prohibition of monopolies in his list of essential protections that should be included in the Bill of Rights” (Bingaman & Spartling 1995)***



# How Comp. Authorities can strengthen 'competition culture' through the media.

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## 1. The need for a 'mixed' approach to enforcement

### ✦ *OFT Study of deterrence (2007): firms ranked sanctions:*

1. Criminal Penalties
2. Disqualification of Directors
3. Adverse Publicity
4. Fines
5. Private Damages Actions.

### ✦ *Need to pursue individuals with DDOs, Criminal Offences.*

### ✦ *Other ways of engaging with firms to encourage compliance.*

# How Comp. Authorities can strengthen 'competition culture' through the media.

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## 2. Case Selection

- ✦ *Cases which affect final consumers, to begin with.*
- ✦ *Bid-rigging in public procurement (US and UK experiences)*
  - ✦ *Adnams the victim of price-fixing' Morning Advertiser (Suffolk)*
  - ✦ *'Bid rigging link sparks concern in Dorchester' (Dorset Echo)*
  - ✦ *'Turner firm to keep job despite bid-rigging fine' (Kent News)*
- ✦ *Cases with more than two firms (to lessen negative perceptions of leniency).*

# How Comp. Authorities can strengthen 'competition culture' through the media.

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## **3. Publicity**

- ✦ *Require public admissions of guilt as part of leniency.*
- ✦ *Demonstrate the 'effect' of infringements, not just relying on 'object'.*