

# Criminal Antitrust Fines and Penalties: Reductions Based on Ability to Pay

SPRING 2017

*This article originally appeared in Antitrust Magazine, Spring 2017 issue by the American Bar Association. Reproduced with permission. All rights reserved. This information or any portion thereof may not be copied or disseminated in any form or by any means or stored in an electronic database or retrieval system without the express written consent of the American Bar Association. Any opinions in this article are not those of Winston & Strawn or its clients; the opinions in this article are the author's opinions only.*

Criminal antitrust fines and penalties obtained by the Department of Justice have risen substantially in recent years, from \$338 million in 2005 to over \$3.6 billion in 2015. One of the reasons for this increase in fines is the focus on investigating and prosecuting international cartels. The largest such investigation involves the automotive part manufacturing industry. Through November 2016, that investigation alone has resulted in over \$2.9 billion in fines from 47 companies that have pleaded guilty or agreed to plead guilty.

As large criminal antitrust fines have become common, more companies are finding themselves facing potential penalties that exceed their available resources. The U.S. Sentencing Guidelines allow for reduction of a fine under certain circumstances, one of which involves the company's ability to pay the fine imposed. In plea negotiations, the Antitrust Division traditionally follows the Guidelines and, accordingly, has recognized the legitimacy of ability to pay considerations in negotiated pleas.

1 Min Read

## Related Locations

New York

## Related Topics

Antitrust and Competition

Criminal Antitrust

## Related Capabilities

Antitrust/Competition

Litigation/Trials

Government Investigations, Enforcement & Compliance

## Related Regions

North America

## Related Professionals

---



Seth Farber



Lauren Duxstad