

GIBSON DUNN



Antitrust & Competition Update

July 31, 2025

DOJ Antitrust Division Announces New Whistleblower Reward Program

The Antitrust Division's announcement builds on existing federal whistleblower rewards programs. This update discusses key elements of the new program and the key implications and risks it may introduce for businesses.

Introduction

On July 8, 2025, the U.S. Department of Justice's Antitrust Division (Antitrust Division) announced a new "Whistleblower Rewards Program" (Program) to incentivize individuals to report criminal antitrust violations and related offenses.^[1]

Adopting an antitrust whistleblower rewards program to incentivize self-reporting [has been discussed for more than a decade](#). While the SEC and CFTC received legislative congressional approval for their programs in 2010,^[2] Congress has never adopted legislation authorizing a similar rewards program at the Antitrust Division. In the absence of statutory authority, the Whistleblower Rewards Program is creatively structured to allow the Antitrust Division to partner with the U.S. Postal Service (USPS) to use USPS's authority to pay whistleblower rewards.^[3] In essence, the Antitrust Division will transfer the reward payment to USPS, which will in turn make the reward payments to qualified claimants.

The operation of the new Program is detailed in a [Memorandum of Understanding \(MOU\)](#) between the Antitrust Division, USPS, and the U.S. Postal Service Office of Inspector General (USPS OIG).^[4] Qualifying whistleblowers will presumptively be paid at least 15%—and up to

30%—of any criminal fines recovered.^[5] Whistleblowers are eligible under the Program if they report certain types of federal criminal conduct, including (i) price fixing, bid rigging, and market allocations agreements that violate Section 1 of the Sherman Act; (ii) abuse of a dominant market position that violates Section 2 of the Sherman Act; (iii) federal crimes “targeting or affecting federal, state, or local public procurement”; (iv) efforts to “effectuate, facilitate, or conceal” Sherman Act violations; and (v) actions “targeting or affecting the conduct of federal competition investigations or proceedings.”^[6]

Key Program Limitations and Relationship with Antitrust Leniency Policies

The Whistleblower Rewards Program is subject to several limitations. As a threshold qualification, the Antitrust Division has limited the Program to individuals who report conduct leading to criminal penalties of at least \$1 million.^[7] Despite the range of qualifying federal crimes under the Program, potential whistleblowers will need to report involvement by companies in significant Sherman Act violations or crimes involving government procurement to satisfy this \$1 million threshold. Because criminal antitrust fines are calculated using the volume of commerce affected by the unlawful conduct, a business will typically need to engage in collusion affecting millions of dollars in sales to generate a fine exceeding \$1 million. In several prior criminal cases against companies, the DOJ Antitrust Division has secured fines well below this threshold. For example, four companies were sentenced in 2023 for a nearly two-year conspiracy to fix the prices of DVDs and Blu-Ray discs sold through an online marketplace, yet the highest fine imposed was \$234,000.^[8] Additionally, DOJ Antitrust criminal cases against individuals rarely result in fines exceeding \$1 million. While the Program also covers efforts to conceal antitrust violations or obstruct investigations, these crimes have a maximum fine of \$250,000 for individuals and \$500,000 for companies ^[9]— well below the \$1 million minimum.

Because the program is funded through USPS’s statutory authority to pay whistleblowers,^[10] rewards are also limited to cases involving “violations of law affecting the Postal Service, its revenues, or property.”^[11] The MOU states that the harm posed to the USPS by the offense must be “identifiable” but “need not be material or otherwise pose any substantial detriment.”^[12] Neither the Antitrust Division’s press release nor the MOU provides specific guidance about what conduct may satisfy this standard. We expect that the Postal Service will broadly interpret this requirement to find a nexus whenever possible to maximize the scope of the Program.

Further, payment of a reward is limited to individuals who provide “original” information that is derived from their independent knowledge and not already known to the Antitrust Division, USPS, or USPS OIG from other sources.^[13]

The Antitrust Division has sought to prevent corporate officers, directors, trustees, and compliance and audit employees from using internal whistleblower reports to file a reward claim, rather than using that information to investigate and consider whether the company should itself report the conduct. These individuals are generally disqualified from using the internal reporting information they received to pursue a whistleblower reward until 120 days have passed, thereby giving the company an opportunity to respond and seek leniency.^[14]

Notably, the Whistleblower Rewards Program does not exclude individuals who were personally involved in the illegal conduct and allows such individuals to report crimes and qualify for rewards as long as they did not “coerce[] another party to participate in the illegal activity” and were not “clearly the leader or originator of that activity.”^[15] And, although self-reporting could cause a whistleblower to incur personal criminal liability, whistleblowers would generally remain eligible to apply for immunity in parallel pursuant to the Antitrust Division’s longstanding [Individual Leniency Policy](#). Indeed, the Program’s eligibility criteria limiting rewards to individuals who did not coerce, lead, or originate the criminal conduct is the same limitation required to qualify under the Individual Leniency Policy. The only caveat for potential whistleblowers is that the Antitrust Division may consider “[w]hether and to what extent the whistleblower participated in the criminal violation reported” when determining the appropriate reward payment.^[16] However, the ability to apply for both programs and potentially receive both Leniency and a monetary reward may reinvigorate the Individual Leniency Policy, which has been rarely used as compared to the well-known [Corporate Leniency Policy](#).

The Whistleblower Rewards Program also does not prohibit individuals from seeking multiple rewards under different government programs. Instead, the Program allows the Antitrust Division to consider “[w]hether the whistleblower received any award from any other government agency for reporting factually related conduct, or whether the whistleblower recovered in any related civil suit” in determining an appropriate award. The possibility of duplicative rewards is most likely to arise in cases involving collusion on government contracts, in which individuals can file private qui tam lawsuits under the False Claims Act on behalf of the government in exchange for a portion of any recovery. In fiscal year 2024, whistleblowers filed [a record 979 qui tam lawsuits under the False Claims Act, resulting in over \\$2.9 billion in settlements and judgments—netting more than \\$400 million for the individuals who filed these lawsuits](#). The Antitrust Division has already benefitted from several of these qui tam lawsuits, including an investigation into collusion among fuel supply service providers at military bases in South Korea, which resulted in five companies pleading guilty and more than \$162 million in FCA recoveries.^[17] With the availability of the Whistleblower Rewards Program, whistleblowers can now enhance their potential reward by filing a claim with the Antitrust Division concurrent with the filing of a qui tam lawsuit.

The Whistleblower Rewards Program may create friction with companies’ internal compliance and whistleblower programs. By requiring whistleblowers to report “original” information, the Antitrust Division is incentivizing individuals to report any potential conduct to the government rather than internally. Internal whistleblower programs afford companies an opportunity to conduct internal investigations and, in appropriate cases, self-report unlawful conduct to the government. For example, a company may self-report conduct under the Antitrust Division’s Corporate Leniency Program, which provides protection from prosecution under the Sherman Act to the company—and potentially its current directors, officers, and employees—if it is the first to report participation in a criminal antitrust violation and cooperates with any subsequent investigation. Yet, the Program would disqualify any whistleblower who comes forward after a company has self-reported the conduct, including in response to an internal whistleblower report from the same person. Individuals will therefore have strong incentives to report suspected antitrust violations directly to the government, or to file a whistleblower claim concurrent with an internal whistleblower report.

Interestingly, a company may still qualify for leniency after a whistleblower reports conduct under the Program. Companies may remain eligible for leniency after an investigation has been opened if they are the first to apply and the Antitrust Division does not already have evidence “likely to result in a sustainable conviction” against the company.^[18] In most instances, it would be difficult for a single whistleblower to offer sufficient evidence to meet this threshold.

Building on Precedent: How the Antitrust Program Draws from Established Models

The launch of the Whistleblower Rewards Program builds on other whistleblower initiatives launched by the government, including those administered by the DOJ Criminal Division, the Financial Crimes Enforcement Network, the Commodity Futures Trading Commission, the Internal Revenue Service, and the Securities and Exchange Commission. The Program incorporates many of the core features common to these other programs, including the requirement to voluntarily submit original information, percentage-based awards tied to successful recoveries, and the anonymity given to many whistleblowers. A common throughline of all of these programs is that they harness the power of the private bar by incentivizing attorneys to seek out whistleblowers, generating a large volume of submissions that agencies need to assess and increasing potential exposure to companies.

The Antitrust Division has notably departed from other enforcers’ reward programs by allowing many individuals to qualify for payouts despite their participation in the unlawful conduct. Because the Antitrust Division already has an Individual Leniency Policy that affords immunity to qualifying individuals who self-report their conduct, it is unusually generous to additionally offer the possibility of a reward payment. The DOJ Criminal Division, in contrast, disqualifies anyone who “meaningfully participated in the criminal activity they reported, including by directing, planning, initiating, or knowingly profiting from that criminal activity.”^[19] The SEC, CFTC, and FinCEN whistleblower programs also include provisions that significantly limit the ability of wrongdoers to subsequently claim a reward for their own conduct.

Studying the performance and outcomes of similar programs offers insight into how this new program may take shape. For instance, if the program keeps pace with the DOJ Criminal Division’s Corporate Whistleblower Program, which [received over 100 tips in its first month](#), we can expect a high level of involvement with the program that will often increase year-on-year. For instance, the SEC’s whistleblower program has rewarded more than \$2.2 billion to 444 individual whistleblowers since the program’s inception in 2011, and in 2024 alone, the SEC awarded \$255 million to 47 individuals, including a \$98 million reward that was split between two whistleblowers.^[20] Of those 47 whistleblowers, 62% were “insiders” – current and former employees – while 38% were “outsiders.”^[21] Similarly, in 2023, the IRS received 6,455 whistleblower reports regarding 16,932 taxpayers, an increase of 44% compared to the average of the prior 4 years, and paid out \$88.8 million in rewards.^[22] In 2024, the CFTC received 1,744 whistleblower reports – a 14% increase from the prior year – and paid 15 awards totaling over \$42 million.^[23] Notably, approximately 42% of the CFTC’s enforcement matters involve whistleblowers, reflecting how instrumental they are to government enforcement efforts.^[24]

For a detailed discussion of these other whistleblower programs, please see our alerts covering the [DOJ Whistleblower Program](#), [FinCEN's Whistleblower Program](#), and the [SEC Whistleblower Program](#) and our [Recent Webcast](#) comparing these and other whistleblower programs.

Looking Forward: Will the Program Deliver on Its Promises?

The success of the Whistleblower Reward Program will depend on several developments in the years ahead. First, the Program appears to envision using whistleblowers to build criminal cases against alleged wrongdoers, but it remains to be seen if that will work in practice. Juries will need to view these witnesses as credible despite their significant financial incentives to secure a conviction. This has already been a challenge for the Antitrust Division in using trial witnesses secured through the Corporate Leniency Policy, who receive immunity in exchange for their cooperation against other parties. These difficulties may be further heightened when the witnesses stand to recover a potential multimillion dollar reward payment.

Second, the Program will need to be embraced by attorneys who are willing to encourage and support potential whistleblower applicants. Qui tam lawsuits under the False Claims Act have gained significant traction over the past 29 years, in part, because of the numerous law firms that have built practices on supporting individual claimants. The Program will need to secure similar traction among practitioners to produce similar results.

Third, the Antitrust Division has retained significant discretion in determining the amount of reward payments available under the Program. The way that discretion is exercised, and whether large award payments are made in the early years, will significantly influence the incentives for potential whistleblowers. For example, the SEC has made headlines on several occasions with its nine-digit reward payments, including a \$279 million reward paid in 2023. These eye-popping rewards bring considerable press coverage and visibility to a reward program and thus encourage future potential applicants.

And finally, the Division will need to allocate resources and develop processes to screen whistleblower claims and identify promising leads. These initial investigations can be burdensome, especially if there is an influx of reward claims, at a time when the Antitrust Division's personnel are already stretched thin.

DOJ has reserved authority to publish additional guidance in the future, which may resolve uncertainty regarding how certain aspects of the Whistleblower Rewards Program will ultimately function.^[25] For now, the Antitrust Division, USPS, and the USPS OIG have not provided any guidance for the Program beyond what is contained in the MOU and DOJ's press release.

New Challenges Ahead – and How to Manage Them

The Antitrust Division's announcement introduces new risks for businesses, including those with established compliance programs. Like other whistleblower programs, the Antitrust Whistleblower Rewards Program creates a powerful financial incentive for employees—including, in some cases, corporate leadership—and third-party business associates to report known or suspected antitrust violations conduct directly to the government. As Assistant Attorney General Abigail Slater of the Antitrust Division put it, “[t]his program raises the stakes: If you’re fixing prices or

rigging bids, don't assume your scheme is safe—we will find and prosecute you, and someone you know may get a reward for helping us do it.”^[26] The terms and guardrails for this whistleblower program are largely consistent with other whistleblower programs, including those provided by the SEC, CFTC, FinCEN, and IRS; given those similarities, companies can expect significant increases in the number of antitrust-related whistleblower reports made to the government—and consequently, increases in antitrust government investigations and enforcement – similar to what occurred following the launch of other whistleblower programs.

In order to mitigate these anticipated enforcement risks, companies should maintain a series of best practices, including:

- (i) Review and, as appropriate, enhance their policies, procedures, and controls for detecting, investigating, and remediating potential antitrust risks.
- (ii) Maintain robust internal reporting, investigation, and anti-retaliation policies and procedures. This is important as whistleblowers frequently turn to the government because they felt as though they were not heard internally. By having a robust internal process, companies can address and fix issues raised on their own timeline, rather than the government's.
- (iii) When potential antitrust violations are detected, consider whether a voluntary disclosure to the government may be prudent. Procedures for investigating antitrust reports and considering a voluntary disclosure should also take into consideration the criticality of the first 120 days following receipt of the report under the Antitrust Leniency Program and Whistleblower Rewards Program.
- (iv) In addition to avoiding any measures that punish whistleblower disclosures, companies should ensure that they do not create incentives or disincentives that can deter whistleblower reports to the government, such as employee or third-party contract terms that prevent disclosures to the government, as these types of measures may similarly violate anti-retaliation or other applicable laws and have been an area of enforcement focus by other agencies, particularly following their launch of a whistleblower program.

For a more detailed discussion of best practices and lessons learned from other whistleblower programs, many of which are likely to be similarly applicable to the new Antitrust Whistleblower Reward Program, see Gibson Dunn's May 2025 webcast, [The Patchwork Quilt of Whistleblower Programs](#).

^[1] DOJ, “Justice Department's Antitrust Division Announces Whistleblower Rewards Program,” <https://www.justice.gov/opa/pr/justice-departments-antitrust-division-announces-whistleblower-rewards-program> (July 8, 2025).

^[2] Dodd-Frank Wall Street Reform & Consumer Protection Act, Pub. L. No. 111-2003, § 748, 124 Stat 1376, 1739 (2010); *Id.* §924.

[3] 39 U.S.C. § 404(a)(7).

[4] DOJ Antitrust Div., Memorandum of Understanding Regarding the Whistleblower Rewards Program and Procedures (“MOU”) at 2, available at <https://www.justice.gov/atr/media/1407261/dl?inline>.

[5] *Id.* at 3.

[6] *Id.* at 7.

[7] DOJ Antitrust Div., Memorandum of Understanding Regarding the Whistleblower Rewards Program and Procedures (MOU) at 2, available at <https://www.justice.gov/atr/media/1407261/dl?inline>.

[8] <https://www.justice.gov/archives/opa/pr/five-amazon-marketplace-sellers-and-four-amazon-marketplace-companies-sentenced-price-fixing>

[9] 18 U.S.C. § 3571.

[10] See 39 U.S.C. § 2601.

[11] MOU at 3.

[12] *Id.* at 8.

[13] *Id.* at 5.

[14] MOU at 6.

[15] *Id.* at 4.

[16] *Id.* at 9.

[17] DOJ, “Justice Department Recovers over \$3 Billion from False Claims Act Cases in Fiscal Year 2019,” <https://www.justice.gov/archives/opa/pr/justice-department-recovers-over-3-billion-false-claims-act-cases-fiscal-year-2019> (January 9, 2020).

[18] DOJ, Antitrust Division Leniency Policy and Procedures, 7-3.320 – Type B Corporate Leniency, <https://www.justice.gov/atr/page/file/1490246/dl?inline>.

[19] Program Guidance § II.1.e, <https://www.justice.gov/criminal/media/1362321>

[20] SEC, Whistleblower Annual Report to Congress for Fiscal Year 2024 (Nov. 2024), available at <https://www.sec.gov/files/fy24-annual-whistleblower-report.pdf>.

[21] *Id.*

[22] IRS, Whistleblower Office Annual Report for FY 2023 (June 2024), available at <https://www.irs.gov/pub/irs-pdf/p5241.pdf>.

[23] CFTC, Whistleblower Program: Customer Education Initiatives: FY 2024 Annual Report (Oct. 2024), available at <https://www.whistleblower.gov/sites/whistleblower/files/2024-11/FY24%20Customer%20Protection%20Fund%20Annual%20Report%20to%20Congress.pdf>.

[24] *Id.*

[25] MOU at 10.

[26] DOJ, “Justice Department’s Antitrust Division Announces Whistleblower Rewards Program,” <https://www.justice.gov/opa/pr/justice-departments-antitrust-division-announces-whistleblower-rewards-program> (July 8, 2025).

The following Gibson Dunn lawyers prepared this update: Jeremy Robison, Matt Axelrod, Ella Alves Capone, Sarah Akhtar, Katherine Warren Martin, Akila Bhargava, Sarah Burns, and Lynn Gurskey.

Gibson Dunn’s lawyers are available to assist in addressing any questions you may have regarding the issues discussed in this update. Please contact the Gibson Dunn lawyer with whom you usually work, the authors, or any of the following leaders and members of the firm’s Antitrust and Competition practice group:

Scott D. Hammond – Washington, D.C. (+1 202.887.3684, shammond@gibsondunn.com)

Jeremy Robison – Washington, D.C. (+1 202.955.8518, wrobison@gibsondunn.com)

Kristen C. Limarzi – Washington, D.C. (+1 202.887.3518, klimarzi@gibsondunn.com)

Cindy Richman – Washington, D.C. (+1 202.955.8234, crichman@gibsondunn.com)

Rachel S. Brass – San Francisco (+1 415.393.8293, rbrass@gibsondunn.com)

Ali Nikpay – London (+44 20 7071 4273, anikpay@gibsondunn.com)

Christian Riis-Madsen – Brussels (+32 2 554 72 05, criis@gibsondunn.com)

Attorney Advertising: These materials were prepared for general informational purposes only based on information available at the time of publication and are not intended as, do not constitute, and should not be relied upon as, legal advice or a legal opinion on any specific facts or circumstances. Gibson Dunn (and its affiliates, attorneys, and employees) shall not have any liability in connection with any use of these materials. The sharing of these materials does not establish an attorney-client relationship with the recipient and should not be relied upon as an alternative for advice from qualified counsel. Please note that facts and circumstances may vary, and prior results do not guarantee a similar outcome.

If you would prefer NOT to receive future emailings such as this from the firm,
please reply to this email with "Unsubscribe" in the subject line.

If you would prefer to be removed from ALL of our email lists,
please reply to this email with "Unsubscribe All" in the subject line. Thank you.

© 2025 Gibson, Dunn & Crutcher LLP. All rights reserved. For contact and other information, please visit our [website](#).