

Judge takes on cartels

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No, not like in *Narcos*. The topic was ‘Designing cartel sanctions: a continuing debate’, focusing on the regulation of anti-competitive behaviour by corporations.

The 2017 Baxt Lecture was held at Melbourne Law School’s Woodward Conference Centre on Wednesday night. It was hosted by the school’s Competition Law and Economics Network, and presented by US Court of Appeals Judge Douglas Ginsburg.

The lecture was intended to generate debate about big-picture policy issues and provide comparative insights from another jurisdiction, according to Melbourne Law School.

“Questions regarding the most appropriate and most effective sanctions for cartel conduct continue to engage the minds of competition authorities and commentators worldwide,” Judge Ginsburg said in the abstract of the lecture.

“Corporate fines remain the sanction of choice for most authorities and, in the United States and Europe at least, fining levels continue to spiral in the search for optimal deterrence.

“[The lecture] will propose two guiding principles in the determination of the optimal sanctions for so-called hardcore cartels: first, that the total sanction be great enough, but no greater than necessary, to take the profit out of price-fixing; and second, that the individuals responsible for the price-fixing should be given a sufficient disincentive to discourage them from engaging in the activity.”

The lecture coincided with the ACCC’s campaign for heavier fines for companies that work together to swindle customers, according to Melbourne Law School. This includes a recent High Court victory for the ACCC over airlines Garuda Indonesia and Air New Zealand, which had engaged in price-fixing.

An ACCC commissioner also made comments at the lecture.

Judge Ginsburg has gained extensive judicial experience over a career spanning nearly five decades. He has taught at numerous law schools in the US and UK, held several positions in the US Department of Justice and served as a Court of Appeals judge since 1986.

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