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Amnesty and leniency applications have frequently been compared to confessions in the Catholic Church. The parallel is evident for the confession part. But what about the penance? In the Catholic Church there is no fixed catalog of actions a sinner has to take to qualify for absolution. Yet, though there is a degree of discretion for the priest, he will convey what is required in a finite manner. That is different from the leniency process. Leniency policies will define that applicants have to cooperate fully with the authority. But what full cooperation means is determined *en route* and on a case-by-case basis. The discretion for authorities as well as the dependence of the leniency applicants in leniency processes is prominent.

Both the discretion and the dependency would appear to be inherent in the leniency concept. At the same time, such a combination of discretion and dependency is generally unlikely to lead to optimal and balanced outcomes. The risk for disproportionate demands being imposed on those seeking absolution is exacerbated where numerous authorities are exercising their vast discretion in parallel.

These are very general observations. At the same time there are concrete indications that elements of the leniency policies of competition authorities in multi-jurisdictional investigations are not optimally balanced. As set out in more detail elsewhere, a combination of developments in the antitrust law enforcement area have rendered the benefits of leniency applications less obvious in some situations.²

The Deputy Assistant Attorney General of the U.S. Antitrust Division recently put it nicely where he said that authorities are operating "in an increasingly complicated and crowded investigative environment".³ In the (very "crowded") investigative environment in which multi-jurisdictional cartel investigations take place the question arises whether there is room for more transparency, restraint, and coordination on the side of the competition authorities. The same Deputy Assistant Attorney General concluded that there is such room and that enhanced cooperation between authorities and increased focus on key evidence can make investigations more efficient and effective.

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² Christof Swaak & Rein Wesseling, *Reconsidering the leniency option: if not first in, good reasons to stay out*, (36) EUR. COMPETITION L. REV. 346-354 (2015).

³ *Leniency in Multi-Jurisdictional Investigations: Too Much of a Good Thing?*, Brent Snyder, Deputy Assistant Attorney General, Antitrust Division, US Department of Justice, Remarks as Prepared for Delivery at the Sixth Annual Chicago Forum on International Antitrust, Chicago, Illinois, (June 8, 2015).

Increasingly leniency policies are applied in combination with settlement procedures. Settlement procedures themselves imply a significant degree of discretion for authorities, too. The accumulation of multiple authorities' discretion in leniency-based settlement procedures itself raises further questions about due process, transparency, and accountability.⁴

Against this background a continued debate about the room for improvements leading to a more effective and efficient investigative process is welcome. Even if the ambition is not to define the Sacrament of Penance for leniency applicants, this issue of CPI aims to contribute to that debate by taking stock of the leniency regimes in numerous jurisdictions.

⁴ Laura Guttuso, *From 'Mono' to 'Stereo': Fine-Tuning Leniency and Settlement Policies*, (38) WORLD COMPETITION 395-422 (2015).