

# Lysine cartel

- 1996: Archer Daniels Midland (ADM) pleaded guilty to price fixing
- ADM admitted to price fixing in lysine (used in livestock feed) and citric acid (used in soft drinks and detergents)

# Lysine market

- perfectly homogeneous product
- share of global production of 4 largest manufacturers of lysine in early 1990s
  - > 97% in U.S.
  - > 95% world
- purchases of four largest buyers < 30%
- large infrequent purchases
- cost of a new plant \$150+ million (over 3 years to build)

# Lysine agreement

- felt they needed everyone's agreement
- allocated sales quotas across firms
- used industry organization to meet and collect data
- shared cost data
- had a punishment scheme in place

## Background on ADM

- Archer Daniels Midland (ADM)
  - Multi-product firm, agribusiness
    - Lysine: feed additive (bought by farmers)
    - Citric acid: food additive
    - Grain processing
    - Motto: “supermarket of the world”
  - Annual Revenues \$11 billion
  - Politically active, recipient of subsidies
    - Sugar restrictions keep price high, substitution to ADM products
    - Ethanol
  - Shareholders: 10% institutional (retirement plans etc.)

## Background on ADM cont'd

- Executives
  - CEO Dwayne Andreas
  - President: James Randall
  - Vice-chairman: Michael Andreas (son of CEO, heir-apparent of company)
  - President of lysine division: “boy wonder” 32-year-old Mark Whitacre
  - Group vice president for corn refining: Terrance Wilson

# Competitors

- Sewon (Korea)
  - Kim
- Cheil Jedung (Korea)
- Kyowa Hakko Kogyo (Japan)
  - Executive Yamamoto
- Ajinomoto (Japan)
  - Executive Mimoto
  - Managing director Kazutoshi Yamada

# The Mark Whitacre Story

- Hired to run high-tech lysine division
  - ADM enters in 1992 with plant equal to 50% world production
  - Price war ensues, below costs of Asian producers
  - Price fixing discussions begin
  - Division was losing \$7 million/month
  - Plant was not working properly
  - Mark was embezzling (rubava all'azienda...)
- Sabotage story
  - Mark claims that plant has been sabotaged and he is being blackmailed for \$10 million (anche minacciato...)
  - FBI investigates
- The plot thickens
  - FBI finds no evidence of sabotage, but investigates
  - Whitacre's wife threatens to expose price fixing to FBI
  - Whitacre tells FBI about price fixing

- Mark goes undercover for almost 3 years with tapes and videos
  - Mark arranges meetings and video-tapes everything
- Mark's division starts making \$7 million/month
- Mark is star informant
  - Is amazing manipulator, always gets the things on tape the FBI wants

# What did cartel do?

- Fix prices
- Allocate market shares
- Fix volume quotas
- “Compensation Scheme”
- Engage in meetings and conversations to monitor quotas
- Results
  - Lysine prices increase by 70% within 3 months of reaching agreement

- Mark starts “losing it”
- Mark admits to embezzling \$500,000
  - Later revealed he took \$9 million
  - Violates his immunity deal
  - Makes him liable for price-fixing
- Mark is prosecuted
  - His own tapes used to prosecute him
  - Fires his lawyer for trying to bargain for 3 years prison, and files lawsuit against his ally in the FBI
  - Issue: future informants?

# Antitrust Outcomes

- Corporate Fines & Penalties
  - Asian firms fined \$21.25 million
  - ADM fined \$70 million
  - Sued in other countries
- Individual Fines & Penalties
  - Andreas and Wilson get 2-year prison sentences & \$350K fines
  - Whitacre gets 9 years for embezzlement and 30 months for price-fixing
  - Mimoto (Ajinomoto), Yamamoto (Kyowa), and Kim (Sewon) plead guilty and paid heavy fines
  - Yamada indicted and remains international fugitive

# The Cartels at Work Video

- Central evidence in antitrust case
- Jurors said they would not have sent executives to prison without it
- Illustrates workings of cartel

# **Video 1** *Cartel Meeting in Atlanta, Georgia -- The Lysine Cartel Members Show Disdain For Customers And Antitrust Enforcement*

- meeting with executives from the world's five dominant lysine producers.
- took steps to conceal their meeting,
  - staggering their arrival and departure times for the meeting
  - careful because the meeting coincided with the largest poultry industry trade association convention, so all of their customers were in town for the trade show.
- But, executives laughed at the thought of being observed by their customers or by law enforcement
  - there are some empty seats around the table because of the staggered arrival times.
  - The cartel members are captured on tape jokingly discussing who will fill those empty

# **Video 2 Telephone Call From ADM Headquarters -- Foreign Co-Conspirator Expresses Reluctance To Meet In The United States**

- The conversation between an ADM executive, who also was a cooperating witness, and an executive at the Japanese firm, Ajinomoto.
- discussing the location for the next cartel meeting.
- Ajinimoto executive is reluctant to have a cartel meeting in Hawaii,
  - but ultimately agrees to consider it because Hawaii is a convenient location for everyone and because of the lure of the golf courses located near the meeting site.
  - However, next video... of the meeting

## **Video 4** *Fixing Prices Globally (in Hawaii)*

- members agree upon the prices to be set for the United States and Canada.
- used the U.S. price as the primary benchmark for the world price
  - then specific prices were fixed on a country-by-country basis at the meetings.
- the cartel became very efficient in fixing prices, and it did not take them long to agree
- sitting in a room in Hawaii decided that the truckload price US and Canada would be \$1.16; not \$1.10, not \$1.20, but \$1.16.
- All prices to be effective the very next day.
- Later in the meeting, they did the same thing for other countries.

## **Video 5** *Worldwide Volume-Allocation Agreements*

- two high-ranking ADM executives. Representing all of the Japanese and Korean cartel members two senior executives from Ajinimoto.
- Earlier in the meeting, they determined how much each producer had sold in the prior year
  - used those figures to determine the total market size.
- Next, estimated what they believed the sales growth would be in the coming year.
  - All of these figures were written down on the board
- Next decide how to allocate sales growth among the five cartel members.
  - growth estimated 14,000 tons, the question posed by the senior ADM executive: how do we divide this market growth?

# **Video 6** *Retaliation Threats -- Policing The Agreement*

- there is no honor among thieves...
- retaliating through temporary price cuts or increases in sales volumes to take business away from or financially harm a cheating co-conspirator.
- Sometimes, the mere threat of such retaliation is enough to keep would-be cheaters in line.
- You will see one of the ADM conspirators pose such a threat in order to get his co-conspirators to agree to his proposed volume-allocation scheme.

## **Video 7** *Compensation Schemes*

- Any firm that sold more than its allocated share of the market at the end of the calendar year: compensate firms that were under budget by ... purchasing that quantity of lysine from any under-budget firms.
- This agreement reduced the incentive to cheat on the sales volume-allocation agreement by selling additional product
  - which, of course, also reduced the incentive to cheat on the price-fixing agreement.
- One of conspirators from ADM explains the importance of a compensation scheme to the cartel and gives the other cartel members a motivational speech that has to be one of the best pieces of evidence ever obtained in a cartel investigation.