

Global Briefings – Canada

John Clifford and Mark Opashinov
McMillan Binch LLP

Canada

*First ever obstruction charge in
Canada*

John Clifford and Mark Opashinov
McMillan Binch LLP
Toronto

Morgan Crucible fined for conspiracy and obstruction

In July 1994, Morgan Crucible's Canadian affiliate, Morganite Canada Corp pleaded guilty and was fined C\$450,000 for its part in implementing in Canada an international price-fixing arrangement made among manufacturers of carbon brushes. (In addition to the conspiracy offence, the Canadian Competition Act contains a criminal offence for implementing in Canada an unlawful conspiracy agreed outside of Canada.) Among other things, carbon brushes transfer electrical current from wires or rails to vehicles such as subways, streetcars, and light rail trains.

In related proceedings, Morgan Crucible, a holding company based in the United Kingdom, pleaded guilty in the Ontario Superior Court of Justice to obstruction of justice charges under section 139(2) of the Criminal Code for willfully providing false and incomplete evidence to Competition Bureau investigators. According to the Bureau, during its investigation former senior executives of Morgan Crucible and some of its subsidiaries were interviewed and falsely denied participating in, or having knowledge of, a conspiracy to fix the prices of carbon brushes and current collectors sold in Canada.

This is the first antitrust case in Canada in which an obstruction charge was laid. The case is an important reminder to foreign companies doing business in Canada, both about the implications for foreign affiliates that implement prices agreed under foreign conspiracies and the importance of being forthright with Competition Bureau investigators.