IP/08/1685

Brussels, 12th November 2008

Antitrust: Commission fines car glass producers over €1.3 billion for market sharing cartel

The European Commission has imposed fines, totalling €1 383 896 000 on Asahi, Pilkington, Saint-Gobain and Soliver for illegal market sharing, and exchange of commercially sensitive information regarding deliveries of car glass in the EEA, in violation of the EC Treaty's and the EEA Agreement's ban on cartels and restrictive business practices (Article 81 of the EC Treaty and Article 53 of the EEA Agreement). Asahi, Pilkington and Saint-Gobain are the three major players in Europe. Between early 1998 and early 2003 these companies discussed target prices, market sharing and customer allocation in a series of meetings and other illicit contacts. The Belgian company Soliver also took part in some of these discussions. These four companies controlled about 90% of the glass used in the EEA in new cars and for original branded replacement glass for cars at that time, a market worth about €2 billion in the last full year of the infringement. The Commission started the cartel investigation on its own initiative following a tip-off from an anonymous source. The Commission increased the fines on St Gobain by 60% because it was a repeat offender. Asahi provided additional information to help expose the infringement and its fine was reduced by 50% under the Leniency Notice. These are the highest cartel fines Commission has ever imposed, both for an individual company (€896 000 000 on Saint Gobain) and for a cartel as a whole.

Competition Commissioner Neelie Kroes said: "These companies cheated the car industry and car buyers for five years in a market worth two billion euros in the last year of the cartel. The overall fines are high because of the large market, the seriousness of the case, and Saint-Gobain's earlier offences. The Commission has imposed such high fines because it cannot and will not tolerate such illegal behaviour. Management and shareholders of companies that damage consumers and European industry by running cartels must learn their lessons the hard way – if you cheat, you will get a heavy fine."

Car glass is used in the automotive industry and comes in various shapes and sizes such as windscreens, sidelights (windows for front and back doors), backlights (rear windows) and sunroofs. The main customers of the car glass suppliers are car manufacturers who assemble the car glass pieces into the cars they produce. Some of the car glass deliveries are stored for replacement as original branded spare parts.

The Commission started this investigation on its own initiative on the basis of reliable information provided by an anonymous informant. The information prompted the Commission to carry out surprise inspections in 2005 at several sites of car glass producers in Europe.

After the inspections, the Japanese Asahi Glass Co. and its European subsidiary AGC Flat Glass Europe (formerly 'Glaverbel) filed an application under the 2002 Leniency Notice. Under the Leniency Notice, companies can benefit from a reduction of up to 100% if they enhance the Commission's ability to discover secret cartels. Asahi/Glaverbel cooperated fully with the Commission and provided additional information to help to expose the infringement and its fine was reduced by 50%.

The cartel

Asahi, Pilkington, Saint-Gobain and Soliver held regular discussions with a view to allocating between themselves car glass supplies to car manufacturers in response to their tenders and to keeping the market shares of each individual car glass supplier as stable as possible at the European level.

The evidence uncovered by the Commission revealed several meetings at airports and hotels in different European cities (for example in Frankfurt, Paris and at Charles de Gaulle (Paris) and Zaventem (Brussels) airport hotels) during which Asahi, Pilkington, Saint-Gobain and Soliver discussed the allocation of car glass to be supplied for upcoming car models to be produced and renegotiations of on-going contracts, and exchanged commercially lucrative and confidential information.

Fines

The fines in this case are based on the 2006 Guidelines on Fines (see IP/06/857 and MEMO/06/256). Under these Guidelines, fines reflect the overall economic significance of the infringement as well as the share of each company involved.

The cartel constitutes a very serious infringement of EC Treaty antitrust rules. In setting the fines, the Commission took into account the respective affected sales of the companies involved as well as the combined market share and the geographical scope of the cartel agreements.

The Commission increased the fines for St Gobain by 60% because it was a repeat offender, having already been fined for cartel activities in previous Commission decisions in 1988 for Flat Glass Benelux (see IP/88/784) and 1984 for Flat Glass Italy.

Fines

	Reduction under the Leniency Notice (%)	Reduction under the Leniency Notice (€)	Fine* (€)
Saint-Gobain (France)	0	0	896 000 000
Asahi/AGC Flat Glass (Japan)	50	113 500 000	113 500 000
Pilkington (UK)	0	0	370 000 000
Soliver (Belgium)	0	0	4 396 000
TOTAL			**1 383 896 000**

(*) Legal entities within the undertaking may be held jointly and severally liable for the payment of the fine

Action for damages

Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision is binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without these being reduced on account of the Commission fine. A White Paper on antitrust damages actions has been published (see IP/08/515 and MEMO/08/216). More information, including a citizens' summary of the White Paper, is available at:

http://ec.europa.eu/comm/competition/antitrust/actionsdamages/documents.html

For more information on the Commission's action against cartels, see MEMO/08/690.