

Brussels, 13 April 2011

Antitrust: Commission fines producers of washing powder €315.2 million in cartel settlement case

The European Commission today fined Procter & Gamble and Unilever a total of € 315.2 million for operating a cartel together with Henkel in the market for household laundry powder detergents in eight European Union countries. The fine on the two companies includes a 10% reduction for acknowledging the facts and enabling a swift conclusion of the investigation. Henkel got immunity for revealing the cartel to the Commission. The three companies are the leading producers of washing powder in Europe. The cartel lasted some three years and aimed at stabilising market positions and at coordinating prices in violation of EU and EEA antitrust rules (Article 101 of the EU treaty and Art. 53 of the EEA agreement). This is the third cartel settlement in a year.

Joaquín Almunia, Vice-President of the Commission in charge of competition policy, said: "*By acknowledging their participation in the cartel, the companies enabled the Commission to swiftly conclude its investigation, and for this they got a reduction of the fine. But companies should be under no illusion, however, that the Commission will give up on its relentless fight against cartels, which are the worst violation of competition rules by extracting higher prices from consumers than they would pay when companies compete fairly and on the merits.*" "

The Commission has adopted a decision settling a cartel investigation and imposing a fine totalling € 315.2 million on Procter & Gamble and Unilever. The decision is also addressed to Henkel, but because the company, in 2008, revealed the existence of the cartel to the Commission it benefitted from full immunity from fines. All three companies are major producers of washing powder and other laundry detergents in Europe and they must abide by Art 101(1) of the EU Treaty and Art 53(1) of the EEA Agreement, which ban practices restrictive of competition.

The cartel concerned powder detergents used in washing machines. The Commission has evidence showing that the cartel existed at least between 7 January 2002 and 8 March 2005. The cartel started when the companies implemented an initiative through their trade association to improve the environmental performance of detergent products. The environmental objective, however, did not require them to coordinate prices or other anti-competitive practices. Henkel, Procter & Gamble and Unilever did this on their own initiative and at their own risk.

The cartel covered Belgium, France, Germany, Greece, Italy, Portugal, Spain and The Netherlands. The decision is addressed to Henkel AG & Co. KGaA, Unilever PLC and Unilever NV, as well as to Procter & Gamble International S.à.r.l. and The Procter & Gamble Company which as parents of the P&G Group are held jointly and severally liable for the conduct of their relevant European subsidiaries.

The fines take into account the relevant sales of the companies involved in the eight countries concerned, the very serious nature of the infringement and the parties' high combined market share. The assessment is based on the [EU 2006 Guidelines on fines](#)

The individual fines are as follows:

	Reduction under the Leniency Notice (%)	Reduction under the Settlement Notice	Fine (EUR)
Henkel	100%	N/A	0
Procter & Gamble	50%	10%	211 200 000
Unilever	25%	10%	104 000 000

Henkel received full immunity because it was the first to inform the Commission. The Commission carried out inspections in this case in June 2008 (see [MEMO/08/424](#)). Subsequently, Procter & Gamble and Unilever also applied for leniency under the EU's [Leniency Notice](#). The Commission took account of their cooperation in the investigation and granted a reduction of respectively 50% to Procter & Gamble and 25% to Unilever. Moreover, they also benefitted from a reduction of 10% for settling the case with the Commission.

The settlement discussions started in the second half of 2010, after the companies indicated that they were prepared to settle, according to a procedure introduced in 2008. In January 2011, they all clearly and unequivocally acknowledged their respective liability for the infringement. A Statement of Objections reflecting the parties' submissions was notified to them in February 2011 and they all confirmed that its content reflected their submissions. This led to a strongly streamlined settlement decision that could be adopted only two months later.

The settlement procedure

The settlement procedure is based on the Antitrust Regulation 1/2003 (see [IP/08/1056](#) and [MEMO/08/458](#)). It allows the Commission to apply a simplified procedure to suitable cases and thereby reduce the length of the investigation. This is good for consumers and for taxpayers as it reduces costs; good for antitrust enforcement as it frees up resources to tackle other suspected cases; and good for the companies themselves that benefit from quicker decisions and a 10% reduction in fines.

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.

The Commission considers that meritorious claims for damages should be aimed at compensating, in a fair way, the victims of an infringement for the harm done. More information on antitrust damages actions, including the public consultation and a citizens' summary, is available at:

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

A non-confidential version of the Consumer Detergents settlement decision will be published at the following web address as soon as it becomes available:

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39579