



EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 29 January 2014

Antitrust: Commission fines producers of foam for mattresses, sofas and car seats € 114 million in cartel settlement

The European Commission has found that the four major producers of flexible polyurethane foam - Vita, Carpenter, Recticel and Eurofoam - participated in a cartel and has imposed fines totalling € 114 077 000. Flexible polyurethane foam is mainly used in household furniture such as mattresses or sofas. Applications in the automotive sector – in particular for car seats – also account for around a quarter of the total flexible polyurethane foam market.

The companies colluded to coordinate the sales prices of various types of foam for nearly five years, from October 2005 until July 2010, in 10 EU Member States (Austria, Belgium, Estonia, France, Germany, Hungary, the Netherlands, Poland, Romania and the UK). Vita was not fined as it benefited from immunity under the Commission's [2006 Leniency Notice](#) for revealing the existence of the cartel to the Commission. Eurofoam (a joint venture between Recticel and Greiner Holding AG), Recticel and Greiner received reductions of their fines for their cooperation in the investigation under the Commission's leniency programme. Since all companies agreed to settle the case with the Commission, their fines were further reduced by 10%.

Commission Vice President in charge of competition policy, Joaquín Almunia, said: "*Cartels harm our entire economy and cannot be tolerated. This case illustrates how essential it is to keep fighting and sanctioning such illegal behaviour: here the cartelised product is both a key component of the furniture bought by all citizens, such as mattresses and sofas, and a significant input for certain businesses, for example car makers*".

The aim of the cartel was to pass on raw material price increases of bulk chemicals to customers and avoid aggressive price competition between the four producers. In order to achieve this goal, the cartelist organised price coordination meetings at all levels of European management. The participants met on the margins of European and national associations and had numerous telephone and other bilateral contacts. The cartel operated for almost five years, from October 2005 until July 2010.

Fines

The total fines imposed are as follows:

	Reduction under the Leniency Notice	Reduction under the Settlement Notice	Fine (€)
Vita	100%	10%	0
Carpenter		10%	75 009 000
Recticel (for its own participation)	50%	10%	7 442 000
For the conduct of Eurofoam ¹ :			
- Eurofoam, Recticel and Greiner			14 819 000
- Greiner and Recticel	50%	10%	9 364 000
- Recticel			7 443 000
<i>Total</i>			114 077 000

This means that in total Eurofoam is liable for up to € 14 819 000, Greiner for up to € 24 183 000, and Recticel (both for its own involvement and that of Eurofoam) for up to € 39 068 000.

The fines were set on the basis of the [Commission's 2006 Guidelines on fines](#) (see [IP/06/857](#) and [MEMO/06/256](#)).

In setting the level of fines, the Commission took into account the companies' sales of the products concerned in the relevant Member States, the serious nature of the infringement, its geographic scope and its duration.

Vita received full immunity for revealing the existence of the cartel and thereby avoided a fine of € 61.7 million for its participation in the infringement.

Recticel, Eurofoam and Greiner benefited from reductions of fines of 50% under the 2006 Leniency Notice for their cooperation. The reductions reflect the timing of their cooperation and the extent to which the evidence they provided helped the Commission to prove the existence of the cartel.

¹ The fine imposed on Recticel, Greiner and Eurofoam for the conduct of Eurofoam (a joint venture between Recticel and Greiner) is partly shared by them because of the joint and several liability between parent companies and subsidiary. Eurofoam is liable for the sales in five Member States (Germany, Austria, Hungary, Poland and Romania), while Recticel is directly liable for the sales in the other five Member States (France, Belgium, the Netherlands, United Kingdom and Estonia) and indirectly for the conduct of its subsidiary.

Moreover, under the Commission's [2008 Settlement Notice](#), the Commission reduced the fines imposed on all the companies by 10% as they acknowledged their participation in the cartel and their liability in this respect.

The responsibility of Carpenter was established by the direct participation in the conduct of Carpenter's European subsidiaries while Carpenter Co was considered liable only as their parent company.

Background

Flexible polyurethane foam can be subdivided into "comfort foam" applications, used in upholstered furniture and mattresses, and "technical foam" applications, used in the automotive and other industries. The cartel covered comfort foam and specific types of flexible foam.

The Commission's investigation started with unannounced inspections in July 2010 (see [MEMO/10/359](#)).

More information on this case will be available under the case number [39801](#) in the [public case register](#) on the Commission's [competition](#) website, once confidentiality issues have been dealt with. For more information on the Commission's action against cartels, see its [cartels](#) website.

The settlement procedure

Today's decision is the tenth settlement decision since the introduction of the settlement procedure for cartels in June 2008 (see [IP/08/1056](#) and [MEMO/08/458](#)). Under a settlement, companies that have participated to a cartel acknowledge their participation in the infringement and their liability for it. The settlement procedure is based on the Antitrust Regulation 1/2003 and allows the Commission to apply a simplified procedure 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.

The Commission previously reached settlements with participants in cartels for DRAMs (see [IP/10/586](#)), animal feed phosphates (see [IP/10/985](#)), washing powder (see [IP/11/473](#)), glass for cathode ray tubes (see [IP/11/1214](#)), compressors for fridges (see [IP/11/1511](#)), water management products (see [IP/12/704](#)), wire harnesses (see [IP/13/673](#)), Euro interest rate derivatives and Yen interest rate derivatives (see [IP/13/1208](#)).

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.

In June 2013, the Commission has adopted a proposal for a Directive that aims at making it easier for victims of anti-competitive practices to obtain such damages (see [IP/13/525](#) and [MEMO/13/531](#)). More information on antitrust damages actions, including a practical guide on how to quantify the harm typically caused by antitrust infringements, the public consultation and a citizens' summary, is available at:

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

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