



**EUROPEAN COMMISSION**

**PRESS RELEASE**

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## **Antitrust: Commission fines two power exchanges € 5.9 million in cartel settlement**

The European Commission has imposed fines totalling € 5 979 000 on the two leading European spot power exchanges, EPEX Spot ("EPEX") and Nord Pool Spot (NPS) for having agreed not to compete with one another for their spot electricity trading services in the European Economic Area (EEA). Such behaviour breaches EU antitrust rules that prohibit cartels and restrictive practices. Power exchanges are organised markets for trading electricity. Spot trading means trading in the short run, such as within the same day or for the next day. NPS and EPEX received a fine reduction of 10% each for agreeing to settle the case with the Commission.

Joaquín Almunia, Commission Vice-President in charge of competition policy, said: *"Power exchanges are central to an efficient functioning of electricity markets. In times when most European consumers are concerned by their rising electricity bills, I am particularly satisfied that we have brought to an end the market sharing agreement between EPEX and Nord Pool Spot."* (see also [statement](#))

The infringement took place in the context of discussions to establish the [Internal Energy Market](#) (IEM), a Commission initiative aimed at fully integrating national electricity markets. When exploring a joint approach on the technical systems to be used for cross-border trade, EPEX and NPS also agreed not to compete with each other and to allocate European territories between them. These agreements extended well beyond the legitimate purpose of the cooperation related to creating the IEM. The companies clearly breached Article 101 of the Treaty on the Functioning of the European Union (TFEU) and Article 53 of the EEA Agreement, which prohibit cartels. They committed this infringement on their own initiative and at their own risk.

The infringement lasted for at least seven months in 2011-2012, ending when the Commission and the EFTA Surveillance Authority carried out unannounced inspections at the companies' premises. The anticompetitive contacts took the form of physical meetings, telephone and video calls and e-mails.

## Fines

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 power exchanges' value of sales for the services concerned within the EEA, the very serious nature of the infringement, the geographic scope and duration of the cartel. The fines cannot exceed 10% of the annual worldwide turnover of the companies before the settlement reduction. Under the Commission's [2008 Settlement Notice](#), the Commission reduced the fines imposed on both companies by 10% as they acknowledged their participation in the infringement and their liability. Thanks to the settlement procedure, the investigation was concluded within two years of the Commission's inspections in February 2012.

The fines imposed for the cartel are:

<b>Participants</b>	<b>Fine (€)</b>
NPS (Norway)	2 328 000
EPEX (France)	3 651 000
<b>Total</b>	<b>5 979 000</b>

The Commission also adopted a decision today concerning the Romanian power exchange OPCOM (see [IP/14/214](#)).

## Background

Power exchanges play an important role in providing public price information. This is crucial to achieve transparent and reliable electricity prices on the wholesale and retail markets.

The Commission's investigation started with unannounced inspections in February 2012 (see [MEMO/12/78](#))

More information is available on the Commission's [competition](#) website, in the public [case register](#) under the case number [39952](#). New decisions on competition policy are listed in the electronic newsletter [Competition weekly news summary](#). For more information on the Commission's action against cartels, see its [cartels](#) website.

## The settlement procedure

Today's decision is the eleventh settlement since the introduction of the settlement procedure for cartels in June 2008 (see [IP/08/1056](#) and [MEMO/08/458](#)). Settlements are based on the Antitrust Regulation 1/2003, which allows the Commission to apply a simplified procedure when companies acknowledge their participation in the infringement and their liability for it. This reduces the length of investigations. 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 refrigerators (see [IP/11/1511](#)), water management products (see [IP/12/704](#)) and wire harnesses (see [IP/13/673](#)), Euro and Yen interest rate derivatives (see [IP/13/1208](#)) and producers of foam (see [IP/14/88](#)).

## 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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