



**EUROPEAN COMMISSION**

**PRESS RELEASE**

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## **Antitrust: Commission fines producers of high voltage power cables € 302 million for operating a cartel**

The European Commission has found that 11 producers of underground and submarine high voltage power cables operated a cartel, and has imposed fines totalling €301 639 000. Such cables are typically used to connect generation capacity to the electricity grid or to interconnect power grids in different countries. From 1999 onwards and for almost ten years, these companies shared markets and allocated customers between themselves on an almost worldwide scale. Part of this plan was to allocate important high voltage power cable projects in the European Economic Area (EEA), including large infrastructure and renewable energy projects such as offshore wind farms. Most of the world's largest high voltage power cable producers, namely ABB, Nexans, Prysmian (previously Pirelli), J-Power Systems (previously Sumitomo Electric and Hitachi Metals), VISCAS (previously Furukawa Electric and Fujikura), EXSYM (previously SWCC Showa and Mitsubishi Cable), Brugg, NKT, Silec (previously Safran), LS Cable and Taihan, participated in the illegal agreements. ABB received full immunity from fines under the Commission's [2006 Leniency Notice](#) as it was the first to reveal the cartel to the Commission.

Commission Vice President in charge of competition policy Joaquín Almunia said: *"These companies knew very well that what they were doing was illegal. This is why they acted cautiously and with great secrecy. Despite this and through joint efforts by several competition authorities around the world, we have detected their anti-competitive agreements and brought them to an end."*

Six European, three Japanese and two Korean producers of submarine or underground power cables were involved in the cartel. Several companies that took part in the infringement and later merged their activities into joint ventures are also held liable, as well as parent companies of the producers involved, because they exercised a decisive influence over them. This includes the investment company Goldman Sachs, the former owner of Prysmian.

The investigation revealed that from 1999 to the inspections carried out by the Commission in January 2009, these producers entered into mutual agreements according to which the European and Asian producers would stay out of each other's home territories and most of the rest of the world would be divided amongst them. In implementing these agreements, the cartel participants allocated projects between themselves according to the geographic region or customer. In particular, the European companies agreed to allocate projects within the European Economic Area (EEA). The evidence in the Commission's file shows that these agreements were in place for almost ten years. In internal communications the cartelists referred to themselves as the "R", "A" and "K" companies, meaning European, Japanese and Korean companies.

Whenever Japanese and Korean companies received requests from European customers, they would notify their European counterparts and decline to bid. In order to allocate projects successfully, the cartelists also agreed on price levels to be applied or exchanged information on price offers to ensure that the designated power cable supplier or "allottee" would bid the lowest price while the other companies would submit a higher offer, refrain from bidding or submit an offer that was unattractive to the customer. The cartelists regularly met each other in hotels in South-East Asia and Europe and maintained further contacts by means of e-mails, faxes and telephone calls.

The investigation also revealed that the companies were well aware that they were breaking competition rules. For instance, in a note of a meeting, the advantages and disadvantages of entering into a cartel were discussed: *"It would be tough unless the pie for each company increases and the merits exceed the risk of having cartel"*.

The participants were also taking precautions not to be found in possession of anticompetitive documents. By using its forensic IT technologies the Commission was able to recover several thousand documents that had been deleted by an employee of Nexans. Most of these documents were closely linked to the illegal cartel activities and relevant for the Commission's investigation.

## **Fines**

The fines were set on the basis of the [Commission's 2006 Guidelines on fines](#) (see [IP/06/857](#) and [MEMO/06/256](#)) taking into account the very serious nature of the infringement, its scope, its implementation and its duration.

In establishing the relevant sales figures for determining the fine, the Commission concluded that, due to the home territory protection established by the cartel, the (inexistent or very low) sales of the Asian companies in Europe did not properly reflect the weight of each participant in the infringement. Therefore, in accordance with point 18 of the Guidelines and in line with previous cases, the Commission established the parties' relevant sales by taking into account the cartelists' total sales in the EEA and attributing them to each according to its respective share of sales on the wider (almost world-wide) cartelised market. The relevant sales include all high voltage underground and submarine power cables and related products and services.

ABB received full immunity for revealing the existence of the cartel to the Commission, thereby avoiding a fine of € 33 million for its participation in the infringement. J-Power Systems and its parents Hitachi Metals and Sumitomo Electric received a 45% reduction of the fine for cooperating with the investigation under the Commission's Leniency Notice. This reduction reflects the timing and level of their cooperation and the extent to which the evidence they provided helped the Commission to prove the cartel. In addition, the latter three companies received partial immunity for the first two years of their cartel involvement, as they were the first to submit evidence to the Commission on the existence of the cartel during that period of time.

One company invoked its inability to pay the fine. The Commission assessed this claim under point 35 of the 2006 fines Guidelines and decided not to reduce the fine.

The fines imposed<sup>1</sup> are as follows:

	Reduction under the Leniency Notice	Fine (€)
Brugg		8 490 000
Nexans		70 670 000
NKT		3 887 000
Prysmian		104 613 000
<i>of which jointly and severally liable with Pirelli</i>		<i>67 310 000</i>
<i>of which jointly and severally liable with Goldman Sachs</i>		<i>37 303 000</i>
Safran		8 567 000
Silec		1 976 000
<i>of which jointly and severally liable with General Cable</i>		<i>1 852 500</i>
<i>of which jointly and severally liable with Safran</i>		<i>123 500</i>
Sumitomo (solely liable)	45 %	2 630 000
Hitachi (solely liable)	45 %	2 346 000
JPS (jointly and severally liable with Sumitomo and Hitachi)	45%	20 741 000
Furukawa (solely liable)		8 858 000
Fujikura (solely liable)		8 152 000
VISCAS (jointly and severally liable with Furukawa and Fujikura)		34 992 000
SWCC Showa (solely liable)		844 000
Mitsubishi (solely liable)		750 000
EXSYM (jointly and severally liable with Showa and Mitsubishi)		6 551 000
LS Cable		11 349 000
Taihan		6 223 000
<b>TOTAL</b>		<b>301 639 000</b>

<sup>1</sup> Legal entities within the undertaking may be held jointly and severally liable for the whole or part of the fine imposed.

## 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 European Court of Justice (ECJ) and the [Antitrust Regulation](#) (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/comm/competition/antitrust/actionsdamages/documents.html>

## Background

The Commission's investigation started with unannounced inspections in January 2009 (see [MEMO/09/46](#)). A statement of objections was issued in July 2011 (see [MEMO/11/839](#)) on which the companies had the opportunity to comment and to be heard. After the hearing, the Commission reduced the duration of the infringement for some of the cartelists.

In November 2012, the EU General Court partly annulled the Commission's inspection decisions insofar as they related to any other cables than high voltage underground and submarine cables (cases [T-135/09](#) and [T-140/09](#)). These rulings do not affect the present decision.

More information on this case will be available under the case number [39610](#) in the Commission's [public case register](#) on the [competition](#) website, once confidentiality issues have been dealt with. For more information on the Commission's action against cartels, see its [cartels](#) website.

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