



Competition enforcement in the motor vehicle sector: horizontal agreements

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Outline

1. EU Competition framework: horizontal agreements
2. Cartels: detection
3. Cartels: investigation
4. Cartels: leniency
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EU Competition Framework

HORIZONTAL AGREEMENTS

Article 102 TFEU

Unilateral
conduct
Abuse of a
dominant
position

Article 101 TFEU

Anticompetitive agreements
Vertical vs Horizontal
By Object vs By Effect
Cartels:

Hardcore infringements: price fixing,
market sharing, limitation of output
Secret arrangements
Infringements by object



European
Commission

European Commission

EU Competition Law
Rules Applicable to Antitrust Enforcement

Volume 1: General rules

Situation as at 1st April 2011

COMPETITION HANDBOOKS

Brussels, 2011

Main Texts

Regulation 1/2003 on the
implementation of Articles 101
and 102 TFEU

Regulation 773/2004 on the
conduct of competition
proceedings (*Implementing
Regulation*)

Horizontal Cooperation Agreements

Regulation 2821/71 on the
application of Article 101(3)

Block Exemption Regulations

Research & Development
(Regulation 1217/2010)

Specialisation (Regulation
1218/2010)

Guidelines (2011)

Rules on technology transfer
agreements

REGULATION (EEC) No 2821/71 OF THE COUNCIL

of 20 December 1971

on application of Article 85 (3) of the Treaty to categories of agreements, decisions
and concerted practices

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the
European Economic Community, and in particular
Article 87 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European
Parliament;

Having regard to the Opinion of the Economic and
Social Committee;

Whereas Article 85 (1) of the Treaty may in
accordance with Article 85 (3) be declared
inapplicable to categories of agreements, decisions
and concerted practices which fulfil the conditions
contained in Article 85 (3);

Whereas the provisions for implementation of Article
85 (3) must be adopted by way of regulation
pursuant to Article 87;

Whereas the creation of a common market requires
that undertakings be adapted to the conditions of the
enlarged market and whereas co-operation between
undertakings can be a suitable means of achieving
this;

Whereas agreements, decisions and concerted
practices for co-operation between undertakings
which enable the undertakings to work more
rationally and adapt their productivity and
competitiveness to the enlarged market may, in so far
as they fall within the prohibition contained in
Article 85 (1), be exempted therefrom under certain
conditions; whereas this measure is necessary in
particular as regards agreements, decisions and
concerted practices relating to the application of
standards and types, research and development of
products or processes up to the stage of industrial
application, exploitation of the results thereof and
specialisation;

Whereas it is desirable that the Commission be
enabled to declare by way of regulation that the
provisions of Article 85 (1) do not apply to those
categories of agreements, decisions and concerted
practices, in order to make it easier for undertakings
to co-operate in ways which are economically
desirable and without adverse effect from the point
of view of competition policy;

Whereas it should be laid down under what
conditions the Commission, in close and constant
liaison with the competent authorities of the Member
States, may exercise such powers;

Whereas under Article 6 of Regulation No 17¹ the
Commission may provide that a decision taken in
accordance with Article 85 (3) of the Treaty shall
apply with retroactive effect; whereas it is desirable
that the Commission be empowered to issue
regulations whose provisions are to the like effect;

Whereas under Article 7 of Regulation No 17
agreements, decisions and concerted practices may by
decision of the Commission be exempted from
prohibition, in particular if they are modified in such
manner that Article 85 (3) applies to them; whereas it
is desirable that the Commission be enabled to grant
by regulation like exemption to such agreements,
decisions and concerted practices if they are modified
in such manner as to fall within a category defined in
an exempting regulation;

Whereas the possibility cannot be excluded that, in a
specific case, the conditions set out in Article 85 (3),
may not be fulfilled; whereas the Commission must
have power to regulate such a case in pursuance of
Regulation No 17 by way of decision having effect
for the future;

¹ OJ No 13, 21.2.1962, p. 204/62.

Cartels

Leniency

2006 Notice

Setting of fines

2006 Guidelines

Settlement procedures

Regulation 622/2008

2008 Notice





European
Commission

General Issues

CARTELS

Cartels: detection

Ex-officio investigations

Complaints, tip-offs

Information received from other authorities

Monitoring of markets

Leniency applications

Whistle blower

Benefit of full immunity or significant reduction of fines

Cartels: investigation

Inspections

Assessment of
evidence

Oral statements

Leniency documents

Inspection documents

Requests for information

Burden of proof

Standard of proof

Case shaping

International
cooperation

Cartels: leniency

Immunity from (100%) or significant reduction in fines (30%-50%; 20-30%, up to 20%) which could otherwise have been imposed, in exchange for the freely volunteered disclosure of information

Immunity applicant: first to submit evidence enabling Commission to carry out inspection/ find infringement

Subsequent applicants: submit evidence with 'significant added value'

Full, continuous and expeditious cooperation throughout the Commission's procedure and end involvement in the cartel

Immunity applicant must not have taken any steps to coerce other undertakings to participate in cartel



European
Commission

The leniency programme

The European Commission operates a leniency programme for companies. See <http://ec.europa.eu/competition/leniency/>.

If the cartel is only national in scope, it will usually be the responsibility of the national competition authority of the Member State concerned. All national competition authorities operate their own leniency programmes.

See http://ec.europa.eu/competition/ec/competition_authorities.html

In order to fully understand the implications the leniency programme can have for your company, it is advisable to seek expert legal advice prior to contacting the European Commission or any national competition authority.

LENIENCY IN EU COMPETITION CASES

If your company wants to discuss a potential application under the European Commission's leniency programme, call: +32 2 298.41.90 or +32 2 298.41.91.

If your company wants to submit an application it can do so through the dedicated leniency fax: +32 2 299.45.85. The telephones are monitored from 09.00 to 17.00 on working days (in Brussels). Outside of these times, please use the leniency fax.

All communications are confidential.



<http://ec.europa.eu/competition/publications>

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European
Commission



The European
Commission's

leniency programme

**READ THIS TO
PROTECT YOURSELF
AND SAVE YOUR
COMPANY MONEY**

Competition

What is a cartel?

Cartels are secret agreements between competitors to fix prices, limit production, or share markets or customers, including bid-rigging, and are illegal in all EU Member States under both EU and national laws.



Why are cartels illegal?

Cartels increase prices and reduce incentives to offer new products and better services.

Why should I be worried?

Finding and punishing cartels is a top enforcement priority for the European Commission and national competition authorities.

The European Commission imposes heavy fines on cartelists, of up to 10% of their total turnover in the preceding business year.

From 2007 to 2011, the Commission imposed over €10.6 billion in fines.

In the period 2007-2011, the national competition authorities issued 93 cartel decisions.

Some examples

The Commission has fined:

- fourteen international groups of air freight forwarding companies €169 million for fixing prices and other trading conditions (2012)
- three producers of washing powder over €315 million for price fixing (2011)
- six liquid crystal display panel producers over €648 million for price fixing (2010)
- eleven air cargo carriers over €799 million for price fixing (2010)
- two gas energy incumbents over €1 billion for market sharing (2009)
- car glass producers over €1.3 billion (2008)
- four members of a lift and escalator cartel over €990 million for bid rigging, fixing prices and allocating projects to each other, sharing markets and exchanging commercially important and confidential information (2007)

If my company is involved in a cartel, do I have to worry about anything other than a heavy fine?

The European Commission's finding that a company has been party to a cartel can seriously damage the company's **reputation and corporate image**. The Commission's investigation and its findings can also trigger **court actions for compensation** by consumers or customers.

If I am personally involved in or have knowledge of a cartel my company is involved in, what are the risks for me?

Companies today are likely to dismiss or otherwise sanction staff or officers found to be involved in a cartel and who do not report it to their superiors. Some national competition laws also provide for sanctions on individuals, ranging from disqualification as directors to terms of imprisonment.

What are the risks of getting caught?

Competition authorities are constantly on the lookout for signs of cartel behaviour and initiate many investigations as a result. In addition, hundreds of companies have sought immunity from fines from the Commission and national authorities by being the first to report their involvement in a cartel. Internal audits, management changes and M & A activity in any of the companies participating in a cartel can lead to the cartel being reported at any moment.

How can you keep your company out of a cartel?

You should consider setting up a compliance strategy tailored to your specific risk exposure. Make this strategy available to all staff, from employees to middle and top management. It will raise awareness of potential conflicts with competition rules and should provide regularly updated guidance to staff. This could prevent your company from participating in a cartel! See the brochure "Compliance Matters" for more information: <http://ec.europa.eu/competition/antitrust/compliance/>.

What to do if my company is in a cartel?

Through the European Commission's **leniency programme**, the **first** company to report its involvement in a cartel to the Commission can obtain immunity from fines. Make sure your company does report, before another cartel participant does so.

Wire Harness Cartel (2013)

« *Sumitomo was not fined for any of the five cartels as it benefited from immunity under the Commission's 2006 Leniency Notice for revealing the existence of the cartels to the Commission.*

[...]

*Sumitomo received full immunity for revealing the existence of the cartel and thereby **avoided a fine of € 291 638 000** for its participation in all five infringements.* »

Press release of 10 July 2013



EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 10 July 2013

Antitrust: Commission fines producers of wire harnesses € 141 million in cartel settlement

The European Commission has fined the car parts suppliers Sumitomo, Yazaki, Furukawa, S-Y Systems Technologies (SYS) and Leoni a total of € 141 791 000 for operating five cartels for the supply of wire harnesses to Toyota, Honda, Nissan and Renault. Wire harnesses conduct electricity in cars, for instance to start the motor, to open the window or to switch the air-conditioner on. They are often described as the 'central nervous system' of the car. The cartels covered the whole European Economic Area (EEA).

Sumitomo was not fined for any of the five cartels as it benefited from immunity under the Commission's [2006 Leniency Notice](#) for revealing the existence of the cartels to the Commission. All other companies received reductions of their fines for their cooperation in the investigation under the Commission's leniency programme. Since the 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: "The cartelised car parts were sold to Toyota, Honda, Nissan and Renault including for cars produced in Europe. Today's decision shows the first results in the Commission's wider investigative effort to detect and sanction any illegal cartels in markets for car parts. Such cartels may harm the competitiveness of the automotive industry and artificially inflate prices for final buyers of cars".

The companies coordinated the prices and allocation of supplies of wire harnesses to the respective car manufacturers. The cartel contacts took place both in Japan and in the EEA:

- For Toyota and Honda, the participants rigged a series of tenders for the supply of wire harnesses, including all tenders for supplies to the European manufacturing facilities published during the cartel period.
- For Nissan and Renault, the participants rigged – or attempted to rig – single tendering procedures for some individual models.

Sumitomo, Yazaki, Furukawa, SYS and Leoni were involved in one or several of the infringements. The duration of the cartels varied. The below table provides an overview of the overall duration and participants for each of the infringements (duration for individual participants in each of the infringement may vary):

Recent cartel investigations in the automotive sector

Decisions

- ❑ Car Glass (2008)
- ❑ Wire harnesses (2013)

Confirmed inspections

- ❑ Bearings for automotive and industrial use (2011)
- ❑ Occupant safety systems (seatbelts, airbags and steering wheels) (2011)
- ❑ Thermal systems (2012)
- ❑ Lightning (2012)

« *The European Commission **can confirm** that on 22 May 2012 Commission officials undertook unannounced inspections at the premises of companies active in the thermal systems and related products industry. Thermal systems are air conditioning and engine cooling products sold to car manufacturers. The Commission has concerns that the companies concerned may have violated EU antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the European Union).* »

Press release of 13 July 2012



EUROPEAN COMMISSION

MEMO

Brussels, 13 July 2012

Antitrust: Commission confirms unannounced inspections in the sector of thermal systems for cars

The European Commission can confirm that on 22 May 2012 Commission officials undertook unannounced inspections at the premises of companies active in the thermal systems and related products industry. Thermal systems are air conditioning and engine cooling products sold to car manufacturers. The Commission has concerns that the companies concerned may have violated EU antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the European Union).

The Commission officials were accompanied by their counterparts from the relevant national competition authority.

This inspection is part of a wider ongoing investigation that the Commission is carrying out into alleged cartels in the car parts sector. Previous inspections related to wire harnesses (see [MEMO/10/49](#)), occupant safety systems (see [MEMO/11/395](#)) and bearings (see [MEMO/11/766](#)).

Unannounced inspections are a preliminary step into suspected anticompetitive practices. The fact that the Commission carries out such inspections does not mean that the companies are guilty of anti-competitive behaviour nor does it prejudice the outcome of the investigation itself. The Commission respects the rights of defence, in particular the right of companies to be heard in antitrust proceedings.

There is no legal deadline to complete inquiries into anticompetitive conduct. Their duration depends on a number of factors, including the complexity of each case, the extent to which the undertakings concerned co-operate with the Commission and the exercise of the rights of defence.

Car glass

CASE STUDY

Case COMP/39.125 — Car glass

Decision of 12.11.2008

Addressees: 18 legal entities
belonging to 4 undertakings

Infringement: concerted allocation
of contracts, coordination of
pricing policies and supply
strategies

Scope: EEA

Duration: March 1998 to March
2003

Total Fines: € 1 354 896 000

25.7.2009

EN

Official Journal of the European Union

C 173/13

Summary of Commission Decision of 12 November 2008 ⁽¹⁾

relating to a proceeding under Article 81 of the Treaty establishing the European Community and
Article 53 of the EEA Agreement
(Case COMP/39.125 — Car glass)

(Only the English, French and Dutch texts are authentic)

(2009/C 173/08)

I. INTRODUCTION

- On 12 November 2008, the Commission adopted a decision relating to a proceeding under Article 81 of the EC Treaty. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.
- A non-confidential version of the decision is available on the Directorate-General for Competition's website at the following address: <http://ec.europa.eu/competition/antitrust/cases/index.html>

II. CASE DESCRIPTION

1. Procedure

- This case started as an *ex officio* investigation. Inspections were carried out on 22 and 23 February 2005 at the premises of companies belonging to the Glaverbel (Asahi's subsidiary, recently renamed AGC Flat Glass Europe), Saint-Gobain, Pilkington and Soliver groups. On 15 March 2005, the Commission carried out a second round of inspections at the premises of Saint-Gobain and Pilkington. In between the two rounds of inspections, on 22 February and 9 March 2005, Glaverbel and Asahi respectively applied for immunity from fines or, in the alternative, reduction of fines.
- Several written requests for information were addressed to the undertakings involved in the anti-competitive arrangements. The Commission rejected Asahi's and Glaverbel's request for immunity under point 8 of the Leniency Notice and informed them that it intended to grant them a reduction of 30-50 % of any fines.
- The Statement of Objections was adopted on 18 April 2007 and notified to the parties. An oral hearing was held on 24 September 2007. All four groups of companies participated in the hearing.

- The Advisory Committee on Restrictive Practices and Dominant Positions met on 1 July and on 7 November 2008 and issued a favourable opinion ⁽²⁾.

2. Summary of the infringement

- Automotive glass or carglass is made from float glass, which is the basic flat glass product category. The automotive products consist of different glass parts such as windscreens, sidelights (windows for front and back doors), backlights (rear window), quarter lights (back window next to rear door window), and sunroofs. The glass parts can moreover be tinted in different colour grades as opposed to clear glass. 'Privacy' glass, or 'dark tail' glass, is a specific category of tinted glass which reduces light and heat transmission inside the car.
- The decision concerns the supply of carglass for first assembly or replacement to manufacturers of light vehicles, in particular passenger cars and light commercial vehicles, the so-called 'original equipment' market (OE-market). Customers were basically all major groups of car manufacturers with European production. There are very few global groups manufacturing carglass, among them AGC, Pilkington and Saint-Gobain, which are also by far the three leading suppliers in Europe. Other suppliers like Soliver have a rather regional footprint.
- Competitive conditions for the supply of carglass to car manufacturers are homogenous at EEA level. Therefore, the OE carglass market is considered to be EEA-wide. The total sales of carglass in the EEA amounted to more than EUR 2 billion in 2002, that is the last full year of the infringement.
- The addressees referred to below participated in a single and continuous infringement of Article 81 of the Treaty and Article 53 of the Agreement on the European Economic Area (hereinafter 'EEA Agreement'). The infringement consisted in concerted allocation of contracts concerning the supply of carglass for all major car manufacturers in the EEA, through coordination of pricing policies and supply strategies aimed at maintaining an overall stability of the parties' position on the market

⁽¹⁾ Reference is made to the Commission Decision C(2008) 6815 final of 12 November 2008 as amended by two corrections adopted respectively on 4 December 2008 and 11 February 2009.

⁽²⁾ See OJ C , ...,2009, p.

Background

Car glass is used in the automotive industry and comes in various shapes and sizes (e.g. windscreens, sidelights, backlights and sunroofs); supply of carglass for first assembly or replacement to car manufacturers

Parties:

AGC (Asahi Glass Company; AGC Flat Glass Europe; AGC Automotive Europe; Glaverbel France; Glaverbel Italy; Splintex France; Splintex UK; AGC Automotive Germany) *

Saint-Gobain (La Compagnie de Saint-Gobain; Saint-Gobain Glass France; Saint-Gobain Sekurit Deutschland; Saint-Gobain Sekurit France)

Pilkington (Pilkington Group; Pilkington Automotive; Pilkington Automotive Deutschland; Pilkington Holding; Pilkington Italia)

Soliver

** Some entities changed names in the meantime*

Ex-officio investigation
Unannounced inspections (02/2005)

Leniency applic.: Glaverbel, Asahi (02-03/2005)
Unannounced inspections (03/2005)

Opening of proceedings (04/2007)

Adoption of Statement of Objections (04/2007)
Hearing (09/2007)

Adoption of Decision (11/2008)

Infringements

Single and continuous infringement

Concerted allocation of contracts concerning the supply of car glass for all major car manufacturers in the EEA, through coordination of pricing policies and supply strategies aimed at maintaining an overall stability of the Parties' position on the market

Also, monitoring of decisions taken and agreement on correcting measures

Fines (2006 Guidelines)

Basic amount of the fine:

Calculated on the basis of an average of the sales during the infringement period, normalised to one year (3 periods: roll-out, full and slow down)

Application of a variable amount of 16 %

Duration:

The variable amount was multiplied by 5 (AGC and Saint-Gobain), 4,5 (Pilkington) or 1,5 (Soliver)

Deterrence

Additional amount of 16 % of the value of sales

Fines (cont'd)

Aggravating circumstances

Recidivism: increase of 60 % in the basic amount of the fine (Saint-Gobain)

Application of the 10 % turnover limit

Ceiling of 10 % of turnover attained in respect of Soliver

Leniency (2002 Notice):

Immunity: rejection of AGC application

Reduction: 50% to AGC

Fines	Reduction for Leniency		Total
Saint Gobain (France)	0%	0	* 880 000 000
Asahi (Japan)	50%	113 500 000	113 500 000
Pilkington (UK)	0%	0	* 357 000 000
Soliver (Belgium)	0%	0	4 396 000
Amounts in €			1 354 896 000

* Fines amended
in 2013

Highest cartel fines per case

Year	Cartel	Amount (€)
2012	TV and computer monitor tubes	1 470 515 000
2008	Car glass	1 354 896 000
2013	Euro interest rate derivatives	1 042 749 000
2007	Elevators and escalators	832 422 250
2010	Airfreight	799 445 000

Highest cartel fines per undertaking

Rank	Year	Company	Amount (€)
1	2008	Saint Gobain	880 000 000
2	2012	Philips	705 296 000
3	2012	LG Electronics	687 537 000
4	2013	Deutsche Bank AG	465 861 000
5	2001	F. Hoffmann-La Roche AG	462 000 000
[...]			
8	2008	Pilkington	357 000 000

« 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. »



Neelie Kroes
EU Commissioner
in charge of Competition Policy
(2004-2009)

Follow-up Litigation

Against the prohibition decision	Against the decision of HO on confidentiality	Against the rejection decisions on access to docs.
T-68/09 Soliver/EC	T-462/12 Pilkington/EC	T-185/12 HUK Coburg/EC
T-72/09 Pilkington/EC	T-465/12 AGC/EC	T-419/12 LVM/EC
T-56 and 73/09 Saint-Gobain/EC		T-420/12 VHV/EC
		T-421/12 WGV/EC

Automotive wire harnesses

CASE STUDY

Case COMP/39.748 — Automotive wire harnesses Decision of 10.07.2013 (settlement)

Addressees: 10 legal entities
belonging to 5 undertakings

Infringements (≠5): coordination
of prices and allocation of supplies

Scope: EEA and beyond

Duration (different for each
infringement): 2000-2009

Total Fines: € 141 791 000

**Summary of Commission Decision
of 10 July 2013**

**relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union
and Article 53 of the EEA Agreement**

(Case AT.39748 — Automotive wire harnesses)

(notified under document C(2013) 4222 final)

(Only the English text is authentic)

(2013/C 283/05)

On 10 July 2013, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

- (1) The decision concerns five separate infringements concerning the supply of wire harnesses (WH) to Toyota, Honda, Nissan and Renault (2 infringements) and is addressed to the following undertakings: (i) Sumitomo⁽²⁾; (ii) Yazaki⁽³⁾; (iii) Furukawa⁽⁴⁾; (iv) SYS⁽⁵⁾ and (v) Leoni⁽⁶⁾. WH represent an assembly of cables transmitting signals or electric power linking computers to various components built in the vehicle and are designed for specific vehicles and platforms.

2. CASE DESCRIPTION

2.1. Procedure

- (2) Following the immunity application of Sumitomo and the leniency application of Furukawa, the Commission carried out unannounced inspections in February 2010 and thereafter Yazaki and SYS applied for leniency.
- (3) The Commission initiated proceedings on 3 August 2012. On 28 August 2012, Leoni applied for leniency. Settlement discussions took place between 25 September 2012 and 14 May 2013. Subsequently, the cartel members submitted to the Commission their formal request to settle pursuant to Article 10a (2) of Regulation (EC) No 773/2004. On 31 May 2013, the Commission adopted a Statement of Objections and the all parties confirmed that its content reflected their submissions and that they remained committed to follow the settlement procedure. The Advisory Committee on Restrictive Practices and

Dominant Positions issued a favourable opinion on 5 July 2013 and the Commission adopted the Decision on 10 July 2013.

2.2. Addressees and duration of the infringements

- (4) The following undertakings have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement, during the periods indicated below, with respect to the supplies of WH to Toyota:
- Sumitomo and Yazaki from 6 March 2000 until 5 August 2009,
 - Furukawa from 24 September 2002 until 20 October 2005.
- (5) The following undertakings have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement, during the periods indicated below, with respect to the supplies of WH to Honda:
- Sumitomo and Yazaki from 5 March 2001 until 7 September 2009,
 - Furukawa from 5 March 2001 until 31 March 2009.
- (6) Sumitomo and Yazaki have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement with respect to the supplies of WH to Nissan (B Platform) from 14 September 2006 until 16 November 2006.
- (7) Sumitomo and SYS have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement with respect to the supplies of WH to Renault (W95 Platform) from 28 September 2004 until 13 March 2006.
- (8) The following undertakings have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement, during the periods indicated below, with respect to the supplies of WH to Renault (W52/98 Platform):
- Sumitomo from 5 May 2009 until 20 October 2009,

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

⁽²⁾ The relevant companies are Sumitomo Electric Wiring Systems (Europe) Ltd and Sumitomo Electric Industries Ltd.

⁽³⁾ The relevant companies are Yazaki Europe Ltd and Yazaki Corporation.

⁽⁴⁾ The relevant companies are Furukawa Automotive Systems Inc and Furukawa Electric Co. Ltd.

⁽⁵⁾ The relevant companies are S-Y Systems Technologies France SAS and S-Y Systems Technologies Europe GmbH.

⁽⁶⁾ The relevant companies are Leoni Wiring Systems France SAS and Leoni AG.

Background

Wire harnesses represent an assembly of cables transmitting signals or electric power linking computers to various components built in the vehicle («central nervous system of the car»)

Parties:

Sumitomo (Sumitomo Electric Wiring Systems (Europe) and Sumitomo Electric Industries)

Yazaki (Yazaki Europe and Yazaki)

Furukawa (Furukawa Automotive Systems and Furukawa Electric)

SYS (S-Y Systems Technologies France and S-Y Systems Technologies Europe)

Leoni (Leoni Wiring Systems France and Leoni)

Immunity application (Sumitomo)
Leniency application (Furukawa)

Unannounced inspections (02/2010)
Leniency application (Yazaki & SYS)

Opening of proceedings (08/2012)
Leniency applicat. (Leoni) (08/2012)

Settlement discussions (09/2012 to 05/2013)
Adoption of Statement of Objections (05/2013)

Adoption of Decision (07/2013)

Infringements

Five separate infringements concerning the supply to Toyota, Honda, Nissan and Renault (2 infringements)

Parties informed each other through trilateral and/or bilateral contacts about their prices and other commercially sensitive information with the ultimate aim to coordinate prices and allocate supply

The infringements cover a series of tenders/single bids that took place during the collusive period

Fines (2006 Guidelines)

Basic amount of the fine:

Fixed at 16% of the relevant value of sales

E.g.: the value of sales for the Renault I infringement was set on the basis of the volume of WH sales to the relevant Renault project in the EEA estimated at the time of the infringement multiplied by the price of the winning bids

Duration:

The basic amount was multiplied by the number of years of participation in the infringement

Adjustments to the basic amount:

Immunity: Sumitomo

Reductions: from 20 to 50% to other Parties

Application of the Settlement Notice:

The amount of the fine to be imposed on Yazaki, Furukawa, SYS and Leoni was reduced by 10%

(Amounts in €)	Sumitomo	Yazaki	Furukawa	SYS	Leoni	Overview of fines
Toyota infringement	0	95 149 000	2 483 000			97 632 000
Honda infringement	0	29 812 000	1 532 000			31 344 000
Nissan infringement	0	380 000				380 000
Renault I infringement	0			10 123 000		10 123 000
Renault II infringement	0			934 000	1 378 000	2 312 000
Overview of fines	0	125 341 000	4 015 000	11 057 000	1 378 000	141 791 000

« The cartelised car parts were sold to Toyota, Honda, Nissan and Renault including for cars produced in Europe. Today's decision shows the first results in the Commission's wider investigative effort to detect and sanction any illegal cartels in markets for car parts. Such cartels may harm the competitiveness of the automotive industry and artificially inflate prices for final buyers of cars. »



Joaquín Almunia
EU Commission Vice-President
in charge of Competition Policy

« **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> »

Press release of 10 July 2013



EUROPEAN COMMISSION
PRESS RELEASE

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Antitrust: Commission fines producers of wire harnesses C 141 million in cartel settlement

The European Commission has fined the car parts suppliers Sumitomo, Yazaki, Furukawa, S-Y Systems Technologies (SYS) and Leoni a total of € 141 791 000 for operating five cartels for the supply of wire harnesses to Toyota, Honda, Nissan and Renault. Wire harnesses conduct electricity in cars, for instance to start the motor, to open the window or to switch the air-conditioner on. They are often described as the 'central nervous system' of the car. The cartels covered the whole European Economic Area (EEA).

Sumitomo was not fined for any of the five cartels as it benefited from immunity under the Commission's 2006 Leniency Notice for revealing the existence of the cartels to the Commission. All other companies received reductions of their fines for their cooperation in the investigation under the Commission's leniency programme. Since the 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: "The cartelised car parts were sold to Toyota, Honda, Nissan and Renault including for cars produced in Europe. Today's decision shows the first results in the Commission's wider investigative effort to detect and sanction any illegal cartels in markets for car parts. Such cartels may harm the competitiveness of the automotive industry and artificially inflate prices for final buyers of cars".

The companies coordinated the prices and allocation of supplies of wire harnesses to the respective car manufacturers. The cartel contacts took place both in Japan and in the EEA:

- For Toyota and Honda, the participants rigged a series of tenders for the supply of wire harnesses, including all tenders for supplies to the European manufacturing facilities published during the cartel period.

- For Nissan and Renault, the participants rigged – or attempted to rig – single tendering procedures for some individual models.

Sumitomo, Yazaki, Furukawa, SYS and Leoni were involved in one or several of the infringements. The duration of the cartels varied. The below table provides an overview of the overall duration and participants for each of the infringements (duration for individual participants in each of the infringement may vary):