



European Commission

# Competition

## Consumer Detergents

### « The Washing Powder Cartel »



## Agenda

- I Introduction
- II Factual assessment
- III Legal assessment
- IV Procedure
- V Settlement procedure
- VI Assessment on fines
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## Introduction

- On 13 April 2011 the Commission fined Procter & Gamble and Unilever a total of € 315.2 million for operating a cartel with Henkel in the market for household laundry powders.
- The cartel covered price coordination and it was operated in 8 Member States for 3,2 years.



- This is the third cartel settlement decision since DRAMS and Animal feed cases.



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## COMPETITION Not so clean

EuropeanVoice.com, 14 - 19 April 2011  
Volume 17 Number 15

**L**a Commission européenne fait le ménage sur le marché de la lessive dans l'UE, avec l'an-

Le Soir Jeudi 14 avril 2011

**Whiter than white? EU fines washing powder cartel**  
They claim whiter than white results but housewives got proof of price-fixing Wednesday as the makers of Ariel and Persil agreed to pay 315 million euros in fines for running a washing-powder cartel.

Roddy Thomson -13 April 2011 Agence France Presse

FINANCIAL TIMES THURSDAY  
14/4/2011

The company said details of the cartel were detected during internal audits in that year and that it "immediately informed the authorities".

**DIRTY LAUNDRY** Joaquín Almunia, the European commissioner for competition, announced yesterday (13 April) that the European Commission has fined Procter & Gamble and Unilever a total of €315.2 million for operating a cartel in the pricing of laundry detergents between 2002 and 2005. A third company involved in the cartel, Henkel, was granted immunity for revealing the existence of the cartel. The cartel originated in an initiative that the companies took through their trade association to reduce packaging and so make their products less harmful to the environment. They went beyond this remit to co-ordinate prices, the Commission said. REUTERS

EuropeanVoice.com  
14 - 19 April 2011  
Volume 17 Number 15

FINANCIAL TIMES THURSDAY  
14/4/2011

**P&G and Unilever fined for price-fix**

Le fait du jour /  
**L'Europe balaie le cartel des lessives**

Le Soir Jeudi 14 avril 2011

FINANCIAL TIMES THURSDAY  
14/4/2011

Mr Almunia said he was "happy with the experience".





## Factual assessment (1)

### 1. PRODUCT SCOPE

- The cartel concerned powder detergents used in washing machines:  
"Heavy duty laundry detergent powders intended for machine washing and sold to consumers" (HDD low suds powder)
- These are sold in cartons and bags
- Henkel brands such as Dixan, Le Chat, Minirisk and Persil
- P&G brands such as Ariel, Tide, Bonux and Dash
- Unilever brands such as Skip, Omo and Sunil





## Factual assessment (2)

### 2. THE INFRINGEMENT

- The cartel started when detergent manufacturers implemented an initiative through their trade association (Association for soaps and detergents, "AISE") to improve the environmental performance of detergent products.
- Within the environmental initiative companies reduced dosages and weight of washing powder and packaging material. The environmental objective, however, did not require them to coordinate prices or other anti-competitive practices.
- Industry discussions led to anticompetitive conduct among the major producers: Henkel, P&G and Unilever. The companies did this on their own initiative and at their own risk.
- Meetings and other contacts were organised between Henkel, P&G and Unilever at European level on the occasion of the AISE environmental initiative, during which the anticompetitive behaviour took place.



## Factual assessment (3)

- The ultimate aim of the cartel was to achieve: 1) market stabilisation and 2) to coordinate prices at European level.

### 1) Market stabilisation:

Parties sought to achieve market stabilisation by ensuring that none of them would use the environmental initiative to gain competitive advantage over the others and that market positions would remain at the same level as prior to the environmental initiative.

### 2) Price coordination:

- a) agreed on indirect price increases; agreed not to decrease prices when product weight, volume or number of wash loads per package was reduced,
- b) agreed to restrict promotional activity; in particular agreed to exclude certain types of promotions, and
- c) agreed on a direct price increase towards the end of 2004 which was targeted at specific markets





## Factual assessment (4)

- The parties also exchanged sensitive information on prices and trading conditions, which facilitated price collusion.
- Furthermore, the parties coordinated on various parameters related to the presentation of products, such as pack dimensions and pack fill levels. This is also part of the infringement to the extent that it was used to facilitate market stabilisation and price coordination.

### **3. GEOGRAPHIC SCOPE**

- Cartel was operated at European level and covered Belgium, France, Germany, Greece, Italy, Portugal, Spain, the Netherlands



## Factual assessment (5)

### **4. DURATION**

- The Commission has evidence showing that the cartel existed at least between 7 January 2002 and 8 March 2005

### **5. ADDRESSEES OF THE DECISION**

- The decision is addressed to parent companies: Henkel AG & Co. KGaA, Unilever PLC and NV, Procter & Gamble Company and Procter & Gamble S.à.r.l. (which as held jointly and severally liable for the conduct of their relevant European subsidiaries)



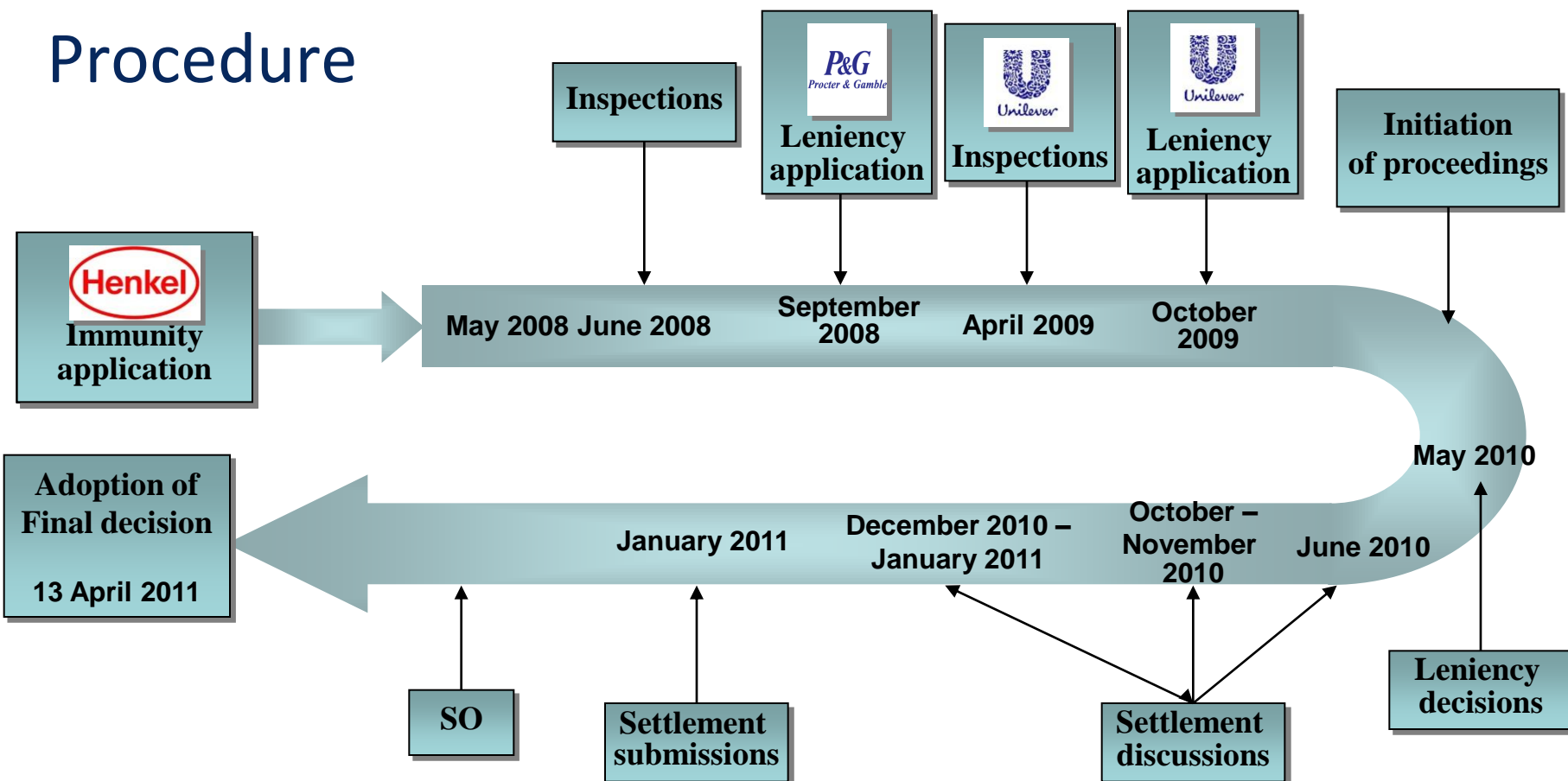
## Legal assessment

- Agreement and/or concerted practice
- Single and continuous infringement of Article 101 TFEU and 53 of the EEA Agreement
- Restriction of competition
- Effect on trade between Member States and between EEA Contracting Parties
- Non-applicability of Article 101(3) of the TFEU and 53(3) of the EEA Agreement



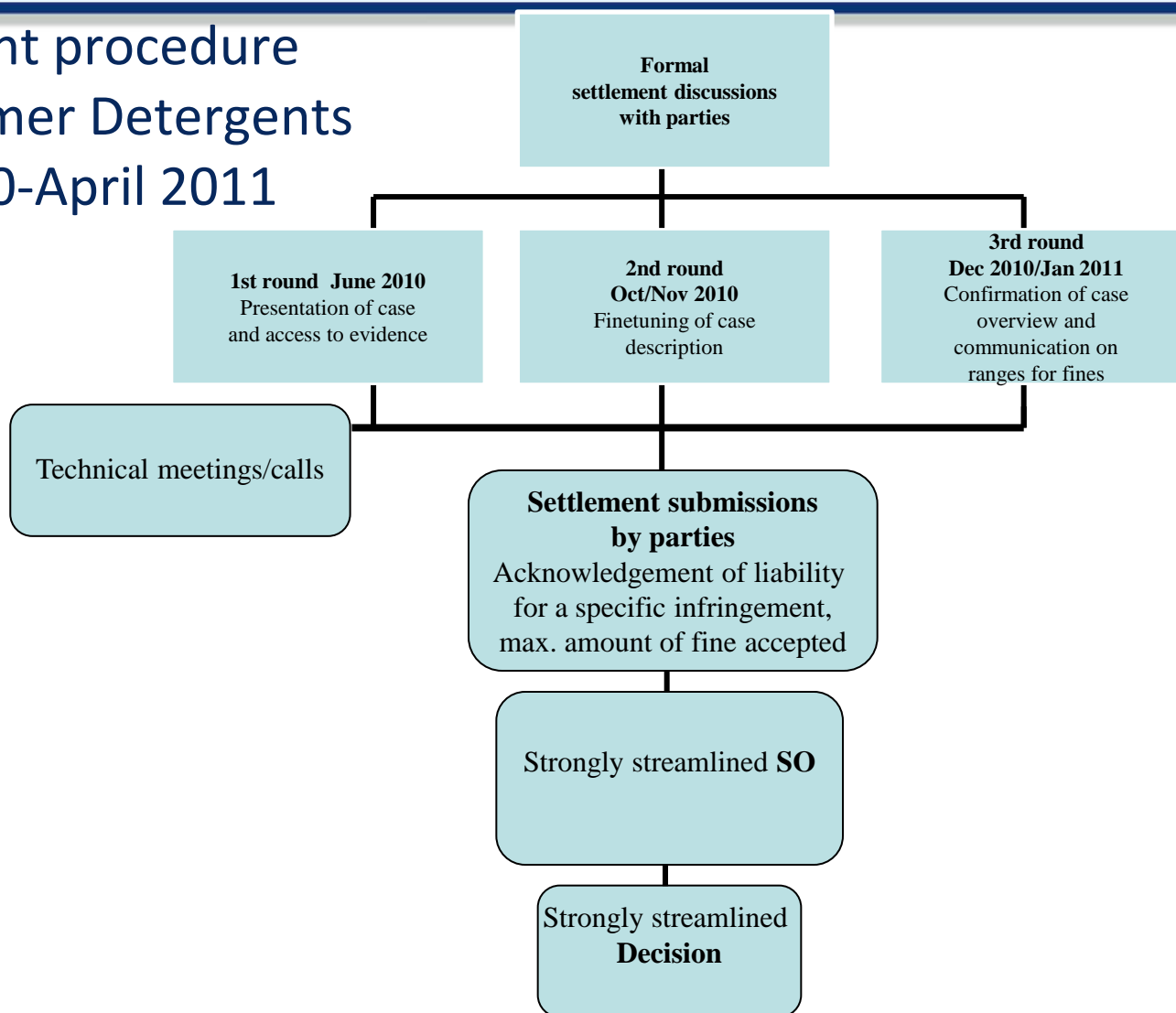


## Procedure





## Settlement procedure in Consumer Detergents June 2010-April 2011







## Assessment on fines (1)

- Application of 2006 Fines guidelines, 2006 Leniency Notice, Settlement Notice
- The fines take into account the relevant sales of the companies involved in the 8 countries
- The fines also take into account the very serious nature of the infringement and the parties' high combined market share
- Leniency reductions: Henkel : granted immunity (100%), P&G: 50% and Unilever: 25%
- Settlement reduction: Amount of the fine imposed on P&G and Unilever reduced by 10%



## Assessment on fines (2)



**THE FOLLOWING FINES WERE IMPOSED:**

	Leniency reduction	Settlement reduction	Fine (EUR)
Henkel	100%	N/A	0
P&G	50%	10%	211 200 000
Unilever	25%	10%	104 000 000



## Final words

- VP Almunia on 13 April 2011: "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 that the Commission will pursue its relentless fight against cartels, which extract higher prices from consumers than if companies compete fairly and on the merits."

