

Antitrust: Commission fines wax producers € 676 million for price fixing and market sharing cartel

The European Commission has imposed a total of € 676 011 400 fines on 9 groups - ENI, ExxonMobil, Hansen & Rosenthal, Tudapetrol, MOL, Repsol, Sasol, , RWE and Total - for participating in a cartel for paraffin wax in the European Economic Area (EEA) in violation of the EC Treaty's ban on cartels and restrictive business practices (Article 81) between 1992 and 2005. Shell also participated in the cartel but was not fined because it revealed the existence of the cartel to the Commission. The infringement committed by ExxonMobil, Sasol, Shell, RWE and Total also related to slack wax sold to end-customers on the German market. Slack wax is the raw material used to produce paraffin wax. All participants fixed prices for the products concerned. ExxonMobil, MOL, Repsol, Sasol, Shell and Total in addition allocated markets and customers for paraffin waxes. The fine for Sasol was increased by 50% because it was the leader of the cartel. The fine for ENI was increased by 60% as it had been previously taking part in similar cartels.

Competition Commissioner Neelie Kroes said "There is probably not a household or company in Europe that has not bought products affected by this 'paraffin mafia' cartel, with all that implies in terms of paying over the odds, higher costs and economic damage. Such illegal cartel behaviour cannot and will not be tolerated by the Commission, and companies' managers and shareholders should take note".

Paraffin waxes are used in a wide variety of products such as candles, waxed paper, paper cups and plates, the wax coating on cheese, chemicals, tyres and car components as well as in the rubber, packaging, adhesive and chewing gum industries. The market is worth almost 500 million euros. Slack wax is the raw material required for the manufacture of paraffin waxes. It is produced in refineries as a by-product in the manufacture of base oils from crude oil. It is also sold to end-customers, for instance to producers of particle board.

The Commission investigation started with surprise inspections in April 2005, prompted by an application for immunity lodged by Shell under the 2002 Leniency Notice (see [IP/02/247](#) and [MEMO/02/23](#)).

One of the companies claimed that a search warrant should have been presented by the inspectors of the national competition authority assisting the Commission in addition to the Commission inspection decision. However today's decision makes clear that an inspection decision is binding on the company, and a search warrant is therefore necessary only if the company refuses to submit to the inspection, and the assistance of the national authority is required.

The cartel

From 1992 to 2005, the producers of paraffin waxes and slack wax operated a cartel in which they fixed prices for paraffin waxes. ExxonMobil, MOL, Repsol, Sasol, Shell and Total also engaged in market allocation for this product and ExxonMobil, Sasol, Shell, RWE and Total also fixed prices for slack wax sold to end-customers on the German market. The companies held regular meetings to discuss prices, allocate markets and/or customers and to exchange sensitive commercial information.

In the Shell group, the cartel was called “paraffin mafia” and in the Sasol group, “Blauer Salon” (“blue saloon”), after a hotel bar in Germany where the first meetings of the cartel took place. Subsequent meetings took place at a series of top hotels all over Europe, including Milan, Vienna, Budapest, Paris, Munich and Strasbourg.

Fines

The cartel constitutes a very serious infringement of EC Treaty antitrust rules. In setting the fines, the Commission took into account the respective affected sales of the companies involved as well as the combined market share and the geographical scope of the cartel agreements. Sasol’s fine was increased by 50% because it was the leader of the cartel. The Commission increased the fines for ENI and Shell by 60% because they had already been fined for cartel activities in previous Commission decisions, but Shell was the first company to come forward with information about the cartel under the Commission’s 2002 Leniency Notice and therefore received full immunity from fines.

The cooperation with the investigation of three groups under the Commission’s leniency programme was also rewarded. Sasol, Repsol and ExxonMobil were granted a reduction of their fines of 50%, 25% and 7% respectively.

The fines in this case are based on the 2006 Guidelines on Fines (see [IP/06/857](#) and [MEMO/06/256](#)), in force at the time the Statement of Objections was notified.

The fines imposed and the leniency reductions granted by the Commission in this case are as follows:

	Reduction under the Leniency Notice (%)	Reduction under the Leniency Notice (€)	Fine* (€)
Shell, UK/The Netherlands	100	96 000 000	0
Sasol, South Africa and Germany	50	318 200 000	318 200 000
Repsol, Spain	25	6 600 000	19 800 000
ExxonMobil, USA	7	6 291 600	83 588 400
ENI, Italy	0	0	29 120 000
Tudapetrol, Germany	0	0	12 000 000
Hansen & Rosenthal, Germany	0	0	24 000 000
MOL, Hungary	0	0	23 700 000
RWE, Germany	0	0	37 440 000
Total, France	0	0	128 163 000
TOTAL			676 011 400

(*) 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 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. A White Paper on antitrust damages actions has been published (see [IP/08/515](#) and [MEMO/08/216](#)). More information, including a citizens' summary of the White Paper, is available at:

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

For more information on the Commission's action against cartels, see [MEMO/08/600](#).