



OBSERVATÓRIO DA APLICAÇÃO DO DIREITO DA CONCORRÊNCIA

EUROPEAN COMMISSION CONDEMNS CARTEL IN AUTOMOTIVE LIGHTING SYSTEMS SECTOR

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On June 21st, 2017, the European Commission adopted a conviction decision against three economic groups in the automotive lighting industry (Valeo, Automotive Lighting and Hella) which maintained anticompetitive contacts between July 2004 and October 2007.

The investigation of the case began in January 2012 through an application for immunity by Valeo under point 14 of the Commission Notice on immunity from fines and reduction of fines in cartel cases. In the same year, Automotive Lighting and Hella also applied for a reduction in the fine based on the same notice.

The infringement consisted mainly of informal contacts, concerning prices and certain conditions of sale, which occurred at meetings with suppliers, customers and trade fairs. Agreed price increases also took place in years where the production was significantly lower than expected in order to cover additional costs of each company, as well as negotiations of strategies with certain customers. Geographically, the meetings took place in the European Economic Area (EEA), mainly in France and Germany.

From a legal point of view, the rules prohibiting such conduct are laid down in Article 101 of the TFEU and Article 53 of the EEA Agreement, which are very similar. The requirements in these articles were easily met given the participation of the companies concerned in obtaining evidence.

The Commission therefore considered that the agreements and/or concerted practices were the result of a single and continuous conduct, with the contribution of the undertakings concerned, the purpose of which was anti-competitive. The requirement of a restriction of competition was also met, in this case a restriction by object, since the parties intentionally coordinated their behaviour in the market when practicing the said infractions, reducing the issue of uncertainty between competitors. The assumption of a negative impact on trade between Member States (and between contracting parties to the EEA Agreement) was been fulfilled, since their sales substantially involved the volume of trade between the States in the relevant market, affecting the structure of competition in the internal market. Lastly, since there were no grounds of



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justification to remove the prohibition inherent to the practices described, all the necessary conditions for their conviction were met.

Since the undertakings concerned took responsibility for the infringements committed, and given their participation in the investigation and in the taking of evidence in the present case, the Commission decided, based on the degree of participation and the duration of the conduct, to impose a fine of approximately EUR 16 million to Automotive Lighting and approximately EUR 10 million to Hella, both of which were reduced under the leniency notice by 35% and 20%, respectively. Lastly, Valeo was granted full immunity from the payment of the fine for being the first to denounce the cartel and having met the necessary requirements.