



Legal latest

Competition, EU and Regulatory newsletter

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Decisions

Maritime car carriers fined €395 million

The European Commission has found that CSAV, "K" Line, MOL, NYK and WWL-EUKOR participated in a cartel concerning intercontinental maritime transport of vehicles and imposed a total fine of €395 million.

From 2006 to 2012, the five carriers formed a cartel in the market for deep sea transport of new cars, trucks and other large vehicles on various routes between Europe and other continents.

The Commission's investigation revealed that the carriers' sales managers co-ordinated prices, allocated customers and exchanged commercially sensitive information about elements of the price, such as charges and surcharges added to prices to offset currency or oil price fluctuations.

The carriers agreed to maintain the status quo in the market and to respect each other's traditional business on certain routes or with certain customers, by quoting artificially high prices or not quoting at all in tenders issued by vehicle manufacturers.

MOL received full immunity for revealing the existence of the cartel, thereby avoiding a fine of approximately €203 million.

Suppliers of spark plugs fined €76 million

The Commission has found that Bosch, Denso and NGK participated in a cartel concerning supplies of spark plugs to car manufacturers in the EEA and imposed a total fine of €76 million.

The cartel lasted from 2000 to 2011 and aimed at avoiding competition by respecting each other's traditional customers and maintaining the existing status quo in the spark plugs industry. The three companies exchanged commercially sensitive information and in some instances agreed on the prices to be quoted to certain customers and the share of supplies to specific customers.

Denso received full immunity for revealing the existence of the cartel, thereby avoiding a fine of approximately €1 million.

Suppliers of braking systems fined €75 million

The Commission has imposed a total fine of €75 million in relation to two cartels concerning braking systems.

The first concerned the supply of hydraulic braking systems and involved TRW (now ZF TRW), Bosch and Continental. This cartel lasted from 2007 to 2011 and related to discussions of general sales conditions of hydraulic braking systems for two customers, Daimler and BMW.

The second cartel concerned the supply of electronic braking systems and involved Bosch and Continental. This cartel lasted from 2010 to 2011 and related to one specific tender for electronic braking systems for Volkswagen.

In both cartels, the three car part suppliers aimed at co-ordinating their market behaviour by exchanging sensitive information, including on pricing elements.

TRW received full immunity for revealing the first cartel, thereby avoiding a fine of approximately €54 million and Continental received immunity for revealing the second cartel, thereby avoiding a fine of approximately €22 million.

State Aid

€70 million public support scheme for electric buses

The Commission has found German plans to support the purchase of electric buses and related charging infrastructure by public transport operators to be in line with EU State Aid rules.

This measure is expected to contribute to reducing CO2 emissions.

To qualify for the support, public transport operators must ensure that their electric and plug-in hybrid buses are operated with electricity from renewable sources.

Public consultation

Household waste collection market

In September 2017, the Tánaiste and Minister for the Department of Business, Enterprise and Innovation, Frances Fitzgerald, wrote to the CCPC formally requesting that the CCPC undertake a Study on the Operation of the Household Waste Collection Market in Ireland.

Since the commencement of this study, the CCPC has carried out an extensive series of interviews and meetings with stakeholders in the waste market including consumer representative groups, academics, waste management regulators, industry representatives and individual household waste collection operators.

On 9 February 2018, the CCPC opened a public consultation on the household waste collection market. The public consultation included questions on the following areas: operational barriers to entry; market coverage; waiver of waste collection charges; landfill and incinerator capacity; and the regulatory environment. The closing date for receipt of submissions was Friday 2 March 2018.

Merger Determination

Boylesports / Bambury Bookmakers

This decision involved the proposed acquisition by BoyleSports Unlimited Company of sole control of six licensed betting offices ("LBOs") operated under the Bambury Bookmakers brand located in counties Limerick and Clare.

There was a horizontal overlap between the parties' activities since both BoyleSports and the target businesses provided betting services in LBOs in the State.

The CCPC did not need to come to a definitive view on the precise relevant product market since its conclusion would be unaffected whether the precise relevant product market was either narrow (e.g. the provision of betting services in LBOs) or broader (e.g. to include the provision of betting services online or over the telephone or some other combination of betting services channels).

The CCPC analysed the proposed transaction's impact by reference to the narrowest possible relevant geographic market, namely a catchment area of 400m from each of the target businesses and also a wider catchment area of within 3km from each of the target businesses.

While Boylesports owned and operated one LBO located within a 3km radius of the Bambury Bookmaker LBO located at Wolfe Tone Street, Limerick, post-transaction there would be five other providers of betting services in LBOs in the same catchment area which would act as a competitive constraint on BoyleSports.

Similarly, while BoyleSports owned and operated one LBO located within a 3km radius of the Bambury Bookmaker LBO located in Raheen, Co. Limerick, the CCPC considered that no competition concerns arose for the following reasons:

- the two LBOs that would be operated by BoyleSports post-transaction would face competition from two LBOs operated by Paddy Power Betfair; and
- Paddy Power Betfair was the closest competitor to this Bambury Bookmakers LBO.

Therefore, the transaction was cleared by the CCPC.

Practice note

Penalties for breach of Irish competition law

Undertakings who breach Irish competition law may be subject, on summary conviction, to a fine of €5,000, or on conviction on indictment, to a fine not exceeding the greater of €5 million or 10% of the worldwide group turnover of the undertaking in the financial year ending in the 12 months prior to the conviction.

Where an offence has been committed by an undertaking and the conduct that constituted the offence has been authorised or consented to by a director, manager, or other similar officer of the undertaking, or a person who purports to act in any such capacity, that person as well as the undertaking shall also be guilty of an offence.

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