

Summary of Commission Decision**of 28 March 2012****relating to a proceeding under Article 101 of the Treaty ⁽¹⁾ and Article 53 of the EEA Agreement****(Case COMP/39.452 — Mountings for windows and window doors)***(notified under document C(2012) 2069 final)***(Only the German and Italian texts are authentic)****(Text with EEA relevance)***(2012/C 292/05)*

On 28 March 2012, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ⁽²⁾, 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 is addressed to 11 legal entities belonging to 9 undertakings for infringing Article 101 of the Treaty and Article 53 of the EEA Agreement. The parties operated a cartel in which they agreed on common price increases for mountings for windows and window doors. The cartel covered the whole EEA and had an overall duration from November 1999 until July 2007.

2. CASE DESCRIPTION**2.1. Procedure**

- (2) The Commission's investigation started with an application for immunity from fines by Roto Frank AG. On 12 June 2007, Roto Frank AG received conditional immunity from fines.
- (3) Inspections took place on 3 and 4 July 2007.
- (4) In the course of the investigation, the Commission received applications under the Leniency Notice from Gretschi-Unitas GmbH, Gretschi-Unitas GmbH Baubeschlge and from Mayer & Co. Beschge GmbH.
- (5) The statement of objections in this case was issued on 16 June 2010. All parties submitted a reply to the statement of objections and exercised their right to be heard by participating at the oral hearing held on 19 October 2010.
- (6) The Advisory Committee on restrictive practices and dominant positions issued a favourable opinion on 7 and 26 March 2012.

2.2. Addressees and duration of the infringement

- (7) The following undertakings infringed Article 101 of the Treaty and Article 53 of the EEA Agreement, during the periods indicated, in the sector for mountings for windows and window doors in the whole EEA:
- (a) Roto Frank AG, 16 November 1999 until 4 May 2007;
- (b) Gretschi-Unitas GmbH, Gretschi-Unitas GmbH Baubeschlge, 16 November 1999 until 3 July 2007;
- (c) Mayer & Co. Beschge GmbH, 15 December 1999 until 3 July 2007;
- (d) Siegenia-Aubi KG, NORAA GmbH, 16 November 1999 until 3 July 2007;
- (e) Aug. Winkhaus GmbH & Co. KG, 16 November 1999 until 3 July 2007;
- (f) HAUTAU GmbH, 16 November 1999 until 3 July 2007;
- (g) CARL FUHR GmbH & Co. KG, 17 November 2004 until 3 July 2007;
- (h) Heinrich Strenger GmbH & Co. KG, 16 November 1999 until 3 July 2007.
- (8) Alban Giacomo SpA infringed Article 101 of the Treaty and Article 53 of the EEA Agreement from 27 May 2004 to 3 July 2007 in the sector of mountings for windows and window doors in Italy.

⁽¹⁾ With effect from 1 December 2009, Articles 81 and 82 of the EC Treaty have become Articles 101 and 102, respectively, of the Treaty on the Functioning of the European Union ('the Treaty'). The two sets of provisions are, in substance, identical. References to Articles 101 and 102 of the Treaty should be understood as references to Articles 81 and 82, respectively, of the EC Treaty where appropriate.

⁽²⁾ OJ L 1, 4.1.2003, p. 1.

2.3. Summary of the infringement

- (9) The Decision concerns a single and continuous infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement aiming at restricting price competition in the sector of mountings for windows and window doors in the EEA. Mountings are the mechanical parts which attach the window wing to the window frame and which enable the closing and opening of the window.
- (10) At the occasion of meetings of associations in Germany in November of each year the parties regularly agreed to increase prices by coordinating the amount (percentage or percentage range) and date of the envisaged price increase. There was a common understanding that the price increase agreed for Germany at these meetings was to be applied in the entire EEA, with adaptations to the specific situation of each country to the extent necessary. In addition to the main meetings in Germany in November, regional representatives met to discuss the application of the agreed price increase to their respective territory.

3. REMEDIES

- (11) The Decision applies the 2006 Fines Guidelines⁽¹⁾. With the exception of Roto Frank AG, the Decision imposes fines on all companies listed under point 7 above.

3.1. Basic amount of the fine

- (12) The basic amount of the fine is set at 16 % of the undertakings' sales of mountings for windows and window doors in the EEA in the year 2006. Only for Alban Giacomo SpA, the basic amount of the fine is set at 15 % of the undertaking's sales of mountings for windows and window doors in Italy in the year 2006.
- (13) For each party the basic amount is multiplied by the number of years of its participation in the infringement. The parties' individual duration of the infringement is the following:
- | | |
|--|--------------------|
| (a) Roto Frank AG: | 7 years, 5 months; |
| (b) Gretsch-Unitas GmbH, Gretsch-Unitas GmbH Baubeschläge: | 7 years, 7 months; |
| (c) Mayer & Co. Beschläge GmbH: | 7 years, 6 months; |
| (d) Siegenia-Aubi KG, NORAA GmbH: | 7 years, 7 months; |
| (e) Aug. Winkhaus GmbH & Co. KG: | 7 years, 7 months; |
| (f) HAUTAU GmbH: | 7 years, 7 months; |
| (g) CARL FUHR GmbH & Co. KG: | 2 years, 7 months; |
| (h) Heinrich Strenger GmbH & Co. KG: | 7 years, 7 months; |
| (i) Alban Giacomo SpA: | 3 years, 1 month. |

3.2. Adjustments to the basic amount

- (14) No aggravating circumstances have been identified in this case. Aug. Winkhaus GmbH & Co. KG was granted a reduction of 5 % of the basic amount of the fine as a mitigating circumstance because it effectively cooperated with the Commission outside the scope of the Leniency Notice.

3.3. Application of point 37 of the 2006 Fines Guidelines

- (15) In view of the specific circumstances of this case, the Commission exercised its discretion in accordance with point 37 of the 2006 Fines Guidelines and adapted the fines in a way that takes into account the proportion of the sales of the cartelised product in the total turnover and the differences between the parties in view of their individual participation in the infringement.

3.4. Application of the 10 % turnover limit

- (16) The final amounts of the fines prior to the application of the 2006 Leniency Notice are below 10 % of the worldwide turnover for all parties.

3.5. Application of the 2006 Leniency Notice

- (17) Roto Frank AG was the first undertaking to submit evidence which enabled the Commission to carry out a targeted inspection. The fine to be imposed on it was reduced by 100 %.
- (18) The fine to be imposed on Gretsch-Unitas GmbH, Gretsch-Unitas GmbH Baubeschläge was reduced by 45 %.
- (19) Mayer & Co. Beschläge GmbH was granted a 25 % reduction.

3.6. Inability to pay

- (20) One undertaking invoked its inability to pay under point 35 of the 2006 Fines Guidelines. The Commission carefully analysed the financial situation of the undertaking and the specific social and economic context. As a result of the Commission's analysis, the fine of this undertaking was reduced by 45 % given its difficult financial situation.

4. FINES IMPOSED BY THE DECISION

- (21) For the abovementioned infringement the following fines are imposed:
- | | |
|---|-----------------|
| (a) Roto Frank AG: | EUR 0; |
| (b) Gretsch-Unitas GmbH, Gretsch-Unitas GmbH Baubeschläge, jointly and severally: | EUR 20 552 000; |
| (c) Mayer & Co. Beschläge GmbH: | EUR 18 501 000; |

⁽¹⁾ OJ C 210, 1.9.2006, p. 2.

(d) Siegenia-Aubi KG, NORAA GmbH, jointly and severally:	EUR 18 995 000;	(g) CARL FUHR GmbH & Co. KG:	EUR 2 215 000;
(e) Aug. Winkhaus GmbH & Co. KG:	EUR 19 537 000;	(h) Heinrich Strenger GmbH & Co. KG:	EUR 104 000;
(f) HAUTAU GmbH:	EUR 3 179 000;	(i) Alban Giacomo SpA:	EUR 2 793 000.
