

Summary of Commission Decision
of 23 June 2010
relating to a proceeding under Article 101 of the TFEU and Article 53 of the EEA Agreement
(Case COMP/39.092 — Bathroom fittings and fixtures)
(notified under document C(2010) 4185)
(Only the English, French, German and Italian texts are authentic)
(2011/C 348/09)

On 23 June 2010, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union (TFEU). In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ⁽¹⁾, 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. A non-confidential version of the decision will be available on the Directorate-General for Competition website at:

<http://ec.europa.eu/competition/antitrust/cases>

1. INTRODUCTION

- (1) The Decision was addressed to 62 legal entities belonging to 17 undertakings active in the bathroom fittings and fixtures sector for infringing Article 101 of the TFEU and Article 53 of the EEA Agreement. From 16 October 1992 to 9 November 2004 the addressees participated in a single, complex and continuous infringement, covering the territory of Austria, Germany, the Netherlands, Italy, Belgium and France, consisting of price coordination of annual price increases as well as coordination of price increases on the occasion of specific events (such as increase of raw material prices, road toll, introduction of the euro), fixing of minimum prices and rebates and exchange of sensitive business information.

2. CASE DESCRIPTION

2.1. Procedure

- (2) The case was opened on the basis of an immunity application made by Masco under the Commission's 2002 Leniency Notice on 15 July 2004. The Commission obtained further evidence from inspections that took place in November 2004 at the premises of several addressees of the Decision in Austria, Belgium, Germany, Italy and the Netherlands. Following those inspections, the Commission received leniency applications from Grohe, Ideal Standard, Hansa, Dornbracht, Roca and Artweger and sent out several requests for information.
- (3) A statement of objections was issued on 26 March 2007 and all undertakings were given the possibility to have access to the file and defend themselves against the preliminary view of the Commission in writing and, on 12-14 November 2007, during an oral hearing. The

Advisory Committee on restrictive practices and dominant positions issued a favourable opinion on 25 May 2010 and 18 June 2010 and the Commission adopted the Decision on 23 June 2010.

2.2. Summary of the infringement

- (4) The Decision concerns a single and continuous infringement of Article 101 of the TFEU and Article 53 of the EEA Agreement in the bathroom fittings and fixtures sector for the following product groups: taps and fittings, ceramic sanitary ware and shower enclosures.
- (5) The infringement consisted in the coordination of annual price increases as well as the coordination of price increases on the occasion of specific events (such as increase of raw material prices, road toll, introduction of the euro), fixing of minimum prices and rebates and exchange of sensitive business information. The price coordination mainly took place in the context of meetings held in 13 different national trade associations, supplemented by bilateral contacts among some of the undertakings, in the time span of 1992 to 2004 and was focused on sales made by the manufacturers to wholesalers.
- (6) The cartel extended to six Member States, namely Germany, Austria, Italy, Belgium, France and the Netherlands. For the Netherlands, an infringement is found in the Decision, but no fines are imposed, as the infringement for this country is prescribed as from 31 December 2009 onwards.
- (7) The Decision finds a single complex and continuous infringement (SCCI) for the three product groups in the

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

mentioned six Member States. Out of the 17 groups of undertakings concerned, 8 are held liable for the SCCI in all six countries (i.e. Masco, American Standard, Grohe, Hansa, Duravit, Duscholux, Sanitec and Villeroy & Boch), as it was established that could not have been unaware of the general scope and essential characteristics of the cartel. The remaining undertakings are held only liable for the SCCI for the countries in which they were active in the cartel, because their awareness of the overall geographic scheme of the cartel could not be established ⁽¹⁾.

- (8) Each addressee is held liable according to its own involvement in the cartel arrangements, that is, either as a direct participant, or, in the case of a parent company, because the behaviour of the subsidiary is imputed to the parent if the parent exercised decisive influence over the conduct of the subsidiaries during the period in question.

2.3. Addressees and duration

- (9) The Decision is addressed to 62 legal entities belonging to the following 17 undertakings: Masco, Grohe, Ideal Standard ⁽²⁾, Roca, Hansa, Dornbracht, Sanitec, Villeroy & Boch, Duravit, Duscholux, Kludi, Artweger, Cisal, Mamoli, RAF, Teorema and Zucchetti.
- (10) The duration for the various addressees of the Decision is as follows:

- (a) Masco Corporation (1.1.1995-15.7.2004); Hansgrohe AG (16.10.1992-15.7.2004); Hansgrohe Deutschland Vertriebs GmbH (6.11.2002-15.7.2004); Hansgrohe Handelsgesellschaft GmbH (30.5.1995-15.7.2004); Hansgrohe SA/N.V. (21.9.2000-15.7.2004); Hansgrohe B.V. (28.9.1994-31.12.1999); Hansgrohe Sarl (1.5.2004-15.7.2004); Hansgrohe S.R.L. (16.10.1992-15.7.2004); Hüppe GmbH (15.9.1994-15.7.2004); Hüppe GesmbH (12.10.1994-15.7.1994); Hüppe Belgium SA (N.V.) (10.3.2003-15.7.2004); Hüppe B.V. (20.1.1999-31.12.1999);
- (b) Grohe Beteiligungs GmbH (15.3.1993-9.11.2004); Grohe AG (15.3.1993-9.11.2004); Grohe Deutschland Vertriebs GmbH (6.3.1998-9.11.2004); Grohe Gesellschaft GmbH (21.7.1994-9.11.2004); Grohe SA (N.V.) (21.9.2000-9.11.2004); Grohe Sarl

(10.12.2002-9.11.2004); Grohe SpA (15.3.1993-9.11.2004); Grohe Nederland B.V. (28.9.1994-31.12.1999);

- (c) Trane Inc. (15.3.1993-9.11.2004); WABCO Europe BVBA (29.10.2001-9.11.2004); WABCO Austria GesmbH (21.7.1994-9.11.2004); Ideal Standard GmbH (19.3.2003-9.11.2004); Ideal Standard Produktions-GmbH (30.10.2001-9.11.2004); Ideal Standard France (10.12.2002-9.11.2004); Ideal Standard Italia s.r.l. (15.3.1993-9.11.2004); Ideal Standard Nederland B.V. (30.11.1994-31.12.1999);
- (d) Hansa Metallwerke AG (16.10.1992-9.11.2004; Hansa Nederland B.V. from 26.11.1996-31.12.1999); Hansa Italiana s.r.l. (16.10.1992-9.11.2004); Hansa Belgium BVBA-SPRL (10.3.2003-9.11.2004) and Hansa Austria GmbH (21.7.1994-9.11.2004);
- (e) Sanitec Europe Oy (12.10.1994-9.11.2004); Allia S.A.S. (25.2.2004-9.11.2004); Produits Céramiques de Touraine SA (25.2.2004-9.11.2004); Keramag Keramische Werke AG (12.10.1994-9.11.2004); Koninklijke Sphinx B.V. (28.9.1994-9.11.2004); Koralle Sanitärprodukte GmbH (24.1.1996-9.11.2004); Pozzi Ginori SpA (14.5.1996-14.9.2001);
- (f) Villeroy & Boch AG (28.9.1994-9.11.2004); Villeroy & Boch Austria GmbH (12.10.1994-9.11.2004); Villeroy & Boch Belgium SA (N.V.) (30.10.2001-9.11.2004); Villeroy & Boch S.A.S. (25.2.2004-9.11.2004);
- (g) Duravit AG (7.7.2000-9.11.2004); Duravit BeLux Sprl/Bvba (30.10.2001-9.11.2004); Duravit SA (25.2.2004-9.11.2004);
- (h) Duscholux GmbH & Co. KG (29.11.1994-9.11.2004); Duscholux Belgium SA/N.V. (21.9.2000-9.11.2004); DPM Duschwand-Produktions- und Montagegesellschaft GmbH (15.9.1994-9.11.2004);
- (i) Aloys F. Dornbracht GmbH & Co. KG Armaturen-fabrik (6.3.1998-9.11.2004);
- (j) Kludi GmbH & Co. KG (6.3.1998-9.11.2004); Kludi Armaturen GmbH & Co. KG (21.7.1994-9.11.2004);

⁽¹⁾ Those undertakings are Roca (held liable for Austria and France), Dornbracht and Kludi (held liable for Austria and Germany), Artweger (held liable for Austria), and the Italian undertakings Cisal, Mamoli, RAF, Teorema, Zucchetti (all held liable for Italy, where coordination as set out in the Decision only covered taps and fittings and ceramics).

⁽²⁾ The former Ideal Standard group is now split into several undertakings. The legal entities that were part of the former Ideal Standard group and to which the Decision is addressed are listed in paragraph (10) (c).

(k) Roca Sanitario SA (29.10.1999-9.11.2004); Roca Sarl (10.12.2002-9.11.2004); Laufen Austria AG (12.10.1994-9.11.2004);

(l) Artweiger GmbH. & Co. KG (12.10.1994-9.11.2004);

(m) Rubinetteria Cisal SpA (15.3.1993-9.11.2004);

(n) Mamoli Robinetteria SpA (18.10.2000-9.11.2004);

(o) RAF Rubinetteria SpA (15.3.1993-9.11.2004);

(p) Rubinetterie Teorema SpA (15.3.1993-9.11.2004);

(q) Zucchetti Rubinetteria SpA (16.10.1992-9.11.2004).

2.4. Remedies

(11) The Decision applies the 2006 Guidelines on fines ⁽¹⁾.

2.4.1. Basic amount of the fine

(12) The basic amount of the fine was determined as a proportion of the value of the sales of bathroom fittings and fixtures products made to wholesalers by each undertaking in the relevant geographic area in the last year of the infringement (2003 for most companies), multiplied by the number of years and months of each undertaking's participation in the infringement (variable amount), plus an additional amount, also calculated as a proportion of the value of sales, in order to deter horizontal price-fixing agreements (entry fee).

(13) Taking into account the nature of the infringement, the combined market share of all undertakings concerned, the geographic scope of the infringement and implementation, both the variable amount and the entry fee were set at 15 %.

2.4.2. Adjustments to the basic amount

(14) No aggravating or mitigating circumstances were found applicable in this case. No increase for deterrence was applied.

2.4.3. Application of the 10 % turnover limit

(15) The 10 % turnover limit provided for in Article 23(2) of Regulation (EC) No 1/2003 was attained in respect to all undertakings except two of them. The respective fines were adjusted accordingly.

2.4.4. Application of the 2002 Leniency Notice: reduction of fines

(16) As regards the application of the 2002 Leniency Notice, Masco was granted full immunity from fines. The fines for Grohe and Ideal Standard were reduced by 30 %. Furthermore, in accordance with paragraph 23 of the 2002 Leniency Notice, the Commission did not take the facts regarding ceramics in Belgium and taps and fittings and ceramics in France into account when setting the fine for Ideal Standard. The reason for this was that Ideal Standard was the first undertaking to inform the Commission about the infringement established in relation to these product groups and countries and these facts were previously unknown to the Commission. The leniency applications of Hansa, Roca, Dornbracht and Artweiger were rejected for not having provided significant added value compared to the information already in the Commission's possession.

2.4.5. Inability to pay

(17) Ten undertakings invoked their inability to pay under point 35 of the 2006 Guidelines on fines. The Commission considered those claims and carefully analysed the financial situation of those undertakings and the specific social and economic context.

(18) In assessing the undertakings' financial situation, the Commission examined the companies' recent and current financial statements as well as their projections for subsequent years. The Commission considered a number of financial ratios measuring the companies' solidity, profitability, solvency and liquidity as well as its equity and cash flow situation. In addition, the Commission took into account relations with outside financial partners such as banks and relations with shareholders. The analysis also took into account restructuring plans.

(19) The Commission assessed the specific social and economic context for each undertaking whose financial situation was found to be sufficiently critical. In this context, the impact of the global economic and financial crisis on the bathroom fitting sector was taken into account. The Commission also concluded for the five undertakings concerned that the fine would cause their assets to lose significant value.

(20) As a result of the Commission's analysis, the fines of three companies were reduced by 50 % and those of another two by 25 % given their difficult financial situation.

⁽¹⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2) (a) of Regulation (EC) No 1/2003 (OJ C 210, 1.9.2006, p. 2).

3. FINES IMPOSED BY THE DECISION

1.		EUR 0	On Masco Corporation; Hansgrohe AG; Hansgrohe Deutschland Vertriebs GmbH; Hansgrohe Handelsgesellschaft GmbH; Hansgrohe SA/N.V.; Hansgrohe B.V.; Hansgrohe Sarl; Hansgrohe S.R.L.; Hüppe GmbH; Hüppe GesmbH; Hüppe Belgium SA (N.V.) and Hüppe B.V.
2.	(a)	EUR 25 372 377	Jointly and severally on Grohe Deutschland Vertriebs GmbH, Grohe Beteiligungs GmbH and Grohe AG
	(b)	EUR 4 917 533	Jointly and severally on Grohe Gesellschaft GmbH, Grohe Beteiligungs GmbH and Grohe AG
	(c)	EUR 4 132 820	Jointly and severally on Grohe SA (N.V.), Grohe Beteiligungs GmbH and Grohe AG
	(d)	EUR 6 277 702	Jointly and severally on Grohe Sarl, Grohe Beteiligungs GmbH and Grohe AG
	(e)	EUR 14 124 828	Jointly and severally on Grohe SpA, Grohe Beteiligungs GmbH and Grohe AG
	(f)	EUR 0	Jointly and severally on Grohe Nederland B.V., Grohe Beteiligungs GmbH and Grohe AG
	TOTAL	EUR 54 825 260	
3.	(a)	EUR 259 066 294	On Trane Inc.
	(b)	EUR 44 995 552	Jointly and severally on WABCO Europe BVBA and Trane Inc.
	(c)	EUR 1 519 000	Jointly and severally on WABCO Austria GesmbH, WABCO Europe BVBA and Trane Inc.
	(d)	EUR 0	Jointly and severally on Ideal Standard France, WABCO Europe BVBA and Trane Inc.
	(e)	EUR 12 323 430	Jointly and severally on Ideal Standard Italia s.r.l., WABCO Europe BVBA and Trane Inc.
	(f)	EUR 5 575 920	Jointly and severally on Ideal Standard GmbH, WABCO Europe BVBA and Trane Inc.
	(g)	EUR 0	Jointly and severally on Ideal Standard Produktions-GmbH, WABCO Europe BVBA and Trane Inc.
	(h)	EUR 2 611 000	Jointly and severally on WABCO Austria GesmbH and Trane Inc.
	(i)	EUR 0	On Ideal Standard Nederland B.V.
	TOTAL	EUR 326 091 196	

4.	(a)	EUR 17 700 000	Jointly and severally on Roca Sanitario SA and Laufen Austria AG
	(b)	EUR 6 700 000	Jointly and severally on Roca Sarl and Roca Sanitario SA
	(c)	EUR 14 300 000	Laufen Austria AG
	TOTAL	EUR 38 700 000	
5.	(a)	EUR 10 181 196	On Hansa Metallwerke AG
	(b)	EUR 2 212 713	Jointly and severally on Hansa Austria GmbH and Hansa Metallwerke AG
	(c)	EUR 2 036 239	Jointly and severally on Hansa Italiana s.r.l. and Hansa Metallwerke AG
	(d)	EUR 111 314	Jointly and severally on Hansa Belgium BVBA-SPRL and Hansa Metallwerke AG
	(e)	EUR 0	Jointly and severally on Hansa Nederland B.V. and Hansa Metallwerke AG
	TOTAL	EUR 14 541 462 ⁽¹⁾	
6.		EUR 12 517 671	On Aloys F. Dornbracht GmbH & Co. KG Armaturenfabrik
7.	(a)	EUR 9 873 060	On Sanitec Europe Oy
	(b)	EUR 26 068 884	Jointly and severally on Keramag Keramische Werke AG and Sanitec Europe Oy
	(c)	EUR 1 395 690	Jointly and severally on Koninklijke Sphinx B.V. and Sanitec Europe Oy
	(d)	EUR 4 579 610	Jointly and severally on Allia S.A.S. and Sanitec Europe Oy
	(e)	EUR 2 529 689	Jointly and severally on Produits Céramiques de Touraine SA, Allia S.A.S. and Sanitec Europe Oy
	(f)	EUR 4 520 000	Jointly and severally on Pozzi Ginori SpA and Sanitec Europe Oy
	(g)	EUR 5 233 840	Jointly and severally on Koralle Sanitärprodukte GmbH and Sanitec Europe Oy
	(h)	EUR 3 489 227	On Koralle Sanitärprodukte GmbH
	TOTAL	EUR 57 690 000	

8.	(a)	EUR 54 436 347	On Villeroy & Boch AG
	(b)	EUR 6 083 604	Jointly and severally on Villeroy & Boch Austria GmbH and Villeroy & Boch AG
	(c)	EUR 2 942 608	Jointly and severally on Villeroy & Boch Belgium SA (N.V.) and Villeroy & Boch AG
	(d)	EUR 8 068 441	Jointly and severally on Villeroy & Boch S.A.S. and Villeroy & Boch AG
	TOTAL	EUR 71 531 000	
9.	(a)	EUR 25 226 652	On Duravit AG
	(b)	EUR 2 471 530	Jointly and severally on Duravit BeLux SPRL/BVBA and Duravit AG
	(c)	EUR 1 568 143	Jointly and severally on Duravit SA and Duravit AG
	TOTAL	EUR 29 266 325	
10.	(a)	EUR 384 022	On Duscholux GmbH & Co. KG
	(b)	EUR 128 007	On Duscholux Belgium SA
	(c)	EUR 1 147 652	On DPM Duschwand-Produktions- und Montagegesellschaft GmbH
	TOTAL	EUR 1 659 681	
11.	(a)	EUR 3 233 192	On Kludi GmbH & Co. KG
	(b)	EUR 2 282 253	On Kludi Armaturen GmbH & Co. KG
	TOTAL	EUR 5 515 445	
12.		EUR 2 787 015	On Artweger GmbH. & Co. KG
13.		EUR 1 196 269	On Rubinetteria Cisl SpA
14.		EUR 1 041 531	On Mamoli Rubinetteria SpA
15.		EUR 253 600	On RAF Rubinetteria SpA
16.		EUR 421 569	On Rubinetteria Teorema SpA
17.		EUR 3 996 000	On Zucchetti Rubinetteria SpA

(¹) See Decision of 1 March 2011 amending Decision C(2010) 4185 final relating to a proceeding under Article 101 on the Treaty of the Functioning of the European Union and Article 53 of the EEA Agreement, C(2011) 1178.