

Summary of Commission Decision
of 14 September 2005
relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement
(Case COMP/38.337 — PO/Thread)

(notified under document number C(2005) 3452 and document number C(2005) 3765)

(Only the English, French, German and Dutch texts are authentic)

(Text with EEA relevance)

(2008/C 21/08)

On 14 September 2005, the Commission adopted Decision C(2005) 3452 relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement. This decision was amended by Commission Decision C(2005) 3765 adopted on 13 October 2005. 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 interests. A non-confidential version of the full text of the decision can be found in the authentic languages of the case and in the Commission's working languages at DG COMP website at: http://europa.eu.int/comm/competition/index_en.html

1. SUMMARY OF THE INFRINGEMENTS

1.1. Introduction

- (1) The findings in this Decision arise out of inspections carried out by the Commission on 7 and 8 November 2001 pursuant to Article 14(3) of Regulation No 17 at the premises of several Community producers of haberdashery products ⁽²⁾. By means of these inspections and the subsequent investigation, the Commission discovered evidence that undertakings had taken part in the following three cartel agreements and concerted practices:
 - (a) a cartel on the market in thread for industrial customers in Benelux ⁽³⁾ and the Nordic countries ⁽⁴⁾ (the total value of the market is estimated at EUR [40-60] million in 2000, the last full year of the infringement);
 - (b) a cartel on the market in thread for industrial customers in the United Kingdom (the value of the market is estimated at EUR [60-100] million in 2000);
 - (c) a cartel on the market in thread for automotive customers in the European Economic Area (EEA) (the value of the market is estimated at EUR [15-25] million in 2000).
- (2) For these three markets and for the periods specified in this Decision, the thread producers took part in regular meetings and had bilateral contacts to exchange sensitive information on price lists and/or prices charged to individual customers, to agree on price increases and/or on target prices and to avoid undercutting the incumbent supplier's prices with a view to allocating customers.
- (3) These horizontal agreements and concerted practices are contrary to Articles 81(1) of the EC Treaty and 53(1) of the EEA Agreement.

1.2. Addressees

- (4) On account of their participation or the participation of their subsidiaries in the cartel agreement and concerted practices regarding the market in thread for industrial customers located in Benelux and the Nordic countries, this Decision is addressed to Ackermann Nähgarne GmbH & Co, Amann und Söhne GmbH & Co KG, Barbour Threads Ltd, Belgian Sewing Thread NV, Bieze Stork BV, Bisto Holding BV, Coats Holdings Ltd, Gütermann AG, Hicking Pentecost plc and Zwicky & Co AG.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

⁽²⁾ See Commission Decision of 26 October 2004, Case 38.338 — PO/Needles.

⁽³⁾ Belgium, Luxembourg and the Netherlands.

⁽⁴⁾ Denmark, Finland, Sweden and Norway.

- (5) On account of their participation or the participation of their subsidiaries in the cartel agreement and concerted practices regarding the market in thread for industrial customers located in the United Kingdom (UK), this is addressed to Barbour Threads Ltd, Coats UK Ltd, Coats Holdings Ltd, Dollfus Mieg et Cie SA, Donisthorpe & Company Ltd, Gütermann AG, Hicking Pentecost plc, Oxley Threads Ltd and Perivale Gütermann Ltd.
- (6) On account of their participation or the participation of their subsidiary in the cartel agreement and concerted practices regarding the market in thread for automotive customers located in the EEA, the present Decision is addressed to Amann und Söhne GmbH & Co KG, Barbour Threads Ltd, Coats Holdings Ltd, Cousin Filterie SA, Hicking Pentecost plc and Oxley Threads Ltd.

1.3. Procedure

- (7) In August 2000, the Commission received a letter from a UK manufacturer of sewing needles, accusing Coats and Prym, two leaders in the European haberdashery market, of anti-competitive behaviour. Inspections were carried out on 7 and 8 November 2001. At Coats' premises, the inspectors found evidence of several cartels, among others in the thread market. On 26 November 2001, Coats filed an application under the 1996 Commission Notice on the non-imposition or reduction in fines in cartel cases. In April 2003, Oxley Threads also applied for a reduction in fines.
- (8) The Commission sent requests for information in March and August 2003.
- (9) On 18 March 2004 the Commission sent a Statement of Objections to 19 companies ⁽¹⁾. Access to the file was provided to the parties in electronic form via a CD-ROM sent on 7 April 2004. Replies to the Statement of Objections were received between 18 May and 21 June 2004. A Hearing took place on 19 and 20 July 2004.

1.4. The market

- (10) Industrial thread is used in a variety of industries to sew or embroider various products such as clothes, home furnishings, automotive seats and seatbelts, leather goods, mattresses, footwear, ropes, etc. The industrial thread market amounted to around EUR 6 billion in 2000 worldwide.
- (11) The product markets involved in this Decision are:
 - (a) thread for industrial customers other than automotive customers, referred to as 'industrial thread';
 - (b) thread for automotive customers, referred to as 'automotive thread'.
- (12) The relevant geographic market for industrial thread has been considered as regional. The region can cover several Contracting Parties to the EEA (e.g. Benelux or Nordic countries) or just one (e.g. the UK). Due to higher specification standards (e.g. thread for seat belt) which request uniformity in the EEA, the thread market for automotive customers must be differentiated from the rest of the industrial thread market and has been considered as EEA wide.

1.5. The functioning of the cartel

1.5.1. Cartel concerning industrial thread sold in Benelux and in the Nordic countries

- (13) The agreement and concerted practices between Ackermann Nähgarne GmbH & Co, Amann und Söhne GmbH & Co KG, Barbour Threads Ltd, Belgian Sewing Thread NV, Bieze Storck BV, Coats Viyella plc, Gütermann AG and Zwicky & Co AG had as their primary objective the maintenance of high prices on the market for industrial thread sold in Benelux and in the Nordic countries. These agreements consisted in exchanges of price lists and discussion of these price lists; agreement on price

⁽¹⁾ Ackermann Nähgarne GmbH & Co (D), Amann und Söhne GmbH & Co KG (D), American & Efird Inc. (USA), American & Efird Ltd (UK), Barbour Threads Ltd (UK), Belgian Sewing Thread NV (B), Bieze Storck BV (NL), Bisto Holding BV (NL), Coats Ltd (UK), Coats UK Ltd (UK), Cousin Filterie SA (F), Dollfus Mieg et Cie SA (F), Donisthorpe & Company Ltd (UK), Flovest NV (NL), Gütermann AG (D), Hicking Pentecost plc (UK), Oxley Threads Ltd (UK), Perivale Gütermann Ltd (UK), Zwicky & Co AG (CH).

list increases as well as on the dates of these increases; agreement on maximum rebates; agreement on prices to individual customers in order to avoid undercutting the incumbent supplier's prices and with a view to sharing customers; complaints to suppliers who had undercut and threats of retaliation; and agreement to contact suppliers who were not part of the agreement to persuade them to join. The meetings were very well organised and held at least once a year. They were split into two halves: a session during which the Nordic markets were discussed and a session during which the Benelux markets were discussed. In addition to the meetings, competitors used to contact each other to exchange information and to agree on prices they would apply to specific customers.

1.5.2. *Cartel concerning industrial thread sold in the United Kingdom*

- (14) In United Kingdom, Barbour Threads Ltd, Coats UK Ltd, Donisthorpe & Company Ltd, Perivale Gütermann Ltd and Oxley Threads Ltd agreed to maintain high prices on the market for industrial thread and/or exchange information on prices to individual customers in order to avoid undercutting incumbent suppliers' prices. To pursue that objective, the main producers used to meet at least from 1990 until 1996 to agree on percentages increases of list and net price, the timing of those increases and the sequence of announcements which would be made by the suppliers. These meetings used to take place after the meetings of the UK Thread Manufacturers Association (UKTMA). There were also bilateral contacts about prices to individual customers.

1.5.3. *Cartel concerning thread for automotive customers*

- (15) The main EEA suppliers of automotive thread, Amann und Söhne GmbH & Co KG, Cousin Filterie SA, Coats Viyella plc, Barbour Threads Ltd, Oxley Threads Ltd, fixed target prices for core products sold to European automotive customers and exchanged information on prices to individual customers and agreed on minimum target prices for those customers. They also agreed to avoid undercutting to the advantage of the incumbent supplier. The cartel was not strictly organised. The small number of players made it possible to have small irregular meetings supplemented by frequent bilateral contacts.
- (16) The arrangements of the three cartels have been implemented throughout the infringement period. There are evidence that at least some of the agreed price increases have been implemented and monitored through regular meetings and bilateral contacts. While some other prices may have remained the same or decreased during the period, they would likely have fallen in a more significant way if the competitors had not agreed on list price increases, since the worldwide tendency was a fall of the prices in the thread sector.

2. FINES

- (17) In fixing the amount of the fines, the Commission took into account the gravity and duration of the infringement, as well as the existence of aggravating and/or mitigating circumstances.
- (18) The infringements committed by the addressees have been considered as 'very serious' as they have the object of fixing prices, thereby restricting competition and affecting trade between Member States. Such practices are by their very nature the worst kind of violations of Article 81. However, the Commission took into account the relatively limited size of the markets when setting the starting amount of the fines.
- (19) The Commission notice on non-imposition of fines in cartel cases of 1996 was applicable in this case and in particular section D since all the undertakings came forward only after the Commission's inspections. Reductions of the fines were granted to all in accordance with the value of their individual cooperation.
- (20) For the cartel of industrial thread in the Benelux and Nordic countries, the Commission imposed the following fines: Coats Ltd: EUR 15,05 million, Amann und Söhne GmbH: EUR 13,09 million, Gütermann AG: EUR 4,021 million, Barbour Thread Ltd: EUR 2,145 million, Belgian Sewing Thread NV: EUR 0,979 million, Bieze Stork BV: EUR 0,514 million, Zwicky: EUR 0,174 million.

- (21) For the cartel of automotive thread in the EEA, the Commission imposed the following fines: Cousin/Amann: EUR 4,888 million, Coats: EUR 0,65 million, Oxley: EUR 1,271 million, Barbour: EUR 0,715 million.
- (22) No fine was imposed for the cartel of industrial thread in the UK as the Commission has no proof that the undertakings participated in a continuous cartel within the five years preceding the Commission's inspections in November 2001.

3. DECISION

- (23) The following undertakings have infringed Article 81 of the EC Treaty and Article 53 of the EEA Agreement by participating, for the periods indicated, in agreements and concerted practices affecting the markets of thread for industrial customers in the Benelux and Nordic countries:
- (a) Ackermann Nähgarne GmbH & Co, from January 1990 until January 1994;
 - (b) Amann und Söhne GmbH & Co KG, from January 1990 until September 2001;
 - (c) Barbour Threads Ltd and Hicking Pentecost plc, jointly and severally liable, from January 1990 until September 1999;
 - (d) Belgian Sewing Thread NV, from January 1991 until September 2001;
 - (e) Bieze Stork BV and Bisto Holding BV, jointly and severally liable, from January 1990 until September 2001;
 - (f) Coats Holdings Ltd, from January 1990 until September 2001;
 - (g) Gütermann AG, from January 1990 until September 2001;
 - (h) Zwicky & Co AG, from January 1990 until November 2000.
- (24) The following undertakings have infringed Article 81 of the EC Treaty by participating, for the periods indicated, in agreements and concerted practices affecting the markets of thread for industrial customers in the United Kingdom:
- (a) Barbour Threads Ltd and Hicking Pentecost plc, jointly and severally liable, from October 1990 until September 1996;
 - (b) Coats UK Ltd and Coats Holdings Ltd, jointly and severally liable, from October 1990 until September 1996;
 - (c) Donisthorpe & Company Ltd and Dollfus Mieg et Cie SA, jointly and severally liable, from October 1990 until September 1996;
 - (d) Perivale Gütermann Ltd and Gütermann AG, jointly and severally liable, from October 1990 until September 1996;
 - (e) Oxley Threads Ltd, from October 1990 until September 1996.
- (25) The following undertakings have infringed Article 81 of the EC Treaty and Article 53 of the EEA Agreement by participating, for the periods indicated, in agreements and concerted practices affecting the markets of automotive thread in the EEA:
- (a) Amann und Söhne GmbH & Co KG and Cousin Filterie SA, jointly and severally liable, from May/June 1998 until 15 May 2000;
 - (b) Barbour Threads Ltd and Hicking Pentecost plc, jointly and severally liable, from May/June 1998 until September 1999;
 - (c) Coats Holdings Ltd, from 8 June 1999 until 15 May 2000;
 - (d) Oxley Threads Ltd, from May/June 1998 until 15 May 2000.

(26) For the infringements referred to above, the following fines are imposed on the following undertakings:

(a) Cartel of industrial thread in the Benelux and Nordic countries:

Coats Holdings Ltd:	EUR 15,05 million
Amann und Söhne GmbH & Co KG:	EUR 13,09 million
Belgian Sewing Thread NV:	EUR 0,979 million
Gütermann AG:	EUR 4,021 million
Barbour Threads Ltd and Hicking Pentecost plc, jointly and severally liable:	EUR 2,145 million
Bieze Stork BV and Bisto Holding BV, jointly and severally liable:	EUR 0,514 million
Zwicky & Co AG:	EUR 0,174 million

(b) Cartel of automotive thread in the EEA:

Cousin Filterie SA and Amann und Söhne GmbH & Co KG, jointly and severally liable:	EUR 4,888 million
Coats Holdings Ltd:	EUR 0,65 million
Oxley Threads Ltd:	EUR 1,271 million
Barbour Threads Ltd and Hicking Pentecost plc, jointly and severally liable:	EUR 0,715 million
