

Summary of Commission Decision

of 31 March 2011

amending Decision C(2007) 4257 final of 19 September 2007 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the Treaty on the Functioning of the European Union)

(Case COMP/39.168 — PO/Hard Haberdashery: Fasteners)

(notified under document C(2011) 2070)

(Only the German and French texts are authentic)

(2011/C 210/12)

On 31 March 2011, the Commission adopted a decision amending decision C(2007) 4257 final of 19 September 2007 relating to a proceeding under Article 81 of the EC Treaty (now Article 101 of the Treaty on the Functioning of the European Union). 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.

1. INTRODUCTION

(1) By a decision of 19 September 2007 ⁽²⁾, in case COMP/39.168 — PO/Hard Haberdashery: Fasteners relating to a proceeding pursuant to Article 81 of the EC Treaty (now Article 101 TFEU) (hereinafter 'the Fasteners Decision'), the Commission imposed a fine totalling EUR 40 538 000 on William Prym GmbH & Co. KG, Prym Inovan GmbH & Co. KG ⁽³⁾ and Éclair Prym Group SA ⁽⁴⁾ (hereinafter 'the company') because of practices found to be in contravention of Union competition law.

2. PROCEDURE

(2) The Fasteners Decision was notified to the company on 27 September 2007. On 7 December 2007, the company submitted an application to the General Court of the European Union (hereinafter the 'General Court') for annulment, or, in the alternative, for a reduction of the fine imposed on the company by the Fasteners Decision. In December 2008, the company introduced an application for interim measures (Case T-454/07 R) requesting a suspension of the execution of part of the fine and a release of part of the bank guarantee. The company subsequently withdrew its application and the interim measure proceedings were removed from the registry by order of the President of the General Court on 17 March 2009.

(3) Following a request by the company, the Commission carried out an assessment of the impact of the fine imposed in the Fasteners Decision on the company's financial situation and its alleged inability to pay by analogy to point 35 of the Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 ⁽⁵⁾.

(4) This assessment concluded that a reduction of the fine by EUR 25 million and of the corresponding interest accrued on the same amount since 27 December 2007, namely EUR 4 544 260,27 ⁽⁶⁾, is necessary in order to remove with reasonable likelihood the risk of the company's bankruptcy linked to the Commission's fine.

(5) The decision is adopted without prejudice to the validity of the remaining parts of the Fasteners Decision.

(6) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 22 March 2011.

3. ADDRESSEES

(7) The decision is addressed to William Prym GmbH & Co. KG, William Prym Holding GmbH and EP Group SA.

4. DECISION

(8) Article 2 of Decision C(2007) 4257 final of 19 September 2007, is amended as follows:

(a) the fourth indent of Article 2, paragraph 1 is replaced by the following:

— William Prym GmbH & Co. KG and William Prym Holding GmbH, jointly and severally liable: EUR 9 549 021;

(b) the third indent of Article 2, paragraph 3 is replaced by the following:

— William Prym GmbH & Co. KG and William Prym Holding GmbH, jointly and severally liable: EUR 2 578 615, of which EP Group SA is jointly and severally liable for: EUR 2 242 274;

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

⁽²⁾ C(2007) 4257 final, summary published in OJ C 47, 26.2.2009, p. 8.

⁽³⁾ Now 'William Prym Holding GmbH'.

⁽⁴⁾ Now 'EP Group SA'.

⁽⁵⁾ OJ C 210, 1.9.2006, p. 2-5.

⁽⁶⁾ As of 30 March 2011.

- (c) the first indent of Article 2, paragraph 4 is replaced by the following:
- William Prym GmbH & Co. KG and William Prym Holding GmbH, jointly and severally liable: EUR 3 410 364.
- (9) By way of derogation from the second paragraph of Article 3 of Decision C(2007) 4257 final of 19 September 2007, the amount of interest accrued on the fine amount of EUR 25 000 000 since 27 December 2007, namely EUR 4 544 260,27 ⁽⁷⁾, is reduced to zero.
-

⁽⁷⁾ See footnote 6.