

COMMISSION

COMMISSION DECISION

of 12 April 2006

relating to a proceeding pursuant to Article 81 of the EC Treaty

(Case COMP/B-1/38.348 — Repsol CPP)

(notified under document number C(2006) 1548)

(Only the Spanish text is authentic)

(Text with EEA relevance)

(2006/446/EC)

On 12 April 2006 the Commission adopted a decision pursuant to Article 9(1) of Council Regulation (EC) No 1/2003 ⁽¹⁾. A non-confidential version of the integral text of the decision in the authentic language as well as the working languages of the Commission is available on the Competition Directorate-General website at the following address: http://europa.eu.int/comm/competition/antitrust/cases/index/by_nr_76.html#i38_348

- (1) This decision is addressed to Repsol Comercial de Productos Petroliferos, incorporated in Madrid, Spain (hereafter Repsol CPP), a company belonging to the Repsol-YPF oil group. The subject matter of the procedure is the supply of fuel to service stations in Spain and the conclusion, by Repsol CPP, of long-term exclusive supply agreements with service stations. In its preliminary assessment, the Commission considered that the non-compete clauses in the agreements notified by Repsol CPP, and in particular in the agreements of the DODO ⁽²⁾, tenancy and usufruct type, raised concerns under Article 81 of the EC Treaty insofar as they might create a significant foreclosure effect on the fuel retail market in Spain.
- (2) The Commission considers that the commitments offered by Repsol CPP are sufficient to address the identified competition concerns. In particular, Repsol CPP undertakes to offer to service stations concerned a concrete financial incentive to terminate the existing long-term supply agreements and to refrain from concluding further long-term exclusivity agreements. Further, Repsol CPP undertakes to refrain from buying independent DODO stations that it is not supplying. Accordingly, wholesale supply to a large number of service stations will be opened to competition.
- (3) The decision finds, in view of the commitments made binding on Repsol CPP, that there are no longer grounds for action by the Commission.
- (4) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 27 March 2006.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1. Regulation as amended by Regulation (EC) No 411/2004 (OJ L 68, 8.3.2004, p. 1).

⁽²⁾ DODO = Distributor owned, distributor operated.