

Opinion of the Advisory Committee on restrictive practices and dominant positions given at its meeting of 25 September 2008 concerning a preliminary draft decision in Case COMP/39.188 (1) — Bananas

(2009/C 189/03)

1. The Advisory Committee agrees with the Commission that the product affected by the infringement is fresh bananas and with the geographical coverage of the infringement.
 2. The Advisory Committee agrees with the Commission's assessment of the facts as a concerted practice within the meaning of Article 81(1) of the EC Treaty.
 3. The Advisory Committee agrees with the Commission that the pre-pricing communications described in the preliminary draft decision in which the parties (i) discussed or disclosed their views about price trends and/or discussed or disclosed indications of quotation prices for the up-coming week, and (ii) discussed price setting factors (that is factors relevant for setting of quotation prices for the upcoming week), have as their object the restriction of competition within the meaning of Article 81(1) of the EC Treaty and concern the fixing of prices, whereby parties coordinated quotation prices for bananas.
 4. The Advisory Committee agrees with the Commission's assessment that the arrangements for the exchange of quotation prices enabled parties to monitor the individual parties' quotation pricing decisions in the light of pre-pricing communications which took place between parties beforehand.
 5. The Advisory Committee agrees with the Commission's assessment that all the mentioned illicit practices form part of an overall scheme in pursuit of a single anti-competitive economic aim, and therefore constitutes a single and continuous infringement of Article 81(1) of the EC Treaty.
 6. The Advisory Committee agrees with the Commission that the duration of the infringement is from 1 January 2000 to 31 December 2002.
 7. The Advisory Committee agrees with the Commission that the conditions of Article 81(3) of the EC Treaty are not fulfilled in this case.
 8. The Advisory Committee agrees with the Commission draft decision as regards the addressees of the decision, including the liability of parent companies.
 9. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union* according to Article 14(6) of Regulation (EC) No 1/2003.
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