

The applicant claims that the Court should:

- annul the Commission's decision of 20 December 2001 relating to a procedure under Article 81 of the EC Treaty and Article 53 of the EEA Agreement (Case COM P/E-1/36.212 — photocopying paper);
- substantially reduce the amount of the fine imposed by the Commission;
- order the Commission to pay all the costs.

*Pleas in law and main arguments*

By the contested decision, the Commission found that the applicant and 10 other undertakings had infringed Article 81(1) of the EC Treaty and Article 53(1) of the EEA Agreement by taking part in a number of agreements and concerted practices in the photocopying paper sector whereby they agreed on price increases, allocated sales quotas and fixed market shares, and put in place a mechanism enabling them to monitor implementation of these restrictive agreements.

The applicant argues that the Commission made a manifest error of assessment in claiming that it participated in the cartel from May 1992 to September 1995. The applicant accepts that it participated from October 1993 to July 1995 only. The Commission has not shown that the applicant participated in the cartel before October 1993 and after July 1995. The decision should therefore be annulled.

In the alternative, the applicant requests a reduction in the fine imposed. It argues that given that it only was a party to the infringement during the abovementioned period, the amount of the fine should be reduced by 48 %.

Furthermore, it claims that the fine is disproportionate in relation to its liability for the infringement, and that the Commission misapplied the Commission notice on the non-imposition or reduction of fines in cartel cases <sup>(1)</sup>.

The applicant's participation should have resulted in the Commission proposing a 75 % reduction in the fine.

Finally, the applicant argues that the Commission did not take into account the defensive nature of the cartel. The applicant

explained the very difficult position in which it found itself to the Commission and the crisis situation should have induced the Commission to impose lower fines.

<sup>(1)</sup> OJ 1996 C 207, p. 4.

**Action brought on 18 April 2002 by Distribuidora Vizcaína de Papeles Sociedad Limitada against the Commission of the European Communities**

**(Case T-132/02)**

(2002/C 144/120)

*(Language of the case: Spanish)*

An action against the Commission of the European Communities was brought before the Court of First Instance of the European Communities on 18 April 2002 by Distribuidora Vizcaína de Papeles Sociedad Limitada established in Derio (Vizcaya, Spain), represented by Eduardo Pérez Medrano and Ignacio Delgado González.

The applicant claims that the Court should:

- annul Decision C(2001) 4573 final CORR of 20 December 2001 in Case COMP/E-1/36.212 — carbonless copy paper, in so far as it imputes to the applicant, as well as participation in collusive arrangements relating to the Spanish market, membership of a cartel which covered the whole of the common market and the EEA, and, in the alternative, reduce the fine imposed by the Commission;
- order the Commission to pay the costs.

*Pleas in law and main arguments*

This action is directed against the same Commission decision as that which is challenged in Case T-109/02 *Bolloré v Commission* <sup>(1)</sup>.

In support of its claims, the applicant maintains that the Commission infringed both Article 81 of the EC Treaty and Article 53 of the EEA Agreement, since it failed to take into account, or incorrectly assessed, the nature and actions of the applicant undertaking and did not establish that the applicant participated in the alleged meetings or the alleged collusive arrangements within the Spanish market or in the agreements and concerted practices as a whole, which are described in the contested decision.

It is stated in that regard that the applicant is a small family-style undertaking which distributes and processes carbonless copy paper and that it neither manufactured nor exported to markets other than the Spanish market during the period of the infringement. Furthermore, attention is drawn to its modest economic size and the limited scale of its business as compared with the other parties alleged to be involved.

As regards the fine imposed, it is submitted that quantification thereof involved:

- breach of the principles of proportionality and equal treatment;
- incorrect determination of the period of infringement;
- failure to take account of the mitigating circumstances attendant upon the applicant's situation.

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(<sup>1</sup>) Not yet published in the Official Journal.

#### **Removal from the register of Case T-113/97 (<sup>1</sup>)**

(2002/C 144/121)

*(Language of the Case: French)*

By order of 21 February 2002 the President of the First Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-113/97: Pierre Tomarchio v the Court of Auditors of the European Communities.

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(<sup>1</sup>) OJ C 199 of 28.6.1997.

#### **Removal from the register of Case T-30/98 (<sup>1</sup>)**

(2002/C 144/122)

*(Language of the Case: English)*

By order of 16 January 2002 the President of the First Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-30/98: Dr. Peter Stott v Conseil de l'Union européenne and Commission of the European Communities.

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(<sup>1</sup>) OJ C 184 of 13.6.1998.

#### **Removal from the register of Case T-370/00 (<sup>1</sup>)**

(2002/C 144/123)

*(Language of the Case: English)*

By order of 5 February 2002 the President of the Third Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-370/00: N.V. Master Foods S. A. v Commission of the European Communities.

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(<sup>1</sup>) OJ C 79 of 10.3.2001.

#### **Removal from the register of Case T-42/01 (<sup>1</sup>)**

(2002/C 144/124)

*(Language of the Case: French)*

By order of 24 January 2002 the President of the First Chamber of the Court of First Instance of the European Communities ordered the removal from the register of Case T-42/01: Syndicat des employés, techniciens et cadres de la F.G.T.B. v Commission of the European Communities.

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(<sup>1</sup>) OJ C 118 of 21.4.2001.