

- That the finding that the duration of the applicant's participation in the cartel was two years and eight months is the result of a clear error of appraisal;
- That the Commission failed to take account of two mitigating circumstances: the purely passive role played by the applicant in the cartel, and the frequent confusion as to the aims of the agreements;
- That the fine in question, which is almost double its assets, is unjust and disproportionate.

Action brought on 19 January 2006 — Deltafina v Commission

(Case T-12/06)

(2006/C 60/91)

Language of the case: Italian

Parties

Applicant: Deltafina (Rome, Italy) (represented by: F. Di Gianni, R. Jacchia, A. Terranova, I. van Bael and J. F. Bellis)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

- annul the fine or, in the alternative, reduce the fine imposed on it pursuant to Article 2 of the Decision;
- order the Commission to pay the costs of the proceedings.

Pleas in law and main arguments

The applicant in the present case seeks the annulment of the fine of EUR 30 million imposed on it pursuant to Article 2 of the contested Decision, which is the same as that in issue in Case T-11/06 *Romana Tabacchi v Commission*, on the ground that the Commission unlawfully deprived it of the immunity from fines which was granted pursuant to point 8(b) of the Commission Notice of 2002 on immunity from fines and reduction of fines in cartel cases ⁽¹⁾.

It should be explained in this respect that the defendant revoked the conditional immunity granted to the applicant because of the latter's announcement, made during a meeting of the Governing Board of the Associazione Professionale Trasformatori Tabacchi Italiani (Italian Professional Association of Tobacco Processors), that it had made a request for favourable treatment to the Commission.

In support of its claims, the applicant pleads:

- that it informed the Commission in advance that it would be impossible for it not to reveal that it had submitted the request for favourable treatment;
- that the Commission had accepted that it was impossible for Deltafina not to reveal that it had submitted a request for favourable treatment;
- that the Commission officials did not inform Deltafina that its announcement that it had submitted a request for favourable treatment would entail the loss of conditional immunity;
- that Deltafina did not submit its own request for favourable treatment in concert with its principal competitors; and
- that Deltafina's disclosure that it had submitted a request for favourable treatment in no way prejudiced the Commission's investigation.

As regards the reduction of the fine, the applicant submits that:

- The basic amount of the fine imposed by the Commission is clearly excessive and disproportionate, having regard to the modest value of the market concerned, Deltafina's reduced turnover and the fact that the breach did not have any impact on the market;
- The Commission erroneously attributed Deltafina's conduct to its parent company;
- The reduction of the fine and the assessment of mitigating circumstances do not adequately reflect the specific facts of the case, in the light, in particular, of the new interpretative practices under the 2002 Notice.

⁽¹⁾ OJ C 45, 19.2.2002, p. 3.

Action brought on 20 January 2006 — Mindo v Commission

(Case T-19/06)

(2006/C 60/92)

Language of the case: English

Parties

Applicant: Mindo Srl (Rome, Italy) [represented by: J. Folguera Crespo, P. Vidal Martínez, lawyers]

Defendant: Commission of the European Communities