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⁽¹⁾ Text with EEA relevance

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⁽¹⁾ Text with EEA relevance

I

(Resolutions, recommendations and opinions)

RECOMMENDATIONS

COUNCIL

COUNCIL RECOMMENDATION

of 19 December 2016

on Upskilling Pathways: New Opportunities for Adults

(2016/C 484/01)

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Articles 165 and 166 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) In today's society everyone needs to have a wide set of skills, knowledge and competences, including a sufficient level of literacy, numeracy and digital competence, in order to achieve his or her full potential, play an active part in society and undertake his or her social and civic responsibilities. Such skills, knowledge and competences are also crucial for accessing, and progressing in, the labour market and for engaging in further education and training.
- (2) Increasingly, job openings require both a higher level and a broader range of skills. In the future there will be fewer jobs of an elementary nature. Even jobs which traditionally required low-level qualifications or no qualifications at all are becoming more demanding. A large majority of jobs will require some level of digital competence, and an increasing number of elementary jobs require some core or generic skills (such as communication, problem-solving, teamwork and emotional intelligence).
- (3) In 2015, there were 64 million people, more than a quarter of the Union population aged 25-64, who had left initial education and training with at most a lower secondary education qualification. While there are no means to measure the basic skill levels of those people, the Organisation for Economic Co-operation and Development (OECD) Survey of Adult Skills ('PIAAC'), which tested levels of literacy, numeracy and problem-solving in technology-rich environments, indicates that similar proportions of adults aged 16 to 65 performed at the lowest level of proficiency in 20 Member States.
- (4) Furthermore, 2013 data from the OECD Programme for International Student Assessment (PISA) highlight the significant proportion of 15-year-olds who underachieve in reading (17,8%), maths (22,1%) and science (16,6%). Those results remain above the Education and Training 2020 (ET 2020) benchmark of 15%.
- (5) PIAAC indicates that adults with higher proficiency in literacy, numeracy and problem-solving in technology-rich environments tend to have more success in the labour market. At the same time, 20 to 25% of European adults aged 16 to 65 with low levels of proficiency in those skills are less likely to take part in learning or to participate fully in the digitally driven economy and society. They face a higher risk of unemployment, a higher incidence of poverty and social exclusion, higher health risks and a lower life expectancy, while their children face higher risks of educational underachievement.

- (6) Low-qualified people with fundamental weaknesses in basic skills may constitute a high proportion of the unemployed (in particular long-term unemployed) and other vulnerable groups, for instance older workers, economically inactive people and third-country nationals. Such weaknesses make it more difficult for them to enter or return to the labour market.
- (7) Member State policies to reduce early leaving from education and training in accordance with the Council Recommendation of 28 June 2011 ⁽¹⁾ and the Council conclusions of 23 November 2015 on policies to reduce early school-leaving, based on prevention, intervention and compensation measures, are having a positive effect. In 2015, the Union average rate of early school-leaving among those aged 18 to 24 was around one percentage point below the Europe 2020 headline target of 10 %, but with wide variations across Member States. Even if the headline target were to be achieved, the remaining 10 % of people would enter adulthood facing serious problems with regard to access to sustainable employment. Moreover, there are still large numbers of people aged 25 and above who left school early, many of them third-country nationals and other people with a migrant or disadvantaged background.
- (8) Participation in lifelong learning by low-qualified adults remains four times lower than that by those with tertiary qualifications. Access to lifelong learning opportunities remains uneven across socioeconomic groups, and some groups of the working-age population, in particular third-country nationals, have less access. Encouraging wide and inclusive participation is therefore key to the success of upskilling measures. Efforts to reach out to individuals who need special motivation, support and lifelong guidance, especially those furthest away from the labour market or education and training, are essential.
- (9) The Upskilling Pathways would target adults with a low level of skills, knowledge and competences who are not eligible for support under the Youth Guarantee ⁽²⁾, and would provide them with flexible opportunities to improve their literacy, numeracy and digital competence and to progress towards higher European Qualifications Framework (EQF) levels relevant for the labour market and for active participation in society. This could be achieved by delivering education and training in appropriate learning settings in which qualified teachers and trainers apply adult-specific teaching methods and exploit the potential of digital learning.
- (10) Taking into account national legislation, circumstances and available resources, Member States may focus upskilling pathways on their identified priority target groups. They could be delivered in line with the implementing arrangements put in place by the Member States and on the basis of the individual's commitment and interest in taking part.
- (11) Raising the skills and competences of adults significantly contributes to achieving the strategic objectives of Europe 2020, as reflected in the policy cycle of the European Semester.
- (12) The Charter of Fundamental Rights of the European Union recognises the right to education and to access to vocational and continuing training for everyone.
- (13) The 2015 United Nations sustainable development goals call for action to ensure that all youth and a substantial proportion of adults, both men and women, achieve literacy and numeracy by 2030.
- (14) Recommendation 2006/962/EC of the European Parliament and of the Council of 18 December 2006 on key competences for lifelong learning ⁽³⁾ provides a reference framework that supports Member States in ensuring that, by the end of initial education and training, young people have developed the key competences that equip them for adult life, further learning and working life. That framework also supports Member States in ensuring that adults are able to develop and update their key competences throughout their lives.
- (15) The European Digital Competence Framework for Citizens provides a common European reference for what it means to be digitally savvy in today's society, and defines competences and levels of competence in five key areas.
- (16) The Recommendation of the European Parliament and of the Council of 23 April 2008 on the establishment of the European Qualifications Framework for lifelong learning ⁽⁴⁾ created a common qualifications reference framework of eight levels, expressed in terms of learning outcomes which can be achieved through various routes of formal, non-formal and informal learning.

⁽¹⁾ OJ C 191, 1.7.2011, p. 1.

⁽²⁾ Council Recommendation of 22 April 2013 on establishing a Youth Guarantee (OJ C 120, 26.4.2013, p. 1).

⁽³⁾ OJ L 394, 30.12.2006, p. 10.

⁽⁴⁾ OJ C 111, 6.5.2008, p. 1.

- (17) The Joint Report of the Council and the Commission on the implementation of the strategic framework for European cooperation in education and training (ET 2020) prioritised in the area of adult learning, *inter alia*, the provision of literacy, numeracy and digital skills and of sufficient second-chance opportunities leading to a recognised EQF qualification for those without EQF level 4. That Joint Report also includes medium-term deliverables for vocational education and training ('VET'), including enhancing access to qualifications for all through more flexible and permeable VET systems, in particular by offering efficient and integrated guidance services and making available validation of non-formal and informal learning.
- (18) The Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning ⁽¹⁾ invites Member States by 2018 to set up national arrangements for the validation (identification, documentation, assessment and certification) of non-formal and informal learning. This includes possibilities for unemployed people or those at risk of unemployment to undergo a 'skills audit' aimed at identifying their knowledge, skills and competences.
- (19) The Council Recommendation of 22 April 2013 on establishing a Youth Guarantee recommends that young people under 25 years of age receive a good-quality offer of employment, continued education, an apprenticeship or a traineeship within four months of becoming unemployed or leaving formal education. It invites Member States to offer early school-leavers and low-skilled young people pathways to re-enter education and training or second-chance education programmes which provide learning environments which respond to their specific needs and enable them to obtain the qualification they have missed.
- (20) The Council Recommendation of 15 February 2016 on the Integration of the Long Term Unemployed into the Labour Market ⁽²⁾ recommends that long-term unemployed persons are offered in-depth individual assessments and guidance and a job-integration agreement comprising an individual offer and the identification of a single point of contact at the very latest when they reach 18 months of unemployment.
- (21) Commission Recommendation 2008/867/EC of 3 October 2008 on the active inclusion of people excluded from the labour market ⁽³⁾ invites Member States to expand and improve investment in human capital through inclusive education and training policies, including effective lifelong strategies, and to adapt education and training systems in response to new competence requirements and the need for digital skills.
- (22) The Council conclusions of 5 and 6 June 2014 on the integration of third-country nationals legally residing in the Union reaffirmed the Common Basic Principles for Immigrant Integration Policy in the EU adopted in 2004, one of which is that efforts in education are critical to preparing immigrants, and particularly their descendants, to be more successful and more active participants in society.
- (23) The Council Resolution of 21 November 2008 on better integrating lifelong guidance into lifelong learning strategies ⁽⁴⁾ invites the Member States to make use of four guiding principles for supporting the lifelong career transitions of citizens: encourage the lifelong acquisition of career management skills; facilitate access by all citizens to guidance services; develop the quality assurance of guidance provision; and encourage coordination and cooperation among various national, regional and local stakeholders.
- (24) Despite these efforts, low-qualified adults' access to and participation in education and training opportunities remains a challenge. Active labour market policies aim to bring unemployed people into a job as fast as possible but do not always provide flexible personalised opportunities for upskilling. Few public policies address the need for upskilling those who are already in employment, leaving them at risk of skills obsolescence and job loss, while people furthest from the labour market have the greatest upskilling needs but are hardest to reach.
- (25) The Council and the Representatives of the Governments of the Member States invited the Commission to present the proposal for a new skills agenda for Europe addressing, *inter alia*, ways of boosting skills development and knowledge acquisition and acknowledging that completing upper secondary level or equivalent tends to be considered the minimum requirement for ensuring a successful transition from education to the labour market and for gaining access to further learning.

⁽¹⁾ OJ C 398, 22.12.2012, p. 1.

⁽²⁾ OJ C 67, 20.2.2016, p. 1.

⁽³⁾ OJ L 307, 18.11.2008, p. 11.

⁽⁴⁾ OJ C 319, 13.12.2008, p. 4.

- (26) The knowledge base needed by policymakers and practitioners is growing but incomplete. Union bodies, in particular Eurostat, the Education, Audiovisual and Culture Executive Agency (EACEA) and the European Centre for the Development of Vocational Training (Cedefop), could develop further relevant research, expertise and analysis. Results of the work carried out under European cooperation in the fields of employment, education and training could contribute further to developing the knowledge base and mutual learning.
- (27) Employer organisations, employers, trade unions, chambers of industry, trade, commerce and crafts, national entities involved in planning, organising or promoting education and training and in migrant integration policies, employment services, education and training providers, intermediary and sectoral organisations, civil society organisations, local and regional economic actors, libraries, community services and adult learners themselves are among the key stakeholders in the concerted effort needed to reach, engage, guide, and support individuals as they progress on their upskilling pathways.
- (28) The diversity of the target group and the fragmentation and complexity of the policy measures in this area often result in a lack of systematic approaches to upskilling the workforce and a lack of awareness of the socio-economic benefits of doing so. Therefore, coherent policy efforts based on effective coordination and partnerships across policy fields would be welcome.
- (29) Since education and training systems and labour market situations differ substantially between Member States and regions, there is no one-size-fits-all approach to employability. In this context, progress towards a specific level of qualification is a means to enhance one's employability and active participation in society, rather than an end in itself.

HEREBY RECOMMENDS THAT MEMBER STATES,

in accordance with national legislation, circumstances and available resources, and in close cooperation with social partners and education and training providers:

1. Offer adults with a low level of skills, knowledge and competences, for example those who have left initial education or training without completing upper secondary education or equivalent, and who are not eligible for support under the Youth Guarantee, access to upskilling pathways which provide them with the opportunity, according to their individual needs, to:
 - (a) acquire a minimum level of literacy, numeracy and digital competence; and/or
 - (b) acquire a wider set of skills, knowledge and competences, relevant for the labour market and active participation in society, building on Recommendation 2006/962/EC on key competences for lifelong learning, by making progress towards a qualification at EQF level 3 or 4 depending on national circumstances.
2. Taking into account national circumstances, available resources and existing national strategies, identify priority target groups for the delivery of upskilling pathways at national level. In doing so, take also into account the gender, diversity and various sub-groups in the targeted population.
3. Where appropriate, base the design of the upskilling pathways on three steps: skills assessment; provision of a tailored, flexible and quality learning offer; and validation and recognition of skills acquired. Those steps could be facilitated by guidance and support measures as provided for in paragraphs 12 to 14 and by making best use of the potential of digital technologies, if appropriate.

Skills assessment

4. Offer adults within the priority target groups defined in accordance with paragraph 2 the opportunity to undergo an assessment, e.g. a skills audit, to identify existing skills and upskilling needs.
5. Apply, where appropriate, to low-qualified adults the validation arrangements set up in accordance with the Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning to identify, document, assess and/or certify existing skills.

A tailored and flexible learning offer

6. Provide an offer of education and training, in accordance with paragraph 1, meeting the needs identified by the skills assessment. For migrants from third countries, include, as appropriate, opportunities for language learning and preparation for training.

7. If in line with national systems and circumstances, allow for the increased use of units of learning outcomes which can be documented, assessed and validated in order to record the progress of learners at different stages.
8. Consider, as far as possible, local, regional and national labour market needs when establishing an offer in accordance with paragraph 1, and deliver it in close cooperation with relevant stakeholders, in particular social partners and local, regional and national economic actors.

Validation and recognition

9. Build on existing validation arrangements put in place in accordance with the Council Recommendation of 20 December 2012 on the validation of non-formal and informal learning to assess and certify the knowledge, skills and competences acquired, including learning at work, and encourage their certification towards a qualification, in accordance with national qualifications frameworks and systems.
10. In accordance with national legislation, circumstances and available resources, base the delivery of upskilling pathways on the principles outlined in paragraphs 11 to 18.

Coordination and partnership

11. Ensure effective coordination to implement this Recommendation, and support, where appropriate, the engagement of relevant public and private actors in education and training, employment, social, cultural and other relevant policy areas, as well as the promotion of partnerships among them, including cross-border and regional cooperation.

Outreach, guidance and support measures

12. Implement motivation and outreach measures that include raising awareness on the benefits of upskilling, making available information on existing guidance, support measures, upskilling opportunities and responsible bodies, and providing incentives to those least motivated to take advantage of these.
13. Provide guidance and/or mentoring services to support learners' progression through all steps of the upskilling process.
14. Consider designing and implementing support measures that address in an equitable way obstacles to participation in upskilling pathways. These could be, *inter alia*, direct support to learners or indirect support to employers for upskilling their employees.
15. Support the initial training and continuous professional development of staff engaged in the delivery of upskilling pathways, in particular teaching professionals.

Follow-up and evaluation

16. Where possible, within one year of the adoption of this Recommendation and at the latest by mid-2018, and by building on relevant existing national arrangements and existing financial frameworks, outline appropriate measures for the implementation of this Recommendation at national level.
17. Evaluate within the existing national frameworks all measures referred to in paragraph 16 and their impact on the progress of the target group towards the acquisition of literacy, numeracy and digital competences and/or towards a qualification at EQF level 3 or 4 depending on national circumstances.
18. Use the results of the evaluation to inform, as appropriate, the design and delivery of upskilling pathways at national level and inform further evidence-based policies and reforms.

HEREBY RECOMMENDS THAT THE COMMISSION:

19. With the support of the Advisory Committee on Vocational Training, follow up on the implementation of this Recommendation, especially through exchanges such as mutual learning, in conjunction with relevant European coordination bodies and processes dealing with employment and education and training policies.
20. Promote the use of existing relevant competence frameworks, such as the European Digital Competence Framework for Citizens, and assessment tools.
21. Facilitate mutual learning among Member States and make key resources and information available on the Electronic Platform for Adult Learning in Europe (EPALE).

22. Support and carry out in cooperation with Union bodies and international organisations such as the OECD or UNESCO relevant research and analysis on adult learning and skills assessments (e.g. PIAAC).
23. Where appropriate, without prejudice to the negotiations for the next Multiannual Financial Framework and in line with priorities defined for the period 2014-2020, support the use of current and future European funding programmes in the area of skills development, in particular European structural and investment funds and Erasmus+, for the implementation of this Recommendation, in accordance with their legal basis.
24. Take stock by 31 December 2018, in the framework of existing reporting procedures, of the implementation measures outlined by Member States.
25. Assess and evaluate, in cooperation with the Member States and after consulting the stakeholders concerned, the actions taken in response to this Recommendation and, within five years from the date of its adoption, report to the Council on progress made towards raising the levels of literacy, numeracy and digital competence amongst low-qualified adults, experience gained and implications for the future.

Done at Brussels, 19 December 2016.

For the Council

The President

L. SÓLYMOS

II

(Information)

JOINT DECLARATIONS

Joint Declaration on the EU's legislative priorities for 2017

(2016/C 484/02)

We are at a critical juncture for the European Union. This is a time of many global, economic, environmental and societal challenges. European citizens therefore expect the European Union to make a concrete difference in helping address the biggest of these challenges.

Delivering results where they are most needed requires that the European Parliament, the Council and the European Commission work closely together, in particular when it comes to the European legislative process. That is why we have committed, in paragraph 7 of the Interinstitutional Agreement on Better Law-Making of 13 April 2016, reflecting Article 17(1) of the Treaty on European Union, to agree each year on a number of proposals to which we want to give priority treatment in the legislative process.

While continuing to work on all legislative proposals, the following initiatives will be given priority treatment in the legislative process to ensure substantial progress and, where possible, their delivery before the end of 2017:

1. Giving a new boost to jobs, growth and investment, notably through the doubling and strengthening of the European Fund for Strategic Investment (EFSI 2.0), the modernisation of Trade Defence Instruments, the improvement of waste management in a circular economy, completing, as part of the efforts to deepen the Economic and Monetary Union, Banking Union in a way that balances risk sharing and risk reduction, and creating safer and more transparent markets for securitisation and improved prospectuses for securities to bring about the Capital Markets Union;
2. Addressing the social dimension of the European Union, notably through the enhancement of the Youth Employment Initiative, improved social security coordination, the European Accessibility Act and the creation of a European Solidarity Corps;
3. Better protecting the security of our citizens, notably through a better protection of our external borders via the Entry-Exit System, Smart Borders and the European Travel Information Authorisation System (ETIAS), by strengthening control of the acquisition and possession of firearms, by improved instruments to criminalise terrorism and fight against money laundering and terrorist financing, and by the exchange of information on third country nationals in the European Criminal Records Information Systems (ECRIS);
4. Reforming and developing our migration policy in a spirit of responsibility and solidarity, notably through the reform of the Common European Asylum System (including the Dublin mechanism), the Legal Migration package and the External Investment Plan to help to address the root causes of migration by enhancing investment and job creation in partner countries;
5. Delivering on our commitment to implement a connected Digital Single Market, notably through the EU telecoms and copyright reforms, the use in the Union of the 700 MHz band, preventing unjustified geo-blocking, the revision of the Audiovisual Media Services Directive and the completion of the work to modernise our common data protection rules;
6. Delivering on our objective of an ambitious Energy Union and a forward looking climate change policy, notably through the implementation of the 2030 climate and energy framework, the follow-up to the Paris Agreement and the Clean Energy for all Europeans package.

In addition, we agree that progress is also needed for the following important issues:

- Pursuing our commitment to common European values, the rule of law and fundamental rights, including our joint engagement to stand up against discrimination and xenophobia;

- Tackling tax fraud, tax evasion and tax avoidance, as well as ensuring a sound and fair tax system;
- Preserving the principle of free movement of workers, notably by ensuring fairness, an adequate level of social protection and social rights;
- Reinforcing Europe's role in protecting and defending our interests beyond its border and in contributing to stability, security and peace.

We remain committed to promoting the proper implementation and enforcement of existing legislation.

We, as Presidents of the European Parliament, the Council and the European Commission, will regularly monitor the timely and efficient implementation of this Joint Declaration.

Martin SCHULZ

President of the European Parliament

Robert FICO

President of the Council

Jean-Claude JUNCKER

President of the European Commission

INFORMATION FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES
AND AGENCIES

EUROPEAN COMMISSION

**Communication from the Commission establishing formal recognition that a certain number of
acts of Union law in the field of agriculture have become obsolete**

(2016/C 484/03)

List of acts to be removed from the active *acquis*

Accountancy data network and agricultural statistics

Commission Regulation (EC) No 1251/2002

(OJ L 183, 12.7.2002, p. 9).

Commission Regulation (EC) No 803/2006

(OJ L 144, 31.5.2006, p. 18).

Commission Regulation (EC) No 635/2007

(OJ L 146, 8.6.2007, p. 17).

Commission Regulation (EC) No 1264/2008

(OJ L 338, 17.12.2008, p. 31).

Commission Regulation (EU) No 224/2011

(OJ L 61, 8.3.2011, p. 1).

Beef and veal

Commission Regulation (EEC) No 1865/88

(OJ L 166, 1.7.1988, p. 26).

Commission Regulation (EC) No 716/96

(OJ L 99, 20.4.1996, p. 14).

Commission Regulation (EC) No 2673/2000

(OJ L 306, 7.12.2000, p. 19).

Commission Regulation (EC) No 1642/2001

(OJ L 217, 11.8.2001, p. 5).

Commission Regulation (EC) No 492/2002

(OJ L 77, 20.3.2002, p. 4).

Commission Regulation (EC) No 140/2003

(OJ L 23, 28.1.2003, p. 6).

Commission Regulation (EC) No 2341/2003

(OJ L 346, 31.12.2003, p. 33).

Commission Regulation (EC) No 711/2004

(OJ L 111, 17.4.2004, p. 24).

Commission Regulation (EC) No 1214/2004

(OJ L 232, 1.7.2004, p. 19).

Commission Regulation (EC) No 2008/2006

(OJ L 379, 28.12.2006, p. 105).

Commission Regulation (EC) No 869/2007

(OJ L 192, 24.7.2007, p. 19).

Commission Regulation (EC) No 313/2008

(OJ L 93, 4.4.2008, p. 11).

Commission Regulation (EC) No 835/2008

(OJ L 225, 23.8.2008, p. 6).

Commission Regulation (EC) No 94/2009

(OJ L 29, 31.1.2009, p. 41).

Commission Regulation (EC) No 314/2009

(OJ L 98, 17.4.2009, p. 26).

Commission Decision 2010/323/EU

(OJ L 145, 11.6.2010, p. 15).

Cereals

Commission Regulation (EC) No 245/2008

(OJ L 75, 18.3.2008, p. 62).

Commission Regulation (EC) No 731/2008

(OJ L 200, 29.7.2008, p. 10).

Commission Implementing Regulation (EU) No 560/2011

(OJ L 152, 11.6.2011, p. 22).

Direct payments

Commission Regulation (EC) No 118/2005

(OJ L 24, 27.1.2005, p. 15).

Commission Regulation (EC) No 1418/2005

(OJ L 224, 30.8.2005, p. 3).

Commission Regulation (EC) No 1954/2005

(OJ L 314, 30.11.2005, p. 10).

Commission Regulation (EC) No 1117/2006

(OJ L 199, 21.7.2006, p. 9).

Commission Regulation (EC) No 1187/2006

(OJ L 214, 4.8.2006, p. 14).

Commission Regulation (EC) No 691/2009

(OJ L 199, 31.7.2009, p. 7).

Commission Implementing Regulation (EU) No 780/2011

(OJ L 202, 5.8.2011, p. 34).

Commission Implementing Regulation (EU) No 645/2012

(OJ L 187, 17.7.2012, p. 26).

Dried fodder

Commission Implementing Regulation (EU) No 707/2011

(OJ L 190, 21.7.2011, p. 54).

EAGF/EAFRD

Commission Regulation (EC) No 1011/2009

(OJ L 280, 27.10.2009, p. 42).

Commission Regulation (EC) No 1012/2009

(OJ L 280, 27.10.2009, p. 44).

Commission Regulation (EU) No 974/2010

(OJ L 285, 30.10.2010, p. 9).

Commission Decision C(2005)3752

(Not published in the OJ)

Commission Decision C(2006)4095

(Not published in the OJ)

Commission Decision C(2007)3823

(Not published in the OJ)

Commission Decision C(2008)5042

(Not published in the OJ)

Commission Decision 2010/176/EU

(OJ L 77, 24.3.2010, p. 54).

Commission Implementing Decision 2011/379/EU

(OJ L 168, 28.6.2011, p. 17).

Eggs, poultry and honey

Commission Regulation (EC) No 2059/96

(OJ L 276, 29.10.1996, p. 11).

Commission Implementing Regulation (EU) No 337/2012

(OJ L 108, 20.4.2012, p. 13).

Flax and hemp

Commission Regulation (EU) No 1140/2010

(OJ L 322, 8.12.2010, p. 9).

Commission Implementing Regulation (EU) No 1266/2011

(OJ L 324, 7.12.2010, p. 8)

Fruits and vegetables

Commission Regulation (EC) No 2111/2003

(OJ L 317, 2.12.2003, p. 5).

Commission Regulation (EC) No 211/2006

(OJ L 36, 8.2.2006, p. 36).

Commission Implementing Regulation (EU) No 585/2011

(OJ L 160, 18.6.2011, p. 71).

Commission Implementing Regulation (EU) No 688/2011

(OJ L 188, 19.7.2011, p. 6).

Commission Implementing Regulation (EU) No 769/2011

(OJ L 200, 3.8.2011, p. 18).

Commission Regulation (EEC) No 1764/86

(OJ L 153, 7.6.1986, p. 1).

Commission Regulation (EEC) No 2320/89

(OJ L 220, 29.7.1989, p. 54).

Commission Regulation (EC) No 1573/1999

(OJ L 187, 20.7.1999, p. 27).

Commission Regulation (EC) No 1621/1999

(OJ L 192, 24.7.1999, p. 21).

Commission Regulation (EC) No 1535/2003

(OJ L 218, 30.8.2003, p. 14).

Commission Regulation (EC) No 1559/2006

(OJ L 288, 19.10.2006, p. 22).

Commission Regulation (EC) No 1213/2007

(OJ L 274, 18.10.2007, p. 9).

Commission Regulation (EC) No 124/2008

(OJ L 38, 13.2.2008, p. 8).

Commission Regulation (EC) No 518/2008

(OJ L 151, 11.6.2008, p. 26).

Commission Regulation (EC) No 832/97

(OJ L 119, 8.5.1997, p. 17).

Information and promotion

Commission Implementing Regulation (EU) No 688/2011

(OJ L 188, 19.7.2011, p. 6).

Milk

Commission Regulation (EC) No 1068/2000

(OJ L 119, 20.5.2000, p. 11).

Commission Regulation (EC) No 550/2002

(OJ L 84, 28.3.2002, p. 15).

Commission Regulation (EC) No 733/2009

(OJ L 208, 12.8.2009, p. 5).

Commission Regulation (EU) No 446/2010

(OJ L 126, 22.5.2010, p. 17).

Commission Regulation (EU) No 967/2010

(OJ L 282, 28.10.2010, p. 33).

Commission Implementing Regulation (EU) No 561/2011

(OJ L 152, 11.6.2011, p. 23).

Olive oil

Commission Implementing Regulation (EU) No 111/2012

(OJ L 37, 10.2.2012, p. 55).

Commission Implementing Regulation (EU) No 430/2012

(OJ L 132, 23.5.2012, p. 13).

Commission Decision 2000/274/EC

(OJ L 86, 7.4.2000, p. 20).

Commission Decision 2000/406/EC

(OJ L 154, 27.6.2000, p. 33).

Commission Decision 2001/788/EC

(OJ L 295, 13.11.2001, p. 24).

Pigmeat

Commission Regulation (EC) No 1329/2008

(OJ L 345, 23.12.2008, p. 56).

Commission Regulation (EC) No 94/2009

(OJ L 29, 31.1.2009, p. 41).

Commission Regulation (EC) No 314/2009

(OJ L 98, 17.4.2009, p. 26).

Commission Regulation (EC) No 1077/2009

(OJ L 294, 11.11.2009, p. 3).

Commission Regulation (EC) No 1079/2009

(OJ L 294, 11.11.2009, p. 6).

Commission Regulation (EU) No 197/2011

(OJ L 56, 1.3.2011, p. 9).

Rice

Commission Regulation (EC) No 1938/2001

(OJ L 263, 3.10.2001, p. 11).

Commission Regulation (EC) No 1939/2001

(OJ L 263, 3.10.2001, p. 15).

Commission Regulation (EC) No 1940/2001

(OJ L 263, 3.10.2001, p. 19).

Commission Decision 2010/130/EU

(OJ L 51, 2.3.2010, p. 24).

Refunds, licences and guarantees

Commission Regulation (EC) No 111/1999

(OJ L 14, 19.1.1999, p. 3).

Commission Regulation (EC) No 940/2003

(OJ L 133, 29.5.2003, p. 61).

Commission Regulation (EC) No 529/2007

(OJ L 123, 12.5.2007, p. 26).

Commission Regulation (EC) No 605/2007

(OJ L 141, 2.9.2007, p. 3).

Commission Regulation (EC) No 869/2007

(OJ L 192, 24.7.2007, p. 19).

Commission Regulation (EC) No 835/2008

(OJ L 225, 23.8.2008, p. 6).

Commission Regulation (EU) No 945/2010

(OJ L 278, 22.10.2010, p. 1).

Commission Implementing Regulation (EU) No 562/2011

(OJ L 152, 11.6.2011, p. 24).

Rural development

Commission Regulation (EC) No 2759/1999

(OJ L 331, 23.12.1999, p. 51).

Commission Regulation (EC) No 141/2004

(OJ L 24, 29.1.2004, p. 25).

Commission Decision 1999/595/EC

(OJ L 226, 27.8.1999, p. 23).

Sheepmeat and goatmeat

Commission Regulation (EEC) No 1672/85

(OJ L 160, 20.6.1985, p. 37).

Commission Regulation (EC) No 1641/2001

(OJ L 217, 11.8.2001, p. 3).

Commission Decision 2001/717/EC

(OJ L 266, 6.10.2001, p. 13).

Commission Decision 2010/323/EU

(OJ L 145, 11.6.2010, p. 15).

Sugar

Commission Regulation (EEC) No 1043/67

(OJ L 314, 23.12.1967, p. 17).

Commission Regulation (EC) No 60/2004

(OJ L 9, 15.1.2004, p. 8).

Commission Regulation (EC) No 966/2004

(OJ L 179, 14.5.2004, p. 4).

Commission Regulation (EC) No 832/2005

(OJ L 138, 1.6.2005, p. 3).

Commission Regulation (EC) No 968/2006

(OJ L 176, 30.6.2006, p. 32).

Commission Regulation (EC) No 1832/2006

(OJ L 354, 14.12.2006, p. 8).

Commission Regulation (EC) No 519/2009

(OJ L 155, 18.6.2009, p. 14).

Commission Regulation (EC) No 575/2009

(OJ L 172, 2.7.2009, p. 9).

Commission Regulation (EC) No 1193/2009

(OJ L 321, 8.12.2009, p. 1).

Commission Implementing Regulation (EU) No 292/2011

(OJ L 79, 25.3.2011, p. 7).

Commission Implementing Regulation (EU) No 293/2011

(OJ L 79, 25.3.2011, p. 8).

Commission Implementing Regulation (EU) No 839/2011

(OJ L 216, 23.8.2011, p. 5).

Commission Implementing Regulation (EU) No 57/2012

(OJ L 19, 24.1.2012, p. 12).

Wine

Commission Regulation (EC) No 1092/2009

(OJ L 299, 14.11.2009, p. 8).

Other

Commission Regulation (EC) No 2057/2001

(OJ L 277, 20.10.2001, p. 17).

Commission Regulation (EC) No 552/2007

(OJ L 131, 23.5.2007, p. 10).

Commission Regulation (EC) No 1111/2009

(OJ L 306, 20.11.2009, p. 5).

Communication in accordance with Article 34(7)(a)(iii) of Regulation (EU) No 952/2013 of the European Parliament and of the Council, on decisions relating to binding information issued by the customs authorities of the Member States concerning the classification of goods in the customs nomenclature

(2016/C 484/04)

The customs authorities shall revoke decisions relating to binding information from 1 January 2017 if they become incompatible with the interpretation of the customs nomenclature as a result of the following international tariff measures:

Classification Opinions or amendments to the Explanatory Notes of the Nomenclature of the Harmonised Commodity Description and Coding System, adopted by the Customs Cooperation Council (CCC document No NC2237 — report of the 57th session of the HS Committee):

AMENDMENT TO THE EXPLANATORY NOTES AND CLASSIFICATION OPINIONS CONSEQUENTIAL TO THE ARTICLE 16 RECOMMENDATIONS OF 27 JUNE 2014 AND 11 JUNE 2015

(57th HSC SESSION IN MARCH 2016)

DOC. NC2237

Amendments to the Explanatory Notes of the Nomenclature and the Compendium of Classification Opinions annexed to the HS Convention pursuant to the Recommendation of 27 June 2014 and 11 June 2015 and elaborated by the HSC at its 57th meeting. Doc. NC2237.

Explanatory Notes U/1

Classification Opinions T/1

AMENDMENTS TO THE EXPLANATORY NOTES AND CLASSIFICATION OPINIONS CONSEQUENTIAL TO THE ARTICLE 16 RECOMMENDATION OF 27 JUNE 2014

(58th HSC SESSION IN SEPTEMBER 2016)

DOC. NC2304

Amendments to the Explanatory Notes of the Nomenclature and the Compendium of Classification Opinions annexed to the HS Convention pursuant to the Recommendation of 27 June 2014 and elaborated by the HSC at its 58th meeting. Doc. NC2304.

Explanatory Notes N/3

Explanatory Notes N/5

Classification Opinions N/1

Information regarding the contents of these measures can be obtained from the Directorate-General for Taxation and Customs Union of the European Commission (rue de la Loi/Wetstraat 200, 1049 Brussels, Belgium) or can be downloaded from the internet site of this Directorate-General:

http://ec.europa.eu/comm/taxation_customs/customs/customs_duties/tariff_aspects/harmonised_system/index_en.htm

Non-opposition to a notified concentration
(Case M.7930 — ABP Group/Fane Valley Group/Slaney Foods)
(Text with EEA relevance)
(2016/C 484/05)

On 7 October 2016, the Commission decided not to oppose the above notified concentration and to declare it compatible with the internal market. This decision is based on Article 6(1)(b) of Council Regulation (EC) No 139/2004 ⁽¹⁾. The full text of the decision is available only in English and will be made public after it is cleared of any business secrets it may contain. It will be available:

- in the merger section of the Competition website of the Commission (<http://ec.europa.eu/competition/mergers/cases/>). This website provides various facilities to help locate individual merger decisions, including company, case number, date and sectoral indexes,
- in electronic form on the EUR-Lex website (<http://eur-lex.europa.eu/homepage.html?locale=en>) under document number 32016M7930. EUR-Lex is the online access to European law.

⁽¹⁾ OJ L 24, 29.1.2004, p. 1.

IV

(Notices)

NOTICES FROM EUROPEAN UNION INSTITUTIONS, BODIES, OFFICES AND AGENCIES

EUROPEAN PARLIAMENT

DECISION OF THE BUREAU OF THE EUROPEAN PARLIAMENT

of 12 December 2016

amending the Implementing Measures for the Statute for Members of the European Parliament

(2016/C 484/06)

THE BUREAU OF THE EUROPEAN PARLIAMENT,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 223(2) thereof,

Having regard to the Statute for Members of the European Parliament ⁽¹⁾,

Having regard to Rules 10 and 25 of the Rules of Procedure of the European Parliament,

Whereas:

- (1) In accordance with Article 69(1) of the Implementing Measures for the Statute for Members of the European Parliament ⁽²⁾ ('the Implementing Measures'), the amounts of the reimbursable travel expenses, daily subsistence allowance and general expenditure allowance may be index-linked annually by the Bureau, up to a maximum increase equal to the annual inflation rate in the European Union in October of the previous year, as published by Eurostat.
- (2) The inflation rate for the period from 1 November 2015 to 31 October 2016, as notified by Eurostat on 17 November 2016, stands at 0,5 %. The new amounts resulting from the adjustment needed in order to take that inflation rate into account should apply from 1 January 2017 and the Implementing Measures should be amended accordingly.
- (3) Pursuant to Article 69(2) of the Implementing Measures, the maximum amount of parliamentary assistance costs defrayable in respect of the personal staff referred to in Article 33(4) of those measures is, where appropriate, index-linked annually on the basis of data established pursuant to Article 65 of the Staff Regulations of Officials of the European Union laid down by Council Regulation (EEC, Euratom, ECSC) No 259/68 ⁽³⁾.
- (4) In that connection, the Commission has fixed the adjustment rate for 2016 at 3,3 %. Accordingly, the maximum monthly amount defrayable for parliamentary assistance expenses should be increased to EUR 24 164 with effect from 1 July 2016,

⁽¹⁾ Decision 2005/684/EC, Euratom of the European Parliament of 28 September 2005 adopting the Statute for Members of the European Parliament (OJ L 262, 7.10.2005, p. 1).

⁽²⁾ Decision of the Bureau of the European Parliament of 19 May and 9 July 2008 concerning implementing measures for the Statute for Members of the European Parliament (OJ C 159, 13.7.2009, p. 1).

⁽³⁾ OJ L 56, 4.3.1968, p. 1.

HAS ADOPTED THIS DECISION:

Article 1

The Implementing Measures are amended as follows:

(1) In Article 15, point (c) is replaced by the following:

‘(c) in the event of travel by car, with a reimbursement ceiling of 1 000 km per outward or inward journey: EUR 0,51/km, plus the cost of any ferry crossing or similar transportation required.’;

(2) In Article 20(1), point (a) is replaced by the following:

‘(a) for the part of the journey between 0 and 50 km: EUR 22,73’;

(3) Article 22 is amended as follows:

(a) paragraph 1 is replaced by the following:

‘1. The maximum annual amount which may be reimbursed in respect of travel expenses incurred in the cases referred to in Article 10(1), point (b) shall be EUR 4 286.’;

(b) the first subparagraph of paragraph 3 is replaced by the following:

‘The maximum annual amount which may be reimbursed in respect of the travel expenses actually incurred by committee or subcommittee chairs travelling to attend conferences or events which deal with a matter of European interest falling within the sphere of responsibility of their committee or subcommittee and which have a parliamentary dimension shall be EUR 4 286. Such participation shall require prior authorisation from the President of Parliament, following verification that appropriations up to the maximum amount indicated above are available.’;

(4) In Article 24, paragraph 2 is replaced by the following:

‘2. If the official activity takes place on the territory of the Union, a Member shall receive a lump-sum allowance of EUR 307.’;

(5) In Article 26, paragraph 2 is replaced by the following:

‘2. The monthly amount of the allowance under Article 25 shall be EUR 4 342.’;

(6) In Article 33, paragraph 4 is replaced by the following:

‘4. The maximum monthly amount defrayable in respect of all the personal staff referred to in Article 34 shall be EUR 24 164.’.

Article 2

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Union*.

This Decision shall apply from 1 January 2017, with the exception of Article 1(6), which shall apply from 1 July 2016.

EUROPEAN COMMISSION

Euro exchange rates ⁽¹⁾

23 December 2016

(2016/C 484/07)

1 euro =

Currency	Exchange rate	Currency	Exchange rate		
USD	US dollar	1,0446	CAD	Canadian dollar	1,4117
JPY	Japanese yen	122,60	HKD	Hong Kong dollar	8,1069
DKK	Danish krone	7,4342	NZD	New Zealand dollar	1,5195
GBP	Pound sterling	0,85278	SGD	Singapore dollar	1,5114
SEK	Swedish krona	9,6460	KRW	South Korean won	1 257,59
CHF	Swiss franc	1,0711	ZAR	South African rand	14,6353
ISK	Iceland króna		CNY	Chinese yuan renminbi	7,2555
NOK	Norwegian krone	9,0928	HRK	Croatian kuna	7,5380
BGN	Bulgarian lev	1,9558	IDR	Indonesian rupiah	14 034,13
CZK	Czech koruna	27,023	MYR	Malaysian ringgit	4,6735
HUF	Hungarian forint	309,68	PHP	Philippine peso	52,002
PLN	Polish zloty	4,4098	RUB	Russian rouble	64,0085
RON	Romanian leu	4,5318	THB	Thai baht	37,564
TRY	Turkish lira	3,6674	BRL	Brazilian real	3,4146
AUD	Australian dollar	1,4566	MXN	Mexican peso	21,6150
			INR	Indian rupee	70,8275

⁽¹⁾ Source: reference exchange rate published by the ECB.

Opinion of the Advisory Committee on restrictive agreements and dominant position given at its meeting of 15 October 2015 regarding a draft decision relating to Case AT.39639(2) — Optical Disk Drives

Rapporteur: Austria

(2016/C 484/08)

1. The Advisory Committee agrees with the Commission that a fine should be imposed on the addressees of the draft decision.
2. The Advisory Committee agrees with the Commission on the basic amounts of the fines.
3. The Advisory Committee agrees with the determination of the duration for the purpose of calculating the fines.
4. The Advisory Committee agrees with the Commission on the specific increases of the basic amounts of the fines so as to ensure a sufficiently deterrent effect.
5. The Advisory Committee agrees with the Commission that there are no aggravating circumstances in this case.
6. The Advisory Committee agrees with the application of mitigating circumstances in this case.

A minority disagree.

7. The Advisory Committee agrees with the Commission on the amounts of reductions of the fines based on the 2006 Leniency Notice.
 8. The Advisory Committee agrees with the Commission on the final amounts of the fines.
 9. The Advisory Committee recommends the publication of its opinion in the Official Journal.
-

Final Report of the Hearing Officer ⁽¹⁾**Optical Disk Drives****(AT.39639)**

(2016/C 484/09)

Introduction

- (1) The draft decision concerns a cartel involving certain global suppliers of optical disk drives ('ODDs'). According to the draft decision, these suppliers coordinated their behaviour in respect of ODD bidding events organised by two manufacturers of personal computers, Dell Inc. ('Dell') and Hewlett Packard ('HP').
- (2) The undertakings or joint ventures found in the draft decision to have participated in the cartel are: Philips ⁽²⁾, Lite-On ⁽³⁾, Philips-Lite-On ⁽⁴⁾, Hitachi-LG ⁽⁵⁾, Toshiba-Samsung ⁽⁶⁾, Sony ⁽⁷⁾, Sony Optiarc ⁽⁸⁾ and Quanta Storage Inc.

Investigation phase

- (3) The case stems from an application for immunity from fines submitted jointly by Philips, Lite-On and Philips & Lite-On. The Commission subsequently received a leniency application from Hitachi-LG. None of the other parties concerned applied for leniency.
- (4) The Commission did not carry out inspections. In June 2009, the Commission addressed targeted requests for information to several undertakings involved in the ODD sector.

The Commission's statements of objections

- (5) The Commission adopted a statement of objections on 18 July 2012 (the 'SO'). This was notified to certain entities of the undertakings that are the subject of the draft decision, as well as to one other undertaking.
- (6) On 18 February 2014, the Commission adopted two supplementary statements of objections (the 'SSOs of February 2014'): one addressed to Koninklijke Philips N.V., Lite-On IT Corporation and Philips & Lite-On Digital Solutions Corporation, and the other to a different undertaking. The purpose of the SSOs of February 2014 was to clarify, amend and supplement the objections made against their addressees in the SO as regards their liability for the alleged infringement.
- (7) On 1 June 2015, the Commission adopted another supplementary statement of objections ⁽⁹⁾. The sole purpose of this (the 'SSO of June 2015') was to supplement the SO and the SSOs of February 2014 by addressing the same objections to additional legal entities whose parent companies (or their predecessors) were already addressees of the SO. The SSO of June 2015 was also addressed to the parent companies of these additional legal entities. Other addressees of the SO were not concerned by the SSO of June 2015, which did not amend or extend the objections raised against them in the SO.

⁽¹⁾ Pursuant to Articles 16 and 17 of Decision 2011/695/EU of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (OJ L 275, 20.10.2011, p. 29).

⁽²⁾ The Philips entities to whom the draft decision is addressed are Koninklijke Philips N.V. and Philips Electronics North America Corporation.

⁽³⁾ The Lite-On entities to whom the draft decision is addressed are Lite-On Technology Corporation and Lite-On Sales & Distribution, Inc.

⁽⁴⁾ The Philips-Lite-On entities to whom the draft decision is addressed are Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc.

⁽⁵⁾ The Hitachi-LG entities to whom the draft decision is addressed are Hitachi-LG Data Storage, Inc., Hitachi-LG Data Storage Korea, Inc.

⁽⁶⁾ The Toshiba-Samsung entities to whom the draft decision is addressed are Toshiba Samsung Storage Technology Corporation and Toshiba Samsung Storage Technology Korea Corporation.

⁽⁷⁾ The Sony entities to whom the draft decision is addressed are Sony Corporation and Sony Electronics Inc.

⁽⁸⁾ The Sony Optiarc entities to whom the draft decision is addressed are Sony Optiarc Inc. and Sony Optiarc America Inc.

⁽⁹⁾ This was addressed to Koninklijke Philips N.V., Philips Electronics North America Corporation, Philips Taiwan Ltd, Lite-On Technology Corporation, Lite-On Sales & Distribution, Inc., Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc.

- (8) In their written responses to the SO, two parties concerned criticised general references to an annex to the SO in which specific instances of suspected collusive contacts were set out in a table. I reviewed the SO and the annex in question. Contrary to what those parties contended, that annex allowed the addressees of the SO to identify specific events and pieces of evidence held against them and to infer from them the conclusions that the Commission envisaged drawing from each of the contacts listed in the annex. This assessment is corroborated by the parties concerned having been able to run defence arguments in respect of all the allegations in the SO. Since the SO and the SSO of June 2015 are, apart from the list of addressees, virtually identical, including with respect to the annex in question, a similar assessment suggests itself as regards the SSO of June 2015.

Time periods for responding in writing to the SO and to subsequent supplementary statements of objections

- (9) The Directorate-General for Competition ('DG Competition') granted several addressees of the SO extensions of the 8-week period it initially set for responding in writing to the SO. I received reasoned requests from two other addressees of the SO for extensions of this period, DG Competition having earlier refused these requests. I granted extensions of one week and one working day.
- (10) The addressees of the SSOs of February 2014 replied within the period (four weeks from receipt) set for their written submissions.
- (11) DG Competition set a time period in which to reply to the SSO of June 2015 of almost five weeks from receipt of that supplementary statement of objections. All addressees replied within that period.

Access to the investigation file

- (12) Following receipt of the SO, the addressees of the SO made use of their opportunity to access those parts of the Commission file that were only available at the Commission's premises. DG Competition provided the rest of the accessible file to those addressees on an electronic storage device.
- (13) DG Competition dealt with some requests for additional access.
- (14) In a letter accompanying the SSOs of February 2014, DG Competition explained that the evidence relied on against the respective addressees of these supplementary statements of objections had either been provided by these addressees or had been available to them as part of access-to-file following adoption of the SO. Hence, DG Competition did not deem further access-to-file necessary following adoption of the SSOs of February 2014.
- (15) The addressees of the SSO of June 2015 made use of their right to access the Commission's file.

Letter of facts of June 2015

- (16) On 13 March 2015, DG Competition sent a letter to the parties concerned, enclosing additional documents received from Dell and HP. By a letter of facts dated 3 June 2015, DG Competition provided these parties with information concerning the Commission's envisaged use of these documents in the present case.
- (17) DG Competition set a time period for any written submissions in response to that letter of facts of two weeks from its receipt by email. All but one of the parties concerned responded within this period. DG Competition in effect granted the remaining party an extension of one week of the period in which to reply.

Interested third person: Dell

- (18) On 31 October 2012, I received Dell's reasoned request to be heard as an interested third person pursuant to Article 27 of Regulation (EC) No 1/2003 ⁽¹⁾ and Article 13 of Regulation (EC) No 773/2004 ⁽²⁾. In accordance with Article 5(2) of Decision 2011/695/EU, I found that Dell had demonstrated a 'sufficient interest' within the meaning of these provisions. I therefore admitted Dell as an interested third person.

⁽¹⁾ In accordance with Article 27(3) of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, p. 1) and with Article 13.

⁽²⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the Treaty (OJ L 123, 27.4.2004, p. 18).

- (19) In accordance with Article 13(1) of Regulation (EC) No 773/2004, DG Competition informed Dell in writing of the nature and subject matter of the procedure and Dell subsequently made known its views in writing.

Oral hearing

- (20) The oral hearing took place over a day and a half, on 29 and 30 November 2012. All but one of the undertakings to which the SO was addressed took part. There were no closed sessions.
- (21) I rejected Dell's request to participate in the oral hearing. In application of Article 6 of Decision 2011/695/EU, I did not consider this 'appropriate' ⁽¹⁾. First, Dell's presence would have been likely to deter the applicants for immunity or leniency from participating fully and actively in the oral hearing. Secondly, and more generally, allowing a potential damages claimant to participate in an oral hearing might have had a chilling effect on the Commission leniency programme. Thirdly, Dell's presence could have diminished the openness of exchanges between the Commission and the addressees of the SO, and thus would have risked undermining the ability of the parties concerned to present an effective defence. Fourthly, I considered it unlikely that Dell, from whom the suspected collusion had been concealed, would have been in a position to make a significant contribution to the clarification of the facts of the case at the oral hearing ⁽²⁾. Fifthly, Dell had not received access to the SO or to the investigation file, whereas discussions at the hearing appeared likely to focus on the interpretation of the SO and of the evidence in that file. Finally, it had to be borne in mind – even if this was not a decisive reason for my decision – that applications from third persons such as Dell at an advanced stage of preparation for the oral hearing would have been likely to disrupt the organisation of the oral hearing ⁽³⁾.
- (22) During the hearing, DG Competition put a question to a joint venture on a statement made in the merger control notification (Form CO) submitted by its parent undertakings pursuant to the EU merger control rules in force at the time of the formation of this joint venture. I alerted the relevant party that this question amounted in my view to a procedural irregularity and that this party could choose not to respond to it. Under EU merger control rules, the Commission cannot use information obtained in the context of merger control proceedings in separate (cartel) proceedings ⁽⁴⁾. Since the relevant party decided to respond to the question, I concluded that the effective exercise of its rights of defence was not compromised.
- (23) In their written responses to the SSOs of February 2014 and to the SSO of June 2015, the addressees concerned did not request to develop their arguments in an oral hearing ⁽⁵⁾.

The draft decision

- (24) After hearing the parties concerned, the Commission dropped its case in respect of one undertaking. As regards two undertakings and a joint venture, the decision does not maintain the objections set out in the SO, the SSOs of February 2014 and the SSO of June 2015 (together, the 'Statements of Objections') to the extent that these objections concerned conduct related to one of the two ODD customers in question.
- (25) In contrast to the Statements of Objections, no aggravating circumstances are held against the addressees of the draft decision.
- (26) The draft decision indicates that the addressees of that decision were involved in a cartel that lasted from 23 June 2004 until 25 November 2008. This overall duration period is shorter than that alleged in the Statements of Objections. The duration of the periods for which individual addressees of the draft decision are held liable are all shorter than the corresponding periods set out in the Statements of Objections. Reductions in the duration of liability for entities held liable range from approximately seven months to just over four years and eight months.

⁽¹⁾ See Article 13(2) of Regulation (EC) No 773/2004.

⁽²⁾ See recital 13 of Decision 2011/695/EU.

⁽³⁾ Dell had long been aware of the present proceedings and yet it applied for the status of interested third person a mere month before the oral hearing. Its formal request to attend the oral hearing arrived less than a week before the oral hearing.

⁽⁴⁾ See Article 17(1) of Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings (OJ L 24, 29.1.2004, p. 1). An identical provision was contained in the previously applicable merger control rules.

⁽⁵⁾ See Article 12(1) of Regulation (EC) No 773/2004.

(27) In addition, the Statements of Objections provided the parties concerned, in accordance with paragraph 85 of the Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU ⁽¹⁾, with an opportunity to comment on the envisaged method for determining fines. In the light of comments received by the Commission in this regard, the draft decision uses a modified approach for estimating the value of sales for the purposes of calculating fines.

Final remarks

(28) Pursuant to Article 16 of Decision 2011/695/EU, I have examined whether the draft decision deals only with objections in respect of which the parties have been afforded the opportunity of making known its views. I conclude that it does so.

(29) Overall, I conclude that the effective exercise of procedural rights has been respected in this case.

Brussels, 9 October 2015.

Wouter WILS

⁽¹⁾ OJ C 308, 20.10.2011, p. 6.

Summary of Commission Decision
of 21 October 2015
relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union
and Article 53 of the EEA Agreement
(Case AT.39639 — Optical Disk Drives)
(notified under document C(2015) 7135)
(Only the English text is authentic)
(2016/C 484/10)

On 21 October 2015, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement. 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) On 21 October 2015, the Commission adopted a Decision relating to infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement in the optical disk drives sector. The addressees of the Decision coordinated their behaviour in the procurement tenders for optical disk drives ('ODDs') for laptops and desktops produced by two computer manufacturers, Dell, Inc. ('Dell') and Hewlett Packard ('HP').

2. CASE DESCRIPTION

2.1. Procedure

- (2) Following the joint immunity application of Koninklijke Philips Electronics N.V., Lite-On IT Corporation and Philips & Lite-On Digital Solutions Corporation under the terms of the 2006 Leniency Notice, the Commission addressed on 29 June 2009 targeted requests for information to the undertakings active in the industry and received a subsequent leniency application from Hitachi-LG Data Storage, Inc.
- (3) On 18 July 2012, the Commission adopted a Statement of Objections ('SO') in this case. All addressees of the Statement of Objections made known in writing their views on the objections raised against them and were given the opportunity to exercise their right to be heard by participating in an oral hearing that was held on 29 and 30 November 2012.
- (4) On 18 February 2014, the Commission adopted two Supplementary Statements of Objections ('SSOs of 18 February 2014') to supplement, amend and/or clarify the objections addressed to certain addressees of the SO as regards their liability for the alleged infringement.
- (5) On 1 June 2015, the Commission adopted another Supplementary Statement of Objections ('SSO of 1 June 2015'). The sole purpose of the SSO of 1 June 2015 was to supplement the SO and the SSOs of 18 February 2014 by addressing the objections from the original SO to additional legal entities pertaining to the corporate groups that were addressees of the SO.
- (6) The addressees of the SSOs of 18 February 2014 and of 1 June 2015 made known their views to the Commission in writing, but did not request any oral hearing.
- (7) On 3 June 2015, the Commission issued a Letter of Facts to all parties. The addressees of the Letter of Facts made known their views to the Commission in writing.
- (8) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 5 and 15 October 2015.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1. Regulation as amended by Regulation (EC) No 411/2004 (OJ L 68, 6.3.2004, p. 1).

2.2. Summary of the infringement

- (9) The infringement involved collusion in relation to procurement tenders organized by Dell and HP in the period 2004-2008. The investigation uncovered a network of parallel bilateral contacts to manipulate bids, substituting the uncertainties inherent in competition by collusion. The parties communicated to each other their intentions regarding ranking and/or pricing in procurement tenders and exchanged other commercially sensitive procurement-related information.

2.3. Addressees

- (10) The following undertakings infringed Article 101 of the Treaty and Article 53 of the EEA Agreement by participating, during the periods indicated, in a cartel infringement in the optical disk drives sector:
- (a) Philips Electronics North America Corporation, Koninklijke Philips N.V. (further referred to as 'Philips') from 13 September 2004 to 6 August 2006
 - (b) Lite-On Sales & Distribution, Inc., Lite-On Technology Corporation (further referred to as 'Lite-On') from 23 August 2004 to 4 March 2007
 - (c) Philips & Lite-On Digital Solutions USA, Inc., Philips & Lite-On Digital Solutions Corporation (further referred to as 'PLDS') from 7 August 2006 to 25 November 2008
 - (d) Hitachi-LG Data Storage Korea, Inc., Hitachi-LG Data Storage, Inc. (further referred to as 'HLDS') from 23 June 2004 to 25 November 2008
 - (e) Toshiba Samsung Storage Technology Korea Corporation, Toshiba Samsung Storage Technology Corporation (further referred to as 'TSST') from 23 June 2004 to 17 November 2008
 - (f) Sony Electronics Inc., Sony Corporation (further referred to as 'Sony') from 23 August 2004 to 15 September 2006
 - (g) Sony Optiarc America Inc., from 25 July 2007 to 31 October 2007; Sony Optiarc Inc. (further referred to as 'Optiarc') from 25 July 2007 to 29 October 2008
 - (h) Quanta Storage Inc. from 14 February 2008 to 28 October 2008.

2.4. Remedies

- (11) The Decision applies the 2006 Guidelines on fines ⁽¹⁾.

2.4.1. Basic amount of the fine

- (12) In order to better reflect the actual impact of the cartel, a proxy for the annual value of sales (based on the actual value of ODD sales in the EEA made by the undertakings in the relevant period of their participation in the infringements) is used as the basis for the calculation of the basic amount of the fines imposed.
- (13) Considering the nature of the infringement and its geographic scope, the percentage for the variable amount of the fine as well as the additional amount ('entry fee') is set at 16 % of the value of sales for the infringement.
- (14) The variable amount is multiplied by the number of years or by fractions of the year respectively of the company's participation in the infringement in order to take fully into account the duration of the participation for each undertaking in the infringement individually. The Commission takes into account the actual duration of participation in the infringement of the parties on a (rounded down) monthly and pro rata basis.
- (15) Given that the contacts concerning Dell started before those concerning HP, the value of sales are calculated separately per customer and two distinct duration multipliers are applied.
- (16) The value of sales for Philips, Sony and Optiarc was calculated only on the basis of sales to Dell, as it has not been established that these three undertakings participated in the anticompetitive conduct concerning HP.

2.4.2. Adjustments to the basic amount

- (17) There are no aggravating circumstances taken into account by the Commission in this case.
- (18) A mitigating factor is applied to Philips, Sony and Optiarc in order to reflect their lack of awareness of and liability for the part of the single and continuous infringement that relates to HP.

⁽¹⁾ OJ C 210, 1.9.2006, p. 2.

2.4.3. *Specific increase for deterrence*

(19) In this case, a deterrence multiplier of 1,2 is applied to Sony.

2.4.4. *Application of the 10 % turnover limit*

(20) The final individual amounts of the fines are below 10 % of the worldwide turnovers of all the addressed undertakings, except for TSST.

2.4.5. *Application of the 2006 Leniency Notice*

(21) Philips, Lite-On and PLDS undertakings were first to submit information and evidence meeting the conditions of point 8(a) of the 2006 Leniency Notice. The fine to be imposed is reduced by 100 % for all three undertakings.

(22) HLDS undertaking is granted 50 % reduction for the infringement as well as an additional reduction in application of the last paragraph of point 26 of the Leniency Notice to the extent that the information provided by HLDS enabled the Commission to establish facts extending the duration of the infringement.

3. FINES IMPOSED BY THE DECISION

(23) For the single and continuous ODD infringement, the following fines are imposed:

- (a) Koninklijke Philips N.V. and Philips Electronics North America Corporation, jointly and severally liable: EUR 0
 - (b) Lite-On Technology Corporation and Lite-On Sales & Distribution, Inc., jointly and severally liable: EUR 0
 - (c) Philips & Lite-On Digital Solutions Corporation and Philips & Lite-On Digital Solutions USA, Inc., jointly and severally liable: EUR 0
 - (d) Hitachi-LG Data Storage, Inc., Hitachi-LG Data Storage Korea, Inc., jointly and severally liable: EUR 37 121 000
 - (e) Toshiba Samsung Storage Technology Corporation and Toshiba Samsung Storage Technology Korea Corporation, jointly and severally liable: EUR 41 304 000
 - (f) Sony Corporation and Sony Electronics Inc., jointly and severally liable: EUR 21 024 000
 - (g) Sony Optiarc Inc.: EUR 9 782 000, of which EUR 5 433 000 jointly and severally with Sony Optiarc America Inc.
 - (h) Quanta Storage Inc.: EUR 7 146 000.
-

NOTICES FROM MEMBER STATES

Update of the list of border crossing points as referred to in Article 2(8) of Regulation (EU) 2016/399 of the European Parliament and of the Council on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) (codification) ⁽¹⁾

(2016/C 484/11)

The publication of the list of border crossing points as referred to in Article 2(8) of Regulation (EU) 2016/399 of the European Parliament and of the Council of 9 March 2016 on a Union Code on the rules governing the movement of persons across borders (Schengen Borders Code) is based on the information communicated by the Member States to the Commission in conformity with Article 39 of the Schengen Borders Code.

In addition to the publication in the Official Journal, a regular update is available on the website of the Directorate-General for Migration and Home Affairs.

FINLAND

Replacement of the information published in OJ C 401, 29.10.2016.

LIST OF BORDER CROSSING POINTS**Airports**

- (1) Enontekiö
- (2) Helsinki-Hernesaari (exclusively for helicopter traffic)
- (3) Helsinki-Malmi
- (4) Helsinki-Vantaa
- (5) Ivalo
- (6) Joensuu
- (7) Jyväskylä
- (8) Kajaani
- (9) Kemi-Tornio
- (10) Kittilä
- (11) Kokkola-Pietarsaari
- (12) Kuopio
- (13) Kuusamo
- (14) Lappeenranta
- (15) Mariehamn
- (16) Mikkeli
- (17) Oulu
- (18) Pori
- (19) Rovaniemi

⁽¹⁾ See the list of previous publications at the end of this update.

- (20) Savonlinna
- (21) Seinäjoki
- (22) Tampere-Pirkkala
- (23) Turku
- (24) Vaasa

Harbours/ports***Harbour crossing points for commercial and fishing vessels***

- (1) Eckerö
- (2) Eurajoki
- (3) Färjsundet
- (4) Förby
- (5) Hamina
- (6) Hanko (also for pleasure craft)
- (7) Haukipudas
- (8) Helsinki
- (9) Inkoo
- (10) Kalajoki
- (11) Kaskinen
- (12) Kemi
- (13) Kemiö
- (14) Kirkkonummi
- (15) Kokkola
- (16) Kotka
- (17) Kristiinankaupunki
- (18) Lappeenranta
- (19) Loviisa
- (20) Långnäs
- (21) Mariehamn (including pleasure craft)
- (22) Merikarvia
- (23) Naantali

(24) Nuijamaa (including pleasure craft)

(25) Oulu

(26) Parainen

(27) Pernaja

(28) Pietarsaari

(29) Pohja

(30) Pori

(31) Porvoo

(32) Raahe

(33) Rauma

(34) Salo

(35) Sipoo

(36) Taalintehdas

(37) Tammisaari

(38) Tornio

(39) Turku

(40) Uusikaupunki

(41) Vaasa

Coastguard stations operating as border crossing points for pleasure craft

(1) Åland

(2) Haapasaari

(3) Hanko

(4) Helsinki

(5) Port of Nuijamaa

(6) Santio

Coastguard stations operating as border crossing points for seaplanes

(1) Åland

(2) Hanko

(3) Helsinki

List of previous publications

- OJ C 316, 28.12.2007, p. 1.
- OJ C 134, 31.5.2008, p. 16.
- OJ C 177, 12.7.2008, p. 9.
- OJ C 200, 6.8.2008, p. 10.
- OJ C 331, 31.12.2008, p. 13.
- OJ C 3, 8.1.2009, p. 10.
- OJ C 37, 14.2.2009, p. 10.
- OJ C 64, 19.3.2009, p. 20.
- OJ C 99, 30.4.2009, p. 7.
- OJ C 229, 23.9.2009, p. 28.
- OJ C 263, 5.11.2009, p. 22.
- OJ C 298, 8.12.2009, p. 17.
- OJ C 74, 24.3.2010, p. 13.
- OJ C 326, 3.12.2010, p. 17.
- OJ C 355, 29.12.2010, p. 34.
- OJ C 22, 22.1.2011, p. 22.
- OJ C 37, 5.2.2011, p. 12.
- OJ C 149, 20.5.2011, p. 8.
- OJ C 190, 30.6.2011, p. 17.
- OJ C 203, 9.7.2011, p. 14.
- OJ C 210, 16.7.2011, p. 30.
- OJ C 271, 14.9.2011, p. 18.
- OJ C 356, 6.12.2011, p. 12.
- OJ C 111, 18.4.2012, p. 3.
- OJ C 183, 23.6.2012, p. 7.
- OJ C 313, 17.10.2012, p. 11.
- OJ C 394, 20.12.2012, p. 22.
- OJ C 51, 22.2.2013, p. 9.
- OJ C 167, 13.6.2013, p. 9.
- OJ C 242, 23.8.2013, p. 2.
- OJ C 275, 24.9.2013, p. 7.
- OJ C 314, 29.10.2013, p. 5.
- OJ C 324, 9.11.2013, p. 6.
- OJ C 57, 28.2.2014, p. 4.
- OJ C 167, 4.6.2014, p. 9.
- OJ C 244, 26.7.2014, p. 22.
- OJ C 332, 24.9.2014, p. 12.
- OJ C 420, 22.11.2014, p. 9.
- OJ C 72, 28.2.2015, p. 17.
- OJ C 126, 18.4.2015, p. 10.
- OJ C 229, 14.7.2015, p. 5.
- OJ C 341, 16.10.2015, p. 19.
- OJ C 84, 4.3.2016, p. 2.
- OJ C 236, 30.6.2016, p. 6.
- OJ C 278, 30.7.2016, p. 47.
- OJ C 331, 9.9.2016, p. 2.
- OJ C 401, 29.10.2016, p. 4.
-

EXCISE DUTY**Administrative cooperation****List of competent authorities referred to in Article 3(2) of Council Regulation (EU) No 389/2012
(administrative cooperation in the field of excise duties)**

(This list reflects the Authorities in whose name Council Regulation (EU) No 389/2012 of 2 May 2012 on administrative cooperation in the field of excise duties and repealing Regulation (EC) No 2073/2004 is to be applied)

(2016/C 484/12)

For the purpose of Article 3 of the Regulation (EU) No 389/2012 the competent Authority of a Member State means:

- in Austria
Bundesministerium für Finanzen
- in Belgium
Algemene Administratie van de Douane en Accijnzen
- in Bulgaria
Агенция 'Митници'
- in Croatia
Ministarstvo financija, Carinska uprava, Sektor za trošarine i posebne poreze
- in Cyprus
Τμήμα Τελωνείων
- in the Czech Republic
Generální ředitelství cel
- in Denmark
SKAT
- in Estonia
Maksu- ja Tolliamet
- in France
Direction Générale des Douanes et Droits Indirects
- in Finland
Tulli
- in Germany
Generalzolldirektion
- in Greece
Γενική Διεύθυνση Τελωνείων & ΕΦΚ
- in Hungary
Nemzeti Adó- és Vámhivatal, Központi Irányítás, Jövedéki Főosztály
- in Ireland
The Revenue Commissioners
- in Italy
Ministero dell'Economia e delle Finanze – Dipartimento delle Finanze

- in Latvia
Valsts ieņēmumu dienests
 - in Lithuania
Valstybinė mokesčių inspekcija prie Lietuvos Respublikos finansų ministerijos
 - in Luxembourg
Administration des Douanes et Accises — Division Taxud
 - in Malta
Customs Department
 - in Poland
Ministerstwo Finansów, Departament Podatku Akcyzowego
 - in Portugal
AT-Autoridade Tributária e Aduaneira
 - in Romania
Agenția Națională de Administrare Fiscală, Direcția Generală a Vămilelor
 - in Slovakia
Finančné riaditeľstvo Slovenskej Republiky, Odbor spotrebných daní
 - in Slovenia
Ministrstvo za finance
 - in Spain
El Secretario de Estado de Hacienda. Ministerio de Hacienda y Función Pública
 - in Sweden
Skatteverket
 - in the Netherlands
Douane Informatie Centrum
 - in the United Kingdom
HM Revenue & Customs
-

Commission information notice pursuant to Article 16(4) of Regulation (EC) No 1008/2008 of the European Parliament and of the Council on common rules for the operation of air services in the Community

Repeal of public service obligations in respect of scheduled air services

(Text with EEA relevance)

(2016/C 484/13)

Member State	Italy
Routes concerned	Reggio Calabria-Pisa and vice-versa Reggio Calabria-Bologna and vice-versa
Original date of entry into force of the public service obligations	30 October 2016
Date of repeal	24 November 2016
Address where the text and any relevant information and/or documentation relating to the public service obligation can be obtained	<i>Reference document</i> OJ C 301, 12.9.2015, p. 11. OJ C 50, 10.2.2016, p. 5. For further information, please contact: Ministry of Infrastructure and Transport Directorate-General for Airports and Air Transport Tel. +39 064158-3683/3681 Email: dg.ta@pec.mit.gov.it Internet: http://www.mit.gov.it

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