

Final Report ⁽¹⁾ of the Hearing Officer in Case COMP/39.168 — Hard Haberdashery: Fasteners

(2009/C 47/06)

Background

On 7 and 8 November 2001 the Commission carried out investigations at the premises of several Community producers of hard and soft haberdashery products, as well as at the premises of the German association of fastening technology, Fachverband Verbindungs- und Befestigungstechnik (VBT). The evidence indicated that the undertakings had taken part in a number of agreements and/or concerted practices in relation to zip fasteners and/or 'other fasteners' and/or attaching machines in the EU. According to the Commission, the infringements formed part of several overall schemes the aims of which were to distort the normal movement of prices in the EU market for 'other fasteners' and their attaching machines and zip fasteners. The schemes aimed to restrict competition on national, EU-wide and, in the case of 'other fasteners' and attaching machines, worldwide markets by allocating markets and exchanging prices and fixing minimum and target prices.

Statements of Objections and Access to file

A first Statement of Objections (SO) was sent on 17 September 2004 to the following sixteen addressees: A. Raymond Sarl; Berning & Söhne GmbH & Co. KG; [Company A]; Coats Holdings Ltd; Éclair Prym Sarl ⁽²⁾; Fachverband Verbindungs- und Befestigungstechnik ('VBT'); Prym Fashion GmbH & Co. KG ⁽³⁾; [Company B]; [Company C]; Scovill Fasteners Europe SA; Scovill Fasteners Inc.; William Prym GmbH & Co. KG; [Company D]; YKK Corp., Japan; YKK Holding Europe BV; and YKK Stocko Fasteners GmbH.

In view of the fact that the CD-ROM providing access to the file was sent to the parties belatedly, on 4 October 2004, upon the parties' request(s) I granted extensions and/or further extensions to the deadline for their replies to a number of parties (A. Raymond Sarl, 6 December 2004; [Berning and Company A], 20 December 2004; VBT, 20 December 2004; the three Prym companies, 20 December 2004; the two Scovill companies, 13 December 2004; YKK Corp., Japan, 21 December 2004; the remaining two YKK companies, 14 December 2004).

All parties replied in due time.

New leniency applications, providing supplementary information, enabled the Commission to issue a Supplementary Statement of Objections (SSO). This document was sent on 8 March 2006 to the same addressees, except for [Company C] and [Company D] ⁽⁴⁾, as the original SO. The SSO was also addressed to Coats Holdings' German subsidiary Coats Deutschland GmbH, which had not been an addressee of the original SO.

Upon the parties' request(s), I granted the following extensions and/or further extensions to the deadline for their replies: [Berning and Company A], 15 May 2006; the three Prym companies, 15 May 2006; Scovill Fasteners Inc., 19 May 2006; and the three YKK companies, 16 May 2006.

All parties replied in due time.

A CD-ROM containing copies of the documents in the Commission's file was sent to the parties on 13 March 2006 in relation to the SSO.

Involvement of third parties

No third parties were involved in the procedure.

⁽¹⁾ Pursuant to Articles 15 and 16 of Commission Decision 2001/462/EC, ECSC of 23 May 2001 on the terms of reference of Hearing Officers in certain competition proceedings (OJ L 162, 19.6.2001, p. 21).

⁽²⁾ The correct name of the company referred to as 'Éclair Prym Sarl' in both Statements of Objections has been 'Éclair Prym Group S.A.' since 12 November 2001, as noted in the draft Decision.

⁽³⁾ As of 23 October 2006, the company 'Prym Fashion GmbH & Co. KG' has been renamed 'Prym Inovon GmbH & Co. KG'.

⁽⁴⁾ [Company C] and [Company D] are not addressees of the draft Decision.

Oral hearing

The oral hearing took place on 11 July 2006. All the parties participated, with the exception of the association VBT and Scovill Fasteners Europe SA.

At the outset of the oral hearing a document was accepted into evidence under Article 12(3) of the Hearing Officers' mandate. YKK had requested that this document be put in evidence as it had only recently been found, and it was considered relevant as it could show a breach of Prym's co-operation under the Leniency Notice. The parties were given the opportunity to respond orally if they so wished, or subsequently in writing.

The draft Decision

The draft Decision covers the same products and infringements as both the SO and the SSO.

The addressees of the draft Decision, except for [Company A] and [Company B] ⁽¹⁾, remain the same as those of the SSO.

The duration of the infringements committed by some of the parties was reduced in the draft Decision as compared to the Statements of Objections.

The objections regarding certain agreements have not been retained in the draft Decision. These are: (a) a bilateral agreement between Prym and Berning on the market for 'other fasteners' and attaching machines; (b) a bilateral agreement between Coats and YKK on the market for zip fasteners; (c) a bilateral agreement between Prym and YKK on the market for zip fasteners.

Concerning the involvement of the association VBT in the infringement, further explanations were provided by the draft Decision. However, no new evidence that had not already been established in the Statement of Objections concerning VBT's involvement is contained in the Decision.

The draft Decision submitted to the Commission only contains objections in respect of which the parties have been afforded the opportunity of making known their views.

In the light of the above, I consider that the rights of the parties to be heard have been respected in this case.

Brussels, 12 September 2007.

Karen WILLIAMS

⁽¹⁾ [Company A] and [Company B], which were addressees of the SSO, have been dropped from the draft Decision.