

Opinion of the Advisory Committee on restrictive agreements and dominant positions given at its 432nd meeting of 14 September 2007 concerning a draft decision relating to Case COMP/38710 – Bitumen Spain

(2009/C 321/05)

1. The members of the Advisory Committee agree with the European Commission assessment of the facts as an agreement and/or concerted practice within the meaning of Article 81 of the EC Treaty.
 2. The members of the Advisory Committee agree with the European Commission assessment of the product and the geographic area affected by the cartel.
 3. The members of the Advisory Committee agree with the European Commission assessment that the cartel constitutes a single and continuous infringement.
 4. The members of the Advisory Committee agree with the European Commission assessment that the agreement and/or concerted practice between bitumen suppliers in Spain were capable of having an appreciable effect upon trade between Member States.
 5. The members of the Advisory Committee agree with the European Commission assessment that Repsol and Cepsa played a leadership role in the cartel.
 6. The members of the Advisory Committee agree with the European Commission assessment that Nynäs and Petrogal participated to a lesser extent in certain aspects of the cartel.
 7. The members of the Advisory Committee agree with the European Commission assessment of the applications made under the 2002 Leniency Notice.
 8. The members of the Advisory Committee agree with the European Commission assessment as regards the addressees of the draft decision, specifically with reference to imputation of liability to parent companies of the groups concerned.
 9. The members of the Advisory Committee recommend the publication of its Opinion in the *Official Journal of the European Union*.
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