

The applicant submits that, although the Commission understood that Mamoli was in fact in a critical economic situation undermining the company's ability to pay, it adopted a decision unsuitable for attaining the objective sought.

(¹) 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 2003 L 1, p. 1).

Action brought on 8 September 2010 — Wabco Europe and Others v Commission

(Case T-380/10)

(2010/C 288/114)

Language of the case: English

Parties

Applicants: Wabco Europe BVBA (Brussels, Belgium), Wabco Austria GesmbH (Vienna, Austria), Trane Inc. (Piscataway, United States), Ideal Standard Italia s.r.l. (Milan, Italy) and Ideal Standard GmbH (Bonn, Germany), (represented by: S. Völcker, F. Louis, A. Israel and N. Niejahr, lawyers, C. O'Daly and E. Batchelor, Solicitors, and F. Carlin, Barrister)

Defendant: European Commission

Form of order sought

— Partially annul Article 2 and, to the extent necessary, Article 1 (1) N. 3 and 4 of the Commission Decision No C(2010) 4185 final of 23 June 2010 in Case COMP/39092 — Bathroom Fittings and Fixtures;

— Reduce the amount of the fine imposed on the applicants; and

— Order the Commission to bear the costs.

Pleas in law and main arguments

By means of their application, the applicants seek, pursuant to Article 263 TFUE, the partial annulment of Commission Decision No C(2010) 4185 final of 23 June 2010 in Case COMP/39092 — Bathroom Fittings and Fixtures, relating to an agreement between undertakings covering the Belgian, German, French, Italian, Dutch and Austrian markets of bathroom fittings and fixtures, concerning the sale prices and the exchange of sensitive commercial information, as well as, in the alternative, the reduction of the amount of the fine imposed on them.

In support of their application, the applicants put forward the following pleas in law:

Firstly, the applicants allege that the Commission disregarded the applicable legal standards in its attempts to establish the participation of Ideal Standard Italia s.r.l. and of Ideal Standard GmbH in a ceramics-related infringement in Italy.

Secondly, the applicants allege that the Commission failed to reduce the fine imposed on them for the French and Belgian infringements despite granting partial immunity from fines for such infringements under the last paragraph of point 23 of the Commission's 2002 notice on immunity from fines and reduction of fines in cartel cases (¹).

Thirdly, the applicants allege that the Commission erred in finding that Grohe Beteiligungs GmbH and Grohe AG and its subsidiaries, rather than Ideal Standard Italia s.r.l. and Ideal Standard GmbH, were the first to provide "significant added value" under the Commission's 2002 notice on immunity from fines and reduction of fines in cartel cases.

Finally, the applicants allege that the Commission's retroactive application of the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (²) was unlawful, insofar as it penalised Ideal Standard Italia s.r.l. and Ideal Standard GmbH for the kind of information that it provided as a leniency applicant in the good faith expectation that the Commission would not drastically alter the applicable fining framework to their detriment.

(¹) Commission notice on immunity from fines and reduction of fines in cartel cases (OJ 2002 C 45, p. 3).

(²) Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ 2006 C 210, p. 2).

Action brought on 8 September 2010 — Spain v Commission

(Case T-384/10)

(2010/C 288/115)

Language of the case: Spanish

Parties

Applicant: Kingdom of Spain (represented by: J. Rodríguez Cárcamo)