

*Defendant:* European Commission

### Form of order sought

- Annul or reduce the fine imposed by the Commission on Emme Holding by decision of 30 June 2010 (Case COMP/38.344 — Pre-stressing steel).
- Order the Commission to pay the costs.

### Pleas in law and main arguments

The decision contested in the present case is the same as that in Case T-385/10 *ArcelorMittal Wire France and Others v Commission*.

In particular, the applicant submits that:

- the attribution to the applicant of a single and continuous infringement instituted by all the European cartels (Club Europa) and all the national/regional cartels (Club Italiano, Club España and the Accordo Meridionale) is unjustified. The applicant has never in fact participated (actively or passively) at European level in the alleged infringement. Similarly, Trame was unaware of any regional or national cartels operating in countries other than Italy.
- the decision takes account of both stranded wire (7 strands) and braided wire (2-3 strands). However, the applicant submits that braided wire has never been the subject of a cartel in connection with Club Italia. The turnover generated by that product should therefore not be taken into account in calculating the fine.

The applicant also seeks a reduction of the fine, on the ground that its participation in the alleged infringement was marginal, and on account of its inability to pay.

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### Action brought on 16 September 2010 — Redaelli Tecna v Commission

(Case T-423/10)

(2010/C 317/65)

*Language of the case: Italian*

### Parties

*Applicant:* Redaelli Tecna SpA (Milan, Italy) (represented by: R. Zaccà, M. Todino and E. Cruellas Sada, lawyers)

*Defendant:* European Commission

### Form of order sought

- Annul the contested decision in so far as it finds that Redaelli participated in the cartel referred to in the decision throughout the period 1984-1992.

- Annul the contested decision in so far as it rejected Redaelli's request for leniency and, consequently, grant an appropriate reduction in the amount of the fine, on account of the cooperation given by Redaelli in the Commission's investigation by means of that request.

- Further reduce, on ground of equity, the fine imposed on Redaelli by way of compensation for the unreasonable length of the procedure.

### Pleas in law and main arguments

The decision contested in the present case is the same as that in Case T-385/10 *ArcelorMittal Wire France and Others v Commission*.

In particular, the applicant submits that:

- The Commission committed a serious infringement of the principle of equal treatment by applying stricter standards only to Redaelli and refusing to grant it leniency, which, conversely, was granted to other undertakings whose requests for leniency contributed little in terms of 'added value', and considerably less than the added value contributed by the applicant. In so doing, the Commission also infringed the principle of protection of legitimate expectations because, essentially, it disregarded the applicant's legitimate expectation that its own request would be assessed in the light of the criteria developed in the Commission's practice at the time of the request, which were laid down in the 2002 Notice.
- The Commission claimed incorrectly that the parties were involved in the cartel during the period 1984-1992 but has failed to adduce sufficient evidence concerning the existence of the cartel throughout the period in question.
- The unreasonable length of the administrative procedure adversely affected the applicant's rights of defence, as a result of which it was required to obtain exculpatory evidence after it had ceased to be available, and also had a negative impact on the actual assessment of the applicant's request for leniency.

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### Action brought on 18 September 2010 — Dosenbach-Ochsner v OHIM — Sisma (Representation of a rectangle with elephants)

(Case T-424/10)

(2010/C 317/66)

*Language in which the application was lodged: German*

### Parties

*Applicant:* Dosenbach-Ochsner AG Schuhe und Sport (Dietikon, Switzerland) (represented by: O. Rauscher, lawyer)

*Defendant:* Office for Harmonisation in the Internal Market (Trade Marks and Designs)