Form of order sought

— Annul Commission Decision C(2012) 2069 final of 28 March 2012 in Case COMP/39452 — Mountings for windows and window-doors — in so far as it concerns the applicant;

— in the alternative, reduce, as appropriate, the fine imposed on the applicant;

— order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on nine pleas in law.

1. First, the decision relating to the fine is erroneously based on the assumption of an infringement of Article 101 TFEU, which cannot be the case, however, since discussions took place in the full knowledge and at the request of the other party in the market.

2. Second, the decision relating to the fine is erroneously based on the assumption that mountings other than 'turn-and-tilt' mountings were the subject of the discussions between the participating undertakings.

3. Third, even if an infringement of Article 101 TFEU were to have occurred, the decision relating to the fine is in any event erroneously based on the assumption that special mountings were also affected by the anti-competitive conduct.

4. Fourth, the assumption that the applicant participated in any anti-competitive collusion beyond the territory of the Federal Republic of Germany is also mistaken. The most that might be envisaged with regard to the applicant would be an infringement of Article 101(1) TFEU in respect of the Italian and Greek market for the year 2007.

5. Fifth, the applicant also complains, in the alternative, further to the second to fourth pleas in law, that account was incorrectly taken, in the calculation of the fine, of turnover in respect of sliding mountings or special mountings, and of turnover not achieved in Germany. As a result of such turnover being included, the turnover established by the defendant for the purpose of establishing the basic amount was much too high. Consequently there was an infringement of Article 23(3) of Regulation No 1/2003.

6. Sixth, the applicant also complains in the alternative of an error of assessment in the calculation of the fine, with regard to the gravity of the infringement and the level of the increase for deterrence ('entry fee'). The percentage applied in the applicant's case in respect of the gravity of the infringement or the increase for deterrence was excessively high. To that extent also, there has been an infringement of Article 23(3) of Regulation No 1/2003.

7. Seventh, the applicant further complains in the alternative of an infringement of Article 23(3) of Regulation No 1/2003 on the basis of the account erroneously taken of the turnover which the applicant achieved together with other members of the cartel.

8. Eighth, the decision is, moreover, vitiated by a grave defect in reasoning. It must therefore be annulled in its entirety on account of an infringement of Article 296 TFEU and consequential breach of the applicant's rights of defence, irrespective of whether or not the applicant was involved in collusion contrary to Article 101 TFEU. It is not possible for the defect to be remedied during the ongoing proceedings.

9. Ninth, the Commission erroneously proceeds on the assumption that the applicant participated in the (allegedly) anti-competitive collusion from 16 November 1999 to 3 July 2007. The complaint of a single and continuous infringement from 16 November 1999 to 3 July 2007 cannot, however, be sustained owing to an independent price increase for 2001 and the absence of agreement in respect of 2002. Thus, at most, the decision could include the period from 2003. However, in so far as it is asserted that the applicant engaged in anti-competitive conduct beyond the German market, the most that might be attributed to the applicant would be an infringement of Article 101 TFEU in 2007. The applicant therefore takes the view that there is no basis for any assumption, with regard to the applicant, of an infringement lasting seven years and seven months.

Action brought on 11 June 2012 — Siegenia-Aubi and Noraa v Commission

(Case T-257/12)

(2012/C 227/54)

Language of the case: German

Parties

Applicants: Siegenia-Aubi KG (Wilnsdorf, Germany) and Noraa GmbH (Wilnsdorf, Germany) (represented by: T. Caspary and J. van Kann, lawyers)

Defendant: European Commission

Form of order sought

— Annul in part Commission Decision C(2012) 2069 final of 28 March 2012 in Case COMP/39452 — *Mountings for windows and window-doors* in so far as it concerns the applicants;

— in the alternative, reduce, as appropriate, the amount of the fine imposed on the applicants in the contested decision, pursuant to Article 261 TFEU;

— order the defendant to pay the costs of these proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on eight pleas in law.

1. First, in its findings the defendant breached the principles of the burden of proof (Article 2 of Regulation No 1/2003), the standard of proof and the obligation to state the reasons for its decision. In particular, the defendant failed to demonstrate sufficiently the existence of any alleged 'signal effects' on all mounting technologies and materials throughout the entire European Economic Area (EEA) of German prices for 'turn-and-tilt' systems, and thereby unlawfully reduced the burden of proof on the defendant.

2. Second, the defendant erred in law in assuming that the alleged collusion affected the whole of the EEA, or failed to adduce sufficient evidence in that respect.

3. Third, the defendant erred in law in assuming that the alleged infringement related to all mounting technologies and materials, and failed to adduce sufficient evidence in that respect.

4. Fourth, the defendant erred in law in assuming that collusion on prices occurred in 2002, and failed to adduce sufficient evidence in that respect. As a result the Guidelines on fines were also applied incorrectly in law, in so far as it was erroneously assumed that the infringement lasted from 1999 until 2007. Furthermore the defendant infringed Article 25 of Regulation No 1/2003, because events that occurred before 2002 are time-barred.

5. Fifth, the defendant erred in law in attributing to the applicants the conduct of a company in which only a minority shareholding was held, thereby infringing the rules on the attribution of the actions of subsidiaries to the parent company, as well as the obligation to state reasons.

6. Sixth, in making an adjustment of the fine, the defendant breached the principles of equal treatment, proportionality, sound administration, and of the obligation to state reasons. Furthermore, the defendant acted contrary to the wording, logic and purpose of the Guidelines on fines.

7. Seventh, in determining the gravity of the infringement, the defendant breached the principles of proportionality and sound administration and infringed points 20, 23, and 25 of the Guidelines on fines, as well as the obligation to state reasons.

8. Eighth, in determining mitigating circumstances, the defendant breached the principles of equal treatment, point 29 of the Guidelines on fines and the obligation to state reasons. In particular the defendant failed to take into account the fact of the applicants' non-intentional conduct and of their active cooperation.

Action brought on 11 June 2012 — Alban Giacomo v Commission

(Case T-259/12)

(2012/C 227/55)

Language of the case: Italian

Parties

Applicant: Alban Giacomo SpA (Romano d'Ezzelino, Italy) (represented by: S. Nanni Costa, F. Di Gianni, G. Coppo, lawyers)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul or, in the alternative, reduce the fine imposed on the applicant, if necessary by having recourse to the unlimited jurisdiction conferred on the Court by Article 261 TFEU;

— Order the Commission to pay the costs.

Pleas in law and main arguments

The decision contested in the present proceedings is the same as that in Case T-248/12 *Carl Fuhr GmbH & C. KG* v *Commission*.

The applicant relies on two pleas in law in support of its action.

1. First plea, alleging that the determination of the duration of the infringement ascribed to Alban Giacomo SpA was unlawful.

   — By the first plea, the applicant submits that the infringement established in its case ended at the time of the last meeting at which it particpated, namely on 11 September 2006, and not at the time of the inspections carried out by the Commission on 3 July 2007.