

Summary of Commission Decision

of 19 July 2016

relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement

(Case AT.39824 — Trucks)

(notified under document C(2016) 4673)

(Only the English text is authentic)

(2017/C 108/05)

On 19 July 2016, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

- (1) The Decision relates to a single and continuous infringement of Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA agreement.
- (2) The Decision is addressed to the following entities: MAN SE, MAN Truck & Bus AG, MAN Truck & Bus Deutschland GmbH (together are referred to as 'MAN'); Daimler AG (hereinafter referred to as 'Daimler'); Fiat Chrysler Automobiles N.V., CNH Industrial N.V., Iveco SpA, Iveco Magirus AG (together are referred to as 'Iveco'); AB Volvo (publ), Volvo Lastvagnar AB, Renault Trucks SAS, Volvo Group Trucks Central Europe GmbH, (together are referred to as 'Volvo/Renault'); PACCAR Inc., DAF Trucks Deutschland GmbH, DAF Trucks N.V., DAF (together are referred to as 'DAF').

2. CASE DESCRIPTION

2.1. Procedure

- (3) Following an immunity application by MAN on 20 September 2010, the Commission carried out inspections at the premises of the various trucks producers between 18 and 21 January 2011. On 28 January 2011 Volvo/Renault applied for a reduction of fines, followed by Daimler on 10 February 2011, at 10:00 a.m., and Iveco on 10 February 2011, at 22:22 p.m.
- (4) On 20 November 2014, the Commission initiated proceedings pursuant to Article 11(6) of Regulation (EC) No 1/2003 against DAF, Daimler, Iveco, MAN, Volvo/Renault, and adopted a Statement of Objections, which it notified to these entities.
- (5) After the adoption of the Statement of Objections the Addressees approached the Commission informally and asked to continue the case under the settlement procedure. The Commission decided to launch settlement proceedings for this case after each of the addressees had confirmed its willingness to engage in settlement discussions. Subsequently MAN, DAF, Daimler, Volvo/Renault and Iveco submitted to the Commission their formal request to settle pursuant to Article 10a(2) of Commission Regulation (EC) No 773/2004 ⁽²⁾.
- (6) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 18 July 2016 and the Commission adopted the Decision on 19 July 2016.

2.2. Addressees and duration

- (7) The addressees of the Decision have participated in a collusion and/or bear liability for it, infringing therefore Article 101 of the Treaty, during the periods indicated below. In application of Point 26 of the Guidelines on Fines Volvo/Renault was granted partial immunity for the period from 17 January 1997 until 15 January 2001.

Entity	Duration
MAN SE, MAN Truck & Bus AG, MAN Truck & Bus Deutschland GmbH	17 January 1997 – 20 September 2010

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

⁽²⁾ OJ L 123, 27.4.2004, p. 18.

Entity	Duration
Daimler AG	17 January 1997 – 18 January 2011
Fiat Chrysler Automobiles N.V., CNH Industrial N.V., Iveco SpA, Iveco Magirus AG	17 January 1997 – 18 January 2011
AB Volvo (publ), Volvo Lastvagnar AB, Renault Trucks SAS, Volvo Group Trucks Central Europe GmbH	17 January 1997 – 18 January 2011
PACCAR Inc., DAF Trucks Deutschland GmbH, DAF Trucks N.V.	17 January 1997 – 18 January 2011

2.3. Summary of the infringement

- (8) The products concerned by the infringement are trucks weighing between 6 and 16 tonnes ('medium trucks') and trucks weighing more than 16 tonnes ('heavy trucks') both as rigid trucks as well as tractor trucks (hereinafter, medium and heavy trucks are referred to collectively as 'trucks')⁽¹⁾. The case does not concern aftersales, other services and warranties for trucks, the sale of used trucks or any other goods or services.
- (9) The infringement consisted of collusive arrangements on pricing and gross price increases in the EEA for trucks; and the timing and the passing on of costs for the introduction of emission technologies for medium and heavy trucks required by EURO 3 to 6 standards. The addressees' headquarters were directly involved in the discussion of prices, price increases and the introduction of new emission standards until 2004. From at least August 2002 onwards, discussions took place via German subsidiaries which, to varying degrees, reported to their Headquarters. The exchange was operated both on a multilateral and on a bilateral level.
- (10) These collusive arrangements included agreements and/or concerted practices on pricing and gross price increases in order to align gross prices in the EEA and the timing and the passing on of costs for the introduction of emission technologies required by EURO 3 to 6 standards.
- (11) The infringement covered the entire EEA and lasted from 17 January 1997 until 18 January 2011.

2.4. Remedies

- (12) The Decision applies the 2006 Guidelines on Fines⁽²⁾. With the exception of MAN, the Decision imposes fines on all the entities listed under paragraph (7) above.

2.4.1. Basic amount of the fine

- (13) In setting the fines, the Commission took into account the relevant undertakings' sales of heavy and medium duty trucks (as defined in paragraph (8)) in the EEA in the last year prior to the end of the infringement; the fact that price coordination is one of the most harmful restrictions of competition; the duration of the infringement; the high market share of the addressees on the European market for heavy and medium duty trucks; the fact that the infringement covered the entire EEA and an additional amount to deter undertakings from entering into price coordination practices.

2.4.2. Adjustments to the basic amount

- (14) The Commission did not apply any aggravating or mitigating circumstances.

2.4.3. Application of the Leniency Notice

- (15) MAN was granted full immunity from fines. Volvo/Renault was granted a 40 % reduction of its fine, Daimler was granted a 30 % reduction, and Iveco was granted a 10 % reduction.

⁽¹⁾ Excluding trucks for military use.

⁽²⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003 (OJ L 1, 4.1.2003, p. 1).

2.4.4. Application of the Settlement Notice

- (16) As a result of the application of the settlement notice, the amount of fines was further reduced by 10 % for all parties.

3. CONCLUSION

- (17) The following fines were imposed pursuant to Article 23(2) of Regulation (EC) No 1/2003:

- (a) EUR 0 jointly and severally on MAN SE, MAN Truck & Bus AG and MAN Truck & Bus Deutschland GmbH
- (b) EUR 670 448 000 jointly and severally on AB Volvo (publ), Volvo Lastvagnar AB and Renault Trucks SAS of which,
Volvo Group Trucks Central Europe GmbH is held jointly and severally responsible for the amount of EUR 468 855 017.
- (c) EUR 1 008 766 000 on Daimler AG.
- (d) EUR 494 606 000 on Iveco SpA, of which:
- (1) Fiat Chrysler Automobiles N.V. is held jointly and severally responsible for the amount of EUR 156 746 105,
 - (2) Fiat Chrysler Automobiles N.V. and Iveco Magirus AG are held jointly and severally responsible for the amount of EUR 336 119 346 and
 - (3) CNH Industrial N.V. and Iveco Magirus AG are held jointly and severally responsible for the amount of EUR 1 740 549.
- (e) EUR 752 679 000 jointly and severally on PACCAR Inc. and DAF Trucks N.V. of which
DAF Trucks Deutschland GmbH is held jointly and severally responsible for the amount of EUR 376 118 773.
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