

Summary of Commission Decision
of 21 June 2017
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.40013 — Lighting Systems)
(notified under document C(2017) 4100)
(Only the English text is authentic)
(2017/C 333/04)

On 21 June 2017, 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: Valeo S.A., Valeo Service SAS and Valeo Vision SAS (together referred to as 'Valeo'); Magneti Marelli S.p.A. and Automotive Lighting Reutlingen GmbH (together referred to as 'Automotive Lighting') and Hella KGaA Hueck & Co. ('Hella') (also referred to as the 'parties' or individually the 'party').
- (3) The products concerned by the infringement are automotive lighting systems. The addressees of this decision were involved in a series of anti-competitive contacts regarding the original equipment spare parts ('OES') after the end of series production, including contacts relating to price and certain other trading conditions.

2. CASE DESCRIPTION

2.1. Procedure

- (4) The case started following an immunity application submitted by Valeo in January 2012. In July 2012, the Commission conducted unannounced inspections under Article 20(4) of Regulation (EC) No 1/2003, followed by a number of requests of information under Article 18(2) of Regulation (EC) No 1/2003 and point 12 of the Leniency Notice⁽²⁾.
- (5) Automotive Lighting subsequently applied for leniency in August 2012. Hella applied for leniency in September 2012.
- (6) Proceedings were initiated on 18 May 2016 with a view to engage in settlement discussions with the parties. Subsequently, all parties submitted to the Commission their formal request to settle pursuant to Article 10a(2) of Regulation (EC) No 773/2004⁽³⁾.
- (7) On 10 May 2017, the Commission adopted the Statement of Objections addressed to the parties. All parties replied to the Statement of Objections by confirming that it reflected the contents of their settlement submissions and that they remained committed to following the settlement procedure.
- (8) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 20 June 2017.
- (9) The Commission adopted this Decision on 21 June 2017.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1.

⁽²⁾ Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ C 298, 8.12.2006, p. 17).

⁽³⁾ Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the EC Treaty (OJ L 123, 27.4.2004, p. 18).

2.2. Duration

- (10) The following undertakings have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement, by participating, during the periods indicated below, in anti-competitive practices in respect to the supply of automotive lighting systems:

Undertaking	Duration
Valeo	7 July 2004 - 25 October 2007
Automotive Lighting	7 July 2004 - 25 October 2007
Hella	1 January 2006 - 25 October 2007

2.3. Summary of the infringement

- (11) The decision covers the supply of automotive lighting systems ('Lighting Systems') in the EEA from 7 July 2004 to 25 October 2007 with variations regarding the start date for each party. The overall duration of the infringement is thus 3 years and 3 months.
- (12) The products concerned by the cartel are Lighting Systems, which include headlamps, daytime running lights, rear lights and high-mounted stop lamps, fog lights and auxiliary lights. Lighting Systems are sold by the suppliers to equip new vehicles or on aftermarket as spare/replacement parts. The cartel covered supplies of the Lighting Systems in the EEA on the original equipment spare parts ('OES') aftermarket, after the end of series production.
- (13) The cartel consisted of a series of anti-competitive contacts relating to price and certain other trading conditions. The collusive discussions concerned quoting and negotiation strategies, status of negotiations with customers regarding price increases, the position of the parties at individual customers regarding the OES pricing models, customer pricing requests as well as information exchange on the future outlook and trends in the OES industry.
- (14) Moreover, the parties agreed that they should aim for a price increase after the end of series production and coordinated on a target end of the contractual availability of the spare parts after the end of series production.
- (15) The cartel has mainly operated on the basis of bilateral contacts, however at least one multilateral contact was also organised. Geographically, the anti-competitive discussions took place in the EEA, mainly in France or Germany. Between 2004 and 2006, the parties progressively developed their anti-competitive contacts towards sales to all original equipment manufacturers ('OEM') which were customers of the parties in the EEA in 2007.

2.4. Addressees

- (16) The following legal entities are held liable by the Commission in the decision:
- (a) Valeo S.A., Valeo Service SAS and Valeo Vision SAS jointly and severally;
 - (b) Magneti Marelli S.p.A. and Automotive Lighting Reutlingen GmbH jointly and severally; and
 - (c) Hella KGaA Hueck & Co.

2.5. Remedies

- (17) The decision applies the 2006 Guidelines on Fines ⁽¹⁾.

2.5.1. Basic amount of the fine

- (18) In order to better reflect the actual impact of the cartel, a proxy for the annual value of sales (based on the actual value of OES Lighting Systems sales after the end of series production in the EEA, made by the undertakings in the relevant period of their participation in the infringements) is used as the basis for the calculation of the basic amount of the fines imposed.

⁽¹⁾ OJ C 210, 1.9.2006, p. 2.

- (19) Considering the nature of the infringement and its geographic scope (EEA), the percentage for the variable amount of the fines as well as the additional amount ('entry fee') is set at 16 % of the value of sales for the infringement.
- (20) The variable amount is multiplied by the number of years or by fractions of the year respectively of the parties' participation in the infringement in order to take fully into account the duration of the participation for each undertaking in the infringement individually. The Commission takes into account the actual duration of participation in the infringement of the parties on the basis of the full years, months and days.
- (21) Given that the scope of conduct in terms of the OEM customers affected gradually expanded from a number of OEMs to all OEMs which were customers of the parties in the EEA in 2007, three distinct groups of customers were identified for which the value of sales is calculated separately, applying distinct duration multipliers.

2.5.2. Adjustments to the basic amount

- (22) No aggravating or mitigating circumstances are applied in this decision. No deterrence multiplier is applied in this decision to any of the parties.

2.5.3. Application of the 10 % turnover limit

- (23) None of the fines calculated exceed 10 % of the respective undertaking's total turnover in the business year preceding the date of the Decision.

2.5.4. Application of the 2006 Leniency Notice: reduction of fines

- (24) Valeo was the first to submit information and evidence meeting the conditions of point 8(a) of the 2006 Leniency Notice and is thus granted immunity from fines.
- (25) Automotive Lighting was the first undertaking to meet the requirements of points 24 and 25 of the 2006 Leniency Notice and is granted a reduction of 35 % of the fine.
- (26) Hella was the second undertaking to meet the requirements of points 24 and 25 of the Leniency Notice and is granted a reduction of 20 % of the fine.

2.5.5. Application of the Settlement Notice

- (27) As a result of the application of the Settlement Notice, the amount of the fines imposed on Automotive Lighting and Hella is further reduced by 10 %.

3. CONCLUSION

- (28) The following fines were imposed pursuant to Article 23(2) of Regulation (EC) No 1/2003.
- (a) Valeo: EUR 0
- (b) Automotive Lighting: EUR 16 347 000
- (c) Hella: EUR 10 397 000
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