Opinion Of the Advisory Committee on restrictive agreements and dominant positions at its meeting on 5 July 2022 concerning a Draft Decision in Case AT.40522 – Metal Packaging

Meeting by Audio Conference – via ‘Skype for Business’

Rapporteur: The Netherlands

(2023/C 57/06)

1. The Advisory Committee (9 Member States) agrees with the Commission that the anticompetitive behaviour covered by the draft decision constitutes an agreement and/or concerted practice between undertakings within the meaning of Article 101 of the TFEU.

2. The Advisory Committee (9 Member States) agrees with the Commission that the object of the agreement and/or concerted practice was to restrict competition within the meaning of Article 101 of the TFEU.

3. The Advisory Committee (9 Member States) agrees with the Commission that the agreement and/or concerted practice was capable of appreciably affecting trade between the Member States of the EU.

4. The Advisory Committee (9 Member States) agrees with the Commission’s assessment as regards the duration of the infringement.

5. The Advisory Committee (9 Member States) agrees with the Commission that fines should be imposed on the addressees of the draft decision.

6. The Advisory Committee (9 Member States) agrees with the Commission on the application of the 2006 Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003. 8 Member States voted in favour. 1 Member State voted against.

7. The Advisory Committee (9 Member States) agrees with the Commission as regards the reduction of the fines based on the 2006 Leniency Notice and on the 2008 Settlement Notice.

8. The Advisory Committee (9 Member States) agrees with the Commission on the final amounts of the fines.

9. The Advisory Committee (9 Member States) recommends the publication of its Opinion in the Official Journal of the European Union.