



## Reports of Cases

### Judgment of the General Court (Seventh Chamber) of 29 November 2012 — CB v Commission

(Case T-491/07)

(Competition — Decision of an association of undertakings — Market for issuing payment cards in France — Decision finding an infringement of Article 81 EC — Tariff measures applicable to ‘new entrants’ — Membership fees and so-called ‘regulation of customer function’ and ‘sleeper member fee’ mechanisms — Relevant market — Object of the measures at issue — Restriction of competition by object — Article 81(3) EC — Manifest errors of assessment — Principle of sound administration — Proportionality — Legal certainty)

1. *Agreements, decisions and concerted practices — Concerted practice — Concept — Anti-competitive object or effect — Criteria for assessment — Application of the same criteria to an agreement, a decision or a concerted practice (Art. 81(1) EC) (see para. 63)*
2. *Agreements, decisions and concerted practices — Prohibition — Exemption — Conditions — Complex evaluation of economic matters — Discretion of the Commission — Judicial review — Limits (Art. 81(3) EC) (see paras 64, 278)*
3. *Agreements, decisions and concerted practices — Adverse effect on competition — Agreement intended to restrict competition — Simultaneous pursuit of legitimate objectives — No effect (Art. 81(1) and (3) EC) (see paras 73, 76, 77, 140, 141)*
4. *Agreements, decisions and concerted practices — Prohibition — Exemption — Conditions — Burden of proof — Scope — Examination by the Commission (Art. 81(3) EC) (see paras 74, 217, 274-277, 377)*
5. *Agreements, decisions and concerted practices — Prohibition — No rule of reason in Community competition law (Art. 81(1) and (3) EC) (see paras 86-88, 106, 157)*
6. *Acts of the institutions — Statement of reasons — Obligation — Scope — Decision to apply competition rules (Arts 81 EC, 82 EC and 253 EC) (see paras 99, 116)*
7. *Agreements, decisions and concerted practices — Definition of the market — Purpose — Assessment of the impact of the cartel on the operation of competition and trade between Member States — Consequences as regards the objections raised against the definition of the market (Art. 81(1) EC) (see para. 110)*

8. *Agreements, decisions and concerted practices — Adverse effect on competition — Types of agreement referred to in Article 8(1)(a) to (e) EC — List not exhaustive (Art. 81(1)(a) to (e) EC) (see paras 124, 146)*
9. *Agreements, decisions and concerted practices — Concerted practice — Adverse effect on competition — Criteria for assessment — Intention of the parties to an agreement to restrict competition — Unnecessary criterion — Such intention taken into account by the Commission or the EU judicature — Lawfulness (Art. 81(1) EC) (see paras 125, 251)*
10. *Agreements, decisions and concerted practices — Concerted practice — Concept — Anti-competitive object — Criteria for assessment — No anti-competitive effects on the market — No direct link between the concerted practice and consumer prices — Irrelevant (Art. 81(1) EC) (see paras 148, 232)*
11. *Competition — Administrative procedure — Bringing infringements to an end — Burdens imposed on undertakings — Compliance with the principles of proportionality and legal certainty (Art 81 EC; Council Regulations No 17, Art. 3(1) and No 1/2003, Art. 7(1) and (9)) (see paras 428, 430, 437-439, 443)*

**Re:**

APPLICATION for annulment of Commission Decision C(2007) 5060 final of 17 October 2007 relating to a proceeding under Article 81 EC (Case COMP/D1/38606 — Groupement des Cartes Bancaires ‘CB’).

## **Operative part**

The Court:

1. Dismisses the action;
2. Orders the Groupement des cartes bancaires ‘CB’ to bear its own costs and to pay those incurred by the European Commission;
3. Orders BPCE, BNP Paribas and Société Générale to bear their own costs.