



**Final Report of the Hearing Officer**  
**Case AT.40632 – Mondelez Trade Restrictions**

(C/2024/5550)

1. The draft decision, addressed to Mondelēz International, Inc., Mondelez Europe GmbH and Mondelez Middle East & Africa FZE (collectively 'Mondelēz' or 'the Parties'), finds that Mondelēz, at different periods between 18 December 2006 and 7 March 2020, engaged in 22 infringements of Article 101 of the Treaty and two infringements of Article 102 of the Treaty. The products that are the focus of the draft decision include various chocolate confectionery, biscuit and coffee products sold by Mondelēz under various brands.
2. The infringements are categorised as follows:
  - a) Agreements falling under Article 101 of the Treaty that had the object of preventing certain exclusive distributors from directly or indirectly making passive sales to customers outside their allocated sales territories without prior permission from Mondelēz;
  - b) Agreements falling under Article 101 of the Treaty that had the object of limiting the territories or customers to which certain brokers could sell Mondelēz's products;
  - c) Abuse of a dominant position falling under Article 102 of the Treaty by restricting parallel trade by a broker in order to prevent the decrease of prices in certain EU Member States;
  - d) Abuse of a dominant position falling under Article 102 of the Treaty by ceasing the supply of products in one Member State to prevent them from being imported into a neighbouring Member State.
3. On 28 January 2021, the Commission initiated proceedings pursuant to Article 11(6) of Council Regulation (EC) No 1/2003 <sup>(1)</sup> and Article 2(1) of Commission Regulation (EC) No 773/2004 <sup>(2)</sup> against Mondelēz.
4. On [...] <sup>(3)</sup>, Mondelēz submitted a formal offer entitled 'Settlement Submission' (the 'Submission'), to cooperate with the Commission in this case. The Submission contained:
  - a) an acknowledgement, in clear and unequivocal terms, of the Parties' joint and several liability for their participation in the infringements described in the Submission, as well as a description of the main facts, the products involved, the participating entities, the legal qualification and the duration of the infringements;
  - b) an indication of the maximum fine that Mondelēz would accept in the context of the cooperation procedure;
  - c) a statement that Mondelēz had been sufficiently informed of the objections the Commission envisages raising against it and that it had been given sufficient opportunity to make its views known to the Commission during their discussions;
  - d) statements that Mondelēz had been granted sufficient opportunity to access the evidence supporting the objections and all other documents in the Commission's file and that it did not envisage requesting further access to documents in the file or to be heard again in the form of an oral hearing, unless the Commission's conclusions set out in the Statement of Objections ('SO') did not reflect the contents of the Submission.

<sup>(1)</sup> Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1 of 4.1.2003, p. 1).

<sup>(2)</sup> 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).

<sup>(3)</sup> 'Parts of this text have been edited to ensure that confidential information is not disclosed. Those parts are replaced by a non-confidential summary in square brackets or are shown as [...].'

5. On 7 March 2024 the Commission adopted an SO addressed to Mondelēz. Mondelēz replied to the SO on 22 March 2024, reiterating its commitment to follow the cooperation procedure, confirming that the SO reflected the content of its Submission (subject to a small number of editorial comments) and confirming that it had had sufficient opportunity to access the Commission's file and that it did not wish to be heard again by the Commission.
6. The infringements found and the fines imposed in the decision correspond to those acknowledged and accepted in the Submission. The amount of the total fine is reduced by 15 % on the ground that Mondelēz has effectively cooperated with the Commission beyond its legal obligation to do so by acknowledging the infringements of Articles 101 and 102 of the Treaty arising from the conduct.
7. Pursuant to Article 16 of Decision 2011/695/EU <sup>(4)</sup>, I have examined whether the draft decision deals only with objections in respect of which Mondelēz has been afforded the opportunity of making known its views. I conclude that it does.
8. Overall, I consider that the effective exercise of procedural rights has been respected in this case.

Brussels, 16 May 2024.

Dorothe DALHEIMER

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<sup>(4)</sup> Decision of the President of the European Commission of 13 October 2011 on the function and terms of reference of the hearing officer in certain competition proceedings (2011/695/EU) (OJ L 275, 20.10.2011, p. 29).