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EUROPEISKA GEMENSKAPERNAS FÖRSTAINSTANSRÄTT

Press and Information

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Judgment of the Court of First Instance in Joined Cases T-109/02, T-118/02, T-122/02, T-125/02, T-126/02, T-128/02, T-129/02, T-132/02 and T-136/02

Bolloré SA, Arjo Wiggins Appleton Ltd, Mitsubishi HiTec Paper Bielefeld GmbH, Papierfabrik August Koehler AG, M-real Zanders GmbH, Papeteries Mougéot SA, Torraspapel SA, Distribuidora Vizcaína de Papeles SL and Papelera Guipuzcoana de Zicuñaga SA v Commission of the European Communities

THE COURT OF FIRST INSTANCE CONFIRMS IN SUBSTANCE THE COMMISSION'S DECISION CONCERNING A CARTEL ON THE CARBONLESS PAPER MARKET

However, the fine imposed on Zicuñaga is reduced from EUR 1.54 million to EUR 1.309 million and the fine imposed on Arjo Wiggins is reduced from EUR 184.27 million to EUR 141.75 million

By decision of 20 December 2001 the European Commission imposed fines totalling EUR 313.7 million on the ten undertakings concerned for their involvement in a price-fixing and market-sharing cartel in the carbonless paper sector which sought essentially to achieve concerted price increases. Sappi, the eleventh participant in the cartel, enjoyed total immunity, since it was the first undertaking to cooperate with the investigation and provided decisive evidence.

The ten companies brought actions against that decision before the Court of First Instance, seeking its annulment and/or a reduction in the fine. Following the liquidation of Carrs Paper, the Court of First Instance held, on 31 May 2006, that there was no need to give a ruling in that case (T-123/02).

In its judgment the Court rejects the applicants' arguments seeking annulment of the decision.

As regards the fines imposed, the Court holds that those imposed on two undertakings must be reduced and rejects the remainder of the applications for reduction.

Papelera Guipuzcoana de Zicuñaga, SA

The Court finds that the Commission failed to establish that Zicuñaga participated in market-sharing practices. It takes the view that such a factor must be taken into consideration when the gravity of the infringement is assessed and when the fine is determined. Since the Commission did not take account of that factor when determining the final amount of the fine imposed on Zicuñaga, the Court holds that Zicuñaga's final fine must be reduced by 15%. **The total amount of the fine is therefore reduced from EUR 1.54 million to EUR 1.309 million.**

Arjo Wiggins Appelton Ltd

The Court states that the evidence provided by AWA was of a similar quality to that provided by Mougeot. Even if, unlike AWA, Mougeot provided documents dating back to the material time and if, on certain points, its statements are more detailed, the information given by AWA relates to a longer period and covers a wider geographical area. Thus, the Court holds that AWA had to be granted the same reduction on account of its cooperation as Mougeot, namely 50%, instead of the 35% granted by the Commission. **The total amount of the fine imposed on AWA is therefore reduced from EUR 184.27 million to EUR 141.75 million.**

Company	Fine set by the Commission (EUR)	Fine imposed by the judgment of the Court of First Instance (EUR)
Arjo Wiggins Appleton	184 270 000	141 750 000
Bolloré	22 680 000	22 680 000
Carrs	1 570 000	No need to adjudicate
Divipa	1 750 000	1 750 000
Mitsubishi HiTec Paper Bielefeld	21 240 000	21 240 000
Zicuñaga	1 540 000	1 309 000
Mougeot	3 640 000	3 640 000
Koehler	33 070 000	33 070 000
Sappi	0	0
Torraspapel	14 170 000	14 170 000
Zanders	29 760 000	29 760 000
Total	313 690 000	270 939 000

REMINDER: An appeal, limited to points of law only, may be brought before the Court of Justice of the European Communities against a decision of the Court of First Instance, within two months of its notification.

Unofficial document for media use, not binding on the Court of First Instance.

Languages available: BG, CS, DE, EN, ES, FR, HU, IT, NL, PL, RO and SK

The full text of the judgment may be found on the Court's internet site

<http://curia.europa.eu/jurisp/cgi-bin/form.pl?lang=EN&Submit=rechercher&numaff=T 109/02>

It can usually be consulted after midday (CET) on the day judgment is delivered.

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