



Judgments in Cases T-375/06 Viega v Commission; T-376/06 Legris Industries v Commission; T-377/06 Comap v Commission; T-378/06 IMI and Others v Commission; T-379/06 Kaimer and Others v Commission; T-381/06 FRA.BO v Commission; T-382/06 Tomkins v Commission; T-384/06 IBP and International Building Products France v Commission; T-385/06 Aalberts Industries and Others v Commission; T-386/06 Pegler v Commission

Press and Information

The General Court cancels the fines imposed on certain undertakings for their participation in the cartel in the copper fittings sector

By decision of 20 September 2006¹, the Commission imposed fines totalling €314.76 million on 30 companies for having participated, over various periods between 31 December 1988 and 1 April 2004, in a cartel in the copper fittings sector. The infringement consisted, inter alia, in price-fixing, agreements on discounts and rebates, agreements on implementation mechanisms for introducing price increases, the allocation of national markets and of customers, the exchange of other commercial information and participation in regular meetings.

The Commission imposed the following fines:

- Viega GmbH & Co. KG: €54.29 million,
- Legris Industries SA: €46.80 million, of which €18.56 million was to be paid jointly and severally with Comap SA,
- IMI: €48.30 million, jointly and severally liable with:
 - Yorkshire Fittings, as to €9.64 million
 - VSH Italia, as to €0.42 million
 - Aquatis, as to €48.30 million
 - Simplex, as to €48.30 million
- FRA.BO SpA: €1.58 million,
- Advanced Fluid Connections: €18.08 million, of which €11.26 million was to be paid jointly and severally with IBP and €5.63 million with IBP France,
- Kaimer: €7.97 million, of which €7.97 million was to be paid jointly and severally with Sanha Kaimer and €7.15 million with Sanha Italia,
- Tomkins plc: €5.25 million, to be paid jointly and severally with Pegler,
- Aquatis and Simplex: €2.04 million,
- Aalberts: €100.80 million, of which €55.15 million was to be paid jointly and severally with Aquatis and €55.15 million with Simplex.

¹ Commission Decision C(2006) 4180 of 20 September 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F-1/38.121 – Fittings).

Some of these undertakings applied to the Court for annulment of the Commission's decision or reduction of their fines.

The Court rejects the arguments put forward by Viega, Legris Industries, Comap, IMI, FRA.BO and IBP and maintains the level of their fines. Nevertheless, the Court finds that, in the case of IBP, the Commission erred in finding the existence of an aggravating circumstance consisting of the provision of misleading information. However, that does not lead, in this instance, to an actual reduction in the amount of the fine. That reduction precedes the application of the 10%-of-total-turnover ceiling which the Commission is required to take into consideration for the purposes of determining the maximum amount of the fine.

With regard to the other undertakings, the Court cancels the fines imposed or reduces the amount.

As regards, on the one hand, **Kaimer, Sanha Kaimer and Sanha Italia** and, on the other, **Tomkins and Pegler** – Tomkins' subsidiary at the material time – the Court finds that the duration of their participation in the infringement is less than that determined by the Commission. Consequently, the Court reduces their fines. Accordingly, the fine imposed on Kaimer is set at €7.15 million, for which it is jointly and severally liable with Sanha Kaimer as to the whole amount and with Sanha Italia as to €6.33 million.

The fine imposed on Tomkins has been reduced because it was held liable only in its capacity as parent company for the participation of Pegler, its subsidiary, in the cartel. The Court considers that the liability of a parent company cannot exceed that of its subsidiary. Therefore, if there has been no infringement on the part of the subsidiary, there cannot be any imputation to the parent company of such conduct or any imposition of a fine, jointly and severally, on the parent company and its subsidiary.

In addition, as regards Pegler specifically, the Court also finds that the Commission was not entitled to apply a multiplier for deterrence when calculating the fine. Consequently, Tomkins' fine is set at €4.25 million, of which €3.40 million is to be paid jointly and severally with Pegler.

As regards **Aalberts, Aquatis and Simplex**, the Court finds that the Commission erred in taking the view that those undertakings had participated in the cartel during the period between 25 June 2003 and 1 April 2004. Consequently, the Court annuls the Commission's decision and cancels the fines imposed on those undertakings in that regard.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery

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