



General Court of the European Union

PRESS RELEASE No 60/13

Luxembourg, 17 May 2013

Judgments in Case T-146/09

Parker ITR Srl and Parker-Hannifin Corp. v Commission, Joined Cases
T-147/09 and T-148/09 Trelleborg Industrie SAS and Trelleborg AB v
Commission and Case T-154/09 Manuli Rubber Industries SpA (MRI) v
Commission

Press and Information

The General Court partially annuls the Commission's Decision relating to a cartel on the marine hoses market

The fine imposed on Parker ITR is reduced by €25.61 million to €6.40 million inasmuch as the Commission could not find that company liable for the whole duration of the infringement

By decision of 28 January 2009¹, the Commission found that 11 companies, including Parker ITR Srl (Parker ITR), Parker-Hannifin Corp. (Parker-Hannifin), Trelleborg Industrie SAS (Trelleborg Industrie), Trelleborg AB and Manuli Rubber Industries SpA (MRI) had participated in a cartel on the marine hoses market. The cartel, regarded by the Commission as having lasted from April 1986 to May 2007, had the objectives of the allocation of tenders, price-fixing, quota-fixing, the fixing of sales conditions, the sharing of geographic markets, and the exchange of sensitive information.

The Commission imposed a fine of €24.50 million on Trelleborg Industrie, for €12.20 million of which Trelleborg was jointly and severally liable. The fine imposed on Parker ITR amounted to €25.61 million, for €8.32 million of which Parker-Hannifin was jointly and severally liable. A fine of €4.90 million was imposed on MRI.

The five companies brought actions before the General Court seeking either the annulment of the Commission's Decision or a reduction in the fines imposed on them.

The Court partially annuls the Commission's Decision as regards Parker ITR and Parker-Hannifin and reduces the fines imposed on them. First, the Court holds that the Commission has not shown that there was a structural link between Parker ITR and the entity which preceded it and actually took part in the cartel. Secondly, the Court holds that it has not been proved that the transfer of Parker ITR was an abuse. Consequently, in accordance with the principle of personal liability, the Court annuls the Commission's Decision in so far as it found that the company had participated in the infringement in respect of the period before 1 January 2002. The Court **reduces the initial amount of the fine from €25.61 million to €6.40 million, for €6.30 million of which Parker-Hannifin must be held jointly and severally liable.**

As regards the action brought by Trelleborg Industrie and Trelleborg AB, the Court holds that the Commission erred in law in categorising their infringement as continuous. The Court holds that the Commission did not have any proof that those companies participated in the cartel during the intermediate period from May 1997 to June 1999. During that period the cartel's activity was reduced, or even non-existent, and in the absence of objective and consistent indicia that the applicants still intended to re-start that cartel or subscribe to its objectives, the Commission was not entitled to assume continued participation, even passive, on their part.

However, although the infringement committed by the companies cannot be categorised as continuing, the fact nonetheless remains that it is a repeated infringement. Furthermore, the Commission did not impose any fines for the intermediate period. The error made by the

¹ Commission Decision C (2009) 428 final of 28 January 2009 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/39406 – Marine hoses).

Commission as regards the continuing nature of the infringement did not therefore have any effect on the duration of the cartel which served as a basis in calculating the amount of the fine. Consequently, **the Court finds that there is no need to reduce the fine which was imposed on those two companies.**

As regards MRI, the Court partially annuls the contested decision inasmuch as the Commission did not follow its Guidelines in applying the rate of reduction of the fine imposed on the company for its cooperation. The Court finds in particular that neither the earliness of the company's cooperation nor the degree of added value of the evidence which it provided is reflected in the rate of reduction applied by the Commission in its decision. In such circumstances, the rate of reduction of the fine should have been 40% instead of the 30% applied by the Commission. However, on account of the gravity of the infringement and **the duration of MRI's participation, the Court holds that the amount of the fine is appropriate and that there is thus no need to reduce it.**

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 judgments ([T-146/09](#), joined cases [T-147/09 & T-148/09](#) and [T-154/09](#)) is published on the CURIA website on the day of delivery

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