



Press and Information

Court of Justice of the European Union

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Judgments in Cases C-446/11 P Commission v Edison SpA, C-447/11 P Caffaro Srl v Commission, C-448/11 P SNIA SpA v Commission, C-449/11 P Solvay Solexis SpA v Commission and C-455/11 P Solvay SA v Commission

The Court dismisses the appeals of the companies involved in the cartel on the market for bleaching agents

The fines imposed have therefore become definitive for those companies

Hydrogen peroxide is a strong oxidising agent which has several industrial applications. It is a clear, colourless liquid which is available commercially or used as a bleaching agent in the paper and textile industries, for disinfection and sewage treatment. Sodium perborate is mainly used as an active substance in synthetic detergents and washing powders.

Following a complaint lodged by the company Degussa in 2002, the Commission decided, in 2006, that nine companies had participated in cartels in the bleaching agents sector (hydrogen peroxide and sodium perborate). It therefore imposed fines totalling €388.13 million on seven of those companies¹.

The cartel consisted mainly of competitors exchanging confidential market and company information, limiting and controlling production, allocating market shares and customers and fixing and monitoring prices between 1994 and 2000.

The companies punished included the Italian company Edison SpA and its subsidiary Solvay Solexis SpA (called Ausimont SpA at the material time), the Italian company SNIA SpA and its subsidiary Caffaro SpA, the Belgian company Solvay SA, US company FMC Corporation and its Spanish subsidiary FMC Foret SA. The participation of the French company L'Air Liquide SA in the cartel had ended more than five years prior to the Commission's first investigative measures, so although it was among the addressees of the Commission's decision, it was not fined because the limitation period had expired.

Those companies brought actions before the General Court, which annulled the Commission's decision with respect to L'Air Liquide and Edison. The General Court also reduced the fine imposed on Solvay, so as to take account of the reduced period of its participation in the cartel, and because the information provided by Solvay was widely used in the Decision. However, it dismissed the actions brought by Solvay Solexis, SNIA and its subsidiary Caffaro, and by FMC Corporation and its subsidiary FMC Foret, maintaining the amounts of their fines^{2 3}.

Solvay, Caffaro, SNIA and Solvay Solexis then lodged various appeals before the Court of Justice in order to have the judgments of the General Court regarding those undertakings set aside. By a separate appeal, the Commission requested the Court of Justice to set aside the judgment of the General Court regarding Edison.

¹ Commission Decision C(2006) 1766 final of 3 May 2006 relating to a proceeding under Article 81 [EC] and Article 53 of the EEA Agreement (Case COMP/F/38.620 – Hydrogen peroxide and perborate) (OJ 2006 L 353, p. 54).

² Cases [T-185/06 L'Air Liquide SA v Commission](#), [T-186/06 Solvay SA v Commission](#), [T-191/06 FMC Foret SA v Commission](#), [T-192/06 Caffaro Srl v Commission](#), [T-194/06 SNIA SpA v Commission](#), [T-195/06 Solvay Solexis SpA v Commission](#), [T-196/06 Edison SpA v Commission](#), [T-197/06 FMC Corp. v Commission](#) (see also Press Release [No 61/11](#)).

³ Mention should also be made of Case [T-199/06 Akzo Nobel v Commission](#) removed from the Register of the General Court; Cases [T-191/06 FMC Foret v Commission](#), [T-197/06 FMC v Commission](#), and [T-189/06 Arkema](#) all of which were dismissed by the General Court; and Case [C-495/11 P Total and Elf Aquitaine v Commission](#), dismissed by Order.

By its judgments delivered today, the Court of Justice upholds the judgments of the General Court, essentially taking the view that the General Court did not err in law.

Consequently, the Court of Justice **has dismissed all the appeals** and **confirmed the fines as set by the General Court** in its judgments of 16 June 2011.

Companies	Commission (Fines)	General Court	Court of Justice
Degussa AG	0 (immunity)	/	/
L'Air Liquide SA (France)	0 (expiry of limitation period)	Annulment of the Commission's decision with respect to L'Air Liquide SA (T-185/06)	/
Solvay SA (Belgium)	€167.062 million	Reduction of the fine to €139.50 million (T-186/06)	Dismissal (C-455/11)
Edison SpA and subsidiary Solvay Solexis SpA (formerly Ausimont) (Italy)	Edison SpA: €58.125 million (of which €25.619 million jointly and severally with Solvay Solexis SpA)	Annulment of the Commission's decision with respect to Edison SpA and dismissal of the action brought by Solvay Solexis SpA (T-196/06 and T-195/06)	Dismissal Solvay Solexis (C-449/11 P)
SNIA SpA and subsidiary Caffaro Srl (Italy)	€1.078 (jointly and severally)	Dismissal of the actions (T-194/06 and T-192/06)	Dismissal SNIA (C-448/11 P) Caffaro (C-447/11 P)
FMC Foret SA (Spain) and FMC Corporation (United States)	€25 million (jointly and severally)	Dismissal of the actions (T-191/06 and T-197/06)	/
Akzo Nobel NV, Akzo Nobel Chemical Holding AB and EKA Chemicals AB	€25.2 million (jointly and severally)	Removal from the register (T-199/06)	/
Arkema SA, TOTAL SA and Elf Aquitaine SA	Arkema SA: €78.663 million (of which €42 million jointly and severally with TOTAL SA and €65.1 million jointly and severally with Elf Aquitaine SA)	Dismissal <i>Arkema v Commission:</i> (T-189/06) <i>Total and Elf Aquitaine v Commission</i> (T-190/06)	Dismissal <i>Total and Elf Aquitaine</i> (C-495/11 P)
Kemira OYJ	€33 million	/	/

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

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The full texts of the judgments ([C-446/11 P](#), [C-447/11 P](#), [C-448/11 P](#), [C-449/11 P](#), and [C-455/11 P](#)) are published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355