



Press and Information

General Court of the European Union

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Judgments in Cases T-82/13 Panasonic Corp. and MT Picture Display Co. Ltd v Commission, T-84/13 Samsung SDI Co. Ltd and Others v Commission, T-91/13 LG Electronics, Inc. v Commission, T-92/13 Koninklijke Philips Electronics NV v Commission and T-104/13 Toshiba Corp. v Commission

The General Court reduces the fines imposed by the Commission on Panasonic and on Toshiba for their participation in a cartel on the European market for tubes for television sets

However, it confirms the fines imposed on the other members of the cartel

By decision of 5 December 2012,¹ the Commission imposed fines totalling approximately €1.47 billion on seven undertakings which participated in one or two separate cartels on the market for cathode ray tubes ('CRTs') between 1996/1997 and 2006.

A CRT is an evacuated glass envelope containing an electron gun and a fluorescent screen. At the material time, there were two different types of CRT: colour display tubes for computer monitors ('CDTs') and colour picture tubes for television sets ('CPTs'). They were essential components to produce a computer monitor or a colour television and came in a number of different sizes.

Those types of CRT were the subject of two infringements, namely a CDT cartel and a CPT cartel, each giving rise to multilateral and bilateral meetings and to other information exchanges. The CDT-related contacts began in 1996, whereas those concerning CPTs took place from 1997, first in the context of the CDT cartel and subsequently by specific meetings. The meetings were held regularly at various levels of the undertakings and at various places in Europe and in Asia in an interconnected fashion. The cartels consisted, in essence, of price fixing, market and customer sharing and output limitations; moreover, the implementation of the agreements on those measures was regularly monitored. Furthermore, the participating undertakings regularly exchanged commercially sensitive information.

In view of their participation in two separate infringements, which each constituted a single and continuous infringement, the Commission found that the main global producers of CRTs had infringed the rules of EU law which prohibit cartels.

Five undertakings and their subsidiaries involved in those cartels in essence asked the General Court to annul the decision or, alternatively, to reduce the fines imposed on them.

In its judgments today, the Court rejects in their entirety the actions brought by Samsung SDI,² LG Electronics and Philips.³

However, the Court upholds certain pleas and arguments raised by Panasonic and Toshiba and by MTPD, their common subsidiary at the material time.⁴

¹ Commission Decision C(2012) 8839 final of 5 December 2012 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case COMP/39.437 — TV and Computer Monitor Tubes).

² Samsung SDI Co. Ltd, and Samsung SDI (Malaysia) Berhad ('Samsung SDI') are jointly and severally liable for the fines imposed. Since Samsung SDI Germany, which is jointly and severally liable with Samsung SDI in relation to the infringements found on the CPT market, was dissolved in 2014, the Court held that there was no longer any need to rule on the action in so far as it concerned that company.

³ Koninklijke Philips Electronics NV ('Philips').

⁴ On 31 March 2003, Panasonic Corp., at the material time Matsushita Electric Industrial Co. Ltd ('Panasonic'), and Toshiba Corp. ('Toshiba') transferred their entire CRT business to a joint venture, MT Picture Display Co. Ltd, at the

In that regard, within the context of the action brought by Panasonic and MTPD, the Court considers that, since the Commission had data more accurately reflecting the value of sales linked to CPTs incorporated within the same group in a finished product and then sold in the European Economic Area ('direct EEA sales through transformed products') — that data having been provided by the two undertakings in response to a request for information and not having been contested by the Commission —, the Commission departed from its guidelines without providing any justification. The two undertakings concerned had suggested that, rather than using the average of the value of direct EEA sales in the same period, multiplied by the number of CPTs concerned, the Commission should take into account the weighted average of the CPTs associated with those sales, in terms of their actual size and the period concerned. The Court thus reduces the fine imposed on Panasonic for its direct participation from € 157.5 million to € 128.9 million, the fine imposed jointly and severally on Panasonic and MTPD from € 7.9 million to € 7.5 million and, lastly, the fine jointly and severally borne by Panasonic, Toshiba and MTPD from € 86.7 million to € 82.8 million.

In addition, the Court annuls the Commission Decision in so far as it imposes a fine of € 28 048 000 on Toshiba for its direct participation in the infringement. In that regard, the Court considers that it has not been established to the requisite legal standard that the undertaking in question was aware or had actually been kept informed of the existence of the overall CPT cartel and that it intended to contribute by its own conduct to all the common objectives pursued by the participants in the cartel or that it could reasonably have foreseen those objectives and was prepared to take the risk. Accordingly, Toshiba cannot be regarded as having participated in the single and continuous infringement, as regards the period from 16 May 2000 until the creation of MTPD on 31 March 2003.

Ultimately, the amounts of the fines imposed are the following:

Groups of undertakings	Fine imposed by the Commission	Fine as set by the Court
Chunghwa ⁵	€ 0	Not called into question before the Court
Samsung SDI	<u>CPT</u> : € 81 424 000 <u>CDT</u> : € 69 418 000	Unchanged
Philips	<u>CPT</u> : € 240 171 000, individually, and € 322 892 000, jointly and severally with LG Electronics ⁶ <u>CDT</u> : € 73 185 000, individually, and € 69 048 000, jointly and severally with LG Electronics	Unchanged
LG Electronics	<u>CPT</u> : € 179 061 000, individually, and € 322 892 000, jointly and severally with Philips ⁶ <u>CDT</u> : € 116 536 000, individually, and € 69 048 000, jointly and severally with Philips	Unchanged

material time Matsushita Toshiba Picture Display Co. Ltd ('MTPD'). Until 31 March 2007, MTPD was held as to 64.5% by Panasonic and as to 35.5% by Toshiba; on that date Toshiba transferred its shareholding to Panasonic and MTPD thus became its wholly owned subsidiary.

⁵ Chunghwa Picture Tubes Co. Ltd ('Chunghwa') benefited from immunity within the meaning of the Commission Notice on immunity from fines and reduction of fines in cartel cases (OJ 2006 C 298, p. 17).

⁶ By an agreement concluded on 11 June 2001 with effect from 1 July 2001, Philips and LG Electronics merged their worldwide CRT activities in a joint venture, the LPD group, headed by LG Philips Displays Holding BV. On 30 January 2006, LPD Holding was declared bankrupt.

Panasonic (and MTPD)	<u>CPT</u> : € 157 478 000, individually, € 7 885 000, jointly and severally with MTPD, and € 86 738 000, jointly and severally with MTPD and Toshiba	<u>CPT</u> : € 128 866 000, individually, € 7 530 000, jointly and severally with MTPD, and € 82 826 000, jointly and severally with MTPD and Toshiba
Toshiba	<u>CPT</u> : € 28 048 000, individually, and € 86 738 000, jointly and severally with Panasonic and MTPD	<u>CPT</u> : € 82 826 000, jointly and severally with Panasonic and MTPD
Technicolor	<u>CPT</u> : € 38 631 000	Not called into question before the Court

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 EU 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-82/13](#), [T-84/13](#), [T-91/13](#), [T-92/13](#), [T-104/13](#)) is published on the CURIA website on the day of delivery

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