



Press and Information

General Court of the European Union

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Judgments in Cases T-758/14 Infineon Technologies AG v Commission and
T-762/14

Koninklijke Philips NV and Philips France v Commission

The General Court dismisses the actions of Philips and Infineon in the smart card chip market cartel

By decision of 3 September 2014,¹ the Commission imposed fines totalling approximately €138 million on four companies² for having coordinated, from 2003 to 2005, their conduct on the smart card chip market in the European Economic Area (EEA). The cartel functioned through a network of bilateral contacts and exchanges among the undertakings of commercially sensitive information relating in particular to prices.

In April 2011, the Commission initiated settlement discussions with Renesas, Samsung and Philips. Those discussions were discontinued in October 2012.

As regards the calculation of the fine, Renesas was granted immunity for having informed the Commission of the existence of the cartel. Infineon obtained a reduction of 20% because its participation was limited to the arrangements with Samsung and Renesas, while Samsung obtained a reduction of 30% for having provided information with significant added value. The Commission thus imposed a fine of €82 784 000 on Infineon and €20 148 000 on Phillips, those undertakings having received no reduction in the fine under the Leniency Notice.³

Infineon and Philips brought actions before the General Court of the European Union seeking the annulment of the Commission's decision. Those undertakings contest, in essence, firstly, the existence of a cartel, and, secondly, the amounts of the fines imposed on them.

In today's judgments, **the Court dismisses the actions and upholds the fines imposed on Infineon and Philips by the Commission.**

The Court states that the Commission was correct to find that Philips and Infineon had participated in anticompetitive practices. In Infineon's case, even if it is not liable for the infringement as a whole, it must be held liable for the infringement to the extent that it engaged in unlawful contacts with Samsung and Renesas.

Moreover, the Court points out that a concerted practice must have as its object or effect the prevention, restriction or distortion of competition in the internal market. However, certain types of coordination between undertakings reveal a sufficient degree of harm to competition that there is no need to examine their effects. The Court therefore upholds the Commission's analysis by finding that an information exchange on prices and aimed, in essence, at slowing down the price decrease on the smart card chip market was, in the light of the economic and legal context of that market, anticompetitive by reason of its very object, **without there being any need to analyse the effects of the practices in question on the market.**

¹ Commission Decision C(2014) 6250 final of 3 September 2014 relating to proceedings under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39574 — Smart Card Chips).

² Namely (1) Infineon Technologies, (2) Koninklijke Philips Electronics and its subsidiary Philips France SAS, (3) Samsung Electronics and Samsung Semiconductor Europe and (4) Renesas Electronics which succeeded Renesas Technology and Renesas Electronics Europe.

³ Commission Notice on immunity from fines and reduction of fines in cartel cases (OJ 2006 C 298, p. 17).

The question of Samsung's credibility and of the reliability of the evidence submitted by it was raised by both Infineon and Philips. The Court points out in that regard that, **although some caution as to the evidence provided by undertakings applying for leniency is called for, seeking to benefit from the application of the Leniency Notice in order to obtain a fine reduction does not necessarily create an incentive to submit distorted evidence**, and nor does it make such evidence less probative than information provided voluntarily by an undertaking. Consequently, the Court takes the view that the documentary and witness evidence in the Commission's possession was sufficiently credible to substantiate the finding of a cartel.

In terms of the **amount of the fine**, the Court upholds the fine of €82 784 000 imposed on Infineon and that of €20 148 000 imposed on Philips, as well as the application of the 16% multiplier for gravity. **Moreover, the Court states that, since the undertakings did not put forward any arguments establishing that the Commission erred in calculating those fines, it cannot substitute its appraisal for the Commission's by cancelling or reducing the fine in the exercise of its unlimited jurisdiction.** As for the reduction of 20% granted to Infineon (a reduction which Infineon deems insufficient), the Court rejects the argument that the Commission infringed the principle of proportionality. Although it is true that Infineon received the heaviest fine even though it was the least involved in the cartel, it had a much higher turnover than the other undertakings.

Furthermore, **the Court found irregularities in the procedure.** However, **since it was not established that the contested decision would have been different, those irregularities have not led the Court to annul the contested decision.**

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 texts](#) of the judgments [T-758/14](#) and [T-762/14](#) are published on the CURIA website on the day of delivery

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