



The Court upholds the fines imposed on Samsung SDI and Samsung SDI (Malaysia) for their participation in the cartel on the market for tubes for television sets and for computer monitors

By decision of 5 December 2012,¹ the Commission imposed fines totalling approximately €1.47 billion on seven undertakings which had 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 for the production of computer monitors or colour televisions 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. The cartels consisted, in essence, of price-fixing, market- and customer-sharing and output limitations. Furthermore, the participating undertakings regularly exchanged commercially sensitive information.

Samsung SDI participated in the two cartels directly and through its subsidiary Samsung SDI (Malaysia) (Samsung SDI also participated in the CPT cartel through another of its subsidiaries, Samsung SDI Germany). The Commission therefore imposed a fine of €69 418 000 jointly and severally on Samsung SDI and Samsung SDI (Malaysia) in the context of the CDT cartel. Furthermore, in the context of the CPT cartel, the Commission imposed a fine of €81 424 000 jointly and severally on Samsung SDI, Samsung SDI (Malaysia) and Samsung SDI Germany.

The three undertakings brought an action before the General Court for the annulment of the Commission's decision on the infringement in relation to CPTs and for the reduction of their fines for the infringements in relation to CPTs and to CDTs. By judgment of 9 September 2015,² the General Court rejected the action and, consequently, upheld the fines imposed on the three companies.³

Samsung SDI and Samsung SDI (Malaysia) then brought an appeal before the Court of Justice, asking the Court to set aside the judgment of the General Court and to annul the fines imposed.

By today's judgment, **the Court dismisses the appeal and confirms the fines imposed jointly and severally on Samsung SDI and Samsung SDI (Malaysia)** ('Samsung').

In the context of the CPT cartel, the Court considers that the General Court gave sufficient reasons for the rejection of Samsung's argument that the sales of products which had not been the subject of the CPT cartel should have been excluded from the calculation of the fine. The General Court

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 Case: [T-84/13 Samsung SDI and Others v Commission](#), see also Press Release No [97/15](#).

³ Samsung SDI Germany was dissolved on 1 August 2014. The General Court therefore considered that there was no need to rule on the action in so far as it concerned that company.

was entitled to reject that argument on the ground that ‘all CPTs were the subject of collusive contacts which constituted a single and continuous infringement’. Moreover, the Court confirms the General Court’s analysis that there was a link of complementarity between the various instances of conduct in question and that they formed part of an overall plan, with the result that the Commission was entitled to characterise them as a single infringement.

In addition, Samsung argues that it was discriminated against vis-à-vis other participants in the cartel on which certain fines were not imposed. The Court nevertheless holds that the General Court did not err in law in implementing the principle of equal treatment. In that context, it points out that an undertaking on which a fine has been imposed for its participation in a cartel cannot request the annulment or reduction of that fine on the ground that another participant in the same cartel was not penalised in respect of a part, or all, of its participation in that cartel.

As regards the CDT cartel, Samsung submits that the General Court erred in law by taking into account, in the calculation of the fine, the value of sales negotiated in South Korea of goods delivered within the EEA. The Court notes that, according to the General Court’s own findings, the place of delivery had a real impact on the level of sales made by Samsung. Although the prices and quantities of CDTs to be supplied were negotiated in South Korea, the CDTs were delivered directly from the warehouses of Samsung SDI in the EEA to the warehouses of Samsung Electronics, also located in the EEA. Consequently, the Court holds that the General Court did not err in law in considering that, in order to determine the amount of sales within the EEA, it was necessary to take account of all deliveries made in the EEA, even if those sales were negotiated outside the EEA.

As regards the reduction of the fine, the Court notes that it is not for it, when ruling on questions of law in the context of an appeal, to substitute its own assessment for that of the General Court on the amount of fines imposed on undertakings for infringements of EU law, unless the Court considers that the level of the fine is inappropriate and excessive to the point of being disproportionate. That is not the case here.

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 text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Holly Gallagher 📞 (+352) 4303 3355