French Competition Authority Imposes Fines of nearly € 1 Billion to Sanction Concerted Practices Between Home and Personal Care Products Manufacturers

On 18 December 2014, the Autorité de la concurrence (the Autorité) issued a decision fining home care and personal care manufacturers respectively € 345,2 million and € 605,9 million, for having implemented concerted practices by which they coordinated their commercial practices towards supermarkets on both markets. The sanctioned practices took place between 2003 and 2006.

The fines imposed are the highest ever imposed by the Autorité.

A cartel uncovered as a result of the leniency program

The Autorité was informed of the existence of these concerted practices by three leniency applicants, SC Johnson, Colgate-Palmolive and Henkel.

This decision concerns two markets. Firstly, it concerns the market for home care products (on which are active the following companies: Colgate-Palmolive, Henkel, Unilever, Procter & Gamble, Reckitt Benckiser, Sara Lee, SC Johnson and Bolton Solitaire) and secondly, the market for personal care products (on which the following companies are active: Colgate-Palmolive, Henkel, Unilever, Procter & Gamble, Reckitt Benckiser, Sara Lee, Laboratoires Vendôme, Gilette, L’Oréal, Beiersdorf, Vania).

The Autorité found that, on both markets, the undertakings were sharing confidential information and discussing pricing policies, in the context of regular and secret meetings aimed at coordinating their commercial policies.

Their exchanges concerned initial prices increases, variation of price reduction and rebates, evolution of remuneration for commercial cooperation services, contractual terms and conditions, and global turnovers. The information exchanged concerned purely internal matters and covered both past and “future” data. These practices aimed to bring the suppliers’ negotiating positions closer during the talks held with retail distributors. Thanks to the shared information, suppliers were able to adapt their proposals knowing that they would never find themselves disadvantaged during negotiations with distributors. The practices led to the development of a common bargaining strategy, including the preparation of common justifications for the price increases.

Moreover, information was shared amongst the participants to control potential deviation from the agreed strategy.

Anti-competitive practices which distorted the operation of the market
The Autorité found that these concerted practices distorted negotiations with the distributors to the benefit of the suppliers and allowed the maintenance of artificially high selling prices to retailers. In 2006, participants to the negotiations passed through high price increases in the range of 4% to 6%. The economic harm was all the greater as the markets concerned count just a few players offering products which constitute an unavoidable expenditure to a large number of consumers.

All three leniency applicants received either immunity or a fine reduction. SC Johnson received full immunity. Colgate-Palmolive was not imposed any fine for its participation to the concerted practices in the personal care market and benefitted from a 50% fine reduction for its participation in the infringement on the market for home care products. Henkel benefitted from 30% and 25% reductions in fine for its participation, respectively, in the personal care and home care infringements. Finally, several undertakings (Unilever, Johnson & Johnson, Henkel, Reckitt Benckiser, Colgate-Palmolive, Procter & Gamble and Beiersdorf) benefitted from reductions in the range of 16% to 18% for not challenging the objections and offering the commitment to set up compliance programs.

More information available here:

- Press release in English
- Full text of the decision in French

Authority:
France - Autorité de la concurrence

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