

Cartels – Fined for ‘Stealing’ From Customers & Bathrooms Flushed-Out

The European Commission (‘the Commission’) recently fined seventeen steel producers across Europe a total of 518 million euros for their involvement in a price fixing cartel. The Commission found that cartel members had conspired to fix the level of prices of prestressing steel and had allocated customers across the European Union amongst themselves. The staggering fact, however, is that the cartel had been in operation for nearly twenty years! Indeed, it only came to light when one of the companies involved approached the Commission for immunity.

With prestressing steel being a key element in the construction industry, used to reinforce concrete for foundations, beams and so on, the effects of this cartel will have been felt right across the EU construction industry. Its control of the market cannot be understated – indeed the EU Competition Commissioner, Joaquin Almunia, described the cartel as being “as if they were acting in planned economy”.

The severity and duration of the cartel is reflected in the level of the fine. Whilst the United Kingdom, Ireland and Greece appear to fall outwith the cartel’s direct clutches, it will no doubt have impacted on businesses based in these jurisdictions. The Commission have had cause to consider the EU steel industry in the past and this is another example of entrenched anti-competitive practices in the industry.

The key point to take from this case is that the offer of immunity is a very attractive proposition for cartel members and a key weapon in the fight against cartels. This cartel of seventeen members was clearly a tight group which had operated beneath the surface for a significant time period. The promise of full immunity for the first to confess, however, was clearly sufficient incentive for one member to break ranks and expose the cartel. If this incentive was not available, perhaps the cartel may have continued to operate quite happily for another twenty years!

This follows another recent significant action by the European Commission who fined seventeen manufacturers of bathroom equipment a total of 622 million euros for engaging in an illegal price fixing cartel. In this instance, over a twelve year period, the seventeen companies (Artweger, Cissal, Dombracht, Duravit, Duscholux, Grohe, Hansa, Ideal Standard, Kludi, Mamoli, Masco, RAF, Roca, Sanitec, Teorema, Villeroy & Boch and Zucchetti) fixed the prices of baths, sinks, taps and other bathroom equipment across Austria, Belgium, France, Germany, Italy and the Netherlands, harming businesses such as builders and plumbers – and ultimately also consumers.

US Company Ideal Standard was hit with the highest fine (326 million euros), with German company Villeroy & Boch subject to the second highest fine (71.5 million euros), whilst US company Masco was awarded financial immunity because it was the first of the seventeen companies to “blow the whistle” on the cartel. Although the fines imposed are significant, the Commission actually reduced the fines it imposed on five of the companies involved due to their “likely inability to pay the fine given their financial situation”. Joaquin Almunia stressed that the objective of anti-cartel enforcement was not to force companies in financial difficulty out of business. Other fines, including that imposed on Ideal Standard, were reduced because of the co-operation of the companies during the investigations.

So whilst the Commission continues its crusade against anti-competitive agreements in the European Union, it is perhaps showing its softer side by affording a degree of leniency to those companies hit by the financial difficulties of the global recession. That said – a fine of 326 millions euros is by no means insignificant!

Given the complexities involved, immediate specialist legal help is imperative when companies are dealing with the competition authorities in relation to any cartel investigations and leniency applications, to ensure that their interests are fully protected. Companies should also consider compliance training to help educate their staff and comply with rules, as this is regarded favourably by the competition authorities and its cost is significantly less than any potential penalty.

David Flint, Partner, Compliance & Regulatory Group at MacRoberts LLP. Email david.flint@macroberts.com

This article featured in the Summer 2010 issue of Urban Realm

[See our website for full Copyright notice and Disclaimer.](#)

© MacRoberts LLP 2010