

The Belgian Competition Authority imposes fines amounting to 3.857.000 EUR for price-fixing in the sector of industrial batteries

The Investigation and Prosecution Service of the Belgian Competition Authority sanctions 6 companies for price-fixing by applying an agreed lead surcharge to the selling prices of motive power batteries of their clients from 2004 till 2014 in Belgium and imposes fines amounting to 3.857.000 EUR.

These practices are contrary to Article IV.1 of the Code of Economic Law and to Article 101 TFEU.

Companies involved

The 6 companies concerned are Battery Supplies, Celectric, Emrol, Enersys, Exide Technologies and Hoppecke. All companies are operational in Belgium.

All companies under investigation have agreed to the settlement.

Description of the infringement

Lead is one of the key components and a major cost factor of industrial batteries, among them motive power batteries. Late 2003 the short term lead price has soared. This sudden price increase has caused the undertakings concerned (except Emrol) to instate multilateral meetings to discuss the situation with each other. The discussions culminated in agreements relating to a common lead surcharge which was applied to the selling prices of motive batteries of their clients in Belgium. In essence the lead surcharge is the fee calculated on top of the net price of a motive power battery, in order to adjust the selling price to the evolution of the lead price.

The above mentioned undertakings held from 2004 until 2011 quarterly meetings (Emrol entered the cartel late 2009) in order to agree on the applicable lead surcharge. The meetings took place in pubs, in hotels, or in the offices of one of the parties. Afterwards parties exchanged the applicable lead surcharge for the coming quarter only via e-mail.

A practice detected thanks to the leniency program

The practice at issue was denounced late 2013 by Exide Technologies that benefits of a full immunity in this case. Subsequently Hoppecke, Battery Supplies and Enersys also applied for leniency and were granted a reduction of the otherwise applicable fines. During this enquiry 3 natural persons applied for an immunity from prosecution which was granted.

Sanctions

As part of the settlement procedure, the parties have acknowledged their involvement in the infringement as set out in the decision, as well as the sanction imposed on them. For that reason they were granted a 10% reduction of the fine.

Details of the fines are as follows:

Companies	Reduction under the leniency program	Amount in EUR (after reduction of 10% for settlement)
Battery Supplies	20%	517.000
Celectric		71.000
Emrol		241.000
Energys	30%	1.798.000
Exide Technologies	100%	0
Hoppecke	40%	1.230.000

Procedural background

Following the leniency application of Exide Technologies, the Investigation and Prosecution Service has opened an investigation and carried out inspections in April 2014 at Battery Supplies, Emrol, Energys and Hoppecke Belgium.

Early September 2015 the competition prosecutor in charge of the case finalised its investigation and communicated its objections to the parties, after they had indicated their willingness to enter settlement discussions.

The settlement procedure is a new tool that the Code of Economic Law has given to the Investigation and Prosecution Service in order to simplify and expedite the procedure leading to the adoption of an infringement decision. In this case the Investigation and Prosecution Service concluded its proceedings less than 2 years after the dawn raids.

The settlement decision cannot be appealed.

The settlement decision is available on the website of the Belgian Competition Authority (www.belgiancompetition.be)

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The Belgian Competition Authority (BCA) is an independent administrative authority that contributes to the definition and implementation of competition policy in Belgium. Concretely, the BCA pursues anti-competitive practices, such as cartels and abuses of a dominant position, and reviews the main merger operations. The BCA cooperates with the other competition authorities of the member states of the European Union and the European Commission within the European Competition Network (ECN)