

Summary of Commission Decision
of 11 March 2008
relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement
(Case COMP/38.543 — International removal services)

(Only the English, French and Dutch texts are authentic)

(Text with EEA relevance)

(2009/C 188/07)

I. INTRODUCTION

1. On 11 March 2008 the Commission adopted a decision relating to a proceeding under Article 81 of the EC Treaty and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 ⁽¹⁾, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed.

II. CASE DESCRIPTION

1. Procedure

2. This case started as an ex-officio investigation with dawn raids on 16 and 17 September 2003 at the premises of Allied Arthur Pierre NV, Interdean NV and Transworld International NV and on 16 to 18 September 2003 at Ziegler SA in Belgium. Several written price-fixing agreements and many other documents proving indirect price fixing in the form of so-called 'commissions', as well as bid rigging and sharing of customers, were found. The evidence indicated that in total nine undertakings were involved in the cartel and that the cartel was functioning from October 1984 to early 1990 and from April 1997 to September 2003.
3. The Statement of Objections was adopted on 18 October 2006 and notified to 32 addressees between 20 and 23 October 2006.
4. A hearing was held on 22 March 2007.
5. A letter of facts was sent on 23 August 2007 to all the parties indicating that the Commission intended to use this evidence against Allied Arthur Pierre NV, Interdean NV and Ziegler SA.
6. The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 18 February and 7 March 2008.

2. Summary of the infringement

7. The cartel concerns the provision of international removal services in Belgium. These include the international removal of goods of both natural persons — private individuals or employees of an undertaking or a public institution — and of undertakings or public institutions. Such international removals can be from Belgium to another country or from another country to Belgium. The distinguishing feature is that Belgium is either the starting place or the destination.
8. The decision concludes that 10 undertakings, namely Allied Arthur Pierre NV, Compas International NV, Gosselin Group NV, Interdean NV, Mozer Moving International SPRL, Putters International NV, Team Relocations NV, Transworld International NV, Verhuizingen Coppens NV and Ziegler SA operated a cartel in the market for international removal services in Belgium by fixing prices and sharing the market from 4 October 1984 to 10 September 2003. They agreed on prices, allocated removal contracts between themselves by way of bid rigging in the form of bogus quotes called 'cover quotes' and benefited from a system of financial compensation called 'commissions'. These commissions were a hidden element of the final price that the consumer had to pay. The individual involvement of the participants in the cartel varied in length from 3 months to more than 18 years.

3. Addressees

9. The addressees of the decision are the 31 legal entities forming part of the 10 participating undertakings listed in paragraph 21, it being they that participated in the cartel or are liable for such participation.
10. The liability of parent companies for their subsidiaries which participated in the cartel is based on the consideration that they are part of the same undertaking within the meaning of Article 81 of the Treaty and Article 53 of the EEA Agreement. All the parent companies own directly or indirectly 100 % (or almost 100 %) of the capital of their subsidiary/subsidiaries. It can therefore be presumed that the parent companies exercised decisive influence over the commercial policy of their subsidiary/subsidiaries. The decision finds that this presumption has not been rebutted by any of the parent companies.

⁽¹⁾ OJ L 1, 4.1.2003, p. 1. Regulation as last amended by Regulation (EC) No 1419/2006 (OJ L 269, 28.9.2006, p. 1).

4. Remedies

11. The basic amount of the fine is determined as follows: a proportion, depending on the degree of gravity of the infringement, of the value of the sales of the relevant service made by each undertaking in the relevant geographic area during the last full business year of its participation in the infringement ('variable amount'), is multiplied by the number of years of participation by the undertaking in the infringement, plus an additional amount ('entry fee'), also calculated as a proportion of the value of sales, in order to deter horizontal price-fixing, market-sharing and output-limitation agreements⁽¹⁾.
12. The factors taken into account in the present case in order to determine these proportions are related to the nature of the infringement (price fixing, market sharing and bid rigging). The decision applies in this case a variable amount of 17 % and an entry fee of 17 %.
13. The variable amount is multiplied for each undertaking by the number of years of its participation in the infringement; this number ranges from 0,5 to 19 in the present case.
14. There are no aggravating circumstances to be taken into account in the present case.
15. A number of parties have argued for the application of a series of mitigating circumstances such as limited involvement in the infringement, effective cooperation with the Commission outside the scope of the Leniency Notice and anticompetitive behaviour authorised or encouraged by public authorities. These claims are all rejected in the decision.
16. The amount of the fine imposed on certain undertakings is limited by the ceiling of 10 % of their total turnover in the preceding business year (see Article 23(2) of Council Regulation (EC) No 1/2003).
17. The decision grants Allied Arthur Pierre NV a 50 % reduction of its fine. The reduction takes account of the significant added value which the evidence transmitted by that undertaking represents.
18. The decision concludes that, pursuant to the last paragraph of point 23 of the 2002 Leniency Notice, Allied Arthur Pierre NV will not be fined for the period before April 1997.
19. Five undertakings applied for a reduction of their fine on grounds of their inability to pay under paragraph 35 of the Guidelines. The decision concludes that these applications must be rejected.
20. In this case, the decision takes into account the specific circumstances concerning the individual situation of Interdean NV and its parent companies. The decision accordingly grants Interdean NV a 70 % reduction of its fine.

III. DECISION

21. The addressees of the decision are 31 legal entities forming part of the 10 undertakings which infringed Article 81(1) of the Treaty and Article 53(1) of the EEA Agreement by directly and indirectly fixing prices for international removal services in Belgium, sharing part of the market, and manipulating the procedure for the submission of bids during the periods indicated:
 - (a) Allied Arthur Pierre NV, from 4 October 1984 to 9 September 2003; with Exel Investments Limited, Exel International Holdings Limited, Realcause Limited, Exel International Holdings (Netherlands I) BV, Exel International Holdings (Netherlands II) BV and Exel International Holdings (Belgium) NV from 9 November 1992 to 18 November 1999; with Sirva Inc., North American Van Lines Inc. and North American International Holding Corporation from 19 November 1999 to 9 September 2003;
 - (b) Compas International Movers NV from 26 January 1996 to 8 July 2003;
 - (c) Gosselin Group NV from 31 January 1992 to 18 September 2002; with Stichting Administratiekantoor Portielje from 1 January 2002 to 18 September 2002;
 - (d) Interdean NV from 4 October 1984 to 10 September 2003; with Interdean Holding BV from 2 November 1987 to 23 June 1999; with Interdean Group Limited, Iriben Limited, Interdean International Limited, Amcrisp Limited, Rondspant Holding BV, Interdean Holding BV, Interdean SA and Interdean AG from 24 June 1999 to 10 September 2003;
 - (e) Mozer Moving International SPRL from 31 March 2003 to 4 July 2003;

⁽¹⁾ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003 (OJ C 210, 1.9.2006, p. 2).

- (f) Putters International NV from 14 February 1997 to 4 August 2003;
- (g) Team Relocations NV from 20 January 1997 to 10 September 2003; with Trans Euro Limited and Team Relocations Limited from 20 January 1997 to 7 September 2003; with Amertranseuro International Holdings Limited, Trans Euro Limited and Team Relocations Limited from 8 September 2000 to 10 September 2003;
- (h) Transworld International NV from 4 October 1984 to 31 December 2002;
- (i) Verhuizingen Coppens NV from 13 October 1992 to 29 July 2003;
- (j) Ziegler SA from 4 October 1984 to 8 September 2003.
22. For the infringement referred to in paragraph 21, the following fines are imposed:
- (a) EUR 2 600 000 on Allied Arthur Pierre NV, of which:
- Sirva Inc., North American Van Lines Inc. and North American International Holding Corporation are held jointly and severally liable for the amount of EUR 2 095 000;
- (b) EUR 1 300 000 jointly and severally on Exel Investments Limited, Exel International Holdings Limited, Realcause Limited, Exel International Holdings (Netherlands I) BV, Exel International Holdings (Netherlands II) BV and Exel International Holdings (Belgium) NV, for which:
- Allied Arthur Pierre NV is held jointly and severally liable;
- (c) EUR 7 600 000 jointly and severally on Exel Investments Limited, Exel International Holdings Limited, Realcause Limited, Exel International Holdings (Netherlands I) BV, Exel International Holdings (Netherlands II) BV and Exel International Holdings (Belgium) NV;
- (d) EUR 134 000 on Compas International Movers NV;
- (e) EUR 4 500 000 on Gosselin Group NV, of which:
- Stichting Administratiekantoor Portielje is held jointly and severally liable for the amount of EUR 370 000;
- (f) EUR 3 185 000 on Interdean NV, for which:
- Interdean Holding BV is held jointly and severally liable for the amount of EUR 3 185 000; and
- Interdean Group Limited, Iriben Limited, Interdean International Limited, Amcrisp Limited, Rondspant Holding BV, Interdean Holding BV, Interdean SA and Interdean AG are held jointly and severally liable for the amount of EUR 3 000 000;
- (g) EUR 1 500 on Mozer Moving International SPRL;
- (h) EUR 395 000 on Putters International NV;
- (i) EUR 3 490 000 on Team Relocations NV, of which:
- Trans Euro Limited and Team Relocations Limited are held jointly and severally liable for the amount of EUR 3 000 000; and
- Amertranseuro International Holdings Limited, Trans Euro Limited and Team Relocations Limited are held jointly and severally liable for the amount of EUR 1 300 000;
- (j) EUR 246 000 on Transworld International NV;
- (k) EUR 104 000 on Verhuizingen Coppens NV;
- (l) EUR 9 200 000 on Ziegler SA.
- The undertakings referred to in paragraph 21 must immediately bring the infringement referred to in that paragraph to an end, in so far as they have not already done so. They must refrain in future from repeating any act or conduct referred to in paragraph 21, as well as any act or conduct which has the same or a similar object or effect as that infringement.
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