

European cartel fines in 2018

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The European Commission completed four investigations in 2018 comprising five cartels/infringements. Aggregate fines of €800 million were imposed after leniency and settlement discounts. In addition, the Commission undertook two 'dawn raids, commenced one proceeding and issued one Statement of Objections. Fines were lower than in previous years. The Commission's targeting of the automotive sector continued.

Commission's activities during 2018

In 2018 the European Commission concluded three settlements - *Maritime car carriers*, *Spark plugs* and *Breaking systems*, the last consisting of two separate infringements; and one contested cartel investigation – *Capacitors*. Together 24 firms were fined over €800 million, with the Commission commuting €634 million (or 44%) in fines under its leniency and settlement procedures before any appeals (Table 1). In the absence of these fines would have been around €1.4 billion.

The largest fine of €395.3 was imposed on the five undertakings participating in the *Maritime car carriers* cartel followed by €254 million paid by the nine firms involved in the *Capacitors'*

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cartel. Three firms (Elna, NCC, Rubycon) who were members of the *Capacitors* cartel had their fines reduced because they exceeded the 10% cap of worldwide turnover.

Table 1: European Commission cartel decisions in 2018

Cartel Decision	Fines (€m)	Firms	Duration* (years)	Fine/firm** (€m)	Fine/cartel year (€m)*
Settlements					
Maritime car carriers	395.3	5	5.9	79.1	13.4
Spark plugs	76.1	3	11.5	25.4	2.2
Braking systems: Hydraulic	11.2	5		11.2	5.9
Electronic	9.7	2		9.7	12.6
Total (average) for settlements	546.8	15	(5.2)	(42.1)	(7.0)
Full decisions					
Capacitors	254.0	9	(14.9)	(28.2)	(1.9)
Total (average) 2018	800.1	24	(8.8)	(33.4)	(1.9)
Total (average) 2017	1945.4	29	(5.1)	(67.1)	(13.3)

Notes: * The calculation of duration is based on the earliest start date although some firm's involvement was for shorter periods. ** 21 firms were fined but Continental and Bosch were fined twice for separate infringements in *Braking systems*.

Source: Case Associates from European Commission Press Releases and Summary of Decision.

These aggregate fines are a misleading guide to the severity of the punishment as the number of undertakings involved and duration of their infringements differ. For example, the duration of *Maritime car carriers* cartel was six years while *Capacitors* operated for 15 years and had nine members. To adjust for these differences the fine-per-cartel-year has been calculated, which is the total fine divided by total of number of years the firms collectively participated in the cartel. This confirms that the *Maritime car carriers'* cartel was the most severely punished at €12.6 million per cartel year but that the nine undertakings involved in the *Capacitors* cartel got off lightly with a fine of only €2 million per cartel year.

The Commission continued to rely on whistle blowers to detect cartels. All five infringements were initiated by a full leniency applicant. These whistle blowers collectively avoided fines of around €290 billion (this is an underestimate as the Commission's Summary Decision for *Braking systems* does not enable the leniency discount to be calculated for Continental). In addition, the 14 partial leniency applicants received discounts of between 15% and 60% which reduced their fines in aggregate by €257 million. In total the leniency programme "saved" cartelists, or "cost" the Commission, €547 million in commuted fines in order to expedite Commission investigations and to gain successful prosecutions.

All three settlements led to 10% or €86.1 million reduction in fines. The settlement procedure does not appear to have speeded up Commission decision making. It took the Commission five to seven years to conclude the three settlement decisions compared to four and half years to conclude the contested *Capacitors* decision.

Automotive sector focus

The three settlements were for cartels operating in the automotive sector. This continued the Commission's focus on cartels for car parts, vehicle manufacturers and emission control

systems. The Commission has already fined the suppliers of car glass, automotive bearings, wire harnesses in cars, flexible foam used for car seats, parking heaters, alternators and starters, air conditioning and cooling systems, lighting systems, occupant safety systems, and opened proceedings against vehicle manufacturers for coordinating their actions over clean air emission technology. In addition, the largest total and individual firm fines were meted out in the *Trucks* settlement of 2016 and the later *Scania* decision.

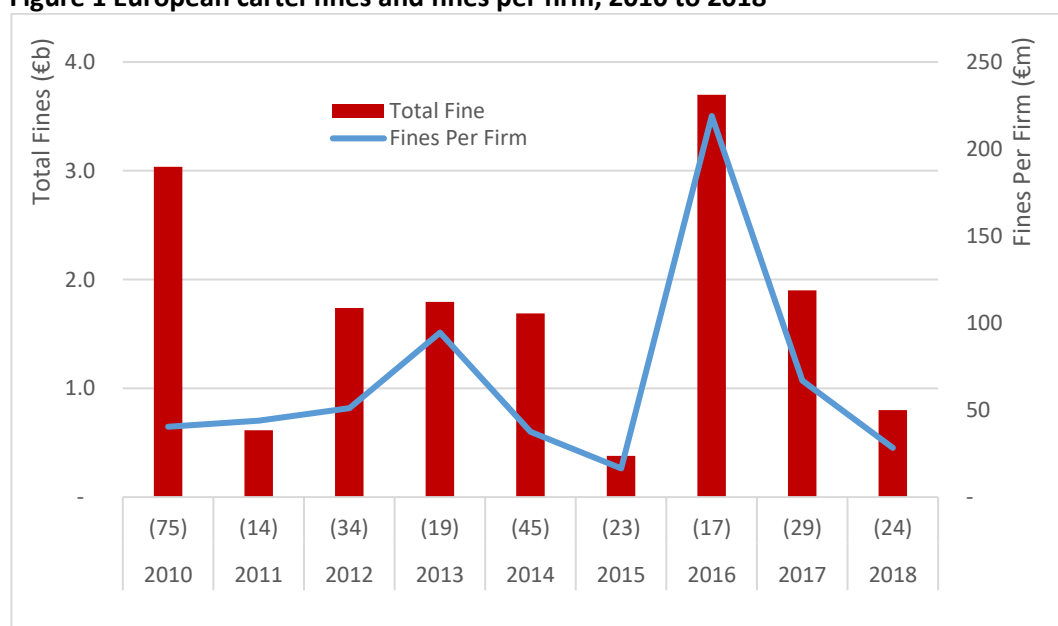
Comparisons with previous year

The number of Commission decision was similar to previous years which average out at around four decisions. The cartels in 2018 had on average a longer duration than those in 2017 - 8.8 years compared to 5.1 years – which was largely due to the 14.9 years’ duration of the *Capacitors* cartel.

Total fines were around half of those imposed in 2017 - €800 compared to €1.1 billion. The aggregate fines for 2018 were the lowest for the last nine years except for 2011 which was marginally lower.

The average fine per undertaking fell for the second year from the all-time high in 2016 (due to the *Trucks* cartel at an average fine of €219 million) to €28.2 million from €33 million (Figure 1). The average fine-per-cartel-year fell significantly to €1.9 million from €4.0 million in 2017.

Figure 1 European cartel fines and fines per firm, 2010 to 2018



Note: Figures in brackets are number of firms fined.

In the pipeline

The Commission undertook two ‘dawn raids’ in 2018 (*Styrene monomer purchasers, Metal packaging*), commenced proceedings against the *Car clean emissions technology* cartel and issued a Statement of Objections to those alleged to have participated in the *US dollar SSA*

bond trading and the *European government bonds* cartels. Table 2 lists the publicly announced on-going investigations. Interestingly it includes two alleged purchasing or buyer' cartels (*Ethylene purchasing, Styrene monomer purchasers*) which is rare.

Table 2: Ongoing investigations as at 1 March 2019

Investigation	Date	Stage
European government bonds	Jan 2019	Statement of Objections
USD SSA bond trading	Dec 2018	Statement of Objections
Car emissions	Sept 2018	Proceedings opened
Styrene monomer purchasers	June 2018	Inspection
Metal Packaging	May 2018	Inspection
Ethylene purchasing	July 2017	Inspection
Ethanol benchmarks	Dec 2015	Proceedings opened

The Commission also published six full non-confidential decisions some dating back to 2008 although summary and in some cases provisional decisions had already been published (Table 3).

Table 3: Publication of full non-confidential decisions in 2018

Case No	Cartel	Decision date	Publication date	Delay - years
AT.39610	Power cables	02/04/2014	04/07/2018	4.3
AT.39639	Optical disc drives	21/10/2015	16/05/2018	2.6
AT.39563	Retail food packaging	24/06/2015	03/05/2018	2.9
AT.39881	Occupant safety systems	22/11/2017	17/04/2018	0.4
COMP/39125	Car glass	12/11/2008	06/02/2018	9.2
AT.39760	Envelopes	16/06/2017	02/02/2018	0.6

Official data sources:

The European Commission's recent cartel activities are announced on DG COMP's news page available online at http://ec.europa.eu/competition/cartels/what_is_new/news.html

The European Commission regularly updates its 'Cartel Statistics' page which gives annual and historical statistics. Available online at <http://ec.europa.eu/competition/cartels/statistics/statistics.pdf>

Annex: Breakdown of fines and duration by cartel and firm (addressee), 2018

Case/Case No.	Firm	Fine ('000)	Start date	End date
Martime car carriers AT.40009	CSAV	€7,033	Oct-06	Sep-12
	"K" Line	€39,100	Oct-06	Sep-12
	MOL	0	Oct-06	May-12
	NYK	€141,820	Oct-06	Sep-12
	WWL-EUKOR	€207,335	Oct-06	Sep-12
Spark plugs AT.40113	Bosch	€45.834	Jan-00	Jul-11
	Denso	0	Feb-01	Feb-10
	NGK	€30.265	Jan-00	Jul-11
<i>Infringement I – Hydraulic BS</i>				
Breaking systems AT.39920	TRW -Daimler	0	Feb-07	Mar-11
	-BMW		Jun-10	Mar-11
	Bosch - Daimler	€12,072	Feb-07	Mar-11
	- BMW		Jun-10	Mar-11
	Continental - Daimler	€44,006	Feb-07	Mar-10
	- BMW		June -10	Mar-11
<i>Infringement II – Electronic BS</i>				
Capacitors AT.40136	Continental	0	Sep-10	Jul-11
	Bosch	€19,348	Sep-10	Jul-11
	Sanyo & Panasonic	0	Jan-98	Dec-12
	Hitachi	€18,476	Jan-98	Dec-12
	Rubycon	€28,424	Jan-98	Dec-12
	ELNA	€18,162	Jan-98	Dec-12
	Tokin & NEC	€16,445	Jan-98	Dec-12
	Matsuo Electric	€824	Jan-98	Dec-12
	Nichicon	€72,921	Jan-98	Dec-12
	Nippon Cheni-Con	€97,921	Jan-98	Dec-12
	Vishay Polytech & Holy Stone	€782	Jan-98	Dec-12

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