

European cartel fines in 2014

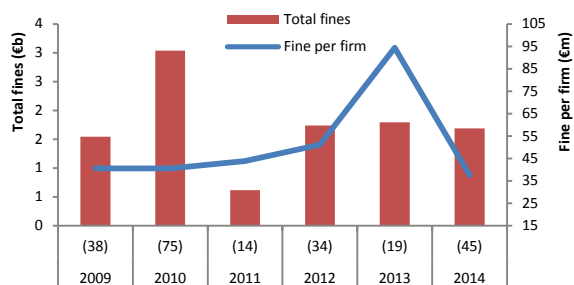
In 2014 the European Commission concluded 10 cartel investigations, imposing total fines of nearly €1.7 billion on 45 undertakings involving 54 firms. The aggregate fines were similar to those in 2013 but the number of cartel decisions far exceeded that of any previous year this decade. To achieve this result the Commission commuted over €53 million of the €2.6 billion (37%) in fines under its leniency and settlement procedures. The year ended with the appointment of Margrethe Vestager as new Competition Commissioner replacing Joaquin Almunia.

Activity of the Commission in 2014

The cartels were in the automotive parts, electronics, food, energy, financial, and industrial sectors (see below). The largest fine was €53 million paid by the six members of *Automotive Bearings* cartel which operated for seven years beginning in 2004. This was followed by €302 million in fines imposed on members of the *Power Cables* cartel, and €138 million on four suppliers of *Smart Card Chips*.

Comparison across years

Total post-lenient fines in 2014 were in line with those imposed in 2013: €1.69 versus €1.79 billion. However, the number of cartel prosecuted increased significantly from four to 10, with the number of undertakings involved proportionately greater than 2013 - 45 compared to the 19 in 2013. In *Power Cables* and *Polyurethane Foam* the Commission imposed fines individually on the principal shareholders of some undertakings resulting in 18 rather than 11 and 6 rather than 4 entities being fined respectively.



On average the European Commission prosecuted cartels of shorter duration in 2014. The average

duration was 3.9 years compared to nearly 5.5 years in 2013, with several cartels operating for less than a year (*Swiss Franc interest rate derivatives* and *Power Exchanges*).

The shorter cartels meant that the average fine per undertaking was lower at €8 million compared to €4 million in 2013. The fine per cartel year - which adjusts for both the number of firms and the number of cartel years - was also significantly lower at €0.6 million compared to €17 million in 2013.

Other notable trends

The European Commission continues to rely on whistleblowers to detect cartels. Eight (80%) of the 10 prosecutions were initiated by a full leniency applicant. These whistleblowers collectively avoided fines of €72 million. In addition the 37 partial leniency applicants received discounts of between 10% and 60% which reduced their fines in aggregate by an additional €402 million. In total the leniency programme “saved” cartelists, or cost the Commission, a total of €774 million in avoided fines.

Eight of the 10 decisions (80%) were concluded under the settlement procedure (with the exception of *Smart Card Chips* and *Power Cables*), where the parties accepted liability in return for a 10% reduction in their fines. This led to a further decrease in fines of €179 million. One firm (Pemeton S.p.a.) in *Steel Abrasives* remains under investigation through the standard cartel procedure. Since its introduction in June 2008, and its first use in *DRAM* in May 2010, 17 out of the 40 (42%) decisions were fully or partially settled.

The settlement procedure appears to have expedited the Commission’s investigations. It took the Commission an average 3.1 years to process the six decisions by settlement (excluding the two Swiss Libor cartels which the Commission has yet to publicly state when these investigations commenced), compared to 5.6 years for the two investigations using the standard procedure.

The European Commission has so far only published four non-confidential decisions (*Steel Abrasives*, *Bearings*, *Power Exchanges*, *Polyurethane Foam*), which are described as “for information only” and in

one case as “provisional” only, and six “Summary of Decision” in the Official Journal (the four Decisions plus *Power Cables* and *Mushrooms*), with the remaining four as Press Releases (links in Table below).

The cap that fines do not exceed 10% of the previous year’s annual worldwide turnover (Point 37, 2006 Penalty Guidelines) was applied to at least 15 undertakings/firms; in *Envelopes* (all 5 undertakings), *Steel Abrasives* (all 4), *Foam* (1), *Power Exchanges* (2), *Bearings* (1) and *Mushrooms* (2). Two firms obtained reductions for “inability to pay” (Point 35) in *Envelopes*; while one firm in *Power Cables* sought from and was refused a reduction for inability to pay.

In the pipeline

The European Commission had 17 investigations in the pipeline. The Table in the next column lists those active investigations together with the stage reached as at January 2015 by Inspection, proceedings opened (PO), Statement of Objections (SO), together with the investigation that were administratively closed (Closed) during the year i.e. where no further action is to be taken.

In 2014 the European Commission carried out one unannounced inspection (*Exhaust Systems*), and issued four Statement of Objections - involving four members

of the Euro (*EIRD*) and ICAP in the Yen (*YIRD*) interest rate derivatives cartels who refused to settle in 2013, Pometen which did not settle in *Steel Abrasives*, and *Trucks*.

Investigation	Start date	Stage
Exhaust Systems	Mar 2014	Inspection
YIRD (ICAP)	Oct 2013	SO
EIRD	Mar 2013	SO
Blocktrains	Jun 2013	Inspection
Sugar	May 2013	Closed
Oil & Biofuel	May 2013	Inspection
Car Battery Recycling	Sept 2012	Inspection
Maritime Car Carriers	Sept 2012	SO/Closed
Retail Food Packaging	Sept 2012	SO
Optical Disc Drives	July 2012	SO
Thermal Systems	May 2012	Inspection
Plastic Pipe Fittings	July 2012	Inspection
Plastic Pipe Systems	July 2012	Inspection
Occupant Safety Systems	June 2011	Inspection
Container Shipping	May 2011	PO
Credit Default Swaps	Apr 2011	SO
Trucks	Jan 2011	SO
Steel Abrasives	June 2010	SO
French Water Sector	Apr 2010	PO

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Disclaimer: The information above is largely based on European Commission decisions and Press Releases which do not necessarily contain full, and/or consistent information on the factors discussed above.

Cartel Decision	Source*	Fines (€m)	Firms	Duration (years)**	Fine/firm (€m)	Fine/cartel year (€m)***
LIBOR Swiss Franc Interest rate derivatives	(S)	61.68	2	1.33	30.84	23.11
Swiss Franc Interest rate derivatives	(S)	32.36	4	0.42	8.09	19.30
Smart Card Chips		138.05	4	2.00	34.51	17.23
Steel Abrasives	(S,OJ,D)	30.71	4	6.67	7.68	1.15
Canned Mushrooms	(S,OJ)	32.23	3	1.49	10.74	7.19
Power Cables	(OJ)	301.64	11	10.01	27.42	2.74
Automotive Bearings	(S,OJ,D)	953.31	6	7.25	158.88	21.91
Power Exchanges	(S,OJ,D)	5.98	2	0.59	2.99	5.08
Polyurethane Foam	(S,OJ,D)	114.08	4	4.75	28.52	6.00
Paper Envelopes	(S)	19.49	5	4.50	3.90	0.87
Total (average) 2014		1,689.50	45	(3.89)	(37.54)	(9.62)
Total (average) 2013		1,794.18	19	(5.46)	(94.43)	(17.29)
Total (average) 2012		1,739.05	34	(6.15)	(51.15)	(8.32)
Total (average) 2011		614.05	14	(3.30)	(43.86)	(13.29)
Total (average) 2010		3,035.96	75	(13.40)	(40.48)	(3.02)
Total (average) 2009		1,540.13	38	(13.96)	(40.53)	(2.90)

Notes: * (S) = Settlement; OJ = Summary Decision published in the Official Journal; (D) Commission (provisional) Decision. ** The average duration (fourth column) assumes all undertakings in a cartel were involved for the same period. However some firms may have participated for shorter periods not discussed in the Commission’s Press Releases. *** The calculation of fines per cartel year (last column) is a simple average of duration and years for each cartel.

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