PRICE FIXING (FOOD FLAVOURINGS): THE AJINOMOTO CASE

Subject: Price fixing
Market sharing
Information exchanges
Fines
Leniency

Industry: Food flavourings (nucleotides)
(Implications for most industries)

Parties: Ajinomoto Co Inc
Cheil Jedang Corp
Daesang Corp
Takeda Chemical Industries Ltd

Source: Commission Statement IP/02/1907, dated 17 December 2002

(Note. By recent standards, this is a small case; but it illustrates the kind of evidence on the basis of which the Commission's investigations establish the existence of a price fixing cartel.)

The Commission has fined Ajinomoto Co. Inc. of Japan and South Korean companies Cheil Jedang Corp. and Daesang Corp respectively €15.54m, €2.74m and €2.28m each for participating in a price-fixing cartel in nucleotides, a substance used to enhance the flavour in foods. Takeda Chemical Industries Ltd, another Japanese firm, was also found to be part of the cartel, but it was granted full immunity from fines for revealing to the Commission the existence of the illegal agreement.

The investigation started in 1999, when the Commission was approached by representatives of Takeda who revealed the cartel and provided decisive information about its operation in return for immunity from fines under the Commission's 1996 leniency policy. The other companies subsequently co-operated in the investigation.

According to the evidence in the Commission's possession, Ajinomoto, Takeda, Cheil and Daesang operated a cartel for nine years until 1998 during which they agreed to fix "target" prices, implement concerted price increases, allocate customers, as well as exchange information on sales figures. Nucleotide or nucleic acid is made from glucose and is used in the food industry to add flavour to foods.

The documents found by the Commission leave no doubt about the intent to rig the market. Daesang, for example, submitted a report of a meeting which states, in relation to the cartel operations in 1995: "everyone was thanked for their co-operation during 1995, which resulted in the effective implementation of

nucleotide price increases and everyone was asked to continue their co-operation in 1996 so as to increase further the nucleotide prices; [...] all participants showed their agreement by nodding or saying words to that effect".

Although the agreement was a very serious violation of European Union competition law, it considered that Takeda fulfilled the conditions for total immunity from fines. Because they co-operated in the investigation, Daesang, Ajinomoto and Cheil also qualified for a reduction in the fines. Daesang was granted a bigger reduction (50%) because whilst it was not the first to approach the Commission Takeda was it did so on its own initiative, before receiving any information request.

Ajinomoto is the world's biggest producer of nucleotides and was nearly twice as big as its competitors in terms of 1997 market shares figures, hence a higher fine to ensure a deterrent effect. The relatively small size of the fines is explained by the equally modest revenues procured by nucleotide of around €8m a year in the European Economic Area (the fifteen member states of the European Union, plus Norway, Iceland and Liechtenstein) during the infringement period. The four companies, however, accounted between them for virtually the whole of the sales worldwide. ■

The Daimler Chrysler / Deutsche Telekom Case

The Commission has decided to undertake an in-depth investigation into a proposed joint venture between Daimler Chrysler AG and Deutsche Telekom AG, operating a toll-collecting system for heavy lorries on German motorways. At present, the Commission is concerned that the transaction may have an adverse impact on competition in the emerging telematics services market in Germany. The joint venture (Toll Collect), has been created by Daimler Chrysler and Deutsche Telekom each having a 45% stake. French motorway operator Cofiroute will hold the remaining 10% of the share capital. The three have won a tender organised by German government for the installation and operation of a toll-collecting system for loaded lorries of a given weight on German motorways. Under the deal notified to the Commission, Toll Collect will also be able to offer value-added telematics applications: the Commission considers that the toll-collecting system could become a predominant platform for the provision of telematics services for transport and logistics. Daimler Chrysler is already active in the telematics market and, through the present operation, could possibly control the conditions of competition in this emerging market. Therefore, the Commission has, at this stage, serious doubts whether the transaction can be approved in its present form.

Source: Commission Statement IP/02/1957, dated 23 December 2002