



EUROPEAN
COMMISSION

Brussels, 6.4.2017
C(2017) 2223 final

COMMISSION DECISION

of 6.4.2017

**correcting Decision C(2017) 900 final relating to a proceeding under Article 101 of the
Treaty on the Functioning of the European Union**

(AT.40018 – Car battery recycling)

(Only the English text is authentic)

COMMISSION DECISION

Of 6.4.2017

amending Decision C(2017) 900 final relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union

(AT.40018 – Car battery recycling)

(Only the English text is authentic)

THE EUROPEAN COMMISSION,

Having regard to the Treaty on the Functioning of the European Union¹,

Having regard to Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty², and in particular Article 7 and Article 23(2) thereof,

Having regard to the Commission Decision of 24 June 2015 to initiate proceedings in this case,

Having given the undertakings concerned the opportunity to make known their views on the objections raised by the Commission pursuant to Article 27(1) of Regulation (EC) No 1/2003 and Article 12 of Commission Regulation (EC) No 773/2004 of 7 April 2004 relating to the conduct of proceedings by the Commission pursuant to Articles 81 and 82 of the Treaty³,

After consulting the Advisory Committee on Restrictive Practices and Dominant Positions,

Having regard to the final report of the Hearing Officer in this case⁴,

Whereas:

- (1) In Decision C(2017) 900 final of 8 February 2017 relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union (TFEU), the Commission found that the undertakings to which that Decision is addressed had participated in a single and continuous infringement of Article 101 of the TFEU in the lead recycling sector in Belgium, Germany, France and the Netherlands, from 23 September 2009 until 26 September 2012.
- (2) In determining the basis for setting the basic amount of the fines to be imposed on the addressees of that Decision, the Commission omitted to indicate the value of purchases taken into account for setting the basic amount of the fines in accordance

¹ OJ C 115, 9.5.2008, p. 47.

² OJ L 1, 4.1.2003, p. 1. With effect from 1 December 2009, Articles 81 and 82 of the EC Treaty have become, respectively, Articles 101 and 102 of the Treaty on the Functioning of the European Union ('TFEU' or 'Treaty'). The two sets of provisions are, in substance, identical. For the purposes of this Decision, references to Articles 101 and 102 of the TFEU should be understood as references to Articles 81 and 82, respectively, of the EC Treaty where appropriate. The TFEU also introduced certain changes in terminology, such as the replacement of 'Community' by 'Union' and 'common market' by 'internal market'.

³ OJ L 123, 27.4.2004, p. 18.

⁴ Final report of the Hearing Officer of 6 February 2017.

with points 13 to 18 of its Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003⁵ ('the Guidelines on fines'). This omission has however no impact of the amount of the fine imposed in the enacting terms of Decision C(2017) 900 final.

- (3) In Section 8.3.1.5 of Decision C(2017) 900 final, at the end of Recital (319), new text should be added, as follows:

‘The value of purchases of each undertaking are as follows:

for Campine: EUR [...]

for Eco-Bat: EUR [...]

for JCI: EUR [...]

for Recylex: EUR [...]

- (4) In determining the basic amount of the fines to be imposed on Johnson Controls, Inc., Johnson Controls Tolling GmbH & Co. KG and Johnson Controls Recycling GmbH (collectively referred to as ‘JCI’), the Commission made material mistakes in calculating the value of purchases, the basic amount of the fines and the amount of the fine after the application of the 10 % of turnover limit in accordance with points 19 to 26 and 32 of the Guidelines on fines. These mistakes have however no impact of the amount of the fine imposed on JCI in the enacting terms of Decision C(2017) 900 final.

- (5) In Recital (348) of Decision C(2017) 900 final, point (c) should read as follows:

‘(c) JCI: EUR [...];’

- (6) In Recital (383) of Decision C(2017) 900 final, point (c) should read as follows:

‘(c) JCI: EUR [...];’

HAS ADOPTED THIS DECISION:

Article 1

In Section 8.3.1.5 of Decision C(2017) 900 final, at the end of Recital (319), the following is added:

‘The value of purchases of each undertaking are as follows:

for Campine: EUR [...]

for Eco-Bat: EUR [...]

for JCI: EUR [...]

for Recylex: EUR [...]

Article 2

In Recital (348) of Decision C(2017) 900 final, point (c) is replaced by the following:

‘(c) JCI: EUR [...];’

⁵ Guidelines on the method of setting fines imposed pursuant to Article 23(2)(a) of Regulation No 1/2003 (OJ C 210, 1.9.2006, p. 2).

Article 3

In Recital (383) of Decision C(2017) 900 final, point (c) is replaced by the following:

‘(c) JCI: EUR [...];’

Article 4

This Decision is addressed to:

- (a) Campine NV, IZ Kanaal West, Nijverheidstraat 2, 2340 Beerse, Belgium;
- (b) Campine Recycling NV, IZ Kanaal West, Nijverheidstraat 2, 2340 Beerse, Belgium;
- (c) Eco-Bat Technologies Ltd, Cowley Lodge, Warren Carr, Matlock, Derbyshire DE4 2LE, United Kingdom;
- (d) Berzelius Metall GmbH, Emser Straße 11, 56338 Braubach, Germany;
- (e) Société de Traitements Chimiques des Métaux SAS, 11 rue de Pithiviers, 45480 Bazoches-les-Gallerandes, France;
- (f) Johnson Controls, Inc., 5757 N Green Bay Ave, Milwaukee WI 53201, United States of America;
- (g) Johnson Controls Recycling GmbH, Am Leineufer 51, 30419 Hannover, Germany;
- (h) Johnson Controls Tolling GmbH & Co. KG, Am Leineufer 51, 30419 Hannover, Germany;
- (i) Recylex SA, 6 place de la Madeleine, 75008 Paris, France;
- (j) Fonderie et Manufacture de Métaux SA, Rue Paepsem/Paepsemstraat 111, 1070 Anderlecht, Belgium;
- (k) Harz-Metall GmbH, Hüttenstraße 6, 38642 Goslar, Germany.

This Decision shall be enforceable pursuant to Article 299 of the Treaty.

Done at Brussels,

For the Commission
Margrethe VESTAGER
Member of the Commission