• Poland: Cement Cartel smashed

On 8 December 2009, maximum fines amounting to PLN 411 million (€ 100 000 000) have been imposed by the President of the Polish Office of Competition and Consumer Protection (UOKiK) on the biggest producers of cement in Poland. As a result of the UOKiK’s investigation, its President established that seven companies engaged in the market sharing and price fixing practices for over 11 years. Two companies decided to blow the whistle on the cartel. The legal basis of the proceedings were both national and European law.

Following multiple signals from the market, and the results of the investigation conducted by the UOKIK, on 28 December 2006 the President of the Office instituted antimonopoly proceedings and examined the alleged anticompetitive agreement concluded by the producers of grey cement - Lafarge Cement, Góraźdze Cement, Grupa Ożarów, Cemex, Dyckerhoff, Cementownia Warta and Cementownia Odra – the combined market share of which amounted to almost 100 % of the Polish market.

As a result of the 3-year long investigation, as well as the biggest dawn-raid in the history of the UOKIK, robust evidence was collected, which was subsequently completed by information furnished by the undertakings involved in the agreement. On the basis of this evidence, the President of the Office concluded that at least from 1998 the undertakings shared the national market for grey cement, by agreeing to freeze the market shares of each company, as well as fixing minimum prices for the cement, the timetables, the amounts and the order of applying the increases in prices for cement. To this end, during numerous multilateral and bilateral meetings the producers exchanged confidential commercial information, inter alia on sales volumes. The investigation showed that the cartelists realized that the practices they were engaged in were illegal. They selected a limited number of persons directly taking part in the information exchange, as well as a coordinator of the information exchange (an employee of one of the producers). The coordinator was responsible for passing on the data to the cement producers and contacting selected employees of the cement mills via a pre-paid telephone.

According to the provisions of the Polish antimonopoly law, the maximum fine that can be imposed on the undertaking amounts to 10 % of the revenue earned in the accounting year preceding the year within which the penalty is imposed. Since two leniency applications were filed in the case, the President of the UOKIK refrained from imposing a fine on Lafarge Cement and imposed a fine amounting to only 5 % of the revenue earned in 2008 on Góraźdze Cement. The remaining cartelists – Grupa Ożarów, Cemex, Dyckerhoff, Cementownia Warta and Cementownia Odra – were each fined the maximum penalty possible, totaling PLN 411 586 477. This is the highest fine ever imposed in the 20 years history of the UOKIK.

Góraźdze Cement, Grupa Ożarów, Cemex, Dyckerhoff, Cementownia Warta and Cementownia Odra have appealed the decision to the Court of Competition and Consumer Protection.


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