Commission adopts cartel decision imposing fines in methionine (animal feed) cartel

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On 2 July 2002, the Commission fined Degussa AG and Nippon Soda Company Ltd respectively €118 million and €9 million for participating in a price-fixing cartel in methionine together with Aventis SA. Aventis SA (formerly Rhône-Poulenc) was granted full immunity from fines because it revealed the cartel’s existence to the Commission and provided decisive evidence on its operation.

Methionine is one of the most important amino acids used to compound animal feeds and premixes for all animal species. The principal application is in poultry feed, but methionine is increasingly being added to pig feed and speciality animal feeds. In 1998, the EU market for methionine was worth around €260 million.

Following an investigation which started in 1999, the Commission established that Degussa AG, Nippon Soda Company Ltd and Aventis SA (formerly Rhône-Poulenc), together with its wholly-owned subsidiary Aventis Animal Nutrition SA (formerly Rhône-poulenc Animal Nutrition SA), participated in a cartel between February 1986 until February 1999, through which they agreed on price targets, implemented price increases and exchanged information on sales volumes and market shares for methionine.

The cartel was implemented through the holding of regular meetings at both top level — the so-called ‘Summit’ meetings — and at a more technical level — the ‘Managerial’ or ‘Staff’ level meetings. During these meetings, the participants exchanged sales volumes, which would then be compiled and used in the discussions to determine the target prices to be fixed.

The Commission characterised the companies’ behaviour as a ‘very serious’ infringement of the Community and EEA competition rules, and adopted a Decision under Article 81(1) and Article 53(1) of the EEA Agreement, imposing fines: Degussa AG and Nippon Soda were fined respectively €118.12 million and €9 million. Aventis SA and Aventis Animal Nutrition were granted full immunity from fines.

Calculation of fines and application of the Leniency Notice

In fixing the amount of the fines, the Commission took into account the gravity and duration of the infringement, as well as the existence, as appropriate, of aggravating and/or mitigating circumstances. The role played by each undertaking was assessed on an individual basis. The 1996 Leniency Notice was applied.

All the undertakings concerned were found to have committed a very serious infringement. Within this category, the undertakings were divided into two groups according to their relative importance in the market concerned. Further upward adjustments were made in the case of two companies, with regard to their very large size and thus of their overall resources. All participants committed an infringement of long duration (exceeding five years).

Application of the Leniency Notice

The Commission’s policy with respect to immunity in cartel cases was modified in February this year to make it easier to grant full immunity and provide legal certainty that immunity will indeed be granted, thus making policy more effective. However, as the investigation into the methionine cartel started in 1999, the 1996 Leniency Notice was applied in this case.

Aventis SA was the first undertaking to provide the Commission with decisive information and it was granted a 100% reduction of the fine which would otherwise have been imposed. Otherwise, it would have received a fine similar to the one imposed on Degussa.

The difference in the fines reflects the disproportion in the market shares of Degussa, the world’s biggest producer of methionine, and Nippon Soda, almost five times smaller in terms of 1998 market shares figures.

Nippon Soda and Degussa co-operated in one way or another with the Commission and were granted appropriate reductions. Nippon Soda provided detailed information, which together with that obtained from Degussa was used in the Decision. Nippon Soda was able to provide the Commission with documents contemporaneous to the infringement, including inter alia hand-written notes taken during cartel meetings and valuable information to confirm the existence of the cartel prior to 1990. On these grounds, Nippon Soda was granted a 50 percent reduction.
Most of the information provided by Degussa was not provided voluntarily and Degussa also contested its participation in the cartel prior to mid-1992 and after 1997 despite the fact that evidence in the Commission’s file clearly demonstrates otherwise. On these grounds, the Commission granted Degussa a reduction of only 25 percent of its respective fine.