



***CASE AT.40028 –
ALTERNATORS AND STARTERS***

(Only the English text is authentic)

CARTEL PROCEDURE
**Council Regulation (EC) 1/2003 and
Commission Regulation (EC) 773/2004**

Article 7 Regulation (EC) 1/2003

Date: 27/01/2016

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Case AT.40028 – Alternators and starters

SUMMARY OF COMMISSION DECISION

of 27 January 2016

**RELATING TO A PROCEEDING UNDER ARTICLE 101 OF THE TREATY ON
THE FUNCTIONING OF THE EUROPEAN UNION AND ARTICLE 53 OF THE
EEA AGREEMENT**

(CASE AT.40028 – ALTERNATORS AND STARTERS)

(NOTIFIED UNDER DOCUMENT NUMBER C(2016) 223 FINAL)

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

(YYYY/C XX/YY) - [OPOEU inserts the OJ references]

On 27/01/2016, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003¹, the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

- (1) The Decision relates to a single and continuous infringement of Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA agreement. The decision is addressed to the following entities: Denso Corporation (referred to as "Denso"), Mitsubishi Electric Corporation (referred to as "Melco"), Hitachi, Ltd. and Hitachi Automotive Systems, Ltd. (collectively referred to as "Hitachi") (also referred to as the "parties" or individually the "party").

¹ 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 Treaty (OJ L 1, 4.1.2003, p. 1), as amended by Regulation (EC) No 411/2004 (OJ L 68, 6.3.2004, p. 1).

2. CASE DESCRIPTION

2.1. Procedure

- (2) Following an immunity application by Denso, the Commission sent out several rounds of requests for information between 22 July 2011 and 11 December 2014, pursuant to Article 18(2) of Regulation (EC) No 1/2003 or point 12 of the Leniency Notice². Hitachi and Melco submitted leniency applications on 27 July 2011 and 6 November 2012, respectively.
- (3) On 24 September 2014, the Commission initiated proceedings pursuant to Article 2(1) of Regulation (EC) No 773/2004³ against Denso Corporation, Mitsubishi Electric Corporation and Hitachi, Ltd. with a view to engaging in settlement discussions with them under the Settlement Notice⁴. On 14 September 2015, the Commission also initiated proceedings against Hitachi Automotive Systems, Ltd. Settlement meetings with the parties took place between 11 November 2014 and 25 September 2015. Each party then submitted its formal request to settle pursuant to Article 10a(2) of Regulation (EC) No 773/2004.
- (4) On 23 November 2015, the Commission adopted a statement of objections addressed to the parties. All parties replied to the statement of objections by confirming that it reflected the contents of their settlement submissions and that they remained committed to following the settlement procedure.
- (5) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 25 January 2016 and the Commission adopted the Decision on 27 January 2016.

2.2. Addressees and duration

- (6) The addressees of the Decision have participated in a cartel and/or bear liability for it, infringing therefore Article 101 of the Treaty, during the periods indicated below:

Entity	Duration
Denso Corporation	14 September 2004 - 23 February 2010
Mitsubishi Electric Corporation	14 September 2004 - 23 February 2010

² Commission Notice on Immunity from fines and reduction of fines in cartel cases (OJ C 298, 8.12.2006, p. 17).

³ 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 EC Treaty (OJ L 123, 27.4.2004, p. 18), as amended by Commission Regulation (EC) No 622/2008 (OJ L 171, 1.7.2008, p. 3) and by Commission Regulation (EU) 2015/1348 (OJ L 208, 5.8.2015, p. 3).

⁴ Commission Notice on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases (OJ C 167, 2.7.2008, p. 1).

Entity	Duration
Hitachi, Ltd.	14 September 2004 – 30 June 2009 (direct participation), 1 July 2009 – 23 February 2010 (as 100% parent of Hitachi Automotive Systems, Ltd.)
Hitachi Automotive Systems, Ltd.	1 July 2009 – 23 February 2010 (direct participation)

2.3. Summary of the infringement

- (7) The Decision concerns a cartel between Japanese undertakings, relating to the supply of alternators and starters for passenger cars in the European Economic Area ("EEA").
- (8) The products concerned by the cartel are alternators and starters, which are located inside a car's engine. An alternator is a device which converts mechanical energy to electrical energy and a starter is a motor that starts the engine of the car.
- (9) The parties engaged into price coordination, customer or project allocation and exchange of commercially sensitive information, such as price elements and market strategies. The parties respected each other's vested supply rights ("incumbency principle") with regard to certain car manufacturers referred to as Original Equipment Manufacturers ("OEMs") by coordinating their responses to requests for quotations ("RFQs") issued by the OEMs. Hitachi had a limited participation, as it only participated in the cartel with regard to the supply of alternators and starters to two groups of OEMs out of the total number of OEM groups, with respect to which Denso and Melco coordinated. There is no evidence that Hitachi was aware of, or that it could have reasonably foreseen, the collusion between Denso and Melco regarding the supply of alternators and starters beyond these two groups of OEMs.
- (10) The overall aim of the cartel was to avoid a decline of prices and at least to maintain the parties' market shares in the EEA. The conduct covered supplies to OEMs in the EEA.
- (11) The anticompetitive contacts took place mainly in Japan. During these contacts (both face-to-face meetings and phone conversations), the parties discussed the attribution of RFQs, exchanged various price elements and other commercially sensitive information and coordinated their responses to the RFQs.
- (12) The cartel lasted from 14 September 2004 until 23 February 2010. The geographic scope of the infringement involving all three parties was EEA wide for its entire duration.

2.4. Remedies

- (13) The Decision applies the 2006 Guidelines on Fines⁵. With the exception of Denso, the Decision imposes fines on all the entities listed under point (6) above.

2.4.1. Basic amount of the fine

- (14) In setting the fines, the Commission took into account the undertakings' direct sales of alternators and starters for passenger cars in the EEA.
- (15) In this case, the overall infringement period was five years, five months and five days (14 September 2004 – 23 February 2010). However, each of the parties participated in the cartel for different periods depending on the product (alternator or starter) and on the OEM concerned.
- (16) According to the information provided by the parties, their sales fluctuated to a significant extent during the entire period of the infringement. In order to adequately reflect this, the Commission used the annual average value of the direct sales of alternators and/or starters to the concerned OEMs in the EEA during the relevant sub-periods of the infringement.
- (17) The basic amount of the fine is set at 17% of the value of sales as defined under point (16) above to reflect the fact that the infringement featured several different kinds of anti-competitive elements (price fixing, market sharing) and covered the entire EEA. For the additional amount, the percentage was set at 17%.

2.4.2. Adjustments to the basic amount

- (18) The Commission applied an increase of 50% on the basic amount of the fine of Melco and Hitachi for recidivism, since both undertakings were addressees of the Gas Insulated Switchgear decision of the Commission issued on 24 January 2007⁶.
- (19) The Commission granted a reduction of 15% on the basic amount of the fine to Hitachi for its limited participation in the single and continuous infringement (see point (9)).
- (20) The Commission applied a deterrence multiplier to all three addressees to take into account the particularly large turnovers beyond the value of sales of those undertakings.

2.4.3. Application of the 10% turnover limit

- (21) In this case, none of the fines calculated exceed 10% of the respective undertaking's total turnover in 2014 (financial year taken into account: 1 April 2014 until 31 March 2015).

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

⁶ http://ec.europa.eu/competition/antitrust/cases/dec_docs/38899/38899_1030_10.pdf

2.4.4. Application of the 2006 Leniency Notice: reduction of fines

- (22) The Commission granted Denso full immunity from fines. Hitachi was granted a 30% reduction of its fine and Melco a 28% reduction of its fine.

2.4.5. Application of the Settlement Notice

- (23) As a result of the application of the Settlement Notice, the amount of the fines imposed on Hitachi and Melco was further reduced by 10%.

3. CONCLUSION

- (24) The following fines were imposed pursuant to Article 23(2) of Regulation (EC) No 1/2003:
- (a) Denso Corporation: EUR 0;
 - (b) Mitsubishi Electric Corporation: EUR 110 929 000; and
 - (c) Hitachi, Ltd. and Hitachi Automotive Systems, Ltd., jointly and severally liable: EUR 26 860 000.