

Antitrust: Commission fines four consumer electronics manufacturers for fixing online resale prices

The fines totalling over €111 million were in all four cases reduced due to the companies' cooperation with the Commission.

Commissioner Margrethe Vestager, in charge of competition policy, said: *"The online commerce market is growing rapidly and is now worth over 500 billion euros in Europe every year. More than half of Europeans now shop online. As a result of the actions taken by these four companies, millions of European consumers faced higher prices for kitchen appliances, hair dryers, notebook computers, headphones and many other products. This is illegal under EU antitrust rules. Our decisions today show that EU competition rules serve to protect consumers where companies stand in the way of more price competition and better choice."*

Asus, Denon & Marantz, Philips and Pioneer engaged in so called "fixed or minimum resale price maintenance (RPM)" by restricting the ability of their online retailers to set their own retail prices for widely used consumer electronics products such as kitchen appliances, notebooks and hi-fi products.

The four manufacturers intervened particularly with online retailers, who offered their products at low prices. If those retailers did not follow the prices requested by manufacturers, they faced threats or sanctions such as blocking of supplies. Many, including the biggest online retailers, use pricing algorithms which automatically adapt retail prices to those of competitors. In this way, the pricing restrictions imposed on low pricing online retailers typically had a broader impact on overall online prices for the respective consumer electronics products.

Moreover, the use of sophisticated monitoring tools allowed the manufacturers to effectively track resale price setting in the distribution network and to intervene swiftly in case of price decreases.

The price interventions limited effective price competition between retailers and led to higher prices with an immediate effect on consumers.

In particular, **Asus**, headquartered in Taiwan, monitored the resale price of retailers for certain computer hardware and electronics products such as notebooks and displays. The conduct of Asus related to two Member States (Germany and France) and took place between 2011 and 2014. Asus intervened with retailers selling those products below the resale prices recommended by Asus and requested price increases.

Denon & Marantz, headquartered in Japan, engaged in resale price maintenance with respect to audio and video consumer products such as headphones and

speakers of the brands Denon, Marantz and Boston Acoustics in Germany and the Netherlands between 2011 and 2015.

Philips, headquartered in the Netherlands, engaged in resale price maintenance in France between the end of 2011 and 2013 with respect to a range of consumer electronics products such as kitchen appliances, coffee machines, vacuum cleaners, home cinema and home video systems, electric toothbrushes, hair driers and trimmers.

In parallel to resale price maintenance with respect to products such as home theatre products, iPod speakers, speaker sets and hi-fi products, **Pioneer**, headquartered in Japan, also limited the ability of its retailers to sell cross border to consumers in other Member States in order to sustain different resale prices in different Member States, for example by blocking orders of retailers who sold cross-border. Pioneer's conduct lasted from the beginning of 2011 to the end of 2013 and concerned 12 countries (Germany, France, Italy, the United Kingdom, Spain, Portugal, Sweden, Finland, Denmark, Belgium, the Netherlands and Norway).

Fines

All four companies cooperated with the Commission by providing evidence with significant added value and by expressly acknowledging the facts and the infringements of EU antitrust rules.

The Commission therefore granted reductions to the fines depending on the extent of this cooperation ranging from 40 % (for Asus, Denon & Marantz and Philips) to 50 % (for Pioneer).

The fines imposed in the four cases are as follows:

	Reduction for cooperation	Fine (€)
Asus	40 %	63 522 000
Denon & Marantz	40 %	7 719 000
Philips	40 %	29 828 000
Pioneer	50 %	10 173 000

Such cooperation allows the Commission to increase the relevance and impact of decisions by speeding up its investigations and companies can benefit from significant reductions of the fines depending on the level of cooperation.

Background

The Commission's e-commerce sector inquiry, the results of which the Commission published in [May 2017](#) as part of its Digital Single Market strategy, showed that resale-price related restrictions are by far the most widespread restrictions of competition in e-commerce markets which makes effective competition enforcement in this area important. The findings also shed light on the increased use of automatic software applied by retailers for price monitoring and price setting. The Commission also launched other separate investigations in [February 2017](#) and [June 2017](#) to assess if certain

online sales practices prevent, in breach of EU antitrust rules, consumers from enjoying cross-border choice and from being able to buy products and services online at competitive prices. These investigations are ongoing.

Article 101 TFEU prohibits agreements between undertakings and decisions of associations of undertakings that prevent, restrict or distort competition within the EU's Single Market.

More information on the cases will be available on the Commission's [competition](#) website, in the public [case register](#) under the case numbers [AT. 40465](#)(Asus), [AT. 40469](#)(Denon & Marantz), [AT. 40181](#) (Philips), [AT. 40182](#)(Pioneer).

Action for damages

Any person or company affected by anti-competitive behaviour as described in these cases may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without being reduced on account of the Commission fine.

The [Antitrust Damages Directive](#), which Member States had to transpose into their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain damages](#). More information on antitrust damages actions, including a practical guide on how to quantify antitrust harm, is available [here](#).

Whistleblower tool

The Commission has set up by a tool to make it easier for individuals to alert it about anti-competitive behaviour while maintaining their anonymity. The new tool protects whistleblowers' anonymity through a specifically-designed encrypted messaging system that allows two way communications. The tool is accessible via this [link](#).