

# Antitrust: Commission fines maritime car carriers and car parts suppliers a total of €546 million in three separate cartel settlements

All companies acknowledged their involvement in the cartels and agreed to settle the cases.

Commissioner Margrethe **Vestager**, in charge of competition policy said: *“The Commission has sanctioned several companies for colluding in the maritime transport of cars and the supply of car parts. The three separate decisions taken today show that we will not tolerate anticompetitive behaviour affecting European consumers and industries. By raising component prices or transport costs for cars, the cartels ultimately hurt European consumers and adversely impacted the competitiveness of the European automotive sector, which employs around 12 million people in the EU.”*

## **Maritime car carriers**

The European Commission found that the Chilean maritime carrier **CSAV**, the Japanese carriers **“K” Line**, **MOL** and **NYK**, and the Norwegian/Swedish carrier **WWL-EUKOR** participated in a cartel concerning intercontinental maritime transport of vehicles, and imposed a total fine of €395 million.

For almost 6 years, from October 2006 to September 2012, the five carriers formed a cartel in the market for deep sea transport of new cars, trucks and other large vehicles such as combine harvesters and tractors, on various routes between Europe and other continents.

The Commission’s investigation revealed that, to coordinate anticompetitive behaviour, the carriers’ sales managers met at each other’s offices, in bars, restaurants or other social gatherings and were in contact over the phone on a regular basis. In particular, they coordinated prices, allocated customers and exchanged commercially sensitive information about elements of the price, such as charges and surcharges added to prices to offset currency or oil prices fluctuations.

The carriers agreed to maintain the status quo in the market and to respect each other’s traditional business on certain routes or with certain customers, by quoting artificially high prices or not quoting at all in tenders issued by vehicle manufacturers.

The cartel affected both European car importers and final customers, as imported vehicles were sold within the European Economic Area (EEA), and European vehicle manufacturers, as their vehicles were exported outside the EEA. In 2016, some 3.4 million motor vehicles were imported from non-EU countries, while the EU exported more than 6.3 million vehicles to non-EU

countries in 2016. Almost half of these vehicles were transported by the carriers that have been fined today.

The Commission's investigation started with an immunity application submitted by MOL. During its investigation, the Commission cooperated with several competition authorities around the world, including in Australia, Canada, Japan and the US.

### *Fines*

The fines were calculated on the basis of the Commission's [2006 Guidelines on fines](#) (see also [MEMO](#)).

In determining the fines, the Commission took into account the sales value on the intercontinental routes to and from the EEA achieved by the cartel participants for the transport services, the serious nature of the infringement, its geographic scope and its duration. The Commission also applied a 20% fine reduction for CSAV, to take into account its lesser involvement in the infringement.

Under the Commission's [2006 Leniency Notice](#):

- MOL received full immunity for revealing the existence of the cartel, thereby avoiding a fine of ca. €203 million.
- CSAV, "K" Line, NYK and WWL-EUKOR benefited from reductions of their fines for their cooperation with the Commission. The reductions reflect the timing of their cooperation and the extent to which the evidence they provided helped the Commission to prove the existence of the cartel.

In addition, under the Commission's [2008 Settlement Notice](#), the Commission applied a reduction of 10% to the fines imposed on the companies in view of their acknowledgment of the participation in the cartel and of their liability in this respect.

The breakdown of the fines imposed on each company is as follows:

Company	Reduction under Leniency Notice	Reduction under Settlement Notice	Fine (€)
MOL	100%	10%	0
NYK	20%	10%	141 820 000
"K" LINE	50%	10%	39 100 000
WWL-EUKOR	20%	10%	207 335 000
CSAV	25%	10%	7 033 000

### **Spark plugs**

In a second decision, the Commission has found that **Bosch** (Germany), **Denso** and **NGK** (both Japan) participated in a cartel concerning supplies of spark plugs to car manufacturers in the EEA and imposed a total fine of €76 million.

Spark plugs are automotive electric devices built in petrol engines of cars,

delivering high voltage electric sparks to the combustion chamber. Bosch, Denso and NGK's customers are car manufacturers with production facilities in the EEA.

The cartel lasted from 2000 until 2011 and aimed at avoiding competition by respecting each other's traditional customers and maintaining the existing status quo in the spark plugs industry in the EEA.

The three companies exchanged commercially sensitive information and in some instances agreed on the prices to be quoted to certain customers, the share of supplies to specific customers and the respect of historical supply rights. This coordination took place through bilateral contacts between Bosch and NGK, and between Denso and NGK.

The Commission's investigation started with an immunity application submitted by Denso.

### *Fines*

The fines were calculated on the basis of the Commission's [2006 Guidelines on fines](#) (see also [MEMO](#)).

In determining the fines, the Commission took into account the companies' sales generated in the EEA from the supply of spark plugs to car manufacturers with production facilities in the EEA. The Commission also considered the serious nature of the infringement, its geographic scope and its duration. The Commission also applied a 10% fine reduction for Bosch and Denso, to take into account their lesser involvement in the infringement.

Under the Commission's 2006 Leniency Notice:

- Denso received full immunity for revealing the existence of the cartel, thereby avoiding a fine of ca. €1 million.
- Bosch and NGK benefited from reductions of their fines for their cooperation with the investigation. The reductions reflect the timing of their cooperation and the extent to which the evidence they provided helped the Commission to prove the existence of the cartel.

In addition, under the Commission's 2008 Settlement Notice, the Commission applied a reduction of 10% to the fines imposed in view of the parties' acknowledgment of their participation in the cartel and of their liability in this respect.

The breakdown of the fines imposed on each company is as follows:

<b>Company</b>	<b>Reduction under Leniency Notice</b>	<b>Reduction under Settlement Notice</b>	<b>Fine (€)</b>
Denso	100%	10%	0
Bosch	28%	10%	45 834 000
NGK	42%	10%	30 265 000

## Braking systems

In a third decision, the European Commission found two cartels relating to braking systems. The first concerned the supply of hydraulic braking systems (HBS) and involved **TRW** (USA, now ZF TRW, Germany), **Bosch** (Germany) and **Continental** (Germany). The second cartel concerned the supply of electronic braking systems (EBS) and involved **Bosch** and **Continental**. The Commission imposed a total fine of €75 million.

In both cartels, the three car part suppliers aimed at coordinating their market behaviour by exchanging sensitive information, including on pricing elements. The coordination took place at bilateral meetings and through phone conversations or email exchanges.

The first cartel lasted from February 2007 to March 2011 and related to discussions of general sales conditions of hydraulic braking systems for two customers, Daimler and BMW. The second cartel lasted from September 2010 to July 2011 and related to one specific tender for electronic braking systems for Volkswagen.

The Commission's investigation in this case started with an immunity application by TRW.

### *Fines*

The fines were calculated on the basis of the Commission's [2006 Guidelines on fines](#) (see also [MEMO](#)).

In setting the level of fines, the Commission took into account, in particular, the sales value in the EEA achieved by the cartel participants for the products in question, the serious nature of the infringement, its geographic scope and its duration.

Under the Commission's [2006 Leniency Notice](#):

- TRW received full immunity for revealing the HBS cartel, thereby avoiding a fine of ca. €54 million.
- Continental received immunity for revealing the EBS cartel, thereby avoiding a fine of ca. €22 million for this cartel.
- Bosch and Continental (for the cartel for which it did not receive immunity) benefited from reductions of their fines for their cooperation with the Commission investigation. The reductions reflect the timing of their cooperation and the extent to which the evidence they provided helped the Commission to prove the existence of the cartels in which they were involved.

In addition, under the Commission's [2008 Settlement Notice](#), the Commission applied a reduction of 10% to the fines imposed on the companies in view of their acknowledgment of the participation in the cartel and of the liability in this respect.

The breakdown of the fines imposed on each company is as follows:

Company		Reduction under Leniency Notice		Reduction under Settlement Notice	Fine (€)
1	TRW	Daimler	BMW	10%	0
	Bosch	100%	100%	10%	12 072 000
	Continental	35%	35%	10%	44 006 000
		20%	100%		
2	Continental Bosch	VW		10%	0
		100%		10%	19 348 000
		30%			

## Background

Article 101 of the Treaty on the Functioning of the European Union (TFEU) and Article 53 of the EEA Agreement prohibit cartels and other restrictive business practices.

Today's decisions concerning **spark plugs** and **braking systems** are part of a series of major investigations into cartels in the automotive parts sector. The Commission has already fined suppliers of automotive [bearings](#), [wire harnesses in cars](#), flexible foam used (inter alia) in [car seats](#), [parking heaters in cars and trucks](#), [alternators and starters](#), [air conditioning and engine cooling systems](#), [lighting systems](#), and [occupant safety systems](#).

More information on these cases will be available under the case number AT.40009 (maritime car carriers), AT.40113 (spark plugs) and AT.39920 (braking systems) in the [public case register](#) on the Commission's [competition website](#), once confidentiality issues have been dealt with. For more information on the Commission's action against cartels, see its [cartels website](#).

## The settlement procedure

Today's decisions are the 26<sup>th</sup>, 27<sup>th</sup> and 28<sup>th</sup> settlement decisions since the introduction of the settlement procedure for cartels in June 2008 (see [press release](#) and [MEMO](#)). Under a settlement, undertakings that have participated to a cartel acknowledge their participation in the infringement and their liability for it. The settlement procedure is based on the [Antitrust Regulation 1/2003](#) and allows the Commission to apply a simplified procedure and thereby reduce the length of the investigation. This is good for consumers and for taxpayers as it reduces costs; good for antitrust enforcement as it frees up resources to tackle other suspected cases; and good for the companies themselves that benefit from quicker decisions and a 10% reduction in fines.

## Action for damages

Any person or company affected by anti-competitive behaviour as described in this case 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 cartel participants 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](#).