



EUROPEAN COMMISSION
Competition DG

CASE AT.39904 – Rechargeable Batteries

(Only the English text is authentic)

CARTEL PROCEDURE

Council Regulation (EC) 1/2003

Article 7 Regulation (EC) 1/2003

Date: 12/12/2016

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EN

Case COMP/39904 – RECHARGEABLE BATTERIES

SUMMARY OF COMMISSION DECISION

of 12 December 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 COMP/39904 – RECHARGEABLE BATTERIES)

(NOTIFIED UNDER DOCUMENT NUMBER C(2016)8456

(ONLY THE ENGLISH TEXT IS AUTHENTIC)

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

On 12 December 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) On 12 December 2016, the Commission adopted a Decision relating to infringement of Article 101 of the Treaty and Article 53 of the EEA Agreement in the rechargeable lithium-ion batteries sector. The addressees of the Decision exchanged commercially sensitive market information and/or coordinated prices of rechargeable lithium-ion batteries ("LiBs").
- (2) There are three different types of LiBs depending on their usage and demand namely cylindrical, prismatic and polymer. For example, larger devices such as laptops and camcorders often use cylindrical LiBs, whereas smaller devices like smartphones and tablets often use prismatic or polymer LiBs.

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

- (3) The Decision is addressed to Samsung SDI², Sony³, Panasonic⁴ and Sanyo⁵ ("the Parties").

2. CASE DESCRIPTION

2.1. PROCEDURE

- (4) Following the immunity application of Samsung SDI under the terms of the 2006 Leniency Notice, the Commission addressed on 1 June 2012 targeted requests for information to the undertakings active in the industry. On 17 August 2012, Sony applied for a reduction of a fine. Panasonic (together with Sanyo) applied for a reduction of a fine on 25 March 2015.
- (5) On 4 March 2015, the Commission initiated proceedings pursuant to Article 11(6) of Regulation (EC) No 1/2003 against the parties with a view to engaging in settlement discussions with them. Settlement meetings took place between July 2015 and July 2016. Subsequently, the parties submitted to the Commission their formal request to settle pursuant to Article 10a (2) of Regulation (EC) No 773/2004⁶.
- (6) The Commission adopted the Statement of Objections on 28 September 2016 and all parties unequivocally confirmed that it corresponded to the content of their settlement submissions and that they therefore remained committed to following the settlement procedure.
- (7) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 5 December 2016. The Commission adopted the Decision on 12 December 2016.

2.2.DURATION

- (8) The following undertakings have infringed Article 101 of the Treaty and Article 53 of the EEA Agreement, by participating, during the periods indicated below, in anti-competitive practices in respect to the supply of LiBs.

² The relevant legal entity is Samsung SDI Co., Ltd.

³ The relevant legal entities are Sony Corporation, Sony Energy Devices Corporation, Sony Electronics Inc. and Sony Taiwan Limited.

⁴ The relevant legal entities are Panasonic Corporation and Panasonic Automotive & Industrial Systems Europe GmbH (formerly Panasonic Industrial Device Sales Europe GmbH).

⁵ The relevant legal entities are Sanyo Electric Co., Ltd., Panasonic Industrial Devices Sales Taiwan Co., Ltd. (formerly Sanyo Energy Taiwan Co., Ltd.) and Panasonic Automotive & Industrial Systems Europe GmbH (formerly Sanyo Component Europe GmbH). As of second half of 2009, Sanyo is part of the Panasonic group.

⁶ 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.

Undertaking	Period of participation
Samsung SDI	1 April 2004 - 1 October 2007
Sony	24 February 2004 - 1 October 2007
Panasonic	24 February 2004 to 10 November 2007
Sanyo	24 February 2004 to 10 November 2007

2.3.SUMMARY OF THE INFRINGEMENT

- (9) The cartel consisted of a series of anti-competitive contacts between the Parties regarding LiBs, including occasional price related contacts and/or regular exchanges of commercially sensitive market information. Moreover, the Parties discussed their intentions to participate in particular competitive bidding events organised by specific customers. In the context of these discussions, they occasionally disclosed prices they submitted or intended to submit as well as coordinated the appropriate timing to launch the agreed price increases.
- (10) The cartel has mainly operated on the basis of bilateral contacts, however multilateral contacts were also occasionally organised. Geographically, the cartel discussions mainly have taken place in Asia, however contacts occasionally also took place in Europe.
- (11) The cartel contacts took place with varying degrees of intensity and frequency. The contacts reached their peak in the context of price increases of cobalt in 2004 and 2007, which resulted in the Parties' agreement on temporary price increases of LiBs for that period.

2.4.REMEDIES

- (12) The Decision applies the 2006 Guidelines on fines⁷.

2.4.1. Basic amount of the fine

- (13) The value of sales is calculated on the basis of the sales of LiBs in the EEA in the last full business year of the infringement (2006).
- (14) Considering the nature of the infringement and its geographic scope, the percentage for the variable amount of the fine as well as the additional amount ("entry fee") is set at 16% of the value of sales for the infringement.

⁷ OJ C 210, 1.9.2006, p. 2.

- (15) The variable amount is multiplied by the number of years or by fractions of the year respectively of the Parties' individual participation in the infringement. The increase for duration is calculated on the basis of the full years, months and days.

2.4.2. Adjustments to the basic amount

- (16) There are no aggravating or mitigating circumstances taken into account by the Commission in this case.

A deterrence multiplier of 1.2 is applied to Sony and Panasonic 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

- (17) The final individual amounts of the fines are below 10% of the worldwide turnovers of all Parties.

2.4.4. Application of the 2006 Leniency Notice

- (18) Samsung SDI was the first to submit information and evidence meeting the conditions of point 8(a) of the 2006 Leniency Notice. Its fine to be imposed is thus reduced by 100%.

- (19) Moreover, Sony is granted 50% reduction of the fine and Panasonic/Sanyo a reduction of 20%.

2.4.5. Application of the Settlement Notice

- (20) As a result of the application of the Settlement Notice, the amount of the fine for Sony, Panasonic and Sanyo was reduced by 10%. The reduction was added to their leniency reward.

3. FINES IMPOSED BY THE DECISION

- (21) The following fine was imposed pursuant to Article 23(2) of Regulation (EC) No 1/2003:

(a) Samsung SDI Co., Ltd: EUR 0

(b) Sony Corporation, Sony Energy Devices Corporation, Sony Electronics Inc. and Sony Taiwan Limited jointly and severally liable: EUR 29 802 000

(c) Panasonic Corporation and Panasonic Automotive & Industrial Systems Europe GmbH jointly and severally liable: EUR 38 890 000

(d) Sanyo Electric Co., Ltd., Panasonic Industrial Devices Sales Taiwan Co., Ltd. and Panasonic Automotive & Industrial Systems Europe GmbH jointly and severally liable: EUR 97 149 000.