

Brussels, 24 June 2008

Commission goes to court over damages suffered from elevators cartel

The European Commission has filed cases with the Tribunal de Commerce in Brussels seeking compensation from four lifts companies for damages suffered from inflated prices for the installation and maintenance of lifts and escalators. In 2007 these companies were found by the Commission to have operated illegal cartels in several countries, in breach of EC Treaty rules on cartels and restrictive business practices (see [IP/07/209](#)). No final amount of the damage can yet be calculated, given the complexity and variety of contractual relations, but it is expected that expert assessments in the context of the court cases will help identify the total amount of overpayment suffered. The Commission's action covers claims for its own buildings and those of other EU institutions, both in Brussels and Luxembourg.

Commission Vice-President Siim Kallas, in charge of administration, audit and anti-fraud said: "This case represents an important example of a coherent attitude of the Commission in acting both as market regulator and as diligent administrator of EU taxpayers' money. As a result of the anticompetitive behaviour of these companies, the EU institutions, and so the European taxpayer, have suffered financially by paying over the odds for the installation and maintenance of lifts and escalators. It is our duty to seek compensation for these damages. We act firmly where we find contractors act illegally".

Neelie Kroes, Commissioner for Competition, said "the Commission is doing its utmost to encourage and facilitate actions for damages before national courts by victims of anticompetitive behaviour. In this case, we are leading by example".

The European Commission in February 2007 fined the **Otis, KONE, Schindler and ThyssenKrupp groups a total of €992 million for operating cartels for the installation and maintenance of lifts and escalators** in clear violation of EC Treaty rules that outlaw restrictive business practices (Article 81). **Between at least 1995 and 2004, these companies rigged bids for procurement contracts, fixed prices and allocated projects to each other, shared markets and exchanged commercially important and confidential information** (see [IP/07/209](#)).

Background

As described in detail in the Commission's 2007 cartel decision (available at <http://ec.europa.eu/comm/competition/antitrust/cases/decisions/38823/en.pdf>), the evidence uncovered in the inspections showed that the companies ran illegal cartels in Belgium, Germany, Luxembourg and The Netherlands. This was confirmed by numerous documents and corporate statements provided and the companies in general did not contest the facts addressed by the Commission in its Statement of Objections, on which the Commission based its finding of an infringement of Article 81 of the EC Treaty. The Commission's decision has nevertheless been challenged by several of the concerned undertakings before the Court of First Instance of the European Communities in Luxembourg.

The companies allocated tenders and other contracts for the sale, installation, maintenance and modernisation of lifts and escalators with the aim of freezing market shares and fixing prices. Business secrets and confidential information on bidding patterns and prices between the cartel participants were also exchanged. Projects that were rigged included lifts and escalators for hospitals, railway stations, shopping centres and commercial buildings. The allocation of projects was similar in all four Member States. The companies informed each other of calls for tender and coordinated their bids according to their pre-agreed cartel quotas. Fake bids, too high to be accepted, were lodged by the companies who were not supposed to win the tender, in order to give the impression of genuine competition. The companies kept and circulated amongst themselves updated project lists for Belgium, Germany and Luxembourg.

On the basis of the Commission's cartel decision from 2007, any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages, submitting elements of the published Commission cartel decision as evidence that the behaviour took place and was illegal.

The Commission is worried that the effects of this cartel may continue for many years as maintenance is often done by the companies that installed the equipment in the first place.

A Commission White Paper on compensating consumer and business victims of competition breaches has been published (see [IP/08/515](#) and [MEMO/08/216](#)).

For general information on the Commission's buildings and buildings policy, see http://ec.europa.eu/oib/index_en.htm