

26 July 2007: Agreement on the market for high voltage electric cables

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The Conseil de la concurrence penalizes the major cable suppliers to €19.5 million for making an agreement during two successive invitations to bid organised by EDF

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Following a referral by EDF against practices implemented by several high tension cable suppliers, the Conseil de la concurrence issues an opinion in which it penalizes companies Nexans France, Prysmian Energies Câbles et Systèmes (owner of Pirelli), Safran (owner of Sagem), Draka Paricable and grupo General Cable Sistemas for a total amount of €19.5 million.

The candidates concluded an agreement in two competitive bids organised by EDF on their offers' respective amount

The invitations to bid concerned had the objective to cover EDF needs for high voltage range cables designed for aerial and underground network from 1 February 2002 to 31 May 2004.

- For the first market (approximately €35 million) concerning a short temporary period from 1 February to 31 May 2002, EDF had organised an electronic bidding consultation among four approved companies: Draka, Nexans, Pirelli and Sagem. The documents seized during the searches show that the companies' representatives had met several times and exchanged information prior to the deposit of their offers they were about to submit to EDF.

- The same companies, to which was added Grupo General Cable Sistemas SA,

made a new agreement during the second consultation organised by EDF so as to allocate a two year market, from 1 June 2002 to 31 May 2004, which had a greater volume (about €200 million).

These consultations and exchanges allowed the companies to agree on the price of their respective offers and the conduct awaited by each bidder during the two invitations to bid. These practices thus led to distort the competition organised by EDF.

The Conseil de la concurrence considers that these are very serious practices

Agreements which aim at preventing competition in sharing markets and hindering price fixing through the free market play are considered as unjustifiable by nature.

As regards the market with electronic bidding, the Conseil considers that the sophisticated agreement mechanism constitutes an aggravating factor, since the companies concerned made a full simulation of their behaviour on the day before the bidding so as to set the price levels and the order in which it had to bid on each lot. Through this innovating process, the companies thus deprived EDF of the possibility to obtain more precise information on the price level, which the companies were ready to pay to supply cables.

The continuation of the agreement for the next market, although organised under a usual form, showed a will to extend the duration of the initial agreement for greater volumes.

The companies concerned did not contest the alleged facts and obtained a 10% reduction in the penalty

The Conseil de la concurrence considered that the no contest procedure (negotiated settlement), which has the effect of reducing and speeding up investigation, combined with very general commitments taken by the companies to train staff and to make managers and employees familiar with competition law, should lead to grant a 10% reduction in the incurred penalty.

The penalties, after reduction, break down as follows :

- company Nexans France : €9, 450, 000 ;

- company Prysmian Energies Câbles et Systèmes : €4, 770, 000 ;
- company Safran : €3, 735, 000 ;
- company Draka Paricable : €675, 000;
- company Grupo General Cable Sistemas : €900, 000.