13 February 2013: Pork slaughtering and commercialisation of pigmeat

Published on February 13, 2013

Following a complaint from pig farmers, the Autorité de la concurrence fines eight pork slaughterers and two professional bodies for several anticompetitive agreements



> *Version française*

Following a complaint from four pig farmers from Ille-et-Villaine and the opening of *ex officio* proceedings, the Autorité issues today a decision whereby it imposes fines for a total amount of €4.57 million for several anticompetitive practices implemented in the pork slaughtering and commercialisation sector. Some of these practices were brought to light thanks to dawn raids completed by the Autorité's Investigation Services in several companies and professional organisations.

The main practice sanctioned was the concerted set up of the quantity of pigs bought by five major Breton slaughterers (**Abera, Bernard, Gad, Groupe Bigard and Socopa Viandes**), with the aim to, in particular, lower the prices paid to pig farmers – the fines issued in this regard amount to a total of €4,512,621.

The Autorité also fined the slaughter houses professional body, named '**French Meat Association**' (formerly known as the **SNCP**[1]), for sending pricing instructions and for other anticompetitive agreements between slaughterers, of a lesser extent and duration.

Most of the companies and bodies involved (8 out of 10) challenged neither the facts, nor their legal qualification, nor their responsibility with regard to these

infringements. Moreover, some of them undertook commitments for the future, thus gaining further fine reductions.

In total, the fines are imposed as follows:

Slaughtering companies	**Total amount of fines imposed, in €**
Socopa Viandes and Groupe Bigard (jointly and severally)	1,757,177
Bigard Group	1,345,438
Abera	595,233
Bernard	577,313
Gad/Financière du Forest (jointly and severally)	257,397
Cooperl	18,288
Kermené	7,000
AIM/HAIM (jointly and severally)	2,460

Professional bodies	**Total amount of fines imposed, in €**
French Meat Association (former SNCP)	13,500
Fédération des acheteurs au cadran (FAC)[2]	2,700

In 2009, five slaughterers consulted with each other for several months, in order to lower in a coordinate manner their purchase of pigs, at the expense of pig farmers

The pork slaughtering companies, **Abera, Bernard, Gad, Groupe Bigard and Socopa Viandes**, agreed to reduce, in a coordinate manner, their pork slaughtering in 2009, over successive periods covering a total of 12 weeks.

This concerted reduction in slaughter aimed at affecting the price of pigs in the *Marché du porc breton* (MPB), which serves as a price index on a national scale. In fact, the artificial reduction in the demand for live pigs caused significant price drops at the expense of farmers-producers.

This practice was implemented by the major slaughterhouses (which represent 70% of pork purchases at the MPB and 50% of pork purchases in the "*Uniporc Ouest*" area, which itself represents 80% of the French pig-breeding business), towards pig farmers, who were ill equipped to escape the effects of this secret anticompetitive agreement. Indeed, the animals' maturity governs their sale window, with regard to the quality requirements for pig meat.

None of the 5 slaughterers involved challenged having implemented these practices.

The *Syndicat national du commerce de porc* (French Pork Trade Association,

SNCP) sent price instructions to its members, over several years and repeatedly, with an aim to counter special offers applied by food retailers on fresh pig meat for cutting.

Traditionally, food retailers apply special offers on pig meat in January and September. Deeming these very low pricing levels to be "***harmful to the sector's profitability and image***", the SNCP repeatedly sent advisories and circulars between December 2004 and August 2009. These documents called for slaughterers not to sell their pig meat to food retail chains below a certain reference price.

These price instructions, which constituted anticompetitive practices, were disseminated during several promotional periods, in spite of a formal warning issued by the department for fraud control of the Minister for the Economy.

The SNCP did not challenge having implemented such practices. A €10,800 fine was imposed regarding these practices.

Other anticompetitive agreements were also fined

The slaughterhouses **Cooperl Arc-Atlantique** and **Gad** were fined respective totals of €13,288 and €1,097 for entering, in May and June 2009, into an anticompetitive agreement directed against the Auchan retail chain, on a minimum price for the sale of boneless pork loins and on the prices of meat subject to special offers on a national scale in some of this retail chain's stores. These practices artificially increased the price of the pig meat sold to these stores and consequently to the end consumer.

In addition, seven slaughterers (**Abera, AIM Groupe, Bernard, Cooperl Arc-Atlantique, Gad, Groupe Bigard and Kermené**), along with the SNCP and the ***Fédération des acheteurs au cadran*** (Auction Market Buyers Federation, **FAC**), were fined for setting together, on 2 and 5 September 2005, when the auction market was down, a unique price for their direct purchases from farmers. The SNCP instructed the price to be applied in an advisory sent to all slaughterhouses. Considering the very short duration of this last infringement,

and its limited effects, the fines issued with respect to this infringement range from between €2,700 and €7,000.

Fines that are proportionate to the individual situation of each company or body, in the tough economic conditions for the pig farming sector

The Autorité de la concurrence, when setting the amount of the fines, took into account the seriousness of the facts and the extent – highly limited in most cases – of the harm done by the identified practices to the economy. The Autorité also adjusted the amount of the fines to the individual situation of each company and organisation penalised. In this regard, it took into consideration the fact that some of the companies involved were single-product companies, therefore mostly active in the sector concerned only. The companies Gad, Abera and Bernard thus got fine reductions of respectively 60%, 50% and 50%.

In its assessment of the fines, the Autorité also took into account the various elements linked to the difficult economic context affecting the operators of the pig sector, in addition to the existence of a strong counter-power held by food retailers.

Eight of the ten companies involved did not challenge the objections and some of them made compliance commitments, thus gaining an additional fine reduction

The eight companies and organisations that did not challenge the objections notified by the Investigation Services of the Autorité de la concurrence (**Abera, AIM, Bernard, Gad, Groupe Bigard, Socopa Viandes, the French Meat Association – former SNCP – and the FAC**) benefitted from a reduction in their fines with this regard.
In addition, three of them chose to adopt an Antitrust Compliance Programme in order to prevent the repetition of such practices. They obtained an additional fine reduction; the fine reduction in the matter of settlement and commitment procedures therefore reached 18%.

- **Bernard and Groupe Bigard - Socopa Viandes** undertaketoimplementan AntitrustCompliceProgramme, providing for the set up of anaudit and control system, training activities, as well as a regular control of the efficient implementation of the programme.

- **AIM and HAIM** undertake to implement an Antitrust Compliance Programme, providing notably for written instructions to employees dealing with suppliers, customers and competitors, training activities and the set up of an audit and control system.

Finally, the companies **Gad** and **Financière du Forest** having put forward financial difficulties, an additional fine reduction was applied to them, taking account of these companies' diminished ability to pay. Consequently, the fine imposed on these companies with regard to the main infringement (production limitation) was reduced by over 80%, going from €1,313,420 down to €250,000.

The regulation of the functioning of the Breton pig market and competition rules

Within the framework of its decision, the Autorité took notice of the amendments brought on by the parties, on their own initiative, to certain aspects of the functioning of the Breton pig market. This functioning in itself was not questioned in the context of the case that resulted in this decision.

To the contrary, the Autorité took account, both in its analysis of the practices and in the determination of the fines, of the mechanisms implemented within the Breton pig market in order to ensure some stability in the price fluctuations generated, notably, by the volatility of raw material prices.

In light of this context as well, the Autorité dismissed one of the objections notified to the companies, noticing that some of the exchanged information on potential purchase conduct intentions were not anticompetitive practices within the specific context of the bi-weekly auction market regulating the Breton pig sector.

(1) The French Pork Trade Association (Syndicat national du commerce du porc – SNCP), became the French Meat Association on 15 December 2009
(2) Auction Market Buyers Federation

> Full text of Decision 13-D-03 on practices implemented in the pork pig sector (in French)

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> See decision of Paris Court of Appeal 25 September 2014