Decision 19-D-24 of December 17, 2019

regarding practices implemented in the sector of fruits sold in cups ad pouches

Posted on: December 18, 2019 | Sector(s) :

AGRICULTURE / AGRI-FOOD

DISTRIBUTION & CONSUMER GOODS

Presentation of the decision

Summary

[Only the French version prevails and is authentic] At the end of this decision, the Autorité de la concurrence (hereinafter "the Autorité") fines companies Materne, Andros, Conserves France, Délis SA, SAS Vergers de Châteaubourg, Charles Faraud, Charles & Alice, Valade and Coroos Conserven BV for having implemented, between October 2010 and January 2014, an anticompetitive practice aiming, on the one hand, to manipulate the prices of products sold to food retailers under retailers' own-brand labels and products sold to food service distributors ("out-of-home catering") in the fruit-compote sector and, on the other hand, to distribute the sharing of customers and volumes for these same products.

These companies have implemented an anti-competitive practice which consisted in:

- set up and apply an overall plan intended to increase the selling prices of fruit-compotes to retailers'own-brand label and out-of-home catering customers, define a common discourse justifying these price increases, set target prices by type of product, stabilize the distribution of compotes volumes sold between the participating companies and apply these principles by exchanging during

customer calls for tenders;

- apply the principles set out in this overall plan by concluding agreements to increase prices, distribute the volumes of products sold and customers;

- take stock of compliance with the rules set out in this overall plan and provide a compensation system for companies that have lost sales volumes.

In order to implement this unique and continuous infringement, companies concerned have multiplied multilateral and bilateral contacts during meetings, e-mail exchanges or telephone calls. The agreement mechanism deployed in this case was sophisticated in secrecy. In fact, some employees of the companies involved benefited from mobile phones specially dedicated to exchanges and to the implementation of the agreement. Furthermore, most of the meetings were not held in business premises but in hotels or restaurants.

This secret agreement was revealed thanks to the leniency procedure which allows companies having participated in an agreement to reveal its existence to the Autorité and to obtain, under certain conditions, the benefit of a total or partial exemption of monetary penalty, depending in particular on their rank of arrival at the Autorité.

In fact, the case was brought to the attention of the Autorité at the start of 2014 by the companies of Coroos group, which applied for leniency and received full exemption from the penalty.

Dawn raids carried out in France in September 2015 made it possible to gather numerous pieces of evidence which supplemented the evidence provided by the leniency applicant.

The infringement notably consisted in the establishment of secret horizontal agreements on prices and volumes which, by their nature, constitute the most serious infringements of competition law. It has also resulted in exchanges of information, the gravity of which is less significant, but is nevertheless real because these exchanges have greatly reduced the uncertainty of the behaviour of the operators concerned on the market.

This infrigement, which involved the main manufacturers of fruit-compotes sold to retailers'own-brand label and out-of-home catering distributors, was national in scope. It focused on consumer products such as fruits sold in cups and pouches.

The Autorité, after examining all the facts of the case, considered that there was reason to impose financial penalties totalling €58,283,000 against the companies concerned.

Only the grounds for the decision are authentic.

Information about the decision

Origin of the case	Autorité de la concurrence (autosaisine)
Decision	Leniency Order to publish Established practice(s) Sanctions pécuniaires
Procedure(s)	Leniency

Company(ies) involved	Coroos Conserven BV, Coroos Beheer BV, Coroos International NVet Stichting Administratiekantoor OKB, Andros SNC, Andros et Cie SAS, Charles Faraud SA Charles & Alice SAS, CAI Développement SAS, Conserves France SA, Conserve Italia societa cooperativa agricola, Valade SAS, Financière Lubersac Materne SAS, MBMA SAS, MBMA Holding SAS, Délis SA, SAS Vergers de Châteaubourg, Groupe Lactalis SA, B.S.A

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