Several entities sanctioned in bakery equipment distribution sector

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Distribution of bakery equipment: The *Autorité de la concurrence* fines Bongard and the Bongard Dealers' Association for price fixing. It also fines these same entities and the Euromat purchasing office for practices that restricted passive sales.

Background

The *Autorité de la concurrence* (hereinafter "the *Autorité*") fines the Bongard Dealers' Association (ACB) and Bongard (jointly and severally with its parent companies AFE Bakery, Ali Holding SRL and Ali SAS) for fixing the selling prices of "Paneotrad" bakery equipment for more than ten years.

The *Autorité* also fines these same entities and the central purchasing office Euromat for implementing, between 2008 and 2016, a ban on passive sales, which consisted of preventing distributors of Bongard products from marketing these products and those acquired from Euromat when they were approached by potential customers located outside the territorial areas that had been allocated to them.

None of the parties in question contested the facts and they requested the benefit of a settlement procedure.

The *Autorité* imposed a total penalty of €2,950,000:

- €1,500,000 against the ACB
- €1,200,000 against Bongard (jointly and severally with its parent companies)
- €250,000 against Euromat

The ACB and the Bongard and Euromat distribution networks

Bongard is a French company that manufactures and markets a wide range of bakery and patisserie equipment under its brand name, including the "Paneotrad" machine. It distributes its products either directly or through an exclusive distribution network of some 30 distributors (also called "dealers") present throughout France. This exclusivity concerns either the sale of Bongard products to the clientele of artisan bakers only, or their sale to all types of clientele, depending on the case. Distributors in the Bongard network may also sell Bongard products, on a non-exclusive basis, to national bakery chains and large and medium-sized retailers (hereinafter referred to as "Key Accounts").

The distributors in the Bongard network are members of the Bongard Dealers' Association (ACB). Bongard is not a member of the ACB but is present, by right, at each meeting and is involved in the definition and application of certain rules defined within the ACB. The Euromat purchasing office, which has some 30 members, all of whom are Bongard dealers and members of the ACB, also allows its members to obtain supplies of products that are complementary to Bongard products, by way of derogation from the exclusivity of supply applicable to Bongard distributors. Euromat has also expressly adhered to the rules governing the Bongard distribution network.

Bongard and the ACB fixed the selling price of the "Paneotrad" machine

The "Paneotrad" machine is a patented piece of equipment that offers bakers a combination of three functions (divider, shaper and dough rest), allowing them, according to Bongard, to eliminate up to 30% of the manual operations required to make bread.

The *Autorité* found that the ACB and Bongard had agreed to fix a common selling price for the "Paneotrad" machine. As a result, between 2006 and 2019, the price of the "Paneotrad" was discussed and agreed 22 times within the ACB, in the presence, from 2008, of Bongard.

These same entities and the central purchasing office Euromat set up a system to prohibit passive sales

The *Autorité* noted that, from 2008 until 2016, the ACB's internal rules of procedure contained an article, transposed into the exclusive distribution contracts, providing that any sale or delivery of new equipment and spare parts outside the exclusive area granted was expressly prohibited, both to artisan bakers and Key Accounts, including in response to a spontaneous request from a potential customer located outside the granted territory. This article, which was unanimously adopted by the ACB members, also stated that Bongard and Euromat would guarantee compliance with these provisions.

Practices not contested

The parties did not contest the alleged practices and requested the benefit of the settlement procedure. This allows a company that does not contest the charges brought against it to obtain a financial penalty within a range proposed by the General Rapporteur, setting maximum and minimum amounts within which the Board would announce the fine and giving rise to the agreement of the parties. Under this negotiated procedure, the *Autorité* imposed a total penalty of €2,950,000:

- €1,500,000 against the ACB
- €1,200,000 against Bongard (jointly and severally with its parent companies)
- €250,000 against Euromat

DECISION 23-D-05 OF 18 APRIL 2023

on practices implemented in the bakery equipment distribution sector

See the full text of the decision (in French)

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