



Case summary

9 January 2020

German car manufacturers fined for anticompetitive practices in the purchase of long steel

Sector:	Automotive industry
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Date of decisions:	21 November 2019

The Bundeskartellamt has imposed fines totalling 100 million euros on Bayerische Motoren Werke AG, Daimler AG and Volkswagen AG for anticompetitive practices in the purchase of long steel products.

In their production processes the car manufacturers use various parts which are made from long steel (e.g. crankshafts, connecting rods, camshafts, gear wheels and steering rods). These components are either purchased from forging companies or are produced by the car manufacturers themselves in their own forges. For this purpose, long steel is purchased beforehand as a raw material.

Long steel is usually sold by the steel manufacturers or forging companies based on a certain price model. The price consists of a basic price and scrap and alloy surcharges. During the period of infringement the surcharges, which fluctuated according to amount, accounted on average for approximately a third of the end price of engineering steel, which is the main type of long steel concerned here. The surcharges accounted for approximately two thirds of the end price of rust, acid and heat-resistant steels, which is concerned to a lesser extent in this case.

The purchase costs of long steel account for less than one percent of the total costs of a car.

Representatives of BMW, Daimler and VW met twice a year between October 2004 and October 2013 under the umbrella of the German association for steel and metal processing (Wirtschaftsverband Stahl- und Metallverarbeitung, WSM) with steel manufacturers, forging companies and large systems suppliers. They met on a regular basis following the unilateral

decision by the steel manufacturers to implement and enforce changes, in some cases by threatening to cut supply, in the calculation of the surcharges in 2003 and 2004. Their talks took place under the headline “Steel talks AVI long-steel products (semi-finished and bar steel products)”, with AVI standing for the “Working group of the Iron and Metal processing Industry” (“Arbeitsgemeinschaft der Eisen und Metall verarbeitenden Industrie”).

In these talks (which were also referred to as “AVI meetings”) the participants discussed, among other things, the basic principles of scrap and alloy surcharges and how to deal with them. The OEM representatives assured and encouraged each other to continue to adhere to the established practice of uniformly calculated price surcharges and to adopt the conditions unilaterally changed by the steel manufacturers in 2003 and 2004.

As a result the OEMs paid their suppliers (steel manufacturers and forging companies) the scrap and alloy surcharges based on these uniform calculations even after the last AVI meeting in October 2013 until at least January 2016, regardless of whether, like Daimler and VW, they operated their own forges and thus procured both semi-finished and bar steel products and forged parts made from these products or whether, like BMW, they simply procured forged parts for lack of a proprietary forge.

Competition between the OEMs was eliminated as a consequence of the AVI talks to the extent that key components of the purchase price, namely the scrap and alloy surcharges, or their calculation basis were no longer negotiated individually.

The OEMs acknowledged the facts as established by the Bundeskartellamt and agreed to a settlement. This was taken into account by the Bundeskartellamt when calculating the fines as well as the fact that the car manufacturers had cooperated with the authority throughout the proceeding.

The fines imposed in the present proceeding are now final.

Individuals who have suffered damage due to the infringement may claim compensation from the parties if the legal conditions are fulfilled (Section 33a German Competition Act, GWB). Final fining decisions of the Bundeskartellamt in which an infringement has been found to have occurred have a legally binding effect on court decisions within the meaning of Section 33b GWB.