



Revocation of orders imposing fines against Etex Holding and termination of fines proceeding against CEO involved

Sector: Roof tiles

Ref: B1-200/06-P2 and B1-200/06-U13

In 2008/2009 in proceedings against clay roof tile manufacturers¹, the Bundeskartellamt imposed fines against the then managing director of Etex Holding GmbH as the individual personally involved and against Etex Holding GmbH as the company concerned for breaching their duty of supervision, Section 130 of the Act on Regulatory Offences (*Ordnungswidrigkeitengesetz, OWiG*). The parties appealed against the orders imposing the fines.

Further investigations by the Bundeskartellamt in the interim proceedings following the appeals showed that the former managing director left the board of directors of Etex Holding GmbH just a few days before the cartel agreement was made. This had not yet been visible from the commercial register when the order imposing the fine was issued. The relevant documents were only submitted by the former managing director with his appeal.

The order imposing the fine against Etex Holding GmbH therefore had to be revoked. The fine proceeding against the former managing director was initially continued. The initiation of proceedings against the Belgian parent company S.A. Etex Group was also considered because the former managing director was the head of its "European Building Materials" division both before and after he left the board of directors of Etex Holding GmbH.

The fine proceeding against the former managing director has meanwhile been discontinued for discretionary considerations. Against this background investigatory proceedings will not be continued against the parent company, S.A. Etex Group either.

¹ See case summary ref. B1-200/06

In principle every parent company has a duty to supervise that the companies under its control do not act in an anti-competitive manner.