

Summary of Commission Decision**of 24 July 2018****relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union
and Article 53 of the EEA Agreement****(Case AT.40182 — Pioneer (vertical restraints))****(notified under document number C(2018)4790 final)****(Only the English text is authentic)****(Text with EEA relevance)****(2018/C 338/11)**

On 24 July 2018, the Commission adopted a decision relating to a proceeding under Article 101 of the Treaty on the Functioning of the European Union and Article 53 of the EEA Agreement. In accordance with the provisions of Article 30 of Council Regulation (EC) No 1/2003 [\(1\)](#), the Commission herewith publishes the names of the parties and the main content of the decision, including any penalties imposed, having regard to the legitimate interest of undertakings in the protection of their business secrets.

1. INTRODUCTION

- (1) The Decision is addressed to Pioneer Corporation, Pioneer Europe N.V. and Pioneer GB Ltd (collectively ‘Pioneer’). During the infringement period Pioneer Europe N.V. and Pioneer GB Ltd were wholly-owned subsidiaries of Pioneer Corporation (Japan).
- (2) The Decision relates to a single and continuous infringement of Article 101 of the Treaty on the Functioning of the European Union (‘TFEU’) and Article 53 of the European Economic Area (‘EEA’) Agreement. In violation of Article 101 TFEU and Article 53 of the EEA Agreement Pioneer implemented practices in 12 EEA countries aimed at restricting the ability of retailers to determine their resale prices independently and restricting the territories into which they could sell.

2. CASE DESCRIPTION**2.1. Procedure**

- (3) The case against Pioneer originated from an unannounced inspection on 3 December 2013 at the premises of Pioneer Europe N.V. in Belgium for suspected resale price maintenance (‘RPM’) with regard to Pioneer’s consumer electronics products. Shortly after the inspection, Pioneer indicated its interest to cooperate with the Commission and submitted further evidence regarding the relevant conduct.
- (4) On 10 March 2015, the Commission carried out unannounced inspections at the premises of an online retailer in France and of another online retailer in Germany. These retailers sell, inter alia, Pioneer’s products.
- (5) On 2 February 2017 the Commission opened proceedings with a view to taking a decision under Chapter III of Regulation (EC) No 1/2003.
- (6) Subsequently, Pioneer submitted a formal offer to cooperate in view of the adoption of a decision pursuant to Article 7 and Article 23 of Regulation (EC) No 1/2003.
- (7) On 7 June 2018, the Commission adopted a Statement of Objections addressed to Pioneer. On 14 June 2018, Pioneer submitted its reply to the Statement of Objections.

- (8) The Advisory Committee on Restrictive Practices and Dominant Positions issued a favourable opinion on 10 July 2018.
- (9) The Commission adopted the Decision on 24 July 2018.

2.2. Addressees and duration

- (10) The following undertaking has infringed Article 101 TFEU and Article 53 of the EEA Agreement by participating, during the period indicated below, in anti-competitive practices:

Undertaking	Duration
Pioneer	2 January 2011 – 14 November 2013

2.3. Summary of the infringement

- (11) The products concerned by the Decision are the consumer home electronic products of Pioneer's Home Division.
- (12) During the infringement period, Pioneer developed and implemented a pan-European strategy to encourage, coordinate and facilitate the close monitoring of the resale prices of its Home Division products. In this context, Pioneer took measures to monitor the resale prices of retailers in 12 EEA countries and to request and obtain the agreement of retailers to increase resale prices. This was achieved by putting commercial pressure on lower-pricing retailers and, in some cases, by taking retaliatory measures against non-compliant retailers. In addition, Pioneer took measures to restrict, discourage or prevent the parallel trade of Home Division products within the EEA.
- (13) Interventions by Pioneer were either prompted by complaints from retailers regarding their competitors' resale prices, or initiated proactively by Pioneer. The increase in resale prices and the prevention of cross-border online sales to other EEA countries was achieved via serial number tracking that allowed Pioneer to identify the lower-pricing retailers/parallel traders.
- (14) While Pioneer engaged the most frequently in RPM in France, Germany, Belgium and the Netherlands, Pioneer's general approach to resale prices was similar in the other affected EEA countries (Denmark, Finland, Italy, Portugal, Spain, Sweden, the United Kingdom, and Norway).
- (15) By closely monitoring the resale prices of its retailers, intervening with the lowest pricing retailers to get their prices increased and by preventing cross-border online sales, Pioneer sought to avoid or slow down online price erosion across its entire (online) retail network.

2.4. Remedies

- (16) The Decision applies the 2006 Guidelines on Fines ⁽²⁾.

2.4.1. Basic amount of the fine

- (17) In setting the fines, the Commission took into account the value of sales in 2012, which is the last full business year of the participation of Pioneer in the infringement.
- (18) The Commission took into account the fact that RPM and parallel trade restrictions, by their very nature, restrict competition within the meaning of Article 101(1) TFEU and Article 53 of the EEA Agreement. The Commission also took into account that vertical agreements and concerted practices are, by their nature, often less damaging to competition than horizontal agreements. Taking account of these factors and in light of the specific circumstances of the case the proportion of the values of sales was set at 8 %.
- (19) The Commission took into account the duration of the single and continuous infringement, as mentioned above.

2.4.2. Adjustments to the basic amount

- (20) There are no aggravating or mitigating circumstances in this case.

2.4.3. Application of the 10 % turnover limit

(21) The calculated fine does not exceed 10 % of Pioneer's worldwide turnover.

2.4.4. *Reduction of the fine in view of cooperation*

(22) The Commission concludes that, in order to reflect that Pioneer very effectively cooperated with the Commission beyond its legal obligation to do so, the fine that would otherwise have been imposed should, pursuant to point 37 of the Guidelines on Fines, be reduced by 50 %.

3. CONCLUSION

(23) In light of the above, the final amount of the fine imposed on Pioneer pursuant to Article 23(2)(a) of Regulation (EC) No 1/2003 for the single and continuous infringement is EUR 10 173 000.

⁽¹⁾ [OJ L 1, 4.1.2003, p. 1.](#)

⁽²⁾ [OJ C 210, 1.9.2006, p. 2.](#)
