
British Aggregates Association

Press Notice 26 July 2007 Immediate

A Trade Association With Too Much Information?

On 10 July the British Cement Association issued a statement which levelled strong criticism at the British Aggregates Association's investigation into the UK cement market.

"Unfounded, without substance and just plain wrong," was how Mike Gilbert, BCA Chief Executive described the BAA action. Mr Gilbert went on to label the BAA investigation as "a programme of innuendo."

However, it is apparent that the BCA are no strangers to this type of controversy as they have previously been convicted for infringing the provisions of Article 85 (1) of the E.C. Treaty by preventing the free movement of cement across National borders, sharing price information and colluding on minimum delivered prices.

Robert Durward, Director – British Aggregates Association;

"It is not normal for a manufacturers' trade association to demonstrate in depth knowledge of end user prices. Not only is this possibly illegal, it raises questions about their right to be treated as a bona-fide trade association in the first place."

The BCA also alleged that the BAA got it wrong by claiming German prices were much cheaper as they were ex works and not delivered prices. However, CDC has evidence which shows that, although German cement prices have risen steeply in 2007, they are still only around €62 per tonne delivered compared to €100 (and higher) in the UK.

The BAA brought in Cartel Damage Claims, CDC, to look at the UK cement market as they were experienced in this sector and to ensure proper separation between the association and live price information. CDC is currently pursuing a multi-million euro claim against international cement producers who have been convicted of operating a cartel, through the Regional Court of Düsseldorf.

Robert Durward,

"The CDC investigation is ongoing and will probably run through until early next year. However significant anomalies and patterns of behaviour have already emerged and the end result promises to be interesting."

Notes to editors;

1. British Cement Association Press Release 10 July 07
<http://www.cementindustry.co.uk/pdf/Cement%20supplies%20and%20prices%20-%20100707.pdf>
2. the UK cement industry is made up of only four manufacturers: Castle (Heidelberg) Cemex, Tarmac and Lafarge who together control the British Cement Association.
http://www.cementindustry.co.uk/the_industry.aspx
3. A copy of the BCA's certified accounts, showing its controlling parties is attached to this notice.
4. **EXTRACT FROM 1994 EC DECISION:** (BAA underlining) "The British Cement Association, Blue Circle Industries Plc, Rugby Group Plc, Castle Cement Ltd [and others] infringed the provisions of Article 85 (1) of the E.C. Treaty by participating in an agreement designed to ensure non-transshipment (of cement) to home markets and to regulate cement transfers from one country to another. While the Commission was able to establish the date on which the infringement constituted by the Cembureau agreement or principle commenced, [January 14th 1983] it has no certainty that the infringement ever really ceased, and it cannot therefore establish a date for the ending of the infringement. However, since the apparently final

manifestation of the agreement, known to the Commission, is the liquidation of Interciment S.A. on March 26th 1993, the Commission has used that date for determining the reference period for the fine".

5. "The British Cement Association [*also*] infringed the provisions of Article 85 (1) of the E.C. Treaty by participating in agreements on the exchange of price information, designed to facilitate the implementation of the agreement referred to in Article 1(above), at the Cembureau Head Delegates and Executive Committee meetings between January 14th 1983 and April 14th 1986."
 6. "The British Cement Association [*also*] infringed the provisions of Article 85 (1) of the E.C. Treaty by participating in concerted practices designed to facilitate the implementation of the agreement referred to in Article 1 and relating to:
 - a. the circulation of information on the Belgian and Dutch producers' minimum prices for supplies of cement by lorry and of the Luxembourg producer's prices, inclusive of rebates;
 - b. the circulation of information on the Danish and Irish producers' individual price-lists, on the trade price lists in force in Greece, Italy and Portugal and on the average prices charged in Germany, France, Spain and the United Kingdom."
 7. The Case reference for the Commission Decision is IV / 33.126 and 33. 322 - Cement (94 / 815 / EG) Commission Decision 30th November 1994 and the above information is on pages L 343 /123 TO L 343 / 128
 8. the European Commission imposed fines of €250m on 30 November 1994 on several cement producing companies and the British Cement Association. The industry appealed this decision to the European Court of First Instance and further appealed to the European Court of Justice. The Commission's decision was upheld by both courts although the fines were reduced due to procedural oversights on the part of the Commission.
 9. the actual fines levied were;
 - a. British Cement Association €100,000
 - b. Blue Circle (now Lafarge) €15,824,000
 - c. Castle Cement (now Heidelberg) €7,964,000
 - d. Rugby Cement (now Cemex) €3,144,000
 10. In 2003, the German Federal Cartel Office levied fines of €702m against 12 German Cement companies and their representatives for price fixing and market sharing activities that caused huge damage to cement users. Amongst those fined in Germany were Heidelberg, Lafarge and Readymix (Cemex) Holcim, Dyckerhoff and Schwenk. These companies now face multi million euro damage claims from downstream operators damaged by the anti-competitive behaviour. (The claims have been bundled by CDC).
 11. OFT guidelines for applying Article 81 and the Chapter I prohibition when assessing the activities of trade associations.
http://www.of.gov.uk/shared_of/business_leaflets/ca98_guidelines/oft408.pdf
 12. Cartel Damage Claims website - www.carteldamageclaims.com
- Contacts

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ENDS: