

**Opinion of the Advisory Committee on restrictive practices and dominant positions given at its 421st meeting on 11 december 2006 concerning a draft decision in Case COMP/F/39.234 — Alloy surcharge readoption**

(2007/C 159/06)

1. The Advisory Committee agrees with the Commission on the applicability of Article 65(1) of the ECSC Treaty despite its expiry.
  2. The Advisory Committee agrees with the Commission's assessment of the facts as an agreement and/or concerted practice within the meaning of Article 65(1) of the ECSC Treaty.
  3. The Advisory Committee agrees with the Commission's assessment of the product and geographic market affected by the cartel in the draft decision.
  4. The Advisory Committee agrees with the Commission's draft decision as regards the addressee of the decision, in particular with reference to imputation of liability to TKS for the behaviour of TS-AG.
  5. The Advisory Committee agrees with the Commission's finding that the principle of 'ne bis in idem' does not forbid the adoption of the present decision.
  6. The Advisory Committee agrees with the Commission's finding that the limitation period has not expired.
  7. The Advisory Committee agrees with the Commission on the basic amount of the fine.
  8. The Advisory Committee agrees with the Commission on the decrease of the basic amount due to an attenuating circumstance.
  9. The Advisory Committee agrees with the Commission on the amount of the reduction of the fine based on the 1996 Commission Notice on the non-imposition or reduction of fines in cartel cases.
  10. The Advisory Committee agrees with the Commission on the final amount of the fine.
  11. The Advisory Committee recommends the publication of its opinion in the *Official Journal of the European Union*.
  12. The Advisory Committee asks the Commission to take into account all the other points raised during the discussion.
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