



PRESS RELEASE No 101/22

Luxembourg, 16 June 2022

Judgment of the Court of Justice in Case C-697/19 P | Sony Corporation and Sony Electronics v Commission, C-698/19 P | Sony Optiarc and Sony Optiarc America v Commission, C-699/19 P | Quanta Storage v Commission and C-700/19 P | Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission

Cartel on the market for optical disk drives: the Court partially annuls the decision of the Commission but upholds the amounts of the fines imposed.

The Commission failed to satisfy its obligation to state reasons by finding that, in addition to their participation in a single and continuous infringement, the undertakings concerned also participated in several separate infringements.

By a decision of 21 October 2015,¹ the Commission found that several companies had infringed competition rules by participating in a cartel on the market for optical disk drives (ODDs) and imposed fines on them amounting in total to € 116 million. The infringement at issue concerns ODDs used inter alia in desktop and notebook computers produced by Dell and by Hewlett Packard. Those companies are the principal original equipment manufacturers on the global market for personal computers and they use standard procurement procedures carried out on a global basis. Those procedures involve, inter alia, quarterly negotiations over a worldwide price and overall purchase volumes with a limited number of pre-qualified ODD suppliers.

The Commission considered that the cartel participants had coordinated their competitive behaviour, at least between 23 June 2004 and 25 November 2008. They communicated their intentions as regards their tendering strategy for obtaining contracts, they shared the results of the procurement procedures and exchanged other sensitive information. The Commission stated that that coordination took place through a network of parallel bilateral contacts. The cartel participants sought to accommodate their volumes on the market and ensure that the prices remained at levels higher than they would have been in the absence of those bilateral contacts.

Sony Corporation, Sony Optiarc, Sony Optiarc America, Quanta Storage, Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea brought actions before the General Court to the European Union for the annulment of the Commission Decision or the reduction of the fines imposed. By its judgments of 12 July 2019,² the General Court dismissed their actions.

Appeals were brought before the Court of Justice against those judgments of the General Court, seeking to have those judgments set aside and Commission Decision annulled, or the amounts of the fines imposed reduced.

¹ Commission Decision C(2015) 7135 final of 21 October 2015 relating to a proceeding under Article 101 TFEU and Article 53 of the EEA Agreement (Case AT.39639 – Optical disk drives).

² Judgments of the General Court of 12 July 2019, Sony and Sony Electronics v Commission, [T-762/15](#), Sony Optiarc and Sony Optiarc America v Commission, [T-763/15](#), Quanta Storage v Commission, [T-772/15](#), Toshiba Samsung Storage Technology and Toshiba Samsung Storage Technology Korea v Commission, [T-8/16](#), (see also, [Press Release No 96/19](#)).

By its judgments handed down today, **the Court of Justice sets aside the judgments of the General Court and partially annuls the Commission Decision.**

The Court of Justice finds in particular that the General Court erred in law in holding that the Commission had not breached the rights of defence of those companies and that it had satisfied its obligation to state reasons for the decision by which it found that those companies had participated in several separate infringements, in addition to their participation in a single and continuous infringement. The Court of Justice rejected the other arguments relied on by the parties.

As regards the fines imposed by the Commission, the Court considered, when giving final judgment, that none of the elements relied on by the participants in the cartel, nor any ground of public policy, justifies it making use of its unlimited jurisdiction to reduce that amount.

Summary table of the fines

Companies	Amount of the fine fixed by the Commission (€ million)	Amount of the fine following the proceedings before the General Court: Commission Decision upheld	Amount of the fine following the proceedings before the Court of Justice: Commission Decision partially set aside
Toshiba Samsung Storage Technology Corporation and Toshiba Samsung Storage Technology Korea Corporation	41.30 Jointly and severally liable	Fine upheld (=)	Fine upheld (=)
Sony Corporation and Sony Electronics	21.02 Jointly and severally liable	Fine upheld (=)	Fine upheld (=)
Sony Optiarc	9.78, of which it is jointly and severally liable for 5.43 with Sony Optiarc America	Fine upheld (=)	Fine upheld (=)
Quanta Storage	7.15	Fine upheld (=)	Fine upheld (=)

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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