
WilmerHale Antitrust Attorneys Secure Appeal Victory

2013-09-17

In 2010, the Brussels antitrust practice was selected from a number of law firms to represent Wabco in the appeal of a €326 million (close to \$435 million) fine imposed by the EU Commission for participation in the bathroom fixtures cartel (faucets, shower enclosures and ceramic basins, tubs and toilets). Wabco had inherited the liability from the American/Ideal Standard brands. The EU Commission decision found that 17 different groups of companies had conspired—13 companies appealed.

WilmerHale attorneys argued Wabco's appeal before the General Court of the EU in March 2012. On September 16, 2013, the General Court rendered its judgment annulling a huge chunk of the Commission decision against Wabco. The Court held that even under the deferential standards of review for factual findings, the Commission's case had failed to show Wabco's participation in a key conspiracy lasting beyond 11 months, rather than 11 years and seven months found by the Commission. The factual reversal led the Court to set the fine at €122.8 million instead of €326 million, a reduction of some €203 million (close to \$271 million). The reduction is the third largest fine reduction ever granted by the Court in a cartel case. WilmerHale attorneys think, in fact, that the Court miscalculated by another €3 million or so, and hope to recover that as well.

The appeals by the other defendants did not fare quite as well as WilmerHale's: seven were dismissed in their entirety; two led to a partial annulment without any impact on the fine; four led to some reduction in the fine, but only ours was significant.

The WilmerHale team included Partner [Fred Louis](#), former Partner Sven Völcker, Counsel [Cormac O'Daly](#) and Senior Associate [Alex Israel](#). Firm attorneys were assisted by Baker & McKenzie, who had represented the firm's client in the Commission proceedings. The winning arguments were crafted by O'Daly and Louis and were argued at the oral hearing before the Court by Louis.