



EUROPEAN COMMISSION

PRESS RELEASE

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Antitrust: Commission market tests commitments proposed by Rio Tinto Alcan in markets for aluminium smelting

The European Commission is inviting comments from interested parties on commitments offered by Rio Tinto Alcan to address concerns that it may have infringed EU antitrust rules by contractually tying its leading AP aluminium smelting technology to aluminium smelter equipment it supplies, namely pot tending assemblies (PTAs). To address these concerns, Rio Tinto Alcan offered to modify its AP technology transfer agreements so as to enable the licensees of the AP aluminium smelting technology to choose any supplier whose PTAs meet certain technical specifications. If the market test confirms that the proposed commitments remedy the competition concerns, the Commission may make the commitments legally binding on Rio Tinto Alcan.

The Commission's investigation focuses on the practice of Alcan and, following the 2008 merger, Rio Tinto Alcan of contractually tying the licences of its AP aluminium smelting technology to the purchase of PTAs supplied by its subsidiary ECL SASU. The Commission has concerns that this may result in an infringement of European antitrust rules that prohibit restrictive business practices and the abuse of a dominant market position (Articles 101 and 102 of the Treaty on the functioning of the European Union - TFEU - and Articles 53 and 54 of the European Economic Area – EEA – Agreement). According to the Commission's preliminary assessment, Rio Tinto Alcan may have a dominant position on the relevant market for the licensing of aluminium smelting technology and its contractual practice may lead to higher prices, hamper innovation and shut out competitors from the market for PTAs.

Following discussions with the Commission, Rio Tinto Alcan has proposed commitments to address these concerns. In particular, Rio Tinto Alcan offered to modify the terms of its future technology transfer agreements, so that any licensee of the AP aluminium smelting technology will be entitled to purchase from any recommended PTA supplier or from ECL any PTA that meets certain technical specifications.

A summary of the proposed commitments proposed by Rio Tinto Alcan has been published in the EU's Official Journal. The full non-confidential version of the commitments is available at:

http://ec.europa.eu/competition/elojade/isef/case_details.cfm?proc_code=1_39230

Interested parties can submit comments within one month from the date of publication.

Background

If the market test indicates that the commitments are a satisfactory solution to the Commission's concerns, the Commission may adopt a decision under Article 9 of the EU's antitrust Regulation 1/2003, to make them legally binding on Rio Tinto Alcan. Such an Article 9 decision does not conclude that there is an infringement of EU antitrust rules but legally binds the companies concerned to respect the commitments offered. If a company breaks such commitments, the Commission can impose a fine of up to 10% of its annual worldwide turnover, without having to find an infringement of the antitrust rules.

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