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PRESS RELEASE

EEC Commission examines lawfulness of a co-operation agreement

In a memorandum on industrial concentration in the Common Market issued in January 1966, the EEC Commission discussed the specific contribution that can be made by small businesses to attaining effective, undistorted and fair competition - one of the aims of the EEC Treaty. The Commission stressed that small firms should not be put at a disadvantage in respect of purchasing, distribution and market research in competition with big ones and that the conclusion of agreements on joint research, joint purchasing and rationalization should be facilitated so that these firms can operate effectively on the market.

In the SOCEMAS case (Société commerciale et d'études des maisons d'alimentation et d'approvisionnement à succursales) (1) the Commission has already dealt with the position in cartel law of purchasing associations set up by food chains. It is also considering certain decisions of the European Committee for Co-operation of the Machine Tool Industries (2) and the specialization and distribution agreement of the Alliance de constructeurs français de Machines-Outils (3).

The notification of an association of firms in the marine paint industry has now given the Commission its first opportunity to define its attitude to the admissibility under cartel law of agreements for co-operation in research and distribution. The Transocean Marine Paint Association, with headquarters in the Netherlands, comprises eighteen medium-sized marine paint manufacturers from eighteen countries, including five of the Common Market countries. The purpose of the Association is to enable members to develop special paints (in addition to those manufactured and sold by them individually) by drawing on their common knowhow, to manufacture them from standard formulas, to rationalize sales by using identical packaging and a single trademark through a world-wide network of distributors and thus to compete from a stronger position with the major international paint manufacturers.

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- (1) Official gazette of the European Communities No. 78, 29 April 1966  
(2) ibid. No.103, 10 June 1966  
(3) ibid. No. 137, 27 July 1966

As originally notified, the agreement contained clauses restraining a substantial part of international trade in "Transocean" and other paints manufactured by members of the Association and amounting to protection of the markets allocated to each member. The Commission advised the members of the Association that these restraints of trade made it difficult for the Commission to render a decision on the compatibility of the agreement with Article 85 of the EEC Treaty. The parties concerned then amended the agreement. It now contains only such restraints as may be considered essential to the attainment of its objectives. The Commission therefore intends to publish the agreement in the official gazette of the European Communities, a prerequisite for a ruling in favour of the Association. The purpose of this step is to give interested parties an opportunity to state their views on the impact on business of the agreement.

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