European Commission: Fining of Nintendo for Restricting Parallel Trade in the EU

An investigation conducted by order of the European Commission has revealed that Nintendo and seven of its official distributors in European Union (EU) countries colluded to keep prices within the European Economic Area (EEA) artificially high in the period 1991-1998.

Prices for Nintendo products differed significantly in the various EU countries during the relevant period, with the United Kingdom (UK) clearly being the cheapest country for play consoles and games. At some point, Nintendo products in the UK were up to 67% cheaper than in Spain and 65% cheaper than in the Netherlands and Germany. According to the European Competition Commissioner, Mario Monti, European families “have the right to buy the games and consoles at the lowest price the market can possibly offer”.

Evidence shows that Nintendo had made arrangements with seven EU distributors to prevent parallel trade from low-priced to high-priced countries. The companies made intensive efforts to find traders that allowed parallel exports. Such traders were sanctioned by being given smaller shipments or by a complete boycott.

Restrictions of parallel trade are strictly prohibited under Article 81 of the Treaty Establishing the European Community (EC Treaty), which forbids any agreements or concerted practices which may affect trade between the Member States and prevent, restrict or distort competition within the EU’s common market.

The infringement of Article 81 of the EC Treaty by Nintendo and its seven official distributors has led the Commission to impose a total fine of EUR 167.8 million. The size of the fine is due to the serious nature of the infringement and the harm caused to end-consumers. It is the fifth-largest fine ever imposed for an anti-trust infringement. Largely because Nintendo is regarded as the instigator and leader of the infringement, its fine alone amounts to EUR 149 million, the fourth-largest fine ever imposed on a company for a single infringement. The fact that the Commission intends to grant substantial financial compensation to third parties has also contributed to the size of the fine.

• "Commission fines Nintendo and seven of its European distributors for colluding to prevent trade in low-priced products", Press Release of the European Commission of 30 October 2002, IP/02/1584  
http://merlin.obs.coe.int/redirect.php?id=14500

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