

LYSINE AND PRICE FIXING: HOW LONG? HOW SEVERE?

Abstract

In October 1996 the Archer Daniels Midland Company (ADM) pled guilty to criminal price fixing with respect to sales of lysine and agreed to pay a \$70 million fine. Earlier, in August 1996 two Japanese producers and a Korean producer of lysine had agreed to plead guilty to criminal price fixing charges. And earlier still, in July 1996 ADM and the two Japanese companies settled the civil suits filed by some harmed buyers by agreeing to pay a sum of \$45 million.

It is this last event that serves as the focus for this paper. The adequacy of the settlement amount was a major area of dispute. Connor (1996, 1997, 1998) has claimed that the trebled damages to lysine purchasers were an order of magnitude larger. Crucial to Connor's conclusions are his assumptions as to the time period during which the conspiracy had an effect on prices and the "but for" price that otherwise would have prevailed in the absence of the conspiracy. This paper will argue that Connor substantially over-estimated the period of the conspiracy and under-estimated the "but-for" price.

Key words: antitrust; price-fixing; treble damages