

European Commission Re-Adopts Air Cargo Decision and Imposes Fines of €776m

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Related Practice Areas: **Antitrust / Competition, Competition Litigation**

On 17 March 2017, the European Commission issued a press release stating that it has adopted a new infringement decision against 11 airlines in relation to the air cargo cartel. The new decision corrects the procedural anomaly that led to the original decision's annulment by the European General Court in December 2015 but otherwise retains the Commission's original findings in identical terms.

In re-adopting its decision, the Commission has imposed virtually identical fines of €776,465,000 against the 11 airlines who appealed the original decision. The airlines that have been fined in the re-adopted decision are Air Canada, Air France-KLM, British Airways, Cargolux, Cathay Pacific Airways, Japan Airlines, LAN Chile, Martinair, SAS and Singapore Airlines. A 12th cartel member, Lufthansa, and its subsidiary, Swiss International Air Lines, received full immunity from fines.

The long-awaited re-adoption of the Commission's decision is welcome news. The air carriers in question have been found to have participated in the unlawful, price-fixing behaviour by regulators around the world. Redress for the victims of this global cartel is long overdue. The re-adopted decision will further strengthen the current claims for long overdue compensation before the English Courts in respect of a cartel which came to an end nearly a decade ago.

In the European Commission's press release, Margrethe Vestager, the Commissioner for competition, states: *"Millions of businesses depend on air cargo services, which carry more than 20% of all EU imports and nearly 30% of EU exports. Working together in a cartel rather than competing to offer better services to customers does not fly with the Commission. Today's decision ensures that companies that were part of the air cargo cartel are sanctioned for their behaviour."*

Any business which purchased air freight on flights to, from and within the European Economic Area (including the European Union) during the period from December 1999 to February 2006 has the right to claim compensation for any loss suffered as a result of the higher prices which they had to pay for air freight due to the cartel, together with interest since the date of those purchases. Recovery for these losses remains possible under English limitation rules.

Hausfeld & Co LLP represents the Claimants in the following related damages claims:

Emerald Supplies Limited & Ors v British Airways plc – HC-2013-000002

Hyundai Heavy Industries Co. Limited & Ors v British Airways plc – HC-2013-000330

Kodak Limited & Ors v British Airways plc – HC-2016-003194

For further information about this case, please go [here](#).

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