



Antitrust: Commission fines broker ICAP € 14.9 million for participation in several cartels in Yen interest rate derivatives sector

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The European Commission has fined the UK based broker ICAP € 14 960 000 for having breached EU antitrust rules by facilitating several cartels in the sector of Yen interest rate derivatives (YIRD). In December 2013, the Commission already imposed fines on a number of major banks that decided to settle the case with the Commission.

Commissioner Margrethe Vestager in charge of competition policy said: *"Today's decision to fine the broker ICAP sends a strong signal that assisting companies in their cartel activities has severe consequences. It marks the successful completion of our antitrust investigation in the Yen interest rate derivatives sector – but not the end to our efforts to fight anticompetitive practices in financial markets."*

[The Commission imposed fines](#) totalling € 669 719 000 on the banks UBS, RBS, Deutsche Bank, Citigroup, JPMorgan and on the broker RP Martin in December 2013. These companies had admitted their involvement in one or more cartels in the YIRD sector, which allowed the Commission to settle the case with them.

In the YIRD sector, the Commission uncovered seven distinct bilateral infringements lasting between 1 and 10 months in the period 2007 to 2010. The anticompetitive conduct concerned discussions between traders of the participating banks on certain JPY LIBOR submissions. The traders involved also exchanged, on occasions, commercially sensitive information relating either to trading positions or to future JPY LIBOR submissions.

ICAP chose not to settle the case. Proceedings against it therefore continued under the normal procedure. The Commission's investigation uncovered that **ICAP facilitated six of the seven cartels** in the YIRD sector through various actions that contributed to the anticompetitive objectives pursued by the cartelists, and in particular, by:

- **disseminating misleading information** to certain JPY LIBOR panel banks, which were veiled as 'predictions' or 'expectations' of where the JPY LIBOR rates would be set. This misleading information was aimed at influencing certain panel banks that did not participate in these infringements to submit JPY LIBOR rates in line with the adjusted 'predictions' or 'expectations' (UBS/RBS 2007, UBS/RBS 2008, UBS/DB 2008-09, Citi/DB 2010 and Citi/UBS 2010 infringements);
- **using its contacts with several JPY LIBOR panel banks** that did not participate in the infringements, with the aim of influencing their JPY LIBOR submissions (UBS/RBS 2007, Citi/DB 2010 and Citi/UBS 2010 infringements); and
- **serving as a communications channel** between a trader of Citigroup and a trader of RBS and thereby enabling the anticompetitive practices between them (Citi/RBS 2010 infringement).

The fines imposed on ICAP are as follows:

Name of undertaking	Infringement	Reduction under the Leniency Notice	Fine (€)
ICAP	UBS/RBS 2007	0%	1 040 000
ICAP	UBS/RBS 2008	0%	1 950 000
ICAP	UBS/DB 2008-09	0%	8 170 000
ICAP	Citi/RBS 2010	0%	1 930 000
ICAP	Citi/DB 2010	0%	1 150 000
ICAP	Citi/UBS 2010	0%	720 000
<i>Total</i>			<i>14 960 000</i>

Fines

Following its earlier practice with respect to fines for facilitators as well as the EU Court's case law on this point, the Commission set the fines as a lump sum by using its discretion in accordance with point

37 of the [Commission's 2006 Guidelines on fines](#) (also see [Press release](#) and [Memo](#)). The fines reflect the gravity, duration and nature of ICAP's involvement as a facilitator as well as the need to ensure that the fine has a sufficiently deterrent effect.

Background on the products concerned

Interest rate derivatives (e.g. forward rate agreements, swaps, futures, options) are financial products which are used by banks or companies for managing the risk of interest rate fluctuations. These products are traded worldwide and play a key role in the global economy. They derive their value from the level of a benchmark interest rate, such as the London interbank offered rate (LIBOR) – which is used for various currencies including the Japanese Yen (JPY). This benchmark reflects an average of the quotes submitted daily by a number of banks who are members of a panel. It is intended to reflect the cost of interbank lending in Japanese Yen and serves as a basis for various financial derivatives. The level of the benchmark rate may affect either the cash flows that a bank receives from a counterparty, or the cash flow it needs to pay to the counterparty under interest rate derivatives contracts (for more details see also [Memo](#)).

Action for damages

Any person or firm affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court of Justice of the European Union and the Antitrust Regulation (Council Regulation 1/2003) both confirm that in cases before national courts, a Commission decision is binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages can be awarded without these being reduced on account of the Commission fine.

The [Antitrust Damages Directive](#), which the Member States have to implement in their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain compensation](#). More information on antitrust damages actions, including a practical guide on how to quantify antitrust harm, is available in the Commission's Policy Brief and on the [Commission's website](#).

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