



Press and Information

General Court of the European Union

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Judgments in Case T-11/06 Romana Tabacchi Srl v Commission,
Case T-19/06 Mindo Srl v Commission and
Case T-39/06 Transcatlab SpA v Commission

The Court partially annuls, so far as concerns Romana Tabacchi, the Commission's decision relating to the cartel on the Italian raw tobacco market and reduces the initial amount of the fine imposed on Romana Tabacchi from €2.05 million to €1 million

However, it confirms the fines of €3.99 million and €14 million imposed on Mindo and Transcatlab, respectively

By decision of 20 October 2005¹, the Commission imposed fines totalling €56 million on several companies, including Romana Tabacchi Srl, Mindo Srl and Transcatlab SpA,² for their participation, between 1995 and 2002, in a horizontal cartel implemented on the Italian raw tobacco market, which had as its object, inter alia, collusion on the prices to be paid to tobacco producers and to intermediaries, as well as the allocation of suppliers. The Commission's decision also concerned two other infringements implemented by the Trade Association of Italian Raw Tobacco Processors (Associazione professionale trasformatori tabacchi italiani: APTI) and the Italian Tobacco Union (Unione italiana tabacco, Unitab) in the setting of the prices to be negotiated on behalf of their respective members.

Romana Tabacchi, which is currently in liquidation, received a fine of €2.05 million³.

Mindo (formerly Dimon Italia)⁴, which is currently the subject of a pre-bankruptcy agreement procedure before the Bankruptcy Court of Rome, received jointly and severally with Alliance One International Inc⁵, (legal successor of Dimon Inc, which was its former parent company) a fine of €10 million, Alliance One International Inc. being liable for the whole fine and Mindo being jointly and severally liable for only €3.99 million.⁶

Lastly, Transcatlab⁷, which is also currently in liquidation, received jointly and severally with Alliance One International a fine of €14 million.

¹ Decision C (2005) 4012 final of 20 October 2005 (OJ L 353, p. 45 of 13 December 2006).

² In addition to Romana Tabacchi, Mindo and Transcatlab, three other companies brought actions against the Commission's decision: Deltafina, Universal Corp. (parent company of Deltafina) and Alliance One International (legal successor of the former parent companies of Mindo and Transcatlab). The action brought by Universal Corp. was removed from the register by order of 1 September 2010 in Case [T-34/06](#). The actions brought by Deltafina (Case [T-12/06](#)) and Alliance One (Case [T-25/06](#)) gave rise to two judgments of the General Court delivered on 9 September 2011 (see [Press Release 87/11](#)).

³ That amount corresponds to 10% of Romana Tabacchi's total turnover during the most recent business year, in accordance with Article 23(2) of Regulation No 1/2003.

⁴ Mindo, originally a family undertaking known as Reditab Srl, was acquired in 1995 by Intabex Netherlands BV, a subsidiary of Dimon Inc. (its business name thus became Dimon Italia Srl). In 2004, the whole of its shareholding was sold by Intabex Netherlands to four individuals and its business name became Mindo.

⁵ Alliance One International is the company resulting from the merger, in 2005, between Dimon Inc. and Standard Commercial Corp., formerly parent companies of Dimon Italia (subsequently renamed Mindo) and Transcatlab, respectively.

⁶ The Commission limited Mindo's joint and several liability to 10% of its turnover for the most recent business year, given that, at the time of adoption of the Decision (in 2005), it maintained no links with the former group of which Dimon Inc. was the ultimate parent company (in accordance with Article 23(2) of Regulation No 1/2003)

⁷ At the material time, Transcatlab was the Italian subsidiary of Standard Commercial Corp. and was 100% controlled by Standard Commercial Corp.

Those three companies brought actions between January and February 2006 before the General Court seeking annulment of the Commission's decision and/or a reduction in their respective fines.

With respect to Case T-11/06 **Romana Tabacchi v Commission**, in its judgment of today, the Court considers that when calculating the fine imposed on Romana Tabacchi, the Commission erred in its assessment of the facts as regards the duration of Romana Tabacchi's participation in the cartel and infringed the principle of equal treatment when assessing the specific weight of that participation. In particular, the Commission determined the weight of the undertakings which participated in the cartel according to their market shares during the last full year of the infringement, namely in 2001, whereas, as regards Romana Tabacchi, the Commission was not entitled to regard that year as the last full year of its participation in the cartel. Moreover, the Commission's incorrect reliance on Romana Tabacchi's market share in 2001 resulted in its being incorrectly classified in a category of undertakings to which it did not belong and, therefore, in a starting amount of the fine which was disproportionate to its actual weight in the infringement.

Accordingly, in the exercise of its unlimited jurisdiction, in view in particular of the cumulative effect of those unlawful assessments and Romana Tabacchi's limited financial resources, the Court holds that the final amount of its fine should be set at €1 million: that amount is still sufficiently deterrent and a higher fine would be disproportionate to the infringement alleged against Romana Tabacchi.

Finally, the Court **partially annuls the Decision**, in so far as the Commission found therein that Romana Tabacchi had participated in the infringement beyond February 1999, and **reduces the fine** imposed on Romana Tabacchi from €2.05 million to **€1 million**.

With respect to Case T-19/06 **Mindo v Commission**, the Court observes that, after Mindo had brought its action, its fine was paid in full by its jointly and severally liable co-debtor, Alliance One International. The Court also observes that, so far, Alliance One International, which has no legal connection with Mindo, has not claimed a contribution from Mindo, even though more than five years have elapsed since that payment was made and Mindo, has, since 2007, been the subject of pre-bankruptcy agreement procedure with assignment of the assets, a procedure in which Alliance One International has not participated as a creditor before the Bankruptcy Court of Rome. Given that Mindo's action essentially seeks a reduction of the fine, the Court considers that, in the circumstances of the present case, annulment and/or alteration of the Decision would not procure any advantage for it. Notwithstanding the written questions that the Court put to Mindo after the hearing, Mindo has failed to demonstrate to the requisite legal standard that it had a vested and present interest in pursuing the proceedings. The Court therefore concludes that **there is no need to adjudicate** on the action.

Lastly, in Case T-39/06 **Transcatab v Commission**, the Court dismisses Transcatab's action. **The fine of €14 million imposed by the Commission is therefore confirmed.**

Table summarising all the Court's decisions regarding this cartel

Cases	Companies	Fines imposed by the Commission	Decision of the Court
Judgment in Case T-11/06	Romana Tabacchi	€2.05 million	Reduction of the fine €1 million
Judgment in Case T-12/06 (see Press Release)	Deltafina	Jointly and severally with Universal Corp.: €30 million	Dismissal of the action: Fine upheld
Order in Case T-34/06 (removal from the register)	Universal Corp.	Jointly and severally with Deltafina.: €30 million	Removal from the register: Fine upheld

Judgment in Case T-19/06	Mindo	€10 million with Alliance One International (Mindo being jointly and severally liable only for €3.99 million)	No need to adjudicate: Fine upheld
Judgment in Case T-25/06 (see Press Release)	Alliance One International	Jointly and severally with Mindo: €10 million Jointly and severally with Transcatab: €14 million	Dismissal of the action: Fine upheld
Judgment in Case T-39/06	Transcatab	Jointly and severally with Alliance One International: €14 million	Dismissal of the action: Fine upheld

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months of notification of the decision.

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The full text of the judgments ([T-11/06](#), [T-19/06](#) and [T-39/06](#)) is published on the CURIA website on the day of delivery

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