



The General Court reduces the fines imposed on Innolux and LG Display for their participation in the cartel on the market for LCD panels

Innolux's fine is reduced from €300 million to €288 million and that of LG Display from €215 million to €210 million

By decision of 8 December 2010¹ the Commission imposed fines totalling €648.925 million on six Korean and Taiwanese manufacturers of liquid crystal display (LCD) panels. It found that they had operated a cartel between October 2001 and February 2006. LCD panels are the main component of flat screens used in televisions and electronic notebooks.

The largest fines – €300 million and €215 million – were imposed on Innolux and LG Display respectively.

Both companies have brought actions before the General Court seeking annulment of the Commission's decision or, failing that, reduction of the fines².

In today's judgments, the Court rejects most of the arguments put forward by Innolux and LG Display and upholds the substance of the Commission's decision. It does, however, slightly reduce the fines imposed on each of the companies.

The Court observes that **Innolux** had made errors when it provided the Commission with the data necessary for calculating the value of relevant sales in that it had included sales relating to products other than the LCD panels subject to the cartel. The Commission confirmed before the Court that those products should not have been included in the calculation. The errors arose because Innolux had not explained the specifications of certain LCD panels to the external specialist consultants that it had chosen to compile the data to be provided to the Commission. As a result, the value of sales used by the Commission in setting the fine was too high. Accordingly, the Court, in the exercise of its unlimited jurisdiction, considers it appropriate to calculate the fine on the basis of the lower, corrected, sales value, even though Innolux was negligent when it provided the Commission with inaccurate data. That failure to act with due care does not give grounds for concluding that Innolux's breach of its obligation to cooperate was such that it must be taken into account, to the detriment of Innolux, when the fine is set. Applying the same method as that used by the Commission in the decision, **the recalculated fine amounts to €288 million** instead of €300 million.

As regards **LG Display**, the Commission made only one error in setting the fine in that it took the month of January 2006 into account when calculating the average value of sales. As the Commission had, under the Leniency Notice³, granted LG Display partial immunity in respect of January 2006 for having provided information relating to the cartel, that period should have been excluded from every stage of the calculation of the fine. Thus, if January 2006 is excluded not only

¹ Commission Decision C(2010) 8761 final relating to a proceeding pursuant to Article 101 [TFEU] and Article 53 of the EEA Agreement (Case COMP/39.309 – LCD – Liquid Crystal Displays), a summary of which is published in the *Official Journal of the European Union* of 7 October 2011 (OJ 2011 C 295, p. 8).

² One of the other companies involved, AU Optronics, also brought an action before the Court ([T-94/11](#)) but the case was removed from the register by order of 13 June 2013 following that company's discontinuance of the proceedings.

³ Commission notice on immunity from fines and reduction of fines in cartel cases (OJ 2002 C 45, p. 3).

from the multiplier for the duration of the infringement, but also from the calculation of the average value of relevant sales, **the fine** imposed on LG Display **must be reduced from €215 million to €210 million**.

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 texts of the judgments ([T-91/11](#) & [T-128/11](#)) are published on the CURIA website on the day of delivery

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