



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 79/15

Luxembourg, 9 July 2015

Judgment in Case C-231/14 P
InnoLux Corp. v Commission

The Court confirms the €288 million fine imposed on InnoLux for its participation in the cartel on the market for LCD panels

When the goods concerned by the cartel have been incorporated into finished products by a vertically-integrated undertaking outside the EEA, the Commission may take into account, for the purposes of calculating the fine to be imposed on that undertaking because of the cartel, the sales of its finished products in the EEA to independent third-party undertakings

In 2010, the Commission imposed fines totalling €648.925 million on six Korean and Taiwanese producers of liquid crystal display panels (LCD panels) because of their participation in a cartel from 2001 until 2006.¹ LCD panels are the main component of flat screens used in televisions and computers. One of the largest fines, amounting to €300 million, was imposed on InnoLux, a Taiwanese company. In 2014, the General Court essentially upheld that decision but reduced the fine imposed on InnoLux to €288 million.²

InnoLux then brought an appeal before the Court of Justice seeking, in essence, a greater reduction in the fine.³ InnoLux complains that the General Court included in the value of sales taken into account in calculating the fine finished products sold in the European Economic Area (EEA) into which its subsidiaries outside the EEA had incorporated the LCD panels at issue. InnoLux argues that the sales on the market for finished products do not relate to the cartel organised on the market for LCD panels.

By today's judgment, the Court finds, first of all, that the sales in issue were not made on the market for LCD panels, but on the market for finished products incorporating them. The Court considers, however, that because of the effects of the cartelised price of the incorporated LCD panels the sales of those finished products are liable to affect competition on the market for those products in the EEA, so that **those sales are related to the cartel at issue**.

In that regard, the Court notes that on the market for finished products incorporating the cartelised goods vertically-integrated undertakings may benefit from a cartel for two different reasons. Either the price increases of the inputs which result from the infringement are passed on by those undertakings in the price of the finished products, or those undertakings do not pass these increases on, which thus effectively grants them a cost advantage in relation to their competitors which obtain those same inputs on the market for the goods concerned by the cartel.

In those circumstances, the Court of Justice finds, like the General Court, that **the Commission was fully entitled to take into account, for the purposes of calculating the fine, the sales of the finished products incorporating the LCD panels up to the value of those panels**.

¹ Decision C (2010) 8761 final relating to a proceeding under Article 101 [TFEU] and Article 53 of the EEA Agreement (Case COMP/39.309 – LCD), 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 Case [T-91/11](#) InnoLux v Commission, see Press release [No 29/14](#).

³ LG Display, another producer, whose initial fine of €215 million was reduced to €210 million by judgment of the General Court of 27 February 2014 (Case [T-128/11](#) LG Display Co. Ltd and LG Display Taiwan v Commission, see Press Release [No 29/14](#)), has also brought an appeal before the Court. In that case, [C-227/14 P](#), the Court delivered its judgment on 23 April 2015 see Press Release [No 41/15](#).

Next, the Court states that excluding those sales when calculating the fine would have the effect of artificially minimising the economic significance of the infringement committed by a particular undertaking and impose a fine on it which bore no actual relation to the scope of application of that cartel and its role on the market for the products concerned by the infringement. In particular, such an approach would give an advantage to vertically-integrated companies which incorporate the goods in respect of which the infringement was committed into the finished products in their production units established outside the EEA.

The Court also confirms that the Commission was entitled to treat differently the sales made by the cartel participants depending on whether or not they form a single undertaking with the companies incorporating the goods concerned into the finished products. Cartel participants who like InnoLux form a single undertaking with the production units which incorporate those goods are in an objectively different situation from cartel participants which form a separate undertaking from the undertaking which incorporated the cartelised goods.

Lastly, the Court rejects InnoLux's argument that taking into account its sales of finished products in the EEA, in calculating the fine, when those products incorporate LCD panels which were the subject of internal sales outside the EEA, exceeds the Commission's territorial jurisdiction. The Court considers that the Commission had jurisdiction to apply Article 101 TFEU to the cartel at issue, since the cartel participants had implemented the cartel, which was worldwide, in the EEA by making direct sales in the EEA of LCD panels to independent third-party undertakings. For the purposes of calculating the fine, on the other hand, it is important that the value of sales taken into account reflects the economic importance of the infringement as well as the relative weight of InnoLux in the infringement, which gave good grounds in the present case for taking into account the sales of the finished products at issue.

In those circumstances, the Court **dismisses InnoLux's appeal in its entirety.**

NOTE: An appeal, on a point or points of law only, may be brought before the Court of Justice against a judgment or order of the General Court. In principle, the appeal does not have suspensive effect. If the appeal is admissible and well founded, the Court of Justice sets aside the judgment of the General Court. Where the state of the proceedings so permits, the Court of Justice may itself give final judgment in the case. Otherwise, it refers the case back to the General Court, which is bound by the decision given by the Court of Justice on the appeal.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355