



The Court confirms the fine of €210 million imposed on LG Display for its participation in the cartel on the market for LCD panels

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 €215 million, was imposed on LG Display. In 2014 the General Court essentially upheld that decision but reduced by €5 million the fine imposed on LG Display.² LG Display then brought an appeal before the Court of Justice seeking a greater reduction in the fine.³

By today's judgment, **the Court dismisses LG Display's appeal and confirms the fine as reduced by the General Court at the sum of €210 million.**

LG Display's claim, in essence, was that the General Court erred in confirming that the Commission was entitled, in order to calculate the fine, to take into account the sales of LCD panels which LG Display made to its parent companies (LG Electronics and Philips), although those sales could not have been affected by the cartel, since, because of the terms of contracts linking it to LG Electronics and Philips as part of their joint venture agreement, those sales were made at a preferential price. The Court states, first, that those sales must be regarded as sales made to independent third parties (external sales) and not as sales made to entities belonging to the same undertaking (internal sales).⁴ LG Display does not form a single undertaking with its parent companies and therefore does not constitute a vertically-integrated undertaking.⁵

The Court then holds that the sales of LCD panels made by LG Display to its parent companies were properly included in order to calculate the amount of the fine. That is because **the amount of the fine is solely determined according to the sales made on the market affected by the infringement, irrespective of whether the prices of those sales were or were not influenced by the cartel.** To ignore the value of sales made to LG Electronics and Philips on the ground that LG Display has particular structural links with those undertakings would give an unjustified advantage to LG Display by allowing it to avoid the imposition of a fine proportionate to its importance on the market concerned. Thus, even in the absence of any evidence that the sales of LCD panels by LG Display to its parent companies were affected by the infringement, those sales may nonetheless be taken into account for the purposes of calculation of the fine, provided that they were made on the market affected by the infringement.

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-128/11 LG Display Co. Ltd and LG Display Taiwan v Commission](#) - see Press Release No. [29/14](#).

³ Innolux, another producer, whose initial fine of €300 million was reduced to €288 million by judgment of the General Court of 27 February 2014 in Case: [T-91/11 Innolux v Commission](#), see Press Release No. [29/14](#), has also brought an appeal before the Court. In that case, [C-231/14 P](#), the opinion of the Advocate General will be read on 30 April 2015.

⁴ Case [C-580/12 P Guardian Industries and Guardian Europe v Commission](#) ; see Press Release No. [148/14](#)).

⁵ A vertically-integrated undertaking is a company that brings together the various stages of production and distribution for the same type of products.

As regards the partial immunity from a fine claimed by LG Display for the year 2005, the Court finds that, as stated by the General Court, such an immunity could not be granted, since the **information provided by LG Display** (that the cartel had continued in 2005) **related to facts which were not previously unknown to the Commission** (since another undertaking, Samsung, had earlier provided information on that subject). It is therefore of no consequence that the Commission's decision relies on the evidence provided by LG Display more often than on the material disclosed earlier by Samsung.

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.

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

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