



# Red Notice

A Monthly Update on Global Investigations and Prosecutions

JULY 2011

## INTRODUCTION

Thanks for joining us for the July installment of Red Notice, a publication of Akin Gump Strauss Hauer & Feld LLP. Interesting developments abound in both anti-corruption and anti-cartel matters. Earlier this month, a mistrial was declared in the closely watched show-sting FCPA trial. Also, the News of the World phone hacking scandal in the U.K. may lead to the DOJ's opening an FCPA investigation. There was a call on Capitol Hill on to rein in the FCPA, and the Royal Canadian Mounted Police struck their first ever anti-bribery plea deal. In anti-cartel news, DOJ will soon have a new top antitrust enforcer – AAG Christine Varney has announced her resignation as of August 5. In addition, JPMorgan has settled bid-rigging charges in the DOJ's ongoing probe of the municipal bond industry. And the DOJ has arrested and charged a Taiwanese executive in its ongoing probe of cartel activity in auto parts markets. Get the details on these developments and more below.

## ANTI-CORRUPTION DEVELOPMENTS

### Jury Deadlocks & Mistrial Declared in FCPA Sting Case

After a six-week-long trial and seven days of jury deliberations, the foreign bribery sting case involving a deal to sell \$15 million in supplies to the defense minister of Gabon ended in a deadlocked jury and a mistrial. Many viewed the trial as a test for the Justice Department's more stringent enforcement of the Foreign Corrupt Practices Act. The Department has said it intends to retry the case. Find the [story](#) from the *Blog of LegalTimes*.

### James Murdoch May Face U.S. FCPA Probe

In addition to facing legal battles in the U.K., James Murdoch, who has admitted to misleading the British Parliament over the News of the World phone-hacking scandal, may also face an FCPA investigation in the U.S. The younger Murdoch is deputy chief operating officer of News Corp, a U.S.-listed company that is the ultimate parent company of the News of the World. It has been reported that News of the World employees made regular payments to police officers, government officials that would trigger an FCPA violation. Stay tuned for further developments and read the [article](#) from *The Guardian*.

### A Call to Curb the FCPA

Following another record year for FCPA fines and penalties, Representative Jim Sensenbrenner of Wisconsin plans to introduce a bill to soften the FCPA's bite and clarify the parameters of the law. According to Sensenbrenner and others calling for reform, the law gives too much discretion to federal prosecutors and would benefit from a compliance defense for companies with extensive compliance programs, as well as a narrower definition of "foreign official." Such changes could reward companies for implementing

effective compliance programs and provide them with greater FCPA guidance. Check back for further developments and find the [story](#) from the *Wall Street Journal*.



**Paul Butler**  
Partner

[pbutler@akingump.com](mailto:pbutler@akingump.com)  
202.887.4069  
[Download to Outlook](#)



**Brady Dugan**  
Partner

[bdugan@akingump.com](mailto:bdugan@akingump.com)  
202.887.4152  
[Download to Outlook](#)



**Mark MacDougall**  
Partner

[mmacdougall@akingump.com](mailto:mmacdougall@akingump.com)  
202.887.4510  
[Download to Outlook](#)

Editor: [Mollie McGowan](#)

[Attorneys in Related Practices](#)

## U.K. Finance Regulator to Scrutinize British Investment Banks for Bribery Violations

Investment banks that conduct business in the U.K. should take note that U.K. regulators have their sights on investment banks for a future review under the U.K. Bribery Act. The Serious Fraud Office, which has responsibility for enforcing the Act, has not prosecuted an investment bank for overseas corruption to date, but it seems poised to do so. Get the [story](#) from *Bloomberg*.

## Niko Resources Strikes First Anti-Bribery Plea Deal with RCMP

Niko Resources, an oil and gas company based in Canada, has pleaded guilty to bribing a Bangladeshi public official and agreed to pay \$9.5 million and remain under probation for three years as part of a plea deal with the Royal Canadian Mounted Police. The plea deal with the Mounties is the first of its kind in a foreign bribery matter, and the case marks only the second conviction ever under the Canadian Corruption of Foreign Public Officials Act, passed in 1998. Find the [article](#) from the *Wall Street Journal*.

## ANTITRUST ENFORCEMENT DEVELOPMENTS

### JPMorgan Settles Bid Rigging Charges for \$228 Million

JPMorgan paid \$228 million in restitution, penalties and disgorgement to federal and state agencies to settle charges that it entered illegal agreements to manipulate the bidding process and rig bids on investment contracts. The Department of Justice has agreed not to prosecute JPMorgan as long as the company satisfies ongoing cooperation obligations under the plea agreement. The Antitrust Division, the FBI and the IRS are conducting the ongoing investigation into the municipal bonds industry, which has led to criminal charges against one corporation and 18 former executives of financial services companies. Get the [press release](#) from the Department of Justice and the [story](#) from *Bloomberg Businessweek*.

### Varney to Exit DOJ

Assistant Attorney General Christine Varney has announced that she will step down from her position at the Justice Department, effective August 5, 2011. During her tenure, the Antitrust Division released a new Merger Remedies Guide and worked with the FTC to update the Horizontal Merger Guidelines. Although Varney announced a commitment to vigorous antitrust enforcement upon taking office in 2009, some believe the DOJ was too soft on big companies under her watch. Get the [scoop](#) from the *Washington Post* and read the [DOJ press release](#).

### Taiwan Aftermarket Auto Lights Executive Arrested for Role in Price-Fixing Conspiracy

Homy Hong-Ming Hsu, an executive of a Taiwan aftermarket auto lights manufacturer was recently indicted for allegedly participating in a global price-fixing conspiracy in the aftermarket auto light industry. Hsu is charged with a Sherman Act violation and faces a maximum penalty of 10 years in prison and a \$1 million criminal fine. The Justice Department's investigation of the aftermarket auto light industry is ongoing and Hsu is the third individual to be charged in connection with the investigation. Find the [story](#) from *IndustryWeek* and the [press release](#) from the Department of Justice.

### Italy's Antitrust Authority Doles Out Over €76 Million In Fines to Shipping Cartel Members

The Italian Antitrust Authority handed down hefty fines to nineteen companies in the land-based international shipping sector for their roles in a price-fixing cartel. The Schenker

Corporation, a subsidiary of Deutsche Bahn AG, who applied for clemency and assisted in identifying other cartel members, was able to avoid fines. Agility, DHL and Sittam Corporation were given reduced fines due to their cooperation with the Antitrust Authority. Find the [press release](#) [here](#).

### Apple May Face Antitrust Scrutiny in India

1 10/10/11

Questions/Comments:

[Contact Us](#)

[Archived Editions](#)

[Subscribe to Red Notice](#)

### Apple May Face Antitrust Scrutiny in India

Apple may face an antitrust investigation in India for allegedly using its dominant market position to limit the availability of its products to select service providers. A disgruntled Apple customer has filed a complaint with the Competition Commission of India, alleging that Apple is curbing customer choice by limiting the availability of iPhones and iPads. Watch for future developments and read the [article](#) from the *Times of India*.

## AKIN GUMP PUBLICATIONS AND SPEAKING ENGAGEMENTS

### FTC, DOJ Announce Changes to Hart-Scott-Rodino Premerger Notification Requirements

On July 7, 2011, the Federal Trade Commission (FTC) and the Antitrust Division of the US Department of Justice (DOJ), announced substantial modifications to the Hart-Scott-Rodino (HSR) Premerger Notification Rules and Form. Read the Akin Gump [client alert](#) to find out more about important changes to the HSR rules.

---

AKIN GUMP  
STRAUSS HAUER & FELD LLP

[akingump.com](http://akingump.com) | 14 offices worldwide | over 800 lawyers



[www.twitter.com/akin\\_gump](http://www.twitter.com/akin_gump)

---

© 2011 Akin Gump Strauss Hauer & Feld LLP. All rights reserved. This document is distributed for informational use only; it does not constitute legal advice and should not be used as such. IRS Circular 230 Notice Requirement: This communication is not given in the form of a covered opinion, within the meaning of Circular 230 issued by the United States Secretary of the Treasury. Thus, we are required to inform you that you cannot rely upon any tax advice contained in this communication for the purpose of avoiding United States federal tax penalties. In addition, any tax advice contained in this communication may not be used to promote, market or recommend a transaction to another party.

If you would like to update your information or opt out from our mailing list, please [click here](#).