



Red Notice

A Monthly Update on Global Investigations and Prosecutions

JANUARY 2011

INTRODUCTION

Happy New Year and welcome back to Red Notice, a publication of Akin Gump Strauss Hauer & Feld LLP. Holiday festivities and winter weather did not slow anti-corruption and competition authorities in December as U.S. agencies imposed millions of dollars in FCPA-related fines on RAE Systems and Alcatel-Lucent and expanded their bribery probe of Hewlett Packard Co. December was also a busy month for anti-cartel enforcement. The long-running battle between Ian Norris and the Department of Justice is nearing an end – Norris was sentenced to 18 months in prison. And in the EU, authorities were busy with offenses against the investigative process. Czech companies were charged with blocking an antitrust raid and an EU court upheld a € 38 million fine against German energy company E.ON AG for a procedural breach during a dawn raid. Find these stories and other developments below.

ANTI-CORRUPTION DEVELOPMENTS

2012 Olympics Will Put UK Bribery Act to the Test

Businesses involved in the 2012 Olympics should take extra precautions to ensure that their operations comply with the new UK Bribery Act, which comes into force on April 1, 2011. Under the Bribery Act, some types of corporate hospitality and gifts may be considered illegal bribes. For example, current guidance suggests that business lunches are reasonable, but extravagant corporate events may lead to undue influence; many grey areas still exist. Penalties may include unlimited fines and hefty prison sentences for companies and their employees. Get the full [update](#) in *The Telegraph*.

SEC Proposes New Reporting Rules for Resource Extraction Issuers in Africa

The Securities and Exchange Commission (SEC) has voted to propose new reporting requirements for companies that operate mines, extract oil or gas or use certain minerals from Africa. Companies that use “conflict” minerals from the Congo and neighboring countries would have to file a detailed report on how the company traced minerals to their sources while companies that produce oil, natural gas or minerals would be required to produce an annual report including all payments related to commercial development that were made to the U.S. or a foreign government. Critics of the provision state that it could disadvantage U.S. companies by putting them in a “straitjacket.” Read the [story](#) on the SEC website.

Gas Detection Company Will Pay Almost \$3 Million Related to Bribery Allegations

RAE Systems, Inc. has agreed to pay a \$1.7 million criminal penalty to resolve a U.S. Department of Justice (DOJ) investigation into allegations that the company’s joint

ventures bribed Chinese officials to win government contracts. Because the company voluntarily disclosed the conduct to DOJ and took corrective action, it will avoid prosecution by the DOJ. RAE will also pay roughly \$1.2 million to settle civil charges by



Paul Butler
Partner

pbutler@akingump.com
202.887.4069

 [Download to Outlook](#)



Brady Dugan
Partner

bdugan@akingump.com
202.887.4152

 [Download to Outlook](#)



Mark MacDougall
Partner

mmacdougall@akingump.com
202.887.4510

 [Download to Outlook](#)

Editor: [Mollie McGowan](#)

[Attorneys in Related Practices](#)

prosecution by the DOJ. FINE will also pay roughly \$12 million to settle civil charges by the SEC. Find the [article](#) in *Bloomberg Businessweek*.

U.S. Expands Hewlett Packard Bribery Investigation

The U.S. DOJ and the SEC are expanding their probe into potential kickbacks by Hewlett Packard Co. The DOJ and SEC were already investigating Hewlett Packard's potential bribery of authorities in Russia and Germany, but will broaden the probe to include potential kickbacks in Austria, Serbia, the Netherlands and the Commonwealth of Independent states. Hewlett Packard has not been charged in the case, but under the FCPA, may face civil penalties of \$500,000 per bribe and criminal penalties over \$2 million. Find the [story](#) in the *Washington Times*.

Alcatel-Lucent Will Settle Bribery Probes for \$137 Million

U.S. prosecutors charged Alcatel-Lucent with violating the internal controls and the books and records provisions of the Foreign Corrupt Practices Act (FCPA) while three of its subsidiaries agreed to plead guilty to FCPA anti-bribery provisions. Alcatel operated under a decentralized corporate structure and apparently pursued many global business opportunities through third-party agents and consultants, a business model that the company admitted was prone to corruption. According to the SEC, Alcatel also failed to follow up on red flags suggesting employees were exchanging kickbacks for contracts. The DOJ will defer prosecution and drop its case after three years if Alcatel improves its compliance program. Read the [article](#) from *Bloomberg*.

Bribery Charges Against Dick Cheney Dropped

We reported last month that the Nigerian government filed bribery charges filed against former Vice President Dick Cheney. Those charges were dropped in a settlement with Halliburton in which the company agreed to pay a \$250 million in fines. According to the head of Nigeria's anti-corruption body, Nigeria charged Cheney in order to set an example and demonstrate that "Nobody is above the laws of the land." Get the full [scoop](#) from *ABC News*.

ANTITRUST ENFORCEMENT DEVELOPMENTS

Former CEO of UK Corporation Faces 18 Months in Prison for Conspiring to Obstruct Justice

A U.S. district court sentenced Ian P. Norris, the former CEO of the Morgan Crucible Company plc, to 18 months in prison for conspiring to obstruct a federal grand jury investigation into price fixing of carbon brushes and other carbon products. The DOJ's investigation into anticompetitive conduct in the carbon products industry has led to over \$11 million in criminal fines and four executives and two companies have either pled guilty or have been convicted. Read the [press release](#) on the DOJ website.

Czech Companies Charged with Blocking Antitrust Raid

EU regulators have charged utility Energeticky a Prumyslov Holding and J&T Investment Advisors with impeding a November 2009 antitrust raid. During the raid, the companies allegedly failed to block an email account, failed to open encrypted emails and did not divert incoming emails. Companies found to have blocked antitrust raids face potential fines up to 1 percent of their annual global turnover. Read the [story](#) from *Reuters*.

EU Court Upholds € 38 million Fine for Procedural Breach during "Dawn Raid"

The EU's General Court recently upheld the European Commission's decision to fine German energy company E.ON AG € 38 million (US \$ 51 million) for breaking a seal put in place by officials during an antitrust dawn raid in 2006. E.ON was the first company fined

for procedural violations such as tampering with seals or hiding evidence. Read the [article](#) in *Bloomberg Businessweek*.

Danish Company Files € 1.1 billion Claim Against German Federal Office

GN Store Nord filed a € 1.1 billion claim at the District Court in Bonn, Germany, seeking compensation for the German Federal Cartel Office's 2007 decision to prohibit the sale of

[1.1 billion](#)

Questions/Comments:
[Contact Us](#)

[Archived Editions](#)

[Subscribe to Red Notice](#)

compensation for the German Federal Cartel Office's 2007 decision to prohibit the sale of GN ReSound to Swiss rival Sonova. GN Store Nord's claim is a result of the German Federal Supreme Court's April 2010 decision to strike down the German cartel watchdog's prohibition of the deal. Find the [story](#) in *Reuters*.

**AKIN GUMP
STRAUSS HAUER & FELD LLP**

akingump.com | 14 offices worldwide | over 800 lawyers



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](#).