

Red Notice

A Monthly Update on Global Investigations and Prosecutions



SEPTEMBER 2010

INTRODUCTION

Welcome to the September issue of *Red Notice*, a publication of Akin Gump Strauss Hauer & Feld. Although August is typically a vacation month, enforcement authorities across the globe continued their relentless pursuit against fraud, corruption and cartels. Significant anti-corruption actions occurred in the entertainment, computer supply, tobacco and merchant banking industries. If you are suffering the effects of late-summer heat, the matter involving the merchant bank may take your mind off it. The company was accused of influencing officials in Kazakhstan with snowmobiles. Competition enforcers around the world stayed busy with the airlines, marine insurance, and scrap metals industries. *Red Notice* outlines these and other significant developments and others below.

ANTI-CORRUPTION ENFORCEMENT

DOJ Brings FCPA Case in Entertainment Industry

The DOJ appears to be broadening its reach under the FCPA by going after industries that have not before been targeted by such probes. A film producer and his wife received six month prison sentences for paying \$1.8 million in bribes to a high-ranking Thai official in exchange for contracts to manage the Bangkok International Film Festival. The prison sentence was far shorter than the 10 years sought by federal prosecutors, presumably based on the film producer's poor health and defendants' arguments that there was no victim in the case. Read the [story](#) on *Law.com*.

Kickback Probe Prompts Head of Apple Supplier to Step Down

The executive chairman of JLJ Holdings Ltd., a Singapore-based supplier to Apple Inc., has stepped down pending an in-house investigation into his connection to a kickback case brought by Apple against its former global supply manager. Apple first learned about the kickback scheme as a result of an internal investigation initiated in April, evidence that effective internal compliance and auditing programs can be an powerful anti-corruption tool for companies. Read the [article](#) in *Law 360*.

The DOJ and SEC Step Up FCPA Enforcement Actions Against Tobacco Companies

In cases that highlight the importance of knowing who is considered a government official, tobacco companies have pleaded guilty to, among other things, making payments to employees of Thailand's official tobacco monopoly. Alliance One International AG agreed to a fine of over \$5 million and Universal Leaf Tabacos Ltda agreed to a fine of over \$4 million related to payments made to employees of the monopoly. In addition, Alliance One Tobacco Osh agreed to pay a fine of over \$4 million related to bribes it paid to Kyrgyzstan officials in order to sell tobacco in that country. See the Department of Justice [press release](#) and the Securities and Exchange Commission [press release](#).

New York Merchant Bank Pleads Guilty to Bribing Officials in Kazakhstan with Snowmobiles

In a case that serves as a reminder that gift-giving can lead to FCPA violations, the



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](#)

in a case that serves as a reminder that gift giving can lead to FCPA violations, the Mercator Corporation pleaded guilty in U.S. District Court for the Southern District of New York to a one count FCPA violation in connection with its work assisting Kazakhstan in the sale of oil and gas assets. Mercator caused the purchase of two snowmobiles that were shipped to a Kazakhstan official in a position to decide whether Mercator should be awarded the contracts. Read the DOJ [press release](#).

INTERNATIONAL COMPETITION ENFORCEMENT DEVELOPMENTS

Netherlands Competition Authority Issues New Dawn-Raid Guidelines

Companies that do business in the Netherlands should note that the Netherlands Competition Authority (NMa) released new guidelines on its procedure for seizing and copying information in antitrust investigations. The guidelines outline each step of the dawn raid process and clarify procedures for copying seized documents. Read the [article](#) in *Global Competition Review* and find an [unofficial English version](#) of the procedure on the NMa website.

DOJ Charges Individuals in the Airlines Industry

The DOJ continues to bring charges against individuals in the airlines industry; a grand jury indicted two former executives of Asiana airlines for conspiring to fix prices on airline tickets. These charges stem from the DOJ's ongoing investigations into the industry. Further charges are expected. See the [article](#) in *BusinessWeek*.

European Commission Investigates Marine Insurance Market

The European Commission has begun a probe of the marine insurance market. The Commission is investigating whether a large association of ship insurers may be reaching anticompetitive agreements. The members of the association are reported to insure over 90 percent of the world's ocean-going ships. Read the [story](#) in *Law360*.

The European Commission Publishes Competition Policy Newsletter

The first issue of the European Commission's 2010 Competition Policy Newsletter discusses significant competition policy and cases from September 1 – December 31, 2009. Read the [newsletter](#).

South Africa's Competition Commission Refers Scrap Metal Cartel to Competition Tribunal

The thirteen scrap merchants allegedly involved in the cartel are accused of price fixing, market sharing and fixing trading conditions. Under South Africa's Competition Act, the Competition Tribunal will determine the existence of any alleged infringement and whether remedies should be imposed. The Competition Commission is seeking fines of 10% of the annual turnover of each of the companies involved except for two, which the Commission granted conditional immunity under its corporate leniency policy. Read the [media release](#) from the Competition Commission and an [article](#) on *Global Competition Review*.

AKIN GUMP PUBLICATIONS AND SPEAKING ENGAGEMENTS

Government Investigations for Life Sciences

September 27-28, 2010 – Philadelphia, PA

Akin Gump partner Brady Dugan will be a speaker at this American Conference Institute program on government investigation preparedness for pharmaceutical, biotechnology and medical device legal and compliance executives. Visit the ACI website for a [full agenda and registration details](#).

[Facebook](#)

Questions/Comments:
[Contact Us](#)

[Archived Editions](#)

Subscribe to [Red Notice](#)





© 2010 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](#).