



COMMERCE COMMISSION

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# Media Release

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## **Commerce Commission files freight forwarding cartel proceedings and settles with two defendants**

The Commerce Commission has filed proceedings in the High Court in Auckland against a number of companies accused of anti-competitive conduct in the freight forwarding market.

In 2007 the Commission began investigating alleged collusion by a number of multi-national companies involved in the supply of international freight forwarding services to the New Zealand market. This followed a confidential application for leniency by one of the companies involved in the conduct.

The anti-competitive conduct related to alleged agreements about the implementation and application of certain surcharges and fees on air freight forwarding services both to and from New Zealand. These agreements are alleged to have had the effect or likely effect of controlling or maintaining the price of air freight forwarding services in breach of the Commerce Act. Some of the alleged agreements appeared to have been in place since 2001. Cartel investigations into this conduct are also continuing in Europe and the United States.

The companies the Commission has filed proceedings against are:

- a number of companies forming part of the Deutsche Bahn Group and providing freight forwarding services under the DB Schenker brand;

- the Brinks Company and Bax Global Inc, having been part of the BAX Group of companies before it was acquired by the Deutsche Bahn Group;
- Kuehne + Nagel International AG;
- Panalpina World Transport (Holdings) Ltd;
- EGL Inc (part of CEVA Logistics); and
- Geologistics International (Bermuda) Limited.

Prior to filing the proceedings the Commission was approached by a number of the companies under investigation who wished to engage in settlement negotiations. As a result the Commission has already reached agreement to resolve the proceedings in respect of two companies, EGL Inc and Geologistics International (Bermuda) Limited. In both instances the local New Zealand subsidiaries (Eagle Global Logistics (New Zealand) Limited and Agility Logistics Limited) were not implicated. Further details of these settlements will be announced once they have been reviewed and endorsed by the Court.

“Agreements between competitors to fix, control or maintain prices distort the normal forces of competition and keep prices artificially high. This not only harms downstream businesses, but also consumers who may pay higher prices as a result,” said Kate Morrison, Commerce Commission’s General Manager Enforcement.

“This investigation is evidence of the continued success of the Commission’s cartel leniency policy in bringing to light potentially collusive conduct. It also shows that the Commission is willing to avoid drawn-out litigation if parties engage with the Commission and agree to suitable settlement terms, as this can provide a quicker resolution than a full court trial,” said Ms Morrison.

As the matter is now before the Court, and pending the Court’s review of the proposed settlements, the Commission will be making no further comment.

## Background

**Air freight forwarding industry** is a complex industry and refers to all facets of the logistical arrangements for the movement of goods, by air, from origin to destination. Generally, freight forwarders are independent from the physical carrier of freight and are therefore able to choose the best option for customer's distribution needs.

In 2006 the provision of air freight forwarding services into and out of New Zealand generated revenue of approximately NZ\$ 450 million. This figure only includes the air freight component, which is the air freight charge levied by carriers, carrier imposed surcharges as well as commissions and discounts payable to the forwarders.

These proceedings should be distinguished from the separate proceedings instituted by the Commerce Commission against a number of airlines for alleged contraventions of Part 2 of the Commerce Act in relation to security and fuel surcharges applied to the international carriage of air cargo in the air cargo industry.

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