



Department of Justice

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**BRITISH AIRWAYS PLC AND KOREAN AIR LINES CO. LTD. AGREE TO PLEAD
GUILTY AND PAY CRIMINAL FINES TOTALING \$600 MILLION FOR
FIXING PRICES ON PASSENGER AND CARGO FLIGHTS**

WASHINGTON — U.K.-based British Airways Plc and South Korean-based Korean Air Lines Co. Ltd. have each agreed to plead guilty and pay separate \$300 million criminal fines for their roles in conspiracies to fix the prices of passenger and cargo flights, announced the Department of Justice. Today's plea agreements are the first to arise from the Antitrust Division's ongoing investigation into the air transportation industry.

The charges against the two airline companies were filed today in the U.S. District Court for the District of Columbia. Under the plea agreements, which are subject to court approval, British Airways and Korean Air have agreed to cooperate with the Department's ongoing investigation.

"The Department of Justice is committed to vigorous antitrust enforcement and will continue to bring to justice those who fix prices and thereby deprive the American public of the benefits afforded by a truly competitive market," said Attorney General Alberto R. Gonzales. "International law enforcement cooperation is crucial in prosecuting global cartels such as these, and today's enforcement actions represent the successful coordination between the United States and the U.K.'s Office of Fair Trading."

The Department said that passengers who flew on British Airways flights between the United Kingdom and the United States during the charged period paid more for their tickets as a result of the illegal cartel. In 2004, British Airways' fuel surcharge for round-trip passenger tickets was around \$10 per ticket. By the time the passenger conspiracy was cracked in 2006, the surcharge was nearly \$110 per ticket—a 10-fold increase, said the Department. The Department noted that during the air cargo conspiracy, British Airways' fuel surcharge on shipments to and from the United States changed more than 20 times and increased from four cents per kilogram of cargo shipped to as high as 72 cents per kilogram.

The Department charged Korean Air with agreeing with air cargo competitors on rates charged to customers in the United States and elsewhere for international air cargo shipments. The Department noted that the conspirators agreed to increase the fuel surcharge over time from 10 cents per kilogram to as high as 60 cents for each kilogram of cargo shipped from the United States. The Department also charged that Korean Air reached an agreement with its rival to fix certain passenger fares for flights from the United States to Korea.

“When British Airways, Korean Air and their co-conspirators got together and agreed to raise prices for passenger and air cargo fares, American consumers and businesses ended up picking up the tab for their illegal conduct,” said Acting Associate Attorney General William W. Mercer. “Today’s enforcement actions demonstrate that the Antitrust Division will investigate and prosecute illegal cartel activity—here and abroad—in order to ensure that American consumers and businesses are not harmed by illegal cartel activities.”

British Airways

British Airways is charged with engaging in a conspiracy to suppress and eliminate competition by fixing the rates charged to customers for international air shipments of cargo, including shipments to and from the United States. Billions of dollars of consumer and other goods, including produce, clothing, electronics and medicines, are shipped by British Airways and its competitors in the air cargo industry. British Airways participated in that conspiracy between March 2002 and February 2006.

The Department also charged that between August 2004 and February 2006, British Airways engaged in a conspiracy to suppress and eliminate competition by fixing the fuel surcharge charged to passengers on long-haul international flights, including flights between the United States and the United Kingdom. British Airways’ long-haul flights are flights between the United Kingdom and certain foreign destinations, including any flight to and from the United States. Passengers pay hundreds of millions of dollars in ticket prices each year, and the conspiracy raised the price on virtually every ticket purchased between 2004 and 2006 for the conspirators’ long-haul international flights, the Department said.

British Airways is charged with carrying out the two price-fixing conspiracies with co-conspirators by, among other methods:

- Participating in meetings, conversations, and communications to discuss the cargo rates on shipments to and from the United States and passenger fuel surcharges to be charged for flights between the United States and the United Kingdom;
- Agreeing, during those meetings, conversations, and communications, on certain components of the cargo rates on shipments to and from the United States and passenger fuel surcharges to levy for flights between the United States and the United Kingdom;
- Levying cargo rates and passenger fuel surcharges in accordance with the agreements reached; and
- Engaging in meetings, conversations, and communications to monitor and enforce the agreed-upon rates.

Korean Air

The Department charged that between January 2000 and July 2006, Korean Air participated in a conspiracy to fix fares charged passengers and certain travel agents for flights from the United States to Korea. Korean Air is also charged with engaging in a conspiracy to suppress and eliminate competition by fixing the rates charged to customers in the United States and elsewhere for international air cargo shipments from at least January 2000 to February 2006.

Korean Air is charged with carrying out the two price-fixing conspiracies with co-conspirators by, among other methods:

- Participating in meetings, conversations, and communications to discuss the cargo rates to be charged on certain routes to and from the United States and on components of passenger fares and certain wholesale fares to be charged for flights from the United States to Korea;
- Agreeing, during those meetings, conversations, and communications, on certain cargo rates for certain routes to and from the United States and components of passenger fares and certain wholesale fares on flights from the United States to Korea;
- Levying cargo rates and passenger and wholesale fares in accordance with the agreements reached; and
- Engaging in meetings, conversations, and communications to monitor and enforce the agreed-upon rates.

Two other airlines – Virgin Atlantic and Lufthansa AG – have agreed to cooperate in the Division's ongoing investigations. Both Virgin Atlantic and Lufthansa have been conditionally accepted into the Antitrust Division's Corporate Leniency Program. The Division's Corporate Leniency Program allows a qualifying company that is the first to voluntarily disclose its participation in an antitrust crime and which fully cooperates in the subsequent investigation to avoid criminal conviction and a heavy fine. Virgin Atlantic entered the program after reporting its participation with British Airways in the passenger fuel surcharge conspiracy. Lufthansa was conditionally accepted after it disclosed its role in the international cargo conspiracy in which British Airways and Korean Air were participants. Virgin Atlantic and Lufthansa are obligated to pay restitution to the U.S. victims of their conspiracies.

"The Antitrust Division's Corporate Leniency Program is a valuable tool in breaking up illegal cartels," said Scott D. Hammond, Deputy Assistant Attorney General for Criminal Enforcement of the Department's Antitrust Division. "As a result of the leniency program, the Antitrust Division has broken up dozens of cartels and has obtained more than \$2 billion in fines in cases assisted by amnesty applicants."

The ongoing investigation is being conducted by the Antitrust Division's National Criminal Enforcement Section and the Washington Field Office of the Federal Bureau of Investigation.

British Airways and Korean Air are each charged with two counts of price fixing in violation of the Sherman Act. Each count of the Sherman Act carries a maximum sentence of 10 years of imprisonment for individuals and a fine of \$100 million for corporations. The maximum fine may be increased to twice the gain derived from the crime or twice the loss suffered by the victims of the crime, if either of those amounts is greater than the statutory maximum fine.

British Airways and Korean Air are among the top 10 largest international cargo carriers. During the conspiracy, their combined United States-related cargo revenues have been reported to be a total of more than \$1 billion annually. Additionally, Korean Air is the largest passenger carrier from the United States to Korea and averages more than \$250 million a year on those flights. British Airways is the largest passenger carrier from the United Kingdom to the United States. It had \$14 billion in total passenger revenues in 2006.

Anyone with information concerning price fixing or other anticompetitive conduct in the air transportation industry is urged to call the National Criminal Enforcement Section of the Antitrust Division at 202-307-6694.

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