

CLIENT ALERT

EU Sends Letters Alleging Banana Conspiracy

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The European Commission has charged Chiquita Brands International Inc., Ireland's Fyffes Plc, Fresh Del Monte Inc., Dole Food Company Inc., and Ecuador's Exportadora Bananera Noboa with conspiring to fix the price of bananas, sending the companies formal statements of objection.

The claims stem from the prices of bananas in nine countries. The Statements of Objections follow inspections carried out by the European Commission at the premises of Fyffes and Weichert in early June 2005 and subsequent requests for information.

Chiquita said that the company had cooperated with the EC since the initiation of the probe in 2005. Since the Commission granted Chiquita immunity, it will not be forced to pay any fines. Each company must respond to the statement of objections. These responses will then be reviewed by the Commission and regulators will determine an appropriate course of action.

The legal action is the result of a 2005 raid of the German offices of several companies suspected of setting banana prices. After the raid, which included Dole and Fresh Del Monte Produce Inc., Chiquita admitted that some of its employees may have shared pricing information with competitors.

The raid sparked a wave of U.S. class action suits, many of which have only recently been settled. The direct purchaser cases were filed in 2005 alleging that Fresh Del Monte, some of its subsidiaries, and other U.S. corporations violated the Sherman Act by engaged in a continuing agreement, understanding and conspiracy to restrain trade by artificially raising, fixing and maintaining banana prices. Later that year, indirect purchasers in several states brought lawsuits raising similar concerns. The suits were later consolidated in the U.S. District Court for the Southern District of Florida.

One of the consolidated lawsuits for the indirect purchasers alleges that banana prices soared after several meetings between the banana companies, including Fresh Del Monte, Chiquita and Dole Food. Those meetings started in 1999, according to the lawsuit.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.

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