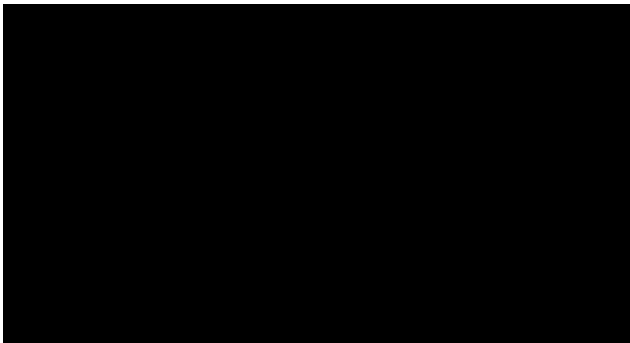


14 September 2022



Official Information Act #22.035 – Largest 20 fines or penalties in Commerce Commission cases in the last ten years

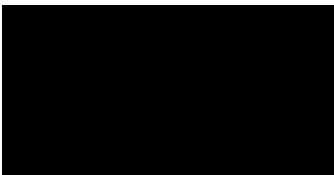
1. We refer to your request received on 18 August 2022 for information about the largest 20 fines or penalties in cases brought by the Commerce Commission (the **Commission**) over the last ten years (2012 – 2022). You have also asked for the information to include:
 - 1.1 Name of company/entity/individuals fined;
 - 1.2 Value of fine;
 - 1.3 Brief description of reason for fine; and
 - 1.4 Date of fine.
2. We have treated this as a request for information under the Official Information Act 1982 (OIA).

Our response

3. We have decided to grant your request.
4. **Appendix A** to this letter is a table which sets out the largest 20 fines or penalties in cases brought by the Commission over the last ten years (2012 – 2022). Note that we have included a case where the court judgment imposing the fine or penalty was handed down during the period from 1 January 2012 to the date of this letter. In some of these cases, proceedings might have been filed by the Commission prior to 1 January 2012.

5. This information has been collated from our case register. This register is publicly available at <https://comcom.govt.nz/case-register> and the links to the register or media alert provide information on the reason for the fine or penalty.
6. Please note Appendix A only lists amounts imposed as fines or pecuniary penalties through court decisions on contraventions of the law, and therefore does not include any payments or other actions by parties as a result of enforceable undertakings given to, or out-of-court settlements agreed with, the Commission. We have also not included any amounts that parties have agreed to pay to the Commission in court costs.
7. As you can see, most cases listed in the table relate to breaches of section 27 and 30 of the Commerce Act 1986 (the **Act**). [Section 27](#) prohibits contracts, arrangements or understanding that substantially lessen competition. [Section 30](#) prohibits people from entering into or giving effect to cartel provisions.
8. [Section 80](#) of the Act permits the Commission to apply for and the Court to order pecuniary penalties in relation to restrictive trade practices, including breaches of sections 27 and 30.
9. Further information about the Act and other laws we enforce is available on our website.
10. Please note the Commission will be publishing this response to your request on its website.
11. Please do not hesitate to contact us at oya@comcom.govt.nz if you have any questions about this request.

Yours sincerely



OIA and Information Coordinator

Appendix A¹

| # | Case | Relevant party | Penalty Amount | Relevant breach | Date | Link to Commission's Case Register or Media Alert |
|---|--|--------------------------------------|----------------|---------------------------------|------------|---|
| 1 | <i>Commerce Commission v Air New Zealand</i> [2013] NZHC 1414 | Air New Zealand | \$7,500,000 | Commerce Act 1986, ss 27 and 30 | 11/06/2013 | https://comcom.govt.nz/case-register/case-register-entries/air-new-zealand |
| 2 | <i>Commerce Commission v Aurora Energy Limited</i> [2020] NZHC 610 | Aurora Energy Limited | \$4,997,200 | Commerce Act 1986, s 52F | 24/04/2020 | https://comcom.govt.nz/case-register/case-register-entries/aurora-energy-limited2 |
| 3 | <i>Commerce Commission v Mondiale Freight Service Limited</i> [2022] NZHC 1370 | Mondiale Freight Service Limited | \$4,900,000 | Commerce Act 1986, ss 27 and 30 | 10/06/2022 | https://comcom.govt.nz/case-register/case-register-entries/mondiale-freight-services-limited |
| 4 | <i>Commerce Commission v Oceanbridge Shipping Limited</i> [2022] NZHC 1371 | Oceanbridge Shipping Limited | \$4,600,000 | Commerce Act 1986, ss 27 and 30 | 10/06/2022 | https://comcom.govt.nz/case-register/case-register-entries/oceanbridge-shipping-limited |
| 5 | <i>Commerce Commission v Cathay Pacific Airways Limited</i> [2013] NZHC 843 | Cathay Pacific Airways Limited | \$4,300,000 | Commerce Act 1986, ss 27 and 30 | 22/04/2013 | https://comcom.govt.nz/case-register/case-register-entries/cathay-pacific-airways-limited |
| 6 | <i>Commerce Commission v Singapore Airlines Cargo Pty Limited</i> [2012] NZHC 3583 | Singapore Airlines Cargo Pty Limited | \$4,100,000 | Commerce Act 1986, ss 27 and 30 | 21/12/2012 | https://comcom.govt.nz/case-register/case-register-entries/singapore-airlines-cargo-pte |

¹ We have included 21 cases, given there were two judgments relating to *Commerce Commission v Lodge Real Estate Limited and others* [2020] NZHC 2329 – See cases listed below at #20 and #21.

| | | | | | | |
|----|---|--|-------------|---------------------------------|------------|---|
| 7 | <i>Commerce Commission v Vector Limited</i> [2019] NZHC 540 | Vector Limited | \$3,575,000 | Commerce Act 1986, s 52F | 22/03/2019 | https://comcom.govt.nz/case-register/case-register-entries/vector-limited6 |
| 8 | <i>Commerce Commission v Korean Air Lines Company Limited</i> [2012] NZHC 1851 | Korean Air Lines Company Limited | \$3,500,000 | Commerce Act 1986, ss 27 and 30 | 27/07/2012 | https://comcom.govt.nz/news-and-media/media-releases/archive/two-more-airlines-settle-with-commerce-commission-in-air-cargo-case-penalties-top-\$21-million |
| 9 | <i>Commerce Commission v First Gas Limited</i> [2019] NZHC 231 | First Gas Limited | \$3,400,000 | Commerce Act 1986, s 47 | 21/02/2019 | https://comcom.govt.nz/case-register/case-register-entries/first-gas-limited-gasnet-limited |
| 10 | <i>Commerce Commission v PGG Wrightson Limited</i> [2015] NZHC 3360 | PGG Wrightson Limited | \$2,700,000 | Commerce Act 1986, ss 27 and 30 | 22/12/2015 | https://comcom.govt.nz/case-register/case-register-entries/pgg-wrightson-limited |
| 11 | <i>Commerce Commission v Thai Airways International Public Company Limited</i> [2013] NZHC 844 | Thai Airways International Public Company Limited | \$2,700,000 | Commerce Act 1986, ss 27 and 30 | 22/04/2013 | https://comcom.govt.nz/case-register/case-register-entries/thai-airways-international-public-company-ltd |
| 12 | <i>Commerce Commission v Malaysia Airlines System Berhad Limited and Maskargo SDN. BHD.</i> [2013] NZHC 845 | Malaysia Airlines System Berhad Limited and Maskargo SDN. BHD. | \$2,600,000 | Commerce Act 1986, ss 27 and 30 | 22/04/2013 | https://comcom.govt.nz/case-register/case-register-entries/malaysia-airlines-system-berhad-ltd-ta-maskargo-sdn-bhd |
| 13 | <i>Commerce Commission v Barfoot & Thompson Limited and others</i> [2016] NZHC 3111 | Barfoot & Thompson Limited | \$2,575,000 | Commerce Act 1986, ss 27 and 30 | 16/12/2016 | https://comcom.govt.nz/case-register/case-register-entries/barfoot-and-thompson-limited |
| 14 | | Harcourts Group Limited | \$2,575,000 | | | https://comcom.govt.nz/case-register/case-register-entries/harcourts-group-limited |
| 15 | | LJ Hook New Zealand Limited | \$2,475,000 | | | https://comcom.govt.nz/case-register/case-register-entries/lj-hooker-new-zealand-limited |
| 16 | <i>Commerce Commission v Japan Airlines Company Limited</i> HC Auckland [2012] NZHC 1683 | Japan Airlines Company Limited | \$2,275,000 | Commerce Act 1986, ss 27 and 30 | 29/06/2012 | https://comcom.govt.nz/news-and-media/media-releases/archive/japan- |

| | | | | | | |
|----|---|---------------------------------|-------------|---------------------------------|------------|---|
| | | | | | | airlines-admits-role-in-air-cargo-cartel-ordered-to-pay-\$2.275-million |
| 17 | <i>Commerce Commission v Vodafone New Zealand Limited</i> [2021] NZDC 7381 | Vodafone New Zealand Limited | \$2,250,000 | Fair Trading Act 1986, s 11 | 14/04/2022 | https://comcom.govt.nz/case-register/case-register-entries/vodafone-new-zealand-limited9 |
| 18 | <i>Commerce Commission v Barfoot & Thompson Limited and others</i> [2016] NZHC 3111 | Ray White (Real Estate) Limited | \$2,200,000 | Commerce Act 1986, ss 27 and 30 | 16/12/2016 | https://comcom.govt.nz/case-register/case-register-entries/ray-white-real-estate-limited |
| 19 | <i>Commerce Commission v Bayley Corporation Limited</i> [2016] NZHC 1493 | Bayley Corporation Limited | \$2,200,000 | Commerce Act 1986, ss 27 and 30 | 1/07/2016 | https://comcom.govt.nz/case-register/case-register-entries/bayley-corporation-limited |
| 20 | <i>Commerce Commission v Lodge Real Estate Limited and others</i> [2020] NZHC 2329 | Lodge Real Estate Limited | \$2,100,000 | Commerce Act 1986, ss 27 and 30 | 8/09/2020 | https://comcom.govt.nz/case-register/case-register-entries/lodge-real-estate-limited |
| 21 | | Monarch Real Estate Limited | \$1,900,000 | | 8/09/2020 | https://comcom.govt.nz/case-register/case-register-entries/monarch-real-estate-limited-ta-harcourts-hamilton |