The Amsterdam District Court has delivered a comprehensive interim judgment in a case involving British Airways. De Brauw assists British Airways in this follow-on action relating to the so-called alleged air cargo cartel.

East West Debt – a claims collection vehicle – lodged a civil action with the District Court to recover damages supposedly suffered as a result of the alleged cartel. The airlines successfully argued that the proceedings should be put on hold while awaiting the European appeals lodged against the decision of the Commission. In its judgment, handed down on Wednesday 29 April, the Amsterdam District Court deferred the proceedings while the airlines are challenging the Commission’s decision before the Court of First Instance of the EU.

In the proceedings before the District Court, both sides also requested disclosure of relevant documents. East West Debt requested disclosure of the confidential version of the European Commission’s "Airfreight" decision and the airlines in turn requested a set of documents from East West Debt, including so-called “air waybills”. The airlines asked the District Court to deny East West Debt’s claim on the basis that disclosure of the confidential Commission decision before a national court is contrary to principles of European law. The District Court followed the airlines reasoning and denied the request of East West Debt. On this point, the District Court’s ruling is in line with a significant, earlier precedent of the same court in the closely related Equilib and SCC proceedings, in which cases De Brauw is also involved as counsel to BA. As East West Debt did not challenge disclosure of the documents requested by the airlines, the District Court ordered disclosure of these documents and gave East West Debt four months to disclose the information to the airlines. This decision marks another interesting development in cartel damage practice in the Netherlands.

Team
Daan Beenders, Erik Pijnacker Hordijk, Stephanie The and Wouter Hofstee

Experts
Daan Beenders
Partner
T: +31 20 577 1656
E: daan.beenders@debrauw.com
Stephanie The
Partner
T: +31 20 577 1981
E: stephanie.the@debrauw.com