

Action brought on 18 May 2012 — Viasat Broadcasting UK v Commission

(Case T-210/12)

(2012/C 209/20)

Language of the case: English

Parties

Applicant: Viasat Broadcasting UK Ltd (West Drayton, Middlesex, United Kingdom) (represented by: S. Kalsmose-Hjelmborg and M. Honoré, lawyers)

Defendant: European Commission

Form of order sought

— Annul the Commission's Decision of 20 April 2011 concerning State aid C 19/09 which Denmark intends to implement regarding the restructuring of TV 2 Danmark A/S;

— Order the defendant to pay the costs.

Pleas in law and main arguments

In support of the action, the applicant relies on one plea in law, alleging essentially that the European Commission erred in law when it failed to include in its assessment aid granted to TV 2 Danmark A/S through 8 regional TV 2 broadcasting stations.

In this regard, the applicant submits that the broadcasts provided free of charge by the regional broadcasting stations, which are financed by licence fees, to TV 2 Danmark A/S constitute State aid within the meaning of Article 107(1) TFEU. In addition, it is recalled that according to the public service licence issued to TV 2 Danmark A/S by the Minister of Culture, TV 2 Danmark A/S retains the advertising revenue generated by the 'advertisement slots' in the regional broadcast.

The applicant further alleges that by disregarding the State aid provided to TV 2 Danmark A/S through the regional broadcasting stations, the defendant has not considered the financial situation of TV 2 Danmark A/S in the light of the full spectrum of the revenues of such.

Due to this failure, the applicant alleges that the entire assessment made by the defendant of the restructuring plan is based on erroneous assumptions concerning TV 2 Danmark A/S's financial situation. Therefore, the applicant alleges that the defendant has not been in a position to confirm that the conditions laid down in its own Guidelines ⁽¹⁾ are met.

Consequently, the applicant alleges that the defendant has failed to comply with the criteria defined by the Commission itself in

the Community guidelines on State aid for rescuing and restructuring firms in difficulty and ultimately in Article 107(3)(c) TFEU, when it assessed the rescue and restructuring aid to TV 2 Danmark A/S.

⁽¹⁾ Community guidelines on State aid for rescuing and restructuring firms in difficulty (OJ 2004 C 244, p. 2)

Action brought on 14 May 2012 — Hübner v OHIM — Silesia Gerhard Hanke (Original silicea Kieselsäure-Gel)

(Case T-211/12)

(2012/C 209/21)

Language in which the application was lodged: German

Parties

Applicant: Anton Hübner GmbH & Co. KG (Ehrenkirchen, Germany) (represented by: A. Kirchgäßner, lawyer)

Defendant: Office for Harmonisation in the Internal Market (Trade Marks and Designs)

Other party to the proceedings before the Board of Appeal: Silesia Gerhard Hanke GmbH & Co. KG (Neuss, Germany)

Form of order sought

— Amend the decision of the First Board of Appeal of the Office for Harmonisation in the Internal Market (Trade Marks and Designs) of 1 March 2012 in case R 351/2011-1 as follows: The decision of the Opposition Division is annulled to the extent to which it has been the subject of the appeal, and the opposition is rejected in its entirety;

— Order the intervener to pay the costs of the proceedings, including the costs incurred during the appeal procedure.

Pleas in law and main arguments

Applicant for a Community trade mark: Anton Hübner GmbH & Co. KG

Community trade mark concerned: Figurative mark 'Original silicea Kieselsäure-Gel' for goods in Classes 3 and 5 — application No 8 178 576

Proprietor of the mark or sign cited in the opposition proceedings: Silesia Gerhard Hanke GmbH & Co. KG

Mark or sign cited in opposition: National word mark 'Silesia' for goods in Classes 2, 3, 5, 29, 30, 32 and 33