

Pleas in law and main arguments

In support of the action, the applicant relies on nine pleas in law.

1. First plea in law, alleging that

— the Commission failed in its obligation to state reasons in relation to the calculation of the fine and has breached the principle of sound administration.

2. Second plea in law, alleging that

— the Commission infringed its duty to state reasons in calculating the multiplier applicable to the applicant and has infringed the principles of equal treatment and proportionality in calculating the multiplier.

3. Third plea in law, alleging that

— the Commission infringed the principle of proportionality in assessing the fine of the applicant in the same way as it assessed the fine to be imposed on the European producers.

4. Fourth plea in law, alleging that

— the Commission erred in failing to take into account economic and technical evidence when assessing the impact of the applicant's behaviour and in calculating the applicant's fine.

5. Fifth plea in law, alleging that

— the Commission erred in determining the duration of the alleged cartel.

6. Sixth plea in law, alleging that

— the Commission erred in assessing the proportions of TM T&D's starting amount to be split between the applicant and another company, thereby infringing the principles of equal treatment and proportionality.

7. Seventh plea in law, alleging that

— the Commission infringed its duty to state reasons in deciding the proportions of TM T&D's starting amount to be split between the applicant and another company.

8. Eighth plea in law, alleging that

— the Commission erred in its methodology for assigning a starting amount to the applicant for the period prior to the formation of TM T&D, thereby infringing the principles of equal treatment and proportionality.

9. Ninth plea in law, alleging that

— the Commission infringed its duty to state reasons with respect to its methodology for assigning a starting amount to the applicant for the period prior to the formation of TM T&D.

Action brought on 17 September 2012 — bpost v Commission**(Case T-412/12)**

(2012/C 343/34)

*Language of the case: English***Parties**

Applicant: bpost (Brussels, Belgium) (represented by: D. Geradin, lawyer)

Defendant: European Commission

Form of order sought

— Annul Articles 2, 5, 6 and 7 of the Commission Decision of 25 January 2012 on the measure SA.14588 (C 20/2009) implemented by Belgium in favour of De Post-La Poste (now bpost), which was published in the Official Journal of the EU on 29 June 2012 (OJ 2012 L 170, p. 1);

— Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging breach of Articles 106(2), 107(1) and (3) TFEU, manifest error of assessment and violation of the principle of equal treatment, by reason of incorrectly concluding that the retail network maintained by bpost was not a distinct Service of General Economic Interest ('SGEI'), and hence, finding that the compensation received from the Belgian State for the retail network constituted overcompensation.

2. Second plea in law, alleging breach of Articles 106(2), 107(1) and 107(3) TFEU and manifest error of assessment, by reason of erroneously concluding that retail network costs, which are induced by the universal service obligation, should not be taken into account when calculating the amount of profits from the reserved area of the universal service that exceed the level of a reasonable profit.

3. Third plea in law, alleging breach of Articles 107 and 106(2) and violation of the principles of proportionality and equal treatment, by reason of mistakenly concluding that net costs of non-mail SGEI's must be offset with all the profits from the reserved area of the universal service, inasmuch as these profits exceed a reasonable profit.

4. Fourth plea in law, alleging breach of Articles 107 and 106(2) TFEU and infringement of the principle of non-retroactivity, by reason of the complete failure to carry forward bpost's undercompensation accumulated over the years 1992-2005 to offset the amounts of bpost's alleged overcompensation over the period 2006-2010.

Action brought on 20 September 2012 — Post Invest Europe v Commission

(Case T-413/12)

(2012/C 343/35)

Language of the case: English

Parties

Applicant: Post Invest Europe Sàrl (Luxembourg, Luxembourg) (represented by: B. van de Walle de Ghelcke and T. Franchoo, lawyers)

Defendant: European Commission

Form of order sought

- Annul Articles 2, 5, 6 and 7 of the Commission Decision of 25 January 2012 on the measure SA.14588 (C 20/2009) implemented by Belgium in favour of De Post-La Poste (now bpost), which was published in the Official Journal of the EU on 29 June 2012 (OJ 2012 L 170, p. 1);
- Order the defendant to pay the costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicant relies on four pleas in law.

1. First plea in law, alleging that the Commission's finding that the retail network was not a distinct Service of General Economic Interest ('SGEI') entitled to compensation breaches Articles 106(2), 107(1) and 107(3) TFEU, constitutes a manifest error of assessment and violates the principle of equal treatment.
2. Second plea in law, alleging that the Commission's failure to take into account part of the Universal Service Obligation ('USO') — induced retail network costs when calculating the amount of profits in the USO reserved area, which are above the level of a reasonable profit, breaches Articles 106(2), 107(1) and 107(3) TFEU and constitutes a manifest error of assessment.
3. Third plea in law, alleging that the Commission's finding that net costs of non-mail SGEI's must be offset with the profits from the USO reserved area, inasmuch as they exceed a reasonable profit, breaches Articles 107 and 106(2) TFEU and infringes the principles of proportionality and equal treatment.
4. Fourth plea in law, alleging that breach of Articles 107 and 106(2) TFEU and infringement of the principle of non-retroactivity, by reason of the complete failure to carry forward bpost's undercompensation accumulated over the years 1992-2005 to offset the amounts of bpost's alleged overcompensation over the period 2006-2010.