

3. Third plea in law, alleging defective grounds and an incorrect interpretation of Directive 2012/34/EU in that it was held that the criteria for determining 'the principal purpose of the service', within the meaning of Article 10(3) of the Directive, may not be determined in advance, and in that it was held that it is for the regulatory body to set out the criteria for determining 'economic equilibrium' within the meaning of Article 11(2).

(¹) Directive 2012/34/EU of the European Parliament and of the Council of 21 November 2012 establishing a single European railway area (OJ 2012 L 343, p. 32).

(²) See the communication of the Commission 'A Europe of Results — Applying Community Law' (COM(2007) 502 final).

Action brought on 7 October 2013 — Dyson v Commission

(Case T-544/13)

(2013/C 344/124)

Language of the case: English

Parties

Applicant: Dyson Ltd (Malmesbury, United Kingdom) (represented by: E. Batchelor, Solicitor, and F. Carlin, Barrister)

Defendant: European Commission

Form of order sought

The applicant claims that the Court should:

— Annul Commission Delegated Regulation (EU) No 665/2013 of 3 May 2013 supplementing Directive 2010/30/EU of the European Parliament and of the Council with regard to energy labelling of vacuum cleaners, (OJ 2013 L 192, p. 1) in its entirety, or in any event those provisions relating to cleaning performance and energy efficiency; and

— Order the defendant to pay its own costs and the applicant's costs in relation with these proceedings.

Pleas in law and main arguments

In support of the action, the applicant submits that the contested regulation is unlawful and relies in that respect on three pleas in law.

1. First plea in law, alleging that the Commission exceeded its competence under Article 10(1) of the enabling legislation, Directive 2010/30/EU (¹), when it adopted this delegated act, as:

— Article 10(1) requires that the Commission delegated act accurately inform EU consumers of energy consumption during use. The contested regulation misleads consumers as to the vacuum cleaner's energy efficiency because cleaning performance is tested only when the vacuum cleaner has an empty receptacle and so not 'during use';

— Article 10(1) requires that the Commission delegated act accurately inform EU consumers of essential resources consumed by an appliance during use, namely the dust bags and filters consumables. The delegated act provides no such information to consumers.

2. Second plea in law, alleging that the Commission violated its duty to state reasons under Article 296 Treaty on the Functioning of the European Union ('TFEU') because the contested regulation does not explain why there is insufficient 'technological progress' to permit testing of energy consumption/cleaning performance in a dust-loaded state. Nor does it explain why the Commission postponed dust-loading for consideration only in five years' time.

3. Third plea in law, alleging that the Commission violated the fundamental principle of equality by adopting a contested regulation which discriminates in favour of bagged vacuum cleaners to the disadvantage of bagless vacuum cleaners and/or vacuum cleaners based on cyclonic technology. Loss of suction due to clogging — a feature particularly of bagged vacuum cleaners — cannot be detected by pristine state testing. The relative merits of bagless and cyclonic technology vacuum cleaners cannot be readily identified by consumers.

(¹) Directive 2010/30/EU of the European Parliament and of the Council of 19 May 2010 on the indication by labelling and standard product information of the consumption of energy and other resources by energy-related products (OJ 2010 L 153, p. 1)

Order of the General Court of 2 October 2013 — RiskMetrics Solutions v OHIM — (RISKMANAGER)

(Case T-557/12) (¹)

(2013/C 344/125)

Language of the case: English

The President of the Fourth Chamber has ordered that the case be removed from the register.

(¹) OJ C 370, 17.12.2011.