



Reports of Cases

Judgment of the General Court (Ninth Chamber) of 25 March 2015 — Slovenská pošta v Commission

(Case T-556/08)

(Competition — Abuse of dominant position — Slovak traditional mail and hybrid mail services markets — Decision finding an infringement of Article 86(1) EC in conjunction with Article 82 EC — Exclusive right to distribute hybrid mail — Principle of sound administration — Obligation to state reasons — Right to be heard — Definition of the market — Extension of a monopoly — Article 86(2) EC — Legal certainty — Legitimate expectations)

1. *Competition — Public undertakings and undertakings enjoying special or exclusive rights granted by the Member States — Surveillance of the conduct of Member States — Rights of defence of Member States and undertakings — Scope (Art. 86(1) and (3) EC) (see paras 55, 58-61, 66, 90)*
2. *Competition — Public undertakings and undertakings enjoying special or exclusive rights granted by the Member States — Creation of a dominant position — Not incompatible per se with Article 82 EC — State measure creating a risk of abuse of a dominant position — Inadmissibility in the light of Articles 82 EC and 86(1) EC — Criteria for assessment (Arts 82 EC and 86(1) EC) (see paras 95-103, 325, 352)*
3. *Competition — Administrative procedure — Commission decision finding an infringement — Decision requiring a complex economic or technical assessment — Judicial review — Limits (Arts 81 EC and 82 EC) (see paras 104-106)*
4. *Dominant position — Relevant market — Delimitation — Criteria — Substitutability of the products or services on the supply side or the demand side — Postal services — Traditional mail and hybrid mail services market (Art. 82 EC; Commission Notice 97/C 372/03, points 2 and 7) (see paras 111, 112, 187-192)*
5. *Competition — Public undertakings and undertakings enjoying special or exclusive rights granted by the Member States — Powers of the Commission by virtue of its duty of surveillance — Discretion — Effect of the guidelines adopted by the Commission — Self-limitation of its discretion (Art. 86(1) and (3) EC; Commission Notice 98/C 39/02) (see paras 119, 474)*
6. *Competition — Public undertakings and undertakings enjoying special or exclusive rights granted by the Member States — Article 86(2) EC — Conditions under which applicable — Burden of proof (Art. 86(2) EC) (see paras 358, 360, 361, 408)*

7. *Competition — Administrative procedure — Commission decision finding an infringement — Obligation on the Commission to examine, carefully and impartially, all the relevant factors of the case (Arts 86(2) EC and 253 EC) (see paras 427, 428, 444, 455, 463, 470)*
8. *Competition — Administrative procedure — Commission decision finding an infringement — Decision going significantly further than the previous decision-making practice — Express reasoning — No breach of principle of the protection of legitimate expectation (see paras 476, 478)*

Re:

APPLICATION for annulment of Commission Decision C(2008) 5912 final of 7 October 2008 on the Slovak postal legislation relating to hybrid mail services (Case COMP/39.562 — Slovak postal law).

Operative part

The Court:

1. Dismisses the action;
2. Orders Slovenská pošta a.s. to bear its own costs and to pay those incurred by the European Commission, Cromwell a.s., Slovak Mail Services a.s., Prvá Doručovacia a.s. and ID Marketing Slovensko s.r.o.;
3. Orders the Slovak Republic to bear its own costs.