

**Action brought on 24 March 2009 — Electrolux v Commission**

(Case T-115/09)

(2009/C 113/84)

*Language of the case: English***Parties***Applicant:* AB Electrolux (Stockholm, Sweden) (represented by: F. Wijckmans, H. Burez, lawyers)*Defendant:* Commission of the European Communities**Form of order sought**

- annul the contested decision in its entirety on account of the fact that one or more of the (cumulative) conditions of the Community guidelines on State aid for rescuing and restructuring firms in difficulty are not met or that, in any event, the Commission has failed to ascertain to the requisite legal standard that each of such conditions is met;
- in subsidiary order, annul the decision in its entirety on account of the failure to comply with the duty to state reasons laid down in Article 253 EC;
- order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

The applicant seeks the annulment of Commission Decision C(2008) 5995 final of 21 October 2008 declaring compatible with the common market the restructuring aid to be paid out by the French authorities to FagorBrandt company, subject to a number of conditions [C 44/2007 (ex N 460/2007)]. The applicant is a competitor to the beneficiary of the aid and has participated in the investigation procedure leading to the adoption of the contested decision.

The applicant claims that the contested decision infringes Article 87(3)(c) EC and the Community guidelines on State aid for rescuing and restructuring firms in difficulty<sup>(1)</sup>. In the applicant's opinion, the holding of the decision is incorrect as a matter of law on account of the fact that one or more of the cumulative conditions of the abovementioned guidelines are not met or that, in any event, the Commission has failed to ascertain to the requisite legal standard that each of such conditions is met. In particular, the applicant submits that the Commission failed to comply with:

- the 'one time, last time' condition,
- the condition that restructuring aid may not serve to keep firms artificially alive,
- the conditions as to the assessment of previous unlawful aid,
- the condition that the beneficiary of the aid must be a firm in difficulty,
- the condition that the beneficiary of the aid should not be a newly created firm,
- the condition that the beneficiary of the aid must restore the long-term viability of the beneficiary,

- the condition of imposing compensatory measures to avoid undue distortions resulting from the restructuring aid, and
- the condition that the aid must be limited to the minimum and that a real contribution (free of aid) must be made by the business group.

Furthermore, the applicant contends that the contested decision infringes the duty to state reasons laid down in Article 253 EC in particular with respect to the arguments advanced by the applicant regarding the structural overcapacity in the sector, the contribution of the beneficiary to the costs of the restructuring plan that must be 'as high as possible' and the repayment obligation of previous unlawful aid.

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<sup>(1)</sup> OJ 2004 C 244, p. 2

**Action brought on 24 March 2009 — Whirlpool Europe v Commission**

(Case T-116/09)

(2009/C 113/85)

*Language of the case: English***Parties***Applicant:* Whirlpool Europe BV (Breda, Netherlands) (represented by: F.Tuytschaever, lawyer)*Defendant:* Commission of the European Communities**Form of order sought**

- annul the contested decision in its entirety on account of the fact that one or more of the (cumulative) conditions of the Community guidelines on State aid for rescuing and restructuring firms in difficulty are not met or that, in any event, the Commission has failed to ascertain to the requisite legal standard that each of such conditions is met;
- in subsidiary order, annul the decision in its entirety on account of the failure to comply with the duty to state reasons laid down in Article 253 EC;
- order the Commission to pay the costs of the proceedings.

**Pleas in law and main arguments**

The applicant seeks the annulment of Commission Decision C(2008) 5995 final of 21 October 2008 declaring compatible with the common market the restructuring aid to be paid out by the French authorities to FagorBrandt company, subject to a number of conditions [C 44/2007 (ex N 460/2007)]. The applicant is a competitor to the beneficiary of the aid and has participated in the investigation procedure leading to the adoption of the contested decision.

The pleas in law and main arguments relied on by the applicant are identical or similar to those relied on in Case T-115/09 *Electrolux v Commission*.

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