

Appeal brought on 16 May 2017 by the European Commission against the judgment of the General Court (Fourth Chamber) delivered on 7 March 2017 in Case T-194/13: United Parcel Service v European Commission

(Case C-265/17 P)

(2017/C 231/25)

Language of the case: English

Parties

Appellant: European Commission (represented by: T. Christoforou, N. Khan, H. Leupold, A. Biolan, Agents)

Other parties to the proceedings: United Parcel Service, Inc., FedEx Corp.

Form of order sought

The appellant claims that the Court should:

- set aside the judgment;
- refer the proceedings back to the General Court, and
- reserve the costs.

Pleas in law and main arguments

- 1) The Judgment errs in finding that the Commission was required to disclose to UPS the final version of its price concentration model before adopting the Decision.
 - 2) Even if the Commission's failure to disclose the final version of the price concentration model to UPS before the adoption of the Decision could breach UPS's rights of defence, the Judgment erred in its characterisation of the evidential character of the price concentration model and, consequently, in the legal test applied in determining that the Decision was to be annulled.
 - 3) Even if a breach of UPS's rights of defence could arise in the circumstances, the Judgment erred in failing to address the Commission's submissions that UPS's plea was ineffective and that UPS could understand the price concentration model.
 - 4) In any event, the findings made in the Judgment could not justify the annulment of the Decision.
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