



Press and Information

Court of Justice of the European Union

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Judgment in Case C-260/09 P

Activision Blizzard Germany GmbH v Commission

The Court confirms the fine of €500 000 imposed on Activision Blizzard for its participation in anti-competitive agreements in the market for Nintendo games consoles and games cartridges

By decision of 30 October 2002¹, the Commission imposed fines on Nintendo and some of its distributors for their participation in a complex of agreements and concerted practices in the markets for Nintendo games consoles and games cartridges. The decision concerns Nintendo and seven exclusive distributors of Nintendo products: John Menzies plc (United Kingdom); Concentra – Produtos para crianças SA (Portugal); Linea GIG SpA (Italy); Bergsala AB (Sweden); Itochu Hellas, the wholly-owned Greek subsidiary of Itochu Corporation, a Japanese undertaking; Nortec AE (Greece); and Activision Blizzard Germany GmbH, formerly CD-Contact Data GmbH (Belgium and Luxembourg).

Those agreements were designed to restrict parallel trade, that is to say, exports from one country to another by parallel distribution channels.

The Commission found that the conduct of those undertakings, in the period from 1991 to 1997, was contrary to EU law and imposed fines totalling €167.843 million. Activision Blizzard was fined €1 million.

By judgment of 30 April 2009², the Court of First Instance varied the Commission's decision inasmuch as that decision had not granted Activision Blizzard the benefit of the attenuating circumstance of its exclusively passive role in the infringement and, consequently, reduced the fine imposed on that company to €500 000. On the other hand, the Court of First Instance dismissed the application for annulment of the Commission's decision.

Activision Blizzard appealed to the Court of Justice against that judgment of the Court of First Instance.

By the judgment delivered today, the Court concludes, following an examination of the arguments put forward by Activision Blizzard in support of its appeal, that the Court of First Instance did not err in law when it dismissed the application for annulment of the Commission's decision.

The Court holds that the Court of First Instance neither distorted the evidence nor made a manifest error of assessment in finding that the documents relied on by the Commission constituted sufficient evidence of the existence of an agreement between Activision Blizzard and Nintendo which was contrary to EU law. The Court holds, furthermore, that sufficient reasons were stated for the judgment under appeal to enable Activision Blizzard to know the reasons which led the Court of First Instance to conclude that it had participated in an agreement with the object of restricting parallel trade and to enable the Court of Justice to review that judgment.

Consequently, the Court **dismisses** the appeal.

¹ Decision 2003/675/EC relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement (COMP/35.587 PO Video Games, COMP/35.706 PO Nintendo Distribution and COMP/36.321 Omega — Nintendo) (OJ 2003 L 255, p. 33).

² Case [T-18/03](#) CD-Contact Data v Commission; see also Press Release [40/09](#).

NOTE: An action for annulment seeks the annulment of acts of the institutions of the European Union that are contrary to European Union law. The Member States, the European institutions and individuals may, under certain conditions, bring an action for annulment before the Court of Justice or the General Court. If the action is well founded, the act is annulled. The institution concerned must fill any legal vacuum created by the annulment of the act.

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The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

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