General Court of the European Union
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Press and Information

Judgment in Case T-127/19
Dyson and Others v Commission

Energy consumption of cyclonic bagless vacuum cleaners: the General Court dismisses Dyson Ltd's claim for compensation for alleged loss

By using the standardised empty receptacle testing method, the Commission did not manifestly and gravely disregard the limits on its discretion or commit a sufficiently serious breach of the principles of equal treatment and sound administration

Since 1 September 2014, all vacuum cleaners sold in the European Union have been subject to energy labelling requirements, the detailed rules of which have been fixed by the Commission in a 2013 regulation, [1] supplementing the Energy Labelling Directive. [2] The energy labelling is aimed, among other things, at informing consumers of energy efficiency levels and cleaning performances of vacuum cleaners.

Dyson Ltd, and the other applicants, which are part of the same group, manufacture bagless cyclonic vacuum cleaners.

Considering, in essence, that the standardised testing method used by the Commission in the 2013 regulation to measure energy efficiency levels of vacuum cleaners placed its products at a disadvantage in relation to bagged vacuum cleaners, Dyson Ltd asked the General Court to annul that regulation. By judgment of 11 November 2015, [3] that action was dismissed. On appeal, the Court of Justice set aside the judgment of the General Court [4] and referred the case back to the General Court. By judgment of 8 November 2018, [5] the General Court annulled the 2013 regulation on the ground that the testing method carried out with an empty receptacle did not reflect conditions as close as possible to actual conditions of use.

By their appeals, Dyson Ltd and the other applicants seek compensation for loss (which they value at € 176 100 000) which they claim to have suffered as a result of the unlawfulness of the regulation.

In today's judgment, the General Court dismisses the action.

The Court recalls first that in order for the European Union to incur non-contractual liability, **three cumulative conditions** must be satisfied: the rule of law infringed must be intended to confer rights on individuals and the breach must be sufficiently serious; actual damage must be shown to have occurred; and there must be a direct causal link between the breach of the obligation resting on the author of the act and the damage sustained by the injured parties.

The Court begins by ascertaining whether, as the applicants claim, the Commission committed infringements of EU law that were sufficiently serious as to give rise to non-contractual liability on the part of the European Union.

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[1] 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).
[2] 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 L 153, 18.6.2010, pp. 1–12).
[3] Judgment of 11 November 2015, *Dyson* v *Commission*, T-544/13 (see CP 133/15).
[4] Judgment of 11 May 2017, *Dyson* v *Commission*, C-44/16 P.
[5] Judgment of 8 November 2018, *Dyson* v *Commission*, T-544/13 RENV (see CP 168/18).

In the first place, the applicants claim that the Court of Justice definitively held that the Commission had infringed Article 10(1) of the Energy Labelling Directive by adopting a standardised empty receptacle method of testing. According to the applicants, by adopting an energy label on the basis of that method, the Commission manifestly exceeded the limits on its discretion.

The General Court states first that the application of Article 10(1) of the Energy Labelling Directive to the specific case of vacuum cleaners was such as to give rise to certain differences of assessment, indicating difficulties of interpretation in the light of the degree of clarity and precision of that provision and, more generally, of the directive as a whole.

The Court then analyses the technical complexity of the situation to be regulated and whether the error made was inexcusable or intentional. In that regard, the Court states that, on the date of adoption of the 2013 regulation, there were legitimate doubts as to the scientific validity and accuracy of the results that the dust-loaded receptacle testing method [6] could produce for the purposes of energy labelling. Although that testing method was more representative of the normal conditions of use of vacuum cleaners than the empty receptacle testing method, the Commission was entitled to take the view, without manifestly and gravely exceeding the limits on its discretion, that that testing method was not capable of guaranteeing the scientific validity and accuracy of the information supplied to consumers and opt instead for a testing method suitable for satisfying the criteria of validity and accuracy of the information.

The Court concludes that the Commission thus demonstrated conduct that could be expected from an administrative authority exercising ordinary care and diligence and, consequently, that the Commission did not manifestly and gravely disregard the limits on its discretion.

In the second place, the applicants claim that the 2013 regulation resulted in discriminatory treatment between bagged vacuum cleaners and cyclonic vacuum cleaners in that it treated those two categories of vacuum cleaner in the same way, even though their characteristics are not comparable, without any objective justification. The Court states that both the Energy Labelling Directive and the 2013 regulation provided for uniform treatment of all vacuum cleaners falling within their respective scopes. However, by relying upon the analysis concerning the infringement of Article 10(1) of the directive, the Court observes that there were legitimate doubts as to the scientific validity and accuracy of the results to which the dust-loaded receptacle testing method could lead for the purposes of energy labelling. Thus, such a factual circumstance is sufficient for it to be held that, irrespective of any objective difference between cyclonic vacuum cleaners and other types of vacuum cleaner, the Commission, by using the empty receptacle testing method, did not manifestly and gravely disregard the limits on its discretion or commit a sufficiently serious breach of the principle of equal treatment.

In the third place, the applicants claim that the Commission infringed the principle of sound administration by disregarding an essential element of the Energy Labelling Directive, which would not have been done by any administrative authority exercising ordinary care and diligence. The Court states that those arguments overlap to a large extent with those put forward by the applicants in the context of the first two alleged unlawful acts and rejects them on the same basis.

Lastly, the Court notes that since the applicants' arguments alleging infringement of the right to pursue a trade or business are, in essence, identical to those developed in the context of the three other alleged unlawful acts, they must be rejected for the same reasons.

NOTE: An appeal, limited to points of law only, may be brought before the Court of Justice against the decision of the General Court within two months and ten days of notification of the decision.

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[6] Method set out in section 5.9 of harmonised standard EN 60312-1:2013 of the European Committee for Electrotechnical Standardisation (CENELEC).

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