

UPS Sues EU Antitrust Regulator over Blocked 2012 Takeover Attempt of TNT By Colette Gulick, J.D. Candidate 2018 | March 10, 2018

United Parcel Service Inc., the [“world’s largest”](#) overnight package delivery and logistics company based in Atlanta, is suing for [1.74 billion euros \(2.15 billion dollars\)](#) from the European Union Commission for blocking its attempted takeover of its Dutch competitor TNT Express NV in 2012. The European Union’s second highest court, the General Court of the European Union, found in March of 2017 that the antitrust regulators’ decision to block the proposed merger was incorrect. After this decision by the General Court, UPS filed suit against the commission, claiming it was damaged because of the wrongly blocked takeover and by [being inhibited from the value that it could have gained](#) from successfully completing the attempted takeover. UPS is seeking compensation, plus interest, that UPS claims reflect what it would have gained if it were allowed to move forward with the takeover in 2012.

When blocking UPS’s takeover of TNT in 2012, regulators cited concerns that the merging of the two companies would result in only [two companies controlling the market](#), consequently disadvantaging other competitors. Antitrust regulators were concerned that the acquisition would ultimately hurt consumers as a market cornered by only two major companies would leave customers few choices for package delivery needs and ultimately drive up prices. The estimated \$6.8 billion acquisition would assist UPS in its effort to gain a foothold in [“Europe and in emerging markets.”](#)

When presented with the European regulators’ concerns, UPS agreed to [take measures to address those concerns](#), such as opening part of its airline network for access by competitors and divesting itself of certain business units. European regulators did not change their stance due to these concessions and UPS’s bid could not move forward.

UPS challenged the commission’s blocking of its 2012 bid for TNT in the General Court of the European Union, which led to the court’s March 2017 finding that the deal was wrongly stopped. The court invalidated the commission’s veto of UPS’s attempted takeover because the commission changed the [economic model](#) they were using to evaluate and [“weigh evidence”](#) without informing UPS of this change, effectively not allowing UPS to properly defend itself.

After UPS’s attempt to acquire TNT in 2012 was blocked, UPS’s direct competitor FedEx Corp. [successfully acquired TNT](#) instead in 2015 with full EU regulatory approval.

The European Commission is challenging the court’s 2017 decision that the commission wrongly vetoed UPS’s attempted takeover of TNT in the [European Union’s highest court](#). The commission is also [defending itself](#) against the direct lawsuit waged by UPS.

