

THE WALL STREET JOURNAL.

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Turf Battles

Postal agencies accused by United Parcel Service of unfair competition:

POST OFFICE	COMPLAINT
Canada Post	UPS claims Canadian post office funnels proceeds from letter-delivery business into courier operations.
Deutsche Post	UPS accuses German post office of illegally financing attack on private competitors by charging excessive rates; Deutsche Post denies the charge.
U.S. Postal Service	UPS says U.S. post office improperly uses mail monopoly to expand into new businesses; USPS denies the charge.

UPS Sues Canada for \$156 Million, Citing Unfair Competition by Post Office

By RICK BROOKS

Staff Reporter of THE WALL STREET JOURNAL
ATLANTA—A United Parcel Service Inc. subsidiary said it filed a lawsuit seeking to hold the Canadian government responsible for at least 230 million Canadian dollars (US\$156 million) in damages that the package-delivery giant claims it suffered because of unfair competition by the country's postal service.

The suit, filed last week under provisions of the North American Free Trade Agreement, alleges that the Canadian government has unfairly permitted Canada Post Corp. to expand far beyond its government-protected mail-delivery business into new ventures where it undercuts prices offered by UPS and other private-sector competitors.

For example, UPS alleges that express-delivery rates at Canada Post are lower than what it costs UPS to deliver similar packages, adding that the post office is financing its attack with proceeds from its monopoly on first-class mail. "The playing field should be level for everyone . . . and everyone should abide by the same rules," a UPS spokesman said Friday.

UPS officials declined to provide a copy of the lawsuit, saying independent arbitration panels formed to settle previous disputes brought under Nafta had asked those parties involved not to publicize their cases. To form an arbitration panel for this case, each side will select one representative, and then those members will choose a third arbitrator. Antonio R. Parra, legal adviser to the International Centre for Settlement of Investment Disputes, an arm of the World Bank, said the organization could intervene in the arbitration process if the two sides can't form a three-person

panel on their own. The arbitration process is expected to last at least a year.

Canada Post officials couldn't be reached for comment. Canadian government offices were closed Friday. In February, shortly after UPS notified the government that it was considering filing suit, government officials said Canada's Competition Bureau already had concluded that Canada Post wasn't improperly using

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UPS Claims Canada Gives Unfair Support To the Post Office

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its mail-delivery monopoly to subsidize courier services. Canadian officials said then that the government planned to defend itself against any unfair-competition allegations made by UPS.

The suit against a foreign government shows how far UPS is willing to go to protect its interests, as transparent borders emerge around the world and once-stodgy post offices are set free to compete in private-sector delivery markets. In Europe, UPS has accused Deutsche Post AG of illegally financing its expansion by charging excessively high rates on German first-class mail. Deutsche Post denies the allegation, but a European Union investigation of the claim could delay an initial public offering by the German post office planned for this fall.

UPS has been a persistent critic of expansion efforts by the U.S. Postal Service, claiming it benefits from numerous unfair advantages compared with UPS and other private-sector competitors, including an exemption from having to pay property taxes. Postal officials have denied any wrongdoing.

UPS declined to estimate its market share in Canada. It claims, though, that the company's push to boost its heft in deliveries of express mail and slower-moving ground packages is being hurt by Canada Post, which in addition to its own Xpresspost and Priority Courier services controls a 96% stake in Purolator Courier Ltd., another major package-delivery concern in Canada.

In its lawsuit, UPS also alleges that the Canadian government makes payments to Canada Post based on the number of international shipments the post office delivers in Canada, an arrangement that doesn't apply to private-sector companies. UPS also contends that Canada Post often fails to collect proper taxes and duties on packages shipped to Canada.

UPS's outside counsel for the Canadian suit is Barry Appleton, managing partner of Appleton & Associates, a Toronto firm specializing in international trade law. In another Nafta case, Mr. Appleton represented Ethyl Corp., which successfully challenged a Canadian ban against a manganese-based gasoline additive produced