

Ollscoil na hÉireann, Gaillimh
National University of Ireland, Galway

Exam Code: 34BA6, 2CW, 2CL, 3BC, 10A, 1EM.

Exam: Semester II Examination 2003/2004
Third and Fourth Year B.A. (Public & Social Policy ONLY),
Second Year Bachelor of Civil Law, Second Year Bachelor of
Corporate Law, Third Year Bachelor of Commerce, Diploma in
Business Studies, Occasional and Erasmus Students

Module Code: LW 223 .II

Module: European Community Law II

Paper No.: One of one

External Examiner: Dr. Catherine Barnard

Internal Examiners: Ms. Anna-Louise Hinds

Instructions: Students must answer any **THREE** questions. All questions
carry equal marks. Students are requested to **indicate** which
questions they have answered on the front of their answer book.

Duration: TWO hours

No. of answer books: N/A.

Requirements: **Materials permitted:**
Students are allowed to refer to the Treaty Establishing the
European Community (consolidated version including the
Treaty of Amsterdam) and the Treaty of Nice 2001 or to
photocopies or downloaded versions thereof or to copies of
Foster, N., Blackstone's EC Legislation (any edition) in the
examination room. Students may also refer to secondary EC
legislation in downloaded or photocopied version. Erasmus
students are allowed to use dictionaries.

Department: Law

P.T.O

1. Tom, a Welsh based entrepreneur, has recently decided to import cartoon magazines from the UK into Ireland. On his very first shipment from Holyhead to Dublin, Tom is forced to pay two charges in Dublin. The first charge relates to a service charge of 5% to defray the administrative costs of the newly created customs service at the docks in Dublin. The second charge is a charge of 0.2% to cover the cost of collecting information on the reading habits of the Irish nation for research being carried out by the Department of Education. The Department of Education passes this information on to Irish publishers only. Tom is unhappy with the charges that he has had to pay. Advise Tom on the basis of the free movement of goods, with reference to any relevant case law.
2. Critically assess the case law of the European Court of Justice in the area of Article 90 EC Treaty.
3. Sorehead Ltd., an Irish based company produces a cheap but cheerful Irish beer, 'Sonas'. It discovers a niche on the UK market and decides to sell its product in this lucrative market. The UK authorities have, however, objected to the marketing and sale of Sorehead's product on the following basis: legislation in the UK stipulates that for a product to be marketed in the UK as beer, it must contain a minimum of 4% alcohol. Sonas is sold legally on the Irish market, but its alcoholic content is only 3%. Sorehead Ltd. wishes to contest the legality of the UK legislation. In addition, Sorehead Ltd. is unhappy with an advertising campaign in the UK, set up and funded by the government, which encourages members of the British public to drink UK beer as it is superior in quality to foreign beer. Advise Sorehead Ltd., with particular emphasis on any relevant Treaty provisions, secondary legislation and decided case law of the European Court of Justice.
4. Jean-Paul is a French national. He and his partner, Marie, also a French national, have been travelling around Ireland for twelve months. They have no fixed abode in this jurisdiction, nor have they applied for residence permits at any stage. Jean-Paul has worked intermittently in various restaurants in Cork, Galway and Dublin. His income from this work is minimal and the couple have been forced to rely on social welfare benefits from the Irish Department of Social Welfare in order to survive. Marie is unable to find employment in Ireland, despite constant efforts on her behalf to find work. One evening, following a night out, the couple experience an attack, during which Jean-Paul tries to defend Marie. The police arrive on the scene, the culprits scarper into the crowd, and the police arrest Jean-Paul for drunken disorderly behaviour in a public place. They discover that Jean-Paul has a similar conviction in France and decide to expel him and Marie from Ireland on the basis that Jean-Paul is a threat to public order. Advise Jean-Paul and Marie as to their rights (if any) under EC law.
5. Critically assess the law on the freedom of establishment and the freedom of services in the EC.
6. Discuss, with reference to case law, the various elements required to prove a breach of Article 81 EC Treaty.

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