

GX 1724

Ollscoil na hÉireann, Gallimh
National University of Ireland, Galway

Semester II Examinations, 2003/2004

Exam Code(s)	3BL1, 3CL1, 3BC1, 4BC2, 1EM1.
Exams(s)	3 rd LL.B. 3 rd Bachelor of Corporate Law 3 rd & 4 th Bachelor of Commerce Erasmus
Module Codes(s)	LW392
Module(s)	EC Merger Control
Paper No.	1
Repeat Paper __ Special Paper __	
External Examiner(s)	Dr. C. Barnard
Internal Examiner(s)	Mr. Cian Carroll
Instructions	Answer THREE questions
Duration	TWO & A HALF HOURS
No. of AnswerBooks	
Requirements:	
Handout	
MCQ	
Statistical Tables	
Graph Paper	1
Log Graph Paper	
Other Material	
Department(s)	LAW

PTO

1. AB is an Irish registered holding company whose main business activities are the production and distribution, throughout the world, of spirits and the brewing of beer. It also has interests in hotels and publishing. GX is a UK registered holding company whose main activities are the production and worldwide distribution of spirits and food manufacturing.

The two parties propose merging their business to create a new company ABGX. After the merger, former AB shareholders will hold approximately 52.7% of ABGX, the former GX shareholders will hold the remainder.

The parties have a combined aggregate worldwide turnover of more than 5,000 million Euro and each has a Community wide turnover of more than 250 million Euro. They do not achieve more than two-thirds of the latter within one and the same Member State.

Advise AB and GX on the applicable substantive and procedural law which will apply to the proposed merger.

2. Write a note on any TWO of the following:
 - (a) The treatment of joint ventures under the 2004 Merger Regulation.
 - (b) Case No. IV/M.877, Boeing/McDonnell Douglas.
 - (c) Case T-342/99, Airtours.
 - (d) The notification procedure, particularly changes brought about by the 2004 Regulation.
3. Explain how the new substantive test – whether a concentration is likely to create a significant impediment to effective competition, particularly through creating or strengthening a dominant position – will be applied and the reasons and benefits for the change from the old test.
4. Critically assess, with reference to the decisions of the EC Commission and the ECJ, the criteria used by the EC Commission to define the relevant product market.

END