

NATIONAL UNIVERSITY OF IRELAND, GALWAY  
FACULTY OF LAW

SEMESTER II EXAMINATIONS SUMMER 1998/99

LL.B. - ALL YEARS  
BACHELOR OF CORPORATE LAW - THIRD YEAR  
BACHELOR OF COMMERCE  
OCCASIONAL STUDENTS

EC COMPETITION LAW (LW401)

Professor D. O'Keeffe  
Ms. S. Drake  
Mr. T. Carney

Time Allowed: 2½ Hours. *Erasmus Students have 3 Hours.*

Answer THREE Questions

Candidates MUST answer Part A AND any TWO questions from Part B.

PART A

(This Question must be answered)

1. Daras is the largest producer of industrial and household paints in the United Kingdom. Daras distributes its paints there through an unrelated distribution chain, Lefevre.

Samoht is a major producer and distributor of industrial paints in the Republic of Ireland. It holds a 55% share of that market. Its only other competitor on that market is Fifine. Fifine also produces household paints and sells those products on the UK and Irish markets.

Samoht also produces industrial coolants.

Daras wishes to enter the Irish market for household paints. It concludes an agreement with Samoht whereby Samoht agrees to act as Daras' sole distributor for household paints in the Republic of Ireland and to sell Daras branded paints at an agreed minimum price. Samoht will be given access to Daras' latest research and development on industrial paint production provided Samoht agrees not to sell industrial paints to customers in the United Kingdom of Great Britain and Northern Ireland.

Samoht forecasts that this agreement with Daras will enable it (Samoht) to increase its share of the Irish market for industrial paints by 15%.

In return for substantial financial consideration, Samoht will enter the UK market for industrial coolants using the Lefevre distribution chain.

The Director of Fifine seeks your advice on the legality of the agreement between Daras and Samoht.

Advise.

PART B

(Answer any TWO questions)

2. Attaic Ltd. holds 58% of the EU market for Product B, an industrial coolant. It has developed supply networks to all major customers in Europe. Its competitors in this market are a French company, ABC with 20% of the EU market, a Swiss company DEF which holds 14% and a UK company LIB with 8%. Attaic Ltd. has begun an aggressive sales campaign to increase its market share. It has greatly reduced its price for Product B and has recently signed supply contracts with long standing clients of ABC and LIB. It has promised them further reductions in the price of Product B if those companies are willing to purchase minimum quantities from it. ABC and LIB write to the EC Commission claiming unfair competition by Attaic Ltd. Advise Attaic Ltd.

p.t.o

3. Answer (a) OR (b)

- (a) Michel *Sarl.*, a Belgian company, produces cosmetics. It wishes to penetrate the Irish market. It approaches Larry Badman, an Irish entrepreneur, and asks him if he would be interested in promoting and selling Michel's products in Ireland. After a thorough examination of Michel's proposal by his accountant and financial advisor, Larry Badman agrees to act for Michel. However, he has made a number of demands. He wishes to be appointed Michel's sole distributor for the Republic of Ireland. Michel is to refrain from supplying its products directly to Irish users. Michel agrees on condition that Mr. Badman purchase minimum quantities of Michel's products, that he sell only cosmetics carrying the Michel label and that he himself does not manufacture or distribute competing goods.

Advise.

OR

- (b) Critically evaluate the powers of the EC Commission in the enforcement of Articles 85 and 86 of the EC Treaty.

4. In the mid 1980's the EC Commission promised to look more realistically before finding an inherent anti-competitive effect in joint ventures. Discuss the extent to which the EC Commission, when applying the EC Competition rules, has adopted realistic criteria for the assessment of joint ventures.
5. Critically evaluate the assertion that the EC Commission has adopted too formal an approach to selective distribution.
6. Karnyvore (UK) Plc. has successfully launched a chain of beauty salons for pets in the UK and France. The company wants to penetrate the Irish market and has drawn up a distribution agreement with Mrs. Fahy to establish a salon in Galway which:
- (a) requires all staff to be fully trained and to attend annual training courses in London on the latest beauty treatments for pets;
  - (b) prohibits Mrs. Fahy from opening a second store in County Galway and from supplying any of its products to customers in Dublin;
  - (c) requires Mrs. Fahy to keep a minimum stock of its deluxe range of dog and cat food and prohibits her from selling any other brand of pet food.

Advise the parties as to the legality of the agreement under EC Competition law.