

European Law and Institutions

Thursday 7th November 2024

12pm to 1.30pm

Candidates are required to answer TWO out of four questions.

The paper is divided into two sections. Candidates will be required to answer ONE question from section A, and ONE question from section B. All four questions are of equal value.

Section A

Question 1

EcoStyle Ltd, a company based in Belgium, manufactures and distributes eco-friendly clothing and sustainable textile products across the European Union. EcoStyle is committed to ensuring its products comply with EU environmental and sustainability standards. Following the enactment of a Commission directive aimed at promoting the use of sustainable materials in textile products, which was required to be transposed into national law by 1 January 2024, the company has faced the following issues:

- a) Germany failed to implement the directive on time. As a result, EcoStyle is unable to sell its eco-friendly clothing in Germany, as the products do not meet the more stringent national standards that existed prior to the directive.
- b) France has implemented the directive on time but introduced stricter standards for the use of certain textile dyes than those required under the directive. EcoStyle argues that these additional requirements go beyond what the directive mandates, something that significantly increases the cost of compliance in the French market.

Advise EcoStyle Ltd on the potential for relying on EU law in respect of each of the above scenarios.

Question 2

“The Charter of Fundamental Rights of the European Union offers a comprehensive framework for the protection of fundamental rights. However, its scope and application within the EU legal order remain subject to significant limitations and interpretative challenges.”

Critically assess the application of the Charter of Fundamental Rights in the European Union. In your answer, address the following:

- The legal status of the Charter of Fundamental Rights following the Lisbon Treaty and its relationship with the Treaties and national constitutions.
- The scope of application of the Charter, particularly in light of Article 51(1), which limits its application to Member States "only when they are implementing Union law."
- The interpretation of the Charter by the Court of Justice of the European Union (CJEU), with particular reference to key judgments (e.g., *Åkerberg Fransson*, *Melloni*, *Digital Rights Ireland*).

END OF SECTION A

Section B

Question 3

BestBuy Ltd, a UK-based company specialising in the importation and sale of luxury electronic goods, seeks to expand its operations across the European Union following Brexit. The company imports high-end electronic devices from Japan and the United States, which are popular among European consumers for their quality and advanced technology.

To facilitate its expansion, BestBuy Ltd establishes distribution centres in Spain and Luxembourg, from where the goods are shipped across the EU. However, the company has encountered the following issues when trying to sell its products in certain EU Member States:

- a) The German government has imposed a mandatory eco-label requirement for all electronic devices sold within its borders. This label certifies the environmental sustainability of the product and its compliance with strict energy consumption standards. BestBuy Ltd argues that the requirement disproportionately affects their products and raises the cost of compliance, as a result of the fact that many of their imported devices do not meet the German-specific standards.
- b) In France, BestBuy Ltd faces additional difficulties. The French government has enacted a law which requires all imported electronic devices to undergo an independent safety test conducted by a French testing authority. This is despite the fact that the same devices have already been certified safe in other EU Member States under EU-wide standards.
- c) BestBuy Ltd is keen to sell its products in Italy but finds that Italian law prohibits the advertising of electronic goods in any language other than Italian. BestBuy has already produced marketing materials in English and claims that the restriction limits its ability to promote its products effectively, assuming that English is widely understood by potential customers across Europe.

Advise BestBuy Ltd on the legality of the measures imposed by Germany, France and Italy under EU law.

Question 4

EcoFoods GmbH, a multinational corporation based in Germany, produces and distributes organic food products, including dairy, cereals, and plant-based alternatives. EcoFoods has become a dominant player in the EU organic food market, with a particularly strong presence in several Member States. Recently, competitors and consumer groups have filed complaints with the European Commission and national competition authorities, alleging that EcoFoods has engaged in behaviour that potentially violates EU competition law. Specifically:

- a) EcoFoods has entered into a market-sharing arrangement with a major French competitor, BioGreen, whereby the two companies have agreed to divide the French market geographically. EcoFoods supplies organic cereals and dairy products to the northern regions of France, while BioGreen focuses on the southern regions.
- b) EcoFoods has signed exclusive supply agreements with several large supermarket chains in Spain, which require these supermarkets to purchase their entire supply of organic cereals, such as oats and quinoa, from EcoFoods. These agreements offer significant financial incentives to the supermarkets but also prevent them from sourcing products from competing organic food producers.
- c) In Poland, EcoFoods has been selling its products at below-cost prices. EcoFoods claims that its pricing strategy is a legitimate response to increasing competition in the market and necessary to maintain market share.

Advise EcoFoods GmbH on the compatibility or otherwise of the above practices with EU competition law.

END OF SECTION B

END OF PAPER