

EKSAMEN I JURIDISKE VALGEMNER

HØST 2015

Dato: Torsdag 26. november 2015

Tid: Kl. 10:00 – 14:00

JUS5310 / JUR1310 – EU Competition Law

The language of examination for this course is English: students may answer in English ONLY, answers in any other language than English will be given a F (F for fail).

In Westria, a Member State of the European Union, football is by far the most popular sport, and the matches in the "Major League" attract considerable interest, both in Westria and abroad. Westria is a medium sized high cost country. The sale of television rights for the Major League matches generated millions of € each year, making the Westrian Football Association (WFA) one of the wealthiest sporting associations in Europe. All major football clubs in Westria were members of the WFA.

The Commission took interest in the activities of the WFA, as it had received complaints from football agents about the Westrian market. According to the statutes of the WFA, players in the Major League could only be represented by agents authorized by the WFA. As a rule, the WFA would only authorise agents holding a Westrian passport. The Commission instituted proceedings under Regulation No. 1/2003, claiming that the statutes of the WFA 1) represented an unlawful decision taken by an association of undertakings and 2) an abuse of a dominant position. The WFA claimed that the EU competition rules did not apply to it, as it was a non-profit organization promoting the interests of sport.

- 1. Discuss whether the statutes of the WFA are contrary to Article 101 or 102 TFEU. [Both MA and BA students]**

The Commission was not satisfied with how the football clubs in the Major League had decided to sell the television rights. These rights were offered on an exclusive basis to the highest bidder per Member State, normally for a period of three years. In an attempt to obtain more competition in the market, the Commission instituted proceedings, claiming that the joint selling of television rights was contrary to Article 101. The WFA as well as the clubs argued that a joint selling was necessary in order to protect the brand "Major League", and that the clubs in any case could not be regarded as competitors in the market for television rights.



2. Advise the Commission on how it may take the case forward, discussing a) whether there is an infringement of Article 101, and b) whether it should make use of Article 7 of Regulation No 1 or rather seek to obtain a commitment under Article 9) **[MA-students only]**

Carlos Bodega owned a pub in Westburg, the capital of Westria. He offered his customer live television matches from the Major League. In order to reduce costs, he had purchased a decoder and a decoder card with a subscription from a Greek television distributor broadcasting by satellite. By subscribing in a low-cost country, Mr. Bodega paid about 1/2 of an ordinary subscription from Westrian TV-distributors.

The fact that subscribers could potentially acquire subscriptions to the Major League matches from low-cost countries struck down as a bomb in the WFA. After several meetings, it decided to introduce a clause in its licence agreements with television distributors abroad that the latter were not allowed to enter into agreements with customers residing outside their Member States (the Greek distributor could for example only provide subscriptions to persons residing in Greece).

3. Discuss whether the introduction of such clause would be contrary to Article 101(1) TFEU and whether it may satisfy the criteria in Article 101(3). **[BA-students only]**

The WFA decided to enter the broadcasting business. By having its own television station that showed Major League matches, the WFA considered that it would make higher profits than by selling television rights to third party broadcasters. The WFA therefore started buying shares in Westria's largest broadcaster West-TV. By January 2015 WFA increased its shareholding, and thus its corresponding voting rights, in West-TV from 20 % to 40 %.

The Commission started investigating whether WFA's acquisition of 40 % of the shares in West-TV constituted a violation of the prohibition on implementation of concentrations with a Community dimension (Article 7 of the EU Merger Regulation). The WFA claimed that a shareholding of 40 % did not constitute a concentration within the meaning of Article 3 of the EU Merger Regulation, and thus not a violation of the prohibition on implementation.

4. Discuss whether and under what circumstances WFA's acquisition of 40 % of the shares in West-TV can constitute a concentration under Article 3 of the EU Merger Regulation. **[MA-students only]**

MA students to answer questions 1, 2 and 4. Questions 1 and 2 count 40 % each; question 4 counts 20 %.

BA students to answer questions 1 and 3. Both questions count 50 %.

Sensuren faller torsdag 17. desember klokken 15.00. Kontroller på StudWeb eller ta kontakt med Infosenteret på 22 85 95 00. Kandidatene har rett til en redegjørelse for sensurvedtaket ved henvendelse til sensorene innen en uke etter sensur. Kontaktinformasjon for sensorer finnes på Fakultetets nettsider. Du kan også ta kontakt med infosenteret. Klagefristen er tre uker etter sensur.

The result of the exams will be announced on Thursday 17 .December, at 15.00 hours. You can check the results in the StudWeb, or by contacting the Information Centre, phone 22 85 95 00. After the exam results are announced, candidates have the right to be informed of the grounds for the result as long as a request is made within one week of the announcement. The names and contact information of the examiners can be found on the Faculty's website, or by contacting the Information Centre. The deadline for appeal is three weeks after the announcement of the results.

Oslo, 26.11.2015