

# 1 Question 1

GutBier GmbH is the largest brewery in the EU Member State Cervezania. On a potential relevant market for the production and sale of beer in Cervezania, GutBier GmbH holds a market share of 50 %. There are four other breweries with market shares around ten percent each. A large number of smaller craft breweries make up the remaining ten percent. Consumer confidence in the GutBier brand is very high and there are quite significant barriers to entry and expansion in the beer market, because production of beer is characterised by economies of scale. If the relevant market should include the production and sale of all alcoholic beverages (including wine and spirits) in Cervezania, GutBier GmbH's market share would only be 25 %.

GutBier GmbH also sells beer to distributors in the neighbouring EU Member State Piwotania, at significantly lower prices than to distributors in Cervezania. GutBier GmbH adopted a practice whereby distributors in Piwotania were only supplied limited quantities of beer. In an internal memorandum, GutBier GmbH's managing director stated that the purpose of limiting sales to Piwotanian distributors was to prevent imports of cheaper GutBier beer to Cervezania.

**Question 1:** *Discuss whether GutBier GmbH has infringed Article 102 TFEU.*

**Fill in your answer here**

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Words: 0

Maximum marks: 0

## 2 Question 2 and 3

GutBier GmbH's market share in the EU member state Birraland (given a relevant market for the sale of beer in Birraland) is 29 %. To one distributor in Birraland, Birra Distribution Ltd, all of GutBier GmbH's beer bottles and beer cans were labelled "not for export to other EU member states". Birra Distribution Ltd never voiced any objections to the labelling and also never exported GutBier GmbH's beer bottles and cans.

**Question 2:** *Discuss whether the relations between GutBier GmbH and Birra Distribution Ltd is contrary to Article 101 TFEU.*

**Question 3:** *The European Commission started investigating GutBier GmbH's practices. Acting as legal counsel for that company, please provide a brief memo indicating potential legal outcomes of the investigation, and also provide advice as to whether and, in case, how GutBier GmbH may obtain a commitment decision or a settlement with the Commission to avoid or reduce potential fines.*

**Fill in your answer here**

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Words: 0

Maximum marks: 0