



THE CHARTERED INSTITUTE OF LEGAL EXECUTIVES

UNIT 6 – EUROPEAN UNION LAW*

Time allowed: 3 hours plus 15 minutes' reading time

Instructions to Candidates

- You have **FIFTEEN** minutes to read through this question paper before the start of the examination.
- **It is strongly recommended that you use the reading time to read this question paper fully.** However, you may make notes on this question paper or in your answer booklet during this time, if you wish.
- **All questions carry 25 marks. Answer FOUR only of the following EIGHT questions. This question paper is divided into TWO sections. You MUST answer at least ONE question from Section A and at least ONE question from Section B.**
- Write in full sentences – a yes or no answer will earn no marks.
- **Candidates may use in the examination their own unmarked copy of the designated statute book: Blackstone's EU Treaties and Legislation 2016–2017, 27th edition, N Foster, Oxford University Press, 2016.**
- Candidates must comply with the CILEx Examination Regulations.
- Full reasoning must be shown in answers. Statutory authorities, decided cases and examples should be used where appropriate.

Information for Candidates

- The mark allocation for each question and part-question is given and you are advised to take this into account in planning your work.
- Write in blue or black ink or ballpoint pen.
- Attention should be paid to clear, neat handwriting and tidy alterations.
- Complete all rough work in your answer booklet. Cross through any work you do not want marked.

Do not turn over this page until instructed by the Invigilator.

* This unit is a component of the following CILEx qualifications: **LEVEL 6 CERTIFICATE IN LAW** and the **LEVEL 6 PROFESSIONAL HIGHER DIPLOMA IN LAW AND PRACTICE**

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SECTION A
(Answer at least one question from this section)

1. Critically evaluate the contribution made to the 'new legal order of international law' (van Gend en Loos (1963)) of the following principles:

(a) Direct Effect;

(10 marks)

(b) Indirect Effect;

(7 marks)

(c) Member State Liability.

(8 marks)

(Total: 25 marks)

2. Critically assess the significance of the concept of the relevant market in the context of competition law.

(25 marks)

3. Critically assess the contribution made by the following institutions to the effective operation of the EU:

(a) the Commission (including the Presidency);

(10 marks)

(b) the Court of Justice of the EU.

(15 marks)

(Total: 25 marks)

4. Article 263 TFEU (the action for annulment) may have been reformed, but it is still not fit for purpose.

Critically assess, in the light of this comment, the extent to which non-privileged applicants can effectively assert their rights under EU law.

(25 marks)

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SECTION B
(Answer at least one question from this section)

Question 1

Frank is a British citizen. He is married to Olga, who is a Russian citizen. Olga has been caring for her niece, Sasha, aged 15, who is an orphan. They have all lived together in London for the last four years.

Frank is a video producer. A number of companies in the music industry have invited him to relocate to Berlin. Eventually, Frank accepts an offer of employment with a German video production company.

The family relocates to Berlin, but unfortunately a number of adverse circumstances affect them. First, the German authorities indicate that, as Olga is not Sasha's mother, they do not regard Sasha as having rights to reside in Germany. Second, the German security authorities notify Olga that they have information that she is a former member of the KGB (the former Russian intelligence service), and as a result she is not entitled to reside in Germany, as all former members of the KGB are considered to be a threat to German security. Finally, after working in Germany for four months, Frank becomes unemployed as a result of an addiction to recreational drugs. He has not registered as a jobseeker. He applies for social security benefits, but is told that he is not eligible for these, as he has not worked in Germany for a minimum period of 12 months.

Advise Frank, Olga and Sasha as to any rights they have under EU law in this situation.

(25 marks)

Question 2

Marco is an Italian winemaker, who has sought to develop a number of innovative ways to increase the attractiveness of his wine. In particular, he has combined different fruit juices with wine to create a wider range of tastes. He markets this product as Vino Fruttato ('fruity wine') (VF).

VF typically has a lower alcohol content than ordinary wine. The alcohol content is approximately 6% compared to 12–14% for normal Italian wine. Unfortunately, Marco has encountered certain difficulties in seeking to market VF outside Italy. In particular:

- in the Czech Republic, the authorities have informed him that VF cannot be marketed under that name, as the word 'vino' (which means 'wine' in Czech, just as it does in Italian) can only be used to describe a product made entirely of fermented grape juice;
- in Sweden, VF is subject to excise duty of 20% as it is categorised as wine. Swedish-produced fruit cordials consisting of fruit juice mixed with grain spirit and with an alcohol content of approximately 6% are subject to excise duty of 5%.

(a) Advise Marco whether the measures referred to are compatible with EU law.

(20 marks)

(b) Advise Marco as to the procedures by which he can seek to enforce such rights as he may have.

(5 marks)

(Total: 25 marks)

Question 3

Assume that you are an official in the Directorate-General for Competition and have been investigating a potential anti-competitive arrangement. The industry sector in question is lubricants for use in the offshore oil industry. There are four producers of these lubricants: Amlub, based in Texas; Sinoil, based in Beijing; Caledonian Lubricants plc, based in Scotland; and Rheinöl, based in Germany. All the lubricants produced by these companies contain a particular additive, which is exclusively produced by Marini Additives using a combination of chemicals and a process which it has patented.

You have received complaints from users of these lubricants that the prices charged by the various producers have increased at a similar time and to a similar extent on three occasions in the last four years. The complaints also allege that only Caledonian Lubricants has been prepared to quote prices for delivery to Scottish and other ports supporting North Sea oil exploration, while all the producers except Caledonian Lubricants have quoted prices for other locations.

Your investigations indicate that Marini has increased its prices for the additive shortly before each of the price increases complained about, and to a similar extent.

- (a) Advise whether there are grounds for instituting proceedings under Art. 101.

(20 marks)

Rheinöl provides you with information confirming that the four producers of the lubricants have engaged in anti-competitive activities.

- (b) Explain the implications of this for the further conduct of the investigation as far as Rheinöl is concerned.

(5 marks)

(Total: 25 marks)

Question 4

The Rubber Industry Association (RIA) represents manufacturers and distributors of natural and synthetic rubber components. The RIA has become aware that the Commission has commenced preliminary work on a proposed draft Directive revising technical and safety standards for these components when used in motor vehicles. The RIA has significant concerns that the Commission is likely to introduce new standards that will impose considerable burdens on its members. It considers that these are not justified on environmental or safety grounds, although some consumer groups have called for the new standards on these bases.

The RIA seeks advice on the measures it can take to seek to influence the content of the proposed Directive as it proceeds through the various stages necessary for it to be adopted. The RIA already has good relations with officials in several Member State governments.

Advise the RIA on the steps it can take, indicating which action should be taken at the various stages of the legislative process from the present time until the final adoption and transposition of the Directive.

(25 marks)

End of Examination Paper

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