

UNIVERSITY OF BOLTON

**SCHOOL OF BUSINESS AND CREATIVE
TECHNOLOGIES**

LAW PATHWAY

SEMESTER 1 EXAMINATIONS 2009/2010

EUROPEAN LAW

MODULE NO: LAW3006 / LAW3202

Date: Friday 22nd January 2010

Time: 10:00 – 13:00

INSTRUCTIONS TO CANDIDATES:

There are **FIVE** questions on this paper.

Answer **ANY THREE** questions.

All questions carry equal marks.

Students are allowed a Statute book. (**NOT** cases and materials).

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Answer ANY THREE questions

Q1) In *Van Gend en Loos v Netherlands* Case 26/62 [1963] ECR 1, the European Court of Justice held that where a Treaty Article imposes an obligation upon a Member State, then such a provision could be capable of direct effect and individual rights could be created which were enforceable.

Critically discuss the development of the doctrine of direct effect with reference to EC primary and secondary legislation and to case law.

Q2) Articles 81 and 82 EC Treaty seek to ensure that the single market is one in which healthy competition is not only promoted but also protected.

Critically evaluate the way in which EC law allows for fair competition within the European community.

Q3) LessCough, a French cigarette company, have come up with a revolutionary new type of cigarette which it claims is less carcinogenic than other cigarettes on the market. This product has been rigorously tested in France.

A recent study by Belgian government scientists indicates that the cigarettes do contain harmful toxins.

The Belgian newspapers have orchestrated a campaign to have the cigarettes banned.

The Belgian government is contemplating the following action:-

- a) **Not** to allow LessCough to advertise the cigarettes in Belgium except on late night television.
- b) To ban the sale of the cigarettes in Belgium until further research can be done.
- c) To restrict the sale of the cigarettes to a target group, men and women between the age of 20 – 24 so that the effect of the cigarettes can be monitored more easily.
- d) Allow for the sale of the cigarettes but charge a tax so that the monies can be used to fund research into the effect of the cigarettes on the health of the population.

Advise the Belgian government on the proposed measures.

Note: Belgium has a thriving, domestic industry, producing “traditional” cigarettes.

Parts a) to d) above all carry equal weighting.

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Q4) Adolf, a German national wishes to work in the United Kingdom (UK). Adolf is a newly qualified doctor and the German authorities, anxious to keep medical practitioners in the country, have insisted newly qualified doctors must work in Germany for five years before being allowed to leave the country and practice medicine elsewhere.

Adolf's brother, Herman, is an electrician, and left to work in the UK two weeks before Adolf qualified as a doctor. Herman is married with two children. His children were born in Germany but his wife, Britney, is an American and as such she is granted only temporary residence permit for a period of ten months.

Herman's two children, Gretel and Steffi, applied to the University of Notlob for a place but are told that as German nationals their fees will be £1000 more than fellow students from the UK.

Gretel accepts a place on the course but Steffi decides to take a part-time job. Steffi works for a month before discovering that English workers at the firm, who do the same job, and work the same hours as her, receive £2 an hour more than she does. When she confronts the manager he says that as a German national she needs to be in the country for three years before she can qualify for the same hourly pay as a British national.

Shortly after their arrival Herman contracts typhoid and is told he must leave the country.

Advise Adolf, Herman, Gretel, Steffi and Britney.

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Q5) Europe has become a leading source of Llama meat. In order to ensure public confidence in the food produced, Directive 2008/123 [this is a fictitious directive] requires Member States to control the levels of growth hormone used in the breeding of free range Llamas. The Directive sets out the maximum levels of growth hormone that are safe and also the levels permitted to be found as trace elements in the meat. Research has shown that high levels of growth hormone have a detrimental effect on health and there is suggestion of a causal link with cancer and other side effects such as vomiting and diarrhoea. The Directive has been issued because of concerns with the issue of free Llama meat to hospitals run by local authorities.

The UK government has failed to implement the Directive. A number of health workers in the UK have raised concerns regarding the levels of growth hormone used. Recently, a hospital had to close after number of patients became ill after eating meat that had been provided by a private company, Blackwell's Farm Foods Ltd.

The meat was found to contain high levels of growth hormone, much higher than those recommended by the Directive.

Advise whether UK citizens are able to take action against the privately run Blackwell's Farm Foods Ltd and / or the UK government.

END OF QUESTIONS