

UNIVERSITY COLLEGE LONDON

University of London

EXAMINATION FOR INTERNAL STUDENTS

For The Following Qualification:-

LL.B.

LL.B. Part II: Competition Law

COURSE CODE : LAWSII25

DATE : 15-MAY-03

TIME : 14.30

TIME ALLOWED : 2 Hours 15 Minutes

COMPETITION LAW

Answer **THREE** questions.

1. To what extent will EC and UK competition law arrive at the same results when applied to a given fact situation? Does it matter if they sometimes differ in their conclusions?
2. "The EC Merger Regulation has been of great value in reducing the burden upon business resulting from the need to notify concentrations in multiple jurisdictions. The Commission's proposed amendments to it have been carefully designed to preserve this strength."

Discuss.

3. What are the costs and benefits of abolishing the European Commission's exclusive competence to exempt agreements pursuant to Article 81(3) EC? Have the costs been adequately addressed by Regulation 1/2003?
4. Identify in what circumstances it is necessary, when applying EC competition law, to arrive at a detailed definition of the relevant market. Critically assess the European Commission's approach to market definition.
5. What modifications, if any, are necessary to the powers available to the European Commission and the OFT for investigating and punishing those involved in cartels?
6. A, B, C, D and E are the only UK producers of widgets. Imports of widgets to the UK are negligible, owing to high transportation costs. The market shares of A, B, C, D and E vary between 15 and 25%.

Over the last five years, the price of widgets has risen consistently by at least twice the rate of inflation. All of the UK producers of widgets belong to a trade association, and meet every three months to discuss market developments. It is also common practice in the industry for producers to publish any alteration to their price lists at least a month in advance of its taking effect.

Widgets are an essential input in the manufacture of blodgets. F is the principal manufacturer of blodgets in the UK, and has become increasingly concerned at the rising price of widgets. It has approached each of the UK widget producers and attempted to negotiate individual discounts, but without success. It has also learnt that A recently purchased a 30% stake in B, and fears that this acquisition will further undermine competition in the widget market.

Advise F as to whether A, B, C, D or E has breached EC and/or UK competition law, and as to what actions F should take.

TURN OVER

7. Omega produces kryptonite, which is an essential ingredient in the manufacture of vitamin K. It is the largest producer of kryptonite in Europe. It also itself produces vitamin K. The European Commission has received complaints alleging the following conduct on the part of Omega:

- (1) Omega offers its customers substantial rebates for bulk purchases of kryptonite;
- (2) Omega offers its customers a loyalty discount if they purchase kryptonite exclusively from it;
- (3) Omega has threatened to cease to supply one large customer if that customer buys kryptonite from a rival manufacturer;
- (4) On a previous occasion, when faced with intensive competition from one of its rivals, Omega cut its prices dramatically;
- (5) Omega charges more to those customers who use kryptonite to manufacture vitamin K than to those who use it for other purposes.

Advise the European Commission as to whether Omega may have infringed or be infringing Article 82 EC.

8. Mobilo and Networx are mobile telephone manufacturers, each with substantial operations in Europe. They have each been trying to develop a mobile telephone with a video conferencing facility, aimed at business people. They decide to combine their efforts by creating a joint venture, to be called Vidphone, and agree as follows:

- (1) Vidphone will operate for an initial period of five years, after which the parties will review whether or not it should continue;
- (2) Vidphone may, however, be wound up at any time in the event of a serious disagreement between Mobilo and Networx;
- (3) Mobilo will own 70% of Vidphone and Networx the remaining 30%;
- (4) Mobilo will license to Vidphone a new software technology which is considered vital to the development of a video mobile telephone;
- (5) Once the development stage is complete, Vidphone will itself manufacture and market video mobile telephones;
- (6) Vidphone will purchase the parts needed for the manufacture of video mobile telephones exclusively from Mobilo and Networx;
- (7) Mobilo and Networx undertake not to develop or produce any mobile telephone which would compete with Vidphone's product, and agree to share information regarding research and production in order to verify one another's compliance.

You are asked by Mobilo and Networx to prepare a memorandum advising them as to the status of their joint venture plans under EC competition law. Include details of any additional information which you would require from them in order to complete your assessment.

END OF PAPER