

**Parties to the main proceedings**

*Applicant:* GS Media BV

*Defendants:* Sanoma Media Netherlands BV, Playboy Enterprises International Inc., Britt Geertruida Dekke

**Questions referred**

- 1(a) If anyone other than the copyright holder refers by means of a hyperlink on a website controlled by him to a website which is managed by a third party and is accessible to the general internet public, on which the work has been made available without the consent of the rightholder, does that constitute a 'communication to the public' within the meaning of Article 3(1) of Directive 2001/29 <sup>(1)</sup>?
- 1(b) Does it make any difference if the work was also not previously communicated, with the rightholder's consent, to the public in some other way?
- 1(c) Is it important whether the 'hyperlinker' is or ought to be aware of the lack of consent by the rightholder for the placement of the work on the third party's website mentioned in 1(a) above and, as the case may be, of the fact that the work has also not previously been communicated, with the rightholder's consent, to the public in some other way?
- 2(a) If the answer to question 1(a) is in the negative: in that case, is there, or could there be deemed to be, a communication to the public if the website to which the hyperlink refers, and thus the work, is indeed findable for the general internet public, but not easily so, with the result that the publication of the hyperlink greatly facilitates the finding of the work?
- 2(b) In answering question 2(a), is it important whether the 'hyperlinker' is or ought to be aware of the fact that the website to which the hyperlink refers is not easily findable by the general internet public?
3. Are there other circumstances which should be taken into account when answering the question whether there is deemed to be a communication to the public if, by means of a hyperlink, access is provided to a work which has not previously been communicated to the public with the consent of the rightholder?

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<sup>(1)</sup> Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 201 L 167, p. 10).

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**Appeal brought on 9 April 2015 by European Commission against the judgment of the General Court  
(Ninth Chamber) delivered on 5 February 2015 in Case T-473/12: Aer Lingus Ltd. v European  
Commission**

**(Case C-164/15 P)**

(2015/C 205/27)

*Language of the case: English*

**Parties**

*Appellant:* European Commission (represented by: L. Flynn, D. Grespan, T. Maxian Rusche, B. Stromsky, Agents)

*Other parties to the proceedings:* Aer Lingus Ltd., Ireland

**Form of order sought**

The appellant claims that the Court should:

- set aside the judgment of the General Court (Ninth Chamber) of 5 February 2015 in Case T-473/12 *Aer Lingus v Commission* in so far as it held that Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland <sup>(1)</sup> was annulled in so far as that decision orders the recovery of the aid from the beneficiaries for an amount which is set at EUR 8 per passenger in recital 70 of that decision; and

- reject the application to annul Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland;
  - order the applicant at first instance to pay the costs;
- alternatively,
- refer back the case to the General Court for reconsideration;
  - reserve the costs of the proceedings at first instance and on appeal.

### **Pleas in law and main arguments**

In support of its appeal, the appellant puts forward a single ground of appeal.

The appellant claims that by creating a new economic test to be applied when determining the amounts to be recovered from beneficiaries of State aid consisting of a tax measure fixing a lower rate by reference to a standard rate, the General Court violated Article 108(3) TFEU and Article 14 of Regulation 659/1999 <sup>(2)</sup>.

<sup>(1)</sup> OJ L 119, p. 30.

<sup>(2)</sup> Council Regulation (EC) No 659/1999 of 22 March 1999 laying down detailed rules for the application of Article 93 of the EC Treaty, OJ L 83, p. 1.

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## **Appeal brought on 9 April 2015 by European Commission against the judgment of the General Court (Ninth Chamber) delivered on 5 February 2015 in Case T-500/12: Ryanair Ltd. v European Commission**

**(Case C-165/15 P)**

(2015/C 205/28)

*Language of the case: English*

### **Parties**

*Appellant:* European Commission (represented by: L. Flynn, D. Grespan, T. Maxian Rusche, B. Stromsky, Agents)

*Other parties to the proceedings:* Ryanair Ltd., Ireland, Aer Lingus Ltd.

### **Form of order sought**

The appellant claims that the Court should:

- set aside the judgment of the General Court (Ninth Chamber) of 5 February 2015 in Case T-500/12 Ryanair v Commission in so far as it held that Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland <sup>(1)</sup> was annulled in so far as that decision orders the recovery of the aid from the beneficiaries for an amount which is set at EUR 8 per passenger in recital 70 of that decision; and
  - reject the application to annul Commission Decision 2013/199/EU of 25 July 2012 on State aid SA.29064 (11/C, ex 11/NN) — Differentiated air travel tax rates implemented by Ireland;
  - order the applicant at first instance to pay the costs;
- alternatively,
- refer back the case to the General Court for reconsideration;
  - reserve the costs of the proceedings at first instance and on appeal.