Pleas in law and main arguments

By Decision C(2004) 2815 of 19 July 2004, the Commission declared compatible with the common market the concentration by which Bertelsmann AG and Sony Corporation of America acquired joint control of the joint venture company Sony BMG combining their recorded music businesses (Case No. COMP/M.3333-Sony/BMG). By the judgment of 13 July 2006, the Court of First Instance annulled the Commission's decision ([2]). Following this annulment, the case was re-notified to the Commission who reassessed the concentration under the current market circumstances and by contested Decision C (2007) 4507 of 3 October 2007 authorised the merger as compatible with the common market and functioning of the EEA Agreement.

The applicant who is an international association representing independent music companies — competitors to the parties to the merger seeks the annulment of that decision. It claims that in authorising the merger the Commission committed a manifest error of assessment, and/or misapplied the law on collective dominance and/or infringed Article 253 EC by:

— failing to apply the correct test and to properly assess the existence, strengthening or creation of a collective dominant position in the physical recorded music market and market for recorded music in digital formats;

— failing to conduct a prospective analysis as to whether or not the concentration might strengthen or create a collective dominant position on the market for physical recorded music and/or the market for recorded music in digital formats, and failing to give reasons or sufficient reasons for dispensing with a prospective analysis;

— failing to conduct a proper analysis concerning the possible effects of the merger on consumer choice or cultural diversity, or to make a prospective analysis thereof; and

— in conclusion, failing to find that the merger strengthened or created a collective dominant position in the physical recorded music market and market for recorded music in digital formats.

([1]) Council Regulation (EEC) No 4064/89 of 21 December 1989 on the control of concentrations between undertakings (OJ 1989 L 395, p. 1, corrigendum OJ 1990 L 257, p. 13).

([2]) Case T-464/04, *Impala* v. *Commission*, [2006] ECR II-2289, judgment on appeal, Case C-413/06 P, *Bertelsmann and Sony Corporation of America* v *Impala*.

Action brought on 25 June 2008 — Melli Bank v Council

(Case T-246/08)

(2008/C 197/59)

Language of the case: English

Parties

Applicant: Melli Bank plc (London, United Kingdom) (represented by: R. Gordon, QC, J. Stratford, Barrister, R. Gwynne and T. Din, Solicitors)

Defendant: Council of the European Union

Form of order sought

— Annul paragraph 4, section B, of the annex to Council Decision 2008/475/EC concerning restrictive measures against Iran, in so far as it relates to Melli Bank plc;

— Grant such further or other relief as may seem just and appropriate in the circumstances;

— Order that the Council pay the Bank's costs of this application.

Pleas in law and main arguments

In the present case the applicant seeks the partial annulment of Council Decision 2008/475/EC of 23 June 2008 ([1]) implementing Article 7(2) of Council Regulation No 423/2007 concerning restrictive measures against Iran ([2]) in so far as the applicant is included on the list of natural and legal persons, entities and bodies whose funds and economic resources are frozen in accordance with this provision.

The applicant seeks the annulment of paragraph 4, section B, of the Annexe, in so far as it relates to the applicant, on the grounds that it is unlawful in two respects.

First, the applicant claims that the contested decision is disproportionate in that freezing the funds and economic assets of the applicant (i) has no rational relationship with the aim of preventing nuclear proliferation or its funding and (ii) it is not the least restrictive mean of exercising vigilance against the applicant or of pursuing the aim of preventing the funding of nuclear proliferation.

Second, the applicant claims that the contested decision violates the principle of non-discrimination in that, on one hand, the applicant is in the same position to other UK subsidiaries of the Iranian banks, and is in materially comparable position to other UK banks including UK banks trading with Iran, but has been treated in a different manner and, on the other hand, is in a significantly different position to another bank designated by the United Nations Security Council but has been treated in the same manner.

(1) OJ 2008 L 163, p. 29.
(2) Council Regulation (EC) No 423/2007 of 19 April 2007 (OJ 2007 L 103, p. 1).

Order of the Court of First Instance of 26 May 2008 — Ypma v Council and Commission

(Case T-9/94) (1)

(2008/C 197/60)

Language of the case: Dutch

The President of the Eighth Chamber has ordered that the case be removed from the register.

(1) OJ C 59, 26.2.1994.

Order of the Court of First Instance of 5 June 2008 — Katalagarianakis v Commission

(Case T-402/03) (1)

(2008/C 197/61)

Language of the case: French

The President of the Seventh Chamber has ordered that the case be removed from the register.

(1) OJ C 35, 7.2.2004.

Order of the Court of First Instance of 5 June 2008 — Martins v Commission

(Case T-11/04) (1)

(2008/C 197/62)

Language of the case: French

The President of the Seventh Chamber has ordered that the case be removed from the register.

(1) OJ C 59, 6.3.2004.

Order of the Court of First Instance of 5 June 2008 — Martinez-Mongay v Commission

(Case T-101/04) (1)

(2008/C 197/63)

Language of the case: French

The President of the Seventh Chamber has ordered that the case be removed from the register.

(1) OJ C 106, 30.4.2004.

Order of the Court of First Instance of 5 June 2008 — Piccinni-Leopardi v Commission

(Case T-128/04) (1)

(2008/C 197/64)

Language of the case: French

The President of the Seventh Chamber has ordered that the case be removed from the register.

(1) OJ C 118, 30.4.2004.