

**Re:**

Appeal against the judgment of the First Chamber of the Court of First Instance delivered on 29 March 2007 in Case T-366/00 *Scott SA v Commission of the European Communities* by which the Court annulled Article 2 of Commission Decision 2002/14/EC of 12 July 2000 on the State aid granted by France to Scott Paper SA/Kimberley-Clark (OJ 2000 L 12, p. 1) in so far as it concerns aid granted in the form of a preferential land price referred to in Article 1 of the decision

**Operative part of the judgment**

The Court:

1. Sets aside the judgment of the Court of First Instance of the European Communities of 29 March 2007 in Case T-366/00 *Scott v Commission*.
2. Refers the case back to the General Court of the European Union.
3. Reserves the costs.

(<sup>1</sup>) OJ C 183, 4.8.2007.

**Judgment of the Court (Grand Chamber) of 8 September 2010 (references for a preliminary ruling from the Verwaltungsgericht Gießen Verwaltungsgericht Stuttgart (Germany)) — Markus Stoß (C-316/07), Avalon Service-Online-Dienste GmbH (C-409/07), Olaf Amadeus Wilhelm Happel (C-410/07) Kulpa Automatenervice Asperg GmbH (C-358/07), SOBO Sport & Entertainment GmbH (C-359/07), Andreas Kunert (C-360/07) v Wetteraukreis (C-316/07, C-409/07, C-410/07), Land Baden Württemberg (C-358/07, C-359/07, C-360/07)**

**(Joined Cases C-316/07, C-358/07 to C-360/07, C-409/07 and C-410/07) (<sup>1</sup>)**

**(Articles 43 EC and 49 EC — Freedom of establishment — Freedom to provide services — Organisation of bets on sporting competitions subject to a public monopoly at Land level — Objective of preventing incitement to squander money on gambling and combating gambling addiction — Proportionality — Restrictive measure to be genuinely aimed at reducing opportunities for gambling and limiting gambling activities in a consistent and systematic manner — Advertising emanating from the holder of the monopoly and encouraging participation in lotteries — Other games of chance capable of being offered by private operators — Expansion of the supply of other games of chance — Licence issued in another Member State — No mutual recognition obligation)**

(2010/C 288/12)

Language of the case: English

**Referring court**

Verwaltungsgericht Gießen, Verwaltungsgericht Stuttgart

**Parties to the main proceedings**

**Applicants:** Markus Stoß (C-316/07), Avalon Service-Online-Dienste GmbH (C-409/07), Olaf Amadeus Wilhelm Happel (C-410/07), Kulpa Automatenervice Asperg GmbH (C-358/07), SOBO Sport & Entertainment GmbH (C-359/07), Andreas Kunert (C-360/07)

**Defendants:** Wetteraukreis (C-316/07, C-409/07, C-410/07), Land Baden Württemberg (C-358/07, C-359/07, C-360/07)

**Re:**

Reference for a preliminary ruling — Verwaltungsgericht Giessen — Interpretation of Articles 43 and 49 EC — National legislation which prohibits, on pain of criminal and administrative sanctions, the collection of bets on sporting events without authorisation from the competent authority but which renders it practically impossible, by virtue of the establishment of a State monopoly, to obtain that authorisation

**Operative part of the judgment**

1. On a proper interpretation of Articles 43 EC and 49 EC:

- (a) in order to justify a public monopoly on bets on sporting competitions and lotteries, such as those at issue in the cases in the main proceedings, by an objective of preventing incitement to squander money on gambling and combating addiction to the latter, the national authorities concerned do not necessarily have to be able to produce a study establishing the proportionality of the said measure which is prior to the adoption of the latter;
- (b) a Member State's choice to use such a monopoly rather than a system authorising the business of private operators which would be permitted to carry on their business in the context of a non-exclusive legislative framework is capable of satisfying the requirement of proportionality, in so far as, as regards the objective concerning a high level of consumer protection, the establishment of the said monopoly is accompanied by a legislative framework suitable for ensuring that the holder of the said monopoly will in fact be able to pursue, in a consistent and systematic manner, such an objective by means of a supply that is quantitatively measured and qualitatively planned by reference to the said objective and subject to strict control by the public authorities;
- (c) the fact that the competent authorities of a Member State might be confronted with certain difficulties in ensuring compliance with such a monopoly by organisers of games and bets established outside that Member State, who, via the internet and in breach of the said monopoly, conclude bets with persons within the territorial area of the said authorities, is not capable, as such, of affecting the potential conformity of such a monopoly with the said provisions of the Treaty;

(d) in a situation where a national court finds, at the same time:

- that advertising measures emanating from the holder of such a monopoly and relating to other types of games of chance which it also offers are not limited to what is necessary in order to channel consumers towards the offer emanating from that holder by turning them away from other channels of unauthorised games, but are designed to encourage the propensity of consumers to gamble and to stimulate their active participation in the latter for purposes of maximising the anticipated revenue from such activities,
- that other types of games of chance may be exploited by private operators holding an authorisation, and
- that, in relation to other types of games of chance not covered by the said monopoly, and which, moreover, present a higher potential risk of addiction than the games subject to that monopoly, the competent authorities are conducting or tolerating policies of expanding supply, of such a kind as to develop and stimulate gaming activities, in particular with a view to maximising revenue from the latter,

the said national court may legitimately be led to consider that such a monopoly is not suitable for guaranteeing achievement of the objective for which it was established, of preventing incitement to squander money on gambling and combating addiction to the latter, by contributing to reducing opportunities for gambling and limiting activities in that area in a consistent and systematic manner.

2. On a proper interpretation of Articles 43 EC and 49 EC, in the current state of European Union law, the fact that an operator holds, in the Member State in which it is established, an authorisation permitting it to offer games of chance does not prevent another Member State, while complying with the requirements of European Union law, from making such a provider offering such services to consumers in its territory subject to the holding of an authorisation issued by its own authorities.

<sup>(1)</sup> OJ C 269, 10.11.2007.  
OJ C 283, 24.11.2007.

**Judgment of the Court (Grand Chamber) of 8 September 2010 (reference for a preliminary ruling from the Schleswig Holsteinisches Verwaltungsgericht (Germany))**  
— **Carmen Media Group Ltd v Land Schleswig-Holstein, Innenminister des Landes Schleswig-Holstein**

(Case C-46/08) <sup>(1)</sup>

**(Article 49 EC — Freedom to provide services — Holder of a licence issued in Gibraltar authorising the collection of bets on sporting competitions only abroad — Organisation of bets on sporting competitions subject to a public monopoly at Land level — Objective of preventing incitement to squander money on gambling and combating gambling addiction — Proportionality — Restrictive measure to be genuinely aimed at reducing opportunities for gambling and limiting gambling activities in a consistent and systematic manner — Other games of chance capable of being offered by private operators — Authorisation procedure — Discretion of the competent authority — Prohibition on offering games of chance via the internet — Transitional measures provisionally authorising such an offer by certain operators)**

(2010/C 288/13)

Language of the case: German

#### Referring court

Schleswig-Holsteinisches Verwaltungsgericht

#### Parties to the main proceedings

Applicant: Carmen Media Group Ltd

Defendants: Land Schleswig-Holstein, Innenminister des Landes Schleswig-Holstein

#### Re:

Reference for a preliminary ruling — Schleswig-Holsteinisches Verwaltungsgericht — Interpretation of Art. 49 EC — National legislation establishing a State monopoly on the organisation of sporting bets and lotteries with a significant risk of dependency, making the grant of authorisations for the organisation of other games of chance subject to the discretion of the public authorities, and prohibiting the organisation of games of chance on the internet

#### Operative part of the judgment

1. On a proper interpretation of Article 49 EC, an operator wishing to offer via the internet bets on sporting competitions in a Member State other than the one in which it is established does not cease