fundamental freedom guaranteed by the EC Treaty, such as the freedom to provide services must, according to the established case-law of the Court of Justice, fulfil certain requirements (1). There are four such requirements: they must be applied in a non-discriminatory manner; they must be justified by imperative requirements in the general interest; they must be suitable for securing the attainment of the objective which they pursue; and they must not go beyond what is necessary in order to attain it.

It is for the national authorities to apply the said criteria in individual cases and the question of the compatibility or otherwise of an agreement with the said criteria is a matter for the national courts to assess in the light of Community rules and principles on free movement of workers and services.

As regards the competition rules of the EC Treaty, the agreements mentioned by the Honourable Member would fall under these only in very exceptional cases, provided that they constitute an implementation of an agreement between undertakings. These rare cases would be addressed by the Commission individually.

(2) See, for example, case C-55/94, Gebhard, ECR 1995, I-4165.

(2003/C92E/077) WRITTEN QUESTION E-1640/02
by Alexander de Roo (Verts/ALE) to the Commission
(10 June 2002)

Subject: Liberty Media’s significant market share following the possible take-over of Casema in the Netherlands

It was recently reported that France Telecom was in exclusive negotiations with the US cable giant Liberty Media on the take-over of France Telecom’s Dutch cable subsidiary Casema. With 1.3 million connections, Casema is the third largest cable provider in the Netherlands. A successful take-over would give Liberty Media about a 60% share of the Dutch cable market, as it already has a controlling stake in the Netherlands’ largest cable operator, UPC (2.2 million connections).

Liberty Media also has interests in various television programme providers. The company would be in a position to exploit any significant share of the cable market in favour of its associated providers. Many television broadcasters already find themselves in a difficult negotiating position when it comes to getting their programmes shown. They are afraid of unfair competition for slots on the cable.

All in all, Liberty Media is threatening to repeat in Europe what it has already done in the United States. There the company bought up ailing cable firms in the 1970s and thus acquired a monopoly position. Earlier the German competition authority, the Kartelamt, prevented Liberty from acquiring too strong a position on the German cable market and it is anticipated that the Netherlands competition authority Opta will also view the take-over plans critically. It may be time for the Europe authorities to keep their finger on the pulse.

In view of this situation, can the Commission provide answers to the following questions:

1. How can the European Commission guarantee healthy and competitive operating conditions on the European market for cable services in the future?

2. What is the Commission’s view of the push by non-European cable operators, such as the US Liberty Media, and the large market share that they may acquire in some EU Member States?

3. Does the Commission consider a 60 percent market share to be in breach of European regulations and, if so, is it prepared to refer the possible take-over of Casema to the Dutch authorities?
Answer given by Mr Monti on behalf of the Commission

(18 July 2002)

1. The Commission will continue to apply the Community competition rules, in particular Articles 81 and 82 of the EC Treaty as well as the Merger Regulation (1), to the European cable and cable related markets. The objectives of the Community competition rules are to ensure wider consumer choice, technological innovation and price competition.

2. The Commission welcomes the existence of strong cable operators because of the benefits of more competition in the local access market. However, where these cable operators become dominant and vertically integrated, i.e. also produce media content, the Commission watches carefully that there is no discrimination and that access to content is not restricted. In this respect, the Commission must apply Community competition law without prejudice to the nationality or the origin of the companies involved.

3. In merger control, there is no overlap of competence. Depending on specific turnover thresholds, either the national competition authority or the Commission is competent to judge upon the transaction.

Until now, the Commission has not received a notification of this transaction.


WRITTEN QUESTION E-1672/02

by Rodi Kratsa-Tsagaropoulou (PPE-DE) to the Council

(12 June 2002)

Subject: EU — Colombia relations — Release of presidential candidate Ingrid Betancourt

The continuing climate of uncertainty resulting from the peace process in Colombia being broken off and the kidnapping of senators and other politicians — that of presidential candidate Ingrid Betancourt being a prime example — is having an extremely detrimental impact on the functioning of democracy and respect for human rights in the country.

Recently, in its resolution of 14 March 2002, the European Parliament adopted a position on this issue, condemning these events and calling on the European institutions to take measures to combat the deadlock. What initiatives does the Council intend to take to this end and what policy will it adopt towards the Revolutionary Armed Forces (FARC-EP), in collaboration with the new president? Does it intend to act as mediator in an attempt to achieve the resumption of negotiations and to break the deadlock in the country, and will it take immediate steps to obtain the release of Ingrid Betancourt?

Reply

(19 December 2002)

1. The Council has repeatedly reiterated its rejection and condemnation of the practice of kidnapping, extortion and other crimes committed by armed groups in Colombia and has made repeated appeals for respect for International Humanitarian Law and the protection of the civilian population.

2. Last December, in response to the repeated human rights violations the Council decided to, ‘for the time being, not issue new visas or residence permits to the members of the armed groups in Colombia’. This was a political decision which aimed to leave the necessary room for manoeuvre to EU Member States participating in the ‘Group of Facilitators’ (dialogue with the ‘Fuerzas Armadas Revolucionarias de Colombia’ (FARC) and the ‘Group of Friends’ (dialogue with the ‘Ejército de Liberación Nacional’ (ELN)). In its declaration of February the Council also announced that ‘it reserves the right to change its policy towards the armed groups.’