

Re:

Application pursuant to Articles 278 and 279 TFEU seeking the suspension of the alleged decision by the European Commission of 17 June 2019 by which it allegedly prohibited the placing on the market of Listex™ P100 for use as a processing aid on animal derived Ready-To-Eat-Food.

Operative part of the order

1. *The application for interim measures is dismissed.*
2. *The costs are reserved*

Action brought on 23 October 2019 – Northgate and Northgate Europe v Commission**(Case T-719/19)**

(2020/C 19/66)

*Language of the case: English***Parties**

Applicants: Northgate plc (Darlington, United Kingdom), and Northgate Europe Ltd (Darlington) (represented by: J. Lesar, Solicitor, and K. Beal, QC)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the decision adopted by the European Commission on 2 April 2019 on the State Aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption ('GFE') in so far as it applies to the applicants;
- order the defendant to meet the applicants' costs of the proceedings.

Pleas in law and main arguments

In support of the action, the applicants rely on eight pleas in law.

1. First plea in law, alleging that the European Commission wrongly applied Article 107(1) TFEU and/or made a manifest error of appraisal or assessment in its selection of the reference framework for the analysis of the tax regime. The Commission should have treated the reference framework as the UK's corporation tax regime, not simply the Controlled Foreign Companies (CFC) regime itself.
2. Second plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU and/or made a manifest error of appraisal or assessment by adopting a flawed approach to the analysis of the CFC regime. The Commission at recitals (124) to (126) of the contested decision wrongly treated the provisions of Chapter 9 of Part 9A of the Taxation (International and Other Provisions) Act 2010 as a form of derogation from a general charge to tax found in Chapter 5 thereof.
3. Third plea in law, alleging that the Commission erred in law in its application of Article 107(1) TFEU when finding at recitals (127) to (151) of the contested decision that the selectivity criterion was fulfilled in that undertakings in factually and legally comparable positions were treated differently.

4. Fourth plea in law, alleging that the 75 % exemption under section 371ID of the Taxation (International and Other Provisions) Act 2010 is justified by the nature and overall structure of the tax system.
5. Fifth plea in law, alleging that the imposition of a tax burden on CFCs meeting the exemptions laid down in the said Chapter 9 as a class would breach the applicants' freedom of establishment contrary to Article 49 TFEU.
6. Sixth plea in law, alleging that there was a manifest error of appraisal or assessment in relation to the 75 % exemption and fixed ratio issue.
7. Seventh plea in law, alleging that the Commission's decision fails to comply with the general EU law principle of non-discrimination or equality.
8. Eighth plea in law, alleging that the Commission erred in law in applying by analogy or placing undue reliance upon the terms of Council Directive (EU) 2016/1164, ⁽¹⁾ which was not applicable *ratione temporis*.

⁽¹⁾ Council Directive (EU) 2016/1164, of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ 2016 L 193, p. 1).

**Action brought on 25 October 2019 – LSEGH (Luxembourg) and London Stock Exchange Group Holdings (Italy)
v Commission**

(Case T-726/19)

(2020/C 19/67)

Language of the case: English

Parties

Applicants: LSEGH (Luxembourg) Ltd (London, United Kingdom), and London Stock Exchange Group Holdings (Italy) Ltd (London,) (represented by: O. Brouwer, A. Pliego Selie, and A. von Bonin, lawyers)

Defendant: European Commission

Form of order sought

The applicants claim that the Court should:

- annul the defendant's decision of 2 April 2019 on the State aid SA.44896 implemented by the United Kingdom concerning CFC Group Financing Exemption, C(2019) 2526 Final; and
- order the Commission to pay the applicants' costs pursuant to Article 134 of the Rules of Procedure of the General Court, including the costs of any intervening parties.