



Alcohol and Entertainment Licensing Sub-Committee (C) Supplementary 3

Tuesday 13 December 2016 at 10.00 am
Board Room 5 - Brent Civic Centre, Engineers Way,
Wembley HA9 0FJ

Membership:

Members

Councillors:

Long (Chair)
Hylton
McLeish

Substitute Members

Councillors:

Allie, Daly, Harrison, Jones,
Mahmood and Perrin

For further information contact: Joe Kwateng, Governance Services Officer
(020) 8937 1354; joe.kwateng@brent.gov.uk

For electronic copies of minutes, reports and agendas, and to be alerted when the minutes of this meeting have been published visit:

democracy.brent.gov.uk

The press and public are welcome to attend part of this meeting

Agenda

Introductions, if appropriate.

Apologies for absence and clarification of alternate members

Item	Page
5 Application by the Metropolitan Police for the review of a premises licence held by Mr Farooq Khan and Mr Mahshooq Naz at the premises known as "Supersave" (68 Craven Park Road NW10 4AE), pursuant to the Licensing Act 2003.	189 - 210

Conduct of the Hearing:

The hearing shall proceed as follows:

- General introduction by the Regulatory Services Manager
- Case for the Responsible Authority – Police/Regulatory Services
- Questioning of the Responsible Authority by Applicant and Members
- Representations by interested parties (if any)
- Case for the Applicant
- Questioning of the Applicant by the Responsible Authority and Members
- Summing up by the Responsible Authority
- Summing up by a representative of interested parties (if any)
- Summing up by the Applicant

Members' Deliberation

The Chair will then ask the representatives of the Responsible Authority and the Applicant to leave the meeting room whilst the panel goes into close session to deliberate the application. The applicant and the representatives of the responsible authority will be recalled to the meeting room when the Sub-Committee has made its decision. The decision will be confirmed in writing to the applicant within 7 days



Please remember to switch your mobile phone to silent during the meeting.

- The meeting room is accessible by lift and seats will be provided for members of the public.

Licensing Team
London Borough of Brent,
Brent Civic Centre,
Engineer's Way,
Wembley,
HA9 0FJ

Our ref: aa/ja/KHA 5-4
Your ref:
Date: 10th November 2016

Dear Sir

Re: Mr Farooq Khan Freedom of Information Request-Supersave, 68 Craven Park Road, London, NW10 4AE

We confirm we are acting on behalf of the premises licence holder in relation to the above. Due to a recent review application, we have been instructed to make a request for disclosure under the Freedom of Information Act in relation to these premises.

We would require the following information: -

1. Please confirm how many individuals have complained about these premises since the 13th October 2016; to include whether or not Council officers attended and in connection with any licence application, review, allegation of crime and disorder or public nuisance since that date;
2. Please confirm how many visits by officers of Brent Council have been made to these premises since the 13th October 2016; and
3. Whether or not there have been any test purchases, to include whether they were successful or failed since the 13th October 2016.

For the avoidance of doubt, we do not require the individual names or require the identity of any complainant, or any details which may identify the complainant or their address. However, we do require all the correspondence and would expect Brent Council to edit the same accordingly.

Should you require any clarification on the points raised above or wish to discuss the request under the Freedom of Information please do not hesitate to contact Alan Aylott or Jean Adams on 01277 631811 at our offices.

We look forward to hearing from you.

Yours faithfully



DADDS LLP

Dadds Solicitors

Crescent House, 51 High Street, Billericay, Essex CM12 9AX
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Police Licensing Team
London Borough of Brent,
5th Floor Brent Civic Centre,
Engineer's Way,
Wembley,
HA9 0FJ

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Your ref:
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EU Cases/Court of Justice of the European Union/1990/ECJ 13.11.1990 C-331/88

Judgment of the Court (Fifth Chamber) of 13 November 1990. The Queen v Minister of Agriculture, Fisheries and Food and Secretary of State for Health, ex parte: Fedesa and others.

13 November 1990

(Substances having a hormonal action -- Validity of Directive 88/146/EEC)

PRIOR HISTORY: *A8* High Court of Justice (England), Queen's Bench Division, judgment of 19/02/1988 ; - Common Market Law Reports 1988 Vol.3 p.207-213 ; - European Law Digest 1989 p.7 (résumé) ; *A9* High Court of Justice (England), Queen's Bench Division, order of 20/09/1988 (CO/923/88) ; - Common Market Law Reports 1988 Vol.3 p.661-685 ; - European Law Digest 1989 p.91-94 (résumé) ; - Revue trimestrielle de droit européen 1989 p.709-710 (résumé)

TYPE: Urteil

SUBJECT: Agriculture; Veterinary legislation; Approximation of laws

PROCEDURE: Reference for a preliminary ruling

1 . Having regard to the divergent appraisals by the national authorities of the Member States, reflected in the differences between existing national legislation, of the dangers which may result from the use of certain substances having a hormonal action, the Council, in deciding in the exercise of its discretionary power to adopt the solution of prohibiting them, neither infringed the principle of legal certainty nor frustrated the legitimate expectations of traders affected by that measure .

2 . In accordance with the principle of proportionality, which is one of the general principles of Community law, the lawfulness of the prohibition of an economic activity is subject to the condition that the prohibitory measures are appropriate and necessary in order to achieve the objectives legitimately pursued by the legislation in question, it being understood that when there is a choice between several appropriate measures recourse must be had to the least onerous, and the disadvantages caused must not be disproportionate to the aims pursued . However, with regard to judicial review of compliance with those conditions it must be borne in mind that in matters concerning the common agricultural policy the Community legislature has a discretionary power which corresponds to the political responsibilities given to it by Articles 40 and 43 of the Treaty . Consequently, the legality of a measure adopted in that sphere can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue .

3 . Although a harmonization measure which is intended to standardize previously disparate rules of the Member States inevitably produces different effects depending on the prior state of the various national laws, there cannot be said to be discrimination where it applies equally to all Member States .

4 . A decision may amount to a misuse of powers only if it appears, on the basis of objective, relevant and consistent factors, to have been taken with the exclusive purpose, or at any rate the main purpose, of achieving an end other than that stated or evading a procedure specifically prescribed by the Treaty for dealing with the circumstances of the case . That was not so in the case of Directive 88/146 prohibiting the use in livestock farming of certain substances having a hormonal action, which was adopted by the Council on the basis of Article 43 of the Treaty alone . By regulating conditions of the production and marketing of meat in order to improve its quality while curbing surplus production, that directive falls within the scope of

the measures provided for by the common organization of the markets in meat and thus contributes to the attainment of the objectives set out in Article 39 of the Treaty .

5 . The annulment by a judgment of the Court of a Council directive on account of a procedural defect concerning solely the manner in which it was finally adopted by the Council does not affect the preparatory acts of the other institutions . Therefore, these acts need not be repeated when the Council adopts a new directive replacing the one which has been annulled . Changes occurring in the interval in the composition of those institutions are of no effect since they do not affect the continuity of the institutions themselves . Whether or not a subsequent change in circumstances must be taken into consideration is for each institution to assess .

6 . By fixing 1 January 1988 as the date of expiry of the period for implementation of Directive 88/146 prohibiting the use in livestock farming of substances having a hormonal action, Article 10 of the directive gives it retroactive effect in so far as the directive was adopted and notified in March 1988 .

Outside the criminal sphere, such retroactive effect is permissible, since, first, the directive replaced an earlier directive annulled because of a procedural defect, and the Council considered it necessary in order to avoid a temporary legal vacuum during the period between the annulment of one instrument and its replacement by a lawfully adopted text with regard to the existence of a basis in Community law for national provisions adopted by the Member States in order to comply with the directive which was annulled, and, secondly, there was no infringement of the legitimate expectations of the traders concerned, in light of the rapid succession of the two directives and the reason for which the first one was annulled .

As regards the criminal sphere, on the other hand, Article 10 of the directive cannot be interpreted as requiring Member States to adopt measures which conflict with Community law, in particular with the principle that penal provisions may not have retroactive effect, which Community law incorporates, as a fundamental right, among its general principles . Nor may it provide a basis for criminal proceedings instituted under provisions of national law which may have been adopted in implementation of the annulled directive and whose sole basis is to be found therein .

In Case C-331/88,

REFERENCE to the Court under Article 177 of the EEC Treaty by the High Court of Justice, Queen' s Bench Division, for a preliminary ruling in the proceedings pending before that court between

The Queen

and

The Minister for Agriculture, Fisheries and Food and The Secretary of State for Health,

ex parte :

Fédération européenne de la santé animale (Fedesa),

Pitman-Moore, Inc .,

Distrivet SA,

Hoechst (UK) Ltd,

National Office of Animal Health Ltd,

Donald Leslie Haxby CBE and

Robert Sleightholme,

on the validity of Council Directive 88/146/EEC of 7 March 1988 prohibiting the use in livestock farming of certain substances having a hormonal action (Official Journal 1988 L 70, p . 16),

THE COURT (Fifth Chamber),

composed of : J . C . Moitinho de Almeida, President of the Chamber, G . C . Rodríguez Iglesias, Sir Gordon Slynn, R . Joliet and M . Zuleeg, Judges,

Advocate General : J . Mischo

Registrar : D . Louterman, Principal Administrator,

after considering the observations submitted on behalf of

the applicants in the main proceedings, by Christopher Carr and Thomas Sharpe, barristers;

the Government of the Kingdom of Spain, by Javier Conde de Saro, Director-General for the Coordination of Legal and Institutional Relations with the European Communities, and Rosario Silva de Lapuerta, abogado del Estado in the Legal Department for matters before the Court of Justice, acting as Agents;

the United Kingdom of Great Britain and Northern Ireland, by Susan Hay, of the Treasury Solicitor' s Department, and by Richard Plender, barrister;

the Government of the Italian Republic, by Pier Giorgio Ferri, avvocato dello Stato, acting as Agent;

the Council of the European Communities, by Moyra Sims, a member of its Legal Department, and by Bjarne Hoff-Nielsen, Legal Adviser, acting as Agents;

the Commission of the European Communities, by Blanca Rodríguez Galindo and Grant Lawrence, members of its Legal Department, and Dierk Booss, Legal Adviser, acting as Agents;

having regard to the Report for the Hearing and further to the hearing on

13 December 1989,

after hearing the Opinion of the Advocate General delivered at the sitting on 8 March 1990,

gives the following

Judgment:

Grounds

1 By an order of 20 September 1988, which was received at the Court on 14 November 1988, the High Court of Justice, Queen' s Bench Division, referred to the Court for a preliminary ruling under Article 177 of the EEC Treaty certain questions relating to the validity of Council Directive 88/146/EEC of 7 March 1988 prohibiting the use in livestock farming of certain substances having a hormonal action (Official Journal 1988 L 70, p . 16).

2 Those questions arose in proceedings brought by Fedesa and others against the Minister for Agriculture, Fisheries and Food and the Secretary of State for Health . In the national court the applicants in the main proceedings are challenging the validity of the national regulations which partly implement the directive at issue, on the ground that the directive is invalid .

3 The directive at issue was adopted on 7 March 1988 and notified to the Member States on 11 March 1988 .

Its contents, including the date by which it was to be implemented, are identical to the contents of Council Directive 85/649/EEC of 31 December 1985 prohibiting the use in livestock farming of certain substances having a hormonal action (Official Journal 1985 L 382, p . 28), which was annulled by the Court in its judgment in Case 68/86 United Kingdom v Council [1988] ECR 855 on the ground that by failing to comply with the procedure laid down in Article 6(1) of its rules of procedure the Council had infringed an essential procedural requirement .

4 The High Court of Justice, Queen' s Bench Division, referred the following questions to the Court of Justice :

"(1) Is Council Directive 88/146 of 7 March 1988 invalid by reason of its inconsistency with the principle of legal certainty?

(2) Is Council Directive 88/146 of 7 March 1988 invalid by reason of its inconsistency with the principle of proportionality?

(3) Is Council Directive 88/146 of 7 March 1988 invalid by reason of its inconsistency with the principle of equality?

(4) Is Council Directive 88/146 of 7 March 1988 invalid by reason of the Council' s misuse of powers, that directive being inconsistent with the objectives of the common agricultural policy contained in Article 39 of the EEC Treaty?

(5) Is Council Directive 88/146 of 7 March 1988 invalid by reason of its inconsistency with Article 190 of the EEC Treaty having regard in particular to the fact that it fails to state adequately the reasons on which it is based?

(6) Is Council Directive 88/146 of 7 March 1988 invalid by reason of its infringement of essential procedural requirements, having regard in particular to the fact that it did not originate in a proposal of the Commission directed towards the implementation of that directive or any other directive, that if it originated in a proposal derived from the Commission that proposal derived from a Commission which did not, in its composition, reflect the composition of the Commission at the time of the issuance of Directive 88/146, and that the Council failed to obtain the necessary opinion of the European Parliament, which opinion should have addressed itself to that directive and no other?

(7) Is Council Directive 88/146 of 7 March 1988 invalid by reason of its inconsistency with the principle that legislation should not be retrospective in effect, particularly when it seeks the imposition of criminal penalties for acts done before its publication?"

5 Reference is made to the Report for the Hearing for the facts of the dispute, the course of the procedure and the written observations submitted to the Court, which are mentioned or discussed hereinafter only in so far as is necessary for the reasoning of the Court .

6 Before examining the various grounds on which the directive is alleged to be invalid, it should be pointed out that the directive seeks, as is clear from its preamble, to remove distortions of competition and barriers to trade resulting from differences in Member States' legislation on the administration to farm animals of certain substances having a hormonal action . The first recital in the preamble to the directive points out in particular that assessments of the effect on human health of those substances vary in the national regulations . The Council therefore considered that it was necessary to lay down rules ensuring that all consumers were able to buy the products in question under largely identical conditions of supply and that those products corresponded to their anxieties and expectations in the best possible manner . It considered that such a course of action would be bound to bring about an increase in consumption of the products in question (see the second recital in the preamble to the directive).

The alleged infringement of the principle of legal certainty

7 The first ground of invalidity considered by the national court relates to the consistency of the directive with the principle of legal certainty . On that point it was argued during the proceedings that the directive lacked any scientific basis justifying the public-health considerations and consumer anxieties which underlay its adoption and that it frustrated the legitimate expectations of traders, who were entitled to expect that the substances in question would not be prohibited in the absence of any objectively based doubt as to their safety, efficacy and quality .

8 Even if it were to be held, as the applicants in the main proceedings have argued, that the principle of legal certainty requires any measure adopted by the Community institutions to be founded on a rational and objective basis, judicial review must, having regard to the discretionary power conferred on the Council in the implementation of the common agricultural policy, be limited to examining whether the measure in question is vitiated by a manifest error or misuse of powers, or whether the authority in question has manifestly exceeded the limits of its discretion .

9 In the light of the foregoing, the claim based on the existence of scientific evidence demonstrating the safety of the five hormones in question cannot be upheld . It is not necessary to order any measures of inquiry to verify the accuracy of that allegation; it need merely be stated that, faced with divergent appraisals by the national authorities of the Member States, reflected in the differences between existing national legislation, the Council remained within the limits of its discretionary power in deciding to adopt the solution of prohibiting the hormones in question, and respond in that way to the concerns expressed by the European Parliament, the Economic and Social Committee and by several consumer organizations .

10 Nor did the directive frustrate the legitimate expectations of traders affected by the prohibition of the use of the hormones in question . It is true that Council Directive 81/602/EEC of 31 July 1981 concerning the prohibition of certain substances having a hormonal action and of any substances having a thyrostatic action (Official Journal 1981 L 222, p . 32) refers to the fact that the harmless or harmful effects of the substances in question have yet to be examined in detail (fourth recital), and requires the Commission to take account of scientific developments (Article 8). However, that directive does not pre-empt the conclusions which may be drawn therefrom by the Council in the exercise of its discretion . Moreover, in view of the divergent appraisals which had been made, traders were not entitled to expect that a prohibition on administering the substances in question to animals could be based on scientific data alone .

11 It follows from the foregoing that the alleged infringement of the principle of legal certainty cannot be upheld .

The alleged infringement of the principle of proportionality

12 It was argued that the directive at issue infringes the principle of proportionality in three respects . In the first place, the outright prohibition on the administration of the five hormones in question is inappropriate in order to attain the declared objectives, since it is impossible to apply in practice and leads to the creation of a dangerous black market . In the second place, outright prohibition is not necessary because consumer anxieties can be allayed simply by the dissemination of information and advice . Finally, the prohibition in question entails excessive disadvantages, in particular considerable financial losses on the part of the traders concerned, in relation to the alleged benefits accruing to the general interest .

13 The Court has consistently held that the principle of proportionality is one of the general principles of Community law . By virtue of that principle, the lawfulness of the prohibition of an economic activity is subject to the condition that the prohibitory measures are appropriate and necessary in order to achieve the objectives legitimately pursued by the legislation in question; when there is a choice between several appropriate measures recourse must be had to the least onerous, and the disadvantages caused must not

be disproportionate to the aims pursued .

14 However, with regard to judicial review of compliance with those conditions it must be stated that in matters concerning the common agricultural policy the Community legislature has a discretionary power which corresponds to the political responsibilities given to it by Articles 40 and 43 of the Treaty . Consequently, the legality of a measure adopted in that sphere can be affected only if the measure is manifestly inappropriate having regard to the objective which the competent institution is seeking to pursue (see in particular the judgment in Case 265/87 Schraeder [1989] ECR 2237, paragraphs 21 and 22).

15 On the question whether or not the prohibition is appropriate in the present case, it should first be stated that even if the presence of natural hormones in all meat prevents detection of the presence of prohibited hormones by tests on animals or on meat, other control methods may be used and indeed were imposed on the Member States by Council Directive 85/358/EEC of 16 July 1985 supplementing Directive 81/602/EEC (Official Journal 1985 L 191, p . 46). It is not obvious that the authorization of only those hormones described as "natural" would be likely to prevent the emergence of a black market for dangerous but less expensive substances . Moreover, according to the Council, which was not contradicted on that point, any system of partial authorization would require costly control measures whose effectiveness would not be guaranteed . It follows that the prohibition at issue cannot be regarded as a manifestly inappropriate measure .

16 As regards the arguments which have been advanced in support of the claim that the prohibition in question is not necessary, those arguments are in fact based on the premiss that the contested measure is inappropriate for attaining objectives other than that of allaying consumer anxieties which are said to be unfounded . Since the Council committed no manifest error in that respect, it was also entitled to take the view that, regard being had to the requirements of health protection, the removal of barriers to trade and distortions of competition could not be achieved by means of less onerous measures such as the dissemination of information to consumers and the labelling of meat .

17 Finally, it must be stated that the importance of the objectives pursued is such as to justify even substantial negative financial consequences for certain traders .

18 Consequently, the principle of proportionality has not been infringed .

The alleged infringement of the principle of equal treatment

19 It was argued that the directive is discriminatory inasmuch as it has unequal consequences in the different Member States on account of the different conditions, circumstances and traditional practices in regard to cattle rearing .

20 In that connection it is sufficient to state that a harmonization measure which is intended to standardize previously disparate rules of the Member States inevitably produces different effects depending on the prior state of the various national laws . Where Community rules apply equally to all Member States, as in the present case, there cannot be said to be discrimination .

21 Consequently, the alleged infringement of the principle of equal treatment cannot be upheld .

The allegation of a misuse of powers

22 It was alleged that the directive at issue is incompatible with the objectives of the common agricultural policy laid down in Article 39 of the Treaty . It was further alleged that the directive is in fact intended to reduce beef production, an objective which may be properly pursued only on the basis of Article 100 of the

Treaty .

23 As the Court has already held (see judgment in *United Kingdom v Council*, cited above, paragraphs 21 and 22) with regard to Council Directive 85/649, mentioned above, which was identical to the directive at issue in these proceedings, in regulating conditions for the production and marketing of meat with a view to improving its quality, the directive comes into the category of measures provided for by the common organizations of the markets in meat and thus contributes to the achievement of the objectives of the common agricultural policy set out in Article 39 of the Treaty, and the Council therefore had the power to adopt it on the basis of Article 43 of the Treaty alone .

24 Furthermore, the Court has consistently held (see in particular judgments in *Joined Cases 140, 146, 221 and 226/82 Walzstahl-Vereinigung and Thyssen v Commission* [1984] ECR 951, paragraph 27, and *Case 69/83 Lux v Court of Auditors* [1984] ECR 2447, paragraph 30) that a decision may amount to a misuse of powers only if it appears, on the basis of objective, relevant and consistent factors, to have been taken with the exclusive purpose, or at any rate the main purpose, of achieving an end other than that stated or evading a procedure specifically prescribed by the Treaty for dealing with the circumstances of the case .

25 However, although the material made available to the Court and relied on by the applicants in the main proceedings shows that the possibility of a reduction in surpluses was indeed taken into consideration during the process leading to the adoption of the directive, it does not follow that such a reduction, which is not cited in the preamble to the directive as one of the objectives pursued, was in fact the exclusive or main purpose of the rules adopted .

26 Furthermore, it should be stated that the agricultural policy objectives laid down in Article 39 of the Treaty include in particular the stabilization of markets . Moreover, Article 39(2)(b) and (c) provides that in working out the common agricultural policy account must be taken of the need to effect the appropriate adjustments by degrees and of the fact that in the Member States agriculture constitutes a sector closely linked with the economy as a whole . It follows that, as the Court held at paragraph 10 of its judgment in *United Kingdom v Council*, agricultural policy objectives must be conceived in such a manner as to enable the Community institutions to carry out their duties in the light of developments in agriculture and in the economy as a whole .

27 Accordingly, the reduction of agricultural production surpluses cannot be said to be foreign to the objectives of the common agricultural policy .

28 It follows from all the foregoing that the directive is not vitiated by a misuse of powers .

The alleged inadequacy of the statement of reasons

29 As regards the alleged inadequacy of the statement of reasons, the Court has already held at paragraphs 28 and 36 of its judgment in *United Kingdom v Council* that the reasons for the directive are sufficiently stated since its preamble gives a sufficiently clear statement of the objectives pursued .

30 As regards the claim based on the failure to mention the objective of reducing meat production, it is pertinent only if such a reduction was the genuine or main ground for the directive . That proposition has already been rejected in connection with the examination of the fourth question .

31 Consequently, the allegation of failure to state reasons cannot be upheld .

The alleged infringement of essential procedural requirements

32 It was argued that the directive at issue is vitiated by several procedural defects on the ground that, following the annulment of the previous directive by the Court's judgment in *United Kingdom v Council*, the Council adopted the new directive in the absence of a new proposal by the Commission and a new opinion from the Parliament .

33 In the first place it was alleged that the annulment of the earlier directive entailed the nullity of all preparatory acts .

34 The directive which preceded the directive at issue was annulled on account of a procedural defect concerning solely the manner in which it was finally adopted by the Council . In those circumstances the annulment of the directive does not affect the preparatory acts of the other institutions .

35 Secondly, it was alleged that a new proposal by the Commission and a new opinion from the European Parliament were necessary owing to changes which had occurred since the adoption of the preparatory acts both in the composition of those institutions as a result of the accession of Spain and Portugal, countries which have animal husbandry traditions different from those of the rest of the Community, and in the state of scientific knowledge .

36 First of all, a change in the composition of an institution does not affect the continuity of the institution itself, and its final or preparatory acts in principle retain their full effect .

37 Furthermore, it is for the institutions themselves to assess whether or not changes in the circumstances, of whatever nature they may be, require them to take a fresh view . With regard, in particular, to Commission proposals, that institution has the right, under Article 149(3) of the Treaty, to alter them at any time so long as the Council has not acted .

38 It was further argued that the Parliament ought to have been consulted afresh following the amendment of the Commission's proposal in 1985 after the opinion of the Parliament had been obtained .

39 In that respect it must be observed that, apart from some changes which were technical rather than substantive, the Commission's proposal was modified essentially in the manner indicated by the Parliament, which, in its opinion, had advocated the total prohibition of the five substances eventually agreed upon by the Council, whereas the proposal submitted to it involved the prohibition of only two substances . In those circumstances fresh consultation was not necessary .

40 It follows from the foregoing that the directive at issue is not vitiated by infringement of essential procedural requirements .

The alleged infringement of the principle that legislation should not be retroactive

41 It was argued that the directive at issue infringes the principle that legislation must not be retroactive since it was adopted on 7 March 1988 and stipulated that it was to be implemented by 1 January 1988 at the latest . In that connection two aspects should be distinguished, namely the retroactive effect of penal provisions and retroactive effect outside the criminal sphere .

42 As regards the first aspect, it should first be pointed out that the Court has held (see in particular the judgment in *Case 63/83 Regina v Kirk* [1984] ECR 2689, paragraph 22) that the principle that penal provisions may not have retroactive effect is one which is common to all the legal orders of the Member States and is enshrined in Article 7 of the European Convention for the Protection of Human Rights and

Fundamental Freedoms as a fundamental right which takes its place among the general principles of law whose observance is ensured by the Court of Justice .

43 As the Court held in its judgment in Case 14/86 *Pretore di Salò v Persons Unknown* [1987] ECR 2545, a directive cannot, of itself and independently of a national law adopted by a Member State for its implementation, have the effect of determining or aggravating the liability in criminal law of persons who act in contravention of the provisions of that directive . None of the provisions of the directive at issue seek to produce that effect .

44 Article 10 of the directive, which is reproduced verbatim from the previous directive annulled by the Court in its judgment of

23 February 1988 referred to above, provides that the Member States are to bring into force the laws, regulations and administrative provisions necessary to comply inter alia "with this directive, by 1 January 1988 at the latest ". That provision cannot be interpreted as imposing on Member States the obligation to adopt measures which conflict with Community law, in particular with the principle that penal provisions may not have retroactive effect . Nor may it provide a basis for criminal proceedings instituted under provisions of national law which may have been adopted in implementation of the annulled directive and whose sole basis is to be found in that directive .

45 As regards the retroactive effect of the directive at issue outside the criminal sphere, it should be recalled that, as the Court has already held on several occasions (see in particular the judgment in Case C-337/88 *Società agricola fattoria alimentare* [1990] ECR I-1, paragraph 13), although in general the principle of legal certainty precludes a Community measure from taking effect from a point in time before its publication, it may exceptionally be otherwise where the purpose to be achieved so demands and where the legitimate expectations of those concerned are duly respected . In order to reply to the question raised, it is therefore necessary to determine whether those criteria were satisfied in the present case .

46 Since in the present case the earlier directive was annulled because of a procedural defect, the Council considered it necessary to adopt a directive in the same terms, including the date stipulated for its implementation, in order to avoid a temporary legal vacuum with regard to the existence of a basis in Community law for national provisions adopted by the Member States in order to comply with the directive which was annulled .

47 As regards the legitimate expectations of the persons concerned, it should be observed that the period between the annulment of the first directive (23 February 1988) and the notification of the directive at issue (11 March 1988, the directive having been adopted on 7 March) or its publication in the Official Journal on 16 March was very short and, furthermore, the earlier directive was annulled because of a procedural defect . In those circumstances, the persons concerned, whose activities were subject to national legislation adopted in order to implement the directive which was annulled, could not expect the Council to change its attitude on the substance of the matter . Accordingly, the retroactive nature of the new directive does not infringe the principle of the protection of legitimate expectations .

48 It follows from the foregoing that the directive is not inconsistent with the principle that legislation should not be retroactive .

49 Accordingly, the reply to be given to the national court should be that examination of the questions raised has disclosed no factor of such a nature as to affect the validity of Council Directive 88/146 of 7 March 1988 prohibiting the use in livestock farming of certain substances having a hormonal action .

Decision on costs

50 The costs incurred by the Government of the Kingdom of Spain, the United Kingdom and the Government of the Italian Republic and by the Council and the Commission of the European Communities, which submitted observations to the Court, are not recoverable . As these proceedings are, in so far as the parties to the main proceedings are concerned, in the nature of a step in the proceedings pending before the national court, the decision on costs is a matter for that court .

On those grounds,

THE COURT (Fifth Chamber),

in answer to the questions referred to it by the High Court of Justice, Queen' s Bench Division, by order of 20 September 1988, hereby rules :

Examination of the questions raised has disclosed no factor of such a nature as to affect the validity of Council Directive 88/146/EEC of 7 March 1988 prohibiting the use in livestock farming of certain substances having a hormonal action .

Date of application: 14.11.1988

Date of document: 13.11.1990

Authentic language: English

European Court reports 1990 Page I-04023

Case affecting:

Declares valid (by a preliminary ruling) 31988L0146

Instruments cited in case law:

31988L0146 : N 1 - 49

31985L0649 : N 3 23 32 44

61986CJ0068 : N 3 23 26 29 32 44

31979Q0868-A06P1 : N 3

11957E039 : N 4 22 26

11957E190 : N 4

31988L0146-C1 : N 6

31988L0146-C2 : N 6

31981L0602-C4 : N 10

31981L0602-A08 : N 10

11957E040 : N 14

11957E043 : N 14 23

61987CJ0265 : N 14

31985L0358 : N 15

11957E100 : N 22

61982CJ0140 : N 24

61983CJ0069 : N 24

11957E039-P2LB : N 26

11957E039-P2LC : N 26

11957E149-P3 : N 37

61983CJ0063 : N 42

61986CJ0014 : N 43

31988L0146-A10 : N 44

61988CJ0337 : N 45

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WITNESS STATEMENT

(CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; MC Rules 1981, r.70)

Statement of Michael SULLIVAN..... URN: [] [] [] []

Age if under 18 Over 18 (if over 18 insert 'over 18') Occupation: POLICE OFFICER.....

This statement (consisting of: 1..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: [Signature] Date: 6th December 2016

Tick if witness evidence is visually recorded [] (supply witness details on rear)

I am a Police Constable of nearly 12 years experience, all of which I have worked on the London Borough of Brent, I am currently attached to the licensing unit for the Borough, I have been authorised via a delegated authority to represent the Borough Commander of the London Borough of Brent and for the Commissioner of the Metropolitan Police Service to act on Licensing matters.

On the 15/09/2016 I conducted a licensing visit at Supersave, 68 Craven Park Road NW10 4AE, where I found several breaches to the premises licence.

On the 28/09/2016 I sent the Premise Licence holder, and Designated Premises Supervisor a letter requesting a copy of the shops CCTV for the date and time of my visit on the 15/09/2016.

My Khan supplied me with the CCTV footage on a memory stick, I have watched the CCTV which was of very poor quality, it is very fuzzy and Blurred, I was unable to make out facial features of people in the shop, this CCTV would be of little use to police if requested for a criminal investigation, and breaches the shops licence condition that reads - CCTV shall be installed and maintained in a working condition.

I exhibit the Disk as MJS/1 which shows the poor quality CCTV.

On the 11/10/2016 and 12/10/2016, Officers from Brent Trading Standards conducted two test purchases, at the shop, the shop failed on both occasions by selling single cans of alcohol, again I requested CCTV from the shop for these dates, I was given this on a memory stick, however when I tried to play the footage it showed the attached files as unplayable.

I asked police from Brents CCTV unit to look at the files, they stated that the files appeared corrupted and unable to be played.

Signature: [Signature] Signature witnessed by:

WITNESS STATEMENT

CJ Act 1967, s.9; MC Act 1980, ss.5A(3)(a) and 5B; Criminal Procedure Rules 2005, Rule 27.1

Statement of Richard PERRETT URN:

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Age if under 18 OVER 18 (if over 18 insert 'over 18') Occupation: PCSO 7124

This statement (consisting of: 2..... pages each signed by me) is true to the best of my knowledge and belief and I make it knowing that, if it is tendered in evidence, I shall be liable to prosecution if I have wilfully stated anything in it which I know to be false, or do not believe to be true.

Signature: R. S. Perrett Date: 26.05.2013

Tick if witness evidence is visually recorded (supply witness details on rear)

My name is Richard PERRETT and I work as a POLICE COMMUNITY SUPPORT OFFICER out of HARLESDEN POLICE STATION and have been employed in this position for about twelve (12) years.

I have been asked to write this statement by Police Office Michael SULLIVAN. In the period of time I have worked in Harlesden NW10, I been informed on numerous occasions by residents and shop owners about the anti social behaviour that regularly take place out side the ASIAM WOMANS refuge centre CRAVEN PARK junction of FORTUNGATE ROAD HARLESDEN NW10. This entails drink fuelled fights, members of the public urinating on the street and using threatening behaviour towards members of the public as they go about there business. Residents of the centre and members of the public have complained to the council many times but nothing is ever done to rectify this problem. One of the main culprits involved in the Anti Social Behaviour is, an IC3 male who I know to be [REDACTED] who I have know for about (10) ten years. He regularly stands on the junction with a group of males and females drinking cans of beer and plastic cups of rum and gets very intoxicated and they a behave in an intimating manner to members of the public as they walk past. R & P.

Signature: R. S. Perrett Signature witnessed by:



Civic Centre
Engineers Way
Wembley HA9 0FJ
Tel : (020) 8937 5262
EMail : yogini.patel@brent.gov.uk
Web : www.brent.gov.uk

Mr. Alan Aylott
Dodds Solicitors
Crescent House
51 High Street
Billericay
Essex
CM12 9AX

5 December 2016
Ref: 6514397

Dear Mr. Aylott

Freedom of Information Act 2000

I can confirm that the information requested is held by Brent Council. I have detailed below the information that is being released to you.

1. We have not received any complaints regarding Supersave, 68 Craven Park Road since 13th October 2016. Two visits were carried out at the premises by licensing officers after the receipt of premises review application.
2. Two visits were carried out by Brent Council officers following receipt of review application (as above).
3. There have not been any test purchasing being undertaken since 13th October 2016.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and should be addressed to:

Brent Civic Centre
Engineers Way
Wembley HA9 0FJ
brent.foi@mail.icasework.com

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:
The Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF.

Phone: 0303 123 1113
Website: www.ico.gov.uk

I will now close your request as of this date.

Yours sincerely

Yogini Patel
Senior Regulatory Service Manager

Dadds LLP
Crescent House
51 High Street
Billericay
Essex
CM129AX

QK - Brent Licensing Team

Police Licensing Team
LB Brent
5th Floor Brent Civic Centre
Engineers Way
Wembley
HA9 0FJ

Telephone:

Facsimile:

Email:

Paul.Riley2@met.pnn.police.uk

www.met.police.uk

Your ref: aa/ja/KHA 5-4

Our ref: Supersave 68 Craven Park
Road NW104AE

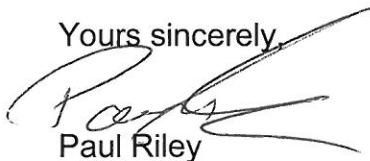
Dear Sir

In answer to your letter dated 10th November 2016 regarding Supersave 68 Craven Park Road NW10 4AE

1. Since 13th October 2016 there have been no complaints regarding the premises.
2. There have been no visits by police recorded on our searchable data bases since 13th October 2016. There may be visits to the venue in relation to other matters that will not be recorded.
3. There have been no test purchases at the venue since 13th October 2016.

If I can be of any further help please contact the Brent Licensing Unit at the address above.

Yours sincerely,


Paul Riley

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