[DE] Reference for a Preliminary Ruling on Age Labelling of National Self-Regulation Bodies

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In the dispute between Dynamic Medien Vertriebs GmbH and Avides Media AG, the *Landgericht Koblenz* (Koblenz District Court) lodged with the ECJ on 31 May 2006 questions on the preliminary ruling under Art. 234 of the EC Treaty (Case no. C-244/06).

The question referred concerns in particular whether and to what extent national provisions that make mail order sales of image storage media (DVDs, videos) dependent on their being labelled as having been examined by a national body as to their availability to young persons are incompatible with the principle of the free movement of goods. In particular, do such national prohibitions constitute measures having equivalent effect within the meaning of Article 28 of the EC Treaty?

If so, the ECJ is asked to rule whether such a prohibition is justified under Art. 30 of the EC Treaty, having regard to the E-Commerce Directive 2000/31/EC, particularly if the items have already been examined and labelled by another member state.

In the legal dispute concerned, Dynamic Medien Vertriebs GmbH is demanding a ban on the sale of Japanese cartoons which are being sold on the Internet on DVD and video by Avides Media AG. The films, imported from Great Britain, have been certified as suitable for young people (15+) by the British Board of Film Classification (BBFC) and carry the corresponding BBFC label. However, the German *Freiwillige Selbstkontrolle der Filmwirtschaft* (Voluntary Self-Regulation Body for the Film Industry- FSK) has not examined and labelled the films, as required under Art. 14 of the German *Jugendmedienschutzgesetz* (Act on the Protection of Young People in the Media).

In a judgment of 21 December 2004 (case no. 4 U 748/04), the *Oberlandesgericht Koblenz* (Koblenz Appeal Court) had already ruled in appeal proceedings brought against the decision of the *Landgericht* that mail order sales of image storage media were anticompetitive on account of a breach of Art. 12.3 of the *Jugendschutzgesetz* (Youth Protection Act) if the media only carried a BBFC age label, and ruled that Art. 28 of the EC Treaty had not been breached.

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However, due to doubts concerning conformity with European law, the First Chamber of Commerce of the *Landgericht Koblenz* has now submitted this question to the ECJ.

Mitteilung im ABl. C 178/25 vom 29. Juli 2006

http://eur-lex.europa.eu/LexUriServ/site/de/oj/2006/c_178/c_17820060729de00250025.pdf

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