

FORTY YEARS of the EUROPEAN
COMMUNITIES ACT 1972

The Perspective of a Legal
Practitioner

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European Union law is '... like an
incoming tide. It flows into the
estuaries and up the rivers. It cannot
be held back'.

(Lord Denning in *Bulmer v Bollinger* 1974)

CASSIS DE DIJON

- German law had minimum alcohol content laws (25%)
- Cassis de Dijon is normally 16 – 18%
- Minimum alcohol requirement held to restrict imports

REINHEITSGESETZ (Purity Law)

- Beer must contain only water, hops, malt and yeast
- Imported beer contained preservatives
- German law prevented imports
- German beer made for export also contained preservatives!

THE OTHER FREEDOMS

- Services – eg lawyers, architects, footballers (Bosman)
- Establishment – eg lawyers, surveyors
- Capital - €

SAMPLE CASES

1. THE CHOCOLATE DIRECTIVE 1973

- ‘English’ chocolate could not be sold as chocolate
- Free movement principle applied
- Chocolate directive amended (2000!)

2. FILM STANDARDS

- Standards set before 1973 (ie Agfa)
- US/UK company did not comply
- Standards had to be revised

3. CONCRETE

- EU concrete standard specified by most continental contractors
- EU standard required Portland cement
- Some UK concrete used GGBFS (slag) instead of Portland cement
- EU standards had to be changed

4. TELEVISION DIRECTIVE

- Prohibited ads on Sundays
- Prohibited ads during films
- Restricted ads around news programmes
- Substantial changes made before directive adopted

5. UNFAIR CONTRACT TERMS DIRECTIVE

- Draft required every consumer's consent if changes made to 'standard terms'
- One UK card issuer had 9 million customers
- Change in interest rates
- Lobbying
- Draft changed

6. BARBER CASE : PENSIONS EQUALITY

- Article 119 (now 157)
- UK pensions case (Barber)
- Effect on UK pension schemes
- Lobbying
- Maastricht Protocol (restricts claims to 17th May 1990)

THOUGHTS ABOUT LOBBYING

- Majority voting
- Blocking minority
- Smaller member states
- Alliances
- Presidency

UK INFLUENCE

- ECJ: Lord Mackenzie-Stuart, Gordon Slynn, Francis Jacobs
- Council: David Williamson
- Commissioners: Roy Jenkins, Lord Cockfield, Leon Brittan
- Commission Officials: Jonathan Faull, Peter Oliver etc
- NB Linguistic skills !