



**ORDER OF THE PRESIDENT OF THE COURT**

21 May 2002

(Withdrawal of a request for an Advisory Opinion)

In Case E-8/01,

**Gunnar Amundsen AS and Others**

v

**Vectura AS,**

a request for an Advisory Opinion by Borgarting lagmannsrett (Borgarting Court of Appeal, Oslo, Norway) by order of that court of 11 October 2001 in the case of *Gunnar Amundsen AS and Others v Vectura AS*,

THE PRESIDENT OF THE COURT

makes the following

ORDER

A request was made to the EFTA Court by an order of 11 October 2001 by Borgarting lagmannsrett (Borgarting Court of Appeal, Oslo, Norway), which was registered at the Court on 18 October 2001, for an Advisory Opinion in the case of *Gunnar Amundsen AS and Others v Vectura AS*, on the following questions:

1. Will a market share of over 60 per cent in the relevant market, in itself be sufficient for a finding that an undertaking has a dominant position under Article 54 EEA?
2. If question 1 is answered in the negative, will a market share of over 60 per cent in the relevant market in itself create a presumption that an undertaking has a dominant position under Article 54 EEA?
3. If question 2 is answered in the affirmative, and an undertaking has such a market share, what other market conditions in the relevant market might imply that the undertaking nonetheless does not have a dominant position under Article 54 EEA?

4. If a dominant undertaking provides marketing support to some customers and not to others, could that constitute abuse under Article 54 EEA, if that marketing support
- (i) must be viewed in its entirety as being a price discount for the dominant undertaking's performance of distribution services for the customers in question?
  - (ii) must be viewed in its entirety as being compensation for marketing services which the customers in question provide to the undertaking?
  - (iii) must be viewed partially as being compensation for marketing services which the customers in question provide to the undertaking, and partially as a price discount for the dominant undertaking's performance of distribution services for the customers in question?
5. If a dominant undertaking has unjustifiably treated its customers differently, could a finding of infringement of Article 54 EEA be made, without a concurrent finding that the differential treatment has impaired competition in the market in which the customers compete?

Pursuant to a letter dated 26 March 2001, registered at the Court on 8 April 2001, the Borgarting Lagmannsrett notified the Court that the parties before the national court had withdrawn their case. Accordingly, Borgarting Lagmannsrett has withdrawn its request for an Advisory Opinion.

Costs have not been claimed.

On those grounds,

THE PRESIDENT OF THE COURT

hereby orders:

**Case E-8/01 removed from the Register.**

Luxembourg, 21 May 2002

Thor Vilhjalmsón  
President

Lucien Dedichen  
Registrar