

WRITTEN QUESTION E-1731/03  
by Freddy Blak (GUE/NGL)  
to the Commission

Subject:           Infringement by Denmark of Articles 82 and 86 of the Treaty

With the establishment of Dansk Retursystem A/S (DRS), Denmark is in breach of Articles 82 and 86 of the Treaty as a result of Carlsberg's dominant position on the Danish market combined with Carlsberg's dominant influence over DRS A/S. DRS A/S is a private company which has obtained sole and exclusive right to operate the deposit and return system in Denmark. Carlsberg, however, controls DRS completely as it has the majority shareholding in DRS Holding and the holding company owns 85% of the shares in DRS A/S. Furthermore, Carlsberg holds most of the seats on the boards of both DRS Holding and DRS A/S (see previous question E-3828/02<sup>1</sup>). DRS A/S has sole and exclusive right to operate the deposit and return system with which all companies marketing beer and soft drinks must be registered. The exclusive right comprises the collection of disposable packaging but not collection of reusable packaging which can be organised by the bottling plants themselves. This means that there is no competition on the Danish market for the collection of disposable packaging, which is a breach of Article 82 in that the company concerned, simply by exercising its exclusive right, cannot avoid abusing its dominant position or the exclusive right is likely to create a situation in which the company is induced to commit abuse. By giving sole and exclusive right to DRS A/S, which is effectively controlled by Carlsberg, DRS A/S is placed in a conflict of interests, inter alia by giving board members access to sensitive business information about their competitors on the Danish beer and soft drinks market.

Will the Commission intervene in response to this breach of Articles 82 and 86 of the Treaty?

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