French officials have been quite concerned about the effect of television on print media (newspapers and magazines) for some time. French officials have for some time considered it a matter of French honor and the preservation of French civilization to protect the local print media. Indeed, in the last general elections, the Partie Print Media ("PPM") was able to secure 5 seats in the French Parliament and became a partner in the coalition government lead by the nationalist Gaullist party.

Within months of the election, the French government enacted Le Loi Printier which prohibited television advertising of all breakfast cereals. The purpose of this legislation is to divert the advertising revenues derived from cereal advertising (a considerable sum) from television to the French print media.

French manufacturers produce about 35% of the breakfast cereal consumed in France. German and Spanish cereal companies control the remainder of the French breakfast cereal market. Traditionally, French cereal manufacturers serve local or regional markets, Spanish and German manufacturers serve a national market (actually, Spanish and German cereals are marketed throughout the E.U. in a uniform manner). The only other cereal manufacturers with multi-national sales within the E.U. are based in Sweden and Austria.

National brand advertising on French television accounted for about 74% of television cereal advertising revenues; the remainder was earned from regional brand advertising on local affiliates of French national television. Moreover, it is common knowledge in the cereal industry to in order to launch a cereal brand in the national market, large scale national advertising is required. The cost of such an advertising campaign is significantly less expensive using television than print media.

You represent a German cereal company (Zerials-R-Us) which markets its cereals nationally in France. Needless to say, they are quite unhappy and want this law to go away. Advise Zerials on the legality under EU law of the French Loi Printier.

**QUESTION 2**

Directive XX/92 on the Harmonization of Quality of Carbonated Drinks should have been implemented in all member states of the E.U. no later than December 31, 1995. Article 8 of the Directive proscribed certain additives from carbonated drinks as being likely to cause allergic responses in humans.
The UK Carbonated Drinks Regulations 1995 ("UKCDR'95") were passed ostensibly to implement the provisions of the Directive. However, the provisions of Article 8 of the Directive were omitted from the UKCDR'95. As a result, manufacturers in the UK remained free to add the banned additives to the carbonated drinks. The Commission has drawn the attention of the British government to this anomaly, but, other than an acknowledgement of the receipt of the communication, the British government has said or done nothing.

In England, Allison consumed a can of KooKie Cola, a carbonated drink containing one of the additives identified in Article 8 (but not in the UKCDR'95) and immediately suffered a massive allergic reaction and severe breathing difficulties. Although she received prompt medical attention, the oxygen supply to her brain was interrupted and she now suffers from severe epilepsy.

As the manufacturer was unaware of the dangers of the additive, Allison wonders whether she may sue the appropriate UK minister in damages for failure by the UK to implement the above directive correctly.

She goes to see you about this. Please advise Allison.

**QUESTION 3**

The European Commission has made a decision allowing the Netherlands to impose a quota system on the import of British beer for a period of three months. You represent a group of six (6) British beer producers. All of them sell beer in the Netherlands and three of them have contracts for the sale of beer during the period of the quota which will be breached because of the imposition of the quota. All of them also fear the reimposition of the quota at some future time. What would you advise them about the possibility of challenging the Commission decision in an action under Article 173 of the Treaty?

**QUESTION 4**

ChiChi Arugula, a citizen of Portugal, is married to Purpulo Arugula, a citizen of Zimbabwe. The couple moved to Ireland in 1994, where ChiChi secured a job as a clerk in the Dublin office of the Irish Postal Service. Ireland enacted the Potato Specialist Act, pursuant to which Ireland has created a vocational education program for training potato specialists, which is open to everyone. However, only 50 people may be admitted to the program in any year. Non-nationals are permitted entry in the program only if there are places left after all qualified Irish nationals have been accommodated. The Irish Parliament has declared in the Potato Specialist Act that the maintenance of a large force of people trained in the horticulture of potatoes is essential for the national security of Ireland, which still suffers from the scars of the potato famine of the 1840's.
Ireland grows about 40% of the potatoes it consumes. The rest are imported from the United States, Sweden and various South American countries. Imported Potatoes are substantially cheaper than Irish grown potatoes. In 1994 Ireland passes the Potato Equality Act, which imposes a tax on all potatoes roughly equal to the difference in the wholesale cost of imported and domestic potatoes. The purpose of this tax is to provide scholarships to Irish nationals who wish to enroll in the potato specialist program. All Irish nationals regularly receive scholarships equal to the cost of tuition of the potato specialist program.

Purpulo applied for a place in the potato specialist program in 1994. He received a notice which, though indicating he was fully qualified, denied his application on the grounds that there were no spaces left. It suggested he try again the following year. He did, and was able to secure a place in the 1995 entering class. Unfortunately, he was unable to secure any scholarship money because he was not an Irish national.

In 1995, The Irish Parliament enacted an amendment to the Irish Civil Service Act which restricted all jobs in the Irish Postal Service to Irish nationals or their spouses (whether or not they are citizens of Ireland). ChiChi is fired at the end of the year, and deportation proceedings are begun. It has been 3 months since ChiChi began looking for employment. She has not found any employment yet and has begun collecting unemployment payments under Irish social welfare laws.

All of this proved too much for ChiChi and Purpulo. At the end of 1995, Purpulo and ChiChi divorced. Ireland has instituted proceedings to deport Purpulo.

Your boss is a Member of the E.U. Commission. All of the facts related above has come to her attention. She has requested a memo from you advising her of the legality of: (I) Potato Specialist Act, (II) the Potato Equality Act, (III) the denial of a scholarship to Purpulo to attend potato specialist training, (IV) the amendment to the Irish Civil Service Act, and (V) the deportations of ChiChi and Purpulo Arugula.

**Question 5**

Directive ZZZ/89 provides as follows: "Every Member State shall ensure by appropriate law that every place serving food to the public shall provide no less than one third of the area reserved for customer seating as a "no smoking" area, where smoking of any kind, including without limitation, cigarettes, cigars, pipes, marijuana (in those jurisdictions where such is not otherwise prohibited by law) is proscribed." The Directive was to be implemented by December 31, 1990.

On January 1, 1993, Juanita Hoohoo, a citizen of Finland, entered into a restaurant in Rome and demanded seating in a no smoking area. She was refused, and suffered acute embarrassment and hunger. Italian law provides for damages for acute embarrassment directly attributable to the violation of law by any private party. Juanita sued the
restaurant. The lower court ruled that there was no Italian law requiring the provision of a no-smoking area and that therefore there was no basis for recovery. Juanita appealed the decision to the Italian appellate court of last resort and demanded a referral of the question of the violation of Directive ZZZ/89 as a basis for recovery against the restaurant to the Court of Justice.

1. Should the Italian Court refer the question to the European Court of Justice (discuss all arguments pro and con);

2. If so, how should the question be framed;

3. If the question is referred to the Court of Justice, how should the Court of Justice decide the question;

4. Are there any other parties from which Hoohoo can seek recovery, and if so on what basis.