

LEGAL AND VETERINARY JOURNAL

FREEDOM OF COMPETITION IN SHOW JUMPING AND ITS ORGANISATION **PART II**

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In Horse International issue 4 of 2012, I first published an article on the exceptional position the FEI holds in the world of show jumping, following the inaugural FEI Sports Forum held in Lausanne from 30 April until 2 May 2012. Now, three years later, a press release was issued on 8 June informing us that the Global Champions League (hereinafter called: GCL) has filed a complaint against the FEI with the Belgian Competition Authority in Brussels.

WHAT IS THE CASE?

The press release states that the GCL, a new show jumping league and Team Competition developed by Global

Champions Tour (hereinafter called: GCT) has been engaged in talks with the FEI for over a year regarding its request to sanction this Team Competition as part of the GCT events. By not honouring this request

to incorporate the GCL in its calendar or regulate it as an FEI-sanctioned class, participants in this class risk a six month ban from FEI sanctioned events. This exclusion applies to both riders, horses and officials! Naturally, it

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from the GCL for approval, the GCL was hindered in the actual implementation of this class at GCT events. As long as the FEI chooses not

speaks for itself that the GCL will not be able to realize this sought after Team Show Jumping as long as the FEI is not willing to sanction it. Riders would not feel at liberty to compete, and sponsors would adopt a tentative position. In short, a bridge too far for the moment I would say.

PREDICTIONS FOR THE GCL TRIAL

Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) may indeed have been violated if the FEI has denied the GCL its approval for the new competition format within the reasonable timeframe proposed by the GCL. It would appear that the FEI is postponing its decision in the matter, as no commentary on the intended class has been heard in the media. It would follow the FEI could be seeing the GCL Team Competition as a competitor for its Nations Cup, an FEI-organised series which generates considerable revenue for the Federation in the form of sponsoring, retributions, etc.

PARTICIPATION IN THE ECONOMY

Article 101 of the TFEU determines the following is in conflict with EU principles: a decision by an association of undertakings which has as its object or effect the prevention, restriction or distortion of competition. The fact the FEI itself is not based within the EU does not



Photo: LGCT/Stefano Grasso

The successful LGCT is struggling to launch its Team competition.



Photo: FEI/Dirk Catemans

The FEI is still the sole regulatory body for equine competitions.

seem relevant, as its adopted position does bear profound consequences for competition within the EU. The question in a legal sense therefore is not whether the FEI is an EU-based entity or whether it is

formats, the FEI seems to be acting in conflict with article 101 of the TFEU (market protection) and article 102 of the TFEU (misuse of a dominant market position). I would predict that the most obvious

participating in the economy and terminates the organisation (meaning exploitation) of the Nations Cup, the foundations of the GCL's claim will be gone. But that would also forfeit any financial gain for the FEI from the

events, on the pain of a six-month suspension no less, is what keeps the FEI afloat. It is only logical a discussion would evolve regarding whether this monopoly position violates article 102 of the TFEU. Given the current growth of the competition sport at international level, there is a multitude of possible problems, including date clashes, giving rise to stakeholders advertising the need for multiple regulatory bodies. We hope to read all about it soon. ■

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active in the EU. Nor would it seem the FEI cannot be classified as an ‘undertaking’, since the European Court of Justice has determined that an entity may already be seen as an undertaking when it participates in the economic market. In my opinion, the FEI Nations Cup is ample proof that the FEI is indeed an entity which partakes in the economic market.

WHAT IT COMES DOWN TO

At the same time, the FEI is a competitor in the ‘market’ of Organising Committees and Leagues while also holding the position of ‘sole regulatory body for all international (equine) events’. By simply denying or delaying approval for new initiatives for series, team competitions or other competition

arguments the FEI will bring, such as a supposedly overfull equestrian calendar, the need to protect the equine athletes against overexertion, etc, will not deal with these articles. In my view, the discussion will come down to a purely legal debate, centering on the violation of the articles mentioned above. It is interesting to see that the GCL has asked the BCA in Brussels for a provisional measure, so a decision in the case will not be long.

FORFEITING THE NATIONS CUP

Can the FEI prevent the risks of a negative outcome of the decision? I think so, but only for a short while. As soon as the FEI decides to seize

Nations Cup, begging the question whether the FEI will be willing and able to permit this.

FACING THE FACTS

Another claim of the violation of EU regulations by the FEI regarding a free economic market also rises to the surface. Besides the GCL, more and more organisers are staging international dressage and show jumping competitions. Series of these competitions are also created ever more frequently. These organising committees all have to face the fact that the FEI remains the sole regulatory body for all international events. There is simply no alternative for organisers, riders, etc. The very fact that the FEI prohibits riders and horses from competing in non-FEI

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If you have any questions and/or comments after reading this article, we would be happy to hear from you. You can also contact us for all equine-law related questions or matters. Please contact us by e-mail via info@europeanequinelawyers.com or telephone on +31-(0)135114420.