IT-TRIBUNAL DWAR SERVIZZI FINANZJARJI

Pierre Lofaro LL.D. – Chairman
Frank Bonello FCIB – Membru
Mario Bonello ACIB – Membru

Illum, It-Tnejn, 26 ta' April, 2010.

Manduca Randon & Co. Limited

Vs.

L-Awtorità Għas-Servizzi Finanzjarji ta' Malta

Id-deċizjoni tat-tribunal wara l-appell intavolat minn Manduca Randon & Co. Limited permezz ta' ittra datata 7 ta' Jannar 2009.

Id-Deċizjoni ta' L-Awtorità Għas-Servizzi Finanzjarji ta' Malta

1. Id-deċiżjoni ta' L-Awtorità Għas-Servizzi Finanzjarji ta' Malta datata 10 ta' Diċembru 2008 li pprovokat dan l-appell taqra hekk :

> "Reference is made to the representations submitted by Manduca Randon & Co Ltd, (hereinafter referred to as MRCL) in your letter dated 4 November 2008.

The Supervisory Council of the MFSA has thoroughly considered the representations contained in your letter and notes primarily that there are a number of material omissions indicated in our letter dated 21 October 2008 which you are not disputing. Moreover, it wishes to make the following comments, in the same order used in your letter:

Point 1 – We understand that Dr. Jean Pierre Scerri works abroad and no longer resides in Malta. Furthermore, during the on-site visit the two directors present, at times gave conflicting information and it resulted that Dr. Rene Frendo Randon did not provide us with accurate information when replying to the enquires made by the compliance officers. In the circumstances it appears that Dr. Frendo Randon is not involved in the daily decision making of MRCL. We strongly remind you that at least two individuals must effectively direct the business of MRCL and each must play a part in the decision making process of all significant decisions.

Points 2 and 3 – The authorisation granted to MRCL to act as trustee has been issued upon satisfaction that the conditions laid down in Article 43(4) of the Trusts and Trustees Act ("the Act") have been met. In this respect Article 43(4)(d) of the Act states that the company should have established adequate systems for maintaining proper records of the identity and residence of beneficiaries, the dealings and the assets in connection with trusts and compliance with applicable law. We also draw your attention to paragraph 9.6 of the Code of Conduct which states that a trustee must keep and preserve appropriate records which together with other documents include the identity of co-trustees, custodians, the settlor, protector, enforcer and, where appropriate, the principal beneficiaries, their personal circumstances, residence and a copy of the trust instrument. From an examination of the files by the compliance officers it resulted that records were not properly kept and due diligence was not conducted on the beneficiaries of a particular trust. Moreover the Authority expects due diligence procedures to be carried out in **all** cases. However we acknowledge that you are taking steps to ensure that a full set of due diligence documents are kept in all files.

Point 4 - During the on-site visit the compliance officers were informed that MRCL does not have any reporting procedures in place in the event of a suspicion of money laundering.

Point 5 to 8 – We take note of your statements that the requested documentation is not always kept as requested and that you are taking remedial action in all circumstances.

Point 9 – We do not agree with your statement that you had a system of verifying instructions, since during the on-site visit Dr. Manduca himself informed the compliance officers that in very rare cases they adopt a call back system, not as a

means of verifying the identity of customers prior to executing the instruction but to obtain further clarifications, when necessary.

Point 10 – We requested MRCL to have a documented business interruption recovery plan dealing with all its critical functions, which does not result to be in place. In terms of the Code of Conduct MRCL are required to keep a documented business interruption recovery plan. Moreover from the outcome of the compliance visit it emerged that a backup is only kept for correspondence and documents sent by email and no backup whatsoever is kept for documents obtained as hard copy.

We understand that you will remedy all shortcomings by 21 April 2009 as already indicated in our letter dated 21 October 2008.

In light of the above, the Supervisory Council has resolved that the representations of Manduca Randon & Co Ltd do not merit a revision of the MFSA's intentions as communicated in its letter dated 21 October 2008 to impose, pursuant to Article 16(3) of the Malta Financial Services Act (Cap. 330) and Articles 55 of the Trusts and Trustees Act (Cap. 331), an administrative penalty of €1,000 on Manduca Randon & Co. Ltd.

You are therefore requested to settle the amount by no longer than thirty days from the date of this letter.

May we also draw your attention to our previous correspondence wherein it transpired that Dr Frendo Randon entered into an agreement in his personal capacity as trustee and not on behalf of MRCL, when as you are aware, the authorisation to act as trustee was granted to MRCL.

Please note that any person aggrieved by a decision of the MFSA to impose an administrative penalty may appeal against this decision to the Financial Services Tribunal within thirty days from the date the decision in question is notified to the aggrieved person. Furthermore, in line with MFSA policy, the nature of the breach committed, the penalty imposed and the name of the company in question will be published on the MFSA website."

L-Appell ta' Manduca Randon & Co. Limited

2. Manduca Randon & Co. Limited appellat minn din id-deċizjoni permezz ta' ittra datata 7 ta' Jannar 2009, liema ittra taqra hekk :

"I refer to the decision taken by the Supervisory Council of the MFSA (copy attached Doc A).

I refer to our letter dated 4th November 2008 and to the letter sent by the Director General dated 21/10/2008 (doc B & C).

Manduca Randon & Co. Limited (MRCL) is sending this letter as an Appeal from the decision as set out in Document A.

The appeal is being filed for the following reasons:

We do not agree with the points made by the Director General in his letter Doc A.

a) Dr. Frendo Randon is involved in the daily decision making of MRCL. We hold meetings everyday to consult each other in respect of every case and issue that arises. Dr. Frendo Randon is at the office every day and does not go to court. Your allegation in point 1 "That we gave conflicting information" is completely unfounded. We contest the appraisal made by the compliance officers in one meeting.

b) We again state that we have always conducted due diligence.

c) We have reporting procedures in place in the event of suspicion of money laundering.

d) We have a system of verifying the instructions and this has been improved.

e) We have a business interruption recovery plan and although we had some documents that were not backed up we had a general back up even for documents obtained as a hard copy.

We have admitted that there are a few shortcomings and that we are striving to ensure that these are all eliminated. The decision taken against us is unnecessarily harsh.

In the circumstances we request that this Supervisory Council revokes the decision whereby an administrative penalty of €1000 was imposed and also revokes the decision to publish our name and the penalty on the MFSA website."

Ir-Risposta ta' L-Awtorità Ghas-Servizzi Finanzjarji ta' Malta

3. L-Awtorità Ghas-Servizzi Finanzjarji ta' Malta wieġbet hekk :

"1.**Preliminary submissions**

(i) Article 21 of the Malta Financial Services Authority Act[1] (hereinafter the MFSA Act) clearly provides that the Authority's discretion may not, so long as it has been exercised properly, be queried by the Tribunal;

(ii) The same Article specifies that the question for the determination of the Tribunal shall be whether, for the reasons adduced by the appellant -

(a) the competent authority has, in its decision wrongly applied any of the provisions of this Act; or

(b) the decision of the competent authority constitutes an abuse of discretion or is manifestly unfair;

(iii) Furthermore, Article 21(8) of the MFSA Act also specifically requires that any appeal lodged with the Tribunal has to clearly explain the grounds for such appeal;

(iv) The Authority respectfully submits that the appeal submitted by Manduca Randon & Co. Ltd (hereinafter MRCL) is procedurally null and void as MRCL fails to explain how the Authority has wrongly applied any applicable provisions, why its decision is manifestly unfair or why it abused its discretion. In fact the appeal does not even claim that any such abuse has been committed by the MFSA;

(v) Without prejudice to the above, the wording used in the request itself as made by the appellant does not conform with Article 21 of the MFSA Act, since MRCL did not even address its request to the Tribunal but to the Supervisory Council. Through its appeal MRCL is thus effectively and clearly requesting that the Supervisory Council revokes its decision, something that is inadmissible at law. Article 21 requires a request to the Tribunal, and not to the Supervisory Council. The current action brought forward by MRCL is procedurally defective and is not one contemplated or permissible under the MFSA Act;

(vi) The MFSA clarifies that its discretion has been exercised properly, with due care and in line with the legal requirements and expectations set out under the MFSA Act and the Trusts and Trustees Act (hereinafter the TTA).[2] For the reasons explained above the appeal lodged by MRCL therefore fails to satisfy the mandatory procedural requirements of

[1] CAP. 330 of the Laws of Malta.
[2] CAP. 331 of the Laws of Malta.

Article 21 of the MFSA Act, and is therefore procedurally unsound and invalid;

2.Submissions on the merits

(i) MRCL was found to be in breach of a number of its obligations under the TTA, the applicable Code of Conduct and the Companies Act, primarily by:

(a) failing to keep proper accounting records which would enable trust accounts to be drawn up and which are also necessary to provide such information to persons who are entitled to it on a timely basis;[3]

(b) failing to keep minutes of all the trustees' decisions, including the administration and distribution of trusts[4];

(c) failing to have in place a documented business interruption recovery plan covering all its critical functions;[5]

(d) failing to abide with its obligations to require its clients to enter into written service agreements, in addition to a lack of adherence to "know your client" requirements;

(e) failing to verify instructions received from customers, contrary to the rules requiring trustees to have in place the necessary systems, controls and procedures to ensure that staff perform their duties in a diligent and proper manner;[6] and

(f) failing to keep minutes of all directors' meetings, as required by Article 149 of the Companies Act;

(ii) Furthermore, paragraph 3 of the Code of Conduct applicable to trustees, which is binding by virtue of Article 52(1) of the TTA, clearly provides that, <u>as a minimum</u>, trustees need to be able to comply with the Prevention of Money Laundering Act[7] and the Prevention of Money Laundering Regulations 2003.[8] As explained

[3] The requirement of trustees to keep accurate accounts and records is found in Article 21(4) of the Trusts and Trustees Act and in paragraph 9.6 of the Code of Conduct applicable to trustees.
[4] The requirement of trustees to keep minutes of all decisions taken arises from paragraph 9.6 of the Code of Conduct applicable to trustees.
[5] Thereby being in breach of paragraph 9.8 of the Code of Conduct.
[6] This organisational requirement is found in paragraph 9.8 of the Code of Conduct.
[7] CAP. 373 of the Laws of Malta.
[8] Legal Notice 199 of 2003. This Regulation was revoked in 2008 and replaced by the Prevention of Money Laundering and Funding of Terrorism Regulations, Legal Notice 180 of 2008.

in the MFSA's letter to MRCL of the 21st October 2008 and in its decision of the 10th December 2008 (annexed to MRCL's appeal and marked as 'Doc. C' and 'Doc. A' respectively), MRCL was found by the Authority to be in breach of a number of provisions, including non-compliance with the 'four-eyes' principle, failure to carry out customer due diligence and failure to have the adequate reporting procedures in place;

(iii) The above breaches were originally identified during an on-site compliance visit conducted by the officials of the Company Compliance Unit on the 21st August 2008. Following this compliance visit, the Company Compliance Unit reported the breaches found to the Authority's Supervisory Council, which eventually met on a number of occasions and considered further the purported breaches committed and whether an administrative sanction was to be imposed in their respect. The amount of the possible penalty that should be imposed in the circumstances was also debated;

(iv) At its meeting of the 17th September 2008, the Supervisory Council resolved that MRCL be advised that the Authority was minded to impose an administrative penalty of €1,000 and to withdraw the authorisation issued on 2 September 2005 unless the above described breaches are remedied by not later than the 21st April 2009. Following a meeting with the appellants on the matter, MRCL was requested by means of a letter dated 21st October 2008 to submit its representations to the Authority by not later than the 21st November 2008;

(v) In their letter of representations to the Authority dated 4th November 2008 (annexed to MRCL's appeal and marked as 'Doc. B') the appellant admitted to virtually all the shortcomings listed in paragraph (i)(a) – (f) above. In the same letter MRCL sought to justify its shortcomings under the Prevention of Money Laundering Regulations, but failed to satisfy the MFSA's Supervisory Council that its lack of conformity with the relevant provisions was justifiable;

(vi) Following careful consideration of the written representations made by MRCL, and bearing in mind the fact that MRCL neither disputed the commission of a number of the alleged breaches, nor offered a substantial justification for the breaches, the Supervisory Council resolved that the written representations did not merit a revision of its proposed course of action and accordingly proceeded to confirm the sanctions as its formal decision on the 11th November 2008;

(vii) In the appeal application, MRCL itself admitted that it had and still has a number of shortcomings and that it was in the process of eliminating such shortcomings. The MFSA is in a position to bring before this Tribunal all the necessary evidence to show that the appellants failed to abide by the necessary legal requirements in performing their activities under the TTA;

(viii) Contrary to MRCL's view that the decision taken against them was "*unnecessarily harsh*", it is the Authority's opinion that the decision and penalty imposed might if anything be criticised for not being harsh enough in view of the seriousness and the number of the findings made by the MFSA. The penalty charged by the Authority reflects the number of breaches of various mandatory requirements established by law. Indeed, the law requires that the said records must be maintained so as to permit a thorough and satisfactory supervisory activity as well as permit the adequate performance of trust audits. It is important that trustees keep and preserve appropriate records so as to comply with any notification and reporting requirements and to ensure that a proper audit trail would be maintained for the better protection of the beneficiaries. Furthermore, it stands to reason that as a regulated entity operating in a field where trust is paramount, trustees must have adequate internal systems of control and client and other verification procedures;

(ix) The Authority submits that the decision of the Supervisory Council was taken after lengthy and careful consideration of all the applicable laws and regulations, and in the best interests of the consumers of financial services, which it is bound to protect under the MFSA Act. Furthermore, at no point did the Supervisory Council exercise its discretion improperly or abusively, but constantly followed due process and best practice arrangements;

(x) Thus, on the merits, the Authority respectfully submits that the penalty imposed on MRCL is both justified and warranted in the circumstances, and all the necessary and relevant evidence in support of this decision can be brought for the consideration of this Tribunal in the course of this appeal.

Accordingly, and for the reasons explained above, the Authority respectfully asks this Honourable Tribunal to reject MRCL's request, with all legal costs to be borne by the appellant."

Kunsiderazzjoni tat-Tribunal

4. Il-kumpannija l-appellanti qegħda titlob li dan it-tribunal jirrevoka d-deċiżjoni tal-Kunsill ta' Sorveljanza ta' l-Awtorità għas-Servizzi Finanzjarji ta' Malta ikkomunikata lilha permezz ta' ittra datata 10 ta' Diċembru 2008 li permezz tagħha l-Awtorità informatha, *inter alia*, li għar-raġunijiet elenkati fl-istess ittra

   (a) "*… the Supervisory Council has resolved that the representations of Manduca Randon & Co. Ltd do not merit a revision of the MFSA's intentions as communicated in its letter dated 21 October 2008 to impose, pursuant to Article 16(3) of the Malta Financial Services Act (Cap. 330) and Article 55 of the Trust and Trustees Act (Cap. 331), an administrative penalty of €1,000 on Manduca Randon & Co. Ltd*"; u

   (b) "*Furthermore, in line with MFSA policy, the nature of the breach committed, the penalty imposed and the name of the company in question will be published on the MFSA website*".

5. Fl-ittra ta' l-appell tagħha l-kumpannija appellanti filwaqt li tiċħad uħud mir-raġunijiet li a bażi tagħhom l-Kunsill ta' Sorveljanza wasal għad-deċiżjoni mogħtija fl-ittra ta' l-10 ta' Diċembru 2008 ammettiet "*that there are a few shortcomings and that we are striving to ensure that these are all eliminated. The decision taken against us is unnecessarily harsh*".

6. Fir-risposta ta' l-Appell tagħha l-Awtorità għamlet diversi "*Preliminary submissions*" u diversi "*Submissions on the merits*".

7. Permezz tas-sottomissjonijiet preliminari tagħha, l-Awtorità qegħda tikkontesta l-validità ta' l-appell.

8. L-Awtorità tibda billi tilmenta li l-kumpannija appellanti naqset milli tispjega ċar il-motiv għall-appell tagħha.

   F'dan ir-rigward l-Awtorità għamlet referenza għall-artikolu 21(8) tal-Kap. 330 li jgħid:

   "*Appell magħmul … lit-Tribunal għandu jsir bil-miktub fejn jiġi spjegat ċar il-motiv għal dak l-appell …*"

It-tribunal ma jaqbilx mas-sottomissjoni ta' l-Awtorità li fl-appell *de quo* din id-disposizzjoni ma ġietx osservata. Fil-fatt fl-ittra ta' l-appell issir referenza speċifika għal tlett dokumenti annessi magħha. Minn eżami ta' dawn id-dokumenti u mill-ittra nnifisha il-motiv għal appell jirriżulta ċar. Anki mill-ittra ta' l-appell innifisha jirriżulta ċar illi l-kumpannija appellanti qegħda tiċħad numru ta' allegazzjonijiet ta' l-Awtorità, tammetti numru ta' nuqqassijiet u tikkontesta s-sanzjoni imposta fuqha mill-Awtorità bħala "*unnecessarily harsh*".

9. Fis-sottomissjonijiet preliminari tagħha l-Awtorità tkompli tilmenta illi dan l-appell hu

> "*… procedurally null and void as MRCL* (cioè l-kumpannija appellanti) *fails to explain how the Authority has wrongly applied any applicable provisions, why its decision is manifestly unfair or why it abused its discretion. In fact the appeal does not even claim that any such abuse has been committed by the MFSA*".

Skond l-artikolu 21(9) tal-Kap. 330

> "*It-talba għad-deċiżjoni tat-Tribunal għandha tkun, għar-raġunijiet miġjuba mill-appellant-*
>
> *(a) jekk l-Awtorità kompetenti tkunx, fid-deċiżjoni tagħha, applikat ħażin xi waħda mis-disposizzjonijiet ta' dan l-att; jew*
>
> *(b) jekk id-deċiżjoni ta' l-awtorità kompetenti tikkostitwix abbuż ta' diskrezzjoni jew tkunx inġusta manifestament.*
>
> *Iżda d-diskrezzjoni ta' l-awtorità kompetenti ma tistax, sakemm tkun ġiet eżerċitata b'mod xieraq, tkun mistoqsija mit-Tribunal.*
>
> *Iżda ukoll, ma għandux jkun hemm ebda appell minn deċiżjoni li tkun timponi piena li ma teċċedix mitejn u tnejn u tletin euro u erbgħa u disgħin ċenteżmu (232.94*)."

Fl-ittra ta' l-appell il-kumpannija appellanti qegħda tinnega l-esistenza ta' numru ta' ċirkostanzi li abbażi tagħhom l-Awtorità waslet għad-deċiżjoni li minnha qiegħed isir dan l-appell u filwaqt illi ammettiet numru ta' nuqqasijiet, sostniet li l-punizzjoni inflitta fuqha mill-Awtorità hija "*unnecessarily harsh*" u per konsegwenza talbet li l-istess deċiżjoni tiġi revokata minn dan it-tribunal.

Fil-fehma tat-tribunal dan l-aggravju, jekk jiġi ppruvat, jaqa fil-parametri stabbiliti mill-artikolu 21(9) tal-Kap.330 appena ċitat *stante* li deċiżjoni ta' l-Awtorità tkun inġusta manifestament.

10. L-aħħar sottomissjoni preliminari ta' l-Awtorità tirrigwarda t-talba tal-kumpannija appellanti. Dan *stante* li t-talba hija ndirrizata lill-Kunsill ta' Sorveljanza u mhux lil dan it-tribunal. Fil-fatt l-aħħar paragrafu ta' l-ittra ta' l-appell tal-kumpannija appellanti jibda hekk:

> "*In the circumstances we request that this Supervisory Council revokes …*"

Fis-seduta miżmuma fis-6 ta' Frar 2009 il-kumpannija appellanti talbet korrezzjoni fis-sens li flok il-kliem "*Supervisory Council*" jidħlu l-kliem "*the Financial Services Tribunal*". L-Awtorità ma oġġezzjonatx u għalhekk l-imsemmi ilment ta' l-Awtorità huwa illum sorvolat.

11. Niġu issa għall-mertu.

12. Waqt is-smiegħ ta' l-appell il-kwistjoni bejn il-partijiet ġiet ferm limitata. Fis-seduta tas-6 ta' Frar 2009 il-partijiet ivverbalizzaw illi:

> "*Fil-fattemp, il-partijiet u mingħajr preġudizzju ser jiltaqu biex jaraw jekk tistax tinstab soluzzjoni amikevoli u dan skond l-appellanti jista jkun hemm lok ta' soluzzjoni stante l-mertu mhux intant għar-rigward il-multa iżda għar-rigward il-fama stante li din id-deċiżjoni ta' l-MFSA se tiġi ppubblikata fuq l-internet*".

13. Fis-seduta sussegwenti, *cioè* dik tat-13 ta' Marzu 2009, il-partijiet infurmaw lit-tribunal illi ma ftehmux. L-appellanti ddikjaraw li m'għandhomx provi *stante* "*li kienu l-MFSA li dehrilhom li kien hemm xi nuqqasijiet minn naħa tagħhom u l-istess MFSA li ġġudikawhom*". *Da parti* tagħha l-Awtorità ddikjarat "*li stante li l-appellanti mhux se jtellgħu provi, l-Awtorità appellata mhux se ttella provi*". Għalhekk il-partijiet qablu li l-każ għandu jitħalla għat-trattazzjoni.

14. Ġjaladarba l-appellanti ma ġabux provi, l-appell tagħhom ta' bilfors irid jiġi limitat fuq dawk il-punti ta' natura legali li ma jeħtiġux provi.

15. Fis-sottomissjonijiet orali u bil-miktub l-appellanti illimittaw ruħhom għall-pubblikità li l-Awtorità kienet se tagħti lid-deċiżjoni tagħha u *cioè* li "*in line with MFSA policy, the nature of the breach committed, the*

penalty imposed and the name of the company in question will be published on the MFSA website".

16. Il-kumpannija appellanti sostniet li l-liġi tikkontempla biss "*penali amministrattiva li ma tistax tkun iżjed minn tlieta u disgħin elf u mija u erbgħa u sebgħin euro u erbgħa u disgħin ċenteżmu (93,174.94)*"[9] u xejn aktar. Il-kumpannija appellanti għalhekk tikkontendi illi tali pubblikazzjoni tad-deċiżjoni fuq il-*website* ta' l-Awtorità hija piena fiha nnifisha u dan *multo magis* meta l-*policy* ta' l-Awtorità hi li qatt ma tneħħi d-deċiżjonijiet tagħha minn fuq dan is-sit.

17. Jidher illi s-sottimissjoni ta' l-appellanti dwar il-*policy* ta' l-Awtorità li ma ttneħħix id-deċiżjonijiet li tieħu minn fuq il-*website* qanqlet dibattitu fi ħdan l-Awtorità li wasslet għal tibdil f'din il-*policy*.

18. Fil-fatt fis-17 ta' Lulju 2009 l-Awtorità ppubblikat *policy* ġdida fir-rigward ta' kemm għandhom jibqgħu fuq il-*website* tagħha "*notices regarding sanctions and restrictions on authorisations*". Kopja tal-*policy* il-ġdida ġiet esibita mill-Awtorità bħala Dok AC1 u tinsab *a fol* 42 tal-proċess. Il-parti rilevanti tagħha għal dan l-appell taqra hekk:

> "*With effect from 17 July 2009, MFSA notices regarding sanctions shall be treated as follows:*
>
> *1. a notice to the public in respect of a fine not exceeding €3000 or of minor infringements, shall be revoked from the web-site after two (2) years*"

19. Irid għalhekk jiġi deċiż jekk il-pubblikazzjoni tad-deċiżjoni ta' l-Awtorità fil-każ mertu ta' dan l-appell għal perjodu limitat ta' sentejn jikkostitwix piena li mhijiex ikkontemplata fil-liġi.

20. Ir-regola ġenerali hi illi, sakemm ma jkunx hemm divjet espress mill-liġi, kulħadd, mill-aktar awtorità għolja sa ċittadin fil-vesti privata tiegħu, għandu dritt li jikkomunika d-deċiżjonijiet li jieħu fil-parametri permessi mill-liġi jekk hekk ikun jidirlu. Dan huwa d-dritt fundamentali ta' l-espressjoni. Fil-każ ta' entitajiet muniti b'funzjoni pubblika dan il-prinċipju, dejjem jekk ma jkun hemm ebda divjet ta' natura legali, ħafna drabi mhuwiex dritt imma obbligu. Dan għaliex id-deċiżjonijiet li

[9] Ara l-artikolu 51(7) tal-Kap. 331

jittieħdu jaffettwaw il-pubbliku in ġenerali li għandu għalhekk dritt ikun jaf bihom.

21. Il-pubblikazzjoni ta' deċiżjoni ta' awtorità pubblika fiha nnifisha għalhekk qatt ma tista tiġi kkunsidrata bħala piena. Fil-każ in kwistjoni għalhekk ma jistax jingħad illi l-pubblikazzjoni ta' deċiżjoni ta' l-Awtorità li timponi penali amministrattiva fuq il-*website* tagħha hija illegali.

Decide

22. Għal dawn ir-raġunijiet it-tribunal, wara li jiċħad l-eċċezzjonijiet preliminari ta' l-Awtorità appellata, jirrespinġi l-appell tal-kumpannija appellata, bl-ispejjeż kontra tagħha.