

Case C-380/03 Germany v Parliament and Council (Tobacco Advertising II) [2006]

Facts: The case concerned Directive 2003/33/EC, which was enacted as a replacement to Directive 98/43/EC which was annulled in *Tobacco Advertising I*. Germany sought the annulment of Arts 3 and 4 of the Directive, arguing that they could not be adopted on the basis of Article 114 TFEU which was the internal market competence.

Held: Despite succeeding the first time, Germany did not successfully annul the two Articles. The Court upheld the legality of both Arts 3 and 4 of Directive 2003/33/EC; they stated that differences in advertising and sponsorship laws in different Member States could lead to an impediment to free movement in the Union. The Court did, however, *in abstracto*, confirm the three constitutional limits set out in *Tobacco Advertising I*.