

**ECJ rules that
“establishment” for
collective redundancy
consultation purposes means a
local employment unit, not
the whole company**

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An employer making 20 or more people redundant in a 90 day period in a single establishment must consult on a collective basis. But what is meant by 'establishment'? The EAT held this meant the entire operation of the employer but the European Court has decided that "establishment" means the local employment unit at which the redundant employees carry out their duties. This means that, for example, employees working in shops with fewer than 20 staff, even if they are part of a large national chain which is also being shut down, are not entitled to be consulted over proposed redundancies.

Woolworths and Ethel Austin, both national retail chains, went into administration. Only those staff who worked in shops with over 20 staff were given compensation for the failure to inform and consult them over redundancies. Those staff who did not receive compensation appealed to the Court of Appeal on grounds that the "establishment" is the entire chain which employed thousands of staff.

The European Court of Justice held that an "establishment" only refers to the local employment unit – in these cases, most likely the individual shops. To construe it more widely would lead to a disparity between the law in different EU member states. The case has returned to the Court of Appeal for determination, though it is next to inconceivable that the

result would be anything other than a finding that the employees of the shops with fewer than 20 staff did not need to be consulted.

This decision will be welcome news for large employers with multiple outlets, as it has previously been difficult to see when collective redundancy consultation is necessary.

USDAW and another v WW Realisation 1 Ltd (in liquidation), Ethel Austin Ltd and another (C-80/14)

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