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## Editorial

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### Obituary

#### “Pandora”

We are very sad to report the death on 5 May from cancer of Barbara Conway at the early age of 39. Barbara wrote the City Newsletter under the pseudonym “Pandora” and gave *Business Law Review* readers an interesting insight into city behaviour (and misbehaviour!). The column has been less regular since Barbara became ill, but she still managed to produce a column in her usual trenchant style as recently as last November. She will be sadly missed and our deepest sympathy goes to her parents.

### Sunday Trading

The law against Sunday Trading is in some disarray following recent judicial decisions. At the end of April, the Court of Appeal lifted interlocutory injunctions, that had been granted to two local authorities under section 222 of the Local Government Act 1972, to restrain the DIY stores Wickes Building Supplies Ltd and B & Q plc, from

trading on Sundays, in contravention of section 47 of the Shops Act 1950. Their Lordships held that the injunctions – issued pending a ruling by the European Court of Justice on whether the defendants had a valid defence on the basis that section 47 is contrary to Article 30 of the EC Treaty as placing an unlawful restraint on the free movement of goods – should not have been granted without cross undertakings in damages from the councils so that, if defeated on the substantive issue of the legality of Sunday trading, they would indemnify the companies for the considerable loss of business caused by enforced closure on Sundays. The councils declined to give the required undertakings.

The stores claimed this as a “resounding victory”. A senior solicitor employed by one of the councils was quoted as saying that the law on Sunday trading was now “virtually unenforceable”. Newspaper reports claimed that the way was now open for about 100 similar injunctions to be overturned on appeal.

In mid-May, the House of Lords, on the second day of the hearing of a substantive appeal by B & Q on the validity of the Shops Act’s trading restrictions, ruled that, notwithstanding the councils’ contention that the law was

clear enough for the case to be decided here, their Lordships should refer three questions of law arising in the case to the Luxembourg court. The latter’s ruling could take eighteen months to two years.

Opponents of Sunday opening expressed their dismay at the decision and called for Government intervention. Their adversaries, the Shopping Hours Reform Council, also called for Government legislation to sort matters out, rather than leaving the issue to wend its slow passage to the European Court. Both groups are surely right in calling for action, even though there is of course no consensus between them about the kind of action that they would like to see. *Pace* the Keep Sunday Special campaigners, the arguments – now reinforced by EC considerations – are overwhelmingly in favour of liberalisation. The thought of reforming the law in this area may bring back unhappy ministerial memories of the unprecedented Commons defeat of the Government’s Shops Bill in 1986, but legislative reform is long overdue.