

# Employment Equality Act, 1998

Equality Officer Decision DEC-E/2000/14

## Equality Authority

-v-

**Ryanair**

(represented by BCM Hanby Wallace)

File No.

EE/2000/19

Date of Issue:

29/12/2000

## 1.0 **SUMMARY**<sup>1</sup>

*Employment - Discrimination - Age - Job Advertisement - Enforcement Powers of the Equality Authority - Employment Equality Act, 1998; Section 85(d), Section 10, Section 6(1), Section 6(2)(f).*

- 1.1 **Background:** The complainant pursuant to Section 85(1)(d) of the Employment Equality Act, 1998, referred a case to the Director against the respondent complaining that “a publication or display has been made in contravention of Section 10” of the Act. The complainant states that the advertisement stipulated that the respondent needed “a young and dynamic professional...” and that “the ideal candidate will be young dynamic...”. The complainant contends that this amounted to discrimination on the age ground. The respondent states that the Act refers to age in years and not in vague concepts such as young or old. The respondent accepts that the word “young” was used twice in the advertisement. However, the respondent contends that the word should not be taken in isolation and the advertisement should be read as a whole. The respondent states that it was clear, in the context of the advertisement, that it was enthusiasm which was being sought.
- 1.2 **Conclusions:** The Equality Officer found that the use of the word “young” clearly indicated, or might reasonably be understood as indicating, an intention to exclude applicants who were “not young”, i.e. applicants who were “middle aged” or “old” and that the words “young”, “middle aged” and “old” describe different ages in the context of Section 6(2)(f) of the Act. It was the view of the Equality Officer that the use of the word “young” as a requirement in this employment advertisement constitutes discrimination on the age ground.
- 1.3 **Decision:** The Equality Officer decided, under Section 85(3)(b) of the Act combined with Section 79 that the publication was made in contravention of Section 10. Furthermore the Equality Officer decided that the respondent discriminated on the age ground, in terms of Sections 6(1) and 6(2)(f) of the Act, by causing an advertisement to be published in contravention of Section 10(1) of that Act. The Equality Officer ordered that the respondent pay the complainant £8,000 as compensation for the effects of discrimination and that the respondent take a specific course of action, including: a comprehensive review of its equal opportunities policies to ensure that the policies are fully compliant with equality legislation, equality proofing of recruitment, promotion and selection guidelines and the publication of a statement making a clear commitment to equal opportunities policies.

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<sup>1</sup> This summary is provided for convenience only and is not part of the decision for legal purposes.

## **2.0 BACKGROUND**

2.1 On 2nd May, 2000 the Equality Authority (complainant), pursuant to Section 85(1)(d) of the Employment Equality Act, 1998 (the Act), referred a case against Ryanair (respondent) to the Director of Equality Investigations complaining that “a publication or display has been made in contravention of Section 10” of the Act. Section 10(1) of the Act provides that :-

“A person shall not publish or display, or cause to be published or displayed, an advertisement which relates to employment and which—

(a) indicates an intention to discriminate, or

(b) might reasonably be understood as indicating such an intention.”

2.2 In accordance with her power of delegation under Section 75 of the Act the Director of Equality Investigations assigned this case to an Equality Officer for investigation and decision.

2.3 The advertisement at issue was for the position of Director of Regulatory Affairs at Ryanair and was placed in the Appointments Section of the Irish Times on 25 February, 2000. A copy of the advertisement is attached as Appendix A, a text version of the advertisement is also attached for clarity.

2.4 Two months prior to the referral of the case (on 8 March 2000) the complainant wrote to the respondent setting out its view that the advertisement was in breach of the Act. The respondent rejected the complainant’s view and stated that “young” was a state of mind and not a factual age.

## **3.0 SUMMARY OF COMPLAINANT’S CASE**

3.1 It is the contention of the complainant that the advertisement was in breach of Section 10 of the Employment Equality Act 1998.

3.2 The complainant states that the advertisement stipulated at the outset that the respondent needed “a young and dynamic professional....” and further on that “the ideal candidate will be young dynamic...”. The complainant states that Section 6(1) of the Employment Equality Act, 1998 provides that “discrimination shall be taken to occur where, on any of the discriminatory grounds in subsection (2)....., one person is treated less favourably than another is, has been or would be

treated”. The complainant also states that the age ground is set out in Section 6(2)(f) as: "that they are of different ages....”.

3.3 The complainant submits that the respondent’s advertisement in its use of the word “young” in the two phrases cited above, clearly -

- i) indicated an intention to discriminate on the age ground contrary to Section 10(1)(a) of the Act, and/or
- ii) might reasonably have been understood as indicating such an intention contrary to Section 10(1)(b) of the Act.

3.4 The complainant rejects the respondent’s view, expressed in correspondence between them in March, 2000, that the advertisement did not breach Section 10 of the Act on the grounds that -

- i) “young” is a state of mind and not a factual age, and
- ii) the intention of the advertisement was to attract people who may not have experience to apply for this senior position.

3.5 The complainant submits that a common-sense interpretation of the advertisement does not permit the gloss placed on it by the respondent. The complainant contends that a reference to “young” in its natural meaning is a reference to a factual age and that the advertisement went well beyond encouraging people without experience to apply. The complainant states that the advertisement indicated on the part of the respondent a clear intention to take into account, as a relevant criterion, an applicant’s age and to give preference to an applicant from a younger age group rather than from an older age group.

3.6 The complainant says that the Act clearly prohibits an employer from using age as a relevant criterion for the purpose of differentiating between applicants for employment who are between the ages of 18 and 65. The complainant also says that Section 10 of the Act prohibits the use of advertisements which either indicate such an intention or might reasonably be understood as indicating such an intention.

3.7 In support of its case the complainant also submits -

- a) a copy of the letters exchanged between it and the respondent in March 2000 (Appendix B attached), and

b) a copy of its correspondence with the Irish Times, in the course of which the Irish Times agreed with the complainant's view that "the reference to 'young' in the advertisement is in breach of Section 10 of the Act as it discriminates against people who are not young" (Appendix C attached).

3.8 The complainant requests the Equality Officer to make:

1. A recommendation<sup>2</sup> that the advertisement of the respondent dated the 25th of February 2000 was in contravention of Section 10, in terms of Section 6(1) and 6(2)(f) of the Act;
2. A recommendation that the respondent refrain in future from publishing advertisements which are in breach of Section 10 of the Act;
3. Such further order as may seem appropriate.

#### **4.0 SUMMARY OF RESPONDENT'S CASE**

4.1 The respondent states that it placed an advertisement for the position of Director of Regulatory Affairs in the Appointments Section of the Irish Times on 25th February 2000. The respondent denies that the advertisement breached Section 10 of the Act and that it breached any employment equality legislation.

4.2 The respondent states that Section 6(2)(f) of the Act defines the age ground as "that they are of different ages", but subject to subsection (3). Subsection (3) provides that "where (a) a person has attained the age of 65 years, or (b) a person has not attained the age of 18 years, then subject to *section 12(3)*<sup>3</sup>, treating that person more favourably or less favourably than another (whatever that other person's age) shall not be regarded as discrimination on the age ground". The respondent asserts that the Act refers to age in years, not in vague concepts such as young or old. On this basis the respondent submits that Section 10 of the Act does not apply to this advertisement and this reference of a complaint to the Director was inappropriate and ill founded.

4.3 The respondent accepts that the word "young" was used twice in the advertisement. However, the respondent contends that those words should not be taken in isolation and that the advertisement should be read as a whole. The respondent states that the advertisement did not specify any age

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<sup>2</sup> The Employment Equality Act, 1998 provides that an Equality Officer issues a **decision** which is binding, unless appealed.

<sup>3</sup> Section 12(3) of the Act relates to vocational training only.

limits thereby not indicating any intention to discriminate. The respondent submits that the advertisement could not be reasonably understood as indicating an intention to discriminate.

4.4 The respondent further states that -

- a) it was clear, in the context of the advertisement, that it was enthusiasm which was being sought,
- b) the word "young" was never used without the word "dynamic", and
- c) the advertisement stated "the key ingredients we are looking for are passion and ambition".

The respondent submits that these are not age related criteria.

4.5 The respondent also contends -

- a) that the advertisement did not connote an individual having, in terms of age, a relevant characteristic,
- b) that it did not say that applications were invited from, e.g. candidates between the ages of 20 and 25, and
- c) that it was not descriptive of and did not refer to a post or occupation of a kind previously held or carried on only by individuals of a particular age.

The respondent contends, therefore, that the advertisement did not fall within the wording of Section 10(2)(a) and/or 10(2)(b) of the Act. The respondent also maintains that Section 10(2) qualifies Section 10(1) and that it is essential to its interpretation. The respondent says that this section provides that if an advertisement falls into either of the categories at 10(2)(a) or 10(2)(b) then, unless the advertisement indicates a contrary intention, the advertisement shall be taken to indicate an intention to discriminate on whichever discriminatory ground is relevant in the circumstances.

The respondent contends that the advertisement does not fall within section 10(2) and that, therefore, the test set out in Section 10(1) does not apply. In these circumstances the respondent maintains that it was not necessary for the advertisement to indicate a contrary intention.

4.6 The respondent says that it sought to avoid -

- a) age discrimination in placing this advertisement by seeking to encourage not only candidates with years of experience, but also candidates who might have less experience, and
- b) the common practice of seeking only very experienced and therefore older candidates for such posts.

The respondent states that experience was not the deciding factor in this recruitment process and that it sought to emphasise this in the advertisement.

4.7 The respondent states that thirty candidates applied for the position and that the ages of candidates who gave that information ranged between 25 and 38. Five candidates were interviewed and the successful candidate was aged 32. The respondent states that age was not a factor in short-listing or appointment to this position and contends that candidates were not deterred from applying for this position on the grounds of age. The respondent says that two of the candidates gave no information which would disclose their ages and that this information was not sought as it was not relevant to the selection process.

4.8 The respondent notes the wording of Section 10(1) of the Act which commences "A person shall not publish or display, or cause to be published or displayed, an advertisement...". The respondent points out that the advertisement in question was published by the Irish Times newspaper and not by it. The respondent notes with grave concern that proceedings have been brought against it alone, the secondary party within the wording of the section relied upon. The respondent also notes that many advertisements in the Irish Times and other publications, since the date of publication of the advertisement complained of, have used the word "young" and submits a schedule of sample advertisements from a number of recruitment sources. The respondent said it is unaware of any referrals by the Equality Authority in respect of these advertisements and submits that such referral would be inappropriate for the reasons set out in its submission.

4.9 The respondent states that it is committed to equal opportunities and that this is reflected in "the Rough Guide to Ryanair", a document which is given to all its new employees. The respondent submits an extract from this guide (Appendix D attached) and draws specific attention to the paragraph headed - "Equal Opportunities - A way of life at Ryanair", which reads as follows:-

*"The aim of our policy is to ensure that no job applicant or member of staff receives less favourable treatment on the grounds of race, colour,*

*ethnic or national origins, sex, marital status, sexual orientation, age or disability, or is disadvantaged by unjustifiable conditions or requirements. Our selection criteria and procedures are reviewed regularly to ensure that individuals are selected for posts, promoted and treated on the basis of their ability, knowledge and commitment alone. The bottom line "at Ryanair we hire the best person for the job"."*

The respondent restates its commitment to equal opportunities as set out in the guide for employees.

## **5.0 SUMMARY OF HEARING**

- 5.1 An oral hearing was held on 27 November, 2000. The complainant, in response to the points made in the respondent's written submission, rejected the view that the complaint was unfounded. The complainant maintained that the response of the Irish Times clearly supported the complainant's view that the advertisement was discriminatory<sup>4</sup>. The complainant rejected the respondent's contention that the use of the word "young" does not connote a particular characteristic and the view that Section (10)(1) of the Act is qualified by Section 10(2). The complainant submitted that the phrase "young" connotes young in years and not "middle aged" or "old". The complainant also question the basis for the respondent's assumption that no one was discouraged from applying for the position.
- 5.2 The complainant stated that it did not proceed against the Irish Times as publishers of the advertisement because the reaction of the Irish Times, when the issue was brought to its attention, was different to the respondent's. The complainant said that the Irish Times did something about it<sup>5</sup>. The complainant contended, in response to the respondent's view that it is being singled out for action, that the fact that others might be guilty is not a defence.
- 5.3 The complainant asserted that Section 85 allows it to refer a matter to the Director and that it is not mandatory in every case. The complainant explained that it held a series of meetings with managers of advertising departments and that it recently issued guidelines on this matter. This approach was

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<sup>4</sup> Appendix C refers

<sup>5</sup> Appendix C refers

necessary because it did not have the resources to check out every advertisement. The complainant said that if Ryanair feels it is being singled out it was because in every other case in which the complainant acted, the employer re-advertised at its own cost, whereas in this case the respondent did not respond positively nor re-advertise. The complainant noted that it has the power to seek an injunction to prevent such advertising and that in these circumstances its approach must be judged as modest and moderate.

5.4 The complainant stated that it was looking for a declaration that the advertisement is contrary to the Act. It also stated that for any remedy to be effective a financial penalty should be imposed and that, since it was not looking to gain financially, it would be prepared to donate any award to a voluntary agency working in a relevant sector. The complainant contended that this would ensure parity between the respondent and other employers who have had to bear re-advertising costs.

5.5 The respondent said that it still had concerns. The respondent noted that the complainant did not ask it to do anything in the first exchange of letters<sup>6</sup>. The respondent stated that at the time the complainant wrote initially to it on 8 March, 2000 (12 days after the advertisement was published) the position was already on offer to one of the applicants. The respondent pointed out that the schedule of advertisements using the word “young” included Irish Times advertisements and that as recently as 17 November 2000 a similar advertisement appeared in the Irish Times.

5.6 The respondent went on to quote two definitions of the word “young”, as follows-

- i) the first from the Concise Oxford Dictionary (Ninth Edition) which defines “young” as “not far advanced in life, development, or existence” and “immature or inexperienced”, and
- ii) the second from a Dictionary of Irish Law (Revised 2nd Edition) which does not define “young” on its own but does define “young person” as follows: “for the purposes of employment a young person is a person who has reached the school leaving age (qv) but is less than 18 years of age”.

On this basis the respondent asserted that the word “young” in the context of the advertisement was meaningless, in that it clearly did not want a Head of Regulatory Affairs who would come under the above definitions. The respondent conceded that the word “young” was foolishly used and the word “enthusiastic” should have been used instead.

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<sup>6</sup> Appendix B refers

- 5.7 The respondent stated that the Act was sadly lacking in that the reference to age only refers to years. The respondent offered to issue a statement on equality, while emphasising that it had made a genuine error.
- 5.8 The respondent was asked to explain how the position came about and how the advertisement was drafted. The respondent explained that the need for this new position was identified by the Chief Executive Officer and that the advertisement was drafted by the Head of Personnel and sent for publication very quickly. The respondent admitted that there was no process to equality proof such advertisements, i.e. to take into account the Act. The respondent gave an assurance that this would not happen now and pointed out that its Personnel staff are all IPD<sup>7</sup> qualified. The respondent admitted that it moved too quickly and that it would not now use the word “young” in a similar situation.
- 5.9 In response to further questions the respondent stated that there were no written criteria for the position or selection guidelines other than the advertisement and that only two people were involved in both the short-listing and interviewing, viz. the CEO and Head of Personnel. Five candidates were short-listed for interview. Four of them were between 29 and 32 years of age, the fifth did not indicate his/her age. The position was initially offered to a person (age 31) who did not accept the position. The final successful candidate was 32 years of age. In response to a question the respondent agreed that a young person and an old person would not generally be regarded as being of the same age.
- 5.10 The complainant explained that the referral came about because the respondent was dismissive of its initial letter<sup>8</sup> and that there was no point asking it to re-advertise the position if it did not accept that it was wrong.

## **6.0 CONCLUSIONS OF THE EQUALITY OFFICER**

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<sup>7</sup> Institute of Personnel Development

<sup>8</sup> Appendix B refers

- 6.1 The matter for consideration by me is whether or not the respondent discriminated on the age ground, in terms of Sections 6(1) and 6(2)(f) of the Employment Equality Act, 1998, by causing an advertisement to be published in the Irish Times in contravention of Section 10 of that Act. In making my decision I have taken into account all of the evidence, both written and oral, submitted to me by the parties to the case. Prior to my consideration of the substantive issue, there are two preliminary issues which must be addressed.
- 6.2 In the first instance I must consider whether the word “young” is directly related to the age ground as defined in Sections 6(1) and 6(2)(f) of the Act. The complainant submits that a common-sense interpretation is appropriate and that the word “young” in its natural meaning is a reference to a factual age. The respondent argues that the Act defines the age ground as “that they are of different ages” which is qualified by the exclusion of persons 65 years of age or older or under 18 years of age. The respondent describes “young” and “old” as vague concepts and states that the use of the word “young” in the advertisement was meaningless. In support of this contention the respondent submits extracts from two dictionaries, one of which (the Concise Oxford Dictionary (Ninth Edition)) defines the word “young” as “not far advanced in life, development, or existence” and “immature or inexperienced”. The second extract did not have a definition of “young” on its own.
- 6.3 Having considered the two positions I reject the respondent’s arguments on this issue on the following grounds -
- a) It is my view that a reasonable person would accept, as common-sense, the interpretation of “young” in the context of a job advertisement as relating to age.
  - b) It is my view that a reasonable person would accept that the words “young”, “middle aged” and “old” define stages and factual ages in life; the fact that there might not be universal agreement on the specific limits of each of these stages does not affect the issue.
  - c) The dictionary extract<sup>9</sup> which the respondent submitted also defines “young” as “not yet old”. I note that the respondent quoted selectively from the definition at oral hearing and omitted this reference.
  - d) The respondent accepted at the hearing that “young” and “old” could not be used to describe people who are the same age, thus, in my view, accepting that “young” and “old” mean “different ages”.

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<sup>9</sup> Concise Oxford Dictionary (Ninth Edition)

I find, therefore, that the words “young”, “middle aged” and “old” describe different ages in the context of Section 6(2)(f) of the Act.

6.4 The second issue to be considered is whether Section 10(1) of the Act is always qualified by Section 10(2) as argued by the respondent. Section 10(1) of the Act provides that :-

“A person shall not publish or display, or cause to be published or displayed, an advertisement which relates to employment and which—

(a) indicates an intention to discriminate, or

(b) might reasonably be understood as indicating such an intention.”

Section 10(2) of the Act provides that :-

“For the purposes of subsection (1), where in an advertisement a word or phrase is used defining or describing a post and the word or phrase is one which—

a) connotes an individual of a particular sex or an individual having (in terms of any of the discriminatory grounds) a particular relevant characteristic, or

b) is descriptive of, or refers to, a post or occupation of a kind previously held or carried on only by members of one sex or only by individuals having such a particular relevant characteristic,

then, unless the advertisement indicates a contrary intention, the advertisement shall be taken to indicate an intention to discriminate on whichever discriminatory ground is relevant in the circumstances.”

6.5 In my view the test set out in the first subsection is straightforward. There are only three possible answers to the question “does the advertisement or display indicate an intention to discriminate or might it reasonably be understood as indicating such an intention?”; “yes”, “no” and “not clear”. The first two answers are clear-cut and require no further elaboration; it is only in the third case that there is a need to rely on the more refined test out in the second subsection. Therefore, I reject the respondent’s view and I find that it is appropriate to apply Section 10(1) of the Act on its own in the circumstances described above.

- 6.6 Taking into account my findings above I can now consider the substantive issue as to whether or not the respondent discriminated on the age ground, in terms of Sections 6(1) and 6(2)(f) of the Employment Equality Act, 1998.
- 6.7 The only specification available for the position was that set out in the advertisement. There were no other criteria set by the respondent for the recruitment/selection process. The respondent's requirements, as clearly stated in the advertisement, were -
- i) "a young and dynamic professional",
  - ii) "the ideal candidate will be young dynamic",
  - iii) "from a legal/professional/regulatory or civil service background" and
  - iv) "the key ingredients we're looking for are passion and ambition".

In my view all these terms are clear and unambiguous. By stating so clearly what it wanted, the respondent also clearly indicated the type of applicant it did not want. On this basis I reject the respondent's contention that the word "young" in the context of the advertisement is meaningless. I also reject its claim that the use of the word "young" meant that it was seeking "enthusiasm" and I reject, as a defence, its claim that it made a genuine error or that it merely acted too quickly. Discriminating by mistake or by acting too quickly are not valid defences under the Act.

In my view many people who are older rightly regard themselves as young or young at heart. However, most people in that situation recognise that others may not, necessarily, regard them in the same light. In my opinion, people in such a situation seeking employment would feel rejected and excluded when they see an advertisement which specifies "young" as a requirement for a job.

I find, therefore, that the use of the word "young" clearly indicated, or might reasonably be understood as indicating, an intention to exclude applicants who were "not young", i.e. applicants who were "middle aged" or "old". Furthermore I find that the use of the word "young" to describe the type of person required for the position indicated, or might reasonably have been understood as indicating, an intention to discriminate against a person who was "not young". It is my view that the use of the word "young" as a requirement in this employment advertisement constitutes clear discrimination.

6.8 This finding is supported both by the respondent's submission of the dictionary extract<sup>10</sup> which also defines “young” as “not yet old” and its contention that it “sought to avoid..... the common practice of seeking only very experienced and therefore older candidates for such posts”. This finding is further supported by the fact that, of the applicants who indicated their age (28 out of 30 applicants), none was over 40 years of age.

6.9 Accordingly I find that the respondent discriminated on the age ground, in terms of Sections 6(1) and 6(2)(f) of the Employment Equality Act, 1998, by causing an advertisement to be published in the Irish Times in contravention of Section 10(1) of that Act.

6.10 There are four other matters which I also wish to consider, as follows:-.

1. The respondent submitted an extract from its employee’s guide, “The Rough Guide to Ryanair” as proof of its commitment to equal opportunities. The respondent emphasised this commitment frequently, it is a “way of life at Ryanair” and it also pointed out that its Personnel staff are “all IPD qualified”. It is a matter of concern that despite such declared commitments to equal opportunities the guide only lists 6 of the 9 discriminatory grounds under the Act. The three missing grounds are family status, religion and membership of the Traveller community. It is also a matter of concern that the respondent did not have a procedure to equality proof employment advertisements. These omissions indicate that there is need for a review of the respondent's equal opportunities policies and practices.
2. The respondent stated in the course of the hearing that there were no written criteria for the position and no selection guidelines other than the advertisement, that only two people, both male, were involved in both the short-listing and interviewing and that there are no records of the interview procedures or markings. The failure to set specific criteria for the position, the lack of transparency in recruitment and selection procedures and the absence of gender balance in the selection / interview process is a matter of concern. This situation should not arise in a company which is committed to equal opportunities policies.

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<sup>10</sup>Concise Oxford Dictionary (Ninth Edition)

3. The respondent noted that many advertisements in the Irish Times and other publications since the date of publication of the advertisement complained of have used the word "young" and submitted a schedule of sample advertisements from a number of recruitment sources. At the hearing the respondent referred to a similar advertisement in the Irish Times as recently as 17 November, 2000. I did not pursue any of these allegations as they are not directly related to the case before me. The complainant did not reject these claims and merely stated that it did not have the resources to check out every advertisement. The complainant said it had discussions with managers of advertising departments on this matter and has drawn up guidelines for publishers. Individuals have the right under the Act to refer complaints of discriminatory advertising to the Director. However, if the schedule submitted by the respondent is indicative of the general position in employment advertising, it would appear that there may be wide-scale contravention of Section 10 of the Act. This is a matter of concern which needs to be addressed.
4. The respondent was concerned that proceedings have been brought against it alone and not the publisher. However, it is clear that the power of the complainant under Section 85(1)(d) is a discretionary power and the complainant is not obliged to proceed against each and every party in such a situation.

## **7.0 DECISION**

- 7.1 My decision, under Section 85(3)(b) of the Act combined with Section 79, is that the publication was made in contravention of Section 10. Furthermore I have decided that Ryanair, the respondent, discriminated on the age ground, in terms of Sections 6(1) and 6(2)(f) of the Employment Equality Act, 1998, by causing an advertisement to be published in the Irish Times in contravention of Section 10(1) of that Act.
- 7.2 I must now consider what redress is appropriate, in accordance with Section 85(3)(a) and as provided for in Sections 82(1) and 82(4) of the Act. In my view overt and public discrimination, which has occurred in this case by way of discriminatory advertising, must be countered in the strongest possible way. I note that, if this case had been taken by an existing employee of the respondent, the maximum amount I could have awarded is equivalent to two years' pay. However, as the complainant is not an employee the maximum which may be awarded is £10,000. I do believe that the maximum award could be justifiably applied in cases of discriminatory advertising.

However taking into account all the circumstances of the case, including the fact that this is the first case to be decided under the Employment Equality Act, 1998, I am satisfied that the maximum award is not appropriate on this occasion.

7.3 In accordance with Sections 82(1)(c) and 82(4) of the Act I hereby order that the respondent pay the complainant £8,000 as compensation for the effects of discrimination.

In accordance with Section 82(1)(e) of the Act I hereby order that the respondent take the following course of action. Specifically, I order that : -

1. the respondent carry out a comprehensive review of its equal opportunities policies to ensure that the policies and practice are fully compliant with equality legislation. The respondent should seek independent expert advice in carrying out the review and implementing its recommendations. This review should be completed by 30 June, 2001.
2. the respondent ensure that its employee's guide, "the Rough Guide to Ryanair" is updated to reflect all nine grounds of discrimination, without delay, and, in any event, not later than 28 February, 2001.
3. the respondent put in place procedures to equality proof all future recruitment, promotion and selection guidelines. These procedures should be put in place at the earliest opportunity and, in any event, not later than 30 June, 2001.
4. the respondent inform all its employees of this decision, and
5. the respondent publish, as offered, a statement making a clear commitment to equal opportunities policies, specifically referring to all nine grounds under the Employment Equality Act, 1998. This statement is to be published in an advertisement in the Irish Times, of at least the same size and prominence as the advertisement complained of. The advertisement is to be published without delay, and in any event, not later than 28 February, 2001

7.4 There is one other issue which I must address, even though it cannot form part of my order and is, therefore, not legally binding. I have stated in 7.2 above that it is my view that overt and public discrimination must be countered in the strongest possible way. I note that the respondent provided evidence which appeared to show that there was wide-scale contravention of Section 10 of the Act. This evidence was not challenged by the complainant, who simply said that it pursued the matter through discussions with advertising managers and the issuing of guidelines. If the facts are as stated this approach does not provide adequate protection to job applicants who are the victims of discrimination. I do not think that publishers will introduce appropriate equality proofing mechanisms unless they are also subject to proceedings under the Act. I wish to recommend, therefore, that the complainant should, in future cases, consider (a) making use of the power to seek an injunction provided to it under the Act (Section 10(5)) and (b) taking action against both the publisher and the employer, as appropriate.

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Ruairí Gogan  
Equality Officer

29 December 2000