

Competition Law

Master in L&M 2E 2022/2023

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Class Schedule	9:00-13:00

Introduction

This course aims at enabling students to describe and apply the essential concepts of Competition Law as it applies to undertakings.

Goals

At the end of this course, students should be able to achieve the following learning outcomes:

- Explain the legal and economic concepts that underpin competition law as applied by the European Commission and European Courts (Law in Action);
- Identify the differences in the scope and structure of competition rules: (i) rules on agreements, concerted practices and decisions of associations of undertakings, (ii) abuse of dominance, and (iii) merger control.
- Evaluate hypothetical cases as a competition lawyer using competition law methodologies and correctly *apply* the relevant competition rules to those cases from different practical perspectives (undertakings injured by restrictive practices, undertakings facing an investigation; competition authorities; courts).
- Reflect on the role of case law in the development of competition law

For each particular topic within the programme, specific goals will be defined to serve as guidance learning and to define assessment parameters.

Methods

The course aims to lead students to master the legal and economic concepts that underpin competition law in action and

to develop the ability to apply competition rules to real cases. Such competences shall be developed through active class

participation in the discussion of selected essential court decisions that contribute to build a specialized knowledge of competition law.

Learning activities and assessment activities will develop the ability of students to *explain* the legal and economic concepts that underpin competition law as applied by the European Commission and European

Courts (Law in Action) by engaging students in constructing a glossary of concepts, with specific concepts to be covered in each unit.

Each unit will focus on the scope and structure of competition rules: (i) rules on agreements, concerted practices and decisions of associations of undertakings, (ii) abuse of dominance, and (iii) merger control, enabling students to *identify* such elements in each specific setting. Learning and assessment activities will also require students to *evaluate* hypothetical cases as a competition lawyer using competition law methodologies and correctly *apply* the relevant competition rules to those cases from the different practical perspectives (undertakings injured by restrictive practices, undertakings facing an investigation; competition authorities; courts). The construction of a database of case-law and the collaborative development of a Mind Map enables students to *reflect* on the role of case-law in the development of competition law.

Course Contents

Unit 1. Foundations of Competition Law

- 1.1. The goals of Competition Law
- 1.2. Economic analysis of competition
- 1.3. Scope of Competition Law: Undertakings and the single economic unit theory
- 1.4. Enforcement of EU Competition Law: Institutional actors and procedures

Unit 2. Agreements, concerted practices and decisions of associations of undertakings

- 2.1. Article 101 TFEU: Structure and key concepts
- 2.2. Vertical restraints
- 2.3. Horizontal restraints: Cartels
- 2.4. Horizontal restraints: Joint Ventures and other forms of cooperation

Unit 3 – Abuse of dominance

- 3.1. Assessing dominance
- 3.2. Exclusionary abuses
- 3.3. Exploitative abuses
- 3.4. Objective justification and efficiency defense

Unit 4 – Merger Control

- 4.1. EU merger control: Economic concentration and procedure
- 4.2. Horizontal concentrations
- 4.3. Non-horizontal concentrations
- 4.4. Merger remedies

Assessment

Teaching of this curricular unit has both a theoretical and practical nature. Classes will use the flipped classroom design, so students will be required to watch introductory videos and/or other materials to prepare before class (approximately two-hours work for each class hour). Learning and formative assessment tasks will be attributed to follow-up and consolidate class learning.

Students will be evaluated based on:

- a) A written exam – 24 hours take-home exam (50%)

b) Their participation in class and written assignments (50%)

References

- BISHOP, Simon ; WALKER, Michael – *The Economics of EC Competition Law*, 3rd ed., London : Sweet & Maxwell, 2010;
- COLOMO, Pablo Ibáñez, *The Shaping of EU Competition Law*, Cambridge : Cambridge Univ. Press, 2018;
- EZRACHI, Ariel, *EU Competition Law – An Analytical Guide to the Leading Cases*, 6th ed., Oxford : Hart Publ., 2018;
- FAULL, Jonathan; NIKPAY Ali (orgs.) – *The EU Law of Competition*, 3rd ed., Oxford: Oxford Univ. Press, 2014.
- JONES, Alison ; SUFFRIN, Brenda; DUNNE, Niamh, *EU Competition Law – Text, Cases, and Materials*, 7th ed., Oxford : Oxford Univ. Press, 2019;
- MESTMÄCKER, Ernst-Joachim; SCHWEITZER, Heike – *Europäisches Wettbewerbsrecht*, 3rd ed., Munique: Verlag C.H. Beck, 2014;
- MOURA E SILVA, Miguel, *Direito da concorrência. Uma introdução jurisprudencial*, 2nd ed., Lisboa: AAFDL 2018;
- WHISH, Richard; BAILEY, David – *Competition Law*, 10th ed., Oxford: Oxford Univ. Press, 2021.