

LAW FACULTY

SUBJECT DETAILS

Data on the subject	
Name	Competition Law
Degree	Grado en Derecho y Diploma in Business Law (E-1 BL)
Year	Third year, second term
Nature	One term
ECTS Credits	4.5 ECTS
Department	Economic and Social Law
Area	Commercial Law
Teaching staff	Marcos Araujo Boyd

Data on the teaching staff	
Teaching staff	Marcos Araujo Boyd
Group	3º E-1 BL
e-mail	marcos.araujo@garrigues.com
Office	Teacher´s room (5 th floor)

Contribution of the degree to the professional profile

This subject allows students to identify risks and opportunities derived from the regulatory framework that sets the rules for market competition. The study of Competition law complements the knowledge of other areas of Economic law and is particularly relevant in terms of corporate compliance and corporate strategy. Therefore, this subject helps develop professional skills relevant to business counsel (both external and in-house).

COMPETENCES TO BE IMPROVED

Generic Competences
Instrumental
Second language acquisition

Specific competences of the subject
Conceptual (knowing)
<p><u>Knowledge of basic legal concepts and the business institutions from a practical point of view:</u> Understanding the implications of Competition law for business and market players</p>
Procedural (doing)
<p><u>Capacity to explain legal concepts to different categories of stakeholders (business executives, enforcement agencies, Courts):</u> Development of a critical view on Competition law issues and rules</p>
Professional (knowing how)
<p><u>Competence to write legal documents:</u> Establishing a business compliance strategy in accordance with identified regulatory risks</p>

THEMATIC AREA AND CONTENT

Theme 1: Introduction to Competition Law
<p>1.1 Origin of competition law. The Sherman Act. EU competition law. Direct applicability. Specific features of competition law. The “modernization” of competition law. 1.2 Structure of competition law. EU and national competition laws. Degree of harmonization.</p>
Theme 2: Elements of Article 101 TFEU
<p>The concepts of “undertaking”, “agreement”, “restriction of competition” and “effect on trade between Member States”. Doctrine of “economic unity”. Practical consequences. Unilateral actions. The Adalat problem. Restrictive actions between competing and non competing entities. Restrictions by object and by effect.</p>
Theme 3: Horizontal Agreements
<p>3.1 Horizontal competitors. Price fixing. Market sharing. Exchange of information. Joint production. R&D agreements. The Horizontal Guidelines. 3.2 The concept of “cartel”. Facilitators. Leniency schemes.</p>
Theme 4: Vertical Agreements
<p>4.1 Vertical agreements in general. Regulation 330 and Vertical Guidelines. Agency agreements. RPM and maximum prices. 4.2 Exclusive and selective distribution. Franchising agreements.</p>
Theme 5: The “de minimis” exception
<p>Concept of minor importance. Minor effect on competition and minor effect on trade. Application to restrictions by object. The De Minimis communication.</p>
Theme 6: Ancillary restrictions

Restrictive clauses in non-objectionable agreements. Concept and limits. Application to concentration agreements. The Notice on ancillary restrictions.
Theme 7: Individual and Block Exemptions
7.1 Individual exemptions. The Four Conditions. Exemption decisions before 2004. Self-assessment. The 2004 Notice on Article 81.3 ECT. 7.2 Block exemptions. Origin. Distribution, specialisation, technology, license, insurance, automotive and their block exemptions
Theme 8: Abuse of a dominant position
8.1 Notion of dominance. Definition of the relevant market. Product and territorial market. Separate markets for OEM and distribution. The issue of spare parts. 8.2 Notion of abuse. Individual and joint dominance.
Theme 9: Enforcement procedures
9.1 The enforcement procedures in the EU. Regulation 1/2003. Main elements 9.2 Investigative powers of competition agencies. Dawn raids. 9.3 National enforcement procedures. Infringement, monitoring and other procedures.
Theme 10: Merger control
10.1 Notion of merger. Community dimension. Referrals. 10.2 Spanish and EU merger control procedures. Notification. Investigation. State of play meetings. Negotiation of remedies.
Theme 11: Institutional Framework
11.1 EU competition authorities. DGCOMP. The Commissioner. ICN and ECN. Judicial review. 11.2 The CNMC. Distinction with predecessors. Structure and powers.
Theme 12: Private enforcement of competition rules
Direct applicability of competition rules. Damages. Directive 2014/104 on the facilitation of claims.
Theme 13: The control of state aids
13.1 Concept of state aids. Main elements. State resources and the Preussen dilemma. Advantage. Selectivity. Effect on member states. The private investor principle. 13.2 Procedure. Notification of state aids. Illegality. Regulation 659/1999. Judicial review. The problem of aid schemes.
Theme 14: Public Undertakings
14.1 Concept of public undertakings and special or exclusive rights. Main cases. 14.2 The financing of services of a general economic interest.

BIBLIOGRAPHY AND RESOURCES

Basic Bibliography
Text book
Whish, R, <i>Competition Law</i> , 8th edn (Oxford University Press, 2015).

Complementary bibliography
Text book
<p>Bishop, S and Walker, M, <i>Economics of EC Competition Law: Concepts, Application and Measurement</i>, 2nd edn (London, Sweet & Maxwell, 2002 <u>or newer</u>).</p> <p>Ezrachi, A, <i>EC Competition Law. Analytical Guide to the Leading Cases</i>, 2nd edn (Oxford, Hart Publishing, 2011).</p> <p>Jones, A and Sufrin, B, <i>EC Competition Law: Text, Cases, and Materials</i>, 3rd edn (Oxford, Oxford University Press, 2008 <u>or newer</u>).</p> <p>Korah, V, <i>An Introductory Guide to EC Competition Law and Practice</i>, 9th edn (Oxford, Hart Publishing, 2007 <u>or newer</u>).</p> <p>Monti, G, <i>EC competition Law</i> (Cambridge, Cambridge University Press, 2007 <u>or newer</u>).</p> <p>Noonan, C, <i>The Emerging Principles of International Competition Law</i> (Oxford, Oxford University Press, 2008).</p> <p>Roth, P and Rose, V (eds), <i>Bellamy & Child European Community Law of Competition</i>, 6th edn (Oxford, Oxford University Press, 2008 <u>or newer</u>).</p> <p>Slot, PJ and Johnston, A, <i>An Introduction to Competition Law</i> (Oxford, Hart, 2006 <u>or newer</u>).</p> <p>Van Bael and Bellis, <i>Competition Law of the European Community</i>, 4th edn (The Hague, Kluwer Law International, 2005 <u>or newer</u>).</p> <p>Ortiz Blanco, L, Maíllo González-Orús, J, Ibáñez Colomo, P, Lamadrid de Pablo, A, <i>Manual de Derecho de la Competencia</i> (Tecnos, 2008).</p>
Websites
<p>Court of Justice of the EU http://curia.europa.eu/</p> <p>Comisión Nacional de los Mercados y de la Competencia: http://www.cnmc.es/</p> <p>European Commission, DG COMP: http://ec.europa.eu/competition/index_en.html</p> <p>European Competition Network: http://ec.europa.eu/competition/ecn/index_en.html</p> <p>International Competition Network: http://www.internationalcompetitionnetwork.org/</p> <p>Bundeskartellamt http://www.bundeskartellamt.de/</p> <p>UK Competition & Markets Authority: https://www.gov.uk/government/organisations/competition-and-markets-authority</p> <p>US Federal Trade Commission: http://www.ftc.gov/</p>
Notes
Distributed by professor in advance of each session, if necessary.
Other material
Indicated by professor, upon request.

TEACHING METHODOLOGY

General methodological aspects of the subject
Contact hours methodology: Activities
Classes will include a mix of lectures.

Practical classes (case-method).
 Debates and presentations by peer students.
 Students are expected to attend the sessions duly prepared.

Independent study methodology: Activities

All students are expected to (i) continuously review matters discussed in earlier classes throughout the course; (ii) make at least one individual presentation to be discussed in class; (iii) draft jointly with others a group presentation; and (iv) participate in random tests.

SUMMARY OF STUDENT WORK HOURS

Activity	Number of contact hours	Number of independent study hours	Total number of hours
Lecture	38	38	76
Practical class	7	9	16
Evaluation: exam	(3)	20.5	20.5+(3)
Evaluation: exam review	(0,5)		(0,5)
ECTS Credits: 4.5	45+(3,5)	67.5	112.5 +(3,5)

GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual presentations	Understanding the implications of competition law for business and market players	Satisfactory resolution of practical cases to be discussed and presented orally	10%
Group presentations	Developing a critical view on competition law issues and rules within a team	Satisfactory resolution of practical cases	15%
Random exams	Acquisition of knowledge over the term	Satisfactory responses	15%
Final exam	Mastering competition law concepts and rules	Both theoretical and practical understanding.	60%
Total			100%

Grades

The final exam will be written and shall comprise both theoretical and practical tasks. The written exam will address generic and specific competences as described above.

The grade of the written exam weighs [$>60\% < 70\%$] and the grade for practical exercises, papers, debates and presentations in class [$< 40\%$] of the final grade in the course (of which [30]% individual presentations, [20]% group presentations, and [x]% random exams). Grades for practical exercises, debates and presentations will only be considered if the written exam is passed with a mark equal or higher than 5.0. The grade of the written exam passed from the third extraordinary exam period onwards (included) weighs 100% of the grade in the course. Out-going students will be marked according to the grade obtained in the written exam in all exam periods.