

LAW FACULTY

I. SUBJECT DETAILS

Data on the subject	
Name	Competition Law
Degree	Grado en Derecho y Diploma en International Legal Studies (E-1 I)
Year	Third year, second term
Nature	One term
ECTS Credits	4.5 ECTS
Department	Economic and Social Law
Area	Commercial Law
Teaching staff	

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 critically examine the regulatory framework on 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, helping the development of professional skills relevant to business counsel (both external and in-house).

Since Competition Law is essentially case-law driven, this subject invites students to engage in a critical discussion of decisions under a case method. The importance of jurisprudence, in turn, requires developing different to usual research tools. The fact that the subject is taught in English encourages international and comparative law approach to cases.

II. COMPETENCES TO BE IMPROVED

Generic Competences
Instrumental
Second language acquisition (CGI 07)
Specific competences of the subject
Conceptual (knowing)
<u>Knowledge of basic legal concepts and the business institutions from a practical point of view (CEA 04):</u> Development of practical knowledge of case law methods and analysis of jurisprudence Understanding the implications of Competition law for business and market players
Procedural (doing)
<u>Searching and identifying relevant materials:</u> Developing the capacity to locate, examine and critically consider Competition law materials
Professional (knowing how)
<u>Competence to write legal documents (CEP 06):</u> Preparation of analysis and reports.

III. THEMATIC AREA AND CONTENT

Theme 1: Introduction to Competition Law
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.
Theme 2: Elements of Article 101 TFEU
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.
Theme 3: Horizontal Agreements
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.
Theme 4: Vertical Agreements
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.

Theme 5: The “de minimis” exception
Concept of minor importance. Minor effect on competition and minor effect on trade. Application to restrictions by object. The De Minimis communication.
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.

IV. BIBLIOGRAPHY AND RESOURCES

Basic Bibliography
Text book
Whish, R, <i>Competition Law</i> , 7th edn (Oxford, Oxford University Press, 2012).
Complementary bibliography
Text book
Bishop, S and Walker, M, <i>Economics of EC Competition Law: Concepts, Application and Measurement</i> , 2nd edn (London, Sweet & Maxwell, 2002 <i>or newer</i>).
Ezrachi, A, <i>EC Competition Law. Analytical Guide to the Leading Cases</i> , 2nd edn (Oxford, Hart Publishing, 2011).
Jones, A and Sufrin, B, <i>EC Competition Law: Text, Cases, and Materials</i> , 3rd edn (Oxford, Oxford University Press, 2008 <i>or newer</i>).
Korah, V, <i>An Introductory Guide to EC Competition Law and Practice</i> , 9th edn (Oxford, Hart Publishing, 2007 <i>or newer</i>)
Monti, G, <i>EC competition Law</i> (Cambridge, Cambridge University Press, 2007 <i>or newer</i>).
Noonan, C, <i>The Emerging Principles of International Competition Law</i> (Oxford, Oxford University Press, 2008).
Roth, P and Rose, V (eds), <i>Bellamy & Child European Community Law of Competition</i> , 6th edn (Oxford, Oxford University Press, 2008 <i>or newer</i>).
Slot, PJ and Johnston, A, <i>An Introduction to Competition Law</i> (Oxford, Hart, 2006 <i>or newer</i>).
Van Bael and Bellis, <i>Competition Law of the European Community</i> , 4th edn (The Hague, Kluwer Law International, 2005 <i>or newer</i>).
Websites
Court of Justice of the EU http://curia.europa.eu/
Bundeskartellamt http://www.bundeskartellamt.de/
Comisión Nacional de los Mercados y de la Competencia: http://www.cnmc.es/
European Commission, DG COMP: http://ec.europa.eu/competition/index_en.html
European Competition Network: http://ec.europa.eu/competition/ecn/index_en.html
International Competition Network: http://www.internationalcompetitionnetwork.org/
UK Office of Fair Trading: http://www.oft.gov.uk/
US Federal Trade Commission: http://www.ftc.gov/
Notes
Distributed by professor in advance of each session, if necessary.
Other material
Indicated by professor, upon request.

V. TEACHING METHODOLOGY

General methodological aspects of the subject
Contact hours methodology: Activities
<p>Classes will include a mix of lectures and practical classes (case discussion). Students are expected to attend the sessions duly prepared. Lists of questions which may later be used in exams will be circulated after each session.</p>
Independent study methodology: Activities
<p>Given the discussion orientation, attendance to classes is strongly recommended. The main group activity will consist in the preparation of five page résumés and responses to the questions to be circulated after each session, to be delivered 10 days after each class. These documents, once corrected, will be used in the preparation of exams. Students will also be monitored through individual work, usually to be delivered in the following week.</p>

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)

VI. GRADE EVALUATION AND CRITERIA

Evaluation Activities	Generic Competences	Indicators	Evaluation Weighting
Individual work	<p>Research capabilities</p> <p>Understanding how principles and standards decided upon by case law lead to specific answers.</p> <p>Drafting legal memoranda</p>	<p>Use of appropriate documentation</p> <p>Satisfactory resolution of practical cases</p> <p>Provision of oral clarifications when required</p> <p>Capacity to integrate specific knowledge with bigger picture</p>	20%
Work in collaboration	<p>In addition to those above on individual work:</p> <p>Efficient sharing of responsibilities within a team</p> <p>Developing a critical view on Competition law issues</p>	<p>In addition to those of individual work:</p> <p>Thorough research as one would expect from a team</p> <p>Reflecting on different options and answers on any given case.</p>	10%
Evaluation: exam	<p>Understanding legal concepts</p> <p>Capacity to explain complex issues in clear terms</p> <p>Capacity to argue a case</p>	<p>Understanding what is being asked</p> <p>Concision and clarity</p> <p>Appropriate drafting and grammar</p> <p>Capacity of resolving novel issues</p>	70%
Evaluation [extraordinary third or more instance] : exam	Same as above	Same as above	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. Its questions will be based on the lists circulated after each session, which students will have addressed in collaboration in joint résumés.

The grade of the written exam weighs 70% and the grade for practical exercises, papers, debates and presentations in class 30% of the final grade in the course. 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 after the third extraordinary exam periods weighs 100% of the grade in the course.

A half-term exam shall also be made with the primary goal of facilitating the understanding of the requisite level. The markings will be treated as individual work.