

## FICHA TÉCNICA DE LA ASIGNATURA

<b>Datos de la asignatura</b>	
<b>Nombre Completo</b>	Competition Law
<b>Código</b>	E000005035
<b>Impartido en</b>	Grado en Derecho y Diploma in Business Law E-1 (Francés) [Tercer Curso] Grado en Derecho y Diploma in Business Law (E-1) [Tercer Curso]
<b>Nivel</b>	Reglada Grado Europeo
<b>Créditos</b>	4,5
<b>Carácter</b>	Optativa (Grado)
<b>Departamento / Área</b>	Departamento de Derecho Económico y Social

<b>Datos del profesorado</b>	
<b>Profesor</b>	
<b>Nombre</b>	Marcos Araujo Boyd
<b>Departamento / Área</b>	Departamento de Derecho Económico y Social
<b>Despacho</b>	Teacher's room (Law School)
<b>Correo electrónico</b>	maraujo@icade.comillas.edu

## DATOS ESPECÍFICOS DE LA ASIGNATURA

<b>Contextualización de la asignatura</b>
<b>Aportación al perfil profesional de la titulación</b>
<p>This subject allows students to critically examine the regulatory framework concerning 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 with the development of professional skills relevant to counselling businesses (both external and in-house).</p> <p>Since Competition Law is essentially case-law driven, this subject invites students to engage in a critical discussion of decisions under a case law method. The importance of jurisprudence, in turn, requires developing different than usual research skills and tools. The fact that the subject is taught in English encourages international and comparative law approach to case analysis.</p>

<b>Competencias - Objetivos</b>
<b>Competencias</b>
<b>Generic Competences</b>

- Instrumental

Second language acquisition (CGI 07)

#### **Specific competences of the subject**

- Conceptual (knowing)

Knowledge of basic legal concepts and the business institutions from a practical point of view (CEA 04):

- 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)

Searching and identifying relevant materials:

- Developing the capacity to locate, examine and critically consider Competition law materials

- Professional (knowing how)

Competence to write legal documents (CEP 06):

- Preparation of analysis and reports.

## **BLOQUES TEMÁTICOS Y CONTENIDOS**

### **Contenidos – Bloques Temáticos**

#### **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.

## METODOLOGÍA DOCENTE

### Aspectos metodológicos generales de la asignatura

#### Metodología Presencial: Actividades

- 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.

#### Metodología No presencial: Actividades

- Given the discussion orientation, class attendance is strongly recommended.
- The main group activity will consist of the preparation of five page summaries and responses to the questions circulated after each session, to be delivered 10 days after each class. These documents, once corrected, will be used to prepare for exams.
- Students will also be graded on individual work, which will usually be submitted in the following week after it is assigned.

## RESUMEN HORAS DE TRABAJO DEL ALUMNO

Number of contact hours:

- Lecture: 38
- Practical class: 7
- Exam: 3
- Exam review: 0.5

Number of independent study hours:

- Study of the materials: 38
- Preparation of practical class: 9

- Study for the exam: 20.5

Total: 116

## **EVALUACIÓN Y CRITERIOS DE CALIFICACIÓN**

### **EXAM:**

- Indicators:
  - Understanding what is being asked
  - Concision and clarity
  - Appropriate drafting and grammar
  - Capacity of resolving novel issues
- Evaluation Weighting: 70%

### **INDIVIDUAL WORK:**

- Indicators:
  - Use of appropriate documentation
  - Satisfactory resolution of practical cases
  - Provision of oral clarifications when required
  - Capacity to integrate specific knowledge within the bigger picture
- Evaluation Weighting: 20%

### **WORK IN COLLABORATION:**

- Indicators:
  - In addition to those of individual work
  - Thorough research as one would expect from a team
  - Reflecting on different options and answers on any given case.
- Evaluation Weighting: 10%

## **Calificaciones**

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 dealt with in collaboration in group summaries.

The grade of the written exam counts for 70% and the grade for practical exercises, papers, debates and

presentations in class is 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 period counts for 100% of the grade in the course.

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

## **BIBLIOGRAFÍA Y RECURSOS**

### **Bibliografía Básica**

Whish, R, *Competition Law*, 7th edn (Oxford, Oxford University Press, 2012).

### **Bibliografía Complementaria**

- Text book:

Bishop, S and Walker, M, *Economics of EC Competition Law: Concepts, Application and Measurement*, 2nd edn (London, Sweet & Maxwell, 2002 or newer).

Ezrachi, A, *EC Competition Law. Analytical Guide to the Leading Cases*, 2nd edn (Oxford, Hart Publishing, 2011).

Jones, A and Sufrin, B, *EC Competition Law: Text, Cases, and Materials*, 3rd edn (Oxford, Oxford University Press, 2008 or newer).

Korah, V, *An Introductory Guide to EC Competition Law and Practice*, 9th edn (Oxford, Hart Publishing, 2007 or newer).

Monti, G, *EC competition Law* (Cambridge, Cambridge University Press, 2007 or newer).

Noonan, C, *The Emerging Principles of International Competition Law* (Oxford, Oxford University Press, 2008).

Roth, P and Rose, V (eds), *Bellamy & Child European Community Law of Competition*, 6th edn (Oxford, Oxford University Press, 2008 or newer).

Slot, PJ and Johnston, A, *An Introduction to Competition Law* (Oxford, Hart, 2006 or newer).

Van Bael and Bellis, *Competition Law of the European Community*, 4th edn (The Hague, Kluwer Law International, 2005 or newer).

- 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.cnmec.es/>

European Commission, DG COMP: [http://ec.europa.eu/competition/index\\_en.html](http://ec.europa.eu/competition/index_en.html)

European Competition Network: [http://ec.europa.eu/competition/ecn/index\\_en.html](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/>