

SUBJECT: COMPETITION LAW

TAUGHT IN: Level 3	CREDITS: 10	MODULE NO. LEG 398	MODULE ORGANISER Vaclav Smejkal
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RECOMMENDED PRIOR KNOWLEDGE: LEG 101 Introduction to Law

TEACHING AND LEARNING STRATEGIES

The course will be taught over the period of 15 weeks semester for three hours a week. Of these 15 weeks, 13 are teaching, one is mid-term break, and the final week is reserved for the final exam.

The course will be taught by lectures, case analysis and discussions. Students will read selected articles and court judgements, do their own research in the library and Internet systems, will be asked to brief cases in preparation for class to emphasize discussion.

MODULE AIMS

- to familiarize the students with:
 - the rationale behind competition regulation in a free market economy
 - the basic rules, concepts and principles of competition law in the EU and the USA
 - the main competition statutes and cases
 - the enforcement procedure, powers and co-operation of anti-monopoly offices
- to discuss the development of the competition law in recent years (modernisation of the EU competition law, competition issues in new EU-member states, in formerly state controlled sectors, convergence of the EU and US competition law)
- to examine current examples of anti-competitive agreements, abuse of market dominance, mergers and acquisitions
- to develop students capacity of location and application of relevant statutory and case-law to current anti-competitive behaviour of undertakings

INDICATIVE CONTENT

The course will cover main doctrines, statutes and cases of the EU and US competition law, plus basics of UK and Czech competition law and policy as examples of national application of competition rules within the EU member states. Although the main accent will be put on the EU competition statutes and cases an EU/US comparative perspective will be emphasised and examples drawn also from different national jurisdiction (mainly UK and CZ).

1) INTRODUCTION

Origins, developments and principles of protection of economic competition in Europe and the USA

Types of anti-competitive behavior and their prohibition

Sources of the present competition law, characteristics of the most relevant ones

Sources of information on competition law

2) BASIC CONCEPTS I.

Distortion of competition
Effect on trade between EU-Member states
Concept of competitor-undertaking

3) BASIC CONCEPTS II.

Concept of market power
Concept of relevant market
Concept of public interest and public monopoly (Art 86 of TEC)

4) CARTELS (Introduction)

Article 81 of the EC Treaty, Section 1 of the Sherman Act
Meaning and examples of agreements, decisions and concerted practices
Horizontal, vertical and hard-core cartels
Relevant case law

5) CARTELS (Horizontal)

Specific types of potential horizontal cartel behavior

- supply alliances
- strategic alliances and joint ventures
- specialization between competitors
- transfer of technologies between competitors

Statutory exemptions (Art. 81/3 TEC, EC regulations and notices)
Relevant case law

6) CARTELS (Vertical)

Specific types of potential vertical cartel behavior

- distribution agreements and systems
- commercial agents and exclusive commercial representatives

Statutory exemptions (Art. 81/3 TEC, EC regulations and notices)
Relevant case law

7) ABUSE OF DOMINANCE I.

Article 82 of the EC Treaty, Section 2 of the Sherman Act, Section 3 of the Clayton Act
Meaning of dominant position and monopolization
Exploitative practices
Relevant case law

8) ABUSE OF DOMINANCE II.

Exclusionary practices
Relevant case law
Rule of reason and revision of Art 82 of TEC application doctrine

9) COMPETITION IN SPECIFIC SECTORS

Agriculture
Professional services
Transportation
Sport

Pharmaceuticals
Car distribution
Relevant Case law

10) CONTROL OF CONCENTRATIONS I.

EC Merger regulation, Section 7 of the Clayton Act
EC Notices on the Concept of Concentration, Full functionality, Turnover calculation and Undertakings concerned
Relevant Case law

11) CONTROL OF CONCENTRATIONS II.

EC Notices on Horizontal mergers, Remedies and Ancillary Restraints
Notification procedure
Best practice guidelines for undertakings

12) ENFORCEMENT PROCEDURE

Role and powers of competition authorities
Infringement proceedings
Penalties and fines
Third party interests
Judicial reviews
Competition and consumers

13) ENFORCEMENT - COMPETITORS' PERSPECTIVE & CONCLUSIONS

Compliance program
Commitments
Leniency
Conclusions of the module

LEARNING OUTCOMES

On successful completion of the module, students will be expected to:

- demonstrate an understanding of the economic and political pressures and theories which have shaped the development of the competition law in Europe and the USA
- analyse and evaluate the legal rules, concepts and principles governing protection of undisturbed competition
- locate, understand and explain the basic requirements on undertakings in respect of competition law rules and principles;
- locate and apply relevant statutory and case-law materials to legal problems involving competition issues;
- be able to present reasoned conclusions with a correct use of legal terminology.

METHODS OF ASSESSMENT

Final written exam will count for 70% of the final grade.

Remaining 30% of the final grade will be determined by term paper assignment (independent research).

TEXTBOOK

General Competition Law

Elhauge, E., Geradin, D., *Global Competition Law and Economics*, Hart Publishing Oxford 2007
Reader produced by AAVŠ

EU Competition Law

Weaterhill, S., *Cases & Materials on EU Law*, Oxford University Press 2006, p. **501-614**

Craig, P., De Brúca G., *EU Law - Texts, Cases and Materials*, Oxford University Press 2003 p. **936-1137**

Steiner, J., Woods, L., *Textbook on EC Law*, Oxford University Press 2003, p. **395-492**

Reader produced for this module by the AAC

US Antitrust Law

McCarty, F.W., Bagby, J.W., *The Legal Environment of Business*, Boston, Irwin 1990, p. **497-578**

McAdams, T., *Law, Business and Society*, Boston, Irwin 1989, p. **411-516**

Spiro, G.W., *The Legal Environment of Business*, Prentice Hall 1989, p. **515-582**

RECOMMENDED READING

Whish R., *Competition Law*, Fifth Edition, Oxford University Press 2005

Jones, A., Sufrin, B., *EC Competition Law*, Second Edition, Oxford University Press 2004

Competition Law review at <http://www.clasf.org/CompLRev/downloads/TitleIndex.htm>

EC Competition Policy Newsletter at <http://ec.europa.eu/comm/competition/publications/cpn/>

Czech Office for Protection of Competition web page: <http://www.compet.cz>