

European Competition Law – Special issues

Titulaire

Martin MARTINEZ NAVARRO (Coordonnateur)

Mnémonique du cours

DROI-0604

Crédits ECTS

5 crédits

Langue(s) d'enseignement

Anglais

Période du cours

1e et 2e quadrimestre

Campus

Solbosch

Contenu du cours

LAW AND ECONOMICS OF COMPETITION WITH A FOCUS ON DIGITAL AND TECH MARKETS

Competition law cannot be properly understood, interpreted and applied independently from its basic economic foundations. In this field, law and economics go hand in hand. Law students, as well as legal practitioners, must understand and be able to use the essential economic concepts underpinning the competition regime.

This course will be given primarily by someone who is a lawyer by training but with a keen interest on the economics of competition. All the sessions will focus on and foster economic discussion, in order to properly tackle the legal issues arising in competition law. Moreover, one or more economists will be invited to intervene during the course.

In general, the course will focus on digital & tech markets, which presents a number of novel issues in a rapidly evolving environment.

Provisional outline:

> Unit I - Market definition and general features of digital & tech markets

Digital markets, platforms & multi-sided markets, zero price products

> Unit III - Horizontal agreements

Economics of a cartel – why collusion occurs

Algorithmic pricing

Non-hardcore horizontal agreements: standardisation, R&D, etc

> Unit III - Vertical agreements in digital & tech markets

Vertical integration vs agency and distribution agreements

Inter-brand vs intra-brand competition

Economic efficiencies vs economic negative effects of vertical restraints

> Unit IV - Market power & dominance in digital & tech markets

Single firm dominance:

Market structure, barriers to entry/expansion, countervailing buyer power

Buyer power: defence or theory of harm (monopsony)?

Collective dominance:

Oligopoly vs cartel

> Unit V – Abuse of dominance: Exploitative abuses with a focus on digital & tech markets

Effects-based (economic) analysis

Commission's Guidance paper on enforcement priorities

New theories of harm in digital markets: self-preferencing, access to data

> Unit VI - The Digital Markets Act

Antitrust enforcement vs regulation

"Gatekeeper" status and obligations

> Unit VII - Merger control in digital & tech markets

Economic theories of harm: horizontal & non-horizontal mergers (vertical and conglomerate mergers)

Unilateral vs coordinated effects

"Killer" acquisitions

"Enforcement gap" cases

Objectifs (et/ou acquis d'apprentissages spécifiques)

The learning outcomes for this course are the following:

- > Understanding the rationale of the competition rules.
- > Applying the competition rules to real life-type of situations.
- > Problem-solving.
- > Understanding the basic economic concepts underpinning the competition rules, with a special focus on digital innovation and associated business models.
- > Independent thinking allowing to critically assess the status quo of the competition rules, the Commission's practice and the EU court's case-law in the light of economic theory.
- > Familiarity with multidisciplinary work (legal, economic and IT).
- > Critical analysis as to how the evolution of the competition rules may impact on future market developments, in particular in the digital & tech sector.
- > Innovative thinking as to how the competition rules could/ should evolve in order to contribute to the achievement of the objectives of the "Green Deal", without undermining the former's core economic goals.
- > Using economic concepts, as well as competition literature, to conduct ex post review of legal outcomes.

- Developing presentational and oral skills, with a focus on explaining economic concepts to a legal audience and critically reviewing legal outcomes in the light of economic theory.

Pré-requis et co-requis

Connaissances et compétences pré-requises

No previous knowledge is necessary. The only requirement is having an interest in digital markets, competition law and economic analysis.

Méthodes d'enseignement et activités d'apprentissages

Students will receive a hand-out in advance, outlining the main topics to be discussed, raising a number of specific questions for consideration and providing a list of reading materials. The classes will be fully interactive and based on in-class debate (no "cours magistral"). At the end of each teaching unit, students will be asked to apply the competition rules to a number of "case-studies" which will illustrate concretely the issues discussed. Students will receive the case-study in advance so that they can prepare ahead and an open discussion will take place in class among students and the professor.

A number of guest speakers will also be invited to intervene during the course on selected topics (e.g., members of DG Comp or the Commission's Legal Service, lawyers in private practice, economists, etc).

Références, bibliographie et lectures recommandées

A hand-out will be distributed in advance for each session.

Selected bibliography:

- S. Bishop & M. Walker, *The Economics of EC Competition Law: Concepts, Application and Measurement*, Sweet & Maxwell, 2010, 966 p.
- J. Crémer, Y-A. de Montjoye, H. Schweitzer, *Competition Policy for the Digital Era*, available at <https://ec.europa.eu/competition/publications/reports/kd0419345enn.pdf>
- J. Faull & A. Nikpay, *The EU Law of Competition*, Oxford University Press, 2014, 2134 p.
- L. Filistrucchi, D. Geradin, E. van Damme & P. Affeldt, *Market definition in two-sided markets: Theory and practice*, *Journal*

of Competition Law & Economics, 2014, volume 10(2), p. 293-339

- G. Niels, H. Jenkins & J. Kavanagh, *Economics for Competition Lawyers*, Oxford University Press, 2011, 609 p.

Support(s) de cours

Université virtuelle

Autres renseignements

Lieu(x) d'enseignement

Solbosch

Contact(s)

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Méthode(s) d'évaluation

Examen écrit

Méthode(s) d'évaluation (complément)

The students' assessment will be based on an "open book" exam, during which students will be asked to solve a case-study, similar to the ones discussed and analysed in class.

Construction de la note (en ce compris, la pondération des notes partielles)

Grade: the final mark will result from the open book exam (80 %), and will take into account participation in class (20 %).

Langue(s) d'évaluation principale(s)

Anglais

Autre(s) langue(s) d'évaluation éventuelle(s)

Français

Programmes

Programmes proposant ce cours à la faculté de Droit et de Criminologie

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