

COURSE SYLLABUS
European and Comparative Competition Law
The Law of Market Structure
Prof. Dr. Bernd Oppermann

1. Course Description

Basic understanding of the law of market structure and of unfair competition law; introduction into European and national competition procedure including the leniency programs. Comparative aspects of Competition Law.

2. Daily course outline

Class 1 Monday, March 20, 2023

Topic A: personal introduction, general introduction (intro on the course structure, the use of course materials, course content).

Topic B: European competition law as a part of European law; European and national competition law – centralization and de-centralisation. International competition law. TEU and TFEU, competence, conferral, subsidiarity, proportionality, and other principles of European law and its relationship to national law of EU member states; the basic liberties of the EU market, competition and economic policy.

Topic C: The sources of EU competition law, foreign influence and comparative competition law.

Topic D: Economic and legal concepts of competition; market structure; competition theory; the challenges of new products or services on zero-price-markets. Relationship to the law of consumer protection, SME policy, and state aid.

Topic E: Recent focus on platform economy, intermediaries and autonomous systems.

Assigned reading: course script, introductory part, essay on the political content of competition law

Class 2 Tuesday, March 21, 2023

Topic A: Competition law and cartel law: horizontal trade restraints, concerted practices. The structure of a European statute (Art. 101 TFEU) under the Lisbon Treaty. Leading cases. New challenges by joint ventures and ppp.

Topic B: Legal consequences of Art. 101 in administrative cartel law, criminal law, and private law (some basics in competition procedure).

Topic C: European cartel law: vertical trade restraints, distribution systems, licensing.

Topic D: Platform economy, intermediaries and autonomous systems under Art. 101?

Topic E: Exemptions and block exemptions of Art. 101 (1) in European and national cartel law.

Assigned reading: course script, provisions of the Lisbon Treaty (TEU, TFEU), provisions of Reg. 1/2003, more cases on cartels, cases on vertical trade restraints

Class 3 Wednesday, March 22, 2023

Topic A: The structure of general and specific exemptions of European cartel law.

Topic B: Examples on supply and distribution systems, licensing, franchising. Commission Regulation No. 330/2010. Car distribution and Reg. 461/2010.

Topic C: challenges of technical developments on internet markets and automated driving assistance.

Topic D: EU competition law and EU market law; basic liberties of the European market; the European jurisdiction on the prohibition of measures having equivalent effect (Cassis / Keck); case studies. Again: the manifold role of state power; state aid, state enterprises, ppp.

Assigned reading: course script, Reg. 330/2010, more cases on vertical trade restraints, cases on the Cassis jurisdiction

Class 4 Thursday, March 23, 2023

Topic A: Antitrust law; merger and acquisition control in European competition law. History, systematics, principles. The SIEC test. Relationship to national law of concentration. Again joint ventures. Other details. Music marketing and navigation systems for examples.

Topic B: Introduction on Art. 102 and the concepts of market dominance. General clause and qualification.

Topic C: Leading cases on abuse market dominance. Finding a path through the case law.

Topic D: More details on market dominance case law; basic concepts; predatory pricing, rebates, market squeeze, the rise and fall of the “doctrine of essential facilities”, and other examples of case law under Art. 102.

Assigned reading: course script, Reg. 139/2004, cases on concentration control; provisions of the Lisbon Treaty (TEU, TFEU) concerning the abuse of market dominance, the first three cases on abuse.

Class 5 Friday, March 24, 2023

Topic A: Conceptual differences between Art. 102 and national law of EU member states. Market behaviour under cartel law and unfair competition law.

Topic B: Platform economy, intermediaries and autonomous systems. Specific regard on abuse of dominant market power in respect of digital markets: recent European and national cases concerning Microsoft, Google, abuse of Android system, and Facebook.

Topic C: Technical developments in robotics, industry 4.0, and automated driving assistance: possible problems concerning the market structure.

Topic D: Fundamental procedural rights and substantial competition law.

Topic E: Outlook on competition procedure in Europe

Topic F: Leniency programs in Europe and worldwide

Assigned reading: course script, the cases on abuse of market dominance (Art. 102 TFEU); script provisions on cartel procedure.

Final written examination as assigned by the Faculty of Law