

Lesson 1

- Introduction to competition law
 - Article 101 TFEU
 - Notion of undertaking
 - Notion of agreement and concerted practice
 - Horizontal agreements (cartels, exchange of information, R&D and other forms of cooperation)
 - Vertical agreements
 - Article 101.3: the legal exception
 - Article 102 TFEU
 - Notion of dominant position
 - Types of abuse
 - Exclusionary
 - Exploitative
 - Merger regulation
 - Notification (ex-ante control)
 - Substantive test
 - Dominance test
 - Substantial impediment of effective competition (or substantial lessening of competition)
- Effect-based approach to competition law
 - The objective(s) of competition rules
 - Consumer welfare
 - Allocative efficiency
 - Productive efficiency
 - Dynamic efficiency
 - Distributive goals

Reading:

- Treaty on the Function of the European Union – Articles 101 and 102
- Council Regulation (EC) No 139/2004 of 20 January 2004
- Motta M. 2004, *Competition Policy. Theory and Practice*, Cambridge, Cambridge University Press, (henceforth "Motta") pp. 30-38

Lesson 2

- The notion of market power
- Relationship between market power and efficiency
 - MP and allocative efficiency
 - MP and productive efficiency
 - MP and dynamic efficiency
- Determinants of market power
 - Number of rivals and concentration

- Cournot model
 - Measures of concentration
 - The HHI (thresholds)
 - Other determinants of market power
 - Product differentiation
 - Capacity constraints
 - Switching costs
 - Search costs
 - Degree of rivalry
- Implications for competition law enforcement
 - The “traditional” approach based on market definition
 - Notion of relevant market
 - The SSNIP test (or hypothetical monopolist test)
 - The “modern” approach: theories of harm
 - Counterfactual (a “legal” requirement)
 - Firms’ ability
 - Firms’ incentives
 - Theories of harm (introduction)
 - Collusion
 - Softening competition
 - Foreclosure
 - Efficiency justifications
 - Proving a theory of harm (or an efficiency justification)
 - Standard of proof
 - Factual statements
 - Logical propositions (the role of economic theory)

Reading:

- Notes on Market Power (memo)
- Notes on Cournot (memo)
- Motta pp 39-48; 50-52; 55-57; 101-105;115-123

Lesson 3

- Case discussion
 - Vertical agreements and on-line distribution
 - Pierre Fabre
 - Coty
- The economic theory of collusion
 - Prisoners’ dilemma
 - Repeated games
 - The folk theorem
 - Factors that facilitate collusion
 - Number of rivals
 - Concentration
 - Frequency of interaction

- Transparency
- Product homogeneity
- Firms' symmetry (market shares, costs)
- Multi-market contact

Reading:

- Judgment of European Court of Justice of 13 October 2011, in case C-439/09 *Pierre Fabre Dermo-Cosmétique SAS*
- Judgment of the European Court of Justice of 6 December 2017 in case C-230/16 *Coty Germany GmbH*
- Motta pp. 137-166

Lesson 4

- Cartels
 - Standard of proof and available evidence
 - The use of circumstantial evidence
 - Application of the Bayes theorem to the assessment of circumstantial evidence
 - Plus and super-plus factors
- Case discussion
 - Wood Pulp
 - Red flags of collusion in procurement

Reading:

- Kovacic W.E., R.C. Marshall, L.M. Marx and H.L. White, 2011, Plus Factors and Agreement in Antitrust Law, *Michigan Law Review*
- Judgment of the European Court of Justice of 31 March 1993 in cases C-89/85, C-104/85, C-114-85, C-116/85, C-117/85, C-125/85, C-126/85, C-127/85, C-128/85, C-129/85 *Ahlström Osakeyhtiö et al. v. Commission*

Lesson 5

- Softening competition in merger control (unilateral effects)
- The UPP test
- Foreclosure
 - Predatory pricing
 - The deep pocket theory
 - Chicago's critiques
 - Predation with perfect information (sub-game perfection)
 - The chain store paradox
 - Predation with imperfect information
 - Reputation
 - Signaling
 - Essential facility, refusal to deal and margin squeeze
 - Definition of essential facility

- Firm's freedom of contracts
- Constructive refusal and margin squeeze

Reading:

- Elizabeth M. Bailey, Gregory K. Leonard, G. Steven Olley, and Lawrence Wu, 2010, Merger Screens: Market Share-Based Approaches Versus "UpwardPricingPressure", *the Antitrust Source*
- Motta pp. 411-422; 442-449
- Communication from the Commission: *Guidance on its enforcement priorities in applying Article 82 of the EC Treaty to abusive exclusionary conduct by dominant undertakings*, OJ C 45, 24.2.2009, p. 7–20

Lesson 6

- Case discussion
 - Telia Sonera
 - Tom Tom/Tele Atlas
- Sanction policy
- The economic theory of the optimal sanction for individual infringements
 - The Becker's approach
 - Optimal deterrence
 - Expected sanction
 - Level of the sanction
 - Probability of apprehension
 - Underterrence and overdeterrence
- The optimal sanction for collective infringements
 - The Stigler's effect
 - Participation constraint and incentives constraint
 - Leniency programs
- Action for damages
 - Leniency and damages

Reading:

- Judgment of the European Court of Justice of 17 February 2011 in Case C-52/09 *Telia Sonera*
- Decision of the European Commission Tom Tom/Tele Atlas
- Spagnolo G. 2008, "Leniency and Whistleblowers in Antitrust" in Buccirosi (Ed.) *Handbook of Antitrust Economics*, Cambridge, The MIT Press