

**Module Title: European Union Internal Market and Competition Law**  
**Credit Points: 10 ECTS / 20 UK credits**

**Overview:**

The aim of this module is twofold. Firstly, it seeks to develop within the student an in-depth understanding of the laws surrounding the internal market of the European Union. Secondly, it requires the student to critically analyse the European Union's policies in the sphere of competition law and state aids. The module will address a number of current legal issues in the development of the internal market, such as the position of public services and the impact of the developing jurisprudence on citizenship. The student is encouraged to critically assess the very basis for competition law within the EU and engage with the academic commentary and court decisions to determine whether these are consistent with the over all policy goals. Attention will also be given to the extent to which non-economic concerns now influence competition policy and whether this is a positive development.

**Aims (To provide students with):**

- the ability to elaborate on the political, legal and economic reasoning behind the formation of the internal market
- an understanding of the substantive case law of the internal market
- the ability to determine the extent to which the aims of the internal have broadened from purely economic to encompass social objectives
- a comprehension of the modernisation of Community Competition law undertaken over the last 8 years and the impact this has had on the methods of enforcement

**Module Content**

- Theories of the internal market
  - Development of the single/internal market project
  - Theories of economic integration
- The Mechanics of the Internal Market – Harmonisation v. Mutual Recognition
  - Harmonisation as a means of regulation
  - The 'new' approach to harmonisation
  - Harmonisation and 'the race to the bottom' regarding standards of protection
  - European standardisation as a means of market integration
- Free Movement of Goods
  - Market v. non-market forces
  - Interaction between the debate over free movement of goods and the subsidiarity debate regarding the appropriate roles of the Member States and the Community
  - Debate over the true role of the provisions on free movement as creators of an economic constitution or a means whereby non-market principles can also be considered
  - Non-discriminatory basis for striking down Member State regulations
- Free Movement of Services and Freedom of Establishment
  - Services directive
  - Restrictions on free movement of services or establishment
  - Impact of the principle of free movement of services on national social services
- Free movement of Persons and the impact of Union Citizenship
  - Broadening of the definition of worker
  - Union citizenship
  - Use of Article 12 EC in conjunction with Union citizenship
  - Does Union citizenship represents a qualitative change in the scope of rights protected by the EU?
- Theories of Competition Policy & Competition Enforcement in the EU
  - Theories of competition policy – US v. EU approach
  - Role of economic efficiency
  - To what extent do areas of public policy (environmental policy, culture, employment policy, industrial policy, consumer policy) now feature within the competition law?

- Impact of Regulation 1/2003 and its role in modernising competition policy within the EU
- Relationship between the Commission and the national competition authorities and the role of the European Competition Network Article 81
- Application of Article 81(1)
- 'Rule-of-reason' debate in Article 81(1)
- Exemption system provided for under Article 81(3): Validity of the inclusion of non-economic matters into the definition of 'efficiencies' Article 82
- Defining markets
- Dominance
- Barriers to entry
- Abuse
- The Merger Regulation
  - Scope of the Merger Regulation regarding the types of mergers that fall within its remit
  - ECMR or Art 81 EC as the most appropriate tool for reviewing a joint-undertaking
  - Commission notice on remedies acceptable under the Merger Directive and its application by the Commission
- Public Undertakings and State Aid
  - General principles regarding restrictions on State Aid
  - The need to balance the notion of services of general economic interest with the need to promote and maintain competition
  - Treatment of state aids under Article 87 EC
  - State Aid and Community regional policy

### **Indicative Reading**

- Bellamy & Child, *European Community Law of Competition* 6th ed., Oxford: Oxford University Press 2008.
- Carlton, D.W. & Perloff, J.M., 2004. *Modern Industrial Organization* 4th ed., Pearson Education.
- Craig, P. & Burca, G.D., 2002. *EU Law: Text, Cases and Materials* 3rd ed., Oxford University Press, USA.
- Furse, M., 2004. *Competition Law of the EC and UK* 4th ed., Oxford University Press, USA.
- Gavil, A.I., Kovacic, W.E. & Baker, J.B., 2008. *Antitrust Law in Perspective: Cases, Concepts and Problems in Competition Policy* 2nd ed., West.
- Goyder, J. & Albers-Llorens, A., 2009. *Goyder's EC Competition Law* 5th ed., Oxford University Press, USA.
- Jones, A. & Sufrin, B., 2004. *EC Competition Law: Text, Cases, and Materials* 2nd ed., Oxford University Press, USA.
- Kerse, C. & Khan, N., 2009. *EC Antitrust Procedure* 6th ed., Sweet & Maxwell.
- Korah, V., 2006. *Cases and Materials on Ec Competition Law* 3rd ed., Hart Publishing (UK).
- Cini, M. & McGowan, L., 2008. *The Competition Policy in the European Union* (European Union 2nd ed., Palgrave Macmillan.
- Rodger, B. & MacCulloch, A., 2008. *Competition Law and Policy in the EC and UK* 1st ed., Routledge-Cavendish
- Moravcsik A. *The Choice for Europe: Social Purpose & State Power from Messina to Maastricht*, (1999, Cornell)
- Schepel, *The Constitution of Private Governance* (2004, Hart)
- Sullivan, L.A. & Grimes, W.S., 2006. *The Law of Antitrust: An Integrated Handbook* 2nd ed., West Publishing Company
- Weiler & Wind (eds) *European Constitutionalism Beyond the State* (2003, CUP)
- Whish, R., 2008. *Competition Law* 6th ed., Oxford University Press.

### **Assessment methods**

70% Exam

30% Assignment