EC337 Industrial Economics 2

Market Economics, Competition and Regulation

Dr. Chris Doyle (Office S2.104, x23935)
Autumn Term, 2013-14

Online course details and lecture slide packs available at:
http://www2.warwick.ac.uk/fac/soc/economics/ug/modules/3rd/ec337

Teaching format:
2 lectures per week and 4 seminars
Lectures: 12-1pm Monday, MS0.3 & 11-12pm Wednesday, MS0.3
Lectures start Wednesday 2 October and end Wednesday 4 December
Seminars: 5 groups, each group meeting 4 times
Groups 1, 3 & 5 in weeks 3, 5, 7 and 9 at 10am Monday H3.02, 9am Wednesday H0.02, and 2pm Tuesday TBD respectively
Groups 2 & 4 in weeks 4, 6, 8 and 10 at 10am Monday H3.02, and 9am Wednesday H0.02 respectively

Assessment methods:
Coursework (20%) – comprising 2 take-home problem sets each with four short questions comprising a total of 10% delivered using eSubmission. Problem Set 1 is due **Friday 1 November** and Problem Set 2 is due **Friday 10 January**. The end of year exam has two sections: Section A with two short questions and is compulsory; Section B with three questions from which one is selected. Past exam papers from 2010/11 onwards provide illustrations of the exam format. A revision lecture will be held at the beginning of Term 3 – notification about venue and date will be through MyEconomics.

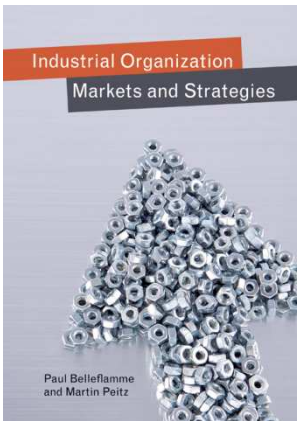
Office hours: Tuesday 10am-12pm (Weeks 1-10, Term 1)

This course applies microeconomic principles and analytical tools to examine economic factors influencing the competitive status of markets. We shall describe markets in terms of effective competition with reference to economic efficiency. We will learn about the structural and behavioural factors that may lead to a lack of effective competition (market failure). The course will look at the economic foundations of competition policy and the economic principles guiding competition law in the EU and the UK.

The course comprises a set of one-hour lectures and four seminars. A familiarity with intermediate microeconomics is required and a background in Industrial Economics is helpful though not essential.

Lecture slides are distributed electronically as Adobe pdf files. No hard copy packs will be distributed. **A final pack of all lecture slides and seminar material in hard copy format will be distributed at the beginning of Term 2.**

Primary readings



Belleflamme, Paul and Martin Peitz (2010) *Industrial Organization: Markets and Strategies*, Cambridge. **[BP]** Industrial Organization textbook with many examples

Warwick University Library catalogue reference HN 4000.B3 (Short Loan, Main Library and ebook).



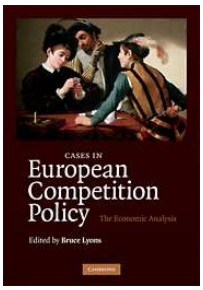
O'Donoghue, Robert and Jorge A. Padilla (2006) *The Law and Economics of Article 82 EC*, Hart Publishing, Oxford. **[OP]** Law and economics text with lots of case material

Warwick University Library catalogue reference KC 1019.2. O3 (Short Loan).



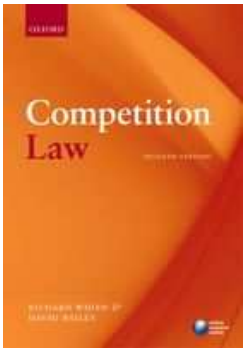
Handbook of Antitrust Economics (2008), edited by Paolo Buccirossi, MIT Press. **[PB]** Collection of readings by leading economists in the field

Warwick University Library catalogue reference HN 4700.H2. (3 copies, 2 Standard, 1 Short Loan)



Cases in European Competition Policy: The Economic Analysis (2009), edited by Bruce Lyons, Cambridge University Press. **[BL]** Useful collection of papers drawing on European competition cases

Warwick University Library catalogue reference KC 1019.2.C28. (4 copies 3 Day loan, 1 Grid use, 1 Short Loan)



Competition Law (2012) (7th Edn.), Richard Whish and David Bailey, Oxford University Press. **[RW]** Excellent text on competition law and economics.

Warwick University Library catalogue reference KN 266.W4. (7 copies, 3 Standard, 2 3 Day loan, 1 Grid use, 1 Short Loan) (older editions)

Background reading and resources

The Office of Fair Trading (OFT) has a wealth of information and many useful publications: http://www.oft.gov.uk/

See also the UK Competition Commission http://www.competition-commission.org.uk/index.htm and the UK Competition Appeal Tribunal http://www.catribunal.org.uk/default.asp

Competition rules applicable to entities in the EU are enforced by DG Competition; its site has much information on cases, laws, consultation, etc.:

http://ec.europa.eu/competition/index_en.html

European Commission DG Competition (2010) "Best practices for the submission of economic evidence and data collecting in cases concerning the application of Articles 101 and 102 TFEU and in merger cases": http://ec.europa.eu/competition/consultations/2010_best_practices/best_practice_submissions.pdf

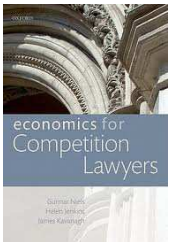
Official documents published by the EU on executing merger policy: http://ec.europa.eu/comm/competition/mergers/legisaltion/notices_on_substance.html

Information about competition cases before the European courts: http://ec.europa.eu/competition/court/index.html

Publications on the EU Chief Competition Economist homepage: http://ec.europa.eu/dgs/competition/economist/publications.html

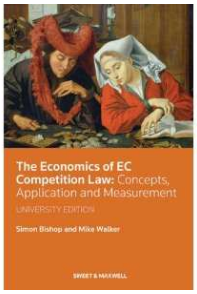
The following two texts may also be of interest:

Gunnar Niels, Helen Jenkins and James Kavanagh (2011) *Economics for Competition Lawyers*, Oxford University Press.



Simon Bishop and Mike Walker (2009) *The Economics of EC Competition Law: Concepts, Application and Measurement*, Sweet & Maxwell 3rd revised university edition.

Warwick University Library catalogue reference KC 1019.2.S4 (Short Loan)



Course Outline

Course overview: Economic Principles and Competition Law

Lecture 1

Economic concepts underpinning competition policy. A primer on market structures (perfect competition, monopoly, oligopoly), efficiency and economic welfare.

Reading

Ch. 2 **[BP]** 'Firms, Consumers and the Market'

Ch. 1 **[RW]** "Competition Policy and Economics" sections 1-3

John Fingleton (2009) "Competition policy in troubled times" former CEO OFT

Lars-Hendrik Röller (2005) "Economic Analysis and Competition Policy Enforcement in Europe", in Modelling European Mergers: Theory, Competition Policy and Case Studies (Edward Elgar, ed.), 2005

Competition Law and EU Practice

Lecture 2

The legal basis for the application of competition rules is set out with reference to the UK and the EU.

Reading

Ch. 1 **[OP]** "Introduction, Scope of Application and Basic Framework"

Ch. 1 **[RW]** "Competition Policy and Economics" section 4

Ch. 2 **[RW]** "Overview of EU and UK Competition Law"

European Commission (2013) "Report on Competition Policy 2012", COM(2013) 257 final, 7 May 2013

European Commission (2013) "Commission Staff Working Paper accompanying Report on Competition Policy 2012" SWD(2013) 159 final, 7 May 2013

The anatomy of a competition case: Apple ebooks case

Lecture 3

The ebooks trial began as the DOJ accused apple, along with five major ebooks publishers, of conspiring to raise the online price of ebooks beginning in 2009 in conjunction with the release of its e-reader, the iPad tablet. The DOJ claimed the collusion aimed to undercut Amazon's dominance in the online ebooks retail market. All five publishers – Hachette Book Group, Macmillan, HarperCollins, Penguin Group and Simon & Schuster – settled with the DOJ before going to trial.

Reading

Judge Cote's Verdict (July 2013)

DOJ Statement (10 July, 2013)

Court Injunction (5 September 2013)

Market Definition

Lecture 4

The concept of a *relevant market* alternatively *antitrust market* is explained. Tools such as the hypothetical monopolist test and critical loss analysis are discussed.

Reading

Ch. 2 **[BP]** Section 2.3

Ch. 2 **[OP]** "Market Definition"

Ch. 1 **[RW]** section 5

European Commission official description of a 'relevant market'

Two-sided and Multi-sided markets

Lectures 5-6

In many competitive markets there are multiple sides to the market, linked indirectly through platforms. This lecture will present both the theory of two-sided markets and its relevance to anti-trust.

Reading

Ch. 22 **[BP]** 'Markets with Intermediated Goods'

Evans, David S. (2003) "The Antitrust Economics of Multi-Sided Platform Markets," *Yale Journal on Regulation*, 20(2), 325-82

Rysman, Marc (2009) "The Economics of Two-Sided Markets" *Journal of Economic Perspectives*, 23(3): 125–43.

Rochet, Jean-Charles and Jean Tirole (2008) "Competition Policy in Two-sided markets, with a special emphasis on Payment Cards" Ch. 15 **[PB].**

Ch. 8 **[BL]** Bruce Lyons "The Orders and Rules of British Horseracing: anticompetitive agreements or good governance of a multi-sided sport?"

Ch. 2.5.4 **[OP]** "Market Definition in Two-Sided Markets"

Horizontal competition issues: Mergers and unilateral effects

Lectures 7-8

These lectures look at unilateral effects associated with horizontal mergers and simulation methods applied in some cases.

Reading

Ch. 15 **[BP]** 'Horizontal Mergers'

Ch. 20 & 21 **[RW]** "Mergers (1) – Introduction" and "Mergers (2) – EU Law"

Ch. 2 **[PB]** Gregory J. Werden and Luke M. Froeb "Unilateral Competitive Effects of Horizontal Mergers"

Erik S. Madsen, Kurt Pedersen & Lars Lund-Thomsen (2011) "M&A as a Driver of Global Competition in the Brewing Industry" Paper presented at the 2nd Beeronomics Conference "The Economics of beer and brewing" at Kardinal, Döpfner House in Munich, September 21st – 24th, 2011; Working Paper 11-10, Aarhus University, Business and Social Sciences, Department of Economics and Business.

Ch. 13 **[BL]** Margaret Slade "Merger simulations of unilateral effects: what can we learn from the UK brewing industry?"

Michael D. Whinston (2007) "Antitrust policy toward horizontal mergers" ch.36 in *Handbook of Industrial Organization Volume 3*, edited by Mark Armstrong and Rob Porter. Warwick University Library catalogue reference HN 4000.H2.

Deloitte (2009) "Review of mergers decisions under the Enterprise Act 2002" a report for the Competition Commission, Office of Fair Trading and Department of Business, Enterprise and Regulatory Reform

Horizontal competition issues: Upward pricing pressure

Lecture 9

Measuring the impact of horizontal mergers in cases involving differentiated products.

Reading

Pauline Affeldt, Lapo Filistrucchi and Tobias J. Klein (2012) "Upward Pricing Pressure in Two-Sided Markets" TILEC Discussion Paper DP 2012-029.

Joseph Farrell and Carl Shapiro (2010) "Antitrust Evaluation of Horizontal Mergers: An Economic Alternative to Market Definition" *The B.E. Journal of Theoretical Economics*, Vol. 10: Iss. 1 (Policies perspectives), Article 9.

Serge Moresi (2010) "The Use of Upward Price Pressure Indices in Merger Analysis" *The antitrust source*, February pp. 1-12.

Department of Justice and the Federal Trade Commission (2010) "Horizontal Merger Guidelines" August.

Horizontal competition issues: Coordinated effects

Lectures 10-11

Horizontal merger effects on facilitating anti-competitive coordination. In this lecture we discuss two landmark cases in the EU addressing alleged anti-competitive coordinated effects: *Airtours* and *Sony-BMG*.

Reading

Ch. 14 **[BP]** 'Cartels and Tacit Collusion'

Ch. 14 **[RW]** "Horizontal Agreements (2) – Oligopoly, Tacit Collusion and Collective Dominance"

Ch. 3 **[PB]** Kai-Uwe Kühn "The Coordinated Effects of Mergers"

Ch. 8 **[PB]** Paolo Buccirossi "Facilitating Practices"

Airtours CFI Decision

Sony-BMG case EC merger clearance

Svend Albæk, Peter Møllgaard & Per Baltzer Overgaard (2010) "Transparency and coordination effects in European merger control" *Journal of Competition Law & Economics*, 6(4), pp. 839–851

Switgard Feuerstein (2005) "Collusion in Industrial Economics—A Survey" *Journal of Industry, Competition and Trade*, 5:3/4, pp. 163–198

Ch. 14 **[BL]** Eliana Garces-Tolon, Damien Neven & Paul Seabright "The ups and downs of the doctrine of collective dominance: using game theory for merger policy"

Horizontal competition issues: Cartels

Lecture 12

The issue of detecting anti-competitive cartels and the role of whistleblowing policies are discussed.

Reading

Ch. 14 **[BP]** 'Cartels and Tacit Collusion'

Ch. 6 **[PB]** Joseph Harrington "Detecting Cartels"

Ch. 7 **[PB]** Giancarlo Spagnolo "Leniency and Whistleblowers in Antitrust"

Ch. 13 **[RW]** "Horizontal agreements (1) – cartels"

Gordon J. Klein (2010) "Cartel Destabilization and Leniency Programs – Empirical Evidence" ZEW Discussion Papers 10-107, ZEW - Zentrum für Europäische Wirtschaftsforschung/Center for European Economic Research, Mannheim

Margaret C. Levenstein and Valerie Y. Suslow (2006) "What Determines Cartel Success?" *Journal of Economic Literature*, Vol. XLIV, pp. 43–95

Horizontal competition issues: Pricing abuses

Lecture 13

Prices set by market 'leaders' may constitute an abuse of dominance in the EU. Abusive pricing may involve high or low prices, rebates, bundling and price discrimination.

Reading

Ch. 16 [**PB**] Section 4 'Strategic Incumbents and Entry'

Ch. 5 **[OP]** "Predatory pricing"

Ch. 12 **[OP]** "Excessive prices"

Ch. 18 **[RW]** "Abuse of Dominance (2) – Pricing practices" (exclude section 7 on margin squeezing)

Aaron Edlin and Joseph Farrell (2003) "The American Airlines Case: A Chance to Clarify Predation Policy", in the *Antitrust Revolution: Economics, Competition and Policy* edited by John E. Kwoka, and Lawrence J. White, Oxford. Warwick University Library catalogue reference HN 4761.A6

Vertical competition issues: Vertical restraints & refusal to supply

Lectures 14-15

This lecture will set out an introduction to the economics of vertical restraints outlining the need to take account of possible benefits as well as costs. I will also discuss refusal to supply. Refusing to deal has been a common theme in European competition policy as a result of dominant incumbents possessing market power and leveraging positions in liberalised network industries.

Reading

Ch. 17 **[BP]** 'Vertically Related Markets'

Chs. 7 & 8 **[OP]** "Exclusive Dealing, Loyalty Discounts and Related Practices" and "Refusal to Deal"

Ch. 16 & 17 **[RW]** "Vertical Agreements" and "Abuse of Dominance (1) – Non-Pricing Practices"

Ch. 9 **[PB]** Patrick Rey and Thibaud Vergé "Economics of Vertical Restraints"

Vertical competition issues: Margin Squeezing

Lecture 16

The economics of margin squeezing is presented and the Deutsche Telekom case is discussed.

Reading

Ch. 6 **[OP]** "Margin Squeeze"

Ch. 18 section 7 **[RW]** "Abuse of Dominance (2) – Pricing Practices"

OECD (2009) *Margin Squeeze* (in particular Background Note pp. 21-48, DAF/COMP(2009)36

Pierre-André Buigues and Robert Klotz (2008) "Margin Squeeze in Regulated Industries: The CFI Judgment in the Deutsche Telekom Case" *Online Magazine for Global Competition Policy*

Deutsche Telekom case: CFI 10 April 2008, Judgment of the ECJ 14 October 2010

Intellectual Property, Innovation and Competition Policy

Lectures 17-18

The conflict that can arise between *ex ante* and *ex post* competition, licensing and patents are discussed.

Reading

Ch. 19 **[BP]** 'Intellectual Property'

Ch. 14 **[PB]** Richard J. Gilbert "Competition policy for intellectual property"

Ch. 19 **[RW]** "The relationship between intellectual property rights and competition law"

James Bessen and Eric Maskin (2009) "Sequential innovation, patents, and imitation" *The RAND Journal of Economics*, 40(4): pp. 611-635.

Pierre Regibeau & Katharine Rockett (2011) "Assessment of potential anticompetitive conduct in the field of intellectual property rights and assessment of the interplay between competition policy and IPR protection" Prepared for the European Commission (contract COMP/2010/16)

Ilyar Segal and Michael D. Whinston (2007) "Antitrust in Innovative Industries", *American Economic Review*, 97, pp.1703-30.

John Vickers (2010) "Competition Policy and Property Rights", *The Economic Journal*, 120 (May), pp. 375–392.

Retail Banking and Competition in the UK

Lecture 19

Retail banking in the UK is very concentrated with a few major banks having most market share. In light of the financial crisis which began around 2008, policy makers in the UK have focussed on the apparent lack of competitiveness in retail banking and possible measures to remedy identified problems arising as a result. These two lectures will examine the economic issues arising in the debate.

Reading

Independent Commission on Banking (2011)

John Fingleton (2012) 'Competition in UK Banking', former Chief Executive, OFT, Speech at the seminar on 'A competitive banking sector: Challenges in a post-crisis environment' organised by MLex in association with Lloyds Banking Group

OFT (2013) Review of the personal current account market

OFT (2010) Review of barriers to entry, expansion and exit in retail banking

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