

- Faculté de droit
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Competition Law and Policy (4DR2180)

Filières concernées	Nombre d'heures	Validation	Crédits ECTS
Master bilingue en droit	Cours: 4 ph	oral: 15 min	8
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ph=période hebdomadaire, pg=période globale, j=jour, dj=demi-jour, h=heure, min=minute

Période d'enseignement:

- Semestre Automne

Equipe enseignante:

Prof. Evelyne Clerc.

Objectifs:

- identify the main business practices that may distort competition
- understand the use of economics in the analysis of legal problems
- be familiar with antitrust procedural enforcement and institutional framework in Switzerland and in the EU
- acquire facility in application of EU/CH competition law (legislation, policy documents, decisions and case-law) to case-studies and complex fact patterns
- discuss critically the legal and economic principles underpinning the control of anti-competitive practices, regulatory policies and institutional framework

Contenu:

Competition policy is an essential feature of our market economies. This course addresses, in a comparative Swiss-EU perspective, how competition law governs strategic behaviour of firms in the markets. After introducing into the objectives of competition law, the role of economic analysis and its limitations in the light of non-economic (political, social, environmental) considerations, the course focuses on the major components of competition law : market power, horizontal agreements between rivals (cartels), anti-competitive clauses in vertical distribution agreements, unilateral abuse of a dominant position, and merger control. In addition, it assesses the interface between intellectual property rights and competition law, as well as the relationship between antitrust and sector-specific regulation. Apart from substantive law, particular attention is devoted to enforcement practices : public and private enforcement procedures, imposition of fines and criminal penalties against firms and individuals, judicial appeal procedures and considerations of due process rights, as well as international cooperation between competition authorities in the global economy. While the emphasis is placed predominantly on a comparative study of EU and Swiss competition law, we will also consider important areas of convergence/divergence with US antitrust law and discuss the legal, economic and political reasons for those differences. All topics are examined in the light of significant recent case-law. The last part of the course examines the grant of public procurement contracts, highlighting the regulatory mechanisms under which the state intervenes in market economies and their justifications.

Forme de l'évaluation:

15-minutes oral exam based on resolution of hypothetical case, with 15-minutes written preparation. Preparation is open-book; during the exam itself, students may only rely on legislation and notes drafted during preparation.

Documentation:

Syllabus, course materials and additional information regarding the precise topics of the lectures and how to prepare for them are provided on the Claroline course website (COMP). Coursepack and book are to be purchased from ANED or from bookstore.

Forme de l'enseignement:

Mixture of ex cathedra lectures and case studies. Students are expected to read the assigned materials before each class, to make case presentations, to solve case studies and to participate actively in class discussion. A practical step-by-step toolkit will help students to analyse cases.