



NATIONAL UNIVERSITY OF LESOTHO

Faculty of Law
Master of Laws (LL.M.) Programme
Course Outline

Course Title: Advanced Competition Law	
Course Code: LAW-6312	No. of credits: 4
Department: Public Law	Faculty: Law
Course Convenors: Dr Tinashe Kondo	
Email Address: tkondo@uwc.ac.za	
Teaching and learning hours: A recommended 6 hours per week; computed by two contact hours and four self-study hours.	
Consultation: Students are encouraged to timeously consult with in instances where they have any questions. Typically, the convenor will respond within 3 to 5 working days. Please note that all guest lecturers for this course are working remotely from their universities of origin.	
Course Type <div style="display: flex; justify-content: space-around; align-items: center;"> Core Course <input type="checkbox"/> Compulsory <input type="checkbox"/> Elective <input checked="" type="checkbox"/> </div>	
Offer in Academic year <div style="display: flex; justify-content: space-around; align-items: center;"> 1st Semester <input type="checkbox"/> 2nd Semester <input checked="" type="checkbox"/> Year Long <input type="checkbox"/> </div>	

Course Description

In an increasingly globalised and digital society, the role of businesses has never been more vital. The world has become more connected than it has ever been, with businesses being able to command world-wide markets. Furthermore, the regionalisation agenda has created single markets with certain economic communities, creating possibilities and risks for market players within these regions. As a result, the regulation of markets has become a task of outmost importance. Left unchecked, businesses may engage in anti-competitive practices which may have deleterious effects, not only on consumers, but on other businesses, as well as the economy more broadly. Competition law is that body of law that seeks to regulate the conduct of businesses within markets in order to ensure that markets are free, fair and efficient. In certain instances, competition law may be extended in order to advance social agendas such as

transformation, employment, and the promotion of small to medium enterprises (SMMEs). The introduction of this module could not have been more timeous. It comes against the backdrop of proceedings to enact the Competition Bill which has been tabled before the parliament in Lesotho and developments at the continental level to initiate the Competition Protocol of the African Continental Free Trade Area (AfCFTA) which seeks to create a single market for goods and services on the continent. Moreover, the relationship between competition law and other areas of the law such as international trade law, investment law, intellectual property law and information communications technology (ICT) law is of outmost importance.

Course Objectives

The broad objective is to provide advanced knowledge and understanding of the World Trade Organization: the institutional framework and its rules. Specifically, the course aims to:

- Capacitate candidates with knowledge on the origins and the development of the WTO;
- Instil advanced knowledge of the WTO's institutional framework, principles, and rules, as reflected in key covered agreements;
- Encourage discussion and reflections on the politics of the international trading system, in particular the role developing countries in the system;
- Encourage discussion and reflections on the future of the WTO.

Core Competencies

- Understand the developments surrounding competition law in Lesotho;
- Understanding the principles governing competition law generally and more specifically in Lesotho (once the law is enacted);
- Demonstrate knowledge on comparative competition law (South Africa, United States of America & European Union);
- Have knowledge on the institutions that are relevant to competition law and practice;
- Interpret various documents on competition law, including legislation, regulations, policy documents and explanatory notes;
- Articulate the vitality of competition law in an interconnected and digital society;
- Approximate the role of transformative constitutionalism in relation to competition law;
- Identify the role played by competition law within regional economic communities (in particular, the AfCFTA);
- Develop skills relevant for competition law practice; and
- Enhance their research and writing skills.

Teaching & Learning Methods

This module is taught remotely using the Zoom platform. The recurrent link used for seminars is <https://us06web.zoom.us/j/88324286068?pwd=Vm1QWm1RUlB6b1lrVTdpb0YxNmhndz09> (Meeting ID: 883 2428 6068; Passcode: 658156).

The course lectures will take place every Thursday from 4pm to 6pm. The first lecture of the course will be on Thursday 16 February 2023.

Assessment/Evaluation

This module consists of three assessments.

1. **Assignment 1:** Topics 1, 2, 3 (30%)
2. **Assignment 2:** Topics 4,5,6 and 7 (30%)
3. **Module Test:** All the work for the course (40%)

Please note that there is no final exam for the course. The assessments provided during the semester are comprehensive and serve as the final mark for the course. The weighting of the assessments is described above.

NB: The dates for the assessments will be communicated in due course.

Course Policy

Candidate are expected to devote time, effort, and dedication to their studies. This includes, but is not limited to:

- reading required material ahead of seminars;
- reading widely;
- actively and regularly participating during seminars;
- devoting time to self-study;
- submitting assignments within the deadlines and adhering to any required formats;
- avoiding plagiarism and all forms of cheating or academic malpractice.

Course Resources

The necessary resources for the course will be uploaded on the relevant platform for this course. Alternatively, course lecturers may email the relevant course materials.

Prescribed Text

The primary prescribed textbook for the module is *Competition Law of South Africa* by Sutherland & Kemp published in looseleaf format by LexisNexis.

Other Prescribed Reading Material

- Mota Massimo (2004), *Competition Policy: Theory and Practice*, Cambridge University Press
- Terry Burke, Angela Genn-Bash, Brian Haines (2018); *Competition in Theory and Practice*, Taylor and Francis
- Ndlovu PN (2018) *Competition Laws of South Africa*, Wolters Kluwer

Other recommended readings will be prescribed from time to time. Where possible, lecture notes will be made available to students before the lecture. Students are encouraged to engage with the lecture notes before class, if they have been made available.

Course Content

Topic 1: The history of competition law

- General overview
- The objectives of competition law
- Competition law theories

- Concepts

Topic 2: Competition Economics

- Overview of competition theory
- Market power and welfare
- Market structures

See also: Mota Massimo (2004), Competition Policy: Theory and Practice, Cambridge University Press & Terry Burke, Angela Genn-Bash, Brian Haines (2018), Competition in Theory and Practice, Taylor and Francis

Topic 3: Horizontal Restrictive Practices

- General theory
 - Cartels
 - Enforcement
- Forms
 - Agreements
 - Concerted practices
 - Decisions of associations of firms
- Practices
 - Price fixing
 - Market allocation
 - Collusive tendering/ bid rigging
 - Boycotts
 - Cooperation and R&D agreements
 - Joint selling
 - Standardisation Agreements

Topic 4: Vertical Restrictive Practices

- Restrictive practices
 - Minimum resale price maintenance
 - Maximum resale price maintenance
 - Exclusive distribution
 - Selective distribution
 - Franchising agreements
 - Exclusive supply
 - Technology transfer agreements
 - Tying agreements

Topic 5: Abuse of a Dominant Position

- Establishing a dominant position
- Abuse of a dominant position
 - Margin squeeze
 - Predatory price
 - Exclusionary practices
 - Requiring a supplier not to deal with a competitor
 - Refusal to supply scarce goods or services
 - Tying

- Predatory pricing
 - Margin squeeze
 - Buying up intermediate goods or services
 - Price discrimination
- Exploitative v exclusionary abuses
- Objective justifications, efficiency and other defences

Topic 6: Mergers and Acquisitions

- Regulation of mergers
- Considerations
- Effects
- Defences
- Remedies

Topic 7: Regional and International Regulation of Competition Law

- Domestic regulation v international regulation
- Regional efforts
- Considerations