

COURSE OUTLINE

COMPETITION LAW

JULY 2014

OVERVIEW

Competition Law is an elective course offered in the final year of the LLB programme. The course is aimed at students wishing to enter large law firms focussing on corporate clients. The principal objective is to provide such students with a practical working knowledge of important areas of competition law which they are likely to encounter in their future working environments. The secondary objective is to raise students' awareness of the South African and international business environment, and in particular the legal and regulatory challenges facing large corporations.

LECTURER

The course is lectured by Adv. Craig Renaud, whose office is on the top floor of the Faculty building. Students who wish to meet with Adv. Renaud to discuss any issues arising out of the course are urged to make an appointment with him either at the end of the lecture period or by e-mail at c.renaud@ru.ac.za

CREDIT VALUE

The credit value of this course is 10 semester credits.

ASSUMPTIONS OF PRIOR LEARNING

The following assumptions of prior learning are made:

- the ability to communicate effectively in both spoken and written English;
- the ability to read, interpret and extract legal principles from legislation, court decisions, and other source materials;
- the ability to learn independently;
- the ability to apply problem-solving techniques to practical situations.

OUTCOMES

Critical Outcomes

The course intends to develop in students the skills set out below which are essential to the study and practice of law:

- problem identification and solving;
- successful completion of given tasks on time and without supervision ;
- collection, analysis and evaluation of legal information;
- effective communication in both the spoken and written word;
- working alone and in groups in dispensing practical advice to clients.

Specific outcomes

Following the successful completion of this course, the students should be able to:

- demonstrate knowledge of the objectives and rationale for the regulation of competition.
- recognise examples of restrictive practices, and of the abuse of market dominance.
- understand the functions of the Competition Commission, Competition Tribunal and Competition Appeal Court.
- demonstrate knowledge of the competition authorities' powers of investigation and enforcement, and the penalties which may be imposed on companies.
- recognise and demonstrate an understanding of the various methods by which companies may infringe the rights of their competitors.
- demonstrate an understanding of the civil remedies available to protect companies from unlawful competition.
- Demonstrate an awareness of competition law from an international perspective.

TEACHING METHODS & STUDENTS' LEARNING RESPONSIBILITIES

Teaching will take the form of formal lectures and class discussions. Students are expected to take responsibility for their own learning and must therefore read the relevant source material to which they will be referred in lectures and must complete any tasks assigned. Pre-reading ahead of lectures is recommended so as to facilitate better understanding of concepts.

Students must also stay abreast of current developments in the South African and international business community by reading relevant publications and consulting web-sites to which reference will be made below. For discussions, tests and examinations, practical examples and cases will be used as the basis of learning the principles of law in question.

PRIOR LEARNING

Most, if not all, members of the class will have completed the Company Law 'B' course, which included an introduction to competition law. Part 1 of the present course look at the same material as was covered in Company Law 'B' but in much greater detail. As students should be familiar with the concepts in Part 1, we will go through this material rather quickly.

COURSE CONTENT

The course is divided into three parts.

Part 1: Competition Law from a public law perspective

This part of the course will be constructed around the Competition Act (89 of 1998) as the core document. The main textbook used for this part of the course will be Brassey (see below).

It will cover:

- The objects of, and rationale for, competition law.
- A brief history of the regulation of competition.
- Restrictive horizontal practices: legislation and cases.
- Restrictive vertical practices: legislation and cases.
- The abuse of dominance: legislation and cases.
- Merger control.
- Institutions, procedures and remedies.

Part 2: Competition Law from a private law perspective

This part of the course will be constructed around case law. The main textbook used for this part of the course will be Neethling (see below).

It will cover:

- The right to goodwill.
- Misrepresentation and passing-off.
- Undue influencing of customers.
- Use of a competitor's trade secrets and business ideas.
- Interference with a competitor's contractual relationships.
- Disparagement of a competitor's business.
- Instigation of a boycott against a competitor.

Part 3: Competition Law from an international perspective

The vast majority of large companies operate in multiple jurisdictions. It is therefore essential for students, as the future advisors of these companies, to have some international perspective on competition law.

This part of the course will cover:

- International institutions and competition law.
- Competition policy in developing countries.

RESOURCES

There is no prescribed textbook for this course. Students are nevertheless urged to purchase at least one of the three textbooks listed below. Students will be referred in lectures to academic articles, reported cases, statutes, websites and relevant sections of various textbooks, notably but not exclusively those listed below, some of which are available in the Law Library.

Books

- Brassey, M. *et al.* 2002. *Competition Law*. Juta.
- Neuhoff, M. *et al.* 2006. *A Practical Guide to the South African Competition Act*. LexisNexis.
- Neethling, J. 2008. *Unlawful Competition*. 2nd ed. LexisNexis.

Statutes

- The Competition Act, 89 of 1998.
- The Companies Act, 71 of 2008.

Internet sources

- www.fin24.com
- www.moneyweb.co.za
- www.bloomberg.com
- www.comptrib.co.za
- www.compcom.co.za

ASSESSMENT

There will be **one assignment and one test** set during the course. The marks for the test and the assignment together will comprise the class component of the course and account for 30% of the final mark. Completion of the test and the assignment by each student is compulsory, and will be enforced as a DP requirement. The examination will account for the remaining 70% of the mark. **Students are warned that it will not be possible to pass the examination without having done the additional reading to which they will be referred in lectures.** It is every student's responsibility to sign the class register that will be circulated during every lecture. The class register will serve as conclusive proof of attendance or non-attendance of lectures.

PRIZE

Fasken Martineau Attorneys generously sponsors a prize of R3000 to be awarded to the student with the highest mark in Competition Law, taking account of both coursework and the exam result.

Craig Renaud
July 2014