

**Ollscoil na hÉireann, Gallimh**  
**National University of Ireland, Galway**

**Semester II Examinations, 2002/2003**

<b>Exam Code(s)</b>	2BL1, 2BL2, 2CW1, 3BA6, 3BC1, 3BL1, 3BL2, 3CL1, 3CW1, 4BA8, 4BC2, 4BC3, 4BC4, 4BL2, 4CL2.
<b>Exams(s)</b>	2 <sup>nd</sup> 3 <sup>rd</sup> & 4 <sup>th</sup> LL.B. 2 <sup>nd</sup> & 3 <sup>rd</sup> Bachelor of Civil Law 2 <sup>nd</sup> 3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Corporate Law 3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Commerce 3 <sup>rd</sup> & 4 <sup>th</sup> Bachelor of Arts (Public & Social Policy) Erasmus & Occasional
<b>Module Codes(s)</b>	LW401
<b>Module(s)</b>	European Competition Law
<b>Paper No.</b>	1
<b>Repeat Paper __ Special Paper __</b>	
<b>External Examiner(s)</b>	Professor Dermot Walsh
<b>Internal Examiner(s)</b>	Dr. Sara Drake
<b>Instructions</b>	Candidates must answer <b>THREE</b> questions. Candidates <b>MUST</b> answer Part A <b>AND</b> any <b>TWO</b> questions from part B. All questions carry equal marks. Students are requested to <b>indicate</b> which questions they have answered on the front of their answer book.
<b>Duration</b>	<b>TWO AND A HALF HOURS. Erasmus students have an additional THIRTY MINUTES.</b>
<b>No. of AnswerBooks</b>	6
<b>Requirements:</b>	
Handout	
MCQ	
Statistical Tables	
Graph Paper	
Log Graph Paper	
<b>Other Material</b>	Students are allowed to refer to the Treaty Establishing the European Community (consolidated version including the Treaty of Amsterdam) and the Treaty of Nice 2001 or to photocopies or downloaded versions thereof or to copies of Foster, N., Blackstone's EC Legislation (any edition) in the examination room. Students may also refer to secondary EC legislation in downloaded or photocopied version. Erasmus students may consult dictionaries.
<b>No. of Pages</b>	3
<b>Department(s)</b>	Law

**PART A**  
**(Compulsory question)**

1. You are working as a legal advisor for Brewers Plc which is a major producer and distributor of beer in Ireland. The company wishes to expand its product range and enter the non-alcoholic drinks market in the Republic. It enters into an agreement with Fizz Ltd., a British drinks company to buy all of its supplies of non-alcoholic drinks from Fizz Ltd. and to sell them in Ireland at a fixed price. It also agrees not to sell its beer in the U.K. market. In return, Fizz Ltd. agrees not to supply any other party with any of its products in Ireland. The companies also agree to provide each other with information on the market share and marketing activities of their main competitors in both Member States on both the beer and non-alcoholic drinks market.

Advise the two companies on the compatibility of their agreement with Article 81 EC.

**PART B**

**(Answer any TWO questions from this section).**

2. Snack Ltd., holds 42% of the Irish market in the supply of fresh pre-packaged sandwiches and wraps to supermarkets. The company is keen to maintain its market share and to protect it from sandwiches and wraps being flown in on a daily basis from the U.K. Its Marketing Department devises a new strategy which includes refusing to supply customers who purchase supplies from its competitors and offering a 10% discount to supermarkets who buy all their supplies from Snack Ltd. This discount will be increased to 15% if customers buy all their supplies of crisps from Snack Ltd.

Greedy Guts Plc is a producer of snacks based in the U.K. and alleges that Snack Ltd. is acting illegally. Advise Snack Ltd on the compatibility of their new strategy with the EC Competition rules.

**PTO**

3. Answer a) or b):

- a) Discuss critically the range of sanctions at the Commission's disposal in dealing with anti-competitive behaviour prohibited by Articles 81 and 82 of the EC Treaty.

OR

- b) Explain the European Commission's new approach to enforcement outlined in the White Paper on Modernisation (1999). Assess the advantages and disadvantages of the reforms.

4. "[T]he Commission has been strongly criticised for taking too formalistic an approach to vertical agreements." (Craig & de Burca).

Explain the above statement and discuss how the European Commission has sought to address such criticism.

5. Critically assess the development of the Community merger control regime in the absence of any express reference to mergers in Articles 81 or 82 EC.

6. Critically evaluate any TWO of the following decisions/judgments of the European Commission/European Courts and discuss their impact on the area of EC Competition law to which they relate:

- i) Case 48/69 *ICI v. Commission* [1972] CMLR 557;
- ii) Case 26/76 *Metro (No.1)* [1978] 2 CMLR 1 and Case 75/84 *Metro (No.2)* [1987] 1 CMLR 118;
- iii) Case C-62/86 *Akzo* [1991] ECR I-3359;
- iv) Case 85/76 *Hoffman-La Roche v. Commission* [1981] ECR 2621.

**END**