

Mock exam instructions for EU Competition Law

(Please note that writing a mock exam is not mandatory)

Submission deadline **4 November 2014 at 15:00** – submission in **Fronter**

1. Students type their names on top of the paper + level (bachelor or master), and submit it in the correct hand-in folder in Fronter: bachelor or master. For mock exam purposes, we use the same questions for both levels.
2. Students are strongly encouraged to work in groups, since this can maximize your learning and understanding. Submissions written ***jointly by three or more*** students will receive a tentative grade and some explanatory comments will be made available in Fronter. The mock exam will also be discussed in the last lecture. We will strive to comment on all papers that have been submitted jointly by three or more students before this date, but please be prepared for the possibility of receiving comments at a later date. We do not guarantee individual feedback or commentary on papers submitted by groups of less than three students. Please indicate clearly the names of all the students in the group.
3. An upper limit of 2,500 words applies. Kindly confirm the number of words on the top of the document. If you consider that the word limit is insufficient to respond well to all questions, you can choose to submit a response to only one or part of the questions but, if so, please indicate this clearly. Your response should be structured and concise.
4. Submission in Fronter
 - a) Log into Fronter with your usual password and username <https://fronter.uio.no/>
 - b) Find the Fronter room: JUS5310 Fellesrom-2014
 - c) Go to the folder “Mock Exam”, find correct subfolder and submit in one of the following folders: “Hand-in folder bachelor’s level”, or “Hand-in folder -master’s level”.
 - d) NB! If the paper is submitted outside the folder, other students may view it!

If you have problems with the access to **Fronter** please send an e-mail to elisabeth.reien@jus.uio.no.

EU Competition Law
Mock Exam

The Ferry operator "Sail-Away" owns and operates a ferry terminal in Bayport, at the southwest coast of Ireland. In that area, it is the only terminal capable of receiving larger combined passenger & cargo ships. The closest alternatives are ferry from Cork or Dublin, or from Cork/Dublin via the UK (Southampton or other connections at the UK south coast). Both alternative routes take one extra day. The terminal handles most of the cargo transport to the continent. Sail-Away operates two ships; "Princess Anne" and "Henry 8th". Both ships are large vessels with great passenger and cargo capacity.

The terminal is also used by a smaller operator, "Southline". Southline was established in 2006, and has gained about 20 % of the cargo traffic between Bayport and the Continent. It has proven to be more difficult to establish business in the passenger market, i.a. because Southline has not been allowed to have tax-free sales on its ferries. Southline and Sail-Away are the only companies operating from Bayport. Recently, they have faced "leaks" to the other ports, especially in the passenger market.

Before the summer season 2009 Sail-Away adopted several measures in order to strengthen its position. First, prices have been cut considerably in the passenger market, in that it offers a special "round trip package" with cabin free of charge at the price of € 10. Because of the inclusion of cabin, the price does not cover the actual cost incurred. Sail-Away covers these losses with cross-subsidizes from the tax-free sales. At the shareholders' assembly, the CEO of Sail-Away stated that "We'll break the neck of Southline as long as we keep tax-free to ourselves."

Secondly, Sail-Away offered large road-hauling companies a 10 % "Summer Season Rebate" on the condition that each company reached a "trigger" for number of roundtrips during the season. The trigger was set individually at 105 % of the number of trips for the previous season.

Lastly, Sail-Away increased the harbour fees collected from Southline. Southline protested, but Sail-Away responded that Southline did not pay anything in excess of Sail-Away's own internal transfer price. Southline refused to accept this explanation, and claimed that the internal transfer price was set artificially high.

Southline contacted a lawyer and asked whether the measures implemented by Sail-Away were lawful. It also asked whether it was possible to take legal action against Sail-Away.

Discuss whether Sail-Away may be abusing its dominant position contrary to Article 102 TFEU, and how Southline may enforce its rights under EU law.