

**The Ohio State University  
First-Year Seminar Program  
Course Proposal**

**Course Information**

1. Attach a syllabus that includes the following (sample syllabi can be found at <http://firstyearseminars.osu.edu>):

- the course goals
- a brief description of the content
- the distribution of meeting times
- a weekly topical outline
- a listing of assignments
- grade assessment information (A-E or S/U)
- required textbooks and/or reading list
- the academic misconduct and disability services statements (sample statements can be found at <http://asccas.osu.edu/curriculum/asc-syllabus-elements>)

**Instructor Information**

2. Attach a brief biographical paragraph that includes the current research interests, teaching awards and honors, and undergraduate courses taught by the participating instructor(s).

Jose Miguel Abito; Department of Economics

Proposer's Name and Primary Academic Unit (please print)

A Brief Introduction to Antitrust and Sustainability

Proposer's Title

Abito.1@osu.edu

Proposer's e-mail Address

February 24, 2023

Submission Date

James Peck, Chair, Department of Economics

Approval of Department Chair of Academic Unit (please print)

**Please return this form and any attachments to Todd Bitters, [bitters.4@osu.edu](mailto:bitters.4@osu.edu), no later than MARCH 1.**

## **BIO**

Jose Miguel Abito [he/him/his] (or Mike) is an applied microeconomist with research interests in industrial organization, regulation and environmental economics. Mike's research spans a variety of topics such as evaluating incentives in regulated industries, understanding consumer misinformation and its welfare consequences, and developing theoretical and empirical methodologies to study questions in antitrust and regulation. Industries and markets that he has studied include the electricity industry, the extended warranty market, and the infant formula industry. Prior to joining OSU, Mike was an Assistant Professor of Business Economics and Public Policy at the Wharton School at the University of Pennsylvania where he taught the core intermediate microeconomics course for Wharton undergraduates and won a teaching award. He served as a representative to the Wharton Faculty Council for Undergraduate Research and was a participant in a University-wide Initiative for Inclusive Teaching. At OSU, he is teaching the undergraduate course Econ 4700 Government & Business, and a PhD course in Empirical Methods in Industrial Organization.

## **A Brief Introduction to Antitrust and Sustainability**

**Day:** TBA

**Time and Place:** TBA

**Instructor:** Jose Miguel Abito

Department of Economics

Office Hours: Fridays 9-10am

Arps Hall 421

### **Course Description:**

In July 2021, the E.U. Competition Commission fined the big three German auto manufacturers (Daimler, BMW and the Volkswagen group) close to €1 billion for alleged collusion to restrict the size of DEF tanks installed in their cars. DEF tanks contain a urea solution that is sprayed onto emissions to neutralize nitric oxide into harmless water and nitrogen. The complaint alleged that by agreeing to restrict the size of DEF tanks, the auto manufacturers avoided competition in providing more environmentally and sustainable automobiles.

The DEF case is an interesting and somewhat unconventional antitrust case for the following reasons. First, unlike in typical collusion cases, the DEF case doesn't involve an agreement to fix prices. In fact, this is the first time the Competition Commission has imposed fines on the basis that cooperation on technical development amounted to restriction of competition and innovation even if such cooperation did not lead to increases in prices. Second, the DEF case is an example where the definition of consumer welfare is broadened to include benefits that accrue outside of the relevant market (buyers of German cars) and hence are non-internalized benefits. These non-internalized benefits complicate the computation of consumer harm in the determination of imposed fines.

While the EU Competition Commission view this case as an example of how antitrust law enforcement can contribute to achieving the environmental sustainability goals of the E.U. Green Deal, there is an ongoing debate on whether antitrust law can and should play a role in achieving sustainability goals in the first place. For example, on the same DEF case, U.S. courts have a completely different conclusion compared to the E.U. Competition Commission. U.S. courts focused on the welfare of direct buyers and concluded that the cost of higher NOx emissions from smaller DEF tanks is outweighed by the benefits of smaller tanks (e.g. more trunk space, reduced engine clogging etc). On net, smaller DEF tanks did not necessarily result to lower quality vehicles, at least when assessed based on perceptions of direct buyers.

The aim of the seminar is to provide the necessary tools to understand the tensions and complementarities between sustainability goals and antitrust policy. This seminar is especially

useful for students interested in learning the private business side of sustainability, especially how to maneuver in the ever-changing regulatory and legal environment.

**Course Objectives:**

The goal of the course is to provide students with (i) an overview of U.S. and E.U. antitrust law as they relate to sustainability, and (ii) a set of analytical tools that allow them to participate and contribute to the present debate on the role of antitrust law in furthering sustainability goals. We will discuss antitrust cases where either antitrust law was used to promote sustainability goals, or where antitrust law was seen as an obstacle to achieving these goals. To analyze these cases, students will learn to use basic analytical tools including theoretical models of firm competition and empirical methods to estimate consumer preferences and firms' costs.

**Required Texts:**

There is no specific textbook for the seminar. Readings will consist of prepared notes, newspaper articles, op-eds and court case documents. All readings and relevant materials will be posted on Canvas.

**Course Requirements:**

*Class participation:* Students are expected to have read the assigned material prior to coming to class and to actively participate in class discussions.

*Bi-weekly reflections:* The seminar is organized around bi-weekly topics. At the end of each topic, students are required to submit a 1 page reflection on what they have learned during the past two weeks.

*Final project:* The final project consists of a paper (maximum of 10 pages) and a short 10 minute presentation. Each student will choose from a list of antitrust cases at the beginning of the course. Students will then provide a summary of the case and discuss how antitrust and sustainability can either complement or be in conflict with each other in the context of the case.

**Grading: Satisfactory/Unsatisfactory**

Class participation	20%
Bi-weekly reflections	40%
Final project	40%

**Academic Misconduct:**

It is the responsibility of the Committee on Academic Misconduct to investigate or establish procedures for the investigation of all reported cases of student academic misconduct. The term

“academic misconduct” includes all forms of student academic misconduct wherever committed; illustrated by, but not limited to, cases of plagiarism and dishonest practices in connection with examinations. Instructors shall report all instances of alleged academic misconduct to the committee (Faculty Rule 3335-5-487). For additional information, see the Code of Student Conduct:

<http://trustees.osu.edu/assets/files/RuleBook/CodeStudentConduct.pdf>

### **Students with Disabilities:**

The University strives to make all learning experiences as accessible as possible. If you anticipate or experience academic barriers based on your disability (including mental health, chronic or temporary medical conditions), please let me know immediately so that we can privately discuss options. To establish reasonable accommodations, I may request that you register with Student Life Disability Services. After registration, make arrangements with me as soon as possible to discuss your accommodations so that they may be implemented in a timely fashion. SLDS contact information: [slds@osu.edu](mailto:slds@osu.edu); 614-2923307; [slds.osu.edu](http://slds.osu.edu); 098 Baker Hall, 113 W. 12th Avenue.

### **Weekly Schedule**

#### Weeks 1-2

Introduction to sustainability, environmental regulation (negative externalities), and the increasing role of private businesses (self-regulation, CSR)

#### Weeks 3-4

Introduction to antitrust law

- Philosophy behind antitrust law: U.S. and E.U. perspective
- By law, are antitrust authorities supposed to care about sustainability issues?
- Rule of reason and balancing; consumer welfare standard and concept of ‘fair share’

#### Weeks 5-6

Case 1: National energy accord in the Netherlands

- Coordinated closure of coal plants that account for 10% of generating capacity
- A simple model of electricity markets (Cournot quantity competition) to measure price effects (cost of agreement)
- Measuring benefits from reduced emissions

- Market for emissions permits and the waterbed effect

#### Weeks 7-8

##### Case 2: CECED

- Implement a minimum efficiency standard on washing machines which will eliminate the cheaper, low efficiency washing machine segment
- Raising rivals' cost and model of vertical differentiation and innovation
- Estimating energy efficiency benefits

#### Weeks 9-10

##### Case 3: Chicken of tomorrow

- Restricting supermarkets from buying and selling broiler chicken that do not meet certain animal welfare standards
- Raising rivals' cost
- Estimating consumers' willingness-to-pay for animal welfare

#### Weeks 11-12

##### Case 4: AdBlue/DEF

- German car manufacturers were fined by E.U.C.C. for colluding to restrict the size of DEF tanks which contain urea to neutralize NOx emissions
- Model of collusion on non-price product characteristic; competition and innovation
- Consumer willingness-to-pay for emissions reductions

#### Weeks 13-14

##### Sustainability considerations in mergers

- Horizontal and Vertical mergers
- Competitive vs Efficiency effects
- External/environmental benefits as part of merger efficiencies

### **Reading list**

van Dijk, T. (2021), "A New Approach to Assess Certain Sustainability Agreements under Competition Law," in *Competition Law, Climate Change and Environmental Sustainability* (Eds. S. Holmes, D. Middelschulte and M. Snoep), Paris: Concurrences.

Holmes, S. (2020), "Climate change, sustainability, and competition law," *Journal of Antitrust Enforcement*, 8, 354-405.

*In re German Auto. Mfrs. Antitrust Litig.*, MDL No. 2796 CRB (JSC) (N.D. Cal. Mar. 31, 2020), <https://casetext.com/case/in-re-german-auto-mfrs-antitrust-litig-1>.

Kingston, S. (2021), "Introduction to Competition Law, Climate Change and Environmental Sustainability," in *Competition Law, Climate Change and Environmental Sustainability* (Eds. S. Holmes, D. Middelschulte and M. Snoep), Paris: Concurrences.

Koenig, B. (2021), "EU Enforcers Trying to Make Competition 'Green'," Law360 Blog, <https://www.law360.com/articles/1420610>.

Kolstad, C. (2010), *Environmental Economics*, 2<sup>nd</sup> Ed., Oxford University Press: Oxford.

Malinauskaite, J. (2022), "Competition Law and Sustainability: EU and National Perspectives," *Journal of European Competition Law and Practice*, 13:5, 336-348.

Motta, M. (2004), *Competition Policy: Theory and Practice*, Cambridge University Press: Cambridge, MA.

Schinkel, M. P. and L. Treuren (2021), "Corporate Social Responsibility by Joint Agreement," Amsterdam Center for Law & Economics Working Paper No. 2021-01.

Theis, T. and J. Tomkin (Eds.) (2018), *Sustainability: A Comprehensive Foundation*, 12th Media Services.

Whinston, M. D. (2008), *Lectures in Antitrust Economics (Cairolì Lectures)*, MIT Press: Cambridge, MA.