

## Diploma in Law (Malta): Intake October 2022

<b>Assessment Task:</b> Written assignment based on chosen questions	
<b>Module:</b> <i>Award in Principles of Competition Law</i>	<b>Tuition Centre:</b> 21 Academy <b>Licence Number:</b> 2018-017
<b>Level:</b> Award MQF Level 5	<b>Student Name:</b>
<b>Date:</b>	<b>ID Number:</b> <same no. submitted in student profile>
<b>Assignment Deadline:</b> 11 May 2023	
<p><b>Task</b> The purpose of this unit is to develop an understanding of a particular topic you will write about which forms part of Competition Law.</p> <p><b>Note</b> This assessment provides students with an opportunity to put into practice the relevant provisions of the law in relation to the topic they choose to write about forming part of Competition Law.</p> <p><b>Note</b> <i>You should plan to spend approximately 20 hours researching the assignment question, preparing for and writing the assignments for assessment. The nominal word count for the assignment is 1,700 words unless indicated otherwise in the question.</i></p>	
<p><b>Choose and answer 1 question from the following:</b></p> <p><b>Question 1:</b> Backpacks Inc is a manufacturer and supplier of school backpacks and school bags under the brand names 'ergobag' and has a global share of 25%. Backpacks wishes to expand its distribution network into the EU with the following objectives:</p> <ol style="list-style-type: none"> <li>a. The implementation of a selective distribution system;</li> <li>b. Online sales are to be controlled by Backpacks;</li> <li>c. Monitoring of its distributors for compliance with the retail prices at regular intervals.</li> </ol> <p>Assuming that each of the distributors' market share is below 30%, please advise Backpacks as to whether the distribution agreements infringe Article 101 TFEU.</p> <p>In preparing your advice please consider:</p> <ul style="list-style-type: none"> <li>• What are the constitutive elements for an agreement to fall under Article 101 TFEU?</li> <li>• Is there any EU block exemption regulation available to the proposed agreements?</li> <li>• Can Backpacks set up a selective distribution in the first place?</li> <li>• What are the competition law rules on online sales and retail prices in this context?</li> <li>• Is there any case law that can assist in the formulation of the advice to Backpacks?</li> </ul> <p><b>Question 2:</b> Cupid Limited is a Maltese start-up that develops a dating app. It is compatible with Windows, Android, and iOS.</p> <p>Cupid is alleging that Apple has prevented Cupid from making updates and define its own app communication strategy. It has also recently notified Cupid that it would be delisting Cupid from the Apple App Store on the grounds that its technology is incompatible with Apple's App store review guidelines.</p>	

Cupid would like to know whether it can pursue a case against Apple in terms of Article 102 TFEU.

In preparing your advice please consider:

- What are the constitutive elements of an Article 102 TFEU case?
- How would the relevant market be defined?
- Is Apple dominant?
- How would you describe Apple's conduct in terms of Article 102 TFEU?
- Is there any case law that can assist in the formulation of the advice to Cupid?

**Question 3:**

In order to qualify as a 'concentration' a joint venture must perform "on a lasting basis all the functions of an autonomous economic entity" (Article 3(4), EU Merger Regulation). A joint venture that satisfies these requirements is referred to as a "full function" joint venture.

Please explain the notion of a "full function" joint venture in terms of the EU Merger Regulation with reference to the Commission Consolidated Jurisdictional Notice under Council Regulation (EC) No 139/2004 on the control of concentrations between undertakings and EU case-law.

**Pass Mark - 50% of total weighted score including multiple choice exam score**

**Total Assignments Weighting - 100%**

**By submitting I confirm that this assessment is my own work**

**Mark:**

**Signature:** <main assessor>

**Date**

**Signature:** <quality assurance>