



Konkurrenceretlig Nyhedsoversigt nr. 79 / dækkende 16. februar 2023 - 13. marts 2023

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- European Competition Law Review
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- Antitrust Law Journal
- The Antitrust Bulletin (US Journal)
- Competition Law & Policy Debate
- Competition Law Scholars Forum
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- Competition Law Journal
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1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

Konkurrence- og Forbrugerstyrelsen modtog den 28. februar 2023 en forenklet anmeldelse af en fusion mellem Delika Food Group A/S ("Delika") og Skare Food Group A/S ("Skare"), herunder også Defco A/S af 2019 ("Defco").

Transaktionen medfører, at Delika, gennem Erhvervsinvest Management A/S, overtager 100 pct. af aktiekapitalen i Skare og Defco. Delika erhverver dermed enekontrol over Skare og Defco.

[Læs mere](#)

Dato: 28.02.2023

Konkurrence- og Forbrugerstyrelsen modtog den 10. februar 2023 en forenklet anmeldelse af en fusion mellem AMAG Group AG, Semler Gruppen A/S og Holo A/S.

Efter transaktionens gennemførelse vil Holo A/S være fælles kontrolleret af AMAG Group AG og Semler Gruppen A/S.

[Læs mere](#)

Dato: 20.02.2023

Nyt fra Konkurrencerådet

Konkurrence- og Forbrugerstyrelsen modtog den 7. februar 2023 en forenklet anmeldelse af en fusion mellem WSH Denmark ApS og LM Group ApS.

Transaktionen medfører, at WSH Denmark ApS erhverver 100 pct. af aktiekapitalen i LM Group ApS, herunder Meyers Group ApS og dets datterselskaber. WSH Denmark ApS erhverver dermed enekontrol over LM Group ApS.

[Læs mere](#)

Dato: 16.02.2023

Nyt fra Konkurrenceankenævnet

Intet nyt.

Nyt fra domstolene

Civilretlige afgørelser

Intet nyt.

Afgørelser om bøder

Intet nyt.

Lovforslag i høring

Intet nyt.

Ny lovgivning

Intet nyt.



Nyt fra Ankestyrelsen

Intet nyt.

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust

Commission confirms unannounced inspections in the fragrance sector.

On 7 March 2023, the European Commission carried out unannounced inspections at the premises of companies and an association active in the fragrance industry in various Member States. In parallel, the Commission has sent out formal requests for information to several companies active in the same sector.

The inspections and requests for information concern possible collusion in relation to the supply of fragrances and fragrance ingredients. Fragrances are used in the manufacture of consumer products such as household and personal care products.

The Commission has concerns that companies and an association in the fragrance industry worldwide may have violated EU antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the European Union).

The Commission has been in contact with the Antitrust Division of the US Department of Justice, the UK Competition and Markets Authority and the Swiss Competition Commission in relation to this matter and the inspections were conducted in consultation with them. The Commission officials were accompanied by their counterparts from the national competition authorities of the Member States where the inspections were carried out.

[Læs mere](#)

Dato: 07.03.2023

Commission sends Statement of Objections to Apple clarifying concerns over App Store rules for music streaming providers.

The European Commission has sent a Statement of Objections to Apple clarifying its concerns over App Store rules for music streaming providers.

This procedural step follows the Commission's Statement of Objections which outlined the Commission's preliminary view that Apple abused its dominant position by: (i) imposing its own in-app purchase payment technology on music streaming app developers ('IAP obligation'), and (ii) restricting app developers' ability to inform iPhone and iPad users of alternative music subscription services ('anti-steering obligations').

The Statement of Objections clarifies that the Commission does no longer take a position as to the legality of the IAP obligation for the purposes of this antitrust investigation but rather focuses on the contractual restrictions that Apple imposed on app developers which prevent them from informing iPhone and iPad users of alternative music subscription options at lower prices outside of the app and to effectively choose those.

The Commission takes the preliminary view that Apple's anti-steering obligations are unfair trading conditions in breach of Article 102 of the Treaty on the Functioning of the European Union ('TFEU').

In particular, the Commission is concerned that the anti-steering obligations imposed by Apple on music streaming app developers prevent those developers from informing consumers about where and how to subscribe to streaming services at lower prices. These anti-steering obligations: (i) are neither necessary nor proportionate for the provision of the App Store on iPhones and iPads; (ii) are detrimental to users of music streaming services on Apple's mobile devices who



may end up paying more; and (iii) negatively affect the interests of music streaming app developers by limiting effective consumer choice.

[Læs mere](#)

Dato: 28.02.2023

Cartels

Intet nyt.

Mergers

Commission opens in-depth investigation into proposed acquisition of Asiana by Korean Air.

The European Commission has opened an in-depth investigation to assess, under the EU Merger Regulation, the proposed acquisition of Asiana by Korean Air. The Commission is concerned that the transaction may reduce competition in the markets for passenger and cargo air transport services between the European Economic Area ('EEA') and South Korea.

Korean Air and Asiana are respectively the first and second largest airlines in South Korea. They operate a network of domestic routes, short-haul routes in Asia as well as long-haul routes between South Korea and the rest of the world.

The preliminary investigation indicates that the companies are strong and close competitors in the provision of passenger and cargo air transport services between the EEA and South Korea. In particular, the Commission found that:

- The transaction could reduce competition in the provision of passenger transport services on four routes between South Korea and the EEA. In those routes, Korean Air and Asiana compete head-to-head, and in two of those routes, they are the only two companies offering direct services. Other airlines may be unlikely to exert sufficient competitive pressure on the merged entity.
- The transaction could eliminate potential competition in passenger transport services between the EEA and South Korea.
- The transaction could reduce competition in the provision of cargo transport services between Europe and South Korea. Korean Air and Asiana compete head-to-head in carrying cargo between the EEA and South Korea. Other competitors face regulatory and other barriers to expand their services and may be unlikely to exert sufficient competitive pressure on the merged entity.
- Despite the severe impact of the coronavirus pandemic in the passenger air transport sector, it is unlikely that Asiana and Korean Air would stop competing or be significantly less competitive absent the transaction.

The Commission will therefore now carry out an in-depth investigation into the effects of the transaction to determine whether its initial competition concerns are confirmed.

The transaction was notified to the Commission on 13 January 2023. Korean Air and Asiana decided not to submit commitments. The Commission has 90 working days, until 5 July 2023, to take a decision. The opening of an in-depth investigation does not prejudice the outcome of the investigation.

[Læs mere](#)

Dato: 17.02.2023

State Aid

Commission extends in-depth investigation into Germany's plans for early closure of lignite-fired power plants.

The European Commission has extended the scope of its ongoing in-depth inquiry into Germany's plans to compensate lignite-fired power plants operators for the early phase out. The extended investigation concerns an amendment to the agreement between Germany and RWE for the accelerated lignite phase-out in the Rhenish lignite mining area.

In March 2021, the Commission opened an in-depth investigation to assess whether Germany's plan to compensate RWE and LEAG for the early closure of their lignite-fired power plants was in line with the EU State aid rules. In particular, the Commission had doubts as to the proportionality of the compensation payments covering forgone profits and additional mine rehabilitation costs.

In December 2022, Germany notified to the Commission an amendment to its agreement with RWE for an accelerated lignite phase-out in the Rhenish lignite mining area. The amendment included: (i) the delay from end-2022 to March 2024



of the final closure of two plants, and (ii) the advance from 2038 to 2030 of the final closure of three plants. Germany informed the Commission that the original €2.6 billion compensation to RWE remained unaltered and submitted a revised calculation of RWE's forgone profits to demonstrate that the compensation is justified and proportionate.

Therefore, the Commission has decided to extend the scope of its ongoing investigation to cover the new elements notified by Germany.

[Læs mere](#)

Dato: 02.03.2023

Commission approves €89.6 million Hungarian investment aid to Samsung SDI's electric vehicle battery plant.

The European Commission has found Hungary's €89.6 million measure in favour of Samsung SDI to be in line with EU State aid rules. The investment aid will support the expansion of Samsung SDI's battery cell production facility for electric vehicle ('EV') in Göd. The aid will contribute to the development of the region and to job creation, whilst preserving competition.

[Læs mere](#)

Dato: 28.02.2023

Commission approves €1.1 billion German scheme to support rail transport operators using electric traction.

The European Commission has approved, under EU State aid rules, a €1.1 billion German scheme to compensate rail transport operators using electric traction in the context of the recent spike in electricity prices. The measure will contribute to ensuring that the rail sector remains competitive while preserving the environmental performance of electric rail, in line with the objectives of the Commission's Sustainable and Smart Mobility Strategy and of the European Green Deal.

[Læs mere](#)

Dato: 24.02.2023

Commission approves €3 billion French scheme to support companies in five outermost regions.

The European Commission has approved, under EU State aid rules, a €3 billion French scheme to compensate companies in five French outermost regions for the additional costs borne when operating in those territories until 2027.

[Læs mere](#)

Dato: 24.02.2023

Commission approves €55 million German measure to support ArcelorMittal's green steel demonstration plant.

The European Commission has approved, under EU State aid rules, a €55 million German measure to support ArcelorMittal Hamburg GmbH ('ArcelorMittal') in building a demonstration plant for the production of green steel using renewable hydrogen. The measure will contribute to the achievement of the EU Hydrogen Strategy and the European Green Deal targets, while helping to reduce dependence on Russian fossil fuels and fast forward the green transition in line with the REPowerEU Plan.

[Læs mere](#)

Dato: 17.02.2023

Commission approves €460 million Spanish measure to support ArcelorMittal decarbonise its steel production.

The European Commission has approved, under EU State aid rules, a €460 million Spanish measure to support ArcelorMittal España ('ArcelorMittal') in partially decarbonising its steel production processes. The measure will contribute to the achievement of the EU Hydrogen Strategy and the European Green Deal targets, while helping to reduce dependence on Russian fossil fuels and fast forward the green transition in line with the REPowerEU Plan.

[Læs mere](#)

Dato: 17.02.2023

Andet

Intet nyt.



Nyt fra EU-domstolen

Domme

[C-394/21](#) - *Bursa Română de Mărfuri*

Præjudiciel forelæggelse – det indre marked for elektricitet – direktiv 2009/72/EF – forordning (EU) 2019/943 – artikel 1, litra b) og c), og artikel 3 – principper vedrørende driften af elektricitetsmarkeder – forordning (EU) 2015/1222 – artikel 5, stk. 1 – udpeget elektricitetsmarkedsoperatør – nationalt, lovbeskyttet monopol på day-ahead- og intraday-handelsydelse – national lovgivning, hvorved fastsættes et monopol for engroshandel med elektricitet på kort, mellemlang og lang sigt.

Europa-Parlamentets og Rådets forordning (EU) 2019/943 af 5. juni 2019 om det indre marked for elektricitet, navnlig forordningens artikel 1, litra b) og c), artikel 2, nr. 40), og artikel 3, sammenholdt med Europa-Parlamentets og Rådets direktiv 2009/72/EF af 13. juli 2009 om fælles regler for det indre marked for elektricitet og om ophævelse af direktiv 2003/54/EF skal fortolkes således, at

- denne forordning ikke er til hinder for en medlemsstats lovgivning, hvorefter et nationalt, lovbeskyttet monopol på tjenesteydelser med formidling af bud på køb og salg af elektricitet opretholdes for så vidt angår day-ahead- og intraday-engrosmarkederne, når dette monopol allerede fandtes i medlemsstaten på tidspunktet for ikrafttrædelsen af Kommissionens forordning (EU) 2015/1222 af 24. juli 2015 om fastsættelse af retningslinjer for kapacitetstildeling og håndtering af kapacitetsbegrænsninger i overensstemmelse med denne forordnings artikel 5, og
- denne forordning ikke er til hinder for en medlemsstats lovgivning, hvorefter et nationalt, lovbeskyttet monopol på tjenesteydelser med formidling af bud på køb og salg af elektricitet opretholdes for så vidt angår forward-engrosmarkedet, idet en sådan lovgivnings forenelighed med EU-retten skal vurderes i forhold til de relevante bestemmelser i den primære EU-ret.

[Læs mere](#)

Dato: 02.03.2023

[C-312/21](#) - *Tráficos Manuel Ferrer*

Præjudiciel forelæggelse – konkurrence – erstatning for en skade, som er forvoldt af en praksis, der er forbudt i henhold til artikel 101, stk. 1, TEUF – Kommissionens afgørelse om, at der foreligger hemmelige aftaler om prisfastsættelse og forhøjelse af bruttopriserne for lastbiler i Det Europæiske Økonomiske Samarbejdsområde (EØS) – national civilprocesretlig regel om, at hver part bærer sine egne sagsomkostninger, hvis en påstand tiltrædes delvist, medmindre der foreligger ulovlig adfærd – medlemsstaternes procesautonomi – principperne om effektivitet og ækvivalens – direktiv 2014/104/EU – formål og samlet afvejning – artikel 3 – ret til fuld erstatning for den lidte skade – artikel 11, stk. 1 – solidarisk hæftelse for ophavsmændene til en overtrædelse af konkurrenceretten – artikel 17, stk. 1 – mulighed for, at den nationale retsinstans fastsætter skaden ved et skøn – betingelser – umuligt eller uforholdsmæssigt vanskeligt i praksis at opgøre skaden – artikel 22 – tidsmæssig anvendelse.

Artikel 101 TEUF og artikel 3, stk. 1 og 2, i Europa-Parlamentets og Rådets direktiv 2014/104/EU af 26. november 2014 om visse regler for søgsmål i henhold til national ret angående erstatning for overtrædelser af bestemmelser i medlemsstaternes og Den Europæiske Unions konkurrenceret skal fortolkes således, at

- disse bestemmelser ikke er til hinder for en national civilprocesretlig regel, hvorefter hver part bærer sine egne omkostninger og betaler halvdelen af de fælles omkostninger, såfremt de får delvist medhold, medmindre der foreligger ulovlig adfærd.

Artikel 17, stk. 1, i direktiv 2014/104 skal fortolkes således, at

- hverken den omstændighed, at sagsøgte i et søgsmål, der henhører under anvendelsesområdet for dette direktiv, har stillet de oplysninger, som vedkommende støttede sig på for at modsige sagsøgerens sagkyndige erklæring, til rådighed for denne sagsøger, eller at sagsøgeren alene har rettet sit krav mod en enkelt af ophavsmændene til nævnte overtrædelse, i sig selv er relevante med henblik på at vurdere, om de nationale retsinstanser kan foretage et retsligt skøn over skaden, idet dette skøn for det første forudsætter, at skaden er påvist, og for det andet at det er umuligt eller uforholdsmæssigt vanskeligt i praksis at opgøre skaden præcist, hvilket indebærer, at der skal tages hensyn til samtlige elementer, der fører til en sådan konstatering, og navnlig at skridt, såsom den anmodning om fremlæggelse af beviser, der er fastsat i nævnte direktivs artikel 5, har været forgæves.

[Læs mere](#)



Dato: 16.02.2023

Forslag til afgørelse

[C-73/22 P](#) - Grupa Azoty m.fl. mod Kommissionen.

Appel – statsstøtte – retningslinjer for visse statsstøtteforanstaltninger som led i ordningen for handel med kvoter for drivhusgasemissioner efter 2021 – støtteberettigede sektorer – udelukkelse af sektoren for fremstilling af gødningsprodukter – annullationssøgsmål – begrebet »anfægtelig retsakt

[Læs mere](#)

Dato: 02.03.2023

[C-680/21](#) - Royal Antwerp Football Club.

Præjudiciel forelæggelse – artikel 45 TEUF – arbejdskraftens frie bevægelighed – artikel 165 TEUF – sport – UEFA's og de associerede nationale fodboldforbunds reglementer – spillere af egen avl.

Forslag til afgørelse:

»Artikel 45 TEUF skal fortolkes således, at denne bestemmelse er til hinder for anvendelsen af regler om spillere af egen avl som vedtaget af Det Europæiske Fodboldforbund (UEFA) og Union royale belge des sociétés de football association (URBSFA), hvorefter klubber for at kunne deltage i de relevante turneringer skal angive mindst 8 spillere af egen avl i en trupliste på maksimalt 25 spillere, for så vidt som sådanne spillere af egen avl kan stamme fra en anden klub i det pågældende nationale fodboldforbund.«

[Læs mere](#)

Dato: 09.03.2023

[C-466/21 P](#) - Land Rheinland-Pfalz mod Deutsche Lufthansa.

Appel – statsstøtte – luftfartssektoren – driftsstøtte, som Tyskland har ydet Frankfurt Hahn lufthavn – afgørelse om ikke at gøre indsigelse – annullationssøgsmål – interesseret part – beskyttelse af processuelle rettigheder – begrebet »overordnet plan.

[Læs mere](#)

Dato: 09.03.2023

Kendelse

Intet nyt.

Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

The Competition and Markets Authority (CMA) has launched a market study into housebuilding in England, Scotland and Wales.

With widespread concerns about housing availability and costs, the Competition and Markets Authority (CMA) has launched a new phase of work in the housing sector. The CMA is launching a market study into housebuilding, and will start a separate consumer protection project related to rented accommodation.

The market study comes following concerns builders are not delivering the homes people need at sufficient scale or speed. The CMA's consumer protection work will seek to shed light on the experience of renters and explore whether more could be done to help landlords and intermediaries to understand their obligations.

[Læs mere](#)

Dato: 28.02.2023



3 | LITTERATUR (DK)

Artikler fra UfR

Intet nyt.

Nye publikationer fra Erhvervsministeriet

Aftale om støtteordning for mindre købmænd og andre energiudsatte fødevarerforretninger i små byer ramt af stigende energipriser.

Der er afsat en ramme på 75 mio. kr. i 2023 til ordningen. Halvdelen af rammen er afsat til direkte støtte til mindre købmænd, bagere, slagtere mv. (som kan udgøre op til 50.000 kr.), mens den resterende halvdel er afsat til en grøn omstillingsstøtte, der skal hjælpe virksomhederne med at foretage investeringer i energiforbedrende tiltag. Såfremt der er berettigede ansøgninger for mere end dette, så reduceres støttebeløbet med henblik på, at ordningen holdes inden for den afsatte ramme. Ordningen gennemføres inden for EU's de minimis regler.

[Læs mere](#)

Dato: 23.02.2023

Artikler fra Juristen

Intet nyt.

Artikler fra Erhvervsjuridisk Tidsskrift

Intet nyt.

Artikler fra Revision og Regnskabsvæsen

Intet nyt.

Artikler fra EU og Menneskeret

Intet nyt.

Konkurrenceretlige emner

Intet nyt.

Anden dansk og nordisk litteratur

Europarättslig tidskrift nr 1 2023

LEDARARTIKEL

- Ladda hem artikel som PDF Public service, SVT:s textjournalistik och EU:s statstödsrätt. Forfatter: Tobias Indén.



ARTIKLAR

- The “indirect constitutive role” of the EU national courts and the European methods of legal interpretation. Forfatter: Markku Kiikeri.
- Making sustainable products the norm on the Internal Market: an assessment of the proposal for a new Ecodesign Regulation. Forfatter: Carl Dalhammar.
- The Conformity of Cybersecure Hardware for Machinery Products. Forfatter: Daria Bulgakova.
- Idrott och konkurrensrätt: generaladvokat Rantos förslag till avgörande i mål C-333/21 European Superleague. Forfatter: Johan Karlsson.

KOMMENTARER

- Högsta domstolens avgörande Konsumentombudsmannen mot Mackmyra – en Europarättslig analys av NJA 2021 s. 1124. Forfatter: Mattias Grundström.

KRÖNIKOR

- Att kommentera utan att kvälja – surt sa räven om HFD 2022 ref. 41. Forfattere: Erik Olsson og Casper Tham.
- Reflektioner i anledning af 50 års dansk medlemskab af EU. Forfattere: Ulla Neergaard og Karsten Engsig Sørensen.

RECENSIONER

- Graham Butler and Ramses Butler (red.), EU External Relations Law – The Cases in Context (Hart 2022). Forfatter: Pär Hallström.
- Susanna Lindroos-Hovinheimo, Europeiska unionens domstol: Behörighet, uppgifter och förfaranden (Norstedts Juridik 2022). Forfatter: Anna W Ghavanini.

DOKUMENTATION

- EU-rättsliga avgöranden av affärsjuridiskt intresse. Augusti–oktober 2022. Forfattere: Sam Fakhraie Ardekani, Cecilia Holmsten, Martin Johansson og Rebecka Nordblad.
- Europadomstolens domar. Oktober–december 2022. Forfatter: Anna Rogalska Hedlund.
- Seminarium: Europadomstolens rättspraxis i svensk rätt. Forfatter: Evelina Lund.
- Seminarium: ”Aldrig hört ordet... vaddå rättsstat” – Vad vet svenska gymnasister om rättsstatens roll i en demokrati? Forfatter: Evelina Lund.

4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Issue 4 (vol.44) 2023

The new EU competition rules for supply and distribution agreements: no revolution, but an evolution of the effects-based approach. Forfatter: Luc Peepkorn.

Advices practitioners on changes to EU competition law rules for supply and distribution agreements by Regulation 2022/720. Notes the earlier shift to an effects-based approach, the rules that are unchanged, and the main reforms in areas such as dual distribution, excluded restrictions, and agency.

Konkurrenceretlig nyhedsoversigt dækker dansk, EU og international konkurrenceret og statsstøtteren Tilmeld dig nyhedsbrevet via formularen på [CMEs hjemmeside](#)

**A sustainable future: how can control of monopoly power play a part? Part III. Using merger control to intervene before the problem arises or gets worse. Forfatter: Simon Holmes.**

This, the third part of a three-part article on how competition policy can help prevent monopoly power from hampering a sustainable future, examines how EU merger control might be used to combat market power and harmful business practices. (See E.C.L.R. 2023, 44(2), 61-69 for Pt II of this article).

Illumina/GRAIL, Chapter 1: the unexpectedly broad merger control powers of the European Commission. Forfatter: Eun Hye Kim.

Discusses Illumina Inc v European Commission (T-227/21) (GC) which found Regulation 139/2004 art.22 allowed a merger between two US companies in the genomics and health care fields to be referred to the Commission by a Member State's competition authority despite it lacking an EU dimension.

A critical analysis of the Turkish Competition Authority's data interoperability decision. Forfatter: Dr Cihan Doğan.

Comments on the Turkish Competition Board ruling in Sahibinden Bilgi Teknolojileri Pazarlama ve Ticaret Anonim Sirketi on whether a listing portal in the digital market for online advertising abused its dominant position by exclusionary conduct involving refusal of data interoperability requests.

Populism and Antitrust: The Illiberal Influence of Populist Government on the Competition Law System (Publication Review). Forfatter: Maciej Bernatt.**Belgium: anti-competitive practices – investigation. Forfatter: Quentin Declève.**

Notes the Belgian Competition Authority's ongoing investigation into the pharmaceutical wholesaler CERP SA for alleged anti-competitive conduct involving participation in a pre-sale terms and conditions cartel for influenza vaccines. Details the earlier settlement decision with other wholesalers.

Canada: mergers - merger control. Forfatter: Kaeleigh Kuzma.

Notes the Canadian Commissioner of Competition's consent agreement with Domtar Corp following a finding that its acquisition of Resolute Forest Products Inc would substantially lessen competition in the pulp and paper market, and raise market entry concerns. Highlights its divestiture commitments.

Denmark: anti-competitive practices – infringement. Forfatter: Jens Munk Plum.

Notes several decisions of the Danish Competition Authority finding a number of companies involved in the New Visions business concept had committed anti-competitive practices involving horizontal price co-ordination and customer sharing. Details the penalty notices imposed and mitigating factors.

Estonia: anti-competitive practices - decision (Case Comment). Forfatter: Triinu Järviste.

Notes the Estonian Competition Authority ruling in AS Hansab / Brink's Estonia OU on whether anti-competitive conduct occurred in the market for transporting and processing cash in ATM services. Details the guidance on determining dominance of a newcomer in a duopoly market.

Finland: mergers - merger control. Forfatter: Maarit Taurula.

Notes the revised merger notification thresholds applicable in Finland from 1 January 2023, the amended notification form accompanying the changes, and the publication of new merger control guidance from the Finnish Competition and Consumer Authority.

Finland: anti-competitive practices - infringement (Case Comment). Forfatter: Maarit Taurula.

Notes the Finnish Market Court ruling of 15 December 2022, imposing fines totalling EUR 4.93 million on companies in the real estate management sector, including Retta Services Oy and Colliers Finland Group Oy, for anti-competitive practices involving price co-operation and price fixing.

France: anti-competitive practices - enforcement - follow-on private action for damages (Case Comment). Forfatter: Emmanuel Reille.

Notes the decision of the Commercial Court of Lyon in Colas Group, dismissing the first French follow-on claim relating to the EU trucks cartel, considering that the relevant conduct pre-dated the transposition of Directive 2014/104, and the need to prove causation and quantify the alleged damage.



Greece: anti-competitive practices - sector investigation - press distribution (Case Comment). Forfatter: Professor Dimitris Tzouganatos.

Notes the Hellenic Competition Commission decision in Argos SA, concluding a sector investigation by imposing remedies on the sole national press distribution agency. Highlights the Commission's concerns over the market's monopolistic nature, Argos' press shareholdings and the remedies imposed.

Hungary: mergers - merger control. Forfatter: Dr Fanni Oroszi, LL.M.

Notes changes to Hungary's merger notification thresholds from 1 January 2023, together with amendments to the level of fines that may be imposed by the Hungarian Competition Authority. Details the revised thresholds, and the increased filing fees.

Latvia: competition - market inquiry. Forfatter: Ivo Maskālans.

Notes the completion of a market inquiry into the online platform market by the Latvian Competition Authority (LCA) following concerns over the market power of certain local platforms. Details the issues examined by the inquiry, and the LCA's call for specific regulation to address the problems.

Portugal: mergers - merger control. Forfatter: Bruno de Zêzere Barradas.

Notes the Portuguese Competition Authority's December 2022 publication of a best practices guide on gun-jumping in merger control, following a number of relevant cases. Summarises the issues addressed by the guidance.

Portugal: competition – enforcement. Forfatter: Bruno de Zêzere Barradas.

Notes the Portuguese Competition Authority's publication on 21 December 2022 of a notice outlining its enforcement priorities for 2023, including its focus on potential abuses of dominance in the digital market. Highlights the nomination of Nuno Cunha Rodrigues as the authority's new chairman.

Portugal: competition – enforcement. Forfatter: Bruno de Zêzere Barradas.

Reviews the Portuguese Competition Authority's enforcement activities during 2022, including the sectors against which it issued statements of objections, the fines imposed in 12 infringement decisions, and its merger control work. Notes its recommendations on topics such as the agricultural sector.

Portugal: anti-competitive practices – enforcement. Forfatter: Bruno de Zêzere Barradas.

Notes the Portuguese Competition Authority's strengthening of its mechanisms for monitoring and detecting evidence of anti-competitive conduct in digital markets, and highlights key features of subsequent investigations involving the revised powers.

Romania: mergers - merger control - takeover (Case Comment). Forfatter: Cristina de Jonge.

Notes the Romanian Competition Council decision to clear a takeover by Engineering Ingegneria Informatica SpA, an American-owned IT services company, of Be Shaping the Future SpA, an Italian IT consultancy, with no serious competitive concerns.

Romania: anti-competitive practices - infringement - restrictive business practices (Case Comment). Forfatter: Cristina de Jonge.

Notes the Romanian Competition Council's decision to fine Volvo Romania SRL, the sole Romanian importer of Renault medium and heavy trucks, approximately EUR 2.65 million for market sharing arrangements within its selective distribution network, affecting domestic and EU-wide competition.

Slovenia: anti-competitive practices - infringement - market sector inquiry. Forfatter: Eva Škufca.

Notes the Slovenian Competition Protection Agency decision in MLIN KOROSEC doo / MLINOPEK dd Murska Sobota / MLINOTEST dd / Panvita doo / ZITO doo, following an investigation, and concurrent market sector inquiry, into potential collusive practices in the baking sector affecting wheat pricing.

South Africa: mergers - merger control. Forfatter: Jocelyn Katz.

Notes proceedings before the South African Competition Tribunal that have involved third party interventions by competitors of the merging entities, and the challenge of determining whether such interventions raised legitimate issues or were an abuse of process to further their business interests.

**Spain: anti-competitive practices - infringement (Case Comment). Forfatter: Pedro Callol.**

Notes the Spanish National Competition and Markets Commission ruling in Lediand, fining the sole provider of the drug XCT EUR 10.25 million for anti-competitive practices involving exclusionary conduct and excessive pricing of the medication.

Spain: anti-competitive practices - judgment (Case Comment). Forfatter: Pedro Callol.

Notes the Madrid Commercial Court ruling in World Padel Tour v International Padel Federation, an unfair competition action that clarified whether contractual obligations which required padel players to participate exclusively in World Padel Tour events constituted anti-competitive practices.

Turkiye: mergers - merger control (Case Comment). Forfatter: Gönenç Gürkaynak, Esq.

Notes the Turkish Competition Board ruling in Norgine Europe BV, unconditionally approving the acquisition of a pharmaceutical sales company by investment vehicles indirectly controlled by the Goldman Sachs Group Inc. Details the Board's analysis of whether horizontal or vertical overlaps existed.

US: mergers - merger control. Forfatter: Anthony P. Badaracco.

Notes the passage of the US Merger Filing Fee Modernization Act 2022 revising the fees for merger notifications. Details the range of amended fees, the creation of an additional requirement to disclose any foreign subsidies received by the filer, and the increased enforcement budget.

Artikler fra European Competition Journal

Intet nyt.

Artikler fra Journal of Competition Law and Economics

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Artikler fra Journal of Antitrust Enforcement

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Artikler fra Competition Policy Brief

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Artikler fra Competition Merger Brief

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Artikler fra Journal of European Competition Law and Practice

Intet nyt.

Artikler fra World Competition

Vol. 46 (2023) Issue 1

Regulation 1/2003: An Assessment After Twenty Years. Forfatter: Wouter P. J. Wils.

Regulation 1/2003 brought about a radical change in the way in which the EU antitrust prohibitions contained in Articles 101 and 102 TFEU are enforced. The previous enforcement regime, under Regulation 17, which dated from 1962, was



characterized by a centralized notification and authorization system for Article 101(3) TFEU. Regulation 1/2003 abolished this system and replaced it by a system of ex post enforcement. The objectives of this reform were to allow the European Commission to become more active in the pursuit of serious infringements of Articles 101 and 102 TFEU, as well as to decentralize enforcement to the Member States' competition authorities and to the national courts, while maintaining EU-wide consistency.

This article provides an overview of the genesis of Regulation 1/2003, its objectives, and its main results, as apparent twenty years later. It finds that the decentralization to the national competition authorities, cooperating with the European Commission and each other in the European Competition Network, has been a major success, beyond expectations. On the other hand, the prediction that the reform would lead to a significant increase in the number of prohibition decisions adopted by the European Commission has turned out to be too optimistic. Ten possible explanations for this lack of increase in the number of prohibition decisions are tentatively examined. Taking together the figures for the European Commission and the national competition authorities, however, there can be no doubt that Regulation 1/2003 has led to a spectacular increase in the enforcement of Articles 101 and 102 TFEU, and that Regulation 1/2003 has thus been a great success.

Digital Ecosystems in the Wake of a Legislative/Regulatory Turmoil: A First (Tentative) Antitrust Assessment of the Italian (And European) Experience in the AGCM Case Law. Forfattere: Valeria Falce og Nicola M.F. Faraone.

Ecosystems is central to contemporary competition law debate, in particular in digital markets. Over the past few months, the EU Commission has launched several initiatives, such as the AI Regulation and the Digital Markets Act (DMA), in the attempt to induce faster changes in business conducts compared to competition law proceedings by avoiding the numerous lengthy stages and the lack of flexibility of such enforcement. The current initiatives at EU level and the proactive legislative approach adopted by various Member States have the merit to (at least try to) codify general ex ante rules inspired, largely, by specific competition law proceedings and, then, clarify the emerging notion of digital ecosystems. This article considers the meaning and the scope of this recurring concept by reviewing all the relevant legislative and policy-related initiatives adopted by the EU Commission and the Member States. It then shows the outcome of the recent proceedings concluded by the Italian Competition Authority ('AGCM') concerning the role of ecosystems in the current digital landscape. Against this background, this article argues that it will be difficult to reconcile this ever-growing national trend, in terms of parallel competition proceedings (with record-fines) and legislative proposals/amendments regarding the digital gatekeepers, with the EU Commission's 'legislative train' aimed at regulating the EU digital markets.

'Everything the Data Touches Is Our Kingdom': Market Power of 'Data Ecosystems'. Forfatter: Peter J. Van De Waerd.

Companies such as Google and Facebook are not merely conglomerates of Internet-based services which just so happen to process personal data. They should instead be conceptualized as 'data ecosystems' and treated as such. Data ecosystems are companies which collect and monetize personal data through a network of widely diverging internet-based services, for the overarching purpose of targeted advertising. Contrasted with traditional conglomerates, a data ecosystem is unique since all of its different branches are interconnected through a single shared resource: personal data. Consequently, this ecosystem structure grants strong sources of market power. Network effects of personal data, throughout the entire ecosystem, lead to services being constantly updated and personalized with increasing accuracy, while simultaneously enhancing the monetization strategy of targeted advertising. Meanwhile, data ecosystems' reach across the Internet means that consumers cannot realistically choose not to participate, nor find suitable competitors for each service. Finally, data ecosystems have strong incentives to expand into additional markets: conglomerate mergers are an essential strategy to reinforce their sources of market power. Data ecosystems enjoy a unique form of market power which has been seriously underestimated in the past. A new approach that fully appreciates their unique structure and market power is therefore required.

Three E-commerce Case Studies in the Context of Japanese Competition Enforcement: Comparative Considerations With the US Experience. Forfattere: Yuichiro Hayakawa og Koki Arai.

This study compares three case studies in the context of Japanese competition law enforcement with the US experience. Although each case involves important issues, this study focuses on extracting common aspects of competition law by critically examining the following cases of Antimonopoly-Law-suspected violations pursued by the Japan Fair Trade Commission (JFTC): the e-commerce case against Amazon Japan, the shipping charges case against the Rakuten group, and billing-related suspected violations by Apple. After extracting the common aspects from each case, this study recursively re-examines the cases to clarify the aspects that should be emphasized in competition law enforcement.



Book Review: Hong Kong Competition Law: Comparative and Theoretical Perspectives, Thomas K. Cheng & Kelvin Hiu Fai Kwok. Cambridge University Press. 2021. Forfatter: Andreas Stephan.

Book Review: How Big Barons Smash Innovation: And How to Strike Back, Ariel Ezrachi & Maurice E. Stucke. New York: Harper Collins. 2022. Forfatter: Klaudia Majcher.

Artikler fra Antitrust Law Journal

Intet nyt.

Artikler fra Antitrust Bulletin

Intet nyt.

Artikler fra Competition Law and Policy Debate

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Artikler fra Competition Law Scholars Forum

Intet nyt.

Artikler fra Journal of Regulatory Economics

Intet nyt.

Artikler fra International Review of Law and Economics

Volume 73 - March 2023

Taxing banks leverage and syndicated lending: A cross-country comparison. Forfattere: A. Burietz; S. Ongena og M. Picault.

Between 2010 and 2012 and with bank stability as the ultimate target, five European countries implemented a tax levy on banks' liabilities thereby decreasing the cost of equity relative to the cost of debt. Using a difference-in-differences approach we assess the impact of this tax levy on banks' participation in the syndicated loan market. We further investigate the impact of the tax levy along bank size and capital structure. We find that banks located in countries where the tax levy was implemented supply more credit. This increase is more significant for larger lenders and banks that are more capital constrained.

District attorney compensation and performance. Forfattere: Gregory DeAngelo; Bryan C. McCannon og Morgan Stockham.

We attempt to identify the causal effect of wages on a prosecutor's effort by studying an exogenous salary increase in New York. We measure the performance by the likelihood that a conviction is upheld when appealed. If the efficiency wage theory explains behavior, then the exogenous wage shock should entice better performance. Alternatively, if individuals who hold office are motivated primarily by an intrinsic motivations rather than strictly financial compensation, then their performance would be unrelated to changes in their salary. We mostly find, inconsistent with efficiency wage theory, that a pay increase has a null effect on prosecutor performance.

A macrohistory of legal evolution and coevolution: Property, procedure, and contract in early-modern English caselaw. Forfattere: Peter Grajzl og Peter Murrell.

We provide a quantitative macrohistory of the evolution and coevolution of three fundamental elements of English caselaw: property, contract, and procedure. Our dataset is derived from a comprehensive corpus of reports on early-



modern English court cases. Leveraging existing topic-model estimates, we construct annual time series of attention to each of the three legal domains between the years 1552 and 1764 and estimate a structural VAR. Property and procedure are affected for decades by their own shocks. Procedure and property coevolve. In contrast, contract adjusts quickly to its own shocks and does not coevolve with the other two areas of caselaw. We identify the episodes and events outside the legal system that correspond to systemic shocks. Edward Coke was a shock to procedure. The commercial revolution raised attention to contract. The Glorious Revolution, interestingly, did not lead to elevated attention to property issues, but the Civil War and Interregnum did. The evolution of contract, while relatively autonomous from the internal dynamics of the legal system, was, of the three legal domains, least autonomous from society.

How stock market reacts to environmental disasters and judicial decisions: A case study of Mariana's dam collapse in Brazil. Forfattere: T.P. Assis; F.F. Cordeiro og L.C. Schiavon.

This study examines the stock market reaction to one of the major environmental disasters of the world mining industry: the Mariana dam collapse in Brazil. Based on an event study, we evaluated the impact on the mining companies' abnormal returns surrounding the disaster and also investigated whether post-event judicial decisions affected the companies. Our results show a significant negative effect around the days of the event, reporting a 5 % drop in daily returns. Regarding the legal efforts, our findings suggest the coordination time and the benefits granted by authorities as being interpreted positively, reducing market's expectation of an agile or severe punishment following Mariana's dam disaster.

Incentives for investments in defensive technology: An economic analysis of the Safety Act. Forfatter: Mattias K. Polborn.

Civilian targets of terrorist or criminal attacks (e.g., sport stadiums, chemical or nuclear industry; infrastructure such as ports or pipelines) are often owned by the private agents who choose how to guard against potential attacks. This creates an important externality problem, as some of the benefits of better protection accrue to other private agents who would suffer from an attack. We analyze a model in which a social planner wants to provide incentives for the deployment of defensive technologies. Our results show that some features of the Safety Act, enacted after the 2001 terror attacks, are probably counterproductive.

Law enforcement with rent-seeking government under voting pressure. Forfattere: Ken Yahagi og Yohei Yamaguchi.

This paper investigates how political accountability with voting pressure disciplines rent-seeking behaviors of the government (i.e., fine revenue maximization) by incorporating a two-period retrospective voting model into a law enforcement setting. For minor/major crimes where the pure rent-seeking enforcement is too strict/weak, the democratic process that provides disciplining incentives (e.g., lower discount rates, higher political rents, and fewer forgone collected fines the government must give up in exchange for reelection) makes the rent-seeking government weaken/strengthen enforcement. However, such discipline can still be insufficient and cause inefficient consequences. Additionally, for intermediate crimes, the democratic process can lead to the government's inefficient pandering to voters and cause welfare deterioration, even compared to the pure rent-seeking enforcement case. The result shows that different types of distortions happen from previous studies when we consider the conflict between the rent-seeking government and citizens.

The Coase Theorem and the empty core: Inspecting the entrails after four decades. Forfattere: Varouj A. Aivazian og Jeffrey L. Callen.

Ronald Coase pioneered the transaction cost approach to the modern analysis of institutions, contracts, and property rights. We argue that core theory enhances Coase's transaction cost approach by injecting considerations of coalition formation and stability into the analysis. Analysis of coalitional stability also provides additional insights regarding the nature of transaction costs and the efficiency of institutional arrangements when there are such costs. Overcoming the empty core is potentially an important function of contracts, institutions, and property rights. Empty cores complement transaction costs in rationalizing real-world institutional arrangements.

Strengthening worker benefits or destroying jobs: Effect of the 2008 Labor Contract Law in China. Forfatter: Chih-Hai Yang.

This study examines the effect of strict enforcement of the 2008 Labor Contract Law (LCL) on firm employment in China. Although the LCL caused a substantial increase in labor cost, there are no negative repercussions on employment. By contrast, surviving firms continue to increase employment driven by the strong labor demand of the fast-growing Chinese economy. However, compared with non-exposed firms, exposed firms suffered negative repercussions on employment after the enforcement of LCL. Exposed firms exhibited reduced wages after the LCL relative to non-exposed firms, suggesting that wage has a mediation effect on reducing the insurance expenditures of both employers and employees; they also raised productivity considerably after the LCL to absorb the incremental labor costs and survive in the market.



However, there are heterogeneous effects of wage and productivity among firms of various ownerships and exporting behaviors.

The effect of political influence on corporate valuation: Evidence from party-building reform in China. Forfattere: Christopher Chao-hung Chen; Re-Jin Guo og Lauren Yu-Hsin Lin.

The party-building reform in China aims to strengthen the party-state control of firms by formalizing the Chinese Communist Party's (CCP) role in corporate charters. We employ the reform as an exogenous shock to examine the effect of political influence on corporate valuation in the state-dominated economy. We first develop a hazard model of firms' responses to the reform and use the predicted hazard rate as a proxy for a firm's ex ante political influence. We find a positive correlation between firm valuation changes and the predicted hazard rate in the events of party-building reform announcements and a consistent long-term valuation effect based on the difference-in-differences analyses. We also find that the market reacts negatively when firms elect to adopt charter provisions that allow the CCP to control their personnel decisions. Together, our results are consistent with the hypothesis that the effect of party-building reform on a firm's valuation depends on the trade-off between the benefits from the increased state capture and the costs of state influence in firm governance and that the enhanced political control costs are mitigated for firms with stronger existing political ties. This paper contributes to the literature by introducing a novel and integrated approach to measuring political influence that goes beyond the traditional state ownership measurement and by identifying ex ante political influence as an important factor in corporate valuation.

Counteracting offshore tax evasion: Evidence from the foreign account tax compliance act. Forfatter: Carmela D'Avino.

This paper aims to investigate the effect of the Foreign Account Tax Compliance Act (FATCA) on the deposits held by US global banks through their branches located around the world. Using an unpublished dataset on deposits held by branches of US banks on a geographically unconsolidated basis, we find that the FATCA led to a reduction in deposits held in branches located in tax havens. We find that this effect is more severe in those jurisdictions signing a reciprocal exchange of information agreement. We also advance evidence in support of deposit shifting within the US banking system towards locations without a reciprocal intergovernmental agreement.

Artikler fra Competition Law Journal

Intet nyt.

Artikler fra European Competition and Regulatory Law Review

Intet nyt.

Artikler fra Communications Law

Intet nyt.

Artikler fra Computer and Telecommunications Law Review

Issue 2 (vol.29) 2023

Protection of personal data by intermediaries and intermediary's liability of disclosure of personal data. Forfatter: Shantanu Sahay.

Discusses the Indian High Court judgment in Neetu Singh v Telegram FZ LLC on online intermediaries' liability to disclose details of users who were suspected of online copyright infringement.

Directory enquiry services feel the knock-on effect of a subscriber's withdrawal of consent (Case Comment). Forfatter: Rohan Massey.

Comments on Proximus NV v Gegevensbeschermingsautoriteit (C-129/21) (ECJ) on the obligation of the data controller of a directory enquiry service, when a data subject notified withdrawal of consent, to pass that information on to other data controllers and search engines.

**The Metaverse in business. Forfatter: Mark Taylor.**

Discusses the meaning of Metaverse technology and its potential use by businesses, for purposes including manufacturing, training and healthcare.

Legal design, artificial intelligence and insurance. Forfatter: Anthony Novaes.

Discusses the use of legal design to make legal documents, products and services available to end-users, with the aid of insurance and artificial intelligence.

EC computing, telecommunications and related measures. Forfattere: Hannah Schofield, Quentin Archer, Mary Foord-Weston og James Sharp.

Summarises the status of EC legislative measures on electronic communications, Directive 2002/22 (Telecoms Framework Directive), the Competitiveness and Innovation Framework Programme, electronic commerce, electronic signatures, network security, cybercrime, cybersecurity, technological development, telecommunications, broadcasting, satellite, intellectual property rights, data protection, and taxation.

US federal computing, telecommunications and related measures. Forfatter: David E. Halliday.

Summarises the status of US federal legislative measures on electronic commerce, cybercrime and security, the internet, the Information Society and e-government, intellectual property, telecommunications and broadcasting, data protection and privacy, taxation and outsourcing.

Artikler fra Global Competition Litigation Review

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Andre udenlandske artikler

Expert study by Brattle Group on “Efficiencies in telecommunication network cooperations and mergers”.

Europe’s digital infrastructure is undergoing a once-in-a-decade upgrade. At a time when citizens, businesses and political leaders acknowledge the critical importance of availability of digital services, Europe’s telecom operators are at the peak of the 5G investment cycle. Concurrently, Europe is facing complex crises and uncertainty, but one item on the EU agenda is rooted: achieving the “2030 Digital Decade” targets.

A new expert study published by Brattle Group and commissioned by ETNO, titled “Efficiencies in Telecommunication Network Cooperations and Mergers” explores a wide range of efficiencies that could benefit European citizens and society. The efficiencies identified by Brattle Group go beyond merger proceedings (including efficiencies of cost, quality and infrastructure rollout) and explore further cooperation agreements and out-of-market efficiencies.

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