



Konkurrenceretlig Nyhedsoversigt nr. 90 / dækkende 11. marts 2024 – 17. april 2024

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1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

Godkendelse på baggrund af en forenklet sagsbehandling af Erhvervsinvest Management A/S' (indirekte gennem selskabet TM124 A/S) erhvervelse af enekontrol over Bisca A/S.

Ved transaktionen opnår Erhvervsinvest Management indirekte gennem selskabet TM124 A/S ca. 95 pct. af aktierne i Bisca. De resterende ejerandele erhverves af tre ledelsesmedlemmer i Bisca, der ikke vil opnå kontrolgivende rettigheder over Bisca. Erhvervsinvest Management opnår således enekontrol over Bisca.

[Læs mere](#)

Dato: 22/03/2024

Godkendelse på baggrund af en forenklet sagsbehandling af Semler Gruppen A/S' erhvervelse af enekontrol over H.P. Entreprenørmaskiner A/S.

Transaktionen indebærer, at Semler erhverver 100 pct. af aktiekapitalen i H.P. Entreprenørmaskiner. Semler erhverver dermed enekontrol over H.P. Entreprenørmaskiner.

[Læs mere](#)

Dato: 14/03/2024

Nyt fra Konkurrencerådet

Hübsch' konkurrencebegrænsende prisadfærd.

Interiørvirksomheden Hübsch, der blandt andet producerer køkkentilbehør, produkter til borddækning, møbler og andet boligtilbehør, har koordineret priser og udvekslet prisoplysninger med en konkurrerende virksomhed. Koordineringen medførte indførelsen af et Covid-19-gebyr, som blev pålagt alle ordre, samt generelle prisstigninger på størstedelen af Hübsch' varer.

Konkurrencerådet har på den baggrund truffet afgørelse om, at Hübsch har overtrådt konkurrencereglerne. Koordineringen skete i perioden januar 2021 til og med i hvert fald juli 2021 i forbindelse med lanceringen af virksomhedernes forårs-/sommerkollektioner og igen i forbindelse med lanceringen af deres efterårs-/vinterkollektioner for 2021.

Konkurrenten, som Hübsch koordinerede priser og udvekslede prisoplysninger med, var virksomheden Broste Copenhagen, der i april 2023 erkendte at have overtrådt konkurrencereglerne og vedtog en bøde på seks millioner kroner.

Konkurrencerådet har besluttet, at sagen om Hübsch skal indbringes for Sø- og Handelsretten med påstand om, at Hübsch skal pålægges en bøde.

[Læs mere](#)

Dato: 20/03/2024

Nyt fra Konkurrenceankenævnet

Intet nyt.

Nyt fra domstolene

Civilretlige afgørelser

Intet nyt.



Straffesager

Intet nyt.

Lovforslag i høring

Intet nyt.

Ny lovgivning

Intet nyt.

Nyt fra Ankestyrelsen

Ankestyrelsens brev til Sønderborg Kommune: Tilsynsudtalelse om kommuners udlån af medarbejdere.

Sønderborg Kommune har den 23. december 2022 bedt Ankestyrelsen om en udtalelse om, hvorvidt det vil være lovligt efter kommunalfuldmagtsreglerne, hvis kommunen udlåner medarbejdere til foreninger m.v.

Det er Ankestyrelsens opfattelse, at Sønderborg Kommune efter kommunalfuldmagtsreglerne lovligt kan udlåne kommunens medarbejdere til foreninger mv., der alene varetager lovlige kommunale opgaver.

Hvis foreningerne mv. varetager både kommunale og ikke-kommunale opgaver, kan kommunen efter Ankestyrelsens opfattelse udlåne medarbejdere til de lovlige kommunale opgaver, hvis det er muligt at øremærke den støtte, som udlånet udgør. De kommunale medarbejdere må således ikke udføre opgaver, der også indebærer støtte til de ikke-lovlige kommunale opgaver.

[Læs mere](#)

Dato: 28/02/2024

Ankestyrelsens brev til Lolland Kommune: Tilsynsudtalelse om kommunal støtte til et projekt om en multihal.

Det daværende Social- og Indenrigsministerium (nu Indenrigs- og Sundhedsministeriet) videresendte den 11. september 2020 en redegørelse fra Lolland Kommune til Ankestyrelsen. Redegørelsen var en besvarelse af en række spørgsmål fra ministeriet om kommunens støtte til projekt Multihus under den selvejende institution [A].

Kommunen har givet tilsagn om 10 mio. kr. til projektet, som skal varetage både kommunale og kommercielle aktiviteter. Kommunen har herudover bevilliget 250.000 kr. til arbejdet med projektet.

Ankestyrelsen vurderer ud fra de foreliggende oplysninger, at Lolland Kommune ikke kan yde anlægstilskud til et multihus med både kommunale og kommercielle aktiviteter. Ankestyrelsen finder ligeledes, at Lolland Kommune ikke lovligt kan yde støtte til en ny projektbeskrivelse og fondssøgning til projekt Multihus.

[Læs mere](#)

Dato: 20/02/2024

Ankestyrelsens brev til et advokatfirma: Tilsynsudtalelse om Nordværk I/S' håndtering af elektronik på indsamlings- og genbrugspladser.

Ankestyrelsen vender hermed tilbage i sagen om Nordværk I/S' håndtering af elektronik på indsamlings- og genbrugspladser.

Sagen har givet Ankestyrelsen anledning til at vurdere, om det kommunale fællesskab i forbindelse med håndteringen af elektronik på sine indsamlings- og genbrugspladser har handlet i strid med reglerne.

Ankestyrelsen finder ud fra de foreliggende oplysninger ikke grundlag for at fastslå, at Nordværk I/S har handlet i strid med lovgivningen i forbindelse med håndteringen af elektronik på sine indsamlings- og genbrugspladser.

[Læs mere](#)

Dato: 09/02/2024

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust & Cartels

Commission opens investigation into possible anticompetitive conduct by Zoetis over novel pain medicine for dogs.

The European Commission has opened a formal antitrust investigation to assess whether animal health company Zoetis may have breached EU competition rules by preventing the market launch of a competing novel biologic medicine used to treat chronic pain in dogs.

Zoetis is a global animal health company headquartered in the US. Zoetis' Librela is the first and only monoclonal antibody medicine approved in Europe to treat pain associated with osteoarthritis in dogs. The medicine is administered monthly and offers a novel pain relief option, particularly relevant for older dogs.

In parallel to developing Librela, Zoetis acquired another late-stage pipeline product for the same indication of pain relief, which was going to be commercialised in the European Economic Area ('EEA') by a third party. The Commission is concerned that Zoetis may have engaged in exclusionary behaviour contrary to EU antitrust rules by terminating the development of this alternative pipeline product and refusing to transfer this pipeline medicine to the third party which in the EEA had exclusive commercialisation rights.

[Læs mere](#)

Dato: 26/03/2024

Mergers

Commission approves Illumina's plan to unwind its completed acquisition of GRAIL.

Today, the European Commission has approved, under the EU Merger Regulation ('EUMR'), Illumina's plan to divest GRAIL following the restorative measures requiring Illumina to unwind its completed acquisition of GRAIL, which the Commission adopted in October 2023.

In September 2022, the Commission prohibited the acquisition of GRAIL by Illumina over concerns that it would have stifled innovation and reduced choice in the emerging market for blood-based early cancer detection tests. Illumina and GRAIL unlawfully completed the merger during the Commission's in-depth investigation, in breach of EU merger control rules. In July 2023, the Commission fined both companies for this infringement. In October 2023, it adopted restorative measures requiring Illumina to divest GRAIL in order to restore the competitive situation prevailing before the completion of the transaction. The restorative measures required Illumina to submit a divestment plan for the disposal of GRAIL to the Commission for approval.

[Læs mere](#)

Dato: 12/04/2024

Commission sends Statement of Objections over proposed acquisition of a stake in ITA Airways by Lufthansa.

The European Commission has informed Deutsche Lufthansa AG ('Lufthansa') and the Italian Ministry of Economy and Finance ('MEF') of its preliminary view that their proposed acquisition of joint control of ITA Airways ('ITA') may restrict competition on certain routes in the market for passenger air transport services in and out of Italy. The Commission is concerned that customers may face increased prices or decreased quality of services after the transaction.

[Læs mere](#)



Dato: 25/03/2024

Commission sends Statement of Objections to Kingspan for providing incorrect, incomplete and misleading information during merger investigation.

The European Commission has sent a Statement of Objections to Kingspan alleging that the company provided incorrect, incomplete and misleading information during the 2021 Commission's investigation under the EU Merger Regulation ('EUMR') of Kingspan's planned acquisition of Trimo. Kingspan ultimately abandoned the transaction.

In March 2021, Kingspan notified to the Commission its plan to acquire Trimo. Both companies are producers and distributors of mineral fibre sandwich panels. In April 2021, the Commission opened an in-depth investigation into the transaction. In March 2022, it issued a Statement of Objections outlining its concerns that the proposed transaction could negatively affect competition in certain building materials markets, leading to higher prices, reduced quality or less choice for customers. In April 2022, the parties abandoned the transaction.

[Læs mere](#)

Dato: 19/03/2024

State Aid

State aid for sustainable land transport – block exemption regulation.

This initiative will revise State aid rules on sustainable land transport. It aims to adopt revised Railway Guidelines and a new Transport Block Exemption Regulation (TBER).

The TBER will apply to least distortive forms of aid, contributing to a modal shift towards sustainable land transport. It will enable Member States to grant this aid without prior notification.

The guidelines and the TBER will constitute a comprehensive and simplified rule book for State aid law in this field.

[Læs mere](#)

Feedback period: 06/03/2024 – 03/04/2024

The new State aid enforcement notice.

On 23 July 2021, the European Commission has adopted a new notice on the enforcement of EU State aid rules by national courts (the "New Enforcement Notice"). The New Enforcement Notice aims at providing: Concrete guidance on the enforcement of State aid rules at national level focusing on cases where private parties seek remedies for the unlawful implementation of aid ("private enforcement"); Clarifications on general principles applicable, also based on updated EU case law; Clarifications on the respective roles of the Commission and of the national courts (NCs); Guidance on the use of the cooperation tools between the NCs and the Commission. The New Notice takes stock of the results of a Study on the enforcement of State aid rules and decisions by national courts showing that remedies in State aid-related cases are still very uncommon.

[Læs mere](#)

Udgivelsesår: 2024

Commission consults Member States on a limited prolongation of the State aid Temporary Crisis and Transition Framework to further support the agricultural sector.

The European Commission has sent to Member States for consultation a draft proposal for a limited prolongation of the State aid Temporary Crisis and Transition Framework ('TCTF') in order to allow continued support for the primary agricultural sector in view of the persisting market disturbances.

[Læs mere](#)

Dato: 11/04/2024

Commission approves €2.2 billion German State aid scheme to support the decarbonisation of industrial processes to foster the transition to a net-zero economy.

The European Commission has approved a €2.2 billion German scheme to support investments in the decarbonisation of industrial production processes to foster the transition to a net-zero economy, in line with the Green Deal Industrial Plan. The scheme was approved under the State aid Temporary Crisis and Transition Framework, adopted by the Commission on 9 March 2023 and amended on 20 November 2023, to support measures in sectors which are key to accelerate the green transition and reduce fossil fuel dependencies.

[Læs mere](#)

Dato: 10/04/2024

**2023 State aid Scoreboard shows reduction in State aid expenditures in 2022 while crisis support to businesses continued.**

The European Commission published the 2023 State aid Scoreboard relating to the State aid expenditure in 2022. It provides a comprehensive overview of State aid expenditure in the EU based on the reports provided by the Member States. The 2023 edition shows that, despite a strong reduction in State aid expenditure in 2022 compared to 2021, Member States continued to support companies affected by the crises provoked by the coronavirus pandemic and Russia's war against Ukraine.

[Læs mere](#)

Dato: 09/04/2024

Commission approves €267 million Slovak State aid measure to support Volvo Cars' new electric vehicle plant.

The European Commission has found that Slovakia's €267 million measure in favour of Volvo Cars is in line with EU State aid rules. The investment aid will support the establishment of a new electric passenger vehicles production plant in Valaliky near Košice in Eastern Slovakia. The measure will contribute to the EU's strategic objectives relating to job creation, regional development and the European Green Deal.

[Læs mere](#)

Dato: 08/04/2024

Commission approves €350 million German State aid scheme to support renewable hydrogen production.

The European Commission has approved, under EU State aid rules, a €350 million German scheme to support the production of renewable hydrogen through the European Hydrogen Bank's "Auctions-as-a-Service" tool. The German measure is in line notably with the objectives of the REPowerEU Plan and the European Green Deal Industrial Plan. It will contribute to further reducing imports of Russian fossil fuels and fast forward the green transition.

[Læs mere](#)

Dato: 05/04/2024

Commission finds investment support to certain large Czech agricultural companies to be incompatible State aid.

The European Commission has concluded that Czechia's investment support granted to certain large Czech agricultural companies in 2017 and 2018 is not in line with EU State aid rules. Czechia must now recover the incompatible State aid, including interest.

[Læs mere](#)

Dato: 05/04/2024

Commission approves €1 billion Greek State aid measures to support renewable energy generation and storage projects.

The European Commission has approved, under EU State aid rules, €1 billion Greek measures to support two projects for the generation and storage of renewable energy in Greece. The measures contribute to achieving Greece's climate and energy targets, as well as the objectives of the European Green Deal and 'Fit for 55' package, by enabling the integration of renewable energy sources in the Greek electricity system.

[Læs mere](#)

Dato: 02/04/2024

Commission approves €900 million French State aid scheme to support the production of energy and fuel from biomass and renewable hydrogen to foster the transition to a net-zero economy.

The European Commission has approved a €900 million French scheme to support companies investing in the use of biomass and renewable hydrogen in energy and fuel production, to foster the transition towards a net-zero economy in line with the Green Deal Industrial Plan. The scheme was approved under the State aid Temporary Crisis and Transition Framework, adopted by the Commission on 9 March 2023 and amended on 20 November 2023, to support measures in sectors which are key to accelerate the green transition and reduce fuel dependencies.

[Læs mere](#)

Dato: 27/03/2024



Andet

Commission opens non-compliance investigations against Alphabet, Apple and Meta under the Digital Markets Act.

Today, the European Commission opened proceedings under the Digital Markets Act (DMA) against Alphabet, Apple and Meta, because of concerns that the measures these gatekeepers put in place fall short of effective compliance of their obligations under the DMA.

Regarding Apple and Alphabet, the Commission opened proceedings to assess whether the measures they implemented in relation to their obligations pertaining to app stores are in breach of the DMA, which requires gatekeepers to allow app developers to "steer" consumers to offers outside the gatekeepers' app stores, free of charge.

The Commission also opened proceedings against Alphabet because of concerns that it is preferencing its own vertical search services (such as Google Shopping and Google Hotels) over similar rival services in breach of the DMA, and against Apple, because of concerns that Apple's design of the web browser choice screen may be preventing users from truly exercising their choice of services, in breach of their DMA obligations.

Regarding Meta, the Commission opened proceedings to investigate whether the recently introduced "pay or consent" model for users in the EU complies with the DMA, which requires gatekeepers to obtain consent from users when they intend to combine or cross-use their personal data.

The Commission intends to conclude these proceedings within 12 months. If warranted, the Commission will inform the concerned gatekeepers of its preliminary findings and explain the measures it is considering taking or that the gatekeeper should take in order to effectively address the Commission's concerns.

The Commission is additionally taking other investigatory steps to gather facts and information to clarify whether Amazon's treatment of its own brand products on the Amazon Store, and Apple's new fee structure and other terms and conditions for alternative app stores and distribution of apps from the web (sideloading), are DMA compliant. Today, the Commission also adopted orders addressed to Alphabet, Amazon, Apple, Meta, and Microsoft, requiring them to retain documents which might be used to assess their compliance with the DMA obligations.

It should be noted that, in the case the Commission finds an infringement of the DMA, it can impose fines of up to 10% of the company's total worldwide turnover, or up to 20% in case of repeated infringement. In case of systematic infringements, the Commission may also adopt additional remedies such as obliging a gatekeeper to sell a business or parts of it.

[Læs mere](#)

Dato: 25/03/2024

Commission updates report on state-induced distortions in China's economy.

The European Commission has published an updated report on significant state-induced distortions in the economy of the People's Republic of China.

This report provides relevant factual information for ongoing and future EU trade defence investigations related to antidumping. It will enable EU industry, when filing complaints about dumping practices, to use the most up-to-date information on the Chinese economy and on specific circumstances of the market, and in selected industrial sectors.

The update of the 2017 report examines recent Chinese legislation, evolving industrial policies and other developments. The previous report proved to be an essential tool for gathering evidence to initiate and carry out anti-dumping investigations in sectors where prices and costs were affected by significant state-induced distortions.

[Læs mere](#)

Dato: 10/04/2024

Nyt fra EU-domstolen

Domme

[T-486/18 RENV](#) – Danske Slagtermestre mod Kommissionen.

Nøgleord: Statsstøtte – ordning for vandaflædningsbidrag – klage indgivet af en konkurrent – afgørelse, hvorved det efter den indledende undersøgelse fastslås, at der ikke foreligger støtte – krav om uvildighed – objektiv uvildighed – begrebet



Det Juridiske Fakultet

»fordel« – princippet om den private investor i en markedsökonomi – forhåndsanalyse af den gradvist stigende rentabilitet – Kommissionens meddelelse om begrebet statsstøtte.

Sagen:

Sagsøgeren er en brancheorganisation, som efter eget udsagn repræsenterer mindre danske slagterbutikker, slagterier, grossister og forædlingsvirksomheder.

Den 26. september 2013 indgav denne brancheforening en klage til Europa-Kommissionen med den begrundelse, at Kongeriget Danmark med vedtagelsen af lov nr. 902/2013 om ændring af lov om betalingsregler for spildevandsforsyningsselskaber m.v. (Betalingsstruktur for vandafledningsbidrag, bemyndigelse til opgørelse af særbidrag for behandling af særlig forurenede spildevand m.v.) havde ydet statsstøtte til store slagterier i form af en nedsættelse af bidragene til spildevandsrensning.

Med søgsmål anlagt i henhold til artikel 263 TEUF har sagsøgeren, Danske Slagtermestre, nedlagt påstand om annullation af Kommissionens afgørelse C(2018) 2259 final af 19. april 2018 om statsstøtte SA.37433 (2017/FC) – Danmark.

Dom:

- 1) Kommissionens afgørelse C(2018) 2259 final af 19. april 2018 om statsstøtte SA.37433 (2017/FC) – Danmark annulleres.
- 2) Europa-Kommissionen bærer sine egne omkostninger og betaler de af Danske Slagtermestre afholdte omkostninger som led i sagerne for Retten og Domstolen.
- 3) Kongeriget Danmark bærer sine egne omkostninger.

[Læs mere](#)

Dato: 10/04/2024

Forslag til afgørelse

C-710/22 P – JCDecaux Street Furniture Belgium mod Kommissionen.

Nøgleord: Appel – statsstøtte – artikel 107, stk. 1, TEUF – støtte ydet af de belgiske myndigheder til JCDecaux Street Furniture Belgium – manglende betaling af leje og afgifter for reklamesøjler, som er opstillet på Ville de Bruxelles' område (Belgien) – økonomisk fordel – kompensationsmekanisme – Kommissionens afgørelse, hvorved støtten erklæres uforenelig med det indre marked og anordnes tilbagesøgt – ingen selvmodsigelse i begrundelsen – Domstolens prøvelse af vurderingen af de faktiske omstændigheder og af beviselementer – udelukket, medmindre de er gengivet urigtigt.

Sagen:

Med denne appel har JCDecaux Street Furniture Belgium nedlagt påstand om ophævelse af dom afsagt af Den Europæiske Unions Ret i sag T-642/19 (2), hvorved Retten frifandt Kommissionen i det søgsmål, som JCDecaux havde anlagt med påstand om annullation af Kommissionens afgørelse (EU) 2019/2120 af 24. juni 2019 om statsstøtte SA.33078 (2015/C) (ex 2015/NN) iværksat af Belgien til fordel for JCDecaux Belgium Publicité. Den foreliggende sag giver bl.a. Domstolen lejlighed til at udtale sig om arten og rækkevidden af den domstolsprøvelse, som den skal foretage i forbindelse med en appel.

Forslag til afgørelse fra generaladvokat A.M. Collins:

På baggrund af samtlige ovenstående betragtninger foreslår jeg Domstolen at forkaste appellen i sin helhed og i henhold til artikel 184, stk. 1, i Domstolens procesreglement at tilpligte JCDecaux Street Furniture Belgium at betale Europa-Kommissionens omkostninger. Clear Channel Belgium, som var intervenient i første instans, har deltaget i den mundtlige del af retsforhandlingerne for Domstolen, men har ikke nedlagt påstand om, at JCDecaux tilpligtes at betale omkostningerne. Under disse omstændigheder skal det i overensstemmelse med artikel 184, stk. 4, i Domstolens procesreglement bestemmes, at Clear Channel Belgium bærer sine egne omkostninger i appelsagen.

[Læs mere](#)

Dato: 11/04/2024

C-224/23 P – PBL og Abdelmouine mod Kommissionen.

Nøgleord: Appel – statsstøtte – påstået støtte til Paris Saint-Germain FC – forordning (EU) 2015/1589 – artikel 1, litra h) – artikel 24, stk. 2 – begrebet »interesserede parter« – anvendelsesområdet for betydningen af en persons, virksomheds eller sammenslutning af virksomheders »interesse« – krav om en årsagssammenhæng mellem interesserne blandt disse parter og tildelingen af støtten.



Sagen:

Issam Abdelmouine er en stolt fan af FC Barcelona og en "socio" (et medlem) af denne fodboldklub. Sammen med Penya Barça Lyon: Plus que des supporters (herefter »PBL«), en fransk sammenslutning af fodboldfans af FC Barcelona, indgav han en klage til Europa-Kommissionen over påstået ulovlig statsstøtte fra Frankrig i form af manglende håndhævelse af visse finansielle fairplay-regler fra Det Europæiske Fodboldforbund (herefter »UEFA«). Denne manglende håndhævelse havde gjort det muligt for Paris Saint-Germain FC at hente fodboldspilleren Lionel Messi fra FC Barcelona.

Kommissionen besvarede denne klage med en skrivelse, hvori den forklarede, at korrespondancen ikke kunne behandles som en "formel klage", da Issam Abdelmouine ikke havde status som en »interesseret part« i henhold til procedureforordningen.

I dom af 8. februar 2023, PBL og WA mod Kommissionen (T-538/21, ikke trykt i Sml., EU:T:2023:53) (herefter »den appellerede dom«), som var resultatet af det annulationssøgsmål, der var anlagt til prøvelse af denne skrivelse, tiltrådte Retten Kommissionens synspunkt om, at Issam Abdelmouine ikke kunne anerkendes som en »interesseret part« i procedureforordningens forstand. 4. I nærværende appel har Domstolen til opgave at præcisere de krav, der ligger til grund for begrebet »interesseret part« i forbindelse med klageproceduren for statsstøtte.

Forslag til afgørelse fra Generaladvokat T. Čapeta:

På baggrund af det ovenstående foreslår jeg, at Domstolen forkaster det tredje og det fjerde appelanbringende som ugrundede.

[Læs mere](#)

Dato: 21/03/2024

C-16/23 – FA.RO. di YK & C.

Nøgleord: Præjudiciel forelæggelse – tjenesteydelser i det indre marked – direktiv 2006/123/EF – salg af tobaksvarer – monopoler på levering af tjenesteydelser – tilladelsesordning – krav, der finder anvendelse på tjenesteyderes etablering – national ordning, som begrænser tilladelsen af butikker med videresalg af monopolvarer – kriterier baseret på afstand og befolkningstæthed – beskyttelse af den offentlige sundhed mod tobaksafhængighed.

Sagen:

Denne anmodning om præjudiciel afgørelse vedrører foreneligheden mellem direktiv 2006/123/EF (2) og den italienske lovgivning om detailsalg af tobaksvarer. Den omtvistede lovgivning anvender restriktive kriterier baseret på geografisk afstand og befolkningstæthed for tilladelse af etableringen af salgssteder for disse produkter. Den forelæggende ret er i tvivl om, hvorvidt disse kriterier er i overensstemmelse med direktiv 2006/123.

Forslag til afgørelse fra Generaladvokat M. Campos Sánchez-Bordona:

På baggrund af ovenstående betragtninger foreslår jeg at svare Tribunale Amministrativo Regionale per la Liguria (den regionale forvaltningsdomstol i Ligurien, Italien) således:

»Artikel 9, stk. 1, artikel 10, stk. 1 og 2, artikel 14, nr. 5), og artikel 15, stk. 2, litra a), i Europa-Parlamentets og Rådets direktiv 2006/123/EF af 12. december 2006 om tjenesteydelser i det indre marked skal fortolkes således, at

- disse bestemmelser principielt ikke er til hinder for en national lovgivning, som gør udstedelsen af tilladelser til at udøve aktiviteter vedrørende detailsalg af tobaksvarer betinget af, at disse aktiviteter overholder visse begrænsninger, som er fastsat på grundlag af befolkningstallet og en minimumsafstand mellem tjenesteyderne
- det tilkommer den forelæggende ret at afgøre, om kombinationen af de specifikke geografiske og demografiske kriterier, som er fastsat i den nationale lovgivning, eventuelt suppleret med andre elementer, som medfører større fleksibilitet, overholder proportionalitetsprincippet og opfylder kravene i artikel 10, stk. 1 og 2, i direktiv 2006/123. Det tilkommer ligeledes den forelæggende ret at bedømme, om installering af tobaksautomater medfører en ubegrundet stigning i udbuddet af forarbejdede tobaksvarer, hvilket vil være i strid med det formål om beskyttelse af den offentlige sundhed, som ligger til grund for den nationale lovgivning.

[Læs mere](#)

Dato: 14/03/2024

C-611/22 P og C-625/22 P – Ilumina mod Kommissionen.

Keywords: Appeal – Competition – Concentrations between undertakings – Article 22 of Regulation (EC) No 139/2004 – Concentrations that do not have a Community dimension – Referral request from a competition authority not having



Det Juridiske Fakultet

jurisdiction under national law – Commission decision to examine the concentration – Competence of the Commission – Time limit for submitting the referral request – Obligation to act within a reasonable time – Principle of good administration – Right of defence – Legitimate expectations.

Opinion of Advocate General Emiliou:

In the light of the foregoing, I suggest that the Court of Justice:

- set aside the judgment of the General Court of 13 July 2022, *Illumina v Commission* (T-227/21, EU:T:2022:447);
- annul Commission Decision C(2021) 2847 final of 19 April 2021, accepting the request of the Autorité de la concurrence française to examine the concentration relating to the acquisition by Illumina, Inc. of sole control over Grail, Inc. (Case COMP/M.10188 – *Illumina/Grail*), Commission Decisions C(2021) 2848 final, C(2021) 2849 final, C(2021) 2851 final, C(2021) 2854 final and C(2021) 2855 final of 19 April 2021, accepting the requests of the Belgian, Dutch, Greek, Icelandic and Norwegian competition authorities to join that referral request, and the European Commission's letter of 11 March 2021 informing Illumina and Grail of that referral request;
- order the Commission to pay the costs of the proceedings; and
- order the French Republic, the Kingdom of the Netherlands, the European Free Trade Association Surveillance Authority and Biocom California to bear their own costs.

[Læs mere](#)

Dato: 21/03/2024

Kendelse

Intet nyt.

Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

Konkurrensverkets tillsynsverksamhet 2023.

I Konkurrensverkets tillsynsrapport för 2023 ger vi en samlad bild av vårt tillsynsarbete under föregående år och hur vi planerar att arbeta framöver för att kunna säkerställa en handlingskraftig tillsynsverksamhet.

I Konkurrensverkets tillsynsrapport som ges ut årligen, redogörs för föregående års verksamhet inom konkurrens- och upphandlingstillsynen samt tillsynen över lagstiftningen om otillbörliga handelsmetoder vid köp av jordbruks- och livsmedelsprodukter. I rapporten beskriver vi även, för tillsynsverksamheten relevanta, delar av vårt konkurrensfrämjande arbete samt blickar framåt och ger vår syn på den fortsatta utvecklingen.

[Læs mere](#)

Dato: 05/04/2024

Energy network mergers: Guidance on the CMA's procedure and assessment.

The Energy Act 2023 (EA23) introduces into the Enterprise Act 2002 (EA02) a special merger regime applicable in certain circumstances to mergers involving two or more energy network enterprises (which are referred to as 'energy network enterprises' in this guidance) of the same type in Great Britain (referred to as 'energy network mergers'). This guidance is concerned with the policies, procedure and methodology that the Competition and Markets Authority (CMA) will use in discharging its functions under the EA02.

[Læs mere](#)

Udgivelsesår: 2024

High fuel margins 'concerning' CMA finds.

The CMA's latest monitoring report on road fuel shows that prices at the pump have risen since late January, accompanied by above average margins and spreads.

The Competition and Markets Authority (CMA) is collecting data from fuel retailers under the interim scheme which remains voluntary, until the CMA's statutory compulsory information gathering powers come into effect later this year.



This report sets out the CMA's observations on developments in the market since the previous update in November 2023.

[Læs mere](#)

Dato: 28/03/2024

Suspected anti-competitive behaviour relating to freelance and employed labour in the production, creation and/or broadcasting of television content, excluding sport.

The CMA is investigating suspected breaches of competition law in relation to the purchase of freelance services and the employment of staff supporting the production, creation and/or broadcasting of television content in the UK, excluding sport content.

At this stage the CMA believes it has reasonable grounds to suspect one or more breaches of competition law. The CMA has not reached a view as to whether there is sufficient evidence of an infringement of competition law for it to issue a statement of objections to any party or parties. Not all cases result in the CMA issuing a statement of objections and no assumption should be made at this stage that the CA98 has been infringed.

The CMA is separately investigating suspected breaches of competition law in relation to the purchase of freelance services and the employment of staff supporting the production and broadcasting of sports content in the UK.

[Læs mere](#)

Dato: 26/03/2024 (sidst opdateret)

CMA identifies multiple concerns in vets market.

The CMA has published its main concerns following an initial review into the veterinary sector.

The review by the Competition and Markets Authority (CMA) highlights multiple concerns in the market, including:

- Consumers may not be given enough information to enable them to choose the best veterinary practice or the right treatment for their needs.
- Concentrated local markets, in part driven by sector consolidation, may be leading to weak competition in some areas.
- Large corporate groups may have incentives to act in ways which reduce choice and weaken competition.
- Pet owners might be overpaying for medicines or prescriptions.
- The regulatory framework is outdated and may no longer be fit for purpose.

[Læs mere](#)

Dato: 12/03/2024

Changes to CMA rules of procedure for merger, market and special reference groups (CMA17).

The CMA is consulting on proposed updates to the CMA rules of procedure for merger, market and special reference groups (CMA17).

[Læs mere](#)

Dato: 21/03/2024

Informal guidance on WWF's proposal: 'WWF Basket – Climate Action'.

The Competition and Markets Authority (CMA) has provided informal guidance to WWF-UK in relation to a proposed environmental sustainability agreement. The informal guidance has been issued as part of the CMA's 'Open-Door' policy, which is set out in the Green Agreements Guidance (CMA185) 2023.

The request relates to a proposal developed by WWF-UK in the context of WWF-UK's 'WWF Basket – Climate Action' initiative. The stated objective of the proposal is to help reduce scope 3 emissions in the grocery sector by participating retailers requiring suppliers that account for at least 80% (compared to a current target of 50%) of each retailer's supply chain emissions to set net-zero science-based targets. This would strengthen the grocery sector's efforts to address supply chain emissions. WWF approached the CMA in the early stages of developing this proposal in order to help it assess any potential competition law risks.

Based on the information provided by WWF-UK, the CMA has advised that we would not expect to take enforcement action in respect of the proposal.

[Læs mere](#)

Dato: 20/03/2024



3 | LITTERATUR (DK)

Artikler fra UfR

Intet nyt.

Nye publikationer fra Erhvervsministeriet

Intet nyt.

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.

Anden dansk og nordisk litteratur

Europarättslig tidskrift nr 1 2024:

Max Hjærtström, *Competition Law's Market Failure Paradox: Economic Efficiency, Consumer Welfare and Public Policy in EU Antitrust and State Aid Law* (Lund University 2023). Forfatter: Christopher Townley.

4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Volume 45, issue 4, 2024

Germany's new tool to strengthen competition: a comparison with the UK's markets regime. Forfatter: Greg Bonné.

Reviews November 2023 revisions to Germany's Act Against Restraints of Competition, and compares them with the UK's market investigation tool, highlighting their approaches to issues such as sector inquiries, remedial measures and proportionality. Considers the German regime's potential application.

An EU competition law analysis of potential collusion risks surrounding generative artificial intelligence tools. Forfatter: Simon Albert.

Examines, from an EU competition law perspective, potential collusion risks posed by generative artificial intelligence tools. Notes the types of risks identified by bodies such as the European Commission, the OECD and the Competition and Markets Authority, and how companies might reduce these.

Default power in global antitrust enforcement. Forfatter: Peter O'Loughlin.

Discusses the challenges which defaults, or default bias, pose for global competition law enforcement, and compares the US approach to the issue in ongoing litigation with Google LLC, with that of the European Commission in cases such as Google LLC v European Commission (T-604/18) (GC).

**Selected issues on general strategies for optimising competition laws - discussion on the economic and legal perspectives, parameters, and assessment criteria. Forfatter: Tomasz Zielenkiewicz.**

Examines the issues to consider when justifying state interventions to achieve the economic optimisation of competition law, including the generated and associated costs, the need for regulatory effectiveness, the potential benefits of the interventions and the role of the proportionality principle.

Belgium: anti-competitive practices - infringement (Case Comment). Forfatter: Peter Wytinck.

Notes the Belgian Competition Authority's imposition of a fine of EUR 490,112 by way of settlement decision against Le Creuset Benelux for vertical price fixing, questioning whether the conduct might have involved hub and spoke practices for which the distributors might also be held accountable.

Bulgaria: anti-competitive practices - judgment (Case Comment). Forfatter: Anton Dinev.

Notes the Bulgarian Supreme Administrative Court decision in Tehnocar ea, applying domestic law to vertical restrictions in the national dealership network for Hyundai cars, following proceedings establishing a lack of EU dimension, considering the extent of dealers' independence in setting terms.

Canada: competition - misleading advertising (Case Comment). Forfatter: Kaeleigh Kuzma.

Notes the Canadian Competition Bureau's announcement of a consent agreement, including payment terms, following an investigation into Amp Me Inc, a mobile app provider, for allegedly giving the impression in some advertising that its service was free and allegedly buying positive reviews.

Czech Republic: competition – mergers. Forfatter: Tomáš Fiala.

Notes the Czech Competition Authority's proposals for reforming the country's competition law regime, including amendments to extend the authority's investigative and enforcement powers, and to allow it to call in for review mergers falling below the notification threshold.

Denmark: anti-competitive practices - infringement (Case Comment). Forfatter: Jens Munk Plum.

Notes a Danish Competition Council decision that an arrangement whereby Effekthandel, an electricity trader, bid for the sale of reserve capacity to the national network on behalf of a number of power plants involved unlawful price and bid co-ordination.

European Union: anti-competitive practices - judgment (Case Comment). Forfatter: Prof. Bruce Wardhaugh.

Notes International Skating Union v European Commission (C-124/21 P) (ECJ) on the application of competition law to sporting organisation rules restricting sportspersons' participation in unauthorised events. Considers issues including the permissibility of restrictions on judicial review.

Finland: anti-competitive practices – report. Forfatter: Maarit Taurula.

Notes the January 2024 publication by the Nordic competition authorities of a report on anti-competitive conduct in the labour market. Details the scope of the labour market exclusion from competition law, and the report's findings on issues such as wage fixing and the use of no-poach agreements.

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

Notes the Finnish Supreme Administrative Court ruling of 22 December 2023, upholding a EUR 1.75 million fine imposed on IKH for a resale price maintenance agreement involving its own online shops. Details the assessment of whether the conduct amounted to a restriction of competition by object.

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

Notes a decision of the Finnish customer communications management services provider PostNord Stralfors Oy to withdraw from its notified merger with Edita Prima Oy, after a preliminary investigation by the Finnish Competition and Consumer Authority showed potentially anti-competitive consequences.

France: anti-competitive practices - infringement (Case Comment). Forfatter: Emmanuel Reille.

Notes the French Competition Authority ruling in Rolex France SAS / Rolex Holding SA / Hans Wilsdorf Foundation, fining a watch manufacturer approximately EUR 92 million for restrictive business practices involving a vertical agreement to prohibit the online sale of Rolex watches by distributors.

**France: anti-competitive practices - infringement (Case Comment). Forfatter: Emmanuel Reille.**

Notes the French Competition Authority ruling of 20 December 2023, imposing fines totalling around EUR 13.5 million on several Sony entities for a four-year abuse of a dominant position in the market for PlayStation 4 video game controllers, involving the implementation of technical countermeasures.

Germany: mergers - merger control. Forfatter: Dr Ingo Klauß.

Notes the German Federal Cartel Office's December 2023 report on its inquiry into the domestic waste collection sector, indicating that it may require the current market leader to notify it of all future acquisitions, even if these fail to meet the current turnover thresholds.

Malta: competition - legislation (Legislative Comment). Forfatter: Adriana Brincat Scicluna.

Notes Malta's passage of legislation implementing the competition law reforms required by Regulation 2022/1925 (Digital Markets Act), and summarises key amendments concerning the investigatory powers and responsibilities of the Director General of Malta's Competition and Consumer Affairs Authority.

Poland: anti-competitive practices - judgment (Case Comment). Forfatter: Prof. Agata Jurkowska-Gomułka.

Notes a Polish Supreme Court ruling of 8 November 2023 challenging a ruling on anti-competitive practices involving a pricing agreement on the grounds of an incorrect definition of the relevant market. Details the approach to whether a market definition error invalidated an infringement finding.

Portugal: anti-competitive practices - infringement (Case Comment). Forfatter: Bruno Zêzere Barradas.

Notes a 2024 ruling of the Portuguese Competition Authority, imposing fines totalling over EUR 6.8 million on five teleradiology companies for cartel activities involving collusive tendering in public procurement procedures to supply hospitals with teleradiology services.

Portugal: mergers - merger control (Case Comment). Forfatter: Bruno Zêzere Barradas.

Notes the Portuguese Competition Authority ruling in LusoPalex, imposing a fine of EUR 75,000 on a healthcare sector company for gun-jumping in a merger transaction. Highlights the issues considered when setting the fine.

Portugal: anti-competitive practices - infringement (Case Comment). Forfatter: Bruno Zêzere Barradas.

Notes fines of EUR 1.323 million and EUR 2.481 million imposed by the Portuguese Competition Authority in January 2024 on two companies in the technology consultancy sector for restrictive business practices involving no-poach agreements. Highlights the fine reductions for settling the case.

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

Highlights the publication of the Portuguese Competition Authority's policy priorities for 2024, including maximising its computer forensics tools to address anti-competitive practices that may be associated with artificial intelligence, and combating gun-jumping.

Portugal: anti-competitive practices - infringement (Case Comment). Forfatter: Bruno Zêzere Barradas.

Notes the Portuguese Competition Authority's 2023 ruling in Dietmed, imposing a fine of EUR 1.04 million on a supplier in the food supplements and health foods sector for alleged anti-competitive conduct involving resale price maintenance.

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

Notes the Romanian Competition Council ruling in Monza Hospital / Brain Hospital SRL / Roho Medical Investments SRL, approving a merger in the hospitals sector on the basis that it would not significantly prevent effective competition in the markets concerned.

Slovenia: anti-competitive practices – mergers. Forfatter: Eva Škufca.

Notes reforms by the Slovenian Competition Protection Act 2022 to the Competition Protection Agency's fining policy, and highlights the Agency's November 2023 publication of updated fining guidelines, including their approach to the calculation of relevant turnover and mitigating circumstances.

South Africa: anti-competitive practices - judgment investigation (Case Comment). Forfatter: Derushka Chetty.

Notes the South African Competition Appeal Court ruling in Competition Commission of South Africa v Bank of America Merrill Lynch International, which saw allegations of collusion in foreign exchange rate manipulation being dropped against many of the 28 respondent banks.

**Spain: mergers - merger control (Case Comment). Forfatter: Pedro Callol.**

Notes the Spanish National Competition and Markets Commission ruling in Reganosa / Enagas Transporte approving the acquisition of a natural gas pipeline network, despite the transaction creating a monopoly. Details the grounds for finding the merger did not pose a risk to effective competition.

Sweden: anti-competitive practices - judgment (Case Comment). Forfatter: Stefan Perván Lindeborg.

Notes the Swedish Patent and Market Court of Appeal ruling in Google v PriceRunner, partially overruling a disclosure decision in an ongoing private enforcement claim for damages. Reviews the background to the case, including Re Google Search (Shopping) (AT.39740), and potential future developments.

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

Notes the Turkish Competition Board ruling in NuVasive Inc / Globus Medicinal Inc, unconditionally approving a merger in the spinal devices market on the grounds that it would not significantly reduce effective competition or create a dominant position. Details key features of the investigation.

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

Highlights the joint release by the US Federal Trade Commission and Department of Justice of their 2023 Merger Guidelines. Summarises their guiding principles, and the main changes from the 2020 guidance, including a revised test for whether a market is "concentrated".

USA: anti-competitive practices – investigation. Forfatter: Anthony P. Badaracco.

Notes the decision of the US Department of Justice to withdraw its remaining prosecutions for anti-competitive practices against employers who entered wage-fixing and no-poach agreements, following several acquittals of such defendants at trial. Details key features of the relevant cases.

United Kingdom: anti-competitive practices - judgment (Case Comment). Forfatter: Rani Chowdhary.

Notes Competition and Markets Authority v Volkswagen Aktiengesellschaft (CA) on whether the Competition Act 1998 s.26 allowed the Competition and Markets Authority to issue extraterritorial information requests against "any person", including foreign companies lacking a territorial link to the UK.

United Kingdom: anti-competitive practices - Competition and Markets Authority. Forfatter: Deepaloke Chatterjee.

Notes a Competition and Markets Authority statement confirming it will deprioritise enforcement actions for price sharing against providers of competing combination therapy treatments in negotiation with the NHS, if they follow a designated negotiation framework. Explains the reason for the policy.

Artikler fra European Competition Journal

Volume 20, issue 1, 2024

The cost coordination theory of harm and the EU trucks case. Forfattere: Klein, Timo og Neurohr, Bertram.

This article reviews and critically assesses the "cost coordination" theory of harm developed in a recent eponymous article, Harrington (2022), and its application to the EU trucks case. We conclude that, while the cost coordination theory is a valuable and interesting contribution to the academic literature, it assumes a number of market features that may not be present in the EU trucks case—in particular that list price coordination is persistent rather than occasional, that transaction prices are sufficiently transparent to implement an effective monitoring and retaliation mechanism, and that list price changes are interpreted by local price setters as reflecting changes in cost rather than changes in other variables. We also note that, compared with standard price coordination, cost coordination generally tends to be both harder to sustain and less effective at raising prices if it is sustained.

Cartel formation and the business cycle. Forfatter: Huric-Larsen, Jesper Fredborg.

Several theoretical propositions suggest that changes in economic activity can explain the decision to form a cartel. The majority of the propositions claim that cartel formation is more likely in expansionary and less likely in contractionary phases of the business cycle. The propositions are re-examined theoretically and by using data on detected cartels for the European Union. In both cases, the results cannot confirm that more cartels are formed in any of the business cycle phases and that correlated economic growth rates create higher incentives to collude. Furthermore, it cannot be confirmed that more cartels form shortly after respectively the trough or the peak in the business cycle. The conclusion is that cartel formation is unaffected by changes in the business cycle.

**The Intel saga: what went wrong with the Commission's AEC test (in the General Court's view)? Forfatter: Lauer, Robert.**

The General Court's annulment of the European Commission's finding that Intel's conditional rebate scheme was abusive underscores the Court's readiness to scrutinize in detail the economic analysis, including the as-efficient competitor (AEC) test. This paper critically reviews some of the key errors that the Commission, according to the Court, made in relation to the implementation of that test, focusing on some of its main ingredients, namely the contestable share of the market, the conditional portion of the rebates, and the relevant cost benchmark. We conclude that the Court's assessment provides useful lessons for how to perform thorough and robust economic analysis not only within the context of an AEC test but in competition cases more generally. At the same time, considering the test's intrinsic limitations, we find that, aside from the test's implementation, its informative value should also be explored, based on economic theory and the facts of the case.

Incorporating privacy considerations into EU data-driven merger review. Forfatter: Hutchinson, Christophe Samuel.

In recent years, large digital companies have been gobbling up hundreds of smaller highly innovative firms involved in the collection and the processing of data. Some regulators, academics and practitioners have expressed concerns that Big Tech might use the increased market power and the greater concentration of consumers' personal data stemming from data-driven mergers to harm consumers in the form of lower privacy protection. They wonder whether and to what extent the EU Commission and/or national competition authorities should take into account data protection considerations when reviewing transactions under the Merger Regulation and/or national merger control rules. The Commission's decisional practice points towards three possible routes for integrating privacy concerns into competition analysis. Given their respective shortcomings, we explore the possibility of using the German Federal Cartel Office's line of reasoning in its Facebook decision as a model for the incorporation of privacy considerations into EU data-driven merger analysis.

Apple's antitrust paradox. Forfatter: Wörsdörfer, Manuel.

This paper builds on Khan's work on Amazon by transferring her normative framework to Apple. It explores the company's anti-competitive business practices, main antitrust concerns, and the currently proposed reform measures from an innovative business ethics and law (i.e., ordoliberal) perspective. The paper argues that one of the key issues with Apple is the company's closed ecosystem combined with its role as an internet gatekeeper. The E.U.'s Digital Markets Act, which aims to open Apple's ecosystem – via data portability, interoperability, and multi-homing requirements – is a necessary step in the right direction. Yet, it is insufficient to prevent the lock-in effects of a 'walled product garden' and ensure complete device and platform neutrality. That is, additional steps must be taken to overcome Apple's dual role as a platform operator and service provider and inhibit the company from engaging in anti-competitive business conduct.

Antitrust liability, corporate groups and M&A transactions: a tale of undertakings, economic continuity and effectiveness of EU competition law. Forfattere: Actis Perinetto, Patrick og Grechi, Giacomo.

Who should be liable for competition law infringements? While the answer should be, in theory, a simple application of the personal liability principle – the infringer pays – the corporate changes that an infringer may undergo in the years necessary to come to an imputation of the infringement make the matter, in practice, significantly more complex. In this article, we first investigate the core of the antitrust liability theories, all to be traced back to the fundamental concept of undertaking, which constitutes their indispensable theoretical background. Then, we will try to provide an answer to the question, by analyzing, on the basis of the case-law, the multifaceted and colourful applications of antitrust liability theories to M&A transactions involving antitrust infringers. Lastly, we lay out practical suggestions which may be useful for companies to minimize the risks of being left with antitrust liability as a result of corporate transactions.

Closing the tech acquisitions enforcement gap: from article 22 to article 102. Forfatter: Alessia Sophia, D'Amico.

Platform power poses a number of challenges for competition authorities. One concern is that big tech companies may harm competition through the acquisition of emerging companies with a high competitive potential. Such acquisitions may escape ex ante merger control if they do not reach the turnover threshold for mandatory notification. The Commission sought to bridge this enforcement gap with its Article 22 guidance and the Digital Markets Act. This paper evaluates the steps taken by the Commission to increase scrutiny of such mergers. Building on this discussion, the paper examines the AG opinion in Towercast and analyses the residual gap-closing function of Article 102 TFEU. The aim of this paper is to bring the new developments surrounding digital merger control together and assess whether they represent an adequate response to the challenges posed by the digital economy.

**Upstream market regulation between competitive tension and technological innovation. Forfatter: Niola, Francesca.**

The document examines challenges and innovations in telecommunications law, focusing on the European context. It highlights the importance of asymmetric regulation and ex ante identification of enterprises with substantial market power. The 2018 European Electronic Communications Code introduces pivotal changes, including co-investment agreements (Art. 76), aiming to foster cost and risk sharing among operators, benefiting smaller enterprises. Such agreements respond to the need for sustainable competition. Art. 72 introduces a new obligation: access to civil engineering infrastructures. This obligation can extend beyond the traditional market if necessary and proportionate to achieve competition and unhindered access objectives. The document emphasizes the regulations' efforts to balance the interests of economic operators and consumers, promoting competition and innovation in the telecommunications sector.

Artikler fra Journal of Competition Law and Economics

Intet nyt.

Artikler fra Journal of Antitrust Enforcement

Intet nyt.

Artikler fra Journal of European Competition Law and Practice

Intet nyt.

Artikler fra World Competition

Intet nyt.

Artikler fra Antitrust Law Journal

Intet nyt.

Artikler fra Antitrust Bulletin

Intet nyt.

Artikler fra Competition Law and Policy Debate

Intet nyt.

Artikler fra Competition Law Scholars Forum

Intet nyt.

Artikler fra Journal of Regulatory Economics

Intet nyt.

Artikler fra International Review of Law and Economics

Intet nyt.

Artikler fra Competition Law Journal

Intet nyt.



Artikler fra European Competition and Regulatory Law Review

Volume 8, issue 1, 2024

Theories of Harm in the Implementation of the Foreign Subsidies Regulation. Forfattere: Adina Claici, Peter Davis og Gerhard Dijkstra.

In this paper, we consider the economic analysis that will be required in foreign subsidy reviews. We believe that the regime is right to adopt a case-by-case approach and that the European Commission's analysis should be structured using well-defined theories of harm since doing so will (i) help focus the Commission's analyses on what matters; and (ii) help reduce the risk of potentially significant error costs associated with over- or under-enforcement. The Foreign Subsidies Regulation (FSR) refers to a potential, non-exhaustive list of 'indicators' which it proposes to use to determine whether the foreign subsidy would distort the internal market. In this paper we provide an initial exploration of the proper role for said indicators by considering four potential theories of harm that foreign subsidies could trigger. Not all indicators will be relevant for all theories of harm, and, more generally, we illustrate the potential for theories of harm to distinguish the indicators that are relevant from those that are not. We also discuss (i) empirical evidence relating to the prevalence of foreign subsidies in different sectors of the EU economy and (ii) the importance of theories of harm for structuring evidence collection with the potential challenges and solutions when applying economic analysis to consider causality (whether the foreign subsidy distorted competition), and the magnitude – if any – of a foreign subsidy's effects on market outcomes.

Things That Do Not Make Sense - Superleague and ISU On Ancillary Restraints. Forfatter: Christian Bergqvist.

Restrictions adopted to support the implementation of a main operation are considered ancillary and are not reviewed separately. The Court of Justice has previously confirmed this - but in the recent cases Superleague and ISU, it decided to preclude the doctrine for restrictions by object. This approach does not make sense, legally or practically, and could neuter the doctrines if confined to effect analysis. Considering its essential nature from a practical perspective, the matter commands a revisit by the Court and comments in the interim, including possible readings that would preserve the core doctrine.

Untangling the Foreign Subsidies Regulation. Forfattere: Philipp Werner, Henry De La Barre og Kristina Music.

This article provides an overview of the main features and implications of the EU Foreign Subsidies Regulation (FSR), which entered into force in 2023 to address the distortive effects of foreign subsidies on the EU internal market. It discusses the key concepts and thresholds for the notification and review of transactions and public procurement procedures involving foreign financial contributions, as well as the ex officio investigation tool and enforcement powers of the European Commission (EC). The article also highlights the challenges and uncertainties that the FSR poses for companies and their counsel, and the need for further guidance and clarification from the EC. The article looks at the decision practice and case law in related areas of EU law, such as State aid, trade, and competition law, to analyse the principles and procedures of the FSR.

Bulgarian Commission for Protection of Competition Adopted Block Exemption Regulation for Certain Categories of Agreements and Concerted Practices with Effect on National Markets. Forfatter: Mariya Papazova.

Ireland - Irish Merger Control: An Overview of Regulatory Developments and Sectoral Activity in 2023.

Forfattere: Ronan Dunne og Daniel Hanrahan.

Portugal - The Long-Awaited Transposition of the Directive on Representative Actions in Portugal. Forfatter: Catarina Bártole de Melo.

United Kingdom - Adobe/Figma Merger Decision: Under Furman's Shadow. Forfatter: Kiran Desai.

Case C-306/20 Visma Enterprise SIA v Konkurences padome – Deal Registration Agreement Not Assumed to Restrict Competition “By Object”. Forfattere: Georgina Dietrich og Athina Gaki.

Annotation on the Judgment of the Court of Justice (Seventh Chamber) of 18 November 2021 in Case C-306/20 Visma Enterprise SIA v Konkurences padome. The Court of Justice of the European Union's preliminary ruling in Case C-306/20 Visma Enterprise SIA v Konkurences padome addressed the competition law implications of an agreement between a software vendor and its distributors under which the latter registered sales leads in a database operated by the vendor. The first distributor to register a transaction was given priority, for six months, to complete the sale process with the prospective customer – provided the customer did not object. The Court's preliminary ruling re-affirmed that “by object” restrictions of competition should be interpreted narrowly, and that “vertical” agreements are generally less harmful than “horizontal” agreements. It also confirmed that relevant circumstances and the context of the agreement must be



analysed on a case-by-case basis to assess whether the exemption conditions in Article 101(3) TFEU are met. Thus, the Court confirmed relevant precedents and existing legal principles in its preliminary ruling and provided general guidance to the referring Latvian court that will ultimately decide on the legality of this deal registration agreement.

Artikler fra Communications Law

Intet nyt.

Artikler fra Computer and Telecommunications Law Review

Intet nyt.

Artikler fra Global Competition Litigation Review

Volume 17, issue 1, 2024

Lessons learned in competition damages litigation. Forfatter: Bill Batchelor.

Reviews UK and EU cases on the private enforcement of EU competition law, including national competition authorities' extraterritorial powers, limitations, litigation funding and collective proceedings orders.

Legal turmoil for competition litigation funding. Forfatter: Chloe Cumber.

Comments on R. (on the application of PACCAR Inc) v Competition Appeal Tribunal (SC) on the regulation of litigation funding agreements as damages-based agreements, and anticipates whether funding may be invalidated in other cases where proceedings have been certified, until validating legislation is introduced.

Is the door closing on forum shopping? ZF Mercedes and its implications on jurisdiction. Forfatter: Sabrina Stewart.

Considers Mercedes-Benz Group AG v Continental Teves UK Ltd (Comm Ct) on a follow-on claim for damages after a cartel settlement before the European Commission, examining whether the UK was forum non conveniens.

The current uncertainty(ies) of EU competition law. Forfatter: Patrick Actis Perinetto.

Discusses why so many important concepts in EU competition law are still uncertain, and to what extent action can be taken to bring more certainty to this area of law.

Arbitration/ADR: ISU arbitration rules found in violation of EU competition law (Case Comment). Forfatter: Gordon Blanke.

Comments on International Skating Union v European Commission (C-124/21 P) (ECJ) that the International Skating Union (ISU) arbitration rules violated TFEU art.101.

Andre udenlandske artikler

White & Case: Foreign direct investment reviews 2024 - A global perspective.

In this edition, we continue to offer key datapoints that can help inform parties and their advisors as they evaluate the new set of challenges presented by FDI screening requirements in cross-border transactions that span multiple countries.

FDI screening is continuously evolving, in fact, maturing. Stakeholders in the process, in particular FDI regulatory authorities in allied countries, are communicating and learning from each other. It is imperative to stay on top of the FDI requirements as transactions—be it mergers and acquisitions, investments, public equity offerings, debt structurings or financial restructurings—are negotiated. Understanding the potential remedies that could be required for approval and proper allocation of FDI risk are key ingredients in avoiding unpleasant surprises related to timing, certainty and business plan execution.

[Læs mere](#)

Udgivelsesår: 2024



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Things That Do Not Make Sense - Superleague and ISU On Ancillary Restraints. Forfatter: Christian Bergqvist. European Competition and Regulatory Law Review Volume 8, Issue 1 (2024) pp. 17 – 22. DOI:

<https://doi.org/10.21552/core/2024/1/5>

Restrictions adopted to support the implementation of a main operation are considered ancillary and are not reviewed separately. The Court of Justice has previously confirmed this - but in the recent cases Superleague and ISU, it decided to preclude the doctrine for restrictions by object. This approach does not make sense, legally or practically, and could neuter the doctrines if confined to effect analysis. Considering its essential nature from a practical perspective, the matter commands a revisit by the Court and comments in the interim, including possible readings that would preserve the core doctrine.