Konkurrenceretlig Nyhedsoversigt nr. 107 / dækkende 23. oktober 2025 – 18. december 2025

Indhold

1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

Godkendelse af ny forpagter i OK Plus-butikken i Bording
Konkurrencerådet har den 26. juni 2024 godkendt, at OK a.m.b.a. (”OK”) erhvervede [xxx] pct. af ejerandelene og 2/3 stemmerettighederne i Coop Danmark A/S (”Coop Danmark”), hvormed OK erhvervede enekontrol over Coop Danmark, herunder bl.a. 598 Coop Danmark-ejede dagligvarebutikker.
Læs mere
Dato: 15/12/2025

Godkendelse af nyt tillæg i overensstemmelse med tilsagn afgivet i forbindelse med Konkurrencerådets godkendelse af fusionen mellem OK a.m.b.a. og Coop Danmark A/S
Konkurrencerådet godkendte de tre forpagtere af OK Plus-butikkerne i hhv. Bording, Sunds og Elling samt allongerne knyttet til Forpagtningsaftalerne den 29. januar 2025.
Læs mere
Dato: 11/12/2025

Godkendelse på baggrund af en forenklet sagsbehandling af The Carlyle Group Inc.’s erhvervelse af negativ enekontrol over Jordanes Holding AS
Konkurrence- og Forbrugerstyrelsen modtog den 27. november 2025 en forenklet anmeldelse af en fusion mellem The Carlyle Group Inc.’s (”Carlyle”) og Jordanes Holding AS (”Jordanes”).
Læs mere
Dato: 04/12/2025

Reconors køb af Søndergaard og Hvidberg er godkendt
Fusionen gennemføres ved Reconors samtidige køb af 60 pct. af kapitalandelene i Hvidberg og køb af 100 pct. af kapitalandelene i Søndergaard, der ejer de resterende 40 pct. af kapitalandelene i Hvidberg. Reconor erhverver dermed enekontrol over Søndergaard og Hvidberg.
Læs mere
Dato: 01/12/2025

Fusionen mellem Sydbank og Arbejdernes Landsbank er godkendt
Fusionen mellem Sydbank og Arbejdernes Landsbank er godkendt af Konkurrence- og Forbrugerstyrelsen. Arbejdernes Landsbank ejer Vestjysk Bank, som derfor også er omfattet af fusionen og dens godkendelse.
Læs mere
Dato: 01/12/2025

Viking Growth’s og Verdane Fund Manager’s ønske om at oprette et selvstændigt fungerende joint venture er godkendt
Transaktionen indebærer, at Viking Growth AS ("Viking") og Verdane Fund Manager AB ("Verdane") opretter et selvstændigt fungerende joint venture bestående af de eksisterende aktiviteter under Grade Midco AS og Talentech Group AS, som i dag er ultimativt kontrolleret af henholdsvis Viking og Verdane.
Læs mere
Dato: 27/12/2025

Fusionen mellem Middelfart Sparekasse og Aktieselskabet Nordfyns Bank
Konkurrence- og Forbrugerstyrelsen har godkendt, at Middelfart Sparekasse fusionerer med Nordfyns Bank.
Læs mere
Dato: 24/11/2025

Erhvervsinvests køb af Fayrefield er godkendt
Konkurrence- og Forbrugerstyrelsen har godkendt fusionen efter en forenklet sagsbehandling.
Læs mere
Dato: 24/11/2025

TCM Operations' erhvervelse af enekontrol over Celebert er godkendt
Konkurrence- og Forbrugerstyrelsen har godkendt fusionen efter en forenklet sagsbehandling, idet fusionen på baggrund af de foreliggende oplysninger ikke giver anledning til indsigelser.
Læs mere
Dato: 19/11/2025

Godkendelse på baggrund af en forenklet sagsbehandling af MS2 Invests erhvervelse af 2LP
Konkurrence- og Forbrugerstyrelsen modtog den 28. oktober 2025 en forenklet anmeldelse af en fusion mellem MS2 Invest ApS ("MS2 Invest") og 2LP A/S ("2LP").
Læs mere
Dato: 04/11/2025

Assa Abloys overtagelse af enekontrol over Door System
Konkurrence- og Forbrugerstyrelsen modtog den 3. oktober 2025 en anmeldelse af en fusion mellem Assa Abloy Danmark A/S og Door System A/S.
Læs mere
Dato: 31/10/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Cedra Danmarks erhvervelse af enekontrol over Inforevision og Roesgaard
Konkurrence- og Forbrugerstyrelsen modtog den 22. oktober 2025 en forenklet anmeldelse af en fusion, hvor Cedra Danmark A/S ("Cedra DK"), erhverver enekontrol over Inforevision Statsautoriseret Revisionsaktieselskab ("Inforevision") og Roesgaard Godkendt Revisionspartnerselskab og visse øvrige Roesgaard-selskaber (samlet "Roesgaard").
Læs mere
Dato: 31/10/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Wingmen Solution A/S og Trifork A/S etablering af Trifork Security A/S som et selvstændigt fungerende joint venture
Konkurrence- og Forbrugerstyrelsen modtog den 21. oktober 2025 en forenklet anmeldelse af et joint venture mellem Wingmen Solution A/S ("Wingmen") og Trifork A/S ("Trifork").
Læs mere
Dato: 27/10/2025

Nyt fra Konkurrencerådet

Klage over Apples adfærd i relation til reparationer af iPhones
Apple har afgivet tilsagn til Konkurrencerådet, som kan gøre reparationer af iPhones billigere og skabe flere muligheder for at få dem repareret. Blandt andet forpligter Apple sig til ikke at indføre kunstige hindringer for reparationer af iPhones i Danmark.
Læs mere
Dato: 17/12/2025

Nyt fra Konkurrenceankenævnet

Intet nyt.

Nyt fra domstolene

Civilretlige afgørelser
Højesterets kendelse af 14. november 2025 (U.2026.497H)
Misbrug af dominerende stilling i form af urimeligt lave priser i forhold til otte detailkunder på værdihåndteringsmarkedet.
Læs mere
Dato: 14/11/2025

Straffesager
Sø- og Handelretten: Effekthandel ApS mod Konkurrencerådet - bøde på 29.000 kroner - koordinering af priser og bud
Effekthandel A/S og fem kraftvarmeværker er dømt for ulovligt at have koordineret bud og priser på auktioner om elreserver i Vestdanmark. Sø- og Handelsretten har afgjort seks prøvesager om Effekthandels og 49 kraftvarmeværkers overtrædelse af konkurrenceloven.
Læs mere
Dato: 25/11/2025

Københavns Byret: Anklagemyndigheden mod AFA Decaux A/S - bøde på 10 millioner kroner – priskoordinering
AFA Decaux er idømt en bøde på 10 millioner kroner for ulovligt at have koordineret rabatsatser med en konkurrent i mere end seks år. Den ulovlige adfærd er gået ud over annoncører, der reklamerer i outdoormedier, som eksempelvis reklamer ved busstoppesteder, stationer og lufthavne.
Læs mere
Dato: 23/10/2025

Lovforslag i høring

Høring vedrørende forslag til lov om ændring af udbudsloven, lov om Klagenævnet for Udbud og ophævelse af lov om indhentning af tilbud i bygge- og anlægssektoren
Høring vedrørende bestemmelse om, at erhvervsministeren kan fastsætte mål for Klagenævnet for Udbuds sagsbehandlingstid, herunder om at Folketinget skal orienteres, hvis et fastsat mål ikke overholdes. Tilsvarende bestemmelser kendes allerede fra Miljø- og Fødevareklagenævnet, Planklagenævnet og Energiklagenævnet.
Læs mere
Høringsfrist: 05/01/2026

Ny lovgivning

Intet nyt.

Nyt fra Ankestyrelsen

Intet nyt.

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust & Cartels

Commission fines automotive starter battery manufacturers and association €72 million for participating in a cartel
The European Commission has fined three automotive starter battery manufacturers, Exide, FET (including its predecessor Elettra) and Rombat, as well as the trade association EUROBAT, a total of around €72 million for participating in a long-running cartel concerning automotive starter batteries, together with Clarios (formerly JC Autobatterie), in breach of EU antitrust rules. This cartel restricted competition and may have led to higher prices for the manufacturing of cars and trucks in Europe. Clarios was not fined, as it revealed the cartel to the Commission under the leniency programme. In parallel, the Commission has closed proceedings against automotive starter battery manufacturer Banner and the service provider Kellen.
Læs mere
Dato: 15/12/2025

Commission opens investigation into possible anticompetitive conduct by Google in the use of online content for AI purposes
The European Commission has opened a formal antitrust investigation to assess whether Google has breached EU competition rules by using the content of web publishers, as well as content uploaded on the online video-sharing platform YouTube, for artificial intelligence ('AI') purposes. The investigation will notably examine whether Google is distorting competition by imposing unfair terms and conditions on publishers and content creators, or by granting itself privileged access to such content, thereby placing developers of rival AI models at a disadvantage.
Læs mere
Dato: 09/12/2025

Commission opens antitrust investigation into Meta's new policy regarding AI providers' access to WhatsApp
The European Commission has opened a formal antitrust investigation to assess whether Meta's new policy on artificial intelligence ('AI') providers' access to WhatsApp may breach EU competition rules. Meta's new policy, announced in October 2025, prohibits AI providers from using a tool allowing businesses to communicate with customers via WhatsApp, the 'WhatsApp Business Solution', when AI is the primary service offered. Businesses may still use AI tools for ancillary or support functions, such as automated customer support offered via WhatsApp. The Commission is concerned that such new policy may prevent third party AI providers from offering their services through WhatsApp in the European Economic Area ('EEA').
Læs mere
Dato: 04/12/2025

Commission seeks feedback on commitments offered by SAP over possible anticompetitive practices in the provision of maintenance and support services for its popular business management software
The European Commission invites comments on commitments offered by SAP to address possible anticompetitive practices in the provision of maintenance and support services for an on-premises type of software, licensed by SAP, used for the management of companies' business operations and called Enterprise Resource Planning ('ERP').
Læs mere
Dato: 14/11/2025

Commission opens investigation into possible anticompetitive conduct by energy drink manufacturer Red Bull
The European Commission has opened a formal antitrust investigation to assess whether the energy drinks company Red Bull has illegally restricted competition in the energy drinks sector in breach of EU competition rules that prohibit the abuse of a dominant market position. The Commission has indications that Red Bull, manufacturer of the well-known 250ml Red Bull energy drink, may have developed a European Economic Area (EEA)-wide strategy to restrict competition from energy drinks larger than 250ml, as regards sales in the 'off-trade' channel, i.e. sale points where the drinks are purchased for consumption elsewhere, like supermarkets and petrol station shops. Red Bull's strategy allegedly targeted in particular the energy drinks sold by its closest competitor.
Læs mere
Dato: 13/11/2025

Commission opens antitrust investigation into possible collusion between Deutsche Börse and Nasdaq in listing, trading and clearing of financial derivatives
The European Commission has opened a formal antitrust investigation to assess whether Deutsche Börse and Nasdaq have breached EU competition rules by coordinating their conduct in the sector for listing, trading and clearing of financial derivatives in the European Economic Area ('EEA'). Nasdaq and Deutsche Börse are financial services providers operating large exchanges in the financial derivatives sector. The Commission is concerned that Deutsche Börse and Nasdaq entities may have entered into agreements or concerted practices not to compete in the EEA for the listing, trading and clearing of certain derivatives. In addition, the Commission is concerned that the entities may have: (i) allocated demand; (ii) coordinated prices; and (iii) exchanged commercially sensitive information.
Læs mere
Dato: 06/11/2025

Mergers

Commission opens in-depth investigation into the proposed acquisition of joint control over TERCAT by TIL and Hutchison Ports
The European Commission has opened an in-depth investigation to assess, under the EU Merger Regulation, the proposed acquisition of joint control of Terminal Catalunya ('TERCAT') by Terminal Investment Limited Holding ('TIL') and Hutchison Ports. The Commission has preliminary concerns that the transaction may lead to higher prices or reduced quality of container terminal services at the port of Barcelona, Spain. TERCAT, currently owned by Hutchison Ports, operates the Barcelona Europe South Terminal in Barcelona, Spain ('BEST'), which is the main deep-sea gateway for cargo to and from Barcelona and its hinterland. TIL is a leading port operator and is part of the MSC Mediterranean Shipping Company Holding ('MSC') group, a global leader in container shipping with significant operations in the port of Barcelona.
Læs mere
Dato: 10/12/2025

Commission approves Mars' acquisition of Kellanova
The European Commission has approved unconditionally, under the EU Merger Regulation, the proposed acquisition of Kellanova by Mars, Incorporated ('Mars'). The Commission has concluded that the proposed transaction would not raise competition concerns in the European Economic Area ('EEA'). Todays' decision follows an in-depth investigation of the proposed transaction. Mars and Kellanova are both global suppliers of a number of well-known food brands. Mars' portfolio includes chewing gums, chocolate and sugar confectionery, rice and pet food – with brands, such as Mars, Snickers, Ben's Original, Airwaves, and Whiskas. Kellanova is primarily known in the EEA for its stacked chips – sold under the Pringles brand – and its ready-to-eat cereals – sold under the Kellogg's brands.
Læs mere
Dato: 08/12/2025

Commission approves unconditionally the acquisition of IPG by Omnicom
The European Commission has approved unconditionally, under the EU Merger Regulation, the proposed acquisition of Interpublic Group of Companies, Inc. ('IPG') by Omnicom Group Inc. ('Omnicom'). The Commission concluded that the merger would raise no competition concerns in the European Economic Area ('EEA'). The companies are both active in advertising, marketing and communication services, including so-called marketing communication services ("MCS") and media buying services ("MBS") in many European countries and worldwide. MCS relate to the creative side of advertising, involving the development of advertising campaigns, while MBS relate to the purchasing of advertising space in the media on behalf of a client.
Læs mere
Dato: 24/11/2025

Commission sends Statement of Objections over proposed acquisition of Downtown by UMG
The European Commission has informed Universal Music Group ('UMG') of its preliminary view that its proposed acquisition of Downtown may restrict competition in the market for the wholesale distribution of recorded music. UMG is globally active in music recording, music publishing, merchandising, and audiovisual content. Downtown is a global music company providing artist and label ('A&L') services both to independent record companies as well as to artists, notably through its FUGA music distribution platform. Downtown also provides royalty accounting services through its Curve platform, which offers amongst others processing, accounting, payment and related services in relation to royalties as well as rights management.
Læs mere
Dato: 24/11/2025

Commission conditionally approves ADNOC's acquisition of Covestro under the Foreign Subsidies Regulation
The European Commission has approved, under the Foreign Subsidies Regulation ('FSR'), the acquisition by Abu Dhabi National Oil Company PJSC ('ADNOC') of Covestro AG ('Covestro'). The approval is conditional upon full compliance with the commitments offered by the parties. Today's decision follows the opening of an in-depth investigation into the proposed acquisition. ADNOC, headquartered in the United Arab Emirates ('UAE'), is a State-owned oil and gas producer and the national oil company of Abu Dhabi. Covestro (formerly Bayer MaterialScience AG), a publicly listed company incorporated in Germany, is a chemicals producer with a particular focus on the supply of high-performance polymers and components for such polymers. It serves a wide variety of sectors and currently has around 18,000 employees.
Læs mere
Dato: 14/11/2025

Commission opens in-depth investigation into the proposed acquisition of Anglo American's nickel business by MMG
The European Commission has opened an in-depth investigation to assess, under the EU Merger Regulation, the proposed acquisition of Anglo American's nickel business ('the target') by MMG. The Commission has preliminary concerns that the transaction could enable MMG to divert ferronickel supply away from European markets, leading to higher costs and reduced quality in European stainless steel production. MMG is a multinational mining and metals company engaged in the exploration, development and production of base metals, primarily copper and zinc, for global industrial markets. MMG is controlled by Chinese state-owned company China Minmetals Corporation. The target consists of two operating ferronickel facilities and two greenfield development projects located in Brazil.
Læs mere
Dato: 04/11/2025

State Aid

Commission approves €4.1 billion Hungarian State aid scheme to support cleantech manufacturing capacity, contributing to Clean Industrial Deal objectives
The European Commission has approved a €4.1 billion Hungarian State aid scheme to support strategic investments that add clean technology (cleantech) manufacturing capacity in line with the objectives of the Clean Industrial Deal. This measure will contribute to the transition towards a net-zero economy. The scheme was approved under the Clean Industrial Deal State Aid Framework (CISAF) adopted by the Commission on 25 June 2025.
Læs mere
Dato: 17/12/2025

Commission approves €1.6 billion German State aid to help roll-out of fast-charging stations for electric trucks on motorways
The European Commission has approved, under EU State aid rules, a German scheme of up to €1.6 billion to support the deployment of publicly accessible fast-charging stations for electric heavy-duty vehicles (e-HDVs) at non-serviced rest sites along the German motorways. The measure contributes to achieving the objectives of the Commission's European Green Deal and Fit for 55 package, including the development of a cross-border charging network. Electric heavy-duty vehicles are large, powerful trucks or buses that run on electricity instead of diesel.
Læs mere
Dato: 17/12/2025

Commission approves €408 million Spanish State aid scheme to support decarbonisation of industry, in line with Clean Industrial Deal objectives
The European Commission has approved a €408 million Spanish scheme to support the decarbonisation of manufacturing industry, in line with the objectives of the Clean Industrial Deal. This measure will contribute to the transition towards a net-zero economy and is funded under the Recovery and Resilience Facility ('RRF'). The scheme was approved under the Clean Industrial Deal State Aid Framework (CISAF) adopted by the Commission on 25 June 2025.
Læs mere
Dato: 15/12/2025

Commission approves €623 million German State aid to support set-up of two first-of-a-kind chips factories in Germany
The European Commission has approved €623 million in German State aid to support the set-up of two new semiconductor manufacturing facilities in Dresden and Erfurt. The aid consists of a €495 million measure for GlobalFoundries and a €128 million measure for X-FAB. The measures will contribute to increasing the EU's autonomy and technological leadership in semiconductor technologies by supporting the construction of first-of-a-kind semiconductor facilities, in line with the objectives set out in the European Chips Act Communication and the Commission's 2024-2029 Political Guidelines.
Læs mere
Dato: 11/12/2025

Commission approves State aid for the construction and operation of Poland's first nuclear power plant
The European Commission has approved, under EU State aid rules, an aid package to support the construction and operation of the first nuclear power plant in Poland. The nuclear plant, with an electricity generation capacity of up to 3 750 MW, is scheduled to start operating in the second half of the 2030s. The project plays a central role in Poland's strategy to decarbonise electricity production.
Læs mere
Dato: 09/12/2025

Commission approves €1.5 billion Italian State aid scheme to support cleantech manufacturing capacity, contributing to Clean Industrial Deal objectives
The European Commission has approved a €1.5 billion Italian State aid scheme to support strategic investments that add clean technologies (cleantech) manufacturing capacity, in line with the objectives of the Clean Industrial Deal. This measure will contribute to the transition towards a net-zero economy. The scheme was approved under the Clean Industrial Deal State Aid Framework (CISAF) adopted by the Commission on 25 June 2025. The scheme will be co-financed from the Recovery and Resilience Fund.
Læs mere
Dato: 9/12/2025

Commission approves €47 million German State aid for Vetter Pharma's new aseptic filling plant
The European Commission has approved €47 million German State aid for Vetter Pharma, a German pharmaceutical service provider. The aid will support the establishment of a new plant for the aseptic filling of injectable medicine into vials and syringes in Saarlouis. The measure will contribute to the EU's priorities of job creation and regional development, as well as to ensuring affordable medicines in line with the Pharmaceutical Strategy for Europe.
Læs mere
Dato: 09/12/2025

Commission approves €450 million Czech State aid for Onsemi's new semiconductor manufacturing facility
The European Commission has approved, under EU State aid rules, a €450 million (CZK 12 billion) Czech measure to support US chipmaker Onsemi in setting up a novel integrated chip manufacturing plant for Silicon Carbide ('SiC') power devices in Rožnov pod Radhoštěm. The measure will contribute to increasing the EU's technological autonomy in semiconductor technologies, in line with the objectives set out in the European Chips Act Communication and the Political Guidelines for the European Commission 2024-2029. The measure will also contribute to accelerating the digital and green transitions.
Læs mere
Dato: 21/11/2025

Commission approves up to €1.75 billion German measure to support LEAG for early closure of lignite-fired power plants
The European Commission has approved, under EU State aid rules, a German support measure of up to €1.75 billion in favour of Lausitz Energie Kraftwerke AG ('LEAG'). The aid will compensate LEAG for the early phase-out of its lignite-fired power plants in the Lusatian mining area by 2038. The measure compensates LEAG for fixed additional costs of the early closure of plants, including social costs to support employees when transitioning to new work, as well as for forgone profits to be determined based on an approved formula.
Læs mere
Dato: 18/11/2025

Commission approves €700 million Spanish scheme to support cleantech manufacturing capacity, in line with Clean Industrial Deal objectives
The European Commission has approved a €700 million Spanish scheme to support strategic investments that add clean technology manufacturing capacity in Spain, in line with the objectives of the Clean Industrial Deal. This measure will contribute to the transition towards a net-zero economy. The scheme was approved under the Clean Industrial Deal State Aid Framework (CISAF) adopted by the Commission on 25 June 2025.
Læs mere
Dato: 06/11/2025

Commission approves €750 million Estonian strategic reserve to support security of electricity supply
The European Commission has approved, under EU State aid rules, an Estonian €750 million strategic reserve to safeguard security of electricity supply in emergency situations. A strategic reserve is a type of capacity mechanism that remunerates resources that are held outside the market and used in cases of emergency, when the electricity demand exceeds the available supply. In Estonia, this occurs during periods of low wind and solar power generation while consumption is at its peak.
Læs mere
Dato: 28/10/2025

Commission approves French scheme to partially compensate pension contributions in rail freight transport
The European Commission has approved, under EU State aid rules, a French scheme that will reimburse the so-called T2 surcharge payable by rail freight transport companies for certain statutory employees. The scheme applies for ten years from 1 January 2025. The T2 contribution is intended for the financing of additional benefits specific to the statutory pension scheme for employees of public railway group SNCF. Since 1 January 2020, SNCF employees who leave the company but continue working in the railway sector can keep their pension rights from this scheme. In that case, their new employer must pay the employer's share of the T2 contribution.
Læs mere
Dato: 27/10/2025

Andet

Fifth meeting of the Digital Markets Act High-Level Group
Today, the High-Level Group on the Digital Markets Act (High-Level Group) met for the fifth time. It discussed with experts from civil society and consumer representatives the role the group can play in the coordination of different regulatory frameworks applicable in digital markets and in particular the Digital Markets Act (DMA). The members of the High-Level Group discussed possible ways to strengthen collaboration in applying and enforcing various regulatory frameworks of the EU's digital acquis. Moreover, the High-Level Group endorsed a joint paper on Artificial Intelligence (AI) that maps out the regulatory interplay related to AI issues. The paper also proposes to explore closer cross-regulatory cooperation among competent authorities as regards the development and deployment of AI systems by gatekeepers. To this end, the High-Level Group gave a mandate to the sub-group on AI to continue its work on effective cooperation. Further topics discussed today include developments in public and private enforcement of the DMA. The High-Level Group also discussed the work of the thematic sub-groups of the High-Level Group on data-related obligations, interoperability and artificial intelligence, to ensure enhanced cooperation across its members.
Læs mere
Dato: 12/12/2025

Meta commits to give EU users choice on personalised ads under DMA
The European Commission acknowledges Meta's undertaking to offer users in the EU an alternative choice of Facebook and Instagram services that would show them less personalised ads, to comply with the Digital Markets Act (DMA). This is the first time that such a choice is offered on Meta's social networks. Meta will give users the effective choice between: consenting to share all their data and seeing fully personalised advertising, and opting to share less personal data for an experience with more limited personalised advertising. Meta will present these new options to users in the EU in January 2026. This follows a close dialogue between the Commission and Meta after the Commission found Meta in breach of the Digital Markets Act and issued Meta a non-compliance decision related to user choice in April 2025. Once implemented, the Commission will seek feedback and evidence from Meta and other relevant stakeholders on the impact and uptake of this new ad model. Users in the EU must have full and effective choice, which is their right under the DMA.
Læs mere
Dato: 08/12/2025

Commission receives notifications from Apple under the Digital Markets Act
On 27 November 2025, the Commission received notifications from Apple indicating that its core platform services, Apple Ads and Apple Maps, meet the Digital Markets Act (DMA) thresholds. The Commission now has 45 working days to decide whether to designate Apple as a gatekeeper for any of these services. If designated, Apple will have six months to comply with the DMA's requirements. The DMA rules apply to companies operating core platform services, such as search engines, app stores, and messenger services, that have a significant impact on the internal market, a strong and lasting market position, and constitute an important gateway between businesses and consumers. This is presumed for services that have 45 million monthly active end users and 10 000 yearly business users in each of the last three financial years.
Læs mere
Dato: 27/11/2025

Commission launches market investigations on cloud computing services under the Digital Markets Act
The European Commission opened three market investigations on cloud computing services under the Digital Markets Act (DMA). Two market investigations will assess whether Amazon and Microsoft should be designated as gatekeepers for their cloud computing services, Amazon Web Services and Microsoft Azure, under the DMA, in other words whether they act as important gateways between businesses and consumers, despite not meeting the DMA gatekeeper thresholds for size, user number and market position. The third market investigation will assess if the DMA can effectively tackle practices that may limit competitiveness and fairness in the cloud computing sector in the EU.
Læs mere
Dato: 18/11/2025

Commission opens investigation into potential Digital Markets Act breach by Google in demoting media publishers' content in search results
Today, the European Commission has formally launched proceedings to assess whether Google applies fair, reasonable and non-discriminatory conditions of access to publishers' websites on Google Search, which is an obligation under the Digital Markets Act (DMA). The Commission's monitoring work has shown indications that Google, based on its 'site reputation abuse policy', is demoting news media and other publishers' websites and content in Google search results when those websites include content from commercial partners. According to Google, this policy aims to tackle practices that are allegedly meant to manipulate ranking in search results. The Commission's investigation focuses specifically on Google's 'site reputation abuse policy', and how that policy applies to publishers. This policy appears to directly impact a common and legitimate way for publishers to monetise their websites and content.
Læs mere
Dato: 13/11/2025

Consultation on Competition Law
By gathering stakeholder opinions, the public consultation aims to evaluate whether or not the Horizontal- and Non-Horizontal Merger Guidelines remain effective. To inform a potential revision of the guidelines, the consultation also seeks input on various policy topics related to competitiveness, resilience, efficiency, innovation, sustainability, digitalisation, the time horizons, investment intensity of competition in certain strategic sectors, the changed defence and security environment, and other factors. In line with the European Commission's Better Regulation policy of developing initiatives informed by the best available knowledge, we also scientific researchers, academic organisations, learned societies, and scientific associations with expertise in competition law to submit relevant published and pre-print scientific research, analyses and data.
Læs mere
Dato: September 2025

Nyt fra EU-domstolen

Domme

C-401/24 - Stockholms Hamn
Nøgleord:

» Præjudiciel forelæggelse – statsstøtte – aftale indgået før Kongeriget Sveriges tiltrædelse af Den Europæiske Union – kompensation for indtægtstab som følge af afskaffelsen af sluseafgifter – begrebet støtte – begrebet virksomhed – økonomisk virksomhed – eksisterende eller ny støtte «

Tvist:

Anmodningen om præjudiciel afgørelse vedrører fortolkningen af artikel 107 TEUF, artikel 1, litra b), nr. i), i Rådets forordning (EU) 2015/1589 af 13. juli 2015 om fastlæggelse af regler for anvendelsen af artikel 108 [TEUF] (EUT 2015, L 248, s. 9) og artikel 144 i akt vedrørende vilkårene for [...] Republikken Østrigs, Republikken Finlands og Kongeriget Sveriges tiltrædelse og tilpasningerne af de traktater, der danner grundlag for Den Europæiske Union (EFT 1994, C 241, s. 21, og EFT 1995, L 1, s. 1, herefter »tiltrædelsesakten«). Denne anmodning er indgivet i forbindelse med en tvist mellem Staten genom Sjöfartsverket (den svenske stat ved søfartsstyrelsen, Sverige) (herefter »den svenske søfartsstyrelse«) og Stockholms Hamn AB vedrørende sidstnævntes tilbagebetaling af beløb, som førstnævnte havde udbetalt som kompensation for afskaffelsen af afgifter for passage af sluser.

Dom:

Artikel 107, stk. 1, i traktaten om Den Europæiske Unions funktionsmåde skal fortolkes således, at en årlig kompensation, som en offentlig myndighed ved hjælp af statsmidler har udbetalt til et kommunalt aktieselskab for at kompensere dette selskab for forpligtelsen til gratis at levere en slusetjeneste på en vandvej, der forud for indgåelsen af denne aftale var pålagt en afgift, udgør statsstøtte, hvis nævnte selskab kan anses for at være en virksomhed, og hvis denne kompensation giver selskabet en fordel, som det ikke ville have opnået på normale markedsvilkår. Artikel 1, litra b), nr. i), og artikel 1, litra c), i Rådets forordning (EU) 2015/1589 af 13. juli 2015 om fastlæggelse af regler for anvendelsen af artikel 108 [TEUF] skal fortolkes således, at hvis det antages, at en kompensation, hvis udbetaling i overensstemmelse med de oprindelige vilkår i den aftale, hvorved denne kompensation blev indført, er blevet forlænget for femårige perioder, idet denne aftale ikke er blevet opsagt, og hvis størrelse er blevet ændret – dels årligt på grundlag af forbrugerprisindekset, dels ved udløbet af hver femårsperiode efter mængden af den pågældende trafik i medfør af en formel, der var fastsat i den oprindelige aftale og er forblevet uændret i tidens løb – udgør støtte som omhandlet i artikel 107, stk. 1, TEUF, udgør denne kompensation eksisterende støtte.
Læs mere
Dato: 20/11/2025

C-632/23 - Kommissionen mod Bulgarien (Échanges de terrains forestiers II)
Nøgleord:

» Traktatbrud – statsstøtte – støtte, der er erklæret ulovlig og uforenelig med det indre marked – artikel 108, stk. 2, andet afsnit, TEUF – ombytning af skovarealer – tilbagesøgningsforpligtelse – informationspligt – undladelse af gennemførelse «

Tvist:

Europa-Kommissionen har med sit søgsmål nedlagt påstand om, at det fastslås, at Republikken Bulgarien ved ikke inden for de fastsatte frister at træffe alle de foranstaltninger, der er nødvendige for at gennemføre Kommissionens afgørelse (EU) 2015/456 af 5. september 2014 om støtteordningen SA.26212 (11/C) (ex 11/NN – ex CP 176/A/08) og SA.26217 (11/C) (ex 11/NN – ex CP 176/B/08) iværksat af Republikken Bulgarien i forbindelse med ombytning af ejerskabet af skovarealer, har tilsidesat sine forpligtelser i medfør af denne afgørelses artikel 4-6 samt i medfør af EUF-traktaten.

Dom:

Republikken Bulgarien har ved ikke inden for de fastsatte frister at træffe alle de foranstaltninger, der er nødvendige for at gennemføre Kommissionens afgørelse (EU) 2015/456 af 5. september 2014 om støtteordningen SA.26212 (11/C) (ex 11/NN – ex CP 176/A/08) og SA.26217 (11/C) (ex 11/NN – ex CP 176/B/08) iværksat af Republikken Bulgarien i forbindelse med ombytning af ejerskab af skovarealer, tilsidesat sine forpligtelser i medfør af denne afgørelses artikel 4-6 samt i medfør af EUF-traktaten. Republikken Bulgarien betaler sagsomkostningerne.
Læs mere
Dato: 13/11/2025

C-2/23 - FL und KM Baugesellschaft og S
Nøgleord:

» Præjudiciel forelæggelse – konkurrence – artikel 101 TEUF – effektiv virkning – direktiv 2014/104/EU – regler for søgsmål i henhold til national ret angående erstatning for overtrædelser af bestemmelser i medlemsstaternes og Den Europæiske Unions konkurrenceret – artikel 6, stk. 6 og 7 – artikel 7, stk. 1 – direktiv 2019/1/EU – medlemsstaternes konkurrencemyndigheder indrømmes forudsætninger for at håndhæve konkurrencereglerne mere effektivt og sikre et

velfungerende indre marked – artikel 31, stk. 3 – anvendelsesområde – ordning for administrativ og retslig bistand mellem de nationale myndigheder – overførsel af en konkurrencemyndigheds sagsakter til en myndighed, der gennemfører en strafferetlig efterforskning – sagsakterne i den strafferetlige efterforsknings tilføjes redegørelser til brug for bødefritagelse eller bødenedsættelse og forligsredegørelser samt disses bilag – aktindsigt i disse dokumenter for sigtede og andre parter i en sådan procedure «

Tvist:

Anmodningen om præjudiciel afgørelse vedrører fortolkningen af artikel 6, stk. 6 og 7, samt artikel 7, stk. 1, 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 (EUT 2014, L 349, s. 1) og artikel 31, stk. 3, i Europa-Parlamentets og Rådets direktiv (EU) 2019/1 af 11. december 2018 om styrkelse af de nationale konkurrencemyndigheders forudsætninger for at håndhæve konkurrencereglerne effektivt og sikring af et velfungerende indre marked (EUT 2019, L 11, s. 3, berigtiget i EUT 2019, L 213, s. 3). Denne anmodning er indgivet i forbindelse med en indsigelse indgivet af FL und KM Baugesellschaft m.b.H. & Co. KG og S AG vedrørende tilføjelsen af redegørelser til brug for bødefritagelse eller bødenedsættelse og forligsredegørelser samt disse dokumenters bilag til sagsakterne i en strafferetlig efterforskning gennemført af Zentrale Staatsanwaltschaft zur Verfolgung von Wirtschaftsstrafsachen und Korruption (central anklagemyndighed for retsforfølgning af økonomisk kriminalitet og korruption, Østrig) (herefter »anklagemyndigheden«).

Dom:

Artikel 101 i traktaten om Den Europæiske Unions funktionsmåde skal fortolkes således, at denne bestemmelse ikke er til hinder for en national lovgivning, hvorefter den nationale konkurrencemyndighed og den nationale retsinstans med kompetence i konkurrenceretlige sager inden for rammerne af den ordning med administrativ bistand, der er fastsat i denne lovgivning, har pligt til på anklagemyndighedens anmodning at tilsende denne sagsakterne fra denne konkurrencemyndighed og denne retsinstans, herunder redegørelser til brug for bødefritagelse eller bødenedsættelse og forligsredegørelser indeholdt i disse sagsakter samt de oplysninger, der fremgår heraf, forudsat at denne ordning ikke skader denne artikels effektive virkning.
Artikel 31, stk. 3, i Europa-Parlamentets og Rådets direktiv (EU) 2019/1 af 11. december 2018 om styrkelse af de nationale konkurrencemyndigheders forudsætninger for at håndhæve konkurrencereglerne effektivt og sikring af et velfungerende indre marked skal fortolkes således, at den beskyttelse, som denne bestemmelse indrømmer redegørelser til brug for bødefritagelse eller bødenedsættelse og forligsredegørelser, ikke omfatter de dokumenter og oplysninger, som forelægges for at fremlægge, konkretisere og fastlægge indholdet af disse redegørelser.
Artikel 31, stk. 3, i direktiv 2019/1, sammenholdt med artikel 47, stk. 1 og 2, og artikel 48, stk. 2, i Den Europæiske Unions charter om grundlæggende rettigheder, skal fortolkes således, at denne bestemmelse ikke er til hinder for en national lovgivning, hvorefter sigtede, som ikke er ophavsmænd til redegørelser til brug for bødefritagelse eller bødenedsættelse og forligsredegørelser, der er udarbejdet til en sag for en national konkurrencemyndighed og fremsendt til de nationale straffemyndigheder, i en straffesag, som ikke vedrører en overtrædelse af konkurrenceretten, har ret til aktindsigt i disse redegørelser, men at denne bestemmelse er til hinder for en national lovgivning, hvorefter andre parter i denne straffesag, herunder personer, som har lidt skade som følge af den pågældende overtrædelse af konkurrenceretten, og som kræver erstatning for den af denne overtrædelse forårsagede skade, har ret til en sådan aktindsigt.
Læs mere
Dato: 30/10/2025

C-2/24 P - Teva Pharmaceutical Industries og Cephalon mod Kommissionen
Nøgleord:

» Appel – konkurrence – artikel 101 TEUF – karteller – markedet for modafinil – aftale om forlig i tvister mellem to medicinalvirksomheder vedrørende patenter med henblik på at forsinke markedsføringen af en generisk version af modafinil – afgørelse, hvorved der fastslås en overtrædelse af artikel 101 TEUF – bedømmelseskriterier – konkurrencebegrænsende formål «

Tvist:

Med appellen har appellanterne nedlagt påstand om ophævelse af dom afsagt af Den Europæiske Unions Ret den 18. oktober 2023, Teva Pharmaceutical Industries og Cephalon mod Kommissionen (T-472/21, herefter »den appellerede dom«, EU:T:2023:651), hvorved Retten frifandt Kommissionen for deres påstand om annullation af Europa-

Kommissionens afgørelse C(2020) 8153 final af 26. november 2020 om en procedure i henhold til artikel 101 TEUF og EØS-aftalens artikel 53 (sag AT/39686 – CEPHALON) (herefter »den omtvistede afgørelse«), og subsidiært om ophævelse eller nedsættelse af den bøde, de var blevet pålagt ved denne afgørelse.

Dom:

Appellen forkastes og Teva Pharmaceutical Industries Ltd og Cephalon Inc. betaler sagsomkostningerne.
Læs mere
Dato: 23/10/2025

Forslag til afgørelse

C-2/24 P - Teva Pharmaceutical Industries og Cephalon mod Kommissionen
Nøgleord

» Appel – konkurrence – karteller – markedet for modafinil – aftale om forlig i tvister vedrørende patenter med henblik på at udsætte markedsføringen af en billigere generisk udgave af modafinil – afgørelse, der fastslår en overtrædelse af artikel 101 TEUF og artikel 53 i EØS-aftalen – annullationssøgsmål – konkurrencebegrænsende formål – konkurrencebegrænsende virkning – bedømmelseskriterier «

Tvist:

Med deres appel har Teva Pharmaceutical Industries Ltd (herefter »Teva«) og Cephalon Inc. (herefter samlet »appellanterne«) nedlagt påstand om ophævelse af Rettens dom af 18. oktober 2023, Teva Pharmaceutical Industries og Cephalon mod Kommissionen (T-74/21, herefter den »appellerede dom«, EU:T:2023:651), hvorved den frifandt Europa-Kommissionen. Sagsøgerne havde ved dette søgsmål principalt nedlagt påstand om annullation af Kommissionens afgørelse C(2020) 8153 final af 26. november 2020 om en procedure i henhold til artikel 101 TEUF og artikel 53 i EØS-aftalen (sag AT.39686-CEPHALON) (herefter »den omtvistede afgørelse«) (2), hvorefter appellanterne blev anset for at have tilsidesat artikel 101 TEUF og artikel 53 i EØS-aftalen ved at indgå en aftale om bilæggelse af en tvist vedrørende patenter mellem dem, og subsidiært om ophævelse eller nedsættelse af bøderne. Sagen udspringer af en aftale om forlig i tvisten (herefter »forligsaftalen«) indgået mellem appellanterne, to medicinalvirksomheder, i henhold til hvilken den ene af dem, Teva, forpligtede sig til ikke at indføre sit generiske lægemiddel på de pågældende markeder for modafinil, ikke mod direkte betalinger, men mod en række handelstransaktioner, der fremgår af aftalen. Ifølge den omtvistede afgørelse fastslog Kommissionen bl.a., at aftalen havde et konkurrencebegrænsende formål såvel som en konkurrencebegrænsende virkning som omhandlet i artikel 101, stk. 1, TEUF og artikel 53 i EØS-aftalen. Cephalon og Teva blev derfor begge idømt bøder på henholdsvis 30 480 000 EUR og 30 000 000 EUR.

Forslag til afgørelse:

”Henset til det ovenstående foreslår jeg, at Domstolen træffer følgende afgørelse: Appellen forkastes. Teva Industries Ltd og Cephalon Inc. bærer deres egne omkostninger og betaler de af Europa-Kommissionen afholdte omkostninger.”
Læs mere
Dato: 27/03/2025

Kendelse

Intet nyt.

Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

Civil engineering: CMA sets out concerns and options for better outcomes
The Competition and Markets Authority (CMA) has published its interim report as part of its ongoing market study into the civil engineering sector for public road and railway infrastructure. Civil engineering is fundamental to the UK’s economic infrastructure. The CMA is applying its competition lens to examine how supply chains, public procurement, and

regulation can be improved to deliver better outcomes for the public and the economy – and to support the government's mission to drive growth and productivity.
Læs mere
Dato: 17/12/2025

A Decade of OECD Competition Trends, Data and Insights
Over the past decade, competition enforcement has been shaped by major economic disruptions, rapid digitalisation and shifts in geopolitical dynamics. Challenged by emerging technologies like AI and new business models, governments are rethinking their tools and legal approaches. In this context, robust enforcement statistics are essential: they give a clear view of how competition policy is evolving and where authorities are focusing their efforts. This special edition of OECD Competition Trends marks a ten-year milestone in the collection of enforcement data. Drawing on data from 66 jurisdictions, it offers a broad retrospective of enforcement activity from 2015 to 2024.
Læs mere
Dato: 1/12/2025

Policy paper: Artificial intelligence and competitive dynamics in downstream markets
This paper examines how the adoption of artificial intelligence (AI), particularly generative and agentic systems, is reshaping competition in downstream markets. It explores mechanisms through which AI may lower barriers to entry, substitute for labour, reduce minimum efficient scale, and support innovation and product differentiation. At the same time, it highlights emerging risks related to data access, model restrictiveness, and the downsides of AI use. The paper analyses how AI affects market structure and may shape firm behaviour, finding that its competitive impact is highly context-dependent, shaped by sectoral exposure to AI use, firm size and capabilities, and access to enabling inputs. It concludes by discussing enforcement, advocacy, and regulatory tools that may help preserve contestability, and identifies areas for future research, including attribution of liability and the implications of agentic AI systems. The analysis is intended to support competition authorities in navigating AI-related market developments.
Læs mere
Dato: 14/11/2025

CMA: Our Strategy 2026 to 2029: Promoting Competition and Protecting Consumers to Drive Growth and Improve Household Prosperity
Over the next 3 years, the UK must seize the opportunity to transform our economy - harnessing the benefits of new technologies and the government's Modern Industrial Strategy to spur investment, increase productivity and drive growth. This will deliver improved living standards, better public services, and a more prosperous economy that works for people across the UK. To realise the future potential of the UK economy, longstanding structural challenges must be overcome. Fiscal constraints, stagnating productivity and persistent under-investment mean this is a time of acute economic pressure for the UK. Sustained inflation and cost of living pressures continue to weigh on households, while public services are under unprecedented strain. At the same time, the security of our economy depends on rebuilding critical infrastructure, developing a new international trade strategy and bolstering our resilience to shocks in an increasingly volatile geopolitical environment. Reflecting that context, the government's primary mission is to stimulate economic growth - raising living standards, unlocking better public services and setting the UK on the path to a more stable and prosperous future.
Læs mere
Dato: 15/11/2025

Mergers: Guidance on the CMA's jurisdiction and procedure
The Competition and Markets Authority's (CMA's) merger control function is part of its duty to promote competition for the benefit of consumers.1 Its merger control procedures are designed to fulfil this duty in an efficient manner, while ensuring that the merger parties' rights to due process are fully respected. The CMA is also required to balance the rights of the merger parties with those of third parties. This guidance forms part of the advice and information published by the CMA under section 106 of the Enterprise Act 2002 (the Act). It is designed to provide general information and advice to companies and their advisers on the procedures used by the CMA in operating the merger control regime set out in the Act. It also includes guidance on when the CMA will have jurisdiction to review mergers under the Act, and it explains the respective roles of the CMA, the Secretary of State, and relevant sectoral regulators in UK merger control.
Læs mere
Dato: 11/2025

3 | LITTERATUR (DK)

Artikler fra UfR

Intet nyt.

Nye publikationer fra Erhvervsministeriet

Nu træder forbud mod vejledende priser på brændstof i kraft
Pr. den 1. december, må brændstofselskaberne ikke offentliggøre vejledende priser. Tiltaget skal skabe mere konkurrence på brændstof-markedet og dermed bidrage til, at bilisterne kan spare op til 2.000 kr. om året.
Læs mere
Dato: 01/12/2025

Artikler fra Juristen

Intet nyt.

Artikler fra Erhvervsjuridisk Tidsskrift

Intet nyt.

Artikler fra Revision og Regnskabsvæsen

Intet nyt.

Artikler fra EU-ret og Menneskeret

Intet nyt.

Konkurrenceretlige emner

Intet nyt.

Anden dansk og nordisk litteratur

Intet nyt.

4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Volume 47, issue: 1, 2025:

The primacy of EU fundamental rights over the regulatory autonomy of sports governing bodies: the RFC Seraing ruling
Francesco Rizzuto
Abstract: Examines Royal Football Club Seraing SA v Federation internationale de football association (FIFA) (C-600/23) (ECJ) on whether arbitral awards involving EU fundamental rights can be exempted from judicial review, and its implications for the regulatory autonomy of sports' governing bodies in the EU.

The FSR's merger tool "two years on"
Harald Weiß
Abstract: Examines the operation of the notification regime for mergers under Regulation 2022/2560, and key challenges during the filing analysis, and the pre-notification, foreign subsidies review and data collection phases when reporting on foreign financial contributions. Suggests potential improvements.

Predatory pricing in the pharmaceutical sector: an example from Saudi Arabia
Rob van der Laan
Abstract: Reviews the competition law regime governing predatory pricing by dominant undertakings in Saudi Arabia, and its application to the pharmaceutical sector in a case involving the drug olanzapine. Details the factors considered when imposing fines on two companies, including Eli Lilly Export SA.

When the state competes - competitive neutrality in India? Analysing abuse of dominance by public sector enterprises in India
MM Sharma
Abstract: Reviews, with reference to case law, the approach of the Competition Act 2002 to market dominance by public sector undertakings in India. Examines the role of the competitive neutrality principle, the enforcement challenges, the position in jurisdictions such as the EU, and whether reform is needed.

Litigation funding in collective actions: Gutmann and Parliament's intention
Adrian Render
Abstract: Discusses Apple Inc v Gutmann (CA) on whether class representatives in collective actions can recover litigation costs prior to the distribution of damages. Reviews the uncertainties remaining in earlier cases, and the court's approach to Parliament's intention under the Competition Act 1998 s.47C.

Czech Republic: competition - infringement (Case Comment)
Tomáš Fiala
Abstract: Notes the Czech Competition Office ruling in Drupork Svitavy imposing a fine of around EUR 107,000 on a producer of fresh pork for abuse of buyer power through practices including exceeding its 30-day payment deadline to suppliers of compound feeds.

Denmark: anti-competitive practices - judgment (Case Comment)
Jens Munk Plum
Abstract: Notes the Danish Maritime and Commercial High Court ruling in OnskeBorn A/S v Danish Competition and Consumer Authority on whether a finding that a retail chain collaboration breached antitrust law by price co-ordination should be annulled, or whether the chain should be fined DKK 9 million.

European Union: anti-competitive practices - judgment (Case Comment)
Prof. Bruce Wardhaugh
Abstract: Notes Michelin v European Commission (T-188/24) (GC) clarifying the evidentiary threshold required for a Commission inspection decision authorising a dawn raid of business premises to investigate alleged anti-competitive practices. Considers the decision's wider significance.

Finland: procurement - judgment (Case Comment)
Suzanne Simon-Bellamy
Abstract: Notes the Finnish Supreme Administrative Court ruling in Sarastia Oy, giving guidance on the interpretation of the controlling interest requirements in an in-house entity procurement case. Highlights two dissenting opinions, and notes impending procurement reforms to clarify remaining uncertainties.

Finland: competition - consultation
Suzanne Simon-Bellamy
Abstract: Notes a consultation by the Finnish Ministry of Economic Affairs and Employment on proposed reforms to strengthen the Finnish Competition and Consumer Authority's supervision of competitive neutrality between public and private sectors, including the introduction of a new prioritisation criterion.

France: anti-competitive practices - investigation (Case Comment)
Emmanuel Reille
Abstract: Notes the French Competition Authority ruling in Eurotunnel / P&O Ferries / DFDS on whether a space-chartering agreement in the short sea cross-Channel freight transport sector had an anti-competitive object. Details the significance of earlier commitments to the Competition and Markets Authority.

Germany: anti-competitive practices - judgment - Digital Markets Act (Case Comment)
Oliver Haas
Abstract: Notes the Mainz Regional Court decision in Landgericht (Mainz) (12 HK O 32/24), granting an injunction to an email service provider in private enforcement proceedings against Google for steering users of its Android operating system towards use of its email service when creating a Google account.

Ireland: mergers - merger control - decision (Case Comment)
Dr Vincent J G Power SC
Abstract: Notes the Irish Competition and Consumer Protection Commission decision in BWG Foods Unlimited Co / Perry's Cash and Carry Ltd, approving an acquisition in the grocery wholesale distribution market subject to proposed commitments including divestment of shareholdings and information firewalls.

Netherlands: competition - competition enforcement
Jotte Mulder
Abstract: Notes the Dutch Competition Authority's October 2025 response to the Commission consultation on Regulation 1/2003, highlighting its proposals for new co-operation tools, including the creation of joint investigative teams and the EU-wide harmonisation of dawn raid authorisation procedures.

Netherlands: anti-competitive practices - investigation - alleged abuse of dominance
Jotte Mulder
Abstract: Notes the announcement on 30 September 2025 of an investigation including a dawn raid by the Dutch Competition Authority into potential abuse of dominance by an unnamed business-to-business software supplier involving pricing or unfair contract terms.

Portugal: mergers - merger control - acquisition of sole control (Case Comment)
Vasco Costa Santos
Abstract: Notes the Portuguese Competition Authority decision in Idealista / Portal47, closing an investigation into a proposed acquisition of one online real estate platform operator by another, following notification of its abandonment. Highlights the role of the ecosystem theory of harm in the case.

Romania: anti-competitive practices - infringement (Case Comment)
Cristina de Jonge
Abstract: Notes a Romanian Competition Council decision imposing fines totalling approximately EUR 466,000 on Tredeco Holding SRL, Trecon Logistic SRL, Data Capture SRL and Geo Drumuri Banat SRL for participating in a road maintenance bid-rigging cartel.

South Africa: mergers - merger control - judgment (Case Comment)
Derushka Chetty
Abstract: Notes the South African Competition Appeal Court decision in Capital Newspapers (Pty) Ltd v Media24 Holdings Ltd on whether a decision to transition newspapers to digital-only format fell within the Competition Commission's merger control jurisdiction, in a challenge by competitors and customers.

Turkiye: anti-competitive practices - decision (Case Comment)
Av. Dr. Gönenç Gürkaynak, Esq.
Abstract: Notes the Turkish Competition Board decision in Yapi ve Kredi Bankasi AS on whether co-operation agreements between banks and a credit card points programme operator qualified for negative clearance or exemption, considering market definition and conditions for exemption.

USA: competition governance - judgment (Case Comment)
Anthony P. Badaracco
Abstract: Notes the US Supreme Court decision in Slaughter v Trump, staying an order for reinstatement of a Federal Trade Commissioner pending full argument on the constitutionality of commissioners' protections from presidential removal and federal courts' power to override a removal from public office.

Volume 46, Issue: 12, 2025

Should competition policy play a role in delivering public infrastructure?
Aastha Mantri
Abstract: Considers whether UK competition policy should contribute to the delivery of public infrastructure. Examines the inability of the market alone to generate adequate infrastructure, why competition law lacks sufficient tools to do so, but how it can play a supporting role in infrastructure provision.

The Competition Bureau's airline market study: cleared for take-off or emergency landing?
Emma Ghanem
Abstract: Discusses recommendations of the Canadian Competition Bureau's June 2025 study "Cleared for Take-Off: Elevating Airline Competition", including reducing barriers to market entry, upgrading airports in remote communities and new powers to veto airline merger reviews. Details the airlines' responses.

Artificial intelligence and competition law in the Transatlantic sphere: navigating new frontiers in regulation and enforcement
Dr Charles Ho Wang Mak
Abstract: Discusses how developments in artificial intelligence (AI) pose regulatory challenges for EU and US competition law. Reviews key concerns such as whether AI facilitates monopolistic conduct, and suggests potential responses, including collaboration to ensure AI projects consider antitrust concerns.

Fines for incomplete RFI replies: raising the bar for procedural compliance in EU antitrust investigations
Héctor Pérez Palomares
Abstract: Reviews the Commission's first use of its fining powers under Regulation 1/2003 art.23 due to a company's incomplete response to a request for information during an investigation. Examines the scope of the RFI tool, its enforcement context, and the implications for procedural compliance.

Nvidia and the semiconductor crossfire: China's antitrust strategy amid US-China tech tensions
Qingxiu Bu
Abstract: Examines, with reference to its investigations of the artificial intelligence microchip designer Nvidia, Chinese competition law's growing role in techno-geopolitical trade countermeasures. Considers the implications of such strategic uses of antitrust law for relations between China and the US.

Breaking the chains in labour markets: the application of competition law to worker non-compete clauses in Guernsey
Sarah Livestro
Abstract: Discusses the approach of competition authorities across the EU to how competition law may be applied in labour markets, with particular reference to post-term non-compete clauses, and examines the Guernsey Competition and Regulatory Authority's reasoning when finding such a clause anti-competitive.

Denmark: mergers - merger control (Case Comment)
Jens Munk Plum
Abstract: Notes the Danish Competition and Consumer Authority rulings in Dantaxi / Uber and OneMed / Hardam, involving the first uses of the call-in power to require notification of "below threshold" mergers in the taxi and ostomy products sectors. Considers the implications for the power's future use.

European Union: anti-competitive practices - judgment (Case Comment)
Prof. Bruce Wardhaugh
Abstract: Notes CP v Nissan Iberia SA (C-21/24) (ECJ) on whether the limitation period for a private damages action based on a Spanish Competition Authority decision ran from the publication of the decision, or final decision on appeal, considering the effect of Directive 2014/104 art.10(2).

France: anti-competitive practices - judgment (Case Comment)
Emmanuel Reille
Abstract: Notes the French Supreme Court decision in Novartis / Roche / Genentech on whether public statements concerning the risks of off-label use of a drug constituted collective abuse of dominance, balanced against the interests of commercial freedom of expression.

France: anti-competitive practices - infringement (Case Comment)
Emmanuel Reille
Abstract: Notes the French Competition Authority decision in Ausy / Alten / Expleo / Bertrand, imposing a total of EUR 29.5 million in fines for non-poaching practices affecting the IT, engineering, and technology consulting sectors. Highlights the terms of the two gentlemen's agreements involved.

Germany: anti-competitive practices - judgment (Case Comment)
Giulia Weeber
Abstract: Notes the Dusseldorf Higher Regional Court decision in Oberlandesgericht (Dusseldorf) (Fahrwerks-Aluminiumbauteile) (V-6 Kart 2/21) on the assessment of information exchanges and factors relevant to assessment of fines, in a case involving information-sharing by vehicle components producers.

Netherlands: competition - investigation - Digital Services Act
Jotte Mulder
Abstract: Notes the Dutch Competition Authority's launch on 9 September 2025 of an investigation into Snapchat's compliance with child protection provisions of Regulation 2022/2065 (Digital Services Act) following a complaint about vaping product-related content.

Netherlands: competition - market investigation
Jotte Mulder
Abstract: Notes the Dutch Competition Authority's announcement on 18 September 2025 of the commencement of a market investigation into supermarket food pricing, compared to neighbouring countries. Highlights concerns about profit margins and restrictive supplier practices.

Portugal: anti-competitive practices - investigation
Maria Stock da Cunha
Abstract: Notes the statement of objections issued by the Portuguese Competition Authority in September 2025 against three companies in the beverage sector for alleged non-poaching agreements. Details the background to the statement, including a leniency application by one of the companies.

South Africa: competition - judgment (Case Comment)
Wade Graaff
Abstract: Notes the South African Competition Appeal Court ruling in Google Ireland Ltd v Competition Tribunal of South Africa concerning the review powers of the Competition Tribunal, and clarifying that a tribunal decision signed by only two of its three members was invalid and should be set aside.

Turkiye: anti-competitive practices - investigation - restrictive business practices (Case Comment)
Av. Dr. Gönenç Gürkaynak, Esq.

Abstract: Notes the Turkish Competition Board decision in Fatih Romorkorculuk ve Denizcilik Hizmetleri AS / Atlantik Gemi Isletmeciligi AS, settling an investigation into an admitted non-poaching cartel between platform supply vessel operators but clearing their human resources providers of facilitation.

USA: anti-competitive practices - judgment - unlawful monopolization (Case Comment)
Anthony P. Badaracco
Abstract: Notes the decision of the US District Court for Washington DC in United States v Google LLC, imposing behavioural remedies including a ban on exclusive contracts and tying of PlayStore licences, following an earlier finding of illegal monopolisation of the search engine and search engine advertising markets.

Artikler fra European Competition Journal

Volume 21, Issue: 3, 2025

Leniency policy in hub and spoke cartels
Rodrigo Londoño van Rutten, Nikolas Vander Vennet, Caroline Buts & Marc Jegers
The competition literature documents that leniency programmes can either destabilize or reinforce the sustainability of horizontal cartels. We contribute to this body of literature by looking at a specific type of cartels, namely hub and spoke cartels. Drawing on earlier work of Van Cayseele and Miegielsen (2013)1 on hub and spoke cartels, and Chen and Rey's dynamic leniency model for horizontal cartels (2013),2 this paper builds a model that measures the impact of leniency programmes on hub and spoke cartels. From our model it follows that it is always desirable to offer some ex-ante leniency to the first-reporting hub and spoke cartel member to discourage cartel formation and that this optimal leniency rate is unique for both the hub and spokes.

In the light of dynamic competition: should we make merger remedies more flexible?
Patrice Bougette, Oliver Budzinski & Frédéric Marty
Mergers and acquisitions shape industry competition. Effective merger remedies are important for market efficiency and consumer welfare. This paper explores the need for more flexible remedies to address changing markets after mergers. While the EU permits some flexibility with less restrictive remedies, we conceptually advance the design elements of a dual-phase, bifurcated merger control system. This system integrates ex-ante processes with more systematic and comprehensive ex-post measures. Such an approach can address the shortcomings of the current system and, consequently, holds the potential to enhance merger control in dynamic markets.

Making your case under Art. 101, 102 TFEU: the evidence standards in competition law appeals and cartel damage proceedings
Thomas Weck
The literature on Art. 101 and Art. 102 TFEU typically covers the legal requirements for finding violations and the economics underlying the legal theories of harm. The focus of that literature is on whether the enforcement agencies or civil claimants "got it right" in substance. What is less often discussed, at least beyond individual cases, is how the courts deal with issues of factual uncertainty. This is the realm of procedural law, more specifically the court rules and related jurisprudence on the taking and assessment of evidence. The present article argues that the European Court of Justice's case law on evidence-related matters constitutes a largely harmonized body of law, although procedural competences remain dispersed among the EU and the Member States. This finding is of practical relevance as it allows to develop general principles for evidence-based strategies in court.

(Re-)Reviewing mergers under Article 102 TFEU? An overview of ex post merger policy in the EU
Max van Iersel
The Court affirmed the continued applicability of Article 102 TFEU to mergers in Towercast. This paper explores the relationship between the Merger Regulation and Article 102 TFEU from a historical and hierarchy of norms perspectives. It evaluates the implications of Towercast for the role of Article 102 TFEU within the EU merger control framework. From a hierarchical norms perspective, the continued applicability of Article 102 TFEU to non-notifiable mergers is a logical outcome. This perspective supports the possibility of re-reviewing cleared mergers under Article 102 TFEU. Re-reviews are likely a rare occurrence, with most ex post interventions targeting non-notifiable mergers. Ex post merger policy may serve as a valuable corrective mechanism to the Merger Regulation, allowing the correction of missteps in clearance decisions and ensuring that mergers that initially escaped scrutiny are addressed. The effectiveness of the system is constrained by procedural limitations due to the exclusion of Regulation 1/2003.

Environmental common interest? Incorporating the Green Deal's environmental objectives into State aid compatibility criteria
Jakub Kociubiński
The deepening climate crisis and the gaining momentum of the European Green Deal initiative provide a canvas for this paper, which seeks to determine how environmental objectives can and should be incorporated into State aid. The author argues that the role of State aid law cannot be limited to protecting competitive processes because, since aid measures inherently distort the market, there must be something relevant to the European Union achieved in return for them to be allowed. While the author argues, due to the cross-cutting nature of environmental goals, for their incorporation into Article 107(3)(c) TFEU aid compatibility criteria, in a similar manner to how the pursuit of "common interest" was originally envisaged in the State Aid Modernisation initiative, the paper will also discuss the challenges associated with such incorporation concerning the interpretation of vague objectives and their transformation into actionable legal criteria.

Procedures in the DMA: non-compliance navigation – Exploring the European Commission's space for discretion and informality in procedure and decision-making in the Digital Markets Act
Jasper van den Boom & Rupprecht Podszun
The enforcement of the Digital Markets Act (DMA) against digital gatekeepers has reached the stage of non-compliance cases. The European Commission as the sole enforcer needs to navigate the unclear procedural territory foreseen in the DMA for such cases. The potential paths differ from procedures in competition law enforcement. The DMA offers a range of options in case of suspected non-compliance, including specification procedures. Yet, there is less space for informal activities of the Commission, such as settlements. The DMA also gives very limited room to commitment decisions that became a standard in antitrust. A particular problem arises when gatekeepers adapt their behaviour during proceedings. In the logic of the DMA, such delayed compliance must still lead to a finding of non-compliance. The procedural routes show that the DMA is a hybrid of top-down-enforcement and negotiated enforcement with a three-step-enforcement escalation.

(Non-cartel) antitrust (under)enforcement and the effects-based approach
Yannis Katsoulacos
Focusing on the digital sector we show that for non-cartel antitrust enforcement, abandoning the effects-based evidentiary standard and relying on convincing evidence of capability for exclusion and the presumption for harm that this generates will not just reduce agency enforcement costs and decision delays, it is likely to achieve this without increasing decision errors.

Artikler fra Journal of Competition Law and Economics

Volume: 21, Issue: 4, 2025

Economic Effects and EU State Aid Control: Recalibrating the Impact Standards for the Identification of Aid in Article 107(1) TFEU
Christopher McMahon
Despite the frequent refrain that the identification of State aid depends on the effects of a measure and not is objectives, causes, or aims, the conditions for the application of the prohibition on aid that directly relate to the effects of an intervention play a relatively minor role in the analysis. These impact standards, which require that a measure causes a distortion of competition and affects trade between Member States, are easily satisfied. This article proposes changes to the application of these impact standards in Article 107(1) TFEU. It argues that the criteria relating to the distortion of competition and the effect on trade between Member States should be interpreted as distinct, higher thresholds imposing more substantial evidential burden on the Commission. This proposal draws on the existing logic of the case law and the State aid control regime to contain the notion of aid within principled and coherent limits.

A Critical Evaluation of Ex-Ante Regulation and Ex-Post Antitrust in Digital Platform Markets: Special Lens in India and South Korea
Ki Jong Lee and Debdatta Saha
This Feature presents a critical evaluation of the existing literature regarding pro-competitive regulation of digital platforms and contributes to the literature by bringing out the implications for India and South Korea. These countries provide a unique example of the presence of large domestic digital platforms alongside large multinational ones. The implications of regulation of digital platforms for jurisdictions like India and South Korea require a nuanced understanding of the trade-offs involved in such regulations. This Feature works out two important trade-offs for regulators in India and South Korea which can guide the decision-making process around digital market regulations and offers a unique core market approach for regulators to avoid the pitfalls of a threshold-based identification of dominant large digital platforms.

Algorithms and Antitrust: a Framework with Special Emphasis on Coordinated Pricing
Roman Inderst and Stefan Thomas
The debate about algorithmic collusion has solidified to a state where agencies like the European Commission or the UK CMA have acknowledged its relevance for the cartel prohibition in their latest Horizontal Guidelines. In addition, national legislators in Germany and Italy have, only recently, enacted special antitrust provisions to address, among other things, algorithmic collusion even outside the scope of the cartel prohibition. We argue that established legal principles behind the definition of cartel conduct are challenged by the means and forms of how algorithms can impact pricing. We put forward that key for any case analysis under the cartel prohibition and the new type of legislation is a counterfactual assessment, which reflects the capabilities of artificial intelligence-based pricing technology. Such counterfactual assessment hinges on the type of pricing algorithms and the effects that the blocking of certain functions of algorithmic pricing would have on consumer welfare. We develop a taxonomy of cases for the cartel prohibition, and we describe paradigms for the development of remedies within the scope of the new legislation.

Access Pricing for App Stores Under the DMA
Jacques Crémer and others
This article addresses the fees that Apple and Google might charge business users in their respective mobile ecosystems that would be compliant under the Digital Markets Act (DMA) with a focus on third-party app store access fees. The paper analyses the economic principles behind the DMA's goals of contestability and fairness, particularly in relation to Apple's App Store. It argues that while Apple may charge a fixed fee to review third-party app stores or apps ('Review Fee'), the Access Fee for third-party app stores on iOS should be zero to comply with the DMA. This is because non-zero Access Fees hinder competition from alternative app stores. The paper also explains the strategic impact of fees on app developers when they are conditioned on using rival distribution channels; these can block entry and harm market fairness. We recommend a fee structure for Apple's App Store that includes a zero Access Fee and a reasonable Review Fee. Other aspects of Apple's ecosystem would continue to be monetizable. The article concludes that opening the app store market under these guidelines would promote innovation and competition, consistent with the DMA's objectives.

Access to Health Data, Competition, and Regulatory Alternatives: Three Dimensions of Fairness
Ioannis Lianos
The EU legal framework for data access and portability has undergone significant evolution, particularly in the realm odata, with recent initiatives like the European Health Data Space (EHDS) and competition law enforcement expanding data-sharing obligations across various economic actors. This evolution reflects a shift from an initial emphasis on individuals' fundamental rights to access and port their health data—rooted in privacy protection, personal data rights, and digital sovereignty—towards a more utilitarian perspective. This newer approach extends data-sharing obligations to cover co-generated data involving end-users, business users, and complementors within digital health ecosystems, promoting a concept of data co-use or co-ownership rather than private ownership. Furthermore, the regulatory framework has proactively established 'data commons' to foster cumulative innovation and broader industry transformation. The increasing prominence of a fairness rhetoric in EU regulatory and competition law underscores a transformational intent, aiming not only to acknowledge stakeholders' contributions to data generation but also to ensure equal economic opportunities within the digital health space and facilitate the EU's digital transition. This study adopts a law and political economy perspective to examine the competition-related bottleneck issues specific to health data, considering the economic structure of its generation, capture, and exploitation. It then analyses the distributive implications of current regulations (including the DMA, Data Act, EHDS, Digital Governance Act, and Competition Law) by exploring relationships between key economic players: digital platforms and end users, platforms and their ecosystem complementors, and external third-party businesses interacting with the digital health ecosystem.

On Corporate Cartels as Common Pool Resources
W. Benedikt Schmal
Governing the complex institution of a corporate cartel is inherently challenging: colluding firms must jointly manage prices and quantities, avoid detection by authorities, and ensure internal discipline against cheating—all without access to legal enforcement. This paper proposes a novel interpretation of cartel excess profits as a common pool resource (CPR), contrasting with the dominant prisoner's dilemma framework. Following a three-step approach, the paper first establishes how cartel profits meet the criteria of a CPR. Based on that definition, it applies Elinor Ostrom's Institutional Analysis and Development framework to analyze the internal governance of cartels. Third, it derives policy recommendations that equip competition authorities with new tools to detect and understand collusion. By reframing cartels as self-governed CPR systems, the paper offers fresh insights at the intersection of managerial governance, antitrust law, and industrial organization. This opens new avenues for both theoretical and applied research.

Artikler fra Journal of Antitrust Enforcement

Volume: 13, Issue: 3, 2025

Recalibrating India's competition law: a new era of regulation and enforcement
Ravneet Kaur
India's economic liberalization in the early 1990s marked a decisive shift from a controlled regime to a market-driven economy. It was driven by the belief that competitive markets would enhance efficiency, foster entrepreneurship, and expand consumer choice. However, the faith in market forces was tempered by the realization that markets can fail, due to monopolistic practices, information asymmetries, and exploitation. To address these gaps, the Competition Act, 2002 ('the Act') was enacted as the foundation of India's modern competition regime. It aimed to safeguard competition, curb anti-competitive agreements, prevent abuse of dominance, and regulate mergers that threaten market fairness or innovation. The law remains central to ensuring that Indian markets reward merit, promote innovation, and protect consumer welfare.

Inequality: the qualified promise of competition law
Eleanor M Fox
Infamously, a tiny portion of society in most nations and across the world own most of the wealth, earn most of the income, and enjoy the lion's share of economic opportunity. Is market competition a cause? Can competition law usefully contribute to solutions? Two decades ago, the competition law community answered, 'Not my problem'. But gradually, it began to make connections, both on causes and solutions. This article identifies the various dimensions of the inequality problem, summarizes the literature, interrogates claims of rising inequalities and linkages to market power and antitrust violations, reviews how selected competition laws apply an equality value, and offers a list of possible competition law reforms or emphases that could help push back the rise of disparities rather than facilitating them. While the through-line from rising inequalities as a problem to markets as a problem to competition law as a solution is not as robust as many scholars contend, this article argues for an inequality consciousness of competition law, lest the exploitations, exclusions and deprivations continue to fall predominantly on the lower middle class and poorer populations and their plights are obscured by the meme of aggregating welfare.

The competition-democracy nexus resurrected?—Four precursors of a competition-democracy nexus 4.0
Elias Deutscher
This article explores what the ongoing revival of the idea of a positive linkage between competitive markets and democracy means for contemporary competition law and policy. Drawing on previous theoretical work that shows that the idea of a symbiotic relationship between competition and democracy is grounded in a normative commitment to republican liberty as non-domination, this article identifies four trends in contemporary competition law that are suggestive of the emergence of a new rendition of the competition-democracy nexus. In so doing, the article examines how the policy goal of promoting democratic capitalism can translate into concrete competition law enforcement and policy.

The antitrust meme: intelligent design and the invisible hand of antitrust
Jan Polański
The consumer welfare standard is a hotly debated issue in antitrust enforcement. Some present it as an obstacle that prevents antitrust from being more responsive to pressing social issues and non-economic interests. Others defend it. While polarized, those discussions often share a common feature: they are intelligent design narratives. Still, arguments have also been made that much of antitrust results from more evolutionary, uncoordinated adaptations. In consequence, antitrust might not be easily changed by political fiat. This article investigates such a more organic way of looking at antitrust and asks what it may mean for attempts to change antitrust. It identifies possible 'workability' factors steering decision-makers towards a specific shape of antitrust. It argues, however, that while evolutionary developments may have an impact on antitrust, the specific course of those evolutionary movements is affected by the subjectivity of decision-makers. This subjectivity can be influenced by the general climate of opinion, cultural capture, and narrative preference. The article concludes that ideology should not be discarded as a force impacting antitrust, and that workability together with subjectivity-affecting factors can be seen as producing 'antitrust memes'—something that at a given time people know they should spread.

Quo vadis, sports federations? The premonition of change as a consequence of competition law judgments
Martin Milán Csirszki
The article aims to analyse the judgments of the Court of Justice of the European Union in the SuperLeague and International Skating Union cases through the lens of sports federations, and looks at whether compliance efforts have started to emerge since then. After the brief sketch of the cases, it sheds light on those aspects of the judgments that have not been scrutinized so far by a critical attitude. As regards the assessment of Article 165 TFEU and its impact on competition rules, the Court explains its normative decision with arguments such as the place of provisions in the Treaty and the way of competence-sharing between the EU and Member States, which do not substantiate its finding on the relationship between competition law and the sports sector. It is also of utmost importance that the inclusion of Article 106 TFEU into the analysis of Article 102 TFEU sends a soft signal to sports governing bodies to have their behaviour corrected in light of competition rules before a more drastic intervention. Nevertheless, it has been found that sports governing bodies have slowly started to revise their statutes to be in accordance with the judgments delivered in December 2023.

Efficiency considerations in DMA procedures
Eckart Bueren and Marcel Zober
The regulatory approach of the Digital Markets Act (DMA) involves per se rules that partly constitute an efficiency offence. Therefore, individual circumstances, including efficiencies, are most often not considered. However, the DMA partially permits and sometimes might even require the Commission to consider efficiencies at certain stages, specifically when determining enforcement priorities, during the regulatory dialogue, when designing remedies, and in certain forms such as structural efficiencies. Concurrently, several limitations apply, rooted in efficiency offences, a broad margin of appreciation in the event of complex economic assessments, and a lesser standard of review if remedies are formed within a cooperative regulatory dialogue.

Participation of third parties in the public enforcement of the Digital Markets Act: between democracy and technocracy
Katalin J Cseres and Laurens C de Korte
The Digital Markets Act (DMA) forms a building block of the EU's emerging digital constitution to rein in corporate power with in the digital internal market. While its aim is to ensure contestability and fairness of digital markets where 'gatekeepers' are present, its core objective is to benefit 'the Union's economy as a whole' and 'ultimately of the Union's consumers'. This article analyses how the DMA's public enforcement framework implements this objective by focusing on the participation of third parties. While the legal framework of the DMA's application heavily relies on the participation of third parties (business users, consumers, civil society organizations), it does not grant any formal role in its supervision or enforcement mechanisms, and limits their participation to that of passive informants. Their limited and informal participation is justified by the Commission's priority for efficient, and swift decision-making concerning complex technical assessments in dynamic digital markets. Despite such justification, the lack of third parties' formal participation raises concerns about the transparency, and accountability of the Commission's administrative decision-making. By balancing arguments of procedural efficiency and legitimacy, the article analyses how the public interests underlying the DMA are aligned with its enforcement framework for third parties' participation, and which alternative ways could better facilitate third parties' participation.

Public redress in UK competition enforcement: a study of rationales and techniques
Grigoris Bacharis and John Kwan
Competition authorities' potential role in providing redress for victims of competition infringements has attracted growing interest in Europe. This is attributed to the perceived lack of compensation for victims and the attendant deterrent effect due to the continued shortcomings of private enforcement. The increasing use of alternative regulatory techniques in certain fields has also contributed to this discourse. This article discusses and puts forward a typology of possible public redress mechanisms, from compulsive disgorgement to voluntary redress, drawing on lessons from the USA and other fields. Public redress aligns with competition authorities' role, helps promote access to justice, fills deterrence gaps, and cultivates a competition culture. While the article focuses on the UK and how public redress might be implemented in that jurisdiction, the analysis may also apply to European Union Member States, especially those with less developed collective proceedings regimes.

Judicial review of competition law decisions: an empirical study of the Lithuanian context
Jurgita Malinauskaite
Commemorating the 20th anniversary since joining the European Union (EU) (together with an obligation to enforce EU competition law), this study evaluates national judgments reviewing the Lithuanian National Competition Council's [known as Konkurencijos Taryba (KT)] decisions during the 2004–24 period. Building on comprehensive empirical research on judicial review of the KT's decisions, which involved employing both quantitative and qualitative methods,

this article aims to capture the main trends and patterns of judicial review in the Lithuanian context, with some comparison to other small European countries. The study covers the KT's decisions in relation to the application of Articles 101 and 102 TFEU (and domestic equivalents), pertaining not only to infringement decisions but also to settlements, commitments, as well as decisions not to launch an investigation or discontinue an investigation. The findings reveal a predominant focus on the national provisions, with only 27 per cent of appealed cases embracing the EU element. As far as the outcomes are concerned, this article notes that the administrative courts mostly confirmed the competition authority's decisions, with any interventions being calibrated in a manner to avoid any encroachment upon the authority's discretion, clearly upholding the concept of judicial deference.

The architecture and design of competition authority in Bangladesh: goals, institutional design, adjudicatory process, and method for scrutiny
Azhar Uddin Bhuiyan
The objectives a legislation seeks to achieve are intricately woven into the fabric of its application and modus operandi of implementation. Now, how can the law be correctly applied, and the authority be rightly operated without fully understanding the purpose behind its enactment, and the institutional design prescribed by the law? This question is particularly pertinent in the case of Bangladesh's competition law, where the statutory text remains largely ambivalent, offering limited guidance on its application and implementation. Despite this, it is striking that no academic inquiry to date has thoroughly examined the constitutional foundations, the legislative history, parliamentary committee reports, or the speeches delivered by parliamentarians during the law's formulation. This is the first of its kind study on the architecture and design of the competition law in Bangladesh by analysing hard-to-access archival documents such as parliamentary debates on the enactment of the Competition Act 2012. It demonstrates that the architecture of the law and design of the competition authority Bangladesh Competition Commission does not corroborate, leading to non-fulfillment of the goals of the law, and lax enforcement or implementation of the law even after a decade.

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

Volume: 70, Issue: 3-4, 2025

Specificities (Anomalies) of Competition Law as a Constant in the Development of Competition Law in Bosnia and Herzegovina
Kanita Imamović-Čizmić Nihad Odobašić
Modern competition law in Bosnia and Herzegovina was introduced through the Competition Acts of 2001 and 2005, reflecting the country's commitment to European Union (EU) membership. The 2005 Act addressed many shortcomings of the earlier law and marked a step toward alignment with EU legal standards. However, several anomalies remain that undermine the efficiency of the Competition Council, the national competition authority, and raise concerns about the Act's consistency with the EU competition acquis. This paper identifies key deficiencies in Bosnia and Herzegovina's competition law enforcement, focusing on both structural issues and the limitations of judicial review of the Competition Council's decisions. It also highlights substantive inconsistencies between domestic competition law and EU rules. Finally, the paper discusses the legal and practical consequences of these deficiencies and proposes alternative approaches to improve enforcement, ensure legal certainty, and better harmonize national law with EU competition policy.

Serbian Commission for Protection of Competition as a Case Study of Institution Building: From Raising Administrative Capacities toward Competition Advocacy and More Effective Enforcement
Maja Dobrić Tatjana Jovanić Nina Vasić
The paper explores the development of the institutional capacity of the Serbian competition authority by observing the evolution of its competencies and assesses the impact of both external and internal drivers on its administrative capacity

and enforcement. The analysis highlights the necessity of institution building for efficient competition policy enforcement and tracks the development and progress within the context of negotiations to join the European Union (EU), with special focus on proactive measures based on soft enforcement. The hypotheses of the paper are largely confirmed by the analyzed data, based on which further recommendations are given. Observing the gradual strengthening of institutional capacities of the Serbian competition authority, the key driver of development was the impact of guidance received in the context of EU negotiations and assistance provided through multiple capacity building projects. There is room for improvement, but the achieved progress is respectable.

Development of Regulation of Vertical Agreements in Croatian Competition Law
Hana Horak Ana Pošćić Daniela Mayer
This paper provides an overview of the changes in the regulation of vertical agreements in Croatian competition law from the adoption of the initial legislative act to the present day. Croatian competition law has evolved significantly since the 1995 enactment of the original Act on the Protection of Market Competition (ZZTN), which aligned with European Union practices and standards, particularly former Article 81 of the EC Treaty and its associated regulations. Vertical agreements, which are contracts between companies operating at different levels of the supply chain (e.g., manufacturers and distributors), have been subject to regulatory scrutiny due to their potential to limit competition. However, these agreements also have the potential to increase market efficiency, particularly by allowing new entrants to penetrate the market. The initial adoption of the block exemption regulation for vertical agreements marked the beginning of Croatia's alignment with the EU's economic approach, focusing on the balance between the pro-competitive and anti-competitive effects of these agreements. The evolution of the regulation of vertical agreements in Croatian competition law from the adoption of the block exemption regulation to the present day reflects a shift toward a more flexible, economically driven approach. Key milestones from 2003 to 2023, specially the amendments in 2009, 2013 and 2021, highlight a consistent effort to align with EU standards while fostering market competitiveness and reducing regulatory burdens. This shift aims to balance regulatory control with market freedoms, particularly for SMEs. Moving forward, the effective implementation of these changes will depend on how well stakeholders adapt to the new system of competition law enforcement, which emphasizes economic analysis and proactive compliance. Above amendments have further streamlined the regulatory process, removing the requirement for mandatory notifications of vertical agreements to the competition authority, thus fostering a culture of compliance among businesses. These changes are intended to promote greater efficiency, reduce administrative burdens and encourage companies to take an active role in ensuring compliance. The current regulatory approach maintains a focus on limiting anti-competitive effects while promoting market efficiencies and recognizing the importance of economic assessment over formal criteria. Companies are now responsible for conducting their own economic assessments to determine compliance, which requires a deeper understanding of the competitive impact of vertical agreements.

Europeanization of Competition Law and Policy in the Western Balkans: Causes and Effects
Alexandr Svetlicinii Jasminka Pecotić Kaufman Gentjan Skara
This paper examines the transformation of competition law systems in the Western Balkans within the framework of European integration. It explores how the Stabilisation and Association Process has driven legislative harmonization with the EU competition acquis, noting that while formal alignment has largely been achieved, it often involved uncritical transposition of EU provisions without full understanding of their enforcement implications. The paper also analyzes the use of EU standards in domestic enforcement, highlighting frequent references to EU case law and principles, but also significant variation in their interpretation and application by national competition authorities (NCAs) and courts. Furthermore, it discusses the institutional shift from a judicial to an administrative enforcement model, aligning with EU practice and enhancing the role of NCAs. Despite these advances, challenges remain in ensuring consistent application of competition rules.

On the Road to the EU Internal Market: The Role of Competition Law in the Montenegrin Post-Transition Economy
Nikolina Tomović
Although Montenegro began its European Union (EU) accession negotiations in 2012, the chapter on competition law (chapter 8) was the last to be opened, doing so in mid-2020. Being considered one of the most challenging aspects of the integration process, it is anticipated to be closed among the last. The paper will present the transformative path of the Montenegrin market from a state-controlled model to the current market-oriented model. It will examine the role of competition law during the significant economic and political changes Montenegro has undergone during the transition and post-transition period, as well as the impact of competition regulation in establishing a stronger market. It will serve to analyze and present the impact of EU competition law on Montenegrin legislation and practice so far, highlighting the challenges and opportunities that have arisen in the process of harmonizing national competition law with the EU acquis.

Artikler fra Competition Law and Policy Debate

Intet nyt.

Artikler fra Competition Law Scholars Forum

Intet nyt.

Artikler fra Journal of Regulatory Economics

Volume 68, Issue: 3, 2025

The role of cost benchmarking in public utility regulation
Darryl Biggar
Cost benchmarking, as it is used in public utility regulation, refers to the use of various statistical and non-statistical techniques to estimate the efficient cost function of a regulated firm based on the out-turn performance data of other comparator firms. Whereas benchmarking is often seen as a key part of the toolkit of public utility regulators, there are several fundamental theoretical and practical problems with benchmarking which limit its usefulness as a guide for setting a revenue allowance for a regulated firm. This paper highlights those problems so that practitioners can adopt realistic expectations of what benchmarking can achieve. Whereas benchmarking should continue to be developed to improve its usefulness, these observations set out here suggest caution before relying on cost benchmarking as a primary driver of the revenue allowance of a regulated firm. We propose a 'code of practice' that might be adopted by regulators seeking to use benchmarking techniques.

How does campaign-style environmental regulation benefit Chinese listed firms? Considering merger and acquisition and bribery
Jianquan Guo, He Cheng
This study examines the effects of China's campaign-style environmental policy initiative (CEPI) on firm performance, with a focus on green innovation and financial outcomes. Using firm-level data and mechanism analysis, we find that CEPI enhances the long-term green innovation performance of non-state-owned enterprises (non-SOEs), but reduces their short-term financial performance. In contrast, state-owned enterprises (SOEs) show limited or even negative responsiveness, particularly in short-term green innovation outcomes. Mechanism analysis reveals that CEPI influences firm behavior by reducing M&As in developing countries, lowering bribery levels, and increasing bribery uncertainty. Further analyses show the difference between CEPI and the 2012 anti-corruption campaign, the heterogeneity of industry, and other possible mechanisms, such as government engagement, firm R&D investment, and management compensations. Our findings highlight the strategic and institutional pathways through which campaign-style regulation operates and underscore the importance of ownership structure in shaping firm adaptation. This study contributes to the literature on environmental regulation, corruption, and institutional governance by offering new insights into the dynamics of temporary enforcement and by extending its relevance to other emerging market contexts.

Breaking barriers for diversification: Evidence from China's Fair Competition Review System
Yituan Liu, Yang Yu
Administrative monopolies, as a non-market barrier, significantly obstruct the flow of resources across regions and often prevent external enterprises from entering local markets. This increases the risks for enterprises implementing product diversification strategies. This paper examines the quasi-experiment of China's Fair Competition Review System (FCRS), implemented in 2016 to regulate administrative monopoly, and estimates its causal effect on enterprise diversification. The findings reveal that the FCRS significantly increases both related and conglomerate (i.e., unrelated) diversification of enterprises. Specifically, the FCRS reduces external risks from unfair competition, enabling enterprises to expand product diversification by limiting local governments' fiscal power and promoting external investments. This study provides new evidence and insights on the impact of competition policy on enterprise strategic behaviors.

Artikler fra International Review of Law and Economics

Volume 84, Issue: 1, 2025

Liability law, Defensive medicine and Healthcare quality
Bertrand Chopard
This paper develops a liability model that incorporates both patient heterogeneity and demand for healthcare services. After choosing the quality level of care, healthcare providers use diagnostic information to decide whether to treat patients based on their individual risk profiles. This information determines both the expected treatment costs and the potential compensation in case of a medical accident. We show that under strict liability, a fixed prospective payment can discourage providers from treating most high-risk patients — a phenomenon known as negative defensive medicine — and can lead to under-investment in care quality for those who are treated. Under a negligence rule, high-risk patients may also be denied care, but to a lesser extent. However, the negligence rule may incentivize providers to over-invest in care quality. This inefficiency can be partially mitigated by adjusting the prospective payment level, allowing the negligence rule to better align providers' incentives with the socially efficient level of care.

AI devices and liability
Kene Boun My, Julien Jacob, Mathieu Lefebvre
We experimentally investigate the effect of the incentives provided by different allocations of liability in the case of (semi)autonomous devices which are a source of risk of accident. Considering three key agents, an AI provider (scientist), a producer, and a consumer, we look at the effect of different liability-sharing rules on the decision-making of each type of agent. We show that assigning liability to the scientist and to the producer is effective in reducing their misbehavior. We also find that assigning liability to the consumer increases her incentive to control the risk of accident in the case of semi-autonomous devices. However, the absence of consumer control (fully autonomous device), coupled with the assignment of liability, decreases the consumer's propensity to buy the good in the first place. We complete our study with a social welfare analysis which highlights the importance of assigning liability to the producer so that the consumer can have greater confidence in the technology, especially in the case of fully autonomous devices.

Populist constitutional backsliding and judicial independence: Evidence from Türkiye
Nuno Garoupa, Rok Spruk
This paper examines the long-term institutional consequences of populist constitutional reform, focusing on effective judicial independence in Türkiye. Using the synthetic control method, we estimate the causal effect of the 2010 constitutional referendum, which restructured the judiciary under the rhetoric of modernization, on judicial independence. Türkiye is compared to a carefully selected donor pool of Mediterranean countries with similar institutional trajectories but no comparable judicial intervention during 1987–2023. The results reveal a sharp and sustained decline in judicial independence following the 2010 reforms, predating and paving the way for the more overt constitutional centralization of 2017. These findings contribute to the literature on populism, comparative institutional development, and empirical law and economics, and highlight the role of disguised legal reform in undermining judicial checks on executive power.

Product liability influences incentives for horizontal mergers
Andreea Cosnita-Langlais, Tim Friehe, Eric Langlais
This paper explores how product liability rules affect merger incentives, with consumer risk perception as a key factor. We find a striking contrast: when consumers overestimate product risk, no liability generates the strongest merger incentives, while strict liability and negligence have weaker, similar effects. Conversely, when consumers underestimate risk, strict liability maximizes merger incentives, and no liability minimizes them. We also demonstrate that horizontal mergers without efficiency effects can unexpectedly increase welfare under no liability or negligence when consumers underestimate risk—a result that is impossible under strict liability.

Inter-municipal cooperation in drinking water supply: Trade-offs between transaction costs, efficiency and service quality
Mehdi Guelmamen, Serge Garcia, Alexandre Mayol
Inter-municipal cooperation (IMC) is frequently promoted as a solution to improve the management of local utilities such as drinking water. Yet its effectiveness remains ambiguous: while IMC can create economies of scale, it may also induce transaction costs that undermine its benefits. In France, drinking water services are managed at the municipal level, where local governments can decide whether to cooperate—and if so, whether to adopt a purely technical cooperative arrangement or a more politically integrated, supra-municipal governance structure. Using a comprehensive panel of French water utilities from 2008 to 2021, we investigate the factors that lead municipalities to remain independent. Our

econometric analysis, based on a correlated random effects probit model with a control function approach, yields several key findings. First, while IMC is associated with higher water prices, these increased tariffs are offset by better network performance, as indicated by lower water loss indices and improved water quality. Second, we find that the more politically integrated form of cooperation is more common among publicly managed utilities and among municipalities seeking to reduce their dependence on imported water. These findings provide new insights into the governance of common-pool resources, suggesting that while cooperation can improve service provision, its institutional design must carefully balance organizational costs against expected efficiency gains.

Where's Coase? Transaction costs reduction or rent-seeking in determining US environmental policies
Gary D. Libecap
In 1960, Ronald Coase offered a decentralized bargaining framework for reducing transaction costs in externality mitigation. Subsequent US environmental policies have not made it primary. Policies are centralized and prescriptive. To explore why, I examine the Clean Air Act Amendments of 1970, 1977, 1990, the most wide-ranging US environmental law; the Magnuson-Stevens Fishery Act of 1976, the primary US fishing regulation; and the Endangered Species Act of 1973, suggested to be the most powerful conservation law in the world. It is commonly asserted that the transaction costs of Coase are high relative to command and control. I find no empirical support for this claim; it is not tested; nor does it appear in legislative histories as justification for observed regulation. Prescriptive controls may involve higher transaction costs than Coase. Relevant externalities often are local where information about abatement costs and benefits would be available and costs of defining and trading decentralized property rights potentially lower than in the political arena with larger numbers of heterogeneous parties and objectives. Rent-seeking by political agents rather than transaction cost reduction dominates policy selection. Coase's efficient collaborative problem solving has not been realized. Although the three laws provide public goods, they appear costly on the margin, inequitable, and mired in political controversy. High costs in all three laws is a key empirical finding. Predictions for policy formation motivated by transaction cost reduction or rent-seeking guide the analysis.

Ideology beyond elections: Path dependence in local public service provision
Jean Beuve, Zoé Le Squeren, Marian W. Moszoro
Why do some public services remain in-house while others are outsourced? This long-standing question has garnered considerable attention from both scholars and practitioners, resulting in a rich yet inconclusive body of research, particularly regarding the role of political ideology. Although left-wing governments are often assumed to favor public provision, empirical findings remain mixed. We argue that this ambiguity stems from a narrow, short-term view of ideology that overlooks institutional path dependence. Using data on seven local services across 156 French municipalities, we show that the cumulative presence of left-wing mayors over time significantly increases the likelihood of in-house provision. This long-term ideological anchoring effect is particularly salient for services that are highly sensitive to voters or embedded in long-term governance structures. Our results suggest that ideology matters—not episodically, but persistently and under specific service-level conditions.

Collusion in bidding markets: The case of the French public transport industry
Philippe Gagnepain, David Martimort
We explore empirically the impact of the market sharing collusive practices that were implemented in the French public transportation industry between 1994 and 1999. We build a structural model of bidding markets where innovating firms compete for the market and have the ability to spread the benefits of their innovation through all markets on which they are active. Each local competitive environment shapes the distribution of the prices (the bids) paid by public authorities to transport operators. We recover empirically the distribution of prices and innovation shocks and we show that collusive practices had overall a limited impact on prices. Firms were in reality more interested in avoiding significant financial risks inherent to the activity, as well as the high cost of preparing a tender proposal. As a by-product, we perform a counterfactual analysis that allows us to simulate how an increase in firms' innovation reduces prices significantly

Artikler fra Competition Law Journal

Volume 24, Issue: 2, 2025

Damage control: putting a price on economic harm
David Wirth, Tom Punton, and Oliver Noble
Damages claims are an important and growing component of competition law enforcement. This article focuses specifically on the techniques and key issues that arise when quantifying harm that arises from different types of anti-competitive conduct, including (i) cartels, (ii) exploitative abuses of a dominant position and (iii) exclusionary abuses. The article draws insights from a number of recent damages cases in the UK. In all instances, the key principle underlying the assessment of damages requires calculations to reconstruct the 'state of the world' without the alleged harm (i.e. the

counterfactual). However, the conduct that infringes competition law can have a range of anti-competitive effects, and therefore, the models and economic techniques used for quantifying harm can also vary. Even where experts are aligned in relation to the broad technique to quantify damages in a particular case, the large number of choices that need to be made in modelling the counterfactual often re... Show More

The European Commission's draft Article 102 Guidelines under fire: examining the substance and the roots of the criticism
Miroslava Marinova
On 1 August 2024, the European Commission published draft Guidelines on the application of Article 102 TFEU to abusive exclusionary conduct by dominant undertakings, which provoked considerable criticism and raised concerns amongst commentators. The main concerns are raised about the shift away from the established effects-based approach and, in that context, particularly the downplaying of the as-efficient competitor test, and the introduction of presumptions, which may diminish legal certainty by shifting the burden of proof onto companies. This article provides a critical analysis of the draft Guidelines, evaluating their consistency with the existing legal framework and case law. It focuses on addressing the concerns expressed publicly by various stakeholders, evaluating their validity and determining whether they are fully sustainable. Whilst some concerns may have merit, this article argues that the criticisms are not entirely justified. The goal of the article is to formulate recommendations that both reflect stakeholders' concerns and remain practical and balanced in application.

Sustainability and exclusionary abuse under Article 102 TFEU: navigating a developing EU framework
Virginia González García, Timo Klein, and Debby Moore
This article examines how sustainability considerations could be meaningfully integrated in the enforcement of rules against exclusionary abuse under Article 102 TFEU. In light of the European Commission's 2024 Draft Guidelines on Exclusionary Abuses – which barely address sustainability – the article considers three options for integration: (i) using sustainability as a factor in the assessment of market power and classification of dominance, (ii) defining non-sustainable conduct as potentially abusive exclusionary conduct and (iii) accepting sustainability-related objective justifications or efficiency defences. Drawing on the public consultation responses to the Draft Guidelines, the legal and economics literature and theory, and practical illustrations, the article argues that sustainability considerations can play a well-defined role in each of the three areas considered. However, it also highlights the remaining lack of clarity on the treatment of out-of-market effects (both... Show More

Artikler fra European Competition and Regulatory Law Review

Intet nyt.

Artikler fra Communications Law

Intet nyt.

Artikler fra Computer and Telecommunications Law Review

Volume 32, Issue: 1, 2026

The latest on the US Anthropic case
Anna Ganley
Abstract: Welcomes the settlement order in Bartz v Anthropic PBC on authors' copyright class action against the artificial intelligence (AI) company for using unauthorised copies of their books to train the large language model Claude, and considers UK authors who may benefit from the settlement.

UK's ICO fines Capita £14 million for poor data security - thoughts for GCs and CISOs
Rohan Massey
Abstract: Reports on the fine against the outsourced pensions manager for cybersecurity failures when hackers breached personal data and demanded ransom, considering what precautions were appropriate to the risk, and examining what actions companies should take to improve their security.

What are NFTs and are NFTs goods under trademark law? A key ruling from the US Ninth Circuit
Barry Sookman
Abstract: Comments on the US Ninth Circuit judgment in Yuga Labs Inc v Ripps on the use of non-fungible tokens (NFTs) to make digital artworks unique and valuable, and the application of trade mark law to NFTs.

Keep your opinion to yourself: ECJ provides clarity on privacy implications of opinions and the requirements of pseudonymisation (Case Comment)
John Patten
Abstract: Comments on European Data Protection Supervisor v Single Resolution Board (C-413/23 P) (ECJ) on transfer of pseudonymised personal data to third parties, and whether individuals' comments and expressed opinions could be protected as personal data.

The metaverse and the virtual environments: prospects and challenges
Marcus Ayodeji Araromi
Abstract: Considers the advantages and challenges of virtual worlds, including the problems with developing legal standards and regulatory rules.

A refresher on cloud computing contracts
Dr Sam De Silva
Abstract: Considers how to negotiate cloud computing contracts, reviews current best practice and offers a checklist of clauses to negotiate with care.

EC computing, telecommunications and related measures
Quentin Archer, Hannah Schofield, Mary Foord-Weston and James Sharp
Abstract: 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, the Information Society, technological development, telecommunications, broadcasting, satellite, intellectual property rights, data protection, and taxation.

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

Volume 31, Issue: 8, 2025

AI agents: legal liability and risk management
Richard Breavington
Abstract: Considers whether businesses which use agentic artificial intelligence (AI) tools could be liable for malfunctions, whether insurance policies cover the resulting losses, and what practical steps businesses could take to protect themselves.

Testing the legal boundaries of inventorship in artificial intelligence: lessons learned from DABUS Thaler
Tochukwu Onyiuke
Abstract: Reviews cases in the UK, US, European Patent Office, Australia, South Africa and Switzerland on patent applications filed by an individual, which named the artificial intelligence (AI) system DABUS as sole inventor of the new products. Considers whether AI can legally be an inventor.

High Court dismisses unlawful processing claims against law firm in relation to data included in witness statement to support insurance fraud allegations (Case Comment)
Rohan Massey
Abstract: Comments on Kul v DWF Law LLP (KBD) on the processing of road traffic accident claimants' personal data, including sensitive medical data, by the insurers' solicitors. Considers whether it was necessary and proportionate to use names rather than pseudonyms.

Tiktok privacy decision: a major compliance warning
Barry Sookman
Abstract: Reports on the Canadian Privacy Commissioner decision, with implications for businesses' privacy policies, on Tiktok's violations. Looks at collecting children's personal data, using biometric technology, click-wrap agreements and obtaining users' meaningful consent to collect and use personal data.

EC computing, telecommunications and related measures
Quentin Archer, Hannah Schofield, Mary Foord-Weston and James Sharp
Abstract: 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, the Information Society, technological development, telecommunications, broadcasting, satellite, intellectual property rights, data protection, and taxation.

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

Intet nyt.

Artikler fra Market and Competition Law Review

Volume 9, No. 2, 2025

A transatlantic perspective on interoperability and platform design after android auto: the Luxembourg effect?
Giuseppe Colangelo
The decision delivered by the European Court of Justice in Android Auto may represent a watershed moment in competition policy for digital markets. By requiring dominant platforms to accommodate third-party requests to enable interoperability, the judgment could significantly affect their design and business models, with effects extending well beyond the geographical boundaries of the EU. In this regard, from a transatlantic perspective, the judgment deepens the traditional divide with the U.S. approach to refusal to deal and may prove more disruptive than the European Digital Markets Act (DMA). To this end, and in contrast with the muchcelebrated Brussels effect, this paper investigates whether the principle affirmed by the Luxembourg judges may prove more effective in advancing the DMA's objective of achieving interoperability by design.

What does "by object", in effect, mean? In search for the ultimate determination criterion
Mária T. Patakyová
This article is dedicated to an EU competition law evergreen – by object restrictions. The CJEU established in its early case law that Article 101(1) TFEU (or its predecessors) could be infringed by restricting competition (i) by object or (ii) by effect. Once the former is present, the latter does not have to be. In other words, if an agreement restricts competition by object, it is superfluous to analyse and prove the actual restrictive effects on competition. The concept seems simple, yet it is far from it. As many other concepts, the concept of by object restrictions has developed with time. We believe that the last dozen of years has shown a particularly interesting development; recent judgements, delivered in 2023 and 2024, being no exception. It seems that the borderline between by object and by effect restriction is getting blurred and the whole concept of by object restriction more elusive, to the detriment of public as well as private enforcement of competition law. Thus, this article asks: which criteria are used in classification of a restriction as a by object one? Is there any ultimate criterion which is the most decisive in the classification process? In order to answer the questions, the article dives into case law on restrictions of competition by object. A qualitative analysis of selected (landmark) cases from Allianz Hungaria (2013) to recent judgements is conducted. The factual background of the analysed cases is presented briefly. The focus of the analysis is on the identification of criteria used by the CJEU when determining whether a restriction of competition is a by object one. The CJEU often repeats the same criteria, however, in certain cases it also adds new criteria which may (but not always are) repeated in the subsequent case law. Therefore, the qualitative analysis leads to the identification of a spectrum of criteria. Moreover, since the analysis is qualitative and not merely statistic, it also leads to the answer to the question what is, pursuant to the CJEU, the essential criterion in determination of whether a competition is restricted by object.

National security and EU merger control: the role of articles 346 TFEU and 21(4) EUMR in EU defence concentrations
Samuel Scandola

The rapidly deteriorating global security environment has pushed EU institutions and Member States to call for further consolidation of the European defence industrial base, with the European Commission taking a proactive stance in promoting a stronger, more integrated, and competitive defence sector to enhance interoperability and reduce market fragmentation. This strategic shift is likely to result a growing number of defence-related concentrations within the internal market. This may in turn lead Member States to increasingly resort to Article 346 TFEU and Article 21(4) of the EU Merger Regulation, which allow national governments, on the one hand, to withhold sensitive information and to exclude certain defence-related transactions from EU merger control where essential security interests are at stake, and on the other, to adopt additional national measures to EU level concentrations to protect legitimate interests, such as public security. This article aims at investigating the legal framework surrounding these derogations in the context of defence-related concentrations, considering both their scope and interpretation under the relevant case law, as well as their interaction with national FDI regimes. On this basis, it then evaluates whether increased reliance on these mechanisms may challenge the uniform application of the EU Merger Regulation and create tensions between EU-level and national objectives in defence policy.

Illumina/Grail: the "new normal" of killer acquisitions and below-threshold acquisitions in search of a reconsideration
Vicente Bagnoli, Nicola M. F. Faraone
The Illumina/Grail case, which significantly rejected the EU Commission's wide interpretation of its powers of accepting a referral of a merger that did not meet the national merger control thresholds of the referring Member State, introduced changes in the EU about concentrations (Article 22 of the EUMR), suggesting a renewed reflection on the so-called killer acquisitions. The increased scrutiny into these potentially concerning acquisitions needs to be reconciled with the Digital Markets Act ("DMA"), according to which a designated "gatekeeper" is also subject to an obligation to inform the Commission of any proposed transaction that amounts to a "concentration" under the EUMR prior to its implementation. National Competition Authorities in the EU with express powers to "call in" transactions which do not meet national merger control thresholds will make increased use of such powers. The present paper intends to contribute to the debate, analysing the reasons, identifying limits and then proposing corrective measures from a de jure condito perspective which may safeguard the degree of innovation within the market and preserve digital players' legitimate expansion strategies.

The principle of sincere cooperation as institutional bridge between competition and data protection law?
Belle Beems
In digital markets, personal data is increasingly monetized. As a result, the areas of competition and data protection law collide and the competences of enforcers of these fields of law (i.e. competition and data protection authorities) also overlap. These overlapping competences are not problematic per se but trigger a need for cross-disciplinary cooperation between data protection and competition authorities. Despite this need for cooperation, the EU framework does not provide any specific rules on the interaction between competition and data protection authorities and the CJEU derives certain obligations to cooperate from the principle of sincere cooperation. This paper assesses whether this approach is apt to facilitate cooperation between competition and data protection authorities in the EU. To this end, the paper studies the need for cooperation, the (lack of) existing frameworks for cooperation and the relevance of the principle of sincere cooperation. Furthermore, by identifying the main gaps and open questions associated with the institutional framework, the paper uncovers existing problems relating to cross-disciplinary cooperation between data protection and competition authorities. The absence of a forum for cooperation and the lack of a legal basis to share information are major problems posing obstacles to effective cross-disciplinary cooperation. The EU legislator should fill these gaps in the institutional framework by harmonizing the inter-jurisdictional interaction between competition and data protection authorities.

Balancing competition authorities' investigative powers and fundamental rights in the EU legal order
Nuno Castro Marques
Competition authorities across the European Union wield extensive investigative powers in enforcing antitrust laws. These powers – including dawn raids, home searches and document seizures – can impinge upon fundamental rights such as privacy, the inviolability of the home, legal privilege, the right to communications and secrecy, and fair trial guarantees. This article examines how EU law seeks to balance effective antitrust enforcement with the protection of fundamental rights, analysing key jurisprudence from the Court of Justice of the EU (CJEU), the General Court, and the European Court of Human Rights (ECtHR), and the increasing tension with national constitutional defences. It discusses the evolution of this balance from early permissive approaches to more recent decisions that impose stricter safeguards on investigative practices. A comparative perspective is provided through the lens of several Member States – Portugal, France, Germany, Italy, and Spain – illustrating diverse national approaches and constitutional constraints in implementing EU competition law. The article further explores the rule of law principle, the doctrine of national procedural autonomy, and the convergence between the EU Charter of Fundamental Rights and the European Convention on

Human Rights (ECHR), to conclude that uncovering cartels and abuses of dominance shall not come at the expense of Europe's foundational commitment to fundamental rights and the rule of law.

Andre udenlandske artikler

Intet nyt.

5 | NYT FRA KONKURRENCEGRUPPEN