Konkurrenceretlig Nyhedsoversigt nr. 101 / dækkende 6. marts 2025 – 2. maj 2025

Indhold

1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

Godkendelse på baggrund af en forenklet sagsbehandling af Xpartners Denmark Holding ApS' køb af PLH Arkitekter A/S
Konkurrence- og Forbrugerstyrelsen modtog den 22. april 2025 en forenklet anmeldelse af en fusion mellem Xpartners Denmark Holding ApS ("Xpartners") og PLH Arkitekter A/S ("PLH Arkitekter").
Læs mere
Dato: 22/04/2025

Godkendelse af Keolis Danmark A/S' erhvervelse af enekontrol over Anchersen A/S
Konkurrence- og Forbrugerstyrelsen modtog den 26. marts 2025 en anmeldelse af en fusion mellem Keolis Danmark A/S ("Keolis DK") og Anchersen A/S ("Anchersen").
Læs mere
Dato: 16/04/2025

Godkendelse på baggrund af en forenklet sagsbehandling af CataCaps erhvervelse af e-Boks
Konkurrence- og Forbrugerstyrelsen modtog den 8. april 2025 en forenklet anmeldelse af en fusion mellem CC BidCo IV ApS, c/o CataCap Management A/S og e-Boks Group A/S.
Læs mere
Dato: 10/04/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Jyske Finans A/S' erhvervelse af enekontrol over leasingportefølje fra Selected Car Leasing A/S og A-Leasing A/S
Konkurrence- og Forbrugerstyrelsen modtog den 19. marts 2025 en forenklet anmeldelse af Jyske Finans A/S ("Jyske Finans") erhvervelse af enekontrol over leasingportefølje fra Selected Car Leasing A/S ("Selected Car Leasing") og A-Leasing A/S ("A-Leasing").
Læs mere
Dato: 04/04/2025

Davidsen Koncernen A/S' erhvervelse af enekontrol over CF Petersen & Søn A/S
Konkurrence- og Forbrugerstyrelsen modtog den 28. februar 2025 en anmeldelse af Kesko Oyjs ("Kesko") erhvervelse af enekontrol over CF Petersen & Søn A/S ("CF Gruppen"). Keskos erhvervelse sker gennem koncernens danske datterselskab, Davidsen Koncernen A/S ("Davidsen").
Læs mere
Dato: 31/03/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Netcompanys erhvervelse af SDC
Konkurrence- og Forbrugerstyrelsen modtog den 27. marts 2025 en forenklet anmeldelse af en fusion mellem Netcompany Group A/S (herefter "Netcompany") og SDC A/S (herefter "SDC").
Læs mere
Dato: 31/03/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Sparekassen Danmarks erhvervelse af enekontrol over Sparekassen Djursland
Konkurrence- og Forbrugerstyrelsen modtog den 18. marts en forenklet anmeldelse af en fusion mellem Sparekassen Danmark og Sparekassen Djursland.
Læs mere
Dato: 26/03/2025

Godkendelse af EMK Capital Partners III LP og EMK Capital Partners III SCSp's erhvervelse af enekontrol over Heracles Holdco B.V.
Konkurrence- og Forbrugerstyrelsen modtog den 4. februar 2025 en anmeldelse af en fusion mellem EMK Capital Partners III LP og EMK Capital Partners III SCSp (der tilsammen udgør kapitalfonden "EMK Capital III") og Heracles Holdco B.V. (”Heras Group”).
Læs mere
Dato: 11/03/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Nielsen Car Group Holding ApS erhvervelse af Dahl Pedersen A/S
Konkurrence- og Forbrugerstyrelsen modtog den 21. november 2024 en almindelig anmeldelse af Nielsen Car Group Holding ApS’ erhvervelse af Dahl Pedersen A/S.
Læs mere
Dato: 10/03/2025

Godkendelse på baggrund af en forenklet sagsbehandling af Elcor Group ApS’ erhvervelse af enekontrol over Titech Electric A/S
Konkurrence- og Forbrugerstyrelsen modtog den 27. februar en forenklet anmeldelse af en fusion mellem Elcor Group ApS (herefter ”Elcor Group”) og Titech Electric A/S (herefter ”Titech”).
Læs mere
Dato: 05/03/2025

Nyt fra Konkurrencerådet

Vedtagelse om markedsdeling i Botex
Botex-kæden, hvis medlemmer er selvstændige butikker, har i mindst 12 år haft en aftale, som begrænsede konkurrencen. Aftalen betød, at butikkerne i vidt omfang har været forhindret i at reklamere i hinandens områder. Konkurrencerådet har genbehandlet sagen, efter at Konkurrenceankenævnet i 2023 hjemviste den, og har afgjort, at Botex har overtrådt konkurrencereglerne.
Læs mere
Dato: 26/03/2025

Salling Group A/S’ erhvervelse af dele af Coop Danmark A/S
Salling Group A/S har fået godkendt sit køb af 33 butikker fra Coop Danmark A/S af Konkurrencerådet. Salling havde planer om at overtage yderligere to butikker, men valgte at lade dem udgå af fusionsaftalen, efter konkurrencemyndigheden gav udtryk for, at fusionen muligvis ville skade kunderne i de to områder.
Læs mere
Dato: 26/03/2025

Nyt fra Konkurrenceankenævnet

Konkurrenceankenævnet: Hübsch har overtrådt konkurrencereglerne
Interiørvirksomheden Hübsch har ulovligt koordineret priser og udvekslet prisoplysninger med en konkurrent. Det indebar, at kunderne skulle betale et Covid-19-gebyr og blev pålagt prisstigninger på størstedelen af Hübsch’ varer. Konkurrenceankenævnet har stadfæstet Konkurrencerådets afgørelse i sagen.
Læs mere
Dato: 04/04/2025

Nyt fra domstolene

Civilretlige afgørelser
Intet nyt.

Straffesager
Intet nyt.

Lovforslag i høring

Høring over udkast til bekendtgørelse om ændring af bekendtgørelse om Konkurrenceankenævnet
Erhvervsministeriet sender hermed udkast til bekendtgørelse om hvilke ordninger, der er omfattet af Konkurrence- og Forbrugerstyrelsens kompetence efter konkurrencelovens § 11 b. Bekendtgørelsen foreslås ændret som et led i gennemførelsen af den politiske aftale om en reform af ældreområdet, hvor det blandt andet er blevet besluttet, at der skal oprettes en kontrolenhed under Konkurrence- og Forbrugerstyrelsen. Kontrolenheden under Konkurrence- og Forbrugerstyrelsen skal understøtte korrekt beregning af afregningspriser for private leverandører på ældrelovens og friplejeboliglovens område.
Læs mere
Dato: 23/05/2025

Høring over bekendtgørelse om hvilke ordninger, der er omfattet af Konkurrence- og Forbrugerstyrelsens kompetence efter konkurrencelovens § 11 b
Bekendtgørelsen foreslås ændret som et led i gennemførelsen af den politiske aftale om en reform af ældreområdet, hvor det blandt andet er blevet besluttet, at der skal oprettes en kontrolenhed under Konkurrence- og Forbrugerstyrelsen. Kontrolenheden under Konkurrence- og Forbrugerstyrelsen skal understøtte korrekt beregning af afregningspriser for private leverandører på ældrelovens og friplejeboliglovens område.
Læs mere
Dato: 01/05/2025

Ny lovgivning

Intet nyt.

Nyt fra Ankestyrelsen

Intet nyt.

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust & Cartels

Commission fines car manufacturers and association €458 million over end-of-life vehicles recycling cartel
The Commission has fined 15 major car manufacturers and the European Automobiles Manufacturers' Association (ACEA) a total of around €458 million for participating in a long-lasting cartel concerning end-of-life vehicle recycling. Mercedes-Benz was not fined, as it revealed the cartel to the Commission under the leniency programme. All companies admitted their involvement in the cartel and agreed to settle the case.
Læs mere
Dato: 1/04/2025

Commission launches consultation to promote industry cooperation to procure and recycle critical raw materials in line with EU competition rules
The European Commission has published today a Call for Input seeking feedback from market participants on how European companies procure and recycle certain critical raw materials and the interplay with EU competition rules. This fact-finding exercise was announced in the Clean Industrial Deal Communication and aims to assess the need for greater industry cooperation in that field. Critical raw materials are vital to the EU's industrial competitiveness and its strategic objectives. To address the challenges in securing access to and recycling critical raw materials, the Commission calls for input from stakeholders to support greater cooperation between those companies in line with EU competition rules.
Læs mere
Dato: 01/04/2025

Commission carries out unannounced antitrust inspections in the non-alcoholic drinks sector and asks for information in personal care sector
The European Commission is carrying out unannounced inspections at the premises of companies active in the non-alcoholic drinks sector in several Member States. In parallel, the Commission has sent out a formal request for information to a company active in the personal care sector. The Commission has concerns that the companies concerned may have violated EU antitrust rules that prohibit cartels and restrictive practices, and abuses of a dominant position (Articles 101 and 102 of the Treaty on the Functioning of the European Union). In particular, the Commission is investigating possible restrictions on the trade of goods in the Single Market and market segmentation. The investigations concern conducts that may potentially still be ongoing and involve several Member States.
Læs mere
Dato: 10/03/2025

Mergers

Commission approves Safran's acquisition of part of Collins Aerospace's actuation business, subject to conditions
The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of part of the aerospace actuation business of Collins Aerospace ('the Target') by Safran USA Inc. ('Safran'), controlled by Safran S.A., a leading French aerospace company. The approval is conditional upon full compliance with the commitments offered by Safran.
Læs mere
Dato: 04/04/2025

State Aid

Commission approves €321.2 million German restructuring aid to Condor, taking into account judgment of the General Court
The European Commission has approved, under EU State aid rules, restructuring aid of €321.2 million granted by Germany to Condor to enable its return to viability. This decision takes into account the judgment of the General Court from 8 May 2024 annulling a July 2021 decision by the Commission. Condor is a German charter airline, which provides air transport services to individual clients and tour operators from its hubs in Germany, with a focus on the leisure travel market. In September 2019, it had to file for insolvency due to the entry into liquidation of its parent company, the Thomas Cook Group.
Læs mere
Dato: 28/04/2025

Commission approves €612 million Portuguese State aid scheme to support energy-intensive companies
The European Commission has approved, under EU State aid rules, a €612 million Portuguese scheme to lower electricity levy rates for energy-intensive companies. The scheme intends to reduce the risk that these energy-intensive companies relocate their activities to countries outside the EU with less ambitious climate policies. An energy-intensive company is a business that consumes a large amount of energy as a core part of its production process.
Læs mere
Dato: 24/04/2025

Commission approves a €400 million Spanish State aid scheme to support renewable hydrogen production
The European Commission has approved, under EU State aid rules, a €400 million Spanish State aid scheme to support the production of renewable hydrogen through the European Hydrogen Bank's "Auctions-as-a-Service" tool for the auction closing in 2025. The scheme will contribute to the objectives of the Clean Industrial Deal to accelerate the decarbonisation of EU industry while strengthening its competitiveness, of the REPowerEU Plan to reduce dependence on Russian fossil fuels and accelerate the green transition, as well as the EU Hydrogen Strategy.
Læs mere
Dato: 15/04/2025

State aid Scoreboard 2024 shows Member States focused State aid expenditures towards long-term key EU priorities
The European Commission has published the 2024 State aid Scoreboard providing a comprehensive overview of State aid expenditure in the EU in 2023. While the overall spending dropped to €186.78 billion in 2023 from €243.27 billion in 2022, Member States channeled 73% of funds towards EU policy objectives, such as environmental protection and energy savings, research, development and innovation, and regional development.In 2022, this share was 49%. The total amount of aid spent on these key objectives increased to €136.78 billion from €119.98 billion.
Læs mere
Dato: 08/04/2025

Commission approves €1.5 billion Polish State aid scheme to support reinsurance for war-related risks to transport on the territory of Ukraine
The European Commission has approved, under EU State aid rules, a €1.5 billion (PLN 6.4 billion) Polish scheme to provide State-supported reinsurance of insurance for transport on the territory of Ukraine. The scheme will contribute to maintaining and facilitating trade flows between Ukraine and Poland, the Member State with the longest land border with Ukraine, that have been disrupted by the ongoing Russian military aggression.
Læs mere
Dato: 08/04/2025

Commission finds that arbitration award ordering Spain to pay compensation in favour of Antin is illegal and incompatible State aid
The European Commission has concluded that an arbitration award, in which Spain is ordered to pay compensation to Antin for the modification of a renewable electricity support measure, constitutes illegal State aid. In the decision, the Commission instructs Spain not to pay any compensation based on the arbitration award. The decision also requires Spain to ensure that no payment, execution, or implementation of the arbitration award otherwise takes place. The decision recalls the obligation for national judges to assist Spain to ensure compliance with the Commission's decision, including by taking all measures necessary to prevent the recognition, execution, or implementation of the arbitration award in third countries.
Læs mere
Dato: 24/03/2025

Commission approves €5 billion German State aid scheme to help industries decarbonise production processes
The European Commission has approved, under EU State aid rules, a €5 billion German scheme to help companies subject to the EU Emission Trading Scheme (‘ETS') decarbonise their production processes. The scheme contributes to the achievement of Germany's energy and climate targets as well as of the EU's sustainable prosperity and competitiveness objectives.
Læs mere
Dato: 24/03/2025

Commission approves €960 million Czech State aid scheme to support investments in strategic sectors
The European Commission has approved a €960 million Czech scheme to support investments in strategic sectors to foster the transition to a net-zero economy. The scheme contributes to the achievement of the priorities of the European Commission for 2024-2029, based on the Political Guidelines, which call for investments in clean energy and technologies. The scheme also contributes to the achievement of the Clean Industrial Deal. The scheme was approved under the State aid Temporary Crisis and Transition Framework (‘TCTF') adopted by the Commission on 9 March 2023 and amended on 20 November 2023 and on 2 May 2024.
Læs mere
Dato: 18/03/2025

Commission invites comments on the draft State aid Framework supporting the Clean Industrial Deal
The European Commission has launched today a consultation inviting all interested stakeholders to comment on its draft State aid Framework accompanying the Clean Industrial Deal ('CISAF'). On 26 February 2025, the Commission published the Communication on the Clean Industrial Deal: A joint roadmap for competitiveness and decarbonization, announcing the adoption of a new State aid Framework in the second quarter of 2025. Today, the Commission is launching a consultation on the draft text of CISAF. The adoption is planned for June 2025.
Læs mere
Dato: 11/03/2025

Commission approves a €400 million Austrian State aid scheme, and a €36 million Lithuanian State aid scheme, to support renewable hydrogen production
The European Commission has approved, under EU State aid rules, a €400 million Austrian State aid scheme, and a €36 million Lithuanian State aid scheme, to support the production of renewable hydrogen through the European Hydrogen Bank's "Auctions-as-a-Service" tool for the auction closing in 2025. The schemes will contribute to the objectives of the Clean Industrial Deal to accelerate the decarbonisation of EU industry while strengthening its competitiveness, of the REPowerEU Plan to reduce dependence on Russian fossil fuels and accelerate the green transition, as well as the EU Hydrogen Strategy.
Læs mere
Dato: 10/03/2025

Andet

Commission publishes annual report on DMA implementation in 2024
The Commission adopted today its second Digital Markets Act ('DMA') annual report. The report describes the measures taken from January to December 2024 to ensure effective enforcement of the DMA and achieving fairness and contestability in the internal market's digital sector. These measures include the adoption of further designation decisions, regulatory dialogues with gatekeepers and third parties on improving compliance solutions, as well as the opening of specification proceedings and non-compliance investigations against gatekeepers, where this was necessary.
Læs mere
Dato: 25/04/2025

Commission finds Apple and Meta in breach of the Digital Markets Act
Today, the European Commission found that Apple breached its anti-steering obligation under the Digital Markets Act (DMA), and that Meta breached the DMA obligation to give consumers the choice of a service that uses less of their personal data. Therefore, the Commission has fined Apple and Meta with €500 million and €200 million respectively.
Læs mere
Dato: 23/04/2025

Commission closes investigation into Apple's user choice obligations and issues preliminary findings on rules for alternative apps under the Digital Markets Act
Following a constructive dialogue with Apple, the Commission has decided to close its investigation into Apple's user choice obligations under the Digital Markets Act (DMA). The Commission has also informed Apple of its preliminary view that Apple's contract terms concerning alternative app distribution breach the DMA.
Læs mere
Dato: 23/04/2025

DG Competition launches a call for tender for an economic study on the dynamic effects of mergers
DG COMP has launched a call for tender for an economic study on the dynamic effects of mergers, such as its impact on incentives to innovate and invest. The study aims to provide analytical foundations to assess whether a merger has a positive or negative impact on these dynamic factors, and how they trade off against static factors – such as changes in prices or output.
Dynamic merger effects are linked to firms' forward-looking behaviours, particularly their ability and incentive to invest and innovate, as well as to enter or exit a market in the mid-to-long term. Dynamic merger effects can be either positive (leading to efficiencies) or negative (leading to harm). Merger static effects refer to the immediate, short-term impacts of mergers on a market, such as changes in prices, output, and market concentration.
Læs mere
Dato: 25/03/2025

Commission provides guidance under Digital Markets Act to facilitate development of innovative products on Apple's platforms
Today, the European Commission adopted two decisions under the Digital Markets Act (DMA) specifying the measures that Apple has to take to comply with certain aspects of its interoperability obligation. The Commission is assisting Apple in its compliance by detailing the measures needed for enabling interoperability with iOS for third-party connected devices and by streamlining the process put in place by Apple to handle future requests for interoperability with iPhone and iPad devices.
Læs mere
Dato: 19/03/2025

Commission sends preliminary findings to Alphabet under the Digital Markets Act
Today, the European Commission sent two sets of preliminary findings to Alphabet for failing to comply with the Digital Markets Act (DMA), regarding two services for which it has been designated as a gatekeeper. Firstly, the Commission has informed Alphabet of its preliminary view that certain features and functionalities of Google Search treat Alphabet's own services more favourably compared to rival ones, thus not ensuring the transparent, fair and non-discriminatory treatment of third-party services as required by the DMA. In addition, the Commission has informed Alphabet of its preliminary view that its app marketplace Google Play does not comply with the DMA, as app developers are prevented from freely steering consumers to other channels for better offers.
Læs mere
Dato: 19/03/2025

Fourth meeting of the Digital Markets Act High-Level Group on the DMA first anniversary
Today, the High-Level Group for the Digital Markets Act (High-Level Group) convenes for the fourth time in Brussels, with a keynote speech by Executive Vice-President Ribera. The meeting marks the first anniversary of the start of application of the Digital Markets Act (DMA) obligations, as well as two years from the decision to establish the High-Level Group. The High-Level Group reaffirms its strong commitment to supporting the effective implementation of the DMA, by promoting a consistent approach across different regulatory instruments.
Læs mere
Dato: 07/03/2025

Gatekeepers publish updated reports on DMA compliance
The gatekeepers designated on 6 September 2023, Alphabet, Amazon, Apple, ByteDance, Meta and Microsoft, have to submit, by today, reports on their updated compliance measures under the Digital Markets Act (DMA), outlining the changes they have implemented and measures they have taken during the past year. By today, the gatekeepers also need to submit to the Commission updated independently audited reports on consumer profiling techniques.
Læs mere
Dato: 07/03/2025

Nyt fra EU-domstolen

Domme

C-453/23 – Prezydent Miasta Mielca
Nøgleord:

» Præjudiciel forelæggelse – støtte ydet af medlemsstaterne – artikel 107, stk. 1, TEUF – begrebet »statsstøtte« – en skatteforanstaltnings selektivitet – bedømmelseskriterier – fastlæggelse af referencerammen – ejendomsskat – fritagelse for grunde, bygninger og anlæg, der udgør en del af jernbaneinfrastrukturen «

Tvist:

Anmodningen om præjudiciel afgørelse vedrører fortolkningen af artikel 107, stk. 1, TEUF og artikel 108, stk. 3, TEUF, sammenholdt med artikel 2 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). Anmodningen er blevet indgivet i forbindelse med en tvist mellem E. sp. z o.o. (herefter »selskabet E«) og Prezydent Miasta Mielca (borgmester i Mielec, Polen, herefter »borgmesteren i Mielec«) vedrørende denne sidstnævntes afslag på at indrømme dette selskab en fritagelse for ejendomsskat.

Dom:

Artikel 107, stk. 1, TEUF skal fortolkes således, at en medlemsstats lovgivning, der fritager grunde, bygninger og anlæg, som udgør en del af jernbaneinfrastrukturen, når denne stilles til rådighed for jernbanetransportvirksomhederne, for ejendomsskat, ikke fremstår som en foranstaltning, der giver de af denne fritagelse begunstigede personer en selektiv fordel.
Læs mere
Dato: 29/04/2025

T-441/21 - UBS Group og UBS mod Kommissionen (Obligations d'État européennes)
Nøgleord:

» Konkurrence – konkurrencebegrænsende aftaler – sektoren for europæiske statsobligationer – afgørelse, som fastslår en overtrædelse af artikel 101 TEUF og EØS-aftalens artikel 53 – samordning af priser på og handel med obligationer – udveksling af følsomme forretningsoplysninger – samlet og vedvarende overtrædelse – konkurrencebegrænsende formål – berettiget interesse i at konstatere overtrædelser – bødeberegning – grundbeløb – erstatningsværdi for afsætningens værdi – fuld prøvelsesret «

Tvist:

Med søgsmålet i sag T-441/21, som er anlagt i henhold til artikel 263 TEUF, har UBS Group AG og UBS AG (herefter samlet »UBS«) for det første nedlagt påstand om annullation af Kommissionens afgørelse C(2021) 3489 final af 20. maj 2021 om en procedure i henhold til artikel 101 [TEUF] og artikel 53 i EØS-aftalen (sag AT.40324 – Europæiske statsobligationer) (herefter »den anfægtede afgørelse«) og for det andet om nedsættelse af den bøde, som de er blevet pålagt ved nævnte afgørelse.

Dom:

Sagerne T-441/21, T-449/21, T-453/21, T-455/21, T-456/21 og T-462/21 forenes med henblik på dommen.
I sag T-441/21: Europa-Kommissionen frifindes. – UBS Group AG og UBS AG betaler sagsomkostningerne.
I sag T-449/21: Kommissionen frifindes. – Natixis betaler sagsomkostningerne.
I sag T-453/21: Artikel 1, syvende led, i Kommissionens afgørelse C(2021) 3489 final af 20. maj 2021 om en procedure i henhold til artikel 101 [TEUF] og artikel 53 i EØS-aftalen (sag AT.40324 – Europæiske statsobligationer) annulleres, for så vidt som det heri fastslås, at UniCredit SpA og UniCredit Bank AG deltog i overtrædelsen fra den 9. september til den 28. november 2011 og ikke fra den 26. september til den 28. november 2011. – Artikel 2, femte led, i afgørelse C(2021) 3489 final annulleres, for så vidt som den bøde, som UniCredit og UniCredit Bank hæfter solidarisk for, blev fastsat til 69 442 000 EUR. – Bøden, for hvilken UniCredit og UniCredit Bank hæfter solidarisk, fastsættes til 65 000 000 EUR. – I øvrigt frifindes Kommissionen. – UniCredit og UniCredit Bank betaler sagsomkostningerne.
I sag T-455/21: – Artikel 2, andet led, i afgørelse C(2021) 3489 final annulleres, for så vidt som den bøde, som Nomura International plc og Nomura Holdings, Inc. hæfter solidarisk for, blev fastsat til 129 573 000 EUR. – Bøden, for hvilken Nomura International og Nomura Holdings hæfter solidarisk, fastsættes til 125 646 000 EUR. – I øvrigt frifindes Kommissionen. – Nomura International og Nomura Holdings betaler sagsomkostningerne.
I sag T-456/21: – Kommissionen frifindes. – Bank of America N.A. og Bank of America Corporation betaler sagsomkostningerne.
I sag T-462/21: – Kommissionen frifindes. – Portigon AG betaler sagsomkostningerne.
Læs mere
Dato: 26/03/2025

C-746/23 - Cividale og Flag
Nøgleord:

» Præjudiciel forelæggelse – statsstøtte – begrebet »støtte« – national lovgivning, der fastsætter tildeling af en foranstaltning til fordel for virksomheder, der er aktive i sektoren for stålstøberier, i tilfælde af hel eller delvis lukning af deres produktionsanlæg – finansielt bidrag – fordel «

Tvist:

Anmodningerne om præjudiciel afgørelse vedrører fortolkningen af artikel 107 TEUF og 108 TEUF samt af Rådets forordning (EF) nr. 659/1999 af 22. marts 1999 om fastlæggelse af regler for anvendelsen af artikel [89 EF] (EFT 1999, L 83 s. 1). Disse anmodninger er blevet indgivet i forbindelse med to tvister mellem på den ene side henholdsvis Cividale

SpA og Flag Srl i sag C-746/23 og Duferco Italia Holding SpA og Duferco Sertubi SpA i sag C-747/23 og på den anden side Ministero dello Sviluppo economico (ministeriet for økonomisk udvikling, Italien) (herefter »ministeriet«), Direzione generale per l'incentivazione delle attività imprenditoriali del Ministero dello Sviluppo economico (ministeriets generaldirektorat for incitamenter for virksomheder, Italien) Dipartimento per lo Sviluppo e la Coesione economica del Ministero dello Sviluppo economico (ministeriets departement for udvikling og økonomisk samhørighed, Italien) og Direzione generale per l'incentivazione delle attività imprenditoriali del Ministero dello Sviluppo economico-Divisione X (ministeriets generaldirektorat for incitamenter for virksomheder – afdeling X, Italien) vedrørende lovligheden af afgørelser, hvorved ministeriet gav tilladelse til at udbetale finansielle bidrag til Flag og Duferco Sertubi i forbindelse med deres deltagelse i et program til rationalisering af støberisektoren, som var lavere end det beløb, der tidligere og foreløbigt var blevet fastsat.

Dom:

Artikel 107, stk. 1, TEUF skal fortolkes således, at de finansielle bidrag, der er fastsat inden for rammerne af et rationaliseringsprogram, som virksomhederne i jern- og stålstøberisektoren kan få udbetalt, og som beløber sig til enten 100% af den regnskabsmæssige værdi af produktionsanlæg, der er demonteret af den ansøgende virksomhed, med fradrag af allerede foretagne afskrivninger, eller nutidsværdien af dækningsbidraget for de faste omkostninger vedrørende afkastet af disse anlæg i en periode forud for vedtagelsen af dette program, hvis sidstnævnte værdi er højere, når reduktionen af produktionskapaciteten ledsages af en fusion eller aftaler mellem virksomheder inden for denne sektor, hvoraf den ene er denne ansøgende virksomhed, idet der ved en sådan fusion eller aftale navnlig fastlægges en passende løsning på beskæftigelsesproblemerne, eller 60% af den højeste af disse to værdier, i tilfælde af at den nævnte ansøgende virksomheds produktionsanlæg blot demonteres, giver en fordel, der kan påvirke samhandelen mellem medlemsstaterne og konkurrencen, forudsat at det godtgøres dels, at den samme virksomhed ikke kunne have opnået den samme fordel på vilkår, der svarer til de sædvanlige betingelser på det pågældende marked, dels at der foreligger en situation med effektiv konkurrence på dette marked.
Læs mere
Dato: 13/03/2025

T-596/22 - PGI Spain m.fl. mod Kommissionen
Nøgleord:

» Statsstøtte – foranstaltning med henblik på nedsættelse af engrosprisen på elektricitet på Den Iberiske Halvø – energikrise – afgørelse om ikke at gøre indsigelser – ikke alvorlige vanskeligheder – princippet om forbud mod forskelsbehandling – forholdsmæssighed – berettiget forventning «

Tvist:

Med søgsmål anlagt i henhold til artikel 263 TEUF har sagsøgerne, PGI Spain, SL, Berry Superfos Pamplona, SA, Promens Packaging, SA, RPC Envases, SA, og Zeller Plastik España, SL, nedlagt påstand om annullation af Kommissionens afgørelse C(2022) 3942 final af 8. juni 2022 om statsstøtte SA.102454 (2022/N) – Spanien og SA.102569 (2022/N) – Portugal – vedrørende mekanismen til justering af produktionsomkostninger med henblik på nedsættelse af engrosprisen på el på det iberiske marked (herefter »den anfægtede afgørelse«).

Dom:

1) Europa-Kommissionen frifindes.
2) PGI Spain, SL, Berry Superfos Pamplona, SA, Promens Packaging, SA, RPC Envases, SA og Zeller Plastik España, SL bærer hver deres egne omkostninger og betaler de af Kommissionen afholdte omkostninger.
3) Kongeriget Spanien bærer sine egne omkostninger.
Læs mere
Dato: 12/03/2025

Forslag til afgørelse

C-453/23 - Prezydent Miasta Mielca
Nøgleord:

» Præjudiciel forelæggelse – statsstøtte – selektiv fordel som følge af lovbestemt skattefritagelse – fordrejning af konkurrencevilkårene – bestemmelse af referenceordningen – lovbestemte skattefritagelser som en del af referenceordningen – standard for prøvelsen – sammenhæng – begrundelse som følge af ikke-skattemæssige grunde «

Tvist:

Under hvilke betingelser udgør en skattefritagelse i den nationale lovgivning om ejendomsskat ulovlig statsstøtte som omhandlet i artikel 107, stk. 1, TEUF? Den foreliggende anmodning om præjudiciel afgørelse giver på ny Domstolen mulighed for at behandle spørgsmålet om, hvilken betydning Unionens regler om statsstøtte har for medlemsstaternes skattelovgivning. Til forskel fra andre sager, som Domstolen har afgjort for nylig, drejer det sig i den foreliggende sag imidlertid ikke om individuel støtte, som er tildelt ved en bindende forhåndsafgørelse (2), men derimod om en lovbestemmelse om en skattefritagelse. Der er heller ikke tale om et søgsmål til prøvelse af en støtteafgørelse fra Kommissionen, men om en anmodning om præjudiciel afgørelse fra en national domstol, hvilket er usædvanligt. Det konkrete spørgsmål er, om en fritagelse for ejendomsskat for grunde, på hvilke der befinder sig faktisk benyttet jernbaneinfrastruktur, skal anses for – ikke anmeldt – statsstøtte.
Baggrunden for anmodningen er den polske lov om ejendomsskat, som indeholder en sådan fritagelse. Med virkning fra den 1. januar 2017 blev skattefritagelsen udvidet, så den fra dette tidspunkt ikke kun omfatter offentlig jernbaneinfrastruktur, men også privat. Fritagelsen kan benyttes af enhver grundejer, som overlader denne infrastruktur til en jernbanevirksomhed til benyttelse. Også sagsøgeren opfylder betingelserne for at benytte skattefritagelsen. Alligevel nægtede den polske skattemyndighed sagsøgeren fritagelsen, fordi der efter myndighedens opfattelse er tale om ulovlig statsstøtte som omhandlet i artikel 107, stk. 1, TEUF, som under tilsidesættelse af artikel 108, stk. 1, første punktum, TEUF ikke blev meddelt på forhånd.
De kriterier, som Domstolen udviklede i de ovenfor nævnte afgørelser om individuel støtte, skal i den foreliggende sag overføres på en lovbestemmelse om en skattefritagelse. Navnlig skal det i denne forbindelse præciseres, hvordan den relevante referenceordning skal bestemmes netop i forbindelse med generelle bestemmelser om skattefritagelser. I denne forbindelse skal det afklares, om Unionens retsinstanser kan kontrollere de skattefritagelser, som indføres af den nationale lovgiver på skatteområdet.

Forslag til afgørelse:

»Artikel 107, stk. 1, TEUF skal fortolkes således, at en lovbestemt skattefritagelse kun udgør en afvigelse fra referenceordningen, hvis den pågældende nationale bestemmelse er åbenbart usammenhængende. Er den ikke det, udgør den en del af den relevante (nationale) referenceordning og kan ikke udgøre en selektiv fordel. En bestemmelse er usammenhængende i denne forstand, hvis den er udformet efter åbenbart diskriminerende parametre for at omgå forbuddet mod statsstøtte i henhold til artikel 107, stk. 1, TEUF. Det tilkommer den nationale domstol at tage stilling til, om dette er tilfældet. Der ses imidlertid ingen indikationer af, at artikel 7, stk. 1, nr. 1, litra a), i lov om lokale skatter og afgifter, hvorefter ejere af grunde med jernbaneinfrastruktur er fritaget for ejendomsskat, ikke indgår sammenhængende i den polske lov om ejendomsskat.«
Læs mere
Dato: 17/10/2025

Kendelse

Intet nyt.

Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

Open consultation: Leniency and no-action in cartel cases
The Competition and Markets Authority ('CMA')1 is consulting on proposed changes to its leniency guidance: OFT1495: Applications for leniency and noaction in cartel cases (referred to in this consultation document as the Current Guidance) The purpose of the CMA is to promote competition and protect consumers. The CMA helps people, businesses, and the UK economy by promoting competitive markets and tackling unfair behaviour. Effective competition leads to lower prices, as well as more innovation, choice, quality, security of supply, productivity, investment, and economic dynamism. The CMA is committed to tackling and deterring anti-competitive activity so that competitive, fair-dealing businesses can innovate and thrive, boosting the economy, whilst individuals can be confident that they are getting great choices and fair deals.
Læs mere
Dato: 29/04/2025

3 | LITTERATUR (DK)

Artikler fra UfR

Intet nyt.

Nye publikationer fra Erhvervsministeriet

Nu åbner trecifret millionstøtte til Danmarks grønne styrkepositioner
Danske grønne styrkepositioner skal forsvares og forstærkes. Det er en helt afgørende opgave i en tid, hvor konkurrencen på det grønne område er skruet heftigt i vejret. Derfor lancerede regeringen sidste år den grønne investeringsordning. Med ordningen kan virksomheder og underleverandører inden for vindteknologi og elektrolyseteknologi få støtte til etablering eller udvidelse af eksisterende produktionsfaciliteter. Det gælder også for underkomponenter til de to teknologier samt kritiske råstoffer. Og fra i dag er det muligt for virksomheder at søge om midler fra ordningen i 2025. Ordningen har et budget på 657 mio. kr. og kan potentielt medføre investeringer for over 4 mia. kr. i Danmark.
Læs mere
Dato: 25/04/2025

Ny trecifret millionindsprøjtning forstærker danske styrkepositioner
Danmarks otte erhvervsfyrtårne er omdrejningspunktet for en række indsatser, der er med til at udvikle og forstærke danske styrkepositioner, hvilket er helt afgørende i en tid, som er præget af usikkerhed og skærpet konkurrence. Og denne indsats forstærkes nu yderligere, da Danmarks Erhvervsfremmebestyrelse er klar med sin tredje investering i landets erhvervsfyrtårne. Den økonomiske ramme er på i alt 275 mio. kr., og investeringen meldes ud i forbindelse med, at erhvervsminister Morten Bødskov i dag besøger erhvervsfyrtårnet for life science i Hovedstaden.
Læs mere
Dato: 07/03/2025

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

Konkurrenceretlige emner 1/2025 - Udvalgte juridiske kandidatafhandlinger er på gaden. Denne gang med følgende bidrag:

Ulrikke Zöllner, advokatfuldmægtig hos Bruun & Hjejle, behandler hvordan Intel-sagerne har ændret vurderingen af loyalitetsrabatter og identificerer udfordringer forbundet hermed. Hertil undersøges mulige løsningsforslag, og konkluderer, at Intel-sagerne har ændret vurderingen fra en form- til en effektbaseret vurdering. Der er særligt to udfordringer forbundet med vurderingen: (i) fastlæggelsen af et rabatsystems evne til at begrænse konkurrencen, og (ii) anvendelse af AEC-testen i sager om loyalitetsrabatter. Bidraget diskuterer mulige løsningsforslag og inddrager retspolitiske overvejelser.

Juliette Vibeke Märcher Bernard, advokatfuldmægtig hos Bruun & Hjejle, behandler, hvorvidt EU-fusionskontrolsreglerne og konkurrenceretten er tilstrækkelige til at imødegå strategiske opkøb i digitale markeder. Bidraget analyserer, om forebyggende strategiske opkøb udgør en reel konkurrenceretlig udfordring inden for fusionskontrol. Derefter vurderes to forslag fra EU-kommissionen og EU-Domstolen: Artikel 22 i EU-fusionskontrolsforordningen overfor TEUF art. 102. Det konkluderes, at hverken Artikel 22 eller Artikel 102 er tilstrækkelig til at regulere disse fusioner. I stedet bør EU-fusionskontrolforordningen ændres, eller samarbejdet mellem nationale konkurrencemyndigheder styrkes gennem ændringer af deres nationale fusionskontrolsregler.

Louise Cens Holste, stud.jur. hos Mærsk, og Sofie Kroer Madsen, advokatfuldmægtig hos Gorrissen Federspiel, behandler, om selvbegunstigelse kan kvalificeres som misbrug af dominerende stilling efter TEUF art. 102. Bidraget analyserer Google Search (Shopping)-sagen for at udlede de anvendte misbrugsteorier. Derefter sammenholdes EU-Domstolens udlægning af selvbegunstigelse med definitionen i DMA art. 6, stk. 5 og Kommissionens udkast til retningslinjer for TEUF art. 102. Endelig undersøges, om et generelt forbud mod selvbegunstigelse vil være hensigtsmæssigt efter TEUF art. 102, og om misbrugsformen er særligt relevant på digitale markeder. Det konkluderes, at selvbegunstigelse ikke i sig selv udgør misbrug, men kan være det, hvis kombineret med andre tiltag. Google Search (Shopping)-sagen opstiller dog ikke en klar juridisk test herfor.

De tre artikler er omskrevet specialer, der udover at være bedømt til karakteren 12 også behandler aktuelle og relevante emner yderst kyndigt.
Stort tillykke til forfatterne, og tak til Peter Stig Jakobsen, Bech Bruun for at støtte udgivelsen.
Læs mere

Anden dansk og nordisk litteratur

Intet nyt.

4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Volume 46, issue 5, 2025:
Access to real time data for rail passenger transport services - a comparative assessment under EU and German competition law
Abstract: Compares EU and German competition cases on access to real-time data for the rail passenger transport sector, highlighting their differing approaches to issues such as the theory of harm, relevant markets and the scope of the remedies available. Examines the remaining areas of uncertainty.

Merger reforms in Australia in the age of artificial intelligence
Abstract: Discusses reforms to Australia's merger control regime in response to artificial intelligence (AI), including the revised notification thresholds, the "serial acquisition" provisions, improved transparency, the role of data analysis, and the elements of the voluntary and mandatory AI standards.

Competing for a greener tomorrow: the role of sustainability in EU competition law
Abstract: Discusses the ways in which environmental sustainability can be incorporated into EU competition law under TFEU arts 101 and 102. Examines the regulatory instruments that can be adapted to address environmental issues while supporting competition and innovation, and notes relevant guidelines.

Reflecting on national security considerations in merger control: insights from the EU and Turkiye
Abstract: Examines how national security considerations are applied to merger control in the EU and Turkey, including the role of foreign direct investment reviews, what constitutes a "threat for a state", relevant case law, the balance between security and competitiveness, and the implications for business.

Canada: anti-competitive practices - infringement
Abstract: Highlights the CAD 20,000 fine imposed on a former executive of Pavages Maska Inc for participation in a bid-rigging scheme for a paving contract, and details the fines imposed on the companies concerned.

Denmark: anti-competitive agreements - judgment (Case Comment)
Abstract: Notes a Danish Maritime and Commercial Court ruling on whether ECIT Account A/S was jointly liable for facilitating a market sharing cartel by Danish nightclubs, and whether the "gentleman's agreement" involved was anti-competitive. Details the factors considered when imposing a DKK 20 million fine.

European Union: anti-competitive practices - judgment (Case Comment)
Abstract: Notes ASG 2 (C-253/23) (ECJ) on whether EU law precluded the interpretation of national legislation in a way that prevented persons from assigning their rights to compensation for anti-competitive practices to a legal services firm, and if so, whether such legislation should be disapplied.

Finland: competition - legislative proposal
Abstract: Notes Commission concerns over proposed reforms to Finland's Alcohol Act to allow home delivery and online sales of alcohol, which could be ordered from licensed retailers as well as the state monopoly, including the potentially discriminatory effects on alcohol sellers in other Member States.

France: anti-competitive practices - infringement (Case Comment)
Abstract: Notes a French Competition Authority ruling of 19 December 2024, imposing fines totalling EUR 611 million on 10 manufacturers and two distributors in the household appliances sector for 12 resale price maintenance cartels involving vertical agreements to combat the growth of online retailers.

France: anti-competitive practice - judgment (Case Comment)
Abstract: Notes a French Supreme Court ruling of 8 January 2025, clarifying the normative force of a "fines notice" of the French Competition Authority, and the relationship between the leniency programme's effects and the principle of equal treatment in a case involving price fixing and market sharing.

Ireland: competition - legislation
Abstract: Notes amendments to Ireland's lobbying regime by the Regulation of Lobbying Act 2015 (Designated Public Officials) Regulation 2024, to make the Chairperson and members of the Irish Competition and Consumer Protection Commission into designated public officials (DPOs), and considers the implications.

Ireland: mergers - merger control (Case Comment)
Abstract: Notes the Irish Competition and Consumer Protection Commission ruling in Phoenix Tower International Holdco LLC / Cellnex Ireland Ltd / Cignal Infrastructure Ltd, clearing a merger in the telecommunications passive infrastructure sector subject to divestiture commitments.

Malta: mergers - merger control (Case Comment)
Abstract: Notes the Maltese Office for Competition ruling in Francis Busuttil & Sons Ltd / Good Earth Distributors Ltd / Good Earth Importers Ltd, unconditionally approving a joint venture in the food and beverage distribution sector. Details the main competition concerns investigated by the Office.

Slovenia: anti-competitive practices - judgment (Case Comment)
Abstract: Notes the Slovenian Competition Protection Agency's use of the settlement procedure under the Competition Protection Act 2022 to reach a settlement in an ongoing dispute in which several firms in the automotive sector were found to have participated in a price fixing and bid-rigging cartel.

South Africa: competition - market inquiry
Abstract: Notes the South African Competition Commission's market inquiry into the fresh produce market, and examines the legislative provisions allowing such investigations, the Commission's main recommendations for improving competition, and whether these are likely to be implemented successfully.

Spain: anti-competitive practices - judgment (Case Comment)
Abstract: Notes a Spanish High Court ruling of 5 February 2025, granting immunity from criminal liability to a businessman who participated in long-term market sharing and price fixing agreements in the aerial firefighting sector. Details the requirements for such immunity, and their application in the case.

Spain: mergers - merger control (Case Comment)
Abstract: Notes the Spanish National Markets and Competition Commission ruling in MARCIAL CHACON E HIJOS SL, imposing a fine of EUR 13,320 on an energy company involved in a merger with two others, for gun-jumping. Details the factors contributing to the 40% reduction of the initial fine.

Sweden: unfair competition - judgment (Case Comment)
Abstract: Notes the Stockholm Administrative Court of Appeal ruling in Everfresh AB v Swedish Competition Authority on whether a court erred in dismissing a fruit and vegetable wholesaler's appeal against a SEK 5 million fine imposed for unfair trading methods, and whether grounds existed for reducing it.

Turkiye: mergers - merger control (Case Comment)
Abstract: Notes the Turkish Competition Board ruling in Param Holdings International Cooperatief UA, fining a company for gun-jumping in respect of a merger with Kartek Holding AS. Details the factors considered, including whether it prematurely exercised decisive influence over Kartek's business operations.

United Kingdom: competition - competition policy
Abstract: Highlights the Government's February 2025 publication of a draft "strategic steer" for the Competition and Markets Authority (CMA), and details its key priorities, including to support investment and growth. Notes the CMA response, outlining a step change in its operational processes.

USA: mergers - merger control
Abstract: Notes the US Federal Trade Commission's January 2025 announcement of the annual changes to the thresholds for pre-merger reporting duties under the Hart-Scott-Rodino Antitrust Improvements Act 1976, together with increased filing fees. Details the increases, commencement date and exemptions.

USA: mergers - merger control
Abstract: Highlights amendments to the US merger control filing process which took effect on 10 February 2025, and summarises the main changes, including submission of a "narrative transaction rationale". Notes the increased legal and administrative burdens imposed by the reforms.

Volume 46, issue 4, 2025:
"By object" or not "by object": issues resolved?
Abstract: Examines, with reference to case law, the ECJ's approach to restrictions on competition "by object" under TFEU arts 101 and 102, including key policy considerations, the standard of appreciability, efforts to classify conduct, the methodology for a by object finding, and objective justifications.

The implications of the FIFA ruling of the European Court of Justice for professional footballers and their clubs and Interclub professional football competitions in Europe
Abstract: Notes Federation internationale de football association (FIFA) v BZ (C-650/22) (ECJ) on whether restrictions on competition and free movement under FIFA transfer rules were compatible with TFEU arts 45 and 101. Discusses the implications for football clubs, their players and interclub competitions.

Competition enforcement and the movie industry in Egypt: intersections between drama and enforcement practicalities
Abstract: Examines how anti-competitive concerns have been portrayed and addressed by Egypt's movie and drama industry. Discusses relevant enforcement trends of the Egyptian Competition Authority (ECA) and the scope for increased collaboration between the industry and the ECA.

Canada: mergers - merger control (Case Comment)
Abstract: Notes the Canadian Competition Bureau ruling in RONA Inc / All-Fab Building Components LP, involving a consent agreement relating to a proposed merger in the lumber and building materials sector. Highlights the competition concerns raised by the merger, and the range of divestitures required.

Czech Republic: competition - decision (Case Comment)
Abstract: Notes the Czech Competition Office ruling in Bauhaus, accepting commitments from the subsidiary of a German DIY store operator to deal fairly with suppliers of agricultural and food products, following an investigation under the Significant Market Power Act 2009 into alleged unfair trade practices.

Finland: procurement - legislative proposal
Abstract: Notes key proposals in a January 2025 report by the Finnish Government for reforming the country's public procurement legislation, including those concerning forward planning in the tendering process, measures to improve competition, and modifications to the in-house procurement process.

France: anti-competitive practices - judgment - abuse of dominance (Case Comment)
Abstract: Notes the Paris Commercial Court decision in Equativ v Sarl Google France, reducing the damages award in a follow-on action for abuse of dominance involving online advertising services. Considers jurisdiction based on the defendants' domiciles and place of damage, and causation of alleged losses.

France: anti-competitive practices - infringement (Case Comment)
Abstract: Highlights a French Competition Authority ruling of 4 December 2024, fining two airlines and a consultancy firm EUR 14,570 million for pricing and slot co-ordination cartels in the passenger air transport sector. Notes the application of AC-Treuhand AG v European Commission (C-194/14 P) (ECJ).

Ireland: competition - institutions
Abstract: Notes the December 2024 publication by the Irish Department of Enterprise, Trade and Employment (DETE) of a periodic critical review of Ireland's Competition and Consumer Protection Commission, and summarises its main recommendations, including that the Commission report to DETE on planned market studies.

Portugal: anti-competitive practices - investigation
Abstract: Notes the November 2024 statement of objections issued by the Portuguese Competition Authority against an association of undertakings for alleged anti-competitive practices involving price fixing when providing consultancy services in engineering and architectural projects.

Portugal: mergers - merger control - decision - acquisition (Case Comment)
Abstract: Notes the Portuguese Competition Authority's clearance of Live Nation Entertainment Inc's acquisition of Ritmos & Blues Producoes Lda and Arena Atlantico - Gestao de Recintos Multiusos SA, subject to commitments protecting competition in the markets for live events promotion and ticketing services.

Portugal: competition - policy
Abstract: Highlights the Portuguese Competition Authority's publication of its priorities for 2025, including vigorous enforcement of competition law, addressing the challenges posed by digital technology, the encouragement of economic growth and innovation, and promotion of competitive market conditions.

South Africa: mergers - merger control (Case Comment)
Abstract: Contrasts the South African Competition Tribunal ruling in Vodacom (Pty) Ltd / Maziv (Pty) Ltd, prohibiting a merger between a fibre infrastructure company and a telecommunications operator, with the UK Competition and Markets Authority ruling in Vodafone Group Plc / CK Hutchison Holdings Ltd.

Spain: anti-competitive practices - infringement (Case Comment)
Abstract: Notes the Spanish National Markets and Competition Commission decision in Plataforma de Subastas Electronicas, fining the general council of local court agent associations over EUR 2.4 million for price fixing and deception as to its status in the market in relation to its judicial auction platform.

Spain: mergers - merger control (Case Comment)
Abstract: Notes the Spanish National Markets and Competition Commission ruling in Telefonica de Espana SAU, beginning enforcement action against a telecommunications firm for potential non-compliance with earlier commitments given in return for approving its merger with DTS, and involving broadcasting rights.

Sweden: mergers - judgment (Case Comment)
Abstract: Notes the Swedish Patent and Market Court decision in Apotekstjanst Sverige AB / Svensk Dos AB, prohibiting an acquisition affecting the market for outpatient dispensing services, considering market definition, the relevance of market changes during the investigation and the failing firm defence.

Sweden: anti-competitive practices - investigation (Case Comment)
Abstract: Notes the Swedish Competition Authority ruling in Circle K Sverige AB / OKQ8 AB / Preem AB, accepting voluntary commitments from companies in the diesel and petrol fuel sector following an investigation into alleged anti-competitive conduct involving price signalling. Details the commitments given.

Turkiye: anti-competitive practices - investigation (Case Comment)
Abstract: Notes the Turkish Competition Board ruling in NG Kutahya Seramik Porselen Turizm AS / Ege Seramik Sanayi ve Ticaret AS on whether actions by companies in the internet sales market to prevent the unauthorised use of logos and trade marks amounted to anti-competitive conduct.

Artikler fra European Competition Journal

Volume: 1, Issue: 1, March 2025:

Antitrust restriction on football governance: the case of European Super League
The European Super League case has been widely discussed by EU regulators, football associations, clubs, players, supporters and legal practitioners. This article intends to explore the legal reasoning of the Court of Justice regarding the intervention of EU competition law in football governance in this case. This article accordingly analyses the interpretation of the rules and exemptions stipulated in Articles 101 (1) and 102 of the Treaty on the Functioning of the European Union, and gives comments on the antitrust assessment by the Court of Justice regarding the common rules of prior approval and sanctions. It follows that the Court of Justice stressed the importance of transparent, objective and non-discriminatory procedures in the rule-making of football associations and saw this as a significant condition for the enforcement of EU competition law and antitrust exemption.

Quality control in the DMA procedure: the exclusion of the Hearing Officer
The DMA aims to ensure fairness and contestability in digital markets by imposing ex-ante obligations to designated gatekeepers. Enforcement of the regime was entrusted to the Commission and the procedure mirrors the antitrust regime. However, the designers of the Regulation opted to exclude a role for the Hearing Officer from market investigation proceedings. The Hearing Officer is an independent Commission Official whose main role is to safeguard

the undertakings' procedural rights and rights of defence, decide on procedural disputes, and organize oral hearings. Despite some criticisms to the limited extent of their powers, the Hearing Officer fulfils an important role in competition proceedings. Exclusion of their competence from the DMA procedure may result in an increase to the Commission's decisional powers, reduce public trust, lower the quality of the procedure, and deprive it of the valuable oral hearing option.

Overlooking digital collusion risks in the EU's agenda for a single European data space(s)
The EU aims to drive the data and platform economy by establishing a single European Data Space(s) vision, envisioning it as a catalyst for innovation, novel services, enhanced competition and consumer welfare. It involves implementing existing and forthcoming horizontal and sectorial data-sharing laws to overcome technical, legal, and ethical barriers to (personal and non-personal) data access and achieve specific data-driven policy targets. The initial spaces will cover nine economic sectors, few established and others in development. The study assesses the possible oversight of competition law collusion concerns in these initiatives, using the example of the EU Mobility Data Space (EMDS). By employing competition law qualitative doctrinal methods, it emphasizes the risks of digital collusion within these EU-wide open data frameworks, and it indicates that they could severely harm one or several parameters of competition. It concludes by offering policy recommendations to prevent or minimize collusion risks for the EMDS and suggests further research in other sectors.

Comfort, or not comfort, that is the question. The legal status and consequences of comfort letters issued by the European Commission in State aid cases
The paper discusses issues not touched upon in legal literature, namely the legal status and consequences of comfort letters issued by the European Commission in State aid cases. The European Commission has exclusive competence to examine the compliance of support provided by Member States to domestic undertakings with State aid rules. Under EU law, the Commission's final position on the State aid character of the assessed measure must take the form of a decision. However, sometimes, the proceedings are concluded not by a decision but by a comfort letter. It presents the final position of the European Commission and, in many cases, ends the procedure. However, the legal character of the Commission's comfort letters may raise doubts. The article explains the concept of comfort letters issued in State aid cases, their legal status, and the consequences they bring to interested parties.

Sustainability agreements and competition law: a comparative perspective
Sustainability agreements are at the centre of the debate on the relationship between sustainability and competition law. The European Commission has intervened on the issue by inserting in the new Horizontal Guidelines a specific chapter devoted to them. This paper aims at analyzing the approach adopted by the Commission, with a particular focus on the controversial competitive assessment of sustainability agreements under Article 101(3) TFEU and the “fair share” criterion. The analysis is conducted in consideration of the main relevant insights deriving from a comparison with the initiatives taken at national level by some competition authorities and also provides a quick look at the global scenario, in particular with reference to the US, in order to show some of the divergence among jurisdictions with regard to the antitrust treatment of sustainability agreements between competitors.

Why cartel participation leads to financial statement fraud and market abuse
In an attempt to hide from the competition authorities colluding firms risk committing financial statement fraud and market abuse. When colluding managers set the conditions for their cartel the resulting increase in profitability and ability to pay outstanding debt enables the firms to attract more investors, get access to larger loans and at a lower interest rate. The natural reluctance to disclose the firm’s cartel participation creates financial reports with misleading content, increases the likelihood of insider dealing and the ability to attract more funds diverts needed capital from otherwise more eligible firms and will endanger the integrity and efficient functioning of the financial markets. The conclusion is that firms and individuals involved in cartel offences should be investigated for financial statement fraud and market abuse although when persons may be subject to criminal sanctions it will decrease the attractiveness for individuals to use the leniency framework.

Competition concerns with foundation models: a new feast for big tech?
The paper explores how Generative AI intersects with Competition Law, focusing on Foundation Models (FMs) and Large Language Models (LLMs). It examines industry dynamics and identifies key competition issues like entry barriers, tying, leveraging, and acquisitions. It highlights the supply chain's importance and looks at how FMs are integrated into search software, chatbots, and productivity tools, particularly noting entry barriers such as computing power and data collection. It suggests that FMs might require new approaches to market delineation, possibly creating a separate relevant market for data. The paper also discusses various cases pertaining to tying and leveraging and highlights the difficulty in proving tying due to the blurred lines between traditional search engines and AI chatbots. It illustrates how

competition assessments for acquisitions may require changes due to data being a highly flexible commodity for the industry. The paper concludes by calling for increased scrutiny and regulation for the industry.

Does DMA interoperability promote innovation: a comparative study from EU competition law to the DMA
The paper explores the balance between interoperability and innovation within the context of the Digital Markets Act (DMA) and competition law. It discerns vertical interoperability obligations (Article 6(4) and 6(7)) from the horizontal interoperability obligation (Article 7) and highlights the following. First, the EU competition law is more experienced in dealing with vertical interoperability which favours innovation incentives for SMEs and new entrants over those for established incumbents (the incentive-balance test). This approach may encourage sustaining innovation at the downstream level by fostering competition and could eventually lead to disruptive innovations as new entrants gain experience and resources. Secondly, EU competition law is not well-versed in horizontal interoperability obligations. While Article 7 may boost innovation through increased competition, considerations related to privacy and standardization make its (potentially benign and adverse) effects on innovation uncertain.

Beyond administrative guidance: legal effects of state aid guidelines and the need for judicial review
Under EU law, state aid is in principle prohibited to ensure fair competition within the internal market. The European Commission reviews proposed state aid schemes submitted by Member States and issues administrative guidelines to lead the process. This paper focuses on the legal effects of state aid guidelines, particularly in relation to the energy transition and the Temporary Crisis and Transition Framework adopted during the 2022 energy crisis. The Courts have reasoned that state aid guidelines are only binding on the Commission, as Member States are not *obligated* to adopt any state aid schemes. However, this article argues that state aid guidelines are often closely linked to policy objectives of the European Union and should not be considered in isolation. The connections between administrative guidelines and other regulations raises important questions about the Commission's role in ensuring fair competition through state aid control.

Artikler fra Journal of Competition Law and Economics

Volume 21, Issue 1, March 2025:

Data Protection Considerations in Competition Law Assessments: A Qualitative Document Analysis of EU Decision Texts
Personal data are both protected by a fundamental right and serves as a source of market power. As such, a complex interplay between data protection and competition law arises, sparking debate among policymakers and scholars on whether to incorporate data protection considerations (DPCs) in competition law assessments. Proponents argue that competition cases involving such an interplay require a normative contribution from data protection law, while opponents emphasize the practical challenges of considering data protection as a non-economic public policy objective. We identify nine ways in which data protection might ultimately surface in competition law assessments, categorized into five areas: (i) competition enforcement actions, (ii) existing legal and regulatory framework, (iii) personal data collection, (iv) exclusionary abuses, and (v) alleviation of competition concerns. Using a multiple-step approach for qualitative document analysis, we explore how these considerations have surfaced in the European Commission's decisional practice through a dataset of 2.041 EU competition decision texts based on articles 101 TFEU and 102 TFEU and the EU Merger Regulation. We identify 53 decisions where DPCs have surfaced, especially in the information and communication industry, where they are more frequently subjected to commitments. In line with the evolving literature, we observe an increasingly integrationist trend as these considerations surface more frequently, particularly since the adoption of the General Data Protection Regulation in 2016 and the Digital Markets Act proposal in 2020. We also find a pattern where data protection provisions are included in commitments as a 'tick-the-box' exercise. Several influential alleviations of competition concerns suggest that the Commission is more comfortable using data protection to approve transactions unconditionally rather than as a substantive argument for commitments. We conclude by making a case for a more collaborative approach based on the European Court of Justice's recent Meta Platforms (2023) judgment. Data protection should be considered in competition law assessments if its normative contribution is required. Such a stance would simply align with the internal logic of competition law without unlawfully expanding its material scope.

Staggered Difference-in-Differences Estimation for Antitrust Analysis: A Review of Literature and Recommendations for Practitioners
The aim of this paper is twofold: first, we discuss literature developments surrounding difference-in-differences (DiD) methods with staggered treatment mechanisms. Second, we provide a resource for sound DiD analysis in antitrust expert testimony in light of these developments. We review relevant papers and their most important conclusions. We then discuss the antitrust implications of three important topics: parallel trends, the not-yet-treated group, and data with customer entry and exit. We supplement this discussion with Monte Carlo analysis, in which we compare the

performance of DiD estimators and quantify certain types of bias. Finally, we discuss the sensitivity and robustness checks that should underlay expert testimony going forward. DiD theory has come a long way in the academic literature since the 2010s, and we distill that knowledge into what we consider to be the standards for robust DiD results going forward.

The Attorney–Client Privilege in Antitrust: Unravelling the Transatlantic Debate
The Attorney–Client Privilege constitutes an essential and widely recognized right in judicial systems worldwide, aiming to protect the confidentiality of communications between a lawyer and their clients. However, there is no single understanding among jurisdictions on the scope of the privilege, which stems from different approaches between legal traditions as to the role of the lawyer within the judicial system. In adversarial systems, an attorney is an agent and zealous representative of their client, whereas inquisitorial systems consider the lawyer primarily an instrument to the administration of justice and the search for the truth. On this basis, while the US courts recognize the privilege for in-house lawyers, the European Court of Justice has refused such recognition holding that in-house lawyers are not sufficiently independent to safely fulfil their judicial functions. In an environment of increased international trade between the US and the EU it has become ever-more important to understand and scrutinize both approaches. Issues regarding legal professional privilege become increasingly complicated in cases with extraterritorial elements, where foreign interests rise as a crucial element in the assessment.

International Merger Control: How Long Does it Take and How Much Does it Cost? An Empirical Study Based on the Brazilian Case Law
This paper analyses both the duration and the expenses resulting from notification fees in relation to international merger control proceedings in Brazil. For this purpose, the research relies on a dataset of 192 cases reviewed by the Brazilian Competition Authority between 2013 and 2022. The dataset indicates that an international merger requires in average 103 days for time review in Brazil, eight notifications to competition authorities around the globe and €175,794.00 in expenses with notification fees. In addition, the 192 cases revealed a total of 1,562 merger notifications worldwide involving 73 jurisdictions. The research provides a descriptive overview of the statistics and a correlation analysis between the duration of the international merger reviews and key factors (i.e. geographic scope of transaction, number of jurisdictions notified, existence of international cooperation, number of relevant markets, type of decisions, number of staff, and expenses with notification fees). The paper concludes with a summary of the key findings and suggestions for future work.

Artikler fra Journal of Antitrust Enforcement

Volume: 13, Issue: 1, March 2025:

Competition policy and the consumer welfare standard
This paper, which was given as the 2024 Bellamy Lecture, reviews the law and economics of the consumer welfare standard in competition policy, particularly in relation to mergers and abuse of dominance. With qualifications relating to input markets, the consumer welfare approach is defended against arguments for its relaxation, and against contrary criticisms that it is unduly permissive.

Discretionary justice in antitrust
In this essay, I rely on the work of the great administrative law scholar Kenneth Culp Davis on discretionary justice to propose reforms of the obligations of the antitrust enforcement agencies to explain their overall priorities and certain key individual decisions where the agencies have thoroughly investigated a matter, but chosen not to proceed further. Finally, I respond to some of the criticisms of the movement for a more democratic antitrust regime, and conclude that most of the critiques reflect more of a preference for more laissez-faire market and legal outcomes, and indicate the need for more respect for democratic processes, rather than less.

A new agenda for antitrust: human rights violations as anti-competitive conduct
This study aims to establish a connection between human rights violations and unlawful conduct as defined by antitrust laws. To this end, it proposes a systematic teleological interpretation of the Brazilian legal system regarding human rights and competition laws to demonstrate that the Administrative Council for Economic Defence (CADE) has the authority to address human rights violations when enforcing antitrust provisions.

From silence to vigilance: overcoming barriers in public reporting of bid-rigging and cartel violations
There are several ways to collect information on violations of antitrust laws, including ex officio detection, reports from the general public, and the use of leniency systems. There have been many discussions on improvements in the use of leniency systems and refining the ex officio detection method by improving the use of data by methods of analysis.

However, improvements in public reporting have not often been considered. In this study, we confirm that 68.8 per cent of the general public provides information on bid-rigging and 49.6 per cent of the general public provides information on cartels, and that the reason for not providing information is the unlikelihood of success, which means a sense of powerlessness against powerful companies, followed by a feeling of lack of responsibility. Therefore, addressing that perception is the key to increasing information from the general public.

Divisional patents: a system prone to abuse
Divisional patents are derivatives to an already active patent or pending application used to separate part of the parent-patent's subject-matter and create a new autonomous patent. They are extensively used in the pharmaceuticals sector to protect blockbuster medicines with multiple overarching patent rights, thus creating complex patent portfolios. These strategies have attracted the attention of competition enforcers and judicial bodies as potential abuses of dominant position because they aim to prevent and delay generic market entry for the patent holder to maintain their monopolistic prices. However, scrutinizing these strategies has proven challenging because the current rules are prone to exploitation, there is no unified approach to evaluating them, and the core of the issue is the much-debated interplay between IP and competition law. It will be shown that European case law varies across jurisdictions, with none of the current solutions fully addressing the issues. In the search for a functional, effective system, it is essential to understand the rationale behind patent rights, the unique features of the pharmaceuticals sector, and the arguments for and against the use of competition law to scrutinize patent strategies. On this basis, the article proposes a system which combines competition law enforcement with patent law amendments.

The evolution of EU competition law and policy in the pharmaceutical sector: long-lasting impacts of a pandemic
This article investigates the evolution of the European Union (EU) competition law and policy enforcement in the pharmaceuticals sector, focusing on the impact of the coronavirus disease 2019 (COVID-19) crisis as a turning point. Before COVID-19, EU competition authorities' goals and priorities focused on pay-for-delay agreements between originators and generic pharmaceutical undertakings. During COVID-19, the European Commission developed soft laws (such as temporary frameworks and comfort letters) enabling undertakings to cooperate to increase access to essential health products and COVID-19 vaccines. In the post-pandemic era, initiatives like the Pharmaceutical Strategy for Europe, the Single Market Emergency Instrument (SMEI), the Health Emergency Response Authority (HERA), the compulsory licensing proposal and the upcoming changes in the pharmaceutical regulations reflect a patient-centred approach and diverse agenda. This article underscores the move towards a more inclusive EU competition law and policy framework in the pharmaceutical sector as part of this evolution.
Rethinking the legal test for excessive pricing: insights from the landmark UK CMA v Pfizer/Flynn Case and its legal implications. The legal treatment of excessive pricing in the pharmaceutical sector has been a topic of intense debate. This article examines the UK Competition and Market Authority (CMA) approach in the Pfizer/Flynn case and the subsequent appeal. It explores the implications of the Courts' findings on the CMA's latest investigations. The article criticizes the UK Courts for imposing unnecessarily high burden on the CMA, which will likely impose additional burdens on future investigators. The analysis also suggests that the cost-plus test conducted by the CMA is a very advanced methodology that can provide different benchmarks not only for assessing the excessiveness but also for assessing the unfairness under the 2-fold United Brands test.

Why do people think price fixing is unfair? An empirical legal study on public attitudes in the USA
The present article advances the understanding of antitrust law by providing theoretical considerations and empirical results of people's attitudes towards price fixing, specifically within the context of fairness in US antitrust laws. Attitudes were obtained through experimental surveys on Amazon Mechanical Turk in the USA between 2018 and 2021. The empirical results suggest that perceptions of fairness influence public attitudes towards price fixing. Moreover, consumer reaction to price fixing will depend on how the consumer perceives the rules of fairness underlying the competitive market mechanism and the point used to set prices (dual entitlement theory). Results indicate that perceived outcomes and consequences of market transactions influence respondents' judgment of price fixing. For example, public attitudes will be more lenient whenever a cost-increasing event outside firms' control affects firms' profit. The main implication of these findings is that antitrust authorities should not take for granted that people view price fixing as unfair and therefore consider how fairness considerations play out in their approach when dealing with price-fixing cases. The suggestion is for antitrust authorities to focus corporate compliance programmes on people's attitudes to improve compliance to prevent cartel agreements.

A legal analysis of open banking in the promotion of financial data antitrust in China
Open banking develops quickly in China where several large state-owned and private commercial banks have participated in open banking, but the legal foundation is insufficient. The theoretical basis of developing open banking lies in breaking down 'Data Silos' to promote the free circulation of data and strengthen competition in the financial data

market. Open banking could promote 'financial data antitrust', which means reshaping the competitive landscape through promoting the share of monopolized financial data owned by large financial institutions to break their monopoly status in the financial market. It may also bring monopoly risks to financial institutions such as data aggregators and technology platforms. Based on the regulatory and legislative experience of other regions, China should continue the 'government-guided' model for developing open banking and pay more attention to protecting financial consumers and increasing their data control rights to better balance privacy protection and financial data sharing. China should set up a rule for 'financial data right separation' and formulate antitrust regulations for data aggregators. Based on the special status of Fintech platforms, China should not copy the open banking models of developed countries, but create a 'two-way sharing' open banking mechanism to prevent the risk of platform data antitrust.

The deadweight loss in competition litigation seen from compensation and deterrence perspective: lessons from a Chilean price-fixing cartel
Competition law enforcement is continuously being fine-tuned to serve two important goals: compensation and deterrence. This is true for the European Union, where the discussions about this balancing exercise are far from final and also for other parts of the world. This article focuses on a currently neglected damage component in litigation and its potential in this regard: the deadweight loss. It emerges for those consumers at the end of the supply chain that would have bought the product at the market price but for the cartel but do not acquire it at the cartelized price (anymore). Importantly, this article will outline how it can simultaneously serve both, the compensation and deterrence goals. It is a challenging damage component. However, a Chilean court in 2019 awarded final consumers compensation for the deadweight loss that others suffered aside from the price mark-up that some paid. The article exemplifies what aspects of Chilean law enabled this judgment and briefly assesses the latest European developments in collective redress in this regard.

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: 1, March 2025:

Collective Actions and the Digital Markets Act: A Bird Without Wings
This paper comprehensively analyses collective actions for Digital Markets Act (DMA) violations. The paper first builds on the preliminary objectives for collective actions for DMA violations, including the overall role of private actors in DMA enforcement and the deficits of individual private enforcement. It will analyze why the DMA is particularly prone to collective enforcement. Second, the paper assesses the legal landscape of the DMA for collective actions. On one hand, the paper focuses on collective actions for consumers (in their capacity as end users) under the Representative Actions Directive and its transposition in the EU Member States. On the other hand, the paper will elaborate on other means of collective action, with a focus on collective actions for SMEs and other groups of business users under the DMA, including specific instruments, such as the UCP Directive, the P2B Regulation, or the GDPR, or options based on the effet utile principle, such as the assignment model.

The NFL Sunday Ticket Nightmare
This article provides an antitrust law and economics analysis of In re: NFL "Sunday Ticket" Antitrust Litigation, which ended in a jury verdict for two plaintiff classes and a surprising turn of events when the court vacated the jury's damage award. The article explains the economic incentives for pooling broadcast rights and marketing them jointly. It also examines the role of the Sports Broadcasting Act and discusses the reasons why the parties went to trial instead of settling the dispute.

The Merger Efficiency Defense: No Legal Basis and a Bad Idea
This article demonstrates that there is not now, and there should not be, an efficiencies rebuttal, defense, or exception in merger cases. A textualist analysis demonstrates that it does not exist in the plain words of the anti-merger statute, which prevents mergers that "may be substantially to lessen competition or to tend to create a monopoly." The relevant Supreme Court cases explicitly hold that no efficiency rebuttal exists. Although holdings in subsequent lower court cases are mixed, none provided a sound justification for ignoring Supreme Court precedent. The article also shows that antitrust economists have redefined efficiencies in a manner that conflicts with mainstream economic theory. But even under the conventional approach, economic studies show that mergers only extremely rarely result in efficiencies, and there is no evidence that merger efficiencies are ever passed to consumers. For these and other reasons, including the unpredictability, cost, and difficulties of efficiency analysis, sound public policy requires no efficiency rebuttal in merger cases. When the federal antitrust enforcers released their 2023 Merger Guidelines, they shocked the antitrust world by asserting, for the first time in more than forty years, that no efficiency rebuttal is available for mergers challenged under the "tend to create a monopoly" half of the anti-merger statute. Our article demonstrates that not only were the new Merger Guidelines authors correct to do this, but they should also have gone further. They should have abolished the efficiency rebuttal completely, for all corporate mergers.

The Privacy/Antitrust Curse: Insights from GDPR Application in Competition Law Proceedings
In response to the emergence of large online platforms whose business model revolves around the collection and processing of personal data, it is usually suggested that competition and data protection are synergistic, hence requiring an integrated approach. In this respect, Europe represents the testing ground for evaluating how privacy breaches may inform antitrust investigations. Indeed, the General Data Protection Regulation (GDPR) on the one side and the German Facebook antitrust decision on the other side are considered the benchmarks of this new stance aimed at linking market power and data power. This paper tests the concrete viability of such an approach, analyzing how data protection rules and principles have been applied in antitrust proceedings by the European Commission and national competition authorities. Notably, the paper aims at demonstrating the fallacy of the narrative which describes the relationship between privacy and antitrust in terms of synergy and complementarity. Furthermore, the paper maintains that the principles recently affirmed by the European Court of Justice in Meta do not appear conclusive in addressing the issue. The strategic use of privacy as a business justification to pursue anticompetitive advantages currently addressed in the numerous Apple ATT investigations indeed shows the tension between these areas of law. Therefore, rather than strengthening the antitrust enforcement against gatekeepers and their data strategies, the inclusion of privacy harms in antitrust proceedings turns out to be a potential curse for competition authorities, providing players with an opportunity for regulatory gaming to undermine the antitrust enforcement.

Artikler fra Competition Law and Policy Debate

Intet nyt.

Artikler fra Competition Law Scholars Forum

Intet nyt.

Artikler fra Journal of Regulatory Economics

Intet nyt.

Artikler fra International Review of Law and Economics

Intet nyt.

Artikler fra Competition Law Journal

Intet nyt.

Artikler fra European Competition and Regulatory Law Review

Volume: 9, Issue: 1, March 2025:

Net Neutrality at IP Interconnection Level?
According to the opinion of the Body of European Regulators for Electronic Communications (BEREC), national regulatory authorities (NRAs) shall also take into account Internet protocol (IP) interconnection practices of Internet access service providers when applying Regulation (EU) 2015/2120 (Open Internet Regulation, OIR). Challenging BEREC's arguments, this article shows that IP interconnection is outside the regulatory scope of the net neutrality provisions of the OIR. Rather, in accordance with the clear intention of the EU legislator, interconnection practices are only subject to general telecommunications law and competition law. The requirements for market intervention under competition and regulatory law must not be undermined by measures of NRAs based on the OIR. Such measures would exceed the competences of NRAs within the framework of the OIR.

The Impact of EU Law in the Recent Application of Competition Law in Greece
At national level, the main piece of legislation for combating anti-competitive practices in Greece is Law 3959/2011, which has been recently amended under Law 4886/2022. Since competition belongs to the exclusive competences of the European Union, the Greek legislation shall comply with the relevant Treaty provisions, chiefly Articles 101 and 102 TFEU. In that respect, the EU and Greek legal orders are in constant interaction, since developments in EU competition law affect the relevant decisions in Greece. Therefore, it is important to understand the Greek courts' perception of various competition law matters, as well as the impact of EU law and CJEU case law in the interpretation and application of Greece's competition law provisions.

The Imaginary Antitrust Consensus
A prevailing view in current antitrust policy asserts that digital markets present unique competitive challenges that require specialised competition rules. This paper challenges this assertion, contending that the perceived consensus is more rhetorical than substantive. The analysis emphasizes three critical points: (1) there is no consensus that digital markets inherently exhibit more susceptibility to anti-competitive practices than other markets, (2) there is no consensus on the necessity of specific ex-ante competition rules for digital markets, and (3) even among proponents, there is no agreement on the optimal approach to regulating digital markets preemptively. Despite being touted as a global standard, the European Union's Digital Markets Act remains contentious and largely unadopted outside the EU, notably in the United States. Additionally, conflicting objectives such as fairness, market contestability, and economic efficiency complicate prospects for international harmonisation. By scrutinising the uncertain ideological and empirical foundations of this antitrust narrative, this paper reveals that the supposed global consensus driving domestic reforms in some jurisdictions is, in reality, illusory.

Possible Impacts of the bpost and Nordzucker Decisions on Turkish Competition Law:
The principle of ne bis in idem (or 'double jeopardy') enshrines the idea that one cannot be prosecuted more than once for the same act. Historical roots of the principle can be traced back to Roman law, in which it thrived within the context of criminal law. However, it has evolved as a legal concept that cannot be restricted only to criminal law. In modern times, especially in administrative sanctions, implications of ne bis in idem exist with substantial influences on the outcome of legal procedures. However, components of the ne bis in idem concept have controversial points. Therefore, one should always bear in mind its particularities before resorting to the principle. In this article, we demonstrate how the ne bis in idem principle is reflected in competition law sanctions in Turkish competition law practice. We compare its framework with European Union jurisprudence, which has recently undergone significant changes. Finally, we discuss how the bpost and Nordzucker decisions may influence current Turkish competition law case law.

Artikler fra Communications Law

Volume: 30. Issue: 1, March 2025

(Mis)shaping political discourse? False information, elections and social media (Editorial)
Abstract: Comments on the impact on global democracy of the false information-for-profit market, with particular reference to the use of social media by Donald Trump and Elon Musk.

Extending outsourcing contracts
Abstract: Discusses the regulation of extended IT outsourcing contracts. Explores the legal, contractual and business challenges posed by such contracts. Makes best practice recommendations.

Why are journalistic ethics often ignored when celebrities die?
Abstract: Describes, with reference to media guidelines and ethics, the precautions which journalists need to take when reporting on sudden, tragic and unexpected deaths of famous people.

Private information and disciplinary investigation (Case Comment)
Abstract: Considers Duke v Moores (KBD) striking out claims for misuse of private information and data protection infringement, brought by a teacher whose social media communications were accessed during a disciplinary investigation which resulted in his dismissal for gross misconduct, on the basis that the teacher's expectations of privacy were outweighed by the need to investigate as part of the disciplinary process.

Jurisdiction, service out and the single publication rule (Case Comment)
Abstract: Reviews Parish v Wikimedia Foundation Inc (KBD) on: whether to set aside an order granting permission to serve a libel claim, relating to an article published on Wikipedia, out of the jurisdiction; and the application of the single publication rule under the Defamation Act 2013 s.8 where two versions of the page had been published, but were not "materially different".

"Peedo" and serious harm (Case Comment)
Abstract: Examines Oliver v Duffy (KBD) finding that the claimant, who alleged that the defendant called him a "paedophile" in a pub, had not made out a claim for slander nor proved special damage, and the defendant's words about him were not defamatory within the meaning of the Defamation Act 2013 s.1 where he had not proved that they had caused serious harm to his reputation.

Section 12 and 13 orders (Case Comment)
Abstract: Considers Northcott v Hundeyin (KBD) granting orders in relation to the remedies under the Defamation Act 2013 ss.12 and 13, requiring the removal of libellous content and the publication of a summary of the judgment, after a BBC journalist and filmmaker succeeded in an action against an investigative journalist who had made false allegations against him in an online article.

Artikler fra Computer and Telecommunications Law Review

Volume 31, issue 3, 2025:

AI - an overview series - Part 2: case law and treaties
Abstract: This, the second article of a multi-part series, raises questions based on case law and treaties about the intellectual property implications of artificial intelligence. (Part 1 indexed at C.T.L.R. 2025, 31(3), 45-48 - link below).

Algorithmic discrimination in artificial intelligence: analysis under an ethical-legal standpoint
Abstract: Discusses the need for regulation of decision-making by artificial intelligence, to provide for ethics, human rights and the elimination of discrimination.

Contracting for AI solutions in technology and outsourcing agreements
Abstract: Considers current practices for managing risks by way of warranties, intellectual property rights provisions, and clauses on liability.

Doorstep Dispensaree v The Information Commissioner: Court of Appeal considers weight to be given to Information Commissioner's reasons when dispensing justice on appeal (Case Comment)
Abstract: Comments on Doorstep Dispensaree Ltd v Information Commissioner (CA) on the penalty for failing to protect care home residents' sensitive personal data, focusing on the burden of proof in appeals against monetary penalty notices, and the tribunal's consideration of the Information Commissioner's reasons.

Data protection and AI: the results are in! - ICO releases outcomes of the consultation on generative AI
Abstract: Summarises the Information Commissioner's report on data protection compliance in the development and use of generative artificial intelligence systems.

The private enforcement of the EU Artificial Intelligence Act: private enforcement through the revised Product Liability Directive - part one
Abstract: This, the first part of a two-part article on the private enforcement of EU law on AI, considers Directive 2024/2853 (the revised Product Liability Directive).

EC computing, telecommunications and related measures
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
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

Volume: 18, Issue: 1, 2025:

The economic unit as a legal subject - also a case note on Volvo AB v Transsaqui SL (C-632/22) (Case Comment)
Abstract: Considers Volvo AB v Transsaqui SL (C-632/22) (ECJ) on the legal personality, capacity to be sued and entity classification of an economic unit, such as a group of companies.

The "derivative plaintiff" in competition law
Abstract: Criticises Merricks v Mastercard Inc (CAT) for allowing claimants standing to bring collective competition proceedings even though they were not direct or indirect purchasers from the alleged infringer, compares US cases, and suggests that such claimants are not part of the relevant market.

Third party funding, new technologies and the interdisciplinary methodology as global competition litigation's driving forces
Abstract: Discusses a multidisciplinary physics-based model, borrowed from fluid and thermodynamic mechanics, for assessing a market, such as the market for third party funding, and the implications for private litigation to enforce competition law.

Jurisdiction of courts under Article 7(2) Brussels I bis through the lens of the recent case-law
Abstract: Discusses the meaning of the place where the harmful event occurred, in the context of follow-on damages actions to enforce EU administrative decisions on infringement of competition law.

CJEU Advocate General advocates full judicial review of CAS awards involving EU competition law
Abstract: Comments on Royal Football Club Seraing v Federation Internationale de Football Association (FIFA) (C-600/23) (AGO) on EU Member State courts' review of Court of Arbitration for Sport (CAS) awards for compliance with EU competition law, based on the effective judicial protection principle and the mandatory nature of CAS arbitration.

Artikler fra Market and Competition Law Review

Volume: 8, Issue: 1, April 2025:

The incoming tide of an effects-based approach in EU law: a comparison between the competition and free movement case law
The use of an economics, effects-based, approach in EU Law is normally understood within the context of the enforcement of the EU Competition provisions. It embodies the post-Modernisation shift from a formalistic application of these provisions, and particularly of Article 102 TFEU, to a method of analysis that focuses on the capability of a certain behaviour to harm competition using market dynamics and defined economic tools. This paper draws comparisons between this specialised approach and the interpretation increasingly followed by the Court of Justice in the field of free movement of goods and persons. There, the Court has moved from using a formalistic analytical framework based on the existence or absence of discrimination to one that considers the effects of a measure on the demand side of the market or in preventing or limiting access to other markets by EU migrants. The paper outlines the clear and important differences between the fields of free movement and competition law but also seeks to ascertain the existence of parallel analytical trends and the implications of these for the direction of the Single Market. It considers two themes. First, it examines the shift from a predominantly formalistic approach to specialised and general effects-based approaches, respectively, in the competition and free movement case law. Second, as these analytical frameworks have developed and their implications have become clearer, it identifies the emergence of trends in both areas towards a refinement or revision of their parameters.

Market power and gatekeepers: complements or substitutes?
Although they are distinctive instruments, Article 102 TFEU and the Digital Markets Act (DMA) commonly target undertakings with high degrees of economic power. In Article 102TFEU, market power assessment, including market definition has been considerably challenged by specific features of digital markets. With the use of thresholds-based presumptions to designate gatekeepers, the DMA thus purportedly moves away from Article 102 TFEU analytics. This article questions the extent to which market power and gatekeeper powers are substitutes, or complements, regarding the analytical tools used, and regarding the purposes to which they contribute. While market power methodology moves away from quantitative methods, for greater accuracy, the DMA reinjects a great dose of quantitative-based tools. Yet, as the DMA decisional practice shows, both analyses comprise, with varied intensity, an assessment of qualitative factors, revolving around barriers to entry. In addition, issues of boundaries' delineation feature in both methodologies. The tools on which they rely are substitutes, but with complementary scope and outcomes. Finally, market and gatekeeper powers may be both substitutes in how they contribute to contestability of markets, albeit with a complementary twist: respectively with access to a user base for the DMA, and in a relevant market for Article 102 TFEU.

Embracing sustainability: harnessing a fiction in dealing with dominant firms?
This article explores the intersection of competition law and sustainability, particularly focusing on the role that Article 102 of the Treaty on the Functioning of the European Union may play in this context. It presents a novel approach, categorizing the relationship between Article 102 and sustainability into four scenarios, and examining the corresponding actions antitrust authorities should take. It identifies key challenges when competition protection conflicts with sustainability, analysing the pros and cons of two potential approaches: a bottom-up method, based on consumer willingness to pay for sustainability, and a top-down approach that integrates sustainability into antitrust goals. Finally, the paper delves into the arguments against penalizing dominant firms for actions that harm sustainability without infringing upon competition.
Access to evidence: a matter of life and death for competition law class actions?
For several years, access to evidence has been identified by potential claimants as one of the main difficulties in bringing damages actions for breach of competition rules in general, and class actions in this area in particular, in the European Union. As regards the former, Directive 2014/104/EU addressed the issue, but established a number of exceptions, in particular with regard to documents in the possession of competition authorities, with the result that, in practice, injured parties may have to wait for the public decision to become final before bringing a (follow-on) action (and even then they still have to prove causation and quantify damages). In the case of collective actions, in particular opt-in models, the problem may be even more acute, and Directive 2020/1828, which addresses this issue in the context of collective actions, does not cover competition law actions. In this paper, we will analyse this problem in the light of European Union law, in particular the Directives and the recent case law of the European Court of Justice, as well as some illustrative national examples, in order to determine whether the current disclosure of evidence procedure undermines the effectiveness of the collective redress for competition rules.

Andre udenlandske artikler

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