Konkurrenceretlig Nyhedsoversigt nr. 99 / dækkende 13. januar 2025 – 30. januar 2025

Indhold

1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

DNB Bank ASA's erhvervelse af enekontrol over Carnegie Holding AB
Transaktionen finder sted ved en aktieoverdragelse, hvor DNB Bank ASA erhverver 100 pct. af aktierne i Carnegie Holding AB. DNB Bank ASA erhverver herved enekontrol over Carnegie Holding AB.
Læs mere
Dato: 27/01/2025

Godkendelse på baggrund af en forenklet sagsbehandling af LGT Logistics A/S' erhvervelse af aktiver fra Thortrans A/S under rekonstruktion
Ved transaktionen erhverver LGT aktiver fra Thortrans, herunder bl.a. goodwill og immaterielle rettigheder, kundeaftaler, driftsmidler, lejemål og tilknyttede medarbejdere. LGT erhverver herved enekontrol over dele af Thortrans.
Læs mere
Dato: 15/01/2025

Nyt fra Konkurrencerådet

Godkendelse af OK's opfyldelse af forpligtelse til at indgå forpagtningsaftale for OK Plus-butikken i Bording
Konkurrencerådet har godkendt tre forpagtere af OK Plus-butikkerne i Bording, Sunds og Elling. Samtidig har rådet godkendt de særlige vilkår, som OK har indgået med forpagterne, så konkurrencen om detailsalg af convenience-varer ikke forringes i disse områder. Bortforpagtningen af de tre butikker var en betingelse for, at OK i juni 2024 fik godkendt erhvervelsen af Coop Danmark.
Læs mere
Dato: 29/01/2025

Nyt fra Konkurrenceankenævnet

Intet nyt.

Nyt fra domstolene

Civilretlige afgørelser

Dom fra Sø- og Handelsretten: ECIT Account A/S mod Konkurrencerådet v/ Konkurrence- og Forbrugerstyrelsen
Ecit Account A/S har i mindst 15 år bistået med at formalisere og op-retholde et kartel blandt diskoteker. Sø- og Handelsretten har afgjort, at Ecit Account har overtrådt konkurrenceloven og derfor skal betale 20 millioner kroner i bøde.

Sø- og Handelsretten skriver i dommen:

"Forseelsen i denne sag er i sig selv af alvorlig karakter, idet ECIT Account forsætligt har kartelfaciliteret en åbenbar og langvarig retsstridig geografisk markedsdeling."

Sø- og Handelsretten har idømt Ecit Account en bøde på 20 millioner kroner for at deltage i en aftale om at dele markedet mellem en række selvstændige diskoteker og deres fælles indkøbsselskab. Ecit Account har været med i kartellet gennem hele kartellets levetid.

Ecit Account leverer serviceydelser inden for administration og it til andre virksomheder. Som rådgiver har Ecit Account været med til at formalisere og opretholde den ulovlige aftale om, at en række diskoteker ikke måtte åbne filialer i hinandens byer eller inden for en nærmere afstand af hinanden. Ecit Account har blandt andet:

- haft en ledende rolle i indkøbsselskabets bestyrelse,
- udformet markedsdelingsaftalen og indskærpet den over for diskotekerne, og
- deltaget aktivt på møder, hvor markedsdelingen blev drøftet.

Ved fastsættelsen af bøden har Sø- og Handelsretten blandt andet taget hensyn til overtrædelsens grovhed og varighed samt Ecit-koncernens omsætning på verdensplan. Retten anfører desuden, at det ikke kan lægges til grund, at Ecit Account har opnået økonomisk vinding ved at facilitere kartellet, og at Ecit Account ikke var initiativtager til kartellet, hvilket retten anser som formildende omstændigheder.
Retssagen om Ecit Account er en del af et større sagskompleks om et diskotekskartel, som Konkurrencerådet greb ind over for i 2021. Tidligere har i alt 22 diskoteker og deres fælles indkøbsselskab erkendt at have overtrådt konkurrenceloven og accepteret at betale bøder herfor. I 2023 afgjorde Konkurrencerådet, at Ecit Account havde medvirket til markedsdelingsaftalen, og at der skulle nedlægges bødepåstand i forbindelse med sagens behandling ved domstolene.

Det er første gang, at der ved dom pålægges en civil bøde for overtrædelse af konkurrenceloven, efter at konkurrenceloven blev ændret i foråret 2021.
Læs mere
Dato: 29/01/2025

Straffesager
Intet nyt.

Lovforslag i høring

Intet nyt.

Ny lovgivning

Intet nyt.

Nyt fra Ankestyrelsen

Tilsynsudtalelse om kommunens forsyningsforpligtelse og mulighed for at give tilskud til et aktivitets- og samværstilbud med hjemmel i kommunalfuldmagtsreglerne
Københavns Kommune har den 4. juli 2023 skrevet til Ankestyrelsen. Kommunen har bedt Ankestyrelsen om en forhåndsudtalelse om, hvorvidt kommunalfuldmagten kan anvendes som hjemmel til at yde tilskud til private institutioners aktivitets- og samværstilbud målrettet servicelovens målgrupper.

Ankestyrelsen vurderer på baggrund af en udtalelse fra Social-, Bolig- og Ældreministeriet, at serviceloven udtømmende regulerer en kommunes adgang til at yde aktivitets- og samværstilbud til servicelovens målgrupper.

Kommunalfuldmagtsreglerne regulerer således ikke Københavns Kommunes mulighed for at yde tilskud til et aktivitets- og samværstilbud. Det er derfor Ankestyrelsens opfattelse, at Københavns Kommune ikke lovligt kan anvende kommunalfuldmagtsreglerne til at sikre en bevilling til et bestemt aktivitets- og samværstilbud med henvisning til, at tilbuddet ligger uden for kommunens forsyningsforpligtelse.
Læs mere
Dato: 18/12/2024

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust & Cartels

Commission sends Supplementary Statement of Objections to Lufthansa to prevent harm to Frankfurt-New York air passengers
The European Commission has sent a Supplementary Statement of Objections to Lufthansa indicating the Commission's intention to order the airline to reinstate Condor's access to Lufthansa's feed traffic to and from Frankfurt airport under the conditions the two airlines agreed upon in June 2024.

This is a step in the Commission's procedure related to interim measures in the context of its broader investigation into a potential restriction of competition on transatlantic routes to/from several European Economic Area ('EEA') airports by the A++ transatlantic joint venture ('JV') between Lufthansa, United and Air Canada.

In today's Supplementary Statement of Objections, the Commission has preliminarily found that the A++ transatlantic JV restricts competition on the Frankfurt-New York route and that the adoption of interim measures enabling Condor to continue offering its services on that route is warranted to prevent serious and irreparable damage to competition from occurring in that market.
Læs mere
Dato: 15/01/2025

Mergers

Commission approves International Paper's acquisition of DS Smith subject to conditions
The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of DS Smith Plc ('DS Smith') by International Paper Company ('International Paper'). The approval is conditional upon full compliance with the commitments offered by the parties.

International Paper and DS Smith are two vertically integrated paper and packaging companies. The Commission's investigation showed that the transaction, as initially notified, would have reduced competition in the markets for the manufacture and supply of (i) corrugated sheets in the North and West of Portugal; (ii) heavy-duty corrugated sheets in North-East Spain; and (iii) corrugated cases in North-West France.

Notably, the Commission found that the transaction would have resulted in high combined shares, as well as high concentration levels, in several local markets. The Commission also found that, after the merger, there would not be enough alternative competitors to exert sufficient competitive pressure on the merged entity. This would have led to higher prices for consumers in the affected markets.
Læs mere
Dato: 24/01/2025

Commission approves Synopsys' acquisition of Ansys subject to conditions
The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of Ansys, Inc. ('Ansys') by Synopsys, Inc. ('Synopsys'). The approval is conditional upon full compliance with the commitments offered by the parties.

The Commission investigated the impact of the transaction in the global markets for the supply of: (i) optics software; (ii) photonics software; and (iii) electronic design automation ('EDA') software tools used for the design of chips, where Synopsys and Ansys's activities actually or potentially overlap.

The Commission also assessed the merged entity's potential ability and incentive to offer bundles or to hamper the interoperability of: (i) different EDA software tools; or (ii) EDA software tools and semiconductor intellectual property ('IP') solutions for system-on-chip designs, of which Synopsys is a leading provider.

The Commission's investigation showed that, while the companies' activities are largely complementary, the transaction, as initially notified, would have reduced competition in the global markets for the supply of: (i) optics software simulating how light behaves in large macro-scale systems (e.g., screen or car headlight); (ii) photonics software simulating how light behaves in smaller nano-scale optical systems (e.g., digital camera or solar panel); and (iii) register-transfer-level power consumption analysis software, which is an EDA software tool used at the early stage of the chip design process to check its power consumption.

The Commission found that the transaction would have resulted in high combined market shares as well as high concentration levels in the above markets. The Commission also found that, after the merger, there would not be enough alternative competitors to exert sufficient competitive pressure on the merged entity. The transaction, as notified, would have led to higher prices and less choice for customers.
Læs mere
Dato: 10/01/2025

State Aid

Commission finds that Polish public support for chemical company PCC is in line with State aid rules
The European Commission has concluded that two support measures totalling €23 million awarded by Poland to chemical company PCC MCAA Sp. z o. o ('PCC') for an investment into a new plant are in line with EU State aid rules.

In 2012 and 2013, Poland granted public support to PCC for investing in a new plant to produce ultra-pure monochloroacetic acid in Brzeg Dolny, Poland. The support took the form of: (i) a direct grant of €16 million, and (ii) a tax exemption of up to €7 million. Poland did not notify the support to the Commission as it considered that it was exempted from notification under the 2008 General Block Exemption Regulation ('2008 GBER').

In February 2014, the Commission received a complaint from a direct competitor of PCC, alleging that the direct grant was not in line with EU State aid rules and should have been notified. In 2016, the Poland revoked the tax exemption after concluding that the measure was not in line with the 2008 GBER.

Following a complaint, in October 2019, the Commission opened an in-depth investigation into both the direct grant and the tax exemption.

In September 2022, upon appeal by PCC, the Supreme Administrative Court of Poland ruled that Poland should not have revoked PCC's tax exemption.
Læs mere
Dato: 23/01/2025

Andet
Intet nyt.

Nyt fra EU-domstolen

Domme

T-334/22 - Danske Fragtmænd mod Kommissionen
Nøgleord:

Annullationssøgsmål – statsstøtte – postsektoren – kapitaltilførsel til Post Danmark – afgørelse, hvorved det fastslås, at der ikke foreligger statsstøtte – kapitaltilførsel til PostNord – afgørelse, hvorved støtten erklæres uforenelig med det indre marked – ikke individuelt berørt – manglende væsentlig påvirkning af den konkurrencemæssige stilling – afvisning

Tvist:

Med søgsmål anlagt i henhold til artikel 263 TEUF har sagsøgeren, Danske Fragtmænd A/S, nedlagt påstand om annullation af Kommissionens afgørelse (EU) 2022/459 af 10. september 2021 vedrørende statsstøtte SA.49668 (2019/C) (ex 2017/FC) og SA.53403 (2019/C) (ex 2017/FC) gennemført af Danmark og Sverige for PostNord AB og Post Danmark A/S (EUT 2022, L 93, s. 146, herefter »den anfægtede afgørelse«).

Dom:

1) Sagen afvises.
2) Danske Fragtmænd A/S bærer sine egne omkostninger og betaler de af Europa-Kommissionen, Post Danmark A/S og PostNord Group AB afholdte omkostninger.
3) Kongeriget Danmark, Kongeriget Sverige, UPS Europe NV/SA og Dansk Avis Omdeling A/S bærer hver deres egne omkostninger.

Læs mere
Dato: 29/01/2025

C-253/23 - ASG 2
Nøgleord:

Præjudiciel forelæggelse – konkurrence – artikel 101 TEUF – direktiv 2014/104/EU – erstatningssøgsmål i forbindelse med overtrædelser af konkurrenceretten – artikel 2, nr. 4) – begrebet »erstatningssøgsmål« – artikel 3, stk. 1 – ret til fuldstændig erstatning for den lidte skade – overdragelse af erstatningskrav til en udbyder af juridiske tjenesteydelser – national ret, der er til hinder for, at det anerkendes, at en sådan tjenesteyder har søgsmålskompetence med henblik på kollektiv inddrivelse af disse fordringer – artikel 4 – effektivitetsprincippet – artikel 47, stk. 1, i Den Europæiske Unions charter om grundlæggende rettigheder – ret til en effektiv domstolsbeskyttelse

Tvist:

Anmodningen om præjudiciel afgørelse vedrører fortolkningen af artikel 101 TEUF, sammenholdt med artikel 4, stk. 3, TEU og artikel 47, stk. 1, i Den Europæiske Unions charter om grundlæggende rettigheder (herefter »chartret«) samt af artikel 2, nr. 4), artikel 3, stk. 1, og artikel 9 i Europa-Parlamentets og Rådets direktiv 2014/104/EU af 26. november 2014 om visse regler for søgsmål i henhold til national ret angående erstatning for overtrædelser af bestemmelser i medlemsstaternes og Den Europæiske Unions konkurrenceret (EUT 2014, L 349, s. 1).

Anmodningen er blevet indgivet i forbindelse med en tvist mellem ASG 2 Ausgleichsgesellschaft für die Sägeindustrie Nordrhein-Westfallen GmbH (herefter »ASG 2«) og Land Nordrhein-Westfalen (delstaten Nordrhein-Westfalen, Tyskland) (herefter »delstaten«) vedrørende et kollektivt erstatningssøgsmål anlagt af ASG 2 på grundlag af erstatningskrav, som var blevet overdraget til ASG af 32 savværker som følge af en overtrædelse af artikel 101 TEUF begået af delstaten og andre skovejere.

Dom:

Artikel 101 TEUF, sammenholdt med artikel 2, nr. 4), artikel 3, stk. 1, og artikel 4 i Europa-Parlamentets og Rådets direktiv 2014/104/EU af 26. november 2014 om visse regler for søgsmål i henhold til national ret angående erstatning for overtrædelser af bestemmelser i medlemsstaternes og Den Europæiske Unions konkurrenceret samt artikel 47, stk. 1, i Den Europæiske Unions charter om grundlæggende rettigheder skal fortolkes således, at disse bestemmelser er til hinder for en fortolkning af en national lovgivning, som bevirker, at personer, der angiveligt har lidt skade som følge af en overtrædelse af konkurrenceretten, forhindres i at overdrage deres ret til erstatning til en udbyder af juridiske tjenesteydelser med henblik på, at denne gør disse krav gældende samlet i forbindelse med et erstatningssøgsmål, der ikke følger efter en endelig og bindende afgørelse – navnlig for så vidt angår fastlæggelsen af de faktiske omstændigheder – fra en konkurrencemyndighed, der konstaterer en sådan overtrædelse, for så vidt som

– der ikke i den nationale lovgivning er fastsat nogen anden mulighed for samling af disse skadelidtes individuelle krav, som kan sikre en effektiv udøvelse af disse rettigheder til erstatning, og

– anlæggelsen af et individuelt erstatningssøgsmål viser sig, henset til samtlige omstændigheder i den foreliggende sag, at være umulig eller uforholdsmæssigt vanskelig for de nævnte personer med den konsekvens, at de fratages deres ret til en effektiv domstolsbeskyttelse.

Såfremt der ikke kan anlægges en fortolkning af denne nationale lovgivning, der er i overensstemmelse med de EU-retlige krav, pålægger disse EU-retlige bestemmelser den nationale domstol at undlade at anvende den nævnte nationale lovgivning.

Læs mere
Dato: 28/01/2025

C-490/23 P - Neos mod Ryanair og Kommissionen
Nøgleord:

Appel – statsstøtte – støtteordning – foranstaltninger til støtte for luftfartsselskaber med en national driftslicens i forbindelse med covid-19-pandemien – Europa-Kommissionens afgørelse om ikke at gøre indsigelse – begrundelsespligt

Tvist:

Neos SpA har med sin appel nedlagt påstand om ophævelse af Den Europæiske Unions Rets dom af 24. maj 2023, Ryanair mod Kommissionen (Italien; støtteordning; covid-19) (T-268/21, herefter »den appellerede dom«, EU:T:2023:279), hvorved Retten annullerede Kommissionens afgørelse C(2020) 9625 final af 22. december 2020 om statsstøtte SA.59029 (2020/N) – Italien – covid-19: Ordning for kompensation til luftfartsselskaber med licens udstedt af de italienske myndigheder (herefter »den omtvistede afgørelse«).

Dom:

1) Den Europæiske Unions Rets dom af 24. maj 2023, Ryanair mod Kommissionen (Italien; støtteordning; covid-19) (T-268/21, EU:T:2023:279), ophæves.
2) Sagen hjemvises til Den Europæiske Unions Ret med henblik på, at denne træffer afgørelse vedrørende det første til det tredje anbringende samt det fjerde anbringendes andet led i Ryanair DAC's søgsmål.
3) Afgørelsen om sagsomkostningerne udsættes.

Læs mere
Dato: 23/01/2025

C-588/23 - Scai
Nøgleord:

Præjudiciel forelæggelse – tilbagebetaling af en ulovlig og uforenelig støtte – forordning (EU) 2015/1589 – artikel 16 – modtager af individuel støtte identificeret i Europa-Kommissionens afgørelse om tilbagebetaling – gennemførelse af afgørelsen om tilbagebetaling – overførsel af støtte til en anden virksomhed efter afgørelsen om tilbagebetaling – økonomisk kontinuitet – vurdering – den kompetente myndighed – udvidelse af tilbagebetalingsforpligtelsen til at omfatte den faktiske modtager – kontradiktionsprincippet – artikel 41 og 47 i Den Europæiske Unions charter om grundlæggende rettigheder

Tvist:

Anmodningen om præjudiciel afgørelse vedrører fortolkningen af artikel 108 TEUF, 263 TEUF og 288 TEUF, af artikel 41 og 47 i Den Europæiske Unions charter om grundlæggende rettigheder (herefter »chartret«) samt af artikel 16 og 31 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 Scai Srl og Regione Campania (regionen Campania, Italien) vedrørende Scais forpligtelse til at tilbagebetale et beløb svarende til en ulovlig og uforenelig støtte, som et andet selskab oprindeligt havde modtaget.

Dom:

Artikel 108 og artikel 288, stk. 4, TEUF, artikel 16 og 31 i Rådets forordning (EU) 2015/1589 af 13. juli 2015 om fastlæggelse af regler for anvendelsen af artikel 108 [TEUF] og artikel 41 og 47 i Den Europæiske Unions charter om grundlæggende rettigheder, skal fortolkes således, at i en situation, hvor en afgørelse fra Europa-Kommissionen pålægger tilbagebetaling af statsstøtte fra en modtager, som Kommissionen har identificeret, er disse bestemmelser ikke til hinder for en national lovgivning, hvorefter de kompetente nationale myndigheder inden for rammerne af deres opgave med at gennemføre denne afgørelse kan anordne tilbagesøgning af denne støtte fra en anden virksomhed som følge af, at der foreligger økonomisk kontinuitet mellem denne sidstnævnte og den støttemodtager, der er identificeret i den nævnte afgørelse.

Læs mere
Dato: 16/01/2025

Forslag til afgørelse

Intet nyt.

Kendelse

Intet nyt.

Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

Phase 2 of cloud services market investigation
The Competition and Markets Authority (CMA) is investigating the supply of public cloud infrastructure services in the UK.
As of 28 January 2025, the CMA has published its provisional decision in its market investigation into the supply of public cloud infrastructure services in the UK. We have provisionally found competition concerns in these markets.
The deadline for submitting responses to the provisional findings is on 11.59pm on 18 February 2025.
Læs mere
Dato: 28/01/2025

SMS investigation into Google's mobile ecosystem
The CMA is investigating whether to designate Google as having strategic market status (SMS) in the provision of mobile ecosystem services including its mobile operating system, native app distribution platform and mobile browser and browser engine.
Læs mere
Dato: 23/01/2025

FTC Issues Staff Report on AI Partnerships & Investments Study
The Federal Trade Commission today issued a staff report on the corporate partnerships and investments formed between the largest cloud service providers (CSPs)—Alphabet, Inc., Amazon.com, Inc., and Microsoft, Corp.—and two of the most prominent generative AI developers—Anthropic PBC and OpenAI OpCo, LLC.

The report details key aspects regarding the structure of the CSP and AI developer partnerships, such as the equity and revenue-sharing rights retained by CSPs in these partnerships and certain consultation, control, and exclusivity rights CSPs gained through their investments with AI developers.
Læs mere
Dato: 17/01/2025

U.S. Department of Justice and the Federal Trade Commission: Antitrust Guidelines for Business Activities Affecting Workers
These Guidelines explain how the U.S. Department of Justice's Antitrust Division ("DOJ") and the Federal Trade Commission ("FTC") (collectively, the "Agencies") assess whether business practices affecting workers violate the antitrust laws. The Agencies enforce the nation's antitrust laws, which include the Sherman Act, Clayton Act, and Federal

Trade Commission Act. These laws provide “a central safeguard for the Nation’s free market structures” by promoting open and fair competition.

The antitrust laws protect competition for labor, just as they protect competition for goods and services that companies provide. They protect the freedom of working people to choose the best job for them and their families. Just as vibrant competition for goods and services benefits consumers, competition among employers benefits workers through better wages, benefits, and other terms and conditions for working people. Business practices may violate the antitrust laws when they harm the competitive process, especially if they deprive labor markets of independent centers of decision making or they create or abuse employers’ monopsony power. By interfering with free and fair competition for workers, such practices can lead to fewer job opportunities, lower wages, and worse working conditions.

Similarly, businesses should be free to hire the right person for a job. Vibrant, open markets to recruit and retain workers create market opportunities that are conducive to new business formation, innovation, and productivity. Conversely, when companies act in ways that harm competition for workers, that behavior might lead to fewer job opportunities for workers, lower wages, and worse job quality. That is why the antitrust laws prohibit certain practices that harm competition for workers.
Læs mere
Dato: Januar 2024

3 | LITTERATUR (DK)

Artikler fra UfR

Intet nyt.

Nye publikationer fra Erhvervsministeriet

Ny aftale rykker hjælp tættere på iværksættere
Med en ny rammeaftale for erhvervshusene tager Danmark endnu et skridt mod at blive det bedste iværksætterland i en forandret verden.

I en tid med geopolitiske spændinger, ny teknologi og den grønne omstilling kan spørgsmålene være mange for danske virksomheder. Den forandrede verden stiller nemlig helt nye krav til virksomhederne, og derfor er det vigtigt, at der findes et sted, hvor virksomhederne kan få vejledning. Og konkret hjælp til at komme videre.

Denne hjælp kan virksomhederne få hos danske erhvervshuse og med en ny aftale sætter erhvervsministeren og KL nu en ny retning, der skal sikre, at kendskabet til landets seks erhvervshuse stiger blandt danske virksomheder.
Bl.a. skal erhvervshusene styrke indsatsen over for iværksættere og dermed være med til at implementere regeringens iværksætterpakke. Dette så endnu flere kan få gavn af den hjælp, der er at hente, så fundamentet under væksten hos de danske virksomheder bliver så stærkt som muligt.
Læs mere
Dato: 09/01/2025

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.

Anden dansk og nordisk litteratur

Intet nyt.

4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Volume 46, issue 2, 2025:

GenAI and antitrust: tread lightly in times of uncertainty
Discusses the responses of competition authorities in the UK and EU to the rapid growth of generative artificial intelligence (GenAI), highlighting key competition law concerns, the danger that early-stage enforcement stifles innovation, and the benefits of close monitoring and cautious regulation.

European Court of Justice's sport case trilogy: general and sport-specific considerations
Discusses key principles emerging from ECJ cases involving aspects of both sporting and competition law, including that sport is not seen as a general EU policy, the invocation of TFEU art.106 when applying TFEU art.102 provisions, and the application of the "sufficient harm" test.

MOL and undertakings as creditors: the question is still open
Reviews MOL Magyar Olaj- es Gazipari Nyrt v Mercedes-Benz Group AG (C-425/22) (ECJ), clarifying that a parent company cannot bring a damages claim in its place of registration on the basis of harm to a subsidiary from anti-competitive conduct, and the implications for undertakings as creditors.

Is it really necessary for China's antimonopoly regulation of its digital market to learn from the EU DMA model?
Reviews China's efforts to strengthen the anti-monopoly regulation of online platforms. Examines key provisions of EU Regulation 2022/1925 (Digital Markets Act), whether these promote competition in the digital economy, and whether its implementation into Chinese law would be beneficial or feasible.

The Italian new power to call in below-threshold concentrations
Examines amendments to Italian antitrust law to allow the Italian Competition Authority to scrutinise certain concentrations falling below the national merger control thresholds. Reviews the "substantial competitive risk" test involved, the scope of the new powers, and their practical application.

Is the CMA's power to request information extraterritorial? Recent guidance from the Court of Appeal's judgment in Competition and Markets Authority v Volkswagen AG & Bayerische Motoren Werke AG
Discusses Competition and Markets Authority v Volkswagen AG (CA), clarifying the extraterritorial application of Competition and Markets Authority investigatory powers under the Competition Act 1998 s.26, and considers the future impact of the Digital Markets, Competition and Consumers Act 2024.

Austria: anti-competitive practices - judgment (Case Comment)
Notes the Austrian Cartel Court ruling in Austrian Post AG, imposing a fine of EUR 9.2 million on a postal sector company for abuse of a dominant position involving discriminatory practices regarding its "Info.Mail" services, and for infringement of Directive 97/67 art.12.

Canada: anti-competitive practices - infringement
Notes the October 2024 imposition of a 14-month conditional sentence on a former executive of the Canadian company Roche Itee following his guilty plea to participating in a bid-rigging scheme for Quebec city contracts. Details the main elements of the sentence, including a period of house arrest.

Czech Republic: anti-competitive practices - infringement (Case Comment)

Notes the Czech Competition Office ruling in VAFO PRAHA sro, fining a pet food producer and seller around EUR 4.8 million for restrictive business practices involving minimum resale prices. Details the settlement procedure involved and the factors contributing to a reduction of the original fine.

European Union: anti-competitive practices - judgment (Case Comment)
Discusses Booking.com BV v 25hours Hotel Company Berlin GmbH (C-264/23) (ECJ), clarifying whether price parity clauses may be deemed ancillary agreements and thus exempt from scrutiny under TFEU art.101(1), and how the relevant product market should be defined under Regulation 330/2010 arts 2 and 3.

France: anti-competitive practices - infringement (Case Comment)
Notes the French Competition Authority ruling in Loste Group imposing a fine of EUR 900,000 on a corporate group in the salted charcuterie sector for obstructing its investigations into alleged anti-competitive practices involving cartel behaviour.

Netherlands: anti-competitive practices - judgment (Case Comment)
Notes the Dutch Trade and Industry Appeals Tribunal ruling in OvRAN v Nederlandse Mededingingsautoriteit, upholding a Dutch Competition Authority ruling that the Dutch Accountants' Association and major accountancy firms did not indulge in anti-competitive practices involving professional rules.

Netherlands: anti-competitive practices - infringement
Notes the rejection by the Dutch Competition Authority of an appeal by the retailer LG Electronics Benelux Sales BV against a fine of EUR 8 million imposed for anti-competitive practices involving price co-ordination.

Poland: anti-competitive practices - investigation
Notes the Polish Competition Authority's discontinuation of its investigations into alleged abuses of a dominant position, involving bundling of television programmes, by Telewizja Polsat and four companies of the Discovery group. Details the market analysis involved in the investigations.

Portugal: competition - publication
Notes the "Best Practices Guide on Sustainability Agreements" published by the Portuguese Competition Authority to assist companies in ensuring that such agreements do not infringe competition law. Details the background to the guide.

Portugal: anti-competitive practices - investigation
Notes the Portuguese Competition Authority's publication of a statement of objections during its investigation of alleged no-poaching agreements between technology consultancy firms, against the multinational group that did not collaborate with the investigation. Anticipates future developments.

South Africa: mergers - merger control
Notes the October 2024 launch of the ECOWAS Regional Competition Authority (ERCA). Details the states involved, the organs of the ERCA, and key features of its regime, including its jurisdiction, merger notification thresholds, filing fees and penalties for non-compliance.

Turkiye: anti-competitive practices - investigation (Case Comment)
Notes the ruling of the Turkish Competition Board in Meta Platforms Inc on whether an online platform complied with interim measures imposed during an investigation into alleged anti-competitive practices involving data integration. Details the board's use of daily administrative monetary fines.

United Kingdom: competition - market study
Notes the Competition and Markets Authority's November 2024 publication of its interim report on the UK infant formula market, and its findings on issues including consumer information, limited competition and the impact of regulation on pricing. Details the next steps and the timelines of events.

Artikler fra European Competition Journal

Intet nyt.

Artikler fra Journal of Competition Law and Economics

Intet nyt.

Artikler fra Journal of Antitrust Enforcement

Intet nyt.

Artikler fra Journal of European Competition Law and Practice

Intet nyt.

Artikler fra World Competition

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Artikler fra Antitrust Law Journal

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ILLUSIONS OF DOMINANCE: REVISITING THE MARKET-POWER ASSUMPTION IN PLATFORM ECOSYSTEMS
Legislators and regulators in the United States, European Union, People's Republic of China, United Kingdom, and other jurisdictions have adopted or advocated historically significant changes to antitrust and competition law as applied in the digital economy. Much of the business and general press, which play an influential role in impacting public sentiment, has welcomed these steps. These changes would place (and, in the case of China and the EU, have already placed) much of the digital economy under a regime of preemptive rules, effectively substituting the conventional regime of ex post fact-intensive, case-by-case adjudication with a regulatory regime comprising a wide array of ex ante antitrust violations, often without requiring evidence of competitive harm. This effectively places substantial portions of the digital economy-including the platforms that often act as the coordinating hub of digital technology and content ecosystems-under a standing regime of regulatory investigation, enforcement, or waiver.

COMPETITION AND RISK
U.S. antitrust enforcement agencies have overlooked a significant competition harm: increasing risk. By risk, I mean the expected value of harm to third parties stemming from an unexpected supply or demand shock. Mergers can increase risk (and reduce resilience) both directly to merging parties' trading partners and to society as a whole. By reducing competition, mergers can influence the odds and importance of key disruptions such as prescription-drug and hospital-bed shortages, transportation stoppages, and curtailed credit. There is now powerful evidence that negative shocks to individual firms can harm their trading partners and cascade through society more broadly. But until recently, the agencies ignored risk effects in merger review entirely.

AMAZON PRIVATE BRANDS: SELF-PREFERENCING VERSUS TRADITIONAL RETAILING
Amazon's retail operation is, in many ways, structured like that of a traditional brick-and-mortar retail chain. It manages a digital platform for the sale to consumers of branded consumer goods manufactured by third-party firms. In recent years, Amazon has followed the example of countless western retailers by launching its own private label (PL) products that compete against branded products in various consumer goods categories.
However, Amazon's PL programs have recently been under intense scrutiny by competition authorities in the United States and Europe. Specifically, competition authorities have expressed concerns that Amazon has access to consumer behavior data, including data on users' web browsing and purchases of national brands (NBs). This data allegedly gives Amazon an unfair advantage in developing and selling PL products that compete with third-party brands. Since Amazon also manages the digital retail platform, its marketing of PLs is perceived as a form of self-preferencing.

ANALYSIS OF PLATFORM VERTICAL CONTRACTS: PRICE VERSUS THE COMPETITIVE PROCESS IN AMERICAN EXPRESS
The continuing debate surrounding the Supreme Court's 2018 landmark decision in Ohio v. American Express Co. (Amex) indicates that a great deal of uncertainty remains regarding how the anticompetitive effects of platform vertical contracts should be analyzed. Much of this debate concerns what particular price increase should be used to evaluate the alleged anticompetitive impact of the American Express (Amex) contract provisions that forbid merchants from "steering" their customers to another credit card at the point of sale. The dissent focused on evidence it claims demonstrates that these contractual restraints increase merchant fees, arguing that both antitrust precedent and

economic analysis imply that this result is sufficient evidence of anticompetitive effects caused by the antisteering restraints.

MARKET POWER, NOT CONSUMER WELFARE: A RETURN TO THE FOUNDATIONS OF MERGER LAW
Congress enacted the Clayton Act in 1914, the Celler-Kefauver Act in 1950, and the Hart-Scott-Rodino Act in 1976 to retard the trend toward corporate consolidation that prevailed in those eras. Section 7 of the Clayton Act prohibits mergers and acquisitions where "the effect of such acquisition may be substantially to lessen competition, or to tend to create a monopoly." While the language is open to interpretation, it plainly does not say that mergers that may substantially lessen competition or tend to create a monopoly are nevertheless permitted if they advance efficiency or lower prices.

CROSS-MARKET HOSPITAL MERGERS: ASSESSING LIKELY HARM AND IMPLICATIONS FOR GOVERNMENT ACTION
Roughly half of all hospital mergers in the United States involve hospitals located far enough apart that, from an antitrust perspective, they would be viewed as competing in separate geographic markets. Such mergers are commonly referred to as "cross-market" mergers. The antitrust agencies, principally the Federal Trade Commission and the Antitrust Division of the Department of Justice, have repeatedly considered whether such mergers are likely to reduce competition but have opted not to challenge them in almost all instances.

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