



Konkurrenceretlig Nyhedsoversigt nr. 84 / dækkende 21. august 2023 - 21. september 2023

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1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

Godkendelse på baggrund af en forenklet sagsbehandling af Basalt Infrastructure Partners' erhvervelse af enekontrol over Reconor Holding.

Fusionen gennemføres ved, at Basalt via datterselskabet Loop BidCo ApS erhverver alle kapitalandelene i Reconor.

Basalt er internationale kapitalfonde, der med et transatlantisk fokus investerer i mellemstore infrastrukturvirksomheder inden for transport, energi og forsyning. Andre fonde rådgivet af Basalt Infrastructure Partners LLP har porteføljevirkksomheder, der har aktiviteter i Danmark. Disse aktiviteter omfatter kollektiv transport via selskabet Nobina A/S, reparationer af Unit Load Devices (transportkasser som anvendes i luftfartsindustrien) via selskabet Unilode Aviation Solutions Denmark ApS og fastnet, bredbånd, mobil og datacenter ydelser via selskabet Manx Telecom.

Reconor leverer – bl.a. via datterselskaberne Norrecco A/S, City Container A/S, City Container Fyn A/S og City Container Jylland A/S – løsninger inden for indsamling, transport, håndtering og opcycling af bygge- og anlægsaffald, erhvervs- og industriaffald samt jordhåndtering og drift af egne jordgenvindingsprojekter.

[Læs mere](#)

Dato: 18.9.2023

Godkendelse på baggrund af en forenklet sagsbehandling af Wicotec Kirkebjerg A/S' erhvervelse af enekontrol over aktiviteterne i MD Rustfri I/S.

Som led i transaktionen erhverver Wicotec Kirkebjerg 100 pct. af aktierne i MD Rustfri A/S, og i den forbindelse sælges alle aktiviteter fra MD Rustfri I/S til MD Rustfri A/S. Som følge af Transaktionen erhverver Wicotec Kirkebjerg derved enekontrol over MD Rustfri I/S' aktiviteter igennem opnåelse af ejerskab af 100 pct. af MD Rustfri A/S, jf. konkurrencelovens § 12 a, stk. 1, nr. 2.

MD Rustfri I/S er en virksomhed baseret i Østsjælland og med speciale inden for design, produktion og montering af rørsystemer og tanke i rustfrit stål til procesanlæg til medicinal-, kemi- og fødevarerbranchen. MD Rustfri I/S fremstiller rør, fittings og komplette rørsystemer i alle dimensioner til procesanlæg. Derudover tilbyder MD Rustfri I/S konstruktion og fremstilling af tanke af en størrelse på op til 10.000 liter i rustfrit stål.

Wicotec Kirkebjerg er en landsdækkende teknikentreprenør og service-partner med fokus på markederne byggeri, industri og infrastruktur og med kernekompetencer inden for el, VVS, ventilation og anlæg. Wicotec Kirkebjerg ejer blandt andet datterselskabet Holmskov Rustfri A/S, der fremstiller rørføringer til vand, varme, fødevarer og miljøsektoren, samt konstruktioner af rustfrit stål og leverer rørsystemer og procesanlæg af rustfrit stål. Wicotec Kirkebjerg er en del af Per Aarsleff-koncernen, som er en dansk entreprenørkoncern med flere specialiserede forretningsenheder inden for infrastruktur, klimatilpasning, miljø, energi og byggeri.

[Læs mere](#)

Dato: 12.9.2023

Godkendelse på baggrund af en forenklet sagsbehandling af Jyske Bank A/S' erhvervelse af enekontrol over PFA Bank A/S.

Transaktionen finder sted ved en aktieoverdragelse, hvor Jyske Bank A/S erhverver 100 pct. af aktierne i PFA Bank A/S. Efter transaktionen vil Jyske Bank A/S have enekontrol over PFA Bank A/S.

Jyske Bank A/S er et børsnoteret aktieselskab med hovedsæde i Silkeborg i Jylland. Jyske Bank har aktuelt 96 afdelinger fordelt over hele Danmark. Jyske Banks primære forretning består i (i) at tilbyde full-service banking løsninger til private, (ii) at tilbyde full-service corporate banking-løsninger til erhvervsdrivende, (iii) at formidle realkredit- og realkreditlignende lån og (iv) at formidle pensions- og forsikringsløsninger. Jyske Bank-koncernen omfatter desuden en række datterselskaber i Danmark, hvor Jyske Realkredit A/S (realkreditinstitut) og Jyske Finans A/S (finansielle leasing-kontrakter og finansiering, herunder særligt bilfinansiering) er de væsentligste.



PFA Bank A/S er et datterselskab i PFA-koncernen. PFA Banks primære aktivitet består i at yde kunde- og investeringsrådgivning til private- og erhvervs kunder, herunder distribution af Investeringsforeningen PFA Invest og tilbud til kunderne om relevante banking løsninger i forhold til dette.

[Læs mere](#)

Dato: 1.9.2023

Godkendelse på baggrund af en forenklet sagsbehandling af Jakon A/S erhvervelse af enekontrol over A/S Julius Nielsen & Søn.

Med fusionen vil Jakon A/S erhverve 90 pct. af aktierne i Julius Nielsen & Søn og derved opnå enekontrol over denne. Administrerende direktør i A/S Julius Nielsen & Søn, Søren Thunø Hansen, vil efter fusionen eje 10 pct. af aktierne i A/S Julius Nielsen & Søn.

A/S Julius Nielsen & Søn er en tømrervirksomhed, der udfører entrepriser, herunder hovedentrepriser, storentrepriser og fagentrepriser inden for tømrervirksomhed. A/S Julius Nielsen & Søn driver derudover værksted i form af renovering af møbler og fremstilling af specialprodukter. Endeligt udfører A/S Julius Nielsen & Søn service igennem rammeaftaler på tømrer- og snedkerarbejde.

Jakon A/S er en entreprenør virksomhed, der udfører hovedentrepriser, storentrepriser og fagentrepriser inden for alle former for håndværk og inden for alle former for byggeri, bortset fra boligbyggeri. Herudover driver Jakon A/S snedkerværksted samt udfører drift og service i form af reparationer og vedligeholdelse af bygningsdele samt mindre byggerier som nybygning, ombygning og tilbygning. Jakon A/S ejer selskaberne JJI Akustik & Inventar A/S, Malerflex Industrielakering ApS, Lafuco A/S, SKANDI-BO A/S og Holsbjergvej 42 ApS. Herudover er PETERSEN HOLDING ApS, der er delvis ejer af Jakon A/S, også delvis ejer af SP Mobile ApS, som køber og sælger biler, og JK Interior Group Sales ApS, som er et ejendomsselskab, der udlejer et erhvervslejemål.

[Læs mere](#)

Dato: 30.8.2023

Godkendelse på baggrund af en forenklet sagsbehandling af Danoffice IT Aps' erhvervelse af enekontrol over Conecto A/S.

Ved transaktionen erhverver Agilitas Private Equity LLP ("Agilitas"), via Danoffice IT ApS ("Danoffice"), 100 pct. af aktiekapitalen i Conecto A/S ("Conecto"). Agilitas erhverver dermed enekontrol over Conecto A/S.

Conecto leverer IT-konsulent ydelser, IT-tjenester og standard softwareprodukter inden for Cloud-baserede IT-løsninger og Cloud Transformation, hybride arbejdspladser, digitalisering i sundhedssektoren og inden for IT-sikkerhed. Conecto sælger også IT-udstyr.

Danoffice er en global forhandler af hardware og software, der er specialiseret i salg af IT-udstyr til internationale nødhjælpsorganisationer med aktiviteter på tværs af landegrænser. Danoffice sælger også IT-udstyr og dertilhørende IT-tjenester til større og mellemstore virksomheder i Danmark.

Agilitas er britisk kapitalfond med fokus på investeringer i mellemstore virksomheder, som har investeret i ni porteføljeselskaber. Af disse porteføljeselskaber har tre selskaber, Danoffice, Aeven A/S og Cibicom, aktiviteter inden for IT-området i Danmark. Aeven A/S leverer IT-tjenester i form af (i) infrastructure implementering og managed services, (ii) application implementation og managed services og (iii) infrastructure as a service (IaaS) og (iv) hardware support. Cibicom leverer IT-tjenester i form af drift og service af infrastruktur.

[Læs mere](#)

Dato: 30.8.2023

Godkendelse på baggrund af en forenklet sagsbehandling af PHM Danmarks ApS' erhvervelse af enekontrol over Vækst og Miljø A/S.

Fusionen finder sted ved en aktieoverdragelse, hvor PHM Danmark ApS erhverver 100 pct. af aktierne i Vækst og Miljø A/S. PHM Danmark ApS erhverver herved enekontrol over Vækst og Miljø A/S.

Vækst og Miljø A/S er en dansk anlægsgartner virksomhed, som tilbyder ydelser vedrørende nyanlæg og vedligeholdelse af grønne arealer, brolægger- og entreprenørarbejde, asfaltering samt saltning, snerydning og ejendomsservice. Vækst og Miljø A/S har to lokationer i henholdsvis Slagelse og Odense. Vækst & Miljø A/S opererer på det danske marked, og udbyder sine primære tjenester på Sjælland og Fyn.



PHM Danmark ApS indgår i koncernen PHM Group, som har aktiviteter i Finland, Sverige, Norge, Danmark og Tyskland. PHM Danmark ApS har aktiviteter vedrørende økonomistyring, ejendomsdrift, ejendomsadministration, rengøring, transport, mindre anlægsarbejder og renovering, elektriker-, VVS-, og ventilationsarbejde, have og vedligehold samt snerydning. PHM Danmark ApS er aktiv via en række datterselskaber, herunder Tip Top Ejendomsservice ApS, Daseko ApS, Sundby Rengørings Service ApS, OK Rengøring A/S, KRS ApS, WA ApS, Ejendomsvirke A/S, HN Service ApS, Altiren A/S, Alt i Polering ApS, Grindsted vinduesservice ApS og Saniservice ApS. PHM Danmark ApS har sine primære aktiviteter på Sjælland.

[Læs mere](#)

Dato: 28.8.2023

Godkendelse på baggrund af en forenklet sagsbehandling af Nordic Wood Industries A/S' erhvervelse af Scandi Byg A/S' aktiviteter.

Fusionen gennemføres ved, at Nordic Wood Industries A/S, gennem datterselskaberne Sky 2022 A/S og Sky 2023 ApS, erhverver aktiviteterne i Scandi Byg A/S, herunder alle Scandi Bygs aktiver (immaterielle anlægsaktiver, materielle anlægsaktiver, igangværende arbejder, varelager, deposita, goodwill og andre aktiver der er nødvendige for at kunne drive virksomheden), Scandi Bygs ordrebeholdning samt Scandi Bygs medarbejdere på overtagelsestidspunktet.

Nordic Wood Industries-koncernen er inden transaktionen aktiv inden for salg af træbaserede byggematerialer og byggematerialekomponenter så som spær, limtræ, træbaserede væg- og tagelementer og papirisolering gennem selskaberne Lilleheden A/S, Roust Elementer A/S, Palsgaard Spær A/S og Papirisolering Holding. Produkterne sælges gennem byggemarkeder og direkte til entreprenører. Nordic Wood Industries-koncernen har produktion og salg i Danmark og Tyskland og har tillige eksport til Norge, UK og Sverige.

Scandi Byg A/S er aktiv inden for produktion og opførelse af modulbyggeri. Scandi Byg A/S bygger primært som totalentreprenør og hovedentreprenør og indgår typisk i et tæt samarbejde med bygherre, arkitekter og andre rådgivere om udviklingen af et projekt. Herudover producerer og sælger Scandi Byg A/S bygningsmoduler i form af skurvogne og pavilloner.

[Læs mere](#)

Dato: 28.8.2023

Godkendelse på baggrund af en forenklet sagsbehandling af Twoday Holding Denmark ApS' køb af RelateIT Holding A/S.

RelateIT er en dansk IT-virksomhed, der leverer ERP-løsninger (Enterprise Resource Planning) og løsninger til IT-infrastrukturer, heriblandt vha. IT-løsningerne Continia, Microsoft Dynamics NAV, Microsoft Power BI, Jet Reports mfl.

Twoday er en international virksomhed, der leverer forretningskritiske IT-løsninger i Norden, herunder softwareudvikling, data- og analyseløsninger, konsulentytelser og skræddersyede applikationer til både den private og den offentlige sektor.

[Læs mere](#)

Dato: 24.8.2023

Nyt fra Konkurrencerådet

REMA 1000 Danmark A/S' erhvervelse af dele af ALDI Danmark ApS.

Konkurrencerådet har godkendt, at Rema 1000 Danmark A/S overtager 114 butikker, syv butikprojekter, tre distributionscentre, fem ejendomme, medarbejdere og operationelt inventar fra Aldi Danmark ApS.

Godkendelsen sker, efter at Rema 1000 har givet tilsagn om at frasælge butikker i nogle få lokalområder. Konkurrence- og Forbrugerstyrelsen har haft betænkeligheder ved, om fusionen ville skade konkurrencen om dagligvareindkøb i nogle lokalområder. Rema 1000's tilsagn om at frasælge butikker fjerner konkurrencemyndighedernes betænkeligheder, og derfor godkender Konkurrencerådet fusionen.

Konkurrence- og Forbrugerstyrelsen er også i færd med at behandle en fusionssag, hvor Salling Group overtager 13 Aldi-butikker (syv åbne og seks lukkede) samt otte Aldi-butiksprojekter.

[Læs mere](#)

Dato: 30.8.2023



Nyt fra Konkurrenceankenævnet

Intet nyt.

Nyt fra domstolene

Civilretlige afgørelser

Intet nyt.

Afgørelser om bøder

Intet nyt.

Lovforslag i høring

Intet nyt.

Ny lovgivning

Intet nyt.

Nyt fra Ankestyrelsen

Intet nyt.

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust

Intet nyt.

Cartels

Intet nyt.

Mergers

Intet nyt.

State Aid

Commission approves €800 million Czech scheme to support companies facing increased energy costs in the context of Russia's war against Ukraine.

The European Commission has approved an approximately €800 million (CZK 19 billion) Czech scheme to support companies affected by increased energy costs in the context of Russia's war against Ukraine. The scheme was approved under the State aid Temporary Crisis and Transition Framework, adopted by the Commission on 9 March 2023 to support measures in sectors which are key to accelerate the green transition and reduce fuel dependencies. The new Framework amends and prolongs in part the Temporary Crisis Framework, adopted on 23 March 2022 to enable



Member States to support the economy in the context of the current geopolitical crisis, already amended on 20 July 2022 and on 28 October 2022.

The measure will be open to large companies in all sectors. Under the scheme, the aid will take the form of direct grants to cover the additional costs due to exceptional price increases of natural gas and electricity recorded in the eligible period, specifically from 1 January 2023 to 31 December 2023, compared to the period from 1 January 2021 to 31 December 2021.

The beneficiaries will be entitled to aid as soon as the market prices for natural gas and electricity go above the maximum prices set by the scheme (approximately €210/MWh (CZK 5,000/MWh) for natural gas and €105/MWh (CZK 2,500/MWh) for electricity). The aid amount will correspond to the difference between the maximum prices set by the scheme and the market prices during the year 2023, subject to the application of the maximum aid amounts laid down in the Temporary Crisis and Transition Framework.

[Læs mere](#)

Dato: 23.8.2023

Andet

Market Study on Competition in Online Payment Services.

The object of this procurement is a study. The main objective of the study is to assist the Commission in enforcing competition law in online payments services and to identify tools helping to prevent this market from tipping in the future in favour of Big Tech or incumbents. The study will examine the main online payment methods (various types of mobile wallets, instant payments, cards, payment initiation service providers) and analyse likely scenarios regarding the use of traditional cards for online payments compared to digital wallets and direct bank transfers. The rapid evolution of payment methods for online payments requires up-to-date knowledge about the technical aspects of the new payment methods and access to data describing the sector evolution. Data needs to be systematically collected and organised. In this context, an external contractor would be better placed to cover these tasks.

[Læs mere](#)

Dato: 28.6.2023

Nyt fra EU-domstolen

Domme

[T-525/20](#) - TD og Danske Fragtmand mod Kommissionen.

Statsstøtte – postsektoren og vejgodstransport – klage indgivet af en konkurrent – kapitaltilførsel ydet af en offentlig virksomhed til sit datterselskab – afgørelse, hvorved det ved afslutningen af den foreløbige undersøgelsesfase fastslås, at der ikke foreligger statsstøtte – koncerns moderselskab, som to medlemsstater kontrollerer sammen – koncernens moderselskabs godkendelse af kapitaltilførslen – tilregning til staten.

Kommissionens afgørelse C(2020) 3006 final af 12. maj 2020 vedrørende statsstøtte SA.52489 (2018/FC) – Danmark og SA.52658 – Sverige – Angivelig statsstøtte til PostNord Logistics annulleres, for så vidt som det efter den foreløbige undersøgelsesfase heri blev fastslået, at kapitaltilførslen til PostNord Logistics A/S, som godkendt af PostNord AB den 11. december 2018, ikke udgjorde statsstøtte.

I øvrigt frifindes Europa-Kommissionen.

ITD, Brancheorganisation for den danske vejgodstransport og Danske Fragtmand A/S bærer hver halvdelen af deres egne omkostninger, idet Kommissionen betaler den øvrige del af disse omkostninger.

Kommissionen, Kongeriget Danmark, Kongeriget Sverige, Jørgen Jensen Distribution A/S, Specialforeningen for Logistik og Distribution (SLD), PostNord Group AB og PostNord Logistics bærer hver deres egne omkostninger.

[Læs mere](#)

Dato: 13.9.2023

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

Appel – statsstøtte – luftfartssektoren – driftsstøtte, som Forbundsrepublikken Tyskland har ydet Frankfurt-Hahn lufthavn – artikel 108 TEUF – afgørelse om ikke at indlede den formelle undersøgelsesprocedure – annullationssøgsmål – interesseret part – beskyttelse af processuelle rettigheder.



Det Juridiske Fakultet

Den Europæiske Unions Rets dom af 19. maj 2021, Deutsche Lufthansa mod Kommissionen (T-218/18, EU:T:2021:282), ophæves.

Sagen hjemvises til Retten.

Afgørelsen om sagsomkostningerne udsættes.

[Læs mere](#)

Dato: 14.9.2023

C-508/21 P - Kommissionen mod Dansk Erhverv.

Appel – statsstøtte – artikel 107, stk. 1, TEUF – salg af drikkevarer i dåser til personer bosat i Kongeriget Danmark – salg uden pant på betingelse af, at de købte drikkevarer eksporteres – ingen pålæggelse af bøde – begrebet »statsstøtte« – begrebet »statsmidler« – afgørelse, hvorved det erklæres, at der ikke foreligger støtte – annullationssøgsmål.

Sagerne C-508/21 P og C-509/21 P forenes med henblik på dommen.

Den Europæiske Unions Rets dom af 9. juni 2021, Dansk Erhverv mod Kommissionen (T-47/19, EU:T:2021:331), ophæves.

Europa-Kommissionen frifindes i det af Dansk Erhverv anlagte annullationssøgsmål ved Retten.

Det er ufornuddent at træffe afgørelse om appellen i sag C-508/21 P.

Dansk Erhverv tilpligtes at betale de af Interessengemeinschaft der Grenzhändler (IGG) og Kommissionen afholdte sagsomkostninger i første instans og i forbindelse med appellerne.

[Læs mere](#)

Dato: 14.9.2023

Forslag til afgørelse

Intet nyt.

Kendelse

Intet nyt.

Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

AI Foundation Models: Initial Report. Af Competition and Markets Authority (CMA).

This report sets out the technical detail of how Foundation Models (FMs) work, what is required to develop them and how they can be used in a range of products and services. The report goes on to consider the likely competition and consumer protection issues that could arise from the use of AI under three themes:

1. Theme one – competition in the development of FMs;
2. Theme two – the impact of FMs on competition in other markets; and
3. Theme three – consumer protection.

[Læs mere](#)

Dato: 18.9.2023



3 | LITTERATUR (DK)

Artikler fra UfR

U.2023B.210 - Det konkurrenceretlige kartelbegreb i strafferetlig belysning.

Af lektor, ph.d. Christian Bergqvist, Juridisk Fakultet, Københavns Universitet.

Karteller kan være yderst skadelige for konkurrencen og anses derfor som de groveste overtrædelser af konkurrencereglerne. Siden 2013 har deltagelse i karteller kunnet straffes med fængsel, men afgrænsningen af begrebet er kun indirekte defineret. Artiklen påpeger, at der i tiltalepraksis, måske pga. uklarhed i teori og praksis, hersker en vis usikkerhed om, hvad der reelt udgør et kartel, og søger derfor kartelbegrebet defineret med særlig fokus på, hvad der ikke bør omfattes.

[Læs mere](#)

Dato: 13.9.2023

Nye publikationer fra Erhvervsministeriet

Intet nyt.

Artikler fra Juristen

Intet nyt.

Artikler fra Erhvervsjuridisk Tidsskrift

Intet nyt.

Artikler fra Revision og Regnskabsvæsen

Intet nyt.

Artikler fra EU og Menneskeret

Intet nyt.

Konkurrenceretlige emner

Intet nyt.

Anden dansk og nordisk litteratur

Europarättslig tidsskrift nr. 3 2023

- **Loyalty Rebates and the Role of the As Efficient Competitor Test under Article 102 TFEU.** Af Samuel Bjernerup.
- **EU merger control at a crossroads – CK Telecoms as an Opportunity to Clarify the SIEC Test of Unilateral Effects.** Af Iiris Tuohimaa.
- **Reimagining the Law on Alcoholic Goods in Sweden.** Af Graham Butler.



4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Issue 10, volume 44 2023

No data, no abuse: the lesson from Intel's "more economic approach". Af Dr Matthew Cole.

Considers how the EU's "Intel saga" has changed the conditional rebates regime. Discusses the main case law, the problems of the current data-dependant approach of Intel Corp Inc v European Commission (T-286/09 RENV) (GC), and how the impending appeal offers a chance to clarify the position.

Beyond Cuno: EU state aid vs US subsidies regulation from a quantitative perspective. Af Alexandros Lymperopoulos.

Compares, using a quantitative data analysis, the approach of the EU state aid regime with the US policy of laissez-faire subsidies regulation. Reviews their strengths and weaknesses, argues that their expenditures are comparable, and suggests how the two systems could learn from one another.

Sham litigation as abuse of dominance in relation to intellectual property rights and antitrust: cross-jurisdictional historical analysis, recent case law, and critique. Af Héctor Pérez.

Discusses US rulings which formulated the approach to cases combining breaches of both intellectual property and competition law and involved meritless litigation to harass competitors (sham litigation). Explains how they influenced the Spanish Competition Authority ruling in Merck Sharp & Dohme SA.

The future of digital mergers in a post-DMA world. Af Viktoria H.S.E. Robertson.

Discusses the potential impact of Regulation 2022/1925 (Digital Markets Act) on digital merger control, highlighting the current position, the context of additional obligations imposed on gatekeepers by art.14 to notify the Commission of prospective mergers, and the wider implications of the duty.

Algorithms, digital markets, collusion and antitrust frameworks in Latin America. Af Zia Akhtar.

Examines the digital use of algorithms in South America, the associated dangers of collusion and price fixing, the challenges these present for national competition authorities, and the need to ensure effective antitrust frameworks are in place to address the problems of artificial intelligence.

The European Commission proposal for a regulation on standard essential patents. Af Riccardo Tremolada.

Evaluates key features of the Commission's Proposal for a Regulation on standard-essential patents (SEPs), including creation of an EU-wide register for SEPs, essentiality checks for SEPs, the negotiation of fair reasonable and non-discriminatory terms and determination of aggregate royalties.

Australia: anti-competitive practices - restrictive business practices (Case Comment). Af Dr Sven Gallasch.

Notes Federal Court litigation by the Australian Competition and Consumer Commission against Ashton Raggatt McDougall (ARM) Pty Ltd and its former managing director for anti-competitive practices involving attempted bid rigging. Details the conduct involved, and the penalties imposed.

Belgium: mergers - merger control. Af Peter Wytinck.

Notes a July 2023 press statement by the Belgian Competition Authority (BCA), confirming that merger transactions involving hospitals from the same hospital network were not exempt from its scrutiny. Details the relevant turnover thresholds for such scrutiny, and the BCA's enforcement priorities.

Canada: mergers - merger control (Case Comment). Af Kaeleigh Kuzma.

Notes the Canadian Competition Bureau ruling in Superior Plus Corp / Certarus Ltd, approving a merger in the heating fuels sector subject to a consent agreement involving key divestitures to address competition concerns. Summarises the divestitures involved.

Czech Republic: anti-competitive practices - legislation (Legislative Comment). Af Tomáš Fiala.

Notes Czech reforms to the Competition Act, strengthening national competition authority powers by transposing provisions of Directive 2019/1 (ECN Plus Directive) into national law. Details changes including increased whistleblower protection, wiretap authorisations, and an extended leniency period.

**EU: anti-competitive practices - judgment - abuse of dominance (Case Comment) Af Prof. Bruce Wardhaugh.**

Comments on Towercast SASU v Autorite de la concurrence (C-449/21) (ECJ) on whether Regulation 139/2004 art.21(1) prevented a national competition authority from assessing whether a concentration with no EU dimension and which fell below the national notification threshold was an abuse of dominance.

Finland: mergers - merger control. Af Maarit Taurula.

Notes the open hearing procedure launched by the Finnish Competition and Consumer Authority to give stakeholders a chance to express their views on competitive effects of notified mergers. Details key features of the procedure, and the general time period in which statements should be submitted.

Finland: procurement - competitive tendering. Af Maarit Taurula.

Notes the publication by the Finnish Ministry of Finance and the Association of Finnish Municipalities of working guidance to help procurement bodies to identify and combat grey economy activities such as collusion and bid rigging. Details examples of the type of conduct that may indicate a cartel.

France: competition - draft legislation - regulation of digital space. Af Emmanuel Reille.

Notes the French Competition Authority's May 2023 publication of its analysis of draft French legislation designed to regulate the digital space, including cloud computing. Details key recommendations, such as ensuring that interoperability measures be co-ordinated with impending data legislation.

Ireland: mergers - merger control - decision (Case Comment) Af Dr Vincent J.G. Power SC.

Notes the Irish Competition and Consumer Protection Commission's clearance in Pdraig Thornton Waste Disposal Ltd (t/a Thorntons Recycling) / Carducci Holdings DAC of a waste collection sector acquisition, subject to divestments. Highlights issues relating to the sector and phase 2 investigations.

Netherlands: competition - legislation (Legislative Comment). Af Jotte Mulder.

Notes the June 2023 commencement of Dutch legislation on the scrutiny of foreign direct investments, mergers and acquisitions that may threaten national security. Reviews the background to the legislation, its scope, its retrospective application and key features of the notification procedure.

South Africa: competition - African Continental Free Trade Area (Legislative Comment). Af Lizél Blignaut.

Notes the African Union's publication of a Competition Protocol to the Agreement Establishing the African Continental Free Trade Area. Reviews its aims, including to create an integrated African competition regime, and the range of competition law activities it regulates, such as mergers.

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

Notes the Spanish Supreme Court decisions in Bar Association of Madrid, Bar Association of Las Palmas and Bar Association of Guadalajara, upholding fines imposed for publishing criteria concerning the setting of litigation costs found to constitute a prohibited collective recommendation on pricing.

Spain: foreign direct investment – legislation. Af Pedro Callol.

Notes Spain's implementation of Royal Decree 571/2023, effective 1 September 2023, introducing a foreign direct investment screening regime for non-EU companies. Details its key provisions, including clarification of the meaning of "sensitive industries", and its main exemptions.

Spain: anti-competitive practices - investigation - abuse of dominance. Af Pedro Callol.

Notes the Spanish National Competition and Markets Commission's adoption of interim measures pending completion of its investigation, or Ecoembalajes Espana SA's launch of an electronic auction system, into alleged abuse of dominance through lack of transparency and publicity of waste auctions.

Sweden: anti-competitive practices - infringement (Case Comment). Af Stefan Perván Lindeborg.

Notes the Swedish Competition Authority ruling in Frigoscandia AB / Norrmejerier Ekonomisk, fining a company in the temperature-controlled transport sector SEK 7 million for anti-competitive conduct, including market sharing. Details the mitigating factors considered when reducing the original fine.

**Turkiye: mergers - merger control (Case Comment). Af Dr Gönenç Gürkaynak, Esq.**

Notes the Turkish Competition Board ruling in CBK Soft Yazılım Donanım Elektronik ve Bilgisayar Sistemleri Sanayi Ticaret AS / Iron Mountain Inc, unconditionally approving a merger in the software and electronic document management sectors. Details key features of the investigation.

US: mergers - reform proposal. Af Anthony P. Badaracco.

Notes US proposals to reform the merger control reporting process under the Hart-Scott-Rodino Antitrust Improvements Act 1976. Details the main amendments to the disclosure requirements and the implications for merging parties, highlighting the possible date from which the reforms may take effect.

Issue 9, volume 44, 2023**Pay-for-delay is (almost) dead: long live the - not so novel - abuse of patent procedure and disparagement. Af Mark Jephcott.**

Reviews EU case law on disparagement and abuse of patent procedure in the pharmaceutical sector, highlighting the relevant legal framework, the apparent ending of the focus on pay for delay infringements, and the principles likely to shape the Commission's future policy in the area.

Too big to fail and antitrust law. Af Dr Lukas Rengier.

Examines, from an EU and German perspective, the competition law impact of economically motivated government bail-outs of major companies ("too big to fail"). Discusses the scope of such guarantees, their competitive advantages in merger control, and whether unbundling offers a potential solution.

Effective enforcement of the European Commission's decisions under antitrust law - a survey-based analysis. Af Dr Helene Hayden.

Examines, with reference to a European Central Bank survey, Commission decisions on enforcement of fines and pecuniary obligations under TFEU art.299. Reviews the enforcement requirements, how Member States interpret and implement relevant EU law, and gaps in the regulatory protection.

Highlights and remaining issues of the amendment to China's anti-monopoly law. Af Xiaoye Wang.

Reviews key features of China's Anti-Monopoly Law 2022, including its clarification of competition policy's fundamental status, its measures to combat monopolies in the digital economy, its strengthened penalties, and its safe harbour provisions. Identifies three remaining problems to be addressed.

Austria: anti-competitive practices - infringement (Case Comment). Af Melanie Gassler-Tischlinger.

Notes the Austrian Federal Competition Authority's settlement of proceedings against Sudzucker AG, imposing a fine of EUR 4.2 million for sharing the market for distribution of industrial sugar. Reviews the German and Austrian sugar cartel litigation, raising the issue of double jeopardy.

Belgium: competition - foreign direct investment. Af Peter Wytinck.

Notes Belgium's July 2023 introduction of a screening mechanism for foreign direct investments, based on Regulation 2019/452, together with accompanying draft guidelines. Discusses the mechanism's scope, its potential retrospective application and the role of the Interfederal Screening Commission.

Bulgaria: anti-competitive practices - infringement (Case Comment). Af Anton Dinev.

Notes the ruling of the Bulgarian Commission for Protection of Competition in Lukoil Bulgaria EOOD, imposing a fine of over EUR 33 million on a Russian-owned wholesale distributor of motor fuel for anti-competitive practices involving an abusive market squeeze. Highlights dissenting comments.

Canada: anti-competitive practices - restrictive business practices. Af Kaeleigh Kuzma.

Notes the Canadian Competition Bureau's May 2023 publication of "Enforcement Guidelines on Wage-Fixing and No Poaching Agreements", detailing its likely approach to enforcing relevant criminal provisions of the Competition Act s.45. Highlights the scope of the offences.

Croatia: anti-competitive practices – investigation. Af Melita Carević.

Notes the Croatian Competition Agency's launch of several investigations into anti-competitive practices, including an alleged price fixing cartel by the Chamber of Architects, and alleged discriminatory pricing in the wholesale market for cookies and chocolate.

**Czech Republic: mergers - merger control - decision (Case Comment). Af Tomáš Fiala.**

Notes the Czech Competition Office decision in Ceska posta sp / Prvni novinova spolecnost as, prohibiting an acquisition which would result in a dominant position in the national printed item delivery market. Highlights the rarity of such blocking decisions and the potential for appeal.

Denmark: anti-competitive practices - judgment (Case Comment). Af Jens Munk Plum.

Notes the Danish Eastern High Court ruling in AFA JCDecaux A/S v Danish Competition Council on whether advertising agencies pursued restrictive practices involving price control agreements, and giving guidance on whether infringement by parallel conduct continued after termination of the agreements.

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

Notes the Estonian Competition Authority ruling in Tallinn Airport AS on whether a significant increase in airport fees by the country's largest international airport was justified, or constituted excessive pricing and abuse of a dominant position.

France: anti-competitive practices - decision (Case Comment). Af Emmanuel Reille.

Notes the French Competition Authority ruling in Meta, issuing interim measures against an online advertiser for alleged abuse of dominance involving denial of partnership access to a third party ad verification services provider. Details the transparent access procedure ordered by the Authority.

Germany - competition - section 19a of the Act Against Restraints of Competition (Case Comment). Af Oliver Haas.

Notes the German Federal Cartel Office ruling in Apple Inc, adding Apple to the large digital operators subject to the provisions of the Act Against Restraints of Competition s.19a which aims to control extended abuse of a dominant position. Details the approach to the "paramount significance" test.

Latvia: anti-competitive practices - infringement (Case Comment). Af Ivo Maskalāns.

Notes the Latvian Competition Authority ruling of 1 June 2023, imposing fines totalling over EUR 4.4 million on three road construction companies for participation in a bid rigging cartel. Details the settlement reached with the Authority by two of the companies.

Poland: anti-competitive practices - legislation (Legislative Comment). Af Prof. Agata Jurkowska-Gomułka.

Notes Poland's implementation of a revised vertical block exemption regulation, which took effect on 1 June 2023, and corresponds to the provisions of Regulation 2022/720. Details how it differs from the previous regime, including its approach to dual distribution, and the scope of its exemptions.

Portugal: mergers - merger control (Case Comment). Af Rodrigo Pacheco Bettencourt.

Notes a Portuguese Supreme Court of Justice ruling, confirming the annulment of the Portuguese Competition Authority decision in MidSid / 3D Assets, a non-opposition decision on a merger in the wholesale and retail tobacco product market, on the basis that the PCA's appeal was inadmissible.

Portugal: anti-competitive practices – investigation. Af Rodrigo Pacheco Bettencourt.

Notes a May 2023 statement of objections issued by the Portuguese Competition Authority, accusing Dietmed, a supplier of supplements and health foods, of restrictive business practices involving allegedly hindering the company's distributors from setting resale prices independently.

Portugal: anti-competitive practices - judgment (Case Comment). Af Rodrigo Pacheco Bettencourt.

Notes the Portuguese Constitutional Court ruling in MEO (Altice Group) v Portuguese Competition Authority, finding electronic evidence obtained in a dawn raid on a telecommunications operator suspected of cartel activities was inadmissible, as it was obtained without prior judicial authorisation.

Slovenia: competition and mergers - draft legislation (Legislative Comment). Af Eva Škufca.

Notes Slovenian proposals to amend the Slovenian Competition Protection Act by incorporating provisions of EU law including Regulation 2022/1925 (Digital Markets Act), and revising the merger control and antitrust procedures. Highlights the deadline for commenting on the proposals.

South Africa: anti-competitive practices - decision of Competition Tribunal (Case Comment). Af Ryan Goodman.

Notes a South African Competition Tribunal ruling giving guidance on the extraterritorial application of provisions of South Africa's Competition Act 1998 in respect of foreign banks whose conduct has an effect within the jurisdiction. Details the connecting factors to be considered in such cases.

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

Notes the Spanish National Competition and Markets Commission ruling in KKR INCEPTION BIDCO SLU / IVI-RMA GLOBAL SL, clearing, subject to commitments, a merger in the healthcare sector for assisted reproduction treatments. Details the relevant commitments, including the divestitures involved.

Spain: anti-competitive practices – investigation. Af Pedro Callol.

Notes the Spanish National Competition and Markets Commission's closure of its investigation of the skin care laboratory Isdin SA for alleged anti-competitive practices involving resale price maintenance. Details the commitments offered by the company to address competition concerns.

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

Notes a Swedish Patent and Market Court decision of 5 June 2023 on whether a municipality's setting of rent for its student accommodation constituted predatory pricing, considering that its costs exceeded its profits in four out of six years and the availability of a public interest defence.

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

Notes the Turkish Competition Board ruling in Micro Focus International Plc / Open Text UK Holding Ltd, unconditionally approving a merger in the software technology sector. Details key features of the investigation, including the Board's assessment of potential horizontal market overlaps.

United Kingdom: mergers - merger control. Af Farhan Shahid.

Notes Microsoft's May 2023 launch of an appeal against a Competition and Markets Authority decision to reject its commitments and block its proposed acquisition of Activision Blizzard in the video gaming sector. Details the EU and US positions.

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 Competition Policy Brief

Intet nyt.

Artikler fra Competition Merger Brief

Intet nyt.

Artikler fra Journal of European Competition Law and Practice

Volume 14, Issue 5, July 2023

Acquisition of Joint Control and Art. 3(4) EUMR: Why the European Commission Should Stop Ignoring Austria Asphalt. Af Daniel von Brevern og Maximilian-Philipp Schöps.

Key Points:

- The Court of Justice of the European Union ruled in the *Austria Asphalt*-decision that the acquisition of joint control only qualifies as a concentration under the European Merger Regulation if it results in the creation of a full-function joint venture.
- The court did not distinguish between joint control acquired from an existing shareholder and joint control acquired from a third party.



- The European Commission, however, does make this distinction and does not apply the *Austria Asphalt*-decision to the acquisition of joint control over a company previously owned by a third party.

Assessing the Use of the State Aid Covid Temporary Framework with Regard to the Healthcare and Media Sector. Af Penelope Giosa.

Key Points:

- Although Covid-19 was a sanitary crisis, the vast majority of aid schemes under the State Aid Temporary Framework were granted to restore the liquidity of companies affected by Covid-19.
- Only few state aid measures regarded public health issues and these dealt mainly with coronavirus-related research and development activities, as well as with the production of Covid-19-related products.
- Only six state aid schemes contributed to a real investment in quality public health services with the potential to boost the national health systems also after the pandemic.
- It appears that some governments which granted aid schemes to the media sector under the State Aid Temporary Framework used this soft law instrument as a 'smokescreen' to restore the public trust in them and serve particular political interests.

A Steady Course Towards the Effects-Based Approach: Case C-377/20 Servizio Elettrico Nazionale. Af Assimakis Komninos.

Judgment of 12 May 2022, Servizio Elettrico Nazionale, Case C-377/20, EU:C:2022:379. In response to abstract preliminary reference questions, the Court grapples with foundational issues of Article 102 TFEU, especially the meaning of abuse and how it is established.

The European Commission Must Always Take a Final Position on the Classification as State Aid: Case T-469/20 Netherlands v Commission. Af Massimo Merola og Alessandro Cogoni.

Judgment of 16 November 2022, Netherlands v European Commission, Case T-469/20, EU:T:2022:713. The European Commission can only assess the compatibility of a given measure with the internal market if has preliminarily ascertained that the measure falls within the scope of Art. 107(1) TFEU as State aid.

National Development Antitrust Enforcement against Tech Companies in Italy: Novel Developments and Implications. Af Mario Todino og Niccolò Colombo.

Key Points:

- The ICA has dramatically expanded its antitrust enforcement activities in the IT space.
- In the recent investigations conducted against Google, Amazon, and Apple in 2021, the ICA has further stretched the fashionable theories of harm the EU Commission has been lately enforcing against tech companies, with far-reaching implications both from the substantive and procedural standpoint.
- This article briefly reviews these decisions and the underlying theories of harm as well as discusses their wider ramifications in terms of enforcement fragmentation across the EU.

The Latest Developments in UK Class Actions: A Review of Decisions in Forex, Meta, Trucks, and Other Recent Case Law. Af Caroline Thomas, Helen Fairhead, Gabrielle Martin og Emilia Radley.

Key Points:

- Despite a slow start to the UK collective actions regime, the decision of the Supreme Court in *Merricks* prompted a flurry of applications to certify claims.
- Recent case law suggests that the bar to certification has slowly started to rise partly as a result of the Competition Appeal Tribunal's (CAT) approach to the *Pro-Sys* test in *Meta*.
- The Court of Appeal is also seeking to steer the collective actions regime, including the CAT's broad discretion to grant certification.
- The CAT's application of the 'broad axe' in *Trucks* may nonetheless encourage claimants to seek higher damages in follow-on competition cases.

How to Apply the Self-Preferencing Prohibition in the DMA. Af Martin Peitz.

Key Points:

- When applying Art 6(5) Digital Markets Act, the European Commission must make a judgment on the meaning and scope of self-preferencing and has a discretionary power as to which possible/potential violations of the prohibition it will examine at all.
- The prohibition is applicable both on the end user and the business user side; self-preferencing may be direct or indirect.



- The application of Article 6(5) could be restricted to the design of rankings as a non-price strategy (which does not preclude the possibility that a third party has to make a payment to be ranked).

Important 2021 Developments in the Field of EU Competition Procedure. Af Pedro Caro de Sousa.

Key Points:

- 2021 saw developments regarding EU competition law procedure in antitrust matters on a variety of topics.
- The European courts have clarified matters regarding competence to apply competition law, limitation periods, leniency, investigations, settlements, rights of defence and the presumption of innocence, and even *ne bis in idem*.
- Particularly interesting developments include the clarification on the consequences of applicants losing the benefit of leniency programmes for one's place in the leniency 'queue' and the contents of the competition file; of the impact of settlement decisions on the presumption of innocence of non-settling parties; and of the principles governing *ne bis in idem* in competition matters, particularly in light of related decisions issued by sectoral regulators.

Artikler fra World Competition

Volume 46, Issue 3, 2023

Big Data Requests: The Commission's Powers to Collect Documents in Investigations Under Articles 101 and 102 TFEU. Af Michael J. Frese.

Access to company documents is critical for European Commission ('Commission') investigations, but complying with document requests can be a daunting task for a company. The Commission's powers are expansive but not unlimited. Understanding the limits of mandatory document productions can help manage enforcement risk. This article discusses the Commission's powers to collect and use company documents in the context of Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), taking into account recent EU case.

The Decriminalization of Cartel Activity in Kuwait: A Regulatory Framework. Af Khaled S. Al-Rashidi.

The Kuwaiti policymaker has never overlooked the protection of market competition. Anticompetitive practices have always been a concern in Kuwait; from the Kuwaiti Constitution 1962, which allows a legal monopoly for a certain time, and the Commercial Law Act 68/1980, to the Competition Protection Acts (CPA) of 2007 and 2020. However, the legislative responses to anticompetitive behaviours in Kuwait have varied, with criminal prohibition being historically dominant. Recently, with the introduction of the CPA 2020, Kuwait has decriminalized cartel activity. Although it may have been expected that the criminal nature of cartel activity should have been maintained, the major shift in Kuwait was contrary to the global trend towards criminalization. Cartel activity is now being dealt with within a regulatory framework, with only administrative sanctions. This paper suggests that the decriminalization in Kuwait weakens the argument that the global trend towards criminalizing cartel activity has always been driven by a top-down process. This paper has three aims: the first is to explore this inadvertently 'neglected' research area in Kuwait; the second is to discuss why cartel activity has been decriminalized, with a focus on the problem of 'moral ambiguity' as an explanation; and the third is to argue for the re-criminalization of cartel activity.

Collective or Collusive Agreements? Af Ciara Denihan.

The world of work, and indeed the Treaty itself, has changed considerably since the Court first examined the issue of competition law and collective bargaining agreements in the Albany decision. Exempting only those categorised as employees from the scope of Article 101 is no longer adequate to address the imbalance of bargaining power recognised by the Court. Although recognition of the 'false self-employed' in FNV went some way towards acknowledging the atypical position of some workers, confusion also stemmed from this intermediary category, which led to inconsistent approaches across Member States. The combination of the COVID-19 pandemic, the increased digitisation of the world of work, and a prominent decision at international level finally prompted the Commission to take action to remedy the uncertainty, by introducing Guidelines on the application of Article 101 to collective agreements regarding the working conditions of solo self-employed persons. The purpose of this paper is thus to critically analyse the likely effectiveness of these Guidelines, focusing on their substance and form respectively, while also exploring potential avenues for the Commission and the Court to provide increased legal certainty for solo self-employed persons seeking to collectively bargain, against the backdrop of an increasingly social understanding of the Treaties.

Role of Appellate Forums in Competition Cases of Pakistan: Challenges and Way Forward. Af Sayyeda Fatima.

Judicial forums are the means to achieve the most pivotal goal of maintaining check and balance according to the theory of separation of powers. The judiciary has the power to supervise the legislative and executive branches of the



government. The judgments by the courts/appellate forums are vital as they prevent attempts by the competition authorities to abuse their powers when prosecuting wrongdoers and force the competition authorities to conduct more rigorous investigations to prevent legal challenges. In Pakistan certain challenges need to be addressed in order to strengthen the implementation of competition law. There is a need to establish a jurisprudence of competition law. The judgments of courts/appellate forums can set useful precedents. However, the dysfunctional status of the appeal court since the establishment of the Competition Commission of Pakistan (CCP), judges' lack of experience in the area of competition law and certain other aspects need to be focused on in order to firm up competition law in Pakistan.

This article intends to review the different forums of appeal available in Pakistan competition regime, eligibility criteria for filing an appeal, procedures of appellate forums, rules governing the procedure and powers of appellate forums. It aims to discuss the importance of judicial protection, the enforcement challenges of Pakistan competition jurisdiction and the suggestions for improvement.

Book Review: Regulation 1/2003 and EU Antitrust Enforcement: A Systematic Guide Kris Dekeyser, Céline Gauer, Johannes Laitenberger, Nils Wahl, Wouter Wils & Luca Prete (Alphen aan den Rijn: Wolters Kluwer 2023). Af Florian Wagner-von Papp.

Artikler fra Antitrust Law Journal

Intet nyt.

Artikler fra Antitrust Bulletin

Intet nyt.

Artikler fra Competition Law and Policy Debate

Intet nyt.

Artikler fra Competition Law Scholars Forum

Intet nyt.

Artikler fra Journal of Regulatory Economics

Volume 64, Issue 1-3, December 2023.

A re-examination of the foundations of the cost of capital for regulatory purposes. Af Darryl Biggar.

In regulatory proceedings, few issues are more hotly debated than the cost of capital. This article seeks to formalise the theoretical foundation of cost of capital estimation for regulatory purposes. We find that several common regulatory practices lack a solid foundation in the theory. For example, the common practice of estimating a single cost of capital for the regulated firm suffers from a circularity problem, in that the estimate of the cost of capital depends on the regulated revenue allowance which, in turn, depends on the cost of capital. This problem is especially severe in the context of a multi-year regulatory period. We also show that, in the context of a multi-year regulatory period the cost of capital cannot be expressed as a weighted average of the cost of equity and the cost of debt. In addition, the relevant cost of debt cannot normally be estimated using the yield-to-maturity on a corporate bond. We suggest possible directions for reform of cost of capital practices in regulatory proceedings.

Co-operative investment by downstream rivals: network sharing in telecom markets. Af Øystein Foros, Bjørn Hansen og Thibaud Vergé.

Ever-increasing data consumption and evolving technologies make cooperation on investments and network sharing crucial issues in mobile telecommunications markets. In this paper, we analyze incentives for cooperation and investment in product quality. Generalizing quality investment in a Hotelling duopoly model, we allow investment to have heterogeneous effects on consumers' changing demand responsiveness to prices. If the effect of investment on demand elasticity is weak, consumer surplus and total welfare are higher when firms are prevented from cooperating on quality investment. Otherwise, firms should be allowed to jointly decide on quality improvements and share these improvements as long as they compete in the downstream markets.

**Measuring regulatory errors from environmental policy uncertainty. Af Ana Espinola-Arredondo, Felix Munoz-Garcia og Dolores Garrido.**

We examine an environmental policy which may be revisited by a new administration. We allow for pollution to be persistent over time and for uncertainty in next period's environmental policy. When pollution is non-persistent, we show that regulatory uncertainty is inconsequential for output, pollution, or emission fees. However, when pollution is persistent, we find that a more likely reelection of a stringent administration has the unintended (positive) consequence of reducing current pollution. We also measure the inefficiencies stemming from ignoring pollution persistence and from policy uncertainty, identifying in which contexts they are severe or negligible.

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

Intet nyt.

Artikler fra Communications Law

Intet nyt.

Artikler fra Computer and Telecommunications Law Review

Issue 7, volume 29, 2023

Standard essential patents (SEPs): do they work for smaller businesses? Af Janet Strath.

Summarises a UK Intellectual Property Office survey of small and medium-sized enterprises about their experiences of the standardisation and licensing of standard-essential patents, and suggestions for reform.

The legal system and electronic evidence: an early discussion, the case of Julie Amero and need for educating the legal profession: Part 3. Af Stephen Mason.

This, the third part of a multi-part article, discusses the US judgment in Connecticut v Amero on electronic evidence in criminal proceedings, commenting on apparent unfairness in the way the prosecution presented the evidence.

Drax v Wipro: a narrow escape - software services provider entitled to rely on single aggregate liability cap (Case Comment). Af Helen Armstrong.

Comments on Drax Energy Solutions Ltd v Wipro Ltd (T&CC) on the interpretation of a limitation of liability clause in a master services agreement to design and implement an Oracle-based IT system.

The operation of Nigerian copyright laws in cyberspace. Af Tochukwu Onyiuke.

Discusses the need for reform to Nigerian copyright law to combat online infringement more effectively.

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

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

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

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



Artikler fra Global Competition Litigation Review

Issue 3, volume 16, 2023

A suggested approach for arbitrators in complex competition/antitrust disputes. Af Richard C. Levin.

Discusses the arbitrability of international competition cases, and examines whether to include arbitration agreements in distribution agreements, licences and joint ventures because the flexibility of arbitration makes it the best way to resolve any disputes arising.

Recent European Union and United States legislation regarding Big Technology and competition. Af Heidi M. Siltan, Craig S. Davis og Kira Q. Le.

Considers Regulation 2022/1925 (Digital Markets Act) and US Merger Filing Fee Modernization Act 2022 on the regulation of competition by large internet companies, looking at their functions as gatekeepers, their involvement in mergers, and private enforcement actions.

The binding effect of infringement decisions of national competition authorities: the Repsol ruling of the Court of Justice of the European Union. Af Francesco Rizzuto.

Discusses Repsol Comercial de Productos Petroliferos (C-25/21) (ECJ) on the legally binding status of national competition authorities' infringement decisions, under Directive 2014/104 (Damages Directive) art.9 and the principle of effectiveness.

Application improvements of China's abuse of dominance provisions in the digital era: an observation on the "choosing one from two" jurisprudence. Af Dr Jing Wang.

Reviews Chinese case law on abuse of dominant position by online intermediaries which stipulate an exclusive dealing requirement for traders on their platforms.

Competition public policy and arbitration - love at "second look": German Federal Court permits a full review of arbitral awards if competition public policy is at stake (Case Comment). Af Stefan Dobrijević.

Comments on the German judgment in Bundesgerichtshof (Constantia Forst GmbH v Vogelsberger Basaltwerk GmbH & Co KG) (KZB 75/21) on review of arbitral awards in competition cases on the basis of violation of public policy.

Reimbursement of costs under procedural law and requirement for estimation of damages according to Traficos Manuel Ferrer (Case Comment). Af Prof. Dr Christian Kersting.

Comments on Traficos Manuel Ferrer SL v Daimler AG (C-312/21) (ECJ) on claims for cartel damages, costs awards if part of a claim is dismissed, and the estimation of damages if it would be excessively difficult to quantify damages exactly, taking into account the possibility of disclosure.

Denmark: Eastern High Court appoints expert witness despite disagreement (Case Comment). Af Jens Munk Plum.

Comments on the Danish High Court decision in Loomis v Nokas, an abuse of dominant position dispute, to appoint an expert witness to assess costs despite the other party's objections that the witness was not impartial.

Germany: disclosure of evidence pursuant to article 5 of the Damages Directive: German Federal Supreme Court sets low standards for claimants (Case Comment). Af Volker Soyez.

Comments on the German judgment in Bundesgerichtshof (Deutsche Bahn AG) on disclosure of evidence in private abuse of dominance proceedings, on condition that the claimant had established the probability of a claim for damages.

CAS Award finds that FIFA Football Agents Regulations 2022 are compatible with Arts 101 and 102 TFEU. Af Gordon Blanke.

Comments on a Court of Arbitration for Sport three-member tribunal award in Professional Football Agents Association (PROFAA) v. FIFA that the provision in the FIFA Football Agents Regulations 2022, which imposed service fee caps on agent services, did not infringe and was therefore compatible with TFEU arts 101 and 102.

Andre udenlandske artikler

Intet nyt.



5 | NYT FRA KONKURRENCEGRUPPEN

U.2023B.210 - Det konkurrenceretlige kartelbegreb i strafferetlig belysning.

Af lektor, ph.d. Christian Bergqvist, Juridisk Fakultet, Københavns Universitet.

Karteller kan være yderst skadelige for konkurrencen og anses derfor som de groveste overtrædelser af konkurrencereglerne. Siden 2013 har deltagelse i karteller kunnet straffes med fængsel, men afgrænsningen af begrebet er kun indirekte defineret. Artiklen påpeger, at der i tiltalepraksis, måske pga. uklarhed i teori og praksis, hersker en vis usikkerhed om, hvad der reelt udgør et kartel, og søger derfor kartelbegrebet defineret med særlig fokus på, hvad der ikke bør omfattes.

[Læs mere](#)

Dato: 13.9.2023