



Konkurrenceretlig Nyhedsoversigt nr. 93 / dækkende 18. juni 2024 – 25. juli 2024

Indhold

1. Dansk ret

- Nyt fra Konkurrence- og Forbrugerstyrelsen
- Nyt fra Konkurrencerådet
- Nyt fra Konkurrenceankenævnet
- Nye afgørelser fra domstolene
- Lovforslag i høring
- Ny lovgivning
- Nyt fra Ankestyrelsen
- Andet

2. Europæisk og international ret

- Nyt fra Kommissionen
- Kommisionsafgørelser
- Nyt fra EU-domstolene
- Andet internationalt nyt

3. Litteratur (DK)

- Artikler fra Ugeskrift for Retsvæsen
- Nye publikationer fra Erhvervsministeriet
- Artikler fra Juristen
- Artikler fra Erhvervsjuridisk Tidsskrift
- Artikler fra Revision & Regnskabsvæsen
- Artikler fra EU-ret og Menneskeret
- Konkurrenceretlige emner
- Anden dansk/nordisk litteratur

4. Litteratur (UK)

- European Competition Law Review
- European Competition Journal

- Journal of Competition Law and Economics
- Journal of Antitrust Enforcement
- Journal of European Competition Law and Practice
- World Competition
- Antitrust Law Journal
- The Antitrust Bulletin (US Journal)
- Competition Law & Policy Debate
- Competition Law Scholars Forum
- Journal of Regulatory Economics
- International Review of Law and Economics
- Competition Law Journal
- European Competition and Regulatory Law Review
- Communications Law
- Computer and Telecommunications Law Review
- Global Competition Litigation Review
- Market and Competition Law Review
- Andre udenlandske artikler

5. Nyt fra konkurrencegruppen



1 | DANSK RET

Nyt fra Konkurrence- og Forbrugerstyrelsen

Godkendelse på baggrund af en forenklet sagsbehandling af Aeven A/S' indgåelse af en Business Transfer Agreement med KMD A/S.

Transaktionen omhandler indgåelsen af BTA'en mellem Aeven og KMD, hvorved Aeven vil opnå enekontrol over fem af KMD's eksisterende kundekontrakter samt en datacenterejendom beliggende i Skovlunde fra KMD.

[Læs mere](#)

Dato: 15/07/2024

Godkendelse på baggrund af en forenklet sagsbehandling af Surf Bidco AS' erhvervelse af enekontrol over Serwent Holding AS.

Ved transaktionen erhverver Norvestor gennem Surf Bidco 100% af ejerandelene i Serwent. Transaktionen er herved erhvervelsen af enekontrol over Serwent.

[Læs mere](#)

Dato: 04/07/2024

Godkendelse på baggrund af en forenklet sagsbehandling af Norsk Gjenvinning Norge AS' erhvervelse af enekontrol over P. Olesen og Sønner A/S, P. Olesen Materiel A/S og P. Olesen Ejendom A/S.

Transaktionen indebærer, at NGN gennem sit helejede selskab, Nordic Demolition AS, erhverver enekontrol med alle aktierne i P. Olesen fra Jenanko Holding ApS.

[Læs mere](#)

Dato: 03/07/2024

Godkendelse på baggrund af en forenklet sagsbehandling af PHM Danmark ApS' erhvervelse af enekontrol over DEAS A/S.

Fusionen gennemføres som en aktieoverdragelse. Ved fusionen erhverver PHM Danmark 100 pct. af aktierne i DEAS, og erhverver dermed enekontrol over DEAS.

[Læs mere](#)

Dato: 01/07/2024

Sydbank A/S' erhvervelse af enekontrol over Coop Bank A/S.

Konkurrence- og Forbrugerstyrelsen har godkendt, at Sydbank A/S overtager Coop Bank A/S. Fusionen er godkendt efter en såkaldt forenklet procedure, som konkurrencemyndighederne benytter, når det hurtigt står klart, at der ikke er konkurrencemæssige betænkeligheder ved en fusion. Vurderingen er således baseret på informationen i fusionsanmeldelsen, styrelsens øvrige viden om de relevante markeder samt det forhold, at ingen har gjort indsigelser mod fusionen.

Coop Bank, der har hovedsæde i Albertslund, har ingen filialer. Den tilbyder blandt andet traditionelle bankydelser til omkring 88.000 privatkunder.

Sydbank, der har hovedsæde i Aabenraa, har 57 filialer i Danmark og Tyskland. Sydbank tilbyder ligeledes traditionelle bankydelser til private og formidler ligeledes realkreditlån gennem Totalkreditsamarbejdet, men har også erhvervskunder og er aktiv på flere finansielle markeder.

[Læs mere](#)

Dato: 27/06/2024

Godkendelse på baggrund af en forenklet sagsbehandling af Kirk Kapital Strategic Investments A/S' erhvervelse af enekontrol over DOT A/S.

Fusionen gennemføres som en aktieoverdragelse. Ved fusionen erhverver Kirk 100 pct. af aktierne i DOT og erhverver dermed enekontrol over DOT.

[Læs mere](#)



Dato: 20/06/2024

Nyt fra Konkurrencerådet

OK a.m.b.a.'s erhvervelse af Coop Danmark A/S.

Konkurrencerådet har godkendt, at OK overtager kontrollen over Coop Danmark. OK erhverver blandt andet 598 dagligvarebutikker, som drives under kædekoncepterne Kvickly, Superbrugsen, Brugsen og 365discount. Herudover overtager OK 160 OK-stationer, som Coop Danmark før fusionen ejer og driver.

Godkendelsen sker, efter at OK har afgivet tilsagn om at frasælge tankstationer i Høng, Otterup og Gedser og bortforpagte OK Plus-butikker i Sunds, Bording og Elling i forbindelse med fusionen. To af de OK Plus-butikker, der skal bortforpagtes, er allerede i dag bortforpagtet, men med mulighed for at OK kan opsige aftalen. Med tilsagnet forpligter OK sig til at indgå tre nye forpagtningsaftaler, som blandt andet skal være uopsigelige for OK i ti år.

Konkurrencerådet vurderer, at frasalget og bortforpagtningen medfører, at fusionen ikke vil hæmme den effektive konkurrence betydeligt i de områder, hvor fusionen muligvis kunne hæmme konkurrencen.

Da OK tidligt i processen tilbød at afgive tilsagn for at fjerne de potentielle konkurrencemæssige betænkeligheder, har det ikke været nødvendigt at undersøge fusionens betydning for konkurrencen i de berørte seks områder yderligere.

[Læs mere](#)

Dato: 26/06/2024

Nyt fra Konkurrenceankenævnet

Kendelse af 12. juni 2024 - Autobutler ApS mod Konkurrence- og Forbrugerstyrelsen (offentliggørelse af stillingsbetegnelser).

Konkurrenceankenævnet har stadfæstet Konkurrence- og Forbrugerstyrelsens afgørelse om offentliggørelse af oplysninger om stillingsbetegnelser på ledende medarbejdere i Konkurrencerådets afgørelse af 28. juni 2023, Faste priser på Autobutlers platform.

[Læs mere](#)

Dato: 12/06/2024

Nyt fra domstolene

Civilretlige afgørelser

Intet nyt.

Straffesager

Intet nyt.

Lovforslag i høring

Udkast til forslag til lov om bistand til Europa-Kommissionen i henhold til Europa-Parlamentets og Rådets forordning om udenlandske subsidier.

Formålet med lovforslaget er at tilvejebringe hjemmel til, at Konkurrence- og Forbrugerstyrelsen kan bistå Kommissionen i overensstemmelse med forordningen. Det foreslås, at Konkurrence- og Forbrugerstyrelsen kan gennemføre kontrolundersøgelser og anden informationsindsamling for at yde Europa-Kommissionen bistand med henblik på at fastslå, om der forekommer udenlandske subsidier tildelt af tredjelande.

[Læs mere](#)

Dato: 10/07/2024

Ny lovgivning

Intet nyt.



Nyt fra Ankestyrelsen

Intet nyt.

Andet

Intet nyt.

2 | EUROPÆISK OG INTERNATIONAL RET

Nyt fra Kommissionen

Antitrust & Cartels

Commission opens investigation into possible anticompetitive agreements in the online food delivery sector.

The European Commission has opened a formal antitrust investigation to assess whether Delivery Hero and Glovo have breached EU competition rules by participating in a cartel in the sector of online ordering and delivery of food, grocery and other daily consumer goods in the European Economic Area ('EEA').

Delivery Hero and Glovo are two of the largest food delivery companies in Europe. From July 2018, Delivery Hero held a minority share in Glovo, and in July 2022 it acquired its sole control.

The Commission is concerned that, before the takeover, Delivery Hero and Glovo may have allocated geographic markets and shared commercially sensitive information (e.g., on commercial strategies, prices, capacity, costs, product characteristics). The Commission is also concerned that the companies may have agreed not to poach each other's employees. These practices could have been facilitated by Delivery Hero's minority share in Glovo.

[Læs mere](#)

Dato: 23/07/2024

Commission accepts commitments by Vifor to address possible anticompetitive disparagement of iron medicine.

The European Commission has made commitments offered by Vifor legally binding under EU antitrust rules. The commitments address the Commission's competition concerns relating to Vifor's potential disparagement of Monofer, the closest - and potentially only – competitor of Vifor's flagship intravenous iron medicine in Europe, Ferinject.

The Commission preliminarily found that Vifor may be dominant in several national markets for the provision of intravenous iron medicines, namely in Austria, Finland, Germany, Ireland, Portugal, Romania, Spain, Sweden and the Netherlands.

The Commission is concerned that for many years, Vifor may have restricted competition in the above markets for intravenous iron treatment by disseminating potentially misleading information about the safety of Monofer, an iron deficiency treatment marketed by Vifor's closest competitor in Europe, Pharmacosmos. Vifor's messages, primarily targeting healthcare professionals, may have unduly hindered Monofer's uptake in the European Economic Area ('EEA'). They appear to be aimed at shielding Vifor's own blockbuster high-dose intravenous iron treatment medicine, Ferinject, from competition.

The Commission's preliminary view is that Vifor's conduct may have restricted competition in the market for intravenous iron treatment and potentially amount to an abuse of dominant position, in breach of Article 102 of the Treaty on the Functioning of the European Union ('TFEU').

[Læs mere](#)

Dato: 22/07/2024

Commission accepts commitments by Apple opening access to 'tap and go' technology on iPhones.

The European Commission has made commitments offered by Apple legally binding under EU antitrust rules. The commitments address the Commission's competition concerns relating to Apple's refusal to grant rivals access to a standard technology used for contactless payments with iPhones in stores ('Near-Field-Communication (NFC)' or 'tap and go').



Apple Pay is Apple's own mobile wallet used to allow iPhone users to pay with their devices in stores and online. Apple's iPhones run exclusively on Apple's operating system 'iOS'. Apple controls every aspect of its ecosystem, including access conditions for mobile wallet developers.

The Commission preliminarily found that Apple has significant market power in the market for smart mobile devices and a dominant position on the in-store mobile wallet market on iOS. Apple Pay is the only mobile wallet that may access the NFC hardware and software ('NFC input') on iOS to make payments in stores, as Apple does not make it available to third-party mobile wallet developers.

In its investigation, the Commission preliminarily concluded that Apple abused its dominant position by refusing to supply the NFC input on iOS to competing mobile wallet developers, while reserving such access only to Apple Pay. The Commission's preliminary view is that Apple's refusal excluded Apple Pay's rivals from the market and led to less innovation and choice for iPhone mobile wallets users.

[Læs mere](#)

Dato: 11/07/2024

Commission sends Statement of Objections to Microsoft over possibly abusive tying practices regarding Teams.

The European Commission has informed Microsoft of its preliminary view that Microsoft has breached EU antitrust rules by tying its communication and collaboration product Teams to its popular productivity applications included in its suites for businesses Office 365 and Microsoft 365.

Microsoft, based in the US, is a global technology company offering productivity and business software, cloud computing and personal computing. Teams is a cloud-based communication and collaboration tool. It offers functionalities such as messaging, calling, video meetings, and file sharing, and brings together Microsoft's and third-party workplace tools and other applications.

Suppliers of business application software, including Microsoft, are increasingly distributing this software as software as a service ('SaaS'), i.e., software hosted on cloud infrastructure of the supplier's choice. In principle, cloud computing enables new market players to offer SaaS solutions and customers to use various software from different providers. However, Microsoft has a suite-centric business model combining multiple types of software in a single offering. When Teams was launched, Microsoft included it in its widely used cloud-based productivity suites for business customers Office 365 and Microsoft 365.

[Læs mere](#)

Dato: 25/06/2024

Commission fines International Flavors & Fragrances €15.9 million for deleting WhatsApp messages during an antitrust inspection.

The European Commission has fined International Flavors & Fragrances Inc. and International Flavors & Fragrances IFF France SAS (together 'IFF') €15.9 million for obstructing a Commission inspection in 2023. The Commission found that during the inspection, a senior employee of IFF intentionally deleted WhatsApp messages exchanged with a competitor.

[Læs mere](#)

Dato: 24/06/2024

Commission carries out further unannounced antitrust inspections in tyres sector cartel investigation.

The European Commission is carrying out unannounced inspections at the premises of a consultancy firm in two Member States.

The Commission has concerns that the company may have violated EU antitrust rules that prohibit cartels and restrictive business practices (Article 101 of the Treaty on the Functioning of the European Union).

The inspections are conducted in the context of an investigation for which the Commission carried out inspections earlier in 2024. The Commission is concerned that the consultancy firm may have facilitated or instigated the suspected price coordination amongst tyre manufacturers, which allegedly also used public communications channels to collude.

[Læs mere](#)

Dato: 18/06/2024



Mergers

Commission clears proposed acquisition of stake in ITA Airways by Lufthansa, subject to conditions.

The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of joint control of ITA Airways ('ITA') by Deutsche Lufthansa AG ('Lufthansa') and the Italian Ministry of Economy and Finance ('MEF'). The approval is conditional upon full compliance with the remedies offered by Lufthansa and the MEF.

This decision follows an in-depth investigation of the proposed transaction, including the sending of a Statement of Objections. Lufthansa and ITA operate an extensive network of routes from their respective hubs in Austria, Belgium, Germany, Switzerland and Italy. Their operations are to a significant extent complementary as they operate from different hubs in Central Europe and Italy respectively. Lufthansa has joint ventures with United Airlines and Air Canada for transatlantic routes as well as with All Nippon Airways for routes to Japan. Whilst ITA is performing well today, ITA's long-term sustainability as a stand-alone carrier would have remained highly uncertain absent the transaction.

[Læs mere](#)

Dato: 03/07/2024

Commission clears acquisition of Viatris' over-the-counter business by Cooper, subject to conditions.

The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of the European over the counter ('OTC') business of Viatris Inc. ('Viatris') by Cooper Consumer Health S.A.S. ('Cooper'). The approval is conditional upon full compliance with the commitments offered by the parties.

Viatris' OTC European business includes a wide range pharmaceuticals products for personal hygiene. Cooper is ultimately owned by CVC Capital Partners SICAV-FIS S.A. ('CVC') and, together with several CVC portfolio companies, manufactures and distributes OTC, consumer health and consumer self-care products.

[Læs mere](#)

Dato: 26/06/2024

State Aid

Commission approves amendment to German State aid scheme to support deployment of Gigabit networks.

The European Commission has approved, under EU State aid rules, amendments to a State aid scheme to support the deployment of very high capacity broadband networks offering Gigabit speeds in Germany.

The scheme was originally approved in November 2020 and was set to expire on 31 December 2025. Following the amendment, the scheme will be prolonged until 31 December 2028, and the budget will be increased by €26 billion. In addition, various changes are introduced to the scheme to bring it in line with the 2023 Broadband Guidelines.

[Læs mere](#)

Dato: 23/07/2024

Commission opens in-depth State aid investigation into Belgian support for lifetime extension of two nuclear reactors.

The European Commission has opened an in-depth investigation to assess whether public support that Belgium plans to grant for the lifetime extension of two nuclear reactors (Doel 4 and Tihange 3) is in line with EU State aid rules.

[Læs mere](#)

Dato: 22/07/2024

Commission approves €122 million Lithuanian State aid measure to support AB Achema decarbonise its fertiliser production.

The European Commission has approved, under EU State aid rules, a €122 million Lithuanian measure to support AB Achema in decarbonising its fertiliser production processes. The measure will contribute to the achievement of the EU Hydrogen Strategy, the European Green Deal and the Green Deal Industrial Plan targets, while helping to end dependence on Russian fossil fuels in line with the REPowerEU Plan.

[Læs mere](#)

Dato: 12/07/2024

Commission approves €10.4 billion Dutch and French aid measures to provide liquidity support to the Air France-KLM Group during the coronavirus pandemic.

The European Commission has approved, under EU State aid rules, Dutch and French support measures of €10.4 billion in favour of the Air France-KLM Group. The two measures were initially approved on 4 May 2020 and on 13 July 2020 by



the Commission under the State aid COVID Temporary Framework, but these Commission decisions were subsequently annulled by the General Court on 20 December 2023 and 7 February 2024.

[Læs mere](#)

Dato: 10/07/2024

Commission opens in-depth State aid investigation into Slovak support to NAJPI for setting up a glass sand extraction site.

The European Commission has opened an in-depth investigation to assess whether public support granted to the Slovak company NAJPI a.s. ('NAJPI') for setting up a glass sand extraction site is in line with EU State aid rules.

The Commission's assessment started on the basis of a complaint alleging that NAJPI benefited from State aid incompatible with the internal market. In 2013, Slovakia had granted NAJPI €4.99 million in regional aid to support its investment in a glass sand extraction site in the Slovak region of Trnavský kraj, Západné Slovensko.

[Læs mere](#)

Dato: 09/07/2024

Commission clears Italian public support for Caremar ferry service.

The European Commission has concluded that the public service compensation granted from 1 January 2009 to 31 July 2012 to Caremar SpA ('Caremar') for the operation of ferry services in Italy is in line with EU State aid rules. The same applies to the compensation granted to Caremar under the public service contract concluded for the period between 16 July 2015 and 15 July 2024, after Caremar was acquired by the temporary association of companies SNAV/Rifim Srl ('SNAV/Rifim').

Following a series of complaints, the Commission launched in October 2011 an in-depth investigation into several public support measures in favour of companies of the former Tirrenia Group and their respective acquirers. In November 2012, the Commission extended the scope of this investigation to include additional measures.

[Læs mere](#)

Dato: 08/07/2024

Commission opens in-depth State aid investigation into €6 billion German support measure to recapitalise Lufthansa in the context of coronavirus pandemic.

The European Commission has opened an in-depth investigation to assess whether a German recapitalisation measure of €6 billion in favour of Deutsche Lufthansa AG ("Lufthansa") is in line with EU State aid rules. The measure was initially approved on 25 June 2020 by the Commission under the State aid COVID Temporary Framework, but subsequently annulled by the General Court on 10 May 2023. An appeal submitted by Lufthansa is still pending.

The aid aimed at restoring the balance sheet position and liquidity of Lufthansa in the exceptional situation caused by the coronavirus.

[Læs mere](#)

Dato: 08/07/2024

Commission approves €10.82 billion French State aid scheme to support offshore wind energy to foster the transition to a net-zero economy.

The European Commission has approved a €10.82 billion French scheme to support the deployment of offshore wind energy, which will help foster the transition towards a net-zero economy. The scheme was approved under the State aid Temporary Crisis and Transition Framework ('TCTF') adopted by the Commission on 9 March 2023 and amended on 20 November 2023 and on 2 May 2024.

[Læs mere](#)

Dato: 03/07/2024

Commission clears proposed acquisition of stake in ITA Airways by Lufthansa, subject to conditions.

The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of joint control of ITA Airways ('ITA') by Deutsche Lufthansa AG ('Lufthansa') and the Italian Ministry of Economy and Finance ('MEF'). The approval is conditional upon full compliance with the remedies offered by Lufthansa and the MEF.

This decision follows an in-depth investigation of the proposed transaction, including the sending of a Statement of Objections. Lufthansa and ITA operate an extensive network of routes from their respective hubs in Austria, Belgium, Germany, Switzerland and Italy. Their operations are to a significant extent complementary as they operate from different hubs in Central Europe and Italy respectively. Lufthansa has joint ventures with United Airlines and Air Canada for



transatlantic routes as well as with All Nippon Airways for routes to Japan. Whilst ITA is performing well today, ITA's long-term sustainability as a stand-alone carrier would have remained highly uncertain absent the transaction.

[Læs mere](#)

Dato: 03/07/2024

Commission approves €3 billion Swedish State aid scheme to support the roll-out of biogenic carbon dioxide capture and storage.

The European Commission has approved, under EU State aid rules, a €3 billion (SEK 36 billion) Swedish scheme to support carbon capture and storage ('CCS') aimed at reducing carbon dioxide ('CO₂') released during the combustion or processing of biomass ('biogenic CO₂'). The measure will contribute to the achievement of Sweden's climate targets and the EU's strategic objectives under the European Green Deal, in particular the 2050 climate neutrality goal.

[Læs mere](#)

Dato: 02/07/2024

Commission approves €25.51 million restructuring State aid for Bulgarian Posts.

The European Commission has approved, under EU State aid rules, Bulgaria's plans to grant postal operator Bulgarian Posts restructuring aid for up to €25.51 million (BGN 50 million). The measure will enable the company to restore its long-term viability while minimising competition distortions.

[Læs mere](#)

Dato: 02/07/2024

Commission launches targeted consultation on new procedure for access to justice in environmental matters in relation to State aid decisions.

In particular, the Commission is seeking feedback on the impact of the proposed procedure on investment decisions and project implementation by the business community, and more generally on the roll-out of EU policies. The targeted consultation will also gather information on the cost implications and administrative burden of the new procedure for businesses and Member States.

Under the envisaged new procedure, eligible members of the public, such as environmental non-governmental organisations, would be able to ask the Commission for an internal review of a State aid decision for alleged violations of EU environmental law. The eligible applicants would have a right of redress before the EU Courts. The new procedure will give due consideration to the special characteristics of State aid control and its effectiveness, including in terms of duration. It will consider notably the role State aid plays for the European Green Deal, as well as for ensuring economic and financial stability for the internal market in times of crisis.

The targeted consultation is addressed to the business community and the relevant public authorities dealing with State aid and environmental matters. They can submit their comments on the proposed new procedure by 6 September 2024.

[Læs mere](#)

Dato: 01/07/2024

Commission approves €1.3 billion restructuring State aid for airline SAS.

The European Commission has approved, under EU State aid rules, Denmark and Sweden's plans to grant Scandinavian Airlines System AB ('SAS') restructuring aid for up to €1.3 billion (SEK 15 billion). The measure will enable the company to restore its long-term viability while minimising competition distortions.

[Læs mere](#)

Dato: 28/06/2024

Commission approves €265 million Swedish State aid measure partly funded under Recovery and Resilience Facility to support H2GS's green steel plant.

The European Commission has approved, under EU State aid rules, a €265 million Swedish measure made available in part through the Recovery and Resilience Facility ('RRF') to support H2GS AB in setting up a large-scale green steel plant. The measure will contribute to the achievement of the EU Hydrogen Strategy, the European Green Deal and the Green Deal Industrial Plan targets, while helping to end dependence on Russian fossil fuels and accelerate the green transition, in line with the REPowerEU Plan.

[Læs mere](#)

Dato: 26/06/2024

**Commission approves €3 billion German State aid scheme to support the development of Hydrogen Core Network.**

The European Commission has approved, under EU State aid rules, an estimated €3 billion German scheme to support the construction of the Hydrogen Core Network ('HCN'). The measure will contribute to the achievement of the objectives of the EU Hydrogen Strategy and 'Fit for 55' package, by enabling the creation of hydrogen transmission infrastructure that is needed to foster the use of renewable hydrogen in industry and transport by 2030.

[Læs mere](#)

Dato: 21/06/2024

Commission finds special tax rules for public casinos operators in Germany to be incompatible State aid.

The European Commission has concluded that Germany's special tax schemes for public casinos operators are not in line with EU State aid rules. Germany must now recover the incompatible State aid, including interests, and abolish the tax schemes for the future.

Based on its in-depth investigation, the Commission found that the special tax schemes entail an economic advantage for the public casinos operators in the form of a potentially lower tax burden in comparison to the normal tax rules.

The Commission also found that, as a result of the design of the special tax rules, the advantage is not automatic, and it does not materialize in all tax years and for all operators. Therefore, it will be for the German authorities to determine whether or not an advantage was granted to the public casinos operators. According to the Commission's preliminary calculations, the recent reductions of the special taxes in certain States may have led to advantages for at least some of the operators active in those States.

[Læs mere](#)

Dato: 20/06/2024

Commission opens in-depth State aid investigation into Flemish support to land management associations.

The European Commission has opened an in-depth investigation to assess whether public support granted to Flemish land management associations between 2003 and 2018 is in line with EU State aid rules.

[Læs mere](#)

Dato: 20/06/2024

Commission invites comments on draft revised State aid rules for land and multimodal transport.

The European Commission has launched today a public consultation inviting all interested parties to comment on its draft rules for land and multimodal transport replacing the Guidelines on State aid for railway undertakings ('Railway Guidelines') as well as on its new Transport Block-Exemption Regulation ('TBER').

[Læs mere](#)

Dato: 18/06/2024

Commission approves €570 million Italian State aid scheme to reduce emissions in ports.

The European Commission has approved, under EU State aid rules, a €570 million Italian scheme to incentivise ships to use shore-side electricity when they are at berth in maritime ports. The measure contributes to reducing greenhouse gas emissions, air pollution and noise in line with the objectives of the European Green Deal.

[Læs mere](#)

Dato: 17/06/2024

Andet**Commission sends preliminary findings to Meta over its "Pay or Consent" model for breach of the Digital Markets Act.**

The Commission has informed Meta of its preliminary findings that its "pay or consent" advertising model fails to comply with the Digital Markets Act (DMA). In the Commission's preliminary view, this binary choice forces users to consent to the combination of their personal data and fails to provide them a less personalised but equivalent version of Meta's social networks.

[Læs mere](#)

Dato: 01/07/2024

DMA: Call for tenders for a study of interoperability tools in the digital single market.

The Digital Markets Act (the 'DMA'), in its endeavour to make digital markets fair and contestable, has horizontal interoperability in its toolkit to open up the digital ecosystems of designated gatekeepers. In this sense, Article 7 of the



DMA imposes an obligation on gatekeepers providing number-independent interpersonal communication services to offer interoperability to other providers of these services that request it, allowing for cross-communication between messaging services. Pursuant to Article 53(2) of the DMA the Commission shall evaluate whether the scope of Article 7 DMA may be extended to cover online social networking services as well.

Against this background, with this study the contractor will map out the technical challenges and solutions for ensuring horizontal interoperability between number-independent interpersonal communication services with a particular focus on evaluating the merits of a potential extension of this obligation to online social networking services. The study should therefore offer practical recommendations based on the latest developments in horizontal interoperability within the context of the implementation of the DMA.

[Læs mere](#)

Dato: 25/06/2024

Commission sends preliminary findings to Apple and opens additional non-compliance investigation against Apple.

The European Commission has informed Apple of its preliminary view that its App Store rules are in breach of the Digital Markets Act (DMA), as they prevent app developers from freely steering consumers to alternative channels for offers and content.

In addition, the Commission opened a new non-compliance procedure against Apple over concerns that its new contractual requirements for third-party app developers and app stores, including Apple's new "Core Technology Fee", fall short of ensuring effective compliance with Apple's obligations under the DMA.

[Læs mere](#)

Dato: 24/06/2024

Nyt fra EU-domstolen

Domme

[C-70/23 P](#) – Westfälische Drahtindustrie m.fl. mod Kommissionen.

Nøgleord: Appel – konkurrence – karteller – det europæiske marked for forspændingsstål – afgørelse om overtrædelse af artikel 101 TEUF og artikel 53 i aftalen om Det Europæiske Økonomiske Samarbejdsområde (EØS) – dom om delvis annullation af afgørelsen og om fastsættelse af en bøde på et beløb, som er identisk med beløbet for den oprindeligt pålagte bøde – modregning af de foreløbige betalinger – Europa-Kommissionens afgørelse om det endnu ubetalte beløb af bøden – forfaldsdato for en bøde, hvis størrelse er blevet fastsat af Unionens retsinstanser som led i deres udøvelse den fulde prøvelsesret.

Tvisten: Med deres appel har Westfälische Drahtindustrie GmbH (herefter »WDI«), Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG og Pampus Industriebeteiligung GmbH & Co. KG nedlagt påstand om ophævelse af Den Europæiske Unions Rets dom af 23. november 2022, Westfälische Drahtindustrie m.fl. mod Kommissionen (T-275/20, herefter »den appellerede dom«, EU:T:2022:723), hvorved Retten frifandt Kommissionen med hensyn til appellanternes principale påstand om for det første, at Europa-Kommissionens skrivelse af 2. marts 2020 (herefter »den omtvistede skrivelse«), hvorved Kommissionen krævede, at de betalte et beløb på 12 236 931,69 EUR, som ifølge denne institution svarede til det endnu ubetalte beløb af den bøde, som disse virksomheder var blevet pålagt den 30. september 2010, skulle annulleres, for det andet, at det skulle fastslås, at denne bøde blev fuldstændigt betalt den 17. oktober 2019 med betalingen af et beløb på 18 149 636,24 EUR, og for det tredje, at Kommissionen tilpligtedes at betale WDI et beløb på 1 633 085,17 EUR med tillæg af renter fra denne dato som følge af denne institutions ugrundede berigelse, samt appellanternes subsidære påstand om, at Kommissionen tilpligtedes at betale dem et beløb på 12 236 931,69 EUR, som var det beløb, som Kommissionen havde krævet af WDI, og et beløb svarende til det af denne institution for meget opkrævede beløb på 1 633 085,17 EUR med tillæg af renter fra den 17. oktober 2019, indtil der var sket endelig tilbagebetaling af det skyldige beløb.

Dom: Appellen forkastes. Westfälische Drahtindustrie GmbH, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG og Pampus Industriebeteiligung GmbH & Co. KG betaler sagsomkostningerne.

[Læs mere](#)

Dato: 04/07/2024

**C-632/22 – Volvo (Assignment au siège d'une filiale de la défenderesse).**

Nøgleord: Præjudiciel forelæggelse – samarbejde på det civil- og handelsretlige område – forordning (EF) nr. 1393/2007 – forkyndelse af retslige og udenretslige dokumenter – søgsmål med påstand om erstatning for skade forårsaget af en praksis, der er forbudt i henhold til artikel 101, stk. 1, TEUF og artikel 53 i aftalen om Det Europæiske Økonomiske Samarbejdsområde – forkyndelse af det indledende processkrift på sagsøgtes datterselskabs adresse – forkyndelsens gyldighed – Den Europæiske Unions charter om grundlæggende rettigheder – artikel 47 – ret til en effektiv domstolsbeskyttelse.

Tvisten: Denne anmodning er blevet indgivet i forbindelse med en tvist mellem Volvo AB og Transsaqui SL vedrørende den skade, som sidstnævnte har lidt som følge af en overtrædelse af artikel 101 TEUF og artikel 53 i aftalen om Det Europæiske Økonomiske Samarbejdsområde af 2. maj 1992 (EFT 1994, L 1, s. 3, herefter »EØS-aftalen«), som blev begået af flere lastbilproducenter, herunder Volvo.

Dom: Artikel 47 i Den Europæiske Unions charter om grundlæggende rettigheder og artikel 101 i traktaten om Den Europæiske Unions funktionsmåde, sammenholdt med Europa-Parlamentets og Rådets forordning (EF) nr. 1393/2007 af 13. november 2007 om forkyndelse i medlemsstaterne af retslige og udenretslige dokumenter i civile og kommercielle sager (forkyndelse af dokumenter) og om ophævelse af Rådets forordning (EF) nr. 1348/2000, skal fortolkes således, at et moderselskab, mod hvilket der er anlagt et søgsmål med påstand om erstatning for skade forårsaget af en overtrædelse af konkurrenceretten, ikke gyldigt er tilsagt, når forkyndelsen af det indledende processkrift er foretaget på adressen for dets datterselskab, som har hjemsted i den medlemsstat, hvor søgsmålet er blevet anlagt, selv om moderselskabet udgør en økonomisk enhed med dette datterselskab.

[Læs mere](#)

Dato: 11/07/2024

Forslag til afgørelse**C-258/23 – Imagens Médicas Integradas.**

Nøgleord: Præjudiciel forelæggelse – overtrædelse af konkurrencereglerne – en national konkurrencemyndigheds anvendelse af artikel 101 TEUF og 102 TEUF – beslaglæggelse af e-mails – påbud udstedt af det offentlige repræsentant – Den Europæiske Unions charter om grundlæggende rettigheder – artikel 7 – tilsidesættelse af retten til respekt for kommunikation.

Tvisten: I sine tre anmodninger om præjudiciel afgørelse, som er genstand for de foreliggende forenede sager, forelægger Tribunal da Concorrência, Regulação e Supervisão (ret i første instans i sager om konkurrence, regulering og tilsyn, Portugal) Domstolen tre præjudicielle spørgsmål vedrørende fortolkningen af artikel 7 i Den Europæiske Unions charter om grundlæggende rettigheder (herefter »chartret«). Disse spørgsmål forelægges i forbindelse med tre sager mellem IMI – Imagens Médicas Integradas SA (herefter »IMI«), en række selskaber i koncernen SIBS (herefter samlet »SIBS«) og Synlabhealth II SA (herefter »Synlabhealth«) (herefter samlet »sagsøgerne i hovedsagerne«) og Autoridade da Concorrência (konkurrencemyndighed, Portugal, herefter »konkurrencemyndigheden«) vedrørende lovligheden af en beslaglæggelse af e-mails hos medarbejdere ved sagsøgerne i hovedsagerne, som er foretaget ved kontrolundersøgelser i sidstnævntes lokaler i forbindelse med konkurrencemyndighedens undersøgelse af formodede overtrædelser af de portugisiske konkurrenceregler samt, afhængigt af sagen, artikel 101 TEUF eller 102 TEUF.

L. Medinas forslag til afgørelse: På baggrund af ovenstående betragtninger foreslår jeg Domstolen, at den besvarer det tredje præjudicielle spørgsmål fra Tribunal da Concorrência, Regulação e Supervisão (ret i første instans i sager om konkurrence, regulering og tilsyn, Portugal) i hver af de forenede sager C-258/23 – C-260/23 således: »Artikel 7 i Den Europæiske Unions charter om grundlæggende rettigheder skal fortolkes således, at denne bestemmelse ikke er til hinder for en lovgivning i en medlemsstat, hvorefter den nationale konkurrencemyndighed ved en kontrolundersøgelse i en virksomheds lokaler, som gennemføres i forbindelse med en undersøgelse for overtrædelse af artikel 101 TEUF eller 102 TEUF, foretager søgning i og beslaglæggelse af e-mails, hvis indhold har forbindelse med genstanden for kontrolundersøgelsen, uden at råde over en forudgående retskendelse, forudsat at der er fastsat en streng retlig ramme for denne myndigheds beføjelser og passende og tilstrækkelige garantier mod misbrug og vilkårlighed, bl.a. en fuldstændig efterfølgende domstolskontrol af de pågældende foranstaltninger.«

[Læs mere](#)

Dato: 20/06/2024

Kendelse

Intet nyt.



Andet nyt fra EU-domstolen

Intet nyt.

Andet internationalt nyt

The Role of Pharmacy Benefit Managers in Prescription Drug Markets.

Pharmacy Benefit Managers' (PBMs) role as intermediaries between drug manufacturers and health insurance providers should have made them, in theory, the best positioned entities to decrease the cost of prescription drugs. The three largest PBMs, CVS Caremark (Caremark), Cigna Express Scripts (Express Scripts), and UnitedHealth Group's Optum Rx (Optum Rx), control more than 80 percent of the market and are vertically integrated with health insurers, pharmacies, and providers. As large health care conglomerates, some have argued that these PBMs' vertical integration with insurers and pharmacies would better position them to improve patient access and decrease the cost of prescription drugs. Instead, the opposite has occurred: patients are seeing significantly higher costs with fewer choices and worse care.

Americans spend more today on prescription drugs than any other country, and prescription drug prices in the U.S. are more than double the cost of identical drugs in other high-income nations. In 2023, the U.S. health care system spent \$772.5 billion on prescription drugs, including \$307.8 billion on retail drugs. This mammoth spending is largely driven by a small number of high-cost products; brand name drugs accounted for 80 percent of prescription drug spending, despite the fact that 80 percent of prescriptions in the U.S. are for generic drugs. Additionally, the cost of specialty drugs, which accounted for 54 percent of spending in 2023,⁷ has increased more than 40 percent since 2016. Patient out-of-pocket costs for prescriptions were \$91 billion in 2023 alone. Higher drug utilization and new drugs are also contributing to higher costs, with Americans being prescribed more and paying for more prescription drugs.

This report describes the Committee on Oversight and Accountability's findings that PBMs inflate prescription drug costs and interfere with patient care for their own financial benefit.

[Læs mere](#)

Dato: 2024

Competition and profitability in the groceries sector.

The Competition and Markets Authority (CMA) set out an initial analysis of supermarket profitability in our July 2023 'Competition, choice and rising prices in groceries' report. At the time of that report, the price of food and some other groceries in the UK had risen sharply in the period since the COVID-19 pandemic, and this was adding pressure on household finances that were also being stretched by rising energy, road fuel, and housing costs.

Aggregate food price inflation has since fallen consistently, from a high of 19.1% in March 2023 to 1.5% in June 2024 (Figure 1.1). However, the level of food prices remains substantially elevated relative to average earnings, meaning that the average person would now be paying out a higher proportion of their income for the same basket of groceries.

[Læs mere](#)

Dato: 26/07/2024

ACM: use of algorithmic trading on the energy market has increased strongly.

The use of algorithms in energy trading on wholesale markets for electricity and natural gas has increased strongly. The energy transition is one of the drivers behind this growth. Energy generation using renewable energy sources is less predictable for traders. Algorithms help traders adjust their positions at the last minute. In addition, a growing number of pure algorithmic traders is active. These are market participants that do not operate power plants of their own or serve customers for the delivery of natural gas and electricity, but instead have a business model that is based on algorithmic trading. These are some of the conclusions of an exploratory market study conducted by the Netherlands Authority for Consumers and Markets (ACM) into algorithmic energy trading. In the study, ACM worked together with the Dutch Authority for the Financial Markets (AFM), since oversight over the use of algorithms in energy trading falls under the jurisdictions of both regulators. According to the market study, algorithmic trading can have positive effects on an efficient price-formation process and on market liquidity, but it also carries risks. The rules that traders on wholesale markets need to comply with if they use algorithms were recently tightened. ACM and the AFM will enforce strict compliance with these rules among businesses.

[Læs mere](#)

Dato: 17/07/2024

**Administrative Penalties: Statement of Policy on the CMA's Approach.**

The Draft CMA4 sets out the CMA's draft statement of policy regarding its powers to take enforcement action and impose administrative penalties in respect of breaches of Investigatory Requirements and Remedy Requirements (as defined in paragraph 1.3 below) under the Competition Act 1998 (CA98), the provisions of the Enterprise Act 2002 (EA02) relating to markets and mergers, and the provisions of the Digital Markets, Competition and Consumers Act 2024 (DMCCA24) relating to the CMA's digital markets and motor-fuel information gathering functions.

[Læs mere](#)

Dato: 11/07/2024

Mobile browsers and cloud gaming market investigation.

Cloud Gaming Services are consumer-facing services which allow video game content to be streamed over the internet from powerful gaming hardware in a data centre to be displayed on a user's choice of supported device. The issues statement for this market investigation (MI) set out that this investigation is considering whether 'Apple's App Store policies effectively ban cloud gaming services from the App Store and whether this weakens competition in the distribution of cloud gaming'.

This working paper sets out our emerging thinking on the extent to which access to Cloud Gaming Services on mobile devices is being impeded and the impact that this has on competition in the supply of Cloud Gaming Services. This paper considers both Apple's policies for the App Store and Google's policies for the Play Store.

[Læs mere](#)

Dato: 05/07/2024

Cloud services market investigation.

The CMA is investigating the supply of public cloud infrastructure services in the UK.

[Læs mere](#)

Dato: 24/07/2024

Progress update on the Mobile Browsers and Cloud Gaming Market Investigation.

This document sets out an update on the CMA's market investigation into the supply of mobile browsers and browser engines, and the distribution of cloud gaming services through app stores on mobile devices in the United Kingdom. The investigation is being conducted by an independent inquiry group.

[Læs mere](#)

Dato: 27/06/2024

Competition Regulator Publishes Draft Report on Electricity Market.

The Jersey Competition Regulatory Authority (the Authority) has published its draft report on the electricity market in Jersey. The draft report shows Jersey compares well with other jurisdictions. However, there is scope for greater market-oriented outcomes.

[Læs mere](#)

Dato: 27/06/2024

3 | LITTERATUR (DK)

Artikler fra UfR

Intet nyt.

Nye publikationer fra Erhvervsministeriet

Intet nyt.

Artikler fra Juristen

Intet nyt.

Artikler fra Erhvervsjuridisk Tidsskrift

Intet nyt.



Artikler fra Revision og Regnskabsvæsen

Intet nyt.

Artikler fra EU-ret og Menneskeret

Årgang 31: Nummer 2

Pant- og retursystem: prisfastsættelse, grænseoverskridende handel og privat eksport inden for EU's indre marked. Forfatter: Graham Butler.

Et pant- og retursystem (PR-system) for drikkevarebeholdere (flasker og dåser) har længe været på plads i Danmark. Forbrugerne opkræves pant pr. beholder ved købstidspunktet, som de senere kan få tilbage, når de returnerer beholderen efter at have forbrugt indholdet. Selvom en sådan ordning er i miljøets interesse, i hvert fald historisk set før massegenbrug af husholdningsaffald, er det omdiskuteret, om en sådan ordning kan retfærdiggøres i moderne tid i betragtning af de åbenlyse problemer, som PR-systemet skaber for EU's indre marked som en begrænsning for grænseoverskridende handel og den frie bevægelighed for varer. Denne artikel analyserer PR-systemer, idet der først redegøres for den nyeste udvikling ved EU-Domstolen, og dernæst reflekteres der over, hvad fremtiden indebærer for PR-systemer.

Anden dansk og nordisk litteratur

Intet nyt.

4 | LITTERATUR (UK)

Artikler fra European Competition Law Review

Volume 45, issue 8, 2024:

Establishment of Nord Stream 2 under Polish merger control rules. Forfatter: Prof. Mateusz Błachucki.

Reviews the innovative approach of Poland's national competition authority to joint ventures in merger control proceedings involving Nord Stream 2, which saw a record fine imposed for non-notification. Discusses the subsequent overturning of the ruling, and its implications for joint ventures.

The EU Lobbying Directive on foreign governments. Forfatter: Martina Morabito.

Discusses the current lack of transparency and consistency in EU Member States' approaches to regulating foreign government influence on their trade and competition policy, and examines key features of the Draft Directive on transparency of interest representation on behalf of third countries.

Competition in the online platform economy: online sales and advertising under EU competition rules for digital markets. Forfatter: Alexandre L. Dias Pereira.

Reviews the EU regulatory framework for protecting competition in the online platform economy. Details the main competition concerns and key features of Regulation 2022/1925 (Digital Markets Act), Regulation 2022/2065 on digital services, and Regulation 2022/720 on vertical block exemptions.

The Commission Notice on the definition of the relevant market and multi-sided digital platforms - small but important steps forward. Forfatter: Daniel Mandrescu.

Reviews the challenges market definition poses in respect of digital platforms, including the number of relevant markets to be delineated when dealing with multi-sided digital platforms, and whether such problems have been addressed by the Commission's revised Notice on market definition.

Seizure of power or co-legislator? The Court of Justice of the European Union rulings on the one-federation-principle and the future of lex sportiva. Forfatter: Lukas Hecht.

Discusses the impact of *International Skating Union v European Commission* (C-124/21 P) (ECJ) and *European Superleague Company SL v Federation internationale de football association (FIFA)* (C-333/21) (ECJ) on international sports federations, and the opportunities the cases create for *lex sportiva*.

**Consequences of breaching time limits under UK merger control law (Case Comment). Forfatter: Richard Howell.**

Discusses the obiter finding in *Cerelia Group Holdings SAS v Competition and Markets Authority (CA)* that a CMA breach of the time limit for reporting on a merger reference under the Enterprise Act 2002 did not prevent it from taking remedial action. Suggests why the finding ought not to be followed.

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

Notes the Austrian Cartel Court's imposition of a EUR 1.3 million fine on STEINER BAU Gesellschaft mbH, a construction company, for secondary participation in a road construction bidding cartel involving price manipulation, market sharing and information exchanges.

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

Notes the Bulgarian Supreme Administrative Court decision in *SMART SM* on the standard of proof and its application to the existence of an anti-competitive vertical agreement involving resale price maintenance and information exchange between a wholesaler and retailers of childcare products.

Canada: anti-competitive practices – investigation. Forfatter: Kaeleigh Kuzma.

Notes the Canadian Competition Bureau's consent agreement with the Yukon Real Estate Association (YREA) to address potential abuse of dominance concerns involving the YREA's membership practices, and its earlier consent agreement with the Northwest Territories Association of Realtors.

Czech Republic: anti-competitive agreements - infringement (Case Comment). Forfatter: Tomáš Fiala.

Notes the Czech Competition Office ruling in *Groupe SEB CR sro*, imposing a fine of approximately EUR 2.87 million on a household appliances company for restrictive business practices involving minimum resale prices. Details the settlement procedure responsible for fine reductions.

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

Discusses a Danish Maritime and Commercial High Court ruling on whether a dual distribution information exchange between wholesaler Hugo Boss and clothing retailer Kaufmann was of a vertical or horizontal nature, constituted restrictive business practices and was a continuous infringement by object.

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

Notes *Heureka Group as v Google LLC (C-605/21)* (ECJ) giving guidance on the commencement of limitation periods for damages actions involving a breach of EU competition law under Directive 2014/104, in the context of determining whether Czech limitation provisions were compatible with EU law.

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

Notes the Finnish Market Court ruling of 25 March 2024 on whether the Finnish Competition and Consumer Authority was within its rights not to investigate alleged anti-competitive practices by forestry companies, including an alleged timber buying cartel, based on the reasons given in its decision.

Finland: regulatory - judgment (Case Comment). Forfatter: Maarit Taurula.

Notes the Finnish Supreme Administrative Court ruling of 28 March 2024, annulling a court's rejection of the Finnish Energy Authority's proposal to impose a EUR 79.7 million penalty on Gasum Oy for breaching unbundling principles in the natural gas market, and referring it back for reconsideration.

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

Notes Finnish Competition and Consumer Authority proposals that the Market Court impose a penalty of around EUR 4.4 million on the healthcare company Attendo Suomi Oy for breaching procedural requirements during an FCCA inspection to investigate its alleged role in anti-competitive practices.

**Germany: anti-competitive practices - enforcement (Case Comment). Forfatter: Dr Ingo Klauß.**

Reviews competing decisions of the German Regional Court at Bonn, concerning the validity of search warrants authorising dawn raids by the German Federal Cartel Office (FCO), to investigate alleged cartel participation. Considers the implications for the minimum requirements of such FCO warrants.

Greece: anti-competitive practices - infringement (Case Comment). Forfatter: Christianna Mara.

Notes the Hellenic Competition Commission ruling in Piraeus Bank / National Bank of Greece / Alpha Bank / Eurobank / Hellenic Banking Association (HBA), imposing fines of over EUR 41 million on banks and the HBA for horizontal collusion in the banking services market. Details the settlement process.

Malta: mergers - merger control (Case Comment). Forfatter: Adriana Brincat Scicluna.

Notes the ruling of the Maltese Office for Competition in SR Technics Malta Ltd / Easyjet Plc, approving the acquisition by Easyjet of sole control of a company in the airline services sector. Summarises the main findings of the investigation.

Netherlands: mergers - merger control (Case Comment). Forfatter: Jotte Mulder.

Notes the Dutch Competition Authority (DCA) ruling in RTL Nederland / DPG Media, finding that a proposed merger in the Dutch media sector will require further investigation. Details the three theories of harm which the DCA will apply to the proposed acquisition.

Poland: unfair competition - private enforcement (Case Comment). Forfatter: Prof. Agata Jurkowska-Gomułka.

Notes the Warsaw District Court ruling in Ceneo v Google Shopping on whether an interim injunction should be granted to a price comparison engine, temporarily suspending alleged anti-competitive practices by Google, pending hearing of Ceneo's private enforcement action for unfair competition.

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

Notes the Romanian Competition Council ruling in Emma Lambda Ltd / Stratum Energy Romania LLC, approving an energy sector merger involving the acquisition of sole direct control over a natural gas producer. Details the main competition concerns investigated.

South Africa: mergers - judgment (Case Comment). Forfatter: Justin Balkin.

Notes a decision of the Constitutional Court of South Africa on whether retrenchment of employees by Coca-Cola Beverages South Africa Proprietary Ltd breached merger conditions, as "merger specific" under a two-stage "some nexus" test or were caused by unrelated economic pressures.

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

Notes the Barcelona Commercial Court ruling of 7 December 2023, upholding a follow-on damages claim of EUR 1.18 million by an Andorran basketball team, following a National Competition and Markets Commission ruling that the Association of Basketball Clubs had committed anti-competitive practices.

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

Notes the Spanish National Competition and Markets Commission ruling in B Braun Group Boston Scientific Corp / Activos Braun, approving a merger in the medical devices sector, subject to a commitment aimed at preventing the risk of conglomerate effects derived from bundling practices.

Sweden: mergers - merger control (Case Comment). Forfatter: Stefan Perván Lindeborg.

Notes the Swedish Competition Authority ruling in Apotekstjänst Sverige AB / Svensk Dos AB, prohibiting a proposed merger in the pharmacy dose dispensing sector on the basis that it may impede competition and create a dominant position. Details the approach to the parties' subcontracting agreement.

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

Notes the Turkish Competition Board ruling in Blutv İletişim ve Dijital Yayın Hizmetleri AS / Warner Bros Discovery Inc, unconditionally approving a proposed merger in the entertainment platform and media services provider sector. Details the analysis of potential horizontal and vertical overlaps.

United Kingdom: anti-competitive practices - judgment (Case Comment). Forfatter: Amelia Platton.

Notes Sportsdirect.com Retail Ltd v Newcastle United Football Club Ltd (CA) on whether a tribunal erred in refusing to grant an interim injunction for abuse of dominance, to require a football club to supply replica kits to a sports retailer, on the basis that there was no serious issue to be tried.



Artikler fra European Competition Journal

Intet nyt.

Artikler fra Journal of Competition Law and Economics

Intet nyt.

Artikler fra Journal of Antitrust Enforcement

Volume 12, issue 2, July 2024:

Agency Insights: The first steps of the DMA adventure. Forfattere: Alberto Bacchiega og Thomas Tombal.

This piece is a short essay on the first steps of the implementation of the Digital Markets Act. Our paper is divided in three sections. In the first section “Why does the DMA exist?”, we come back on the genesis of the DMA and the complementing role it plays with competition law. In the second section “Challenges of Gatekeeper Designations”, we look back at this first important step in the implementation of the DMA, and highlight that a key topic in the context of these designation proceedings has been the determination of the appropriate delineation of the core platform services to be designated. Finally, in the third section “Challenges of DMA compliance”, we set out our high-level vision and approach for the concrete implementation of the DMA by the gatekeepers and their endeavour to comply with the various obligations and prohibitions contained in the DMA. In this regard, we highlight that our aim with the DMA is to create room for opportunities.

The new EU and UK regimes for regulating competition in digital markets: we finally see what’s on the plate - but do we know how to eat it? Forfatter: Oles Andriychuk.

The emotional momentum attracting the critical mass of enthusiasm to the ambitious reforms aiming to recalibrate competition in the European Union (EU) and UK digital markets (EU Digital Markets Act or the DMA and UK Digital Markets, Competition and Consumers Act or DMCCA) appears to be moving downhill. The attention of the epistemic community is gradually shifting to much more prosaic matters. Among the most topical are the following: how successful the challenges to the gatekeeper designations will be; how informatively and comprehensibly the summaries of their compliance reports have been drafted and how much meaningful changes do these compliance strategies entail; how the first non-compliance decisions will be drafted; how the complex balance of competences between the Commission, CJEU, national competent authorities, and national courts will be crystalized in practice; which aspects of digital markets will be prioritized within enforcers’ limited resources; or how much room for private actions will the emerging regimes ultimately allow.

Platform regulation beyond DSA and DMA: Which role for the P2B Regulation? Forfatter: Arrow Christoph Busch.

When the P2B Regulation became applicable on 12 July 2020, it was the first horizontal framework for the platform economy in the European Union (EU). However, the new Regulation was not met with great fanfare. Some commentators dismissed the P2B Regulation as lacking ambition and criticized that one could actually see that it had been put together rather quickly.² The wider public hardly took any notice of the arrival of the P2B Regulation. Maybe it was just bad timing. Amid a global pandemic, digital platforms were seen as a solution rather than a problem as much of our lives went online. Since then, public opinion on tech enterprises has evolved and the EU has enacted with the Digital Markets Act (DMA) and Digital Services Act (DSA) one of the world’s most ambitious regulatory frameworks for the platform economy.

Designing regulations to combat online manipulation: a UK perspective. Forfattere: Stephen McDonald og Rocio Concha.

In response to the emergence of these online manipulation tactics, competition and consumer protection authorities across jurisdictions are responding to reduce consumer detriment. While the European Union (EU) has legislated relatively swiftly compared to other jurisdictions to introduce the Digital Services and Digital Markets Acts which place requirements on online platforms that prohibit some manipulative practices, the UK has acted more slowly. However, new UK laws are being introduced through the Digital Markets, Competition, and Consumer Bill, and the Financial Conduct Authority, which regulates providers of financial services, has introduced a relevant new Consumer Duty.

In this article, we briefly explain what we mean by the manipulation of consumers in online markets, set out the UK’s current and forthcoming legislation and regulations that can be used to tackle them, and consider what more needs to be done to protect consumers.

**European regulatory transformation - A case study: competition, remedies, and Google. Forfatter: Timothy Cowen.**

Making digital markets work competitively is important for innovation and efficiency, but restoring media plurality is now vital for democracy. Traditional interventions have included industry restructuring and breaking up monopolies, hand in hand with regulation. The European Union (EU) Commission and the US Department of Justice (“DOJ”) are proposing that Google is now broken up. The EU has also passed the Digital Markets Act (2022) and Digital Services Act (2022), and the UK is in the process of passing the Digital Markets, Competition, and Consumers bill. In the USA, legislation is stuck in the system.⁵ What Google did, followed by what is being done in the cases, and prospective remedies, are outlined below.

EU Digital Markets Act: changing the four ‘regulators’ of the digital society. Forfatter: Alexandre de StreeL.

To better understand the possible effects of the DMA and to contribute to its effective implementation, this short note relies on the four regulatory forces in cyberspace identified by Lessig in his seminal book: the law, the technical architecture, the market, and the norms. The note claims that the DMA changes each of those forces and that the implementation of the DMA should maximize the feedback loops between them to achieve its ambitious goals.

European market oversight reforms: a critical look at types and objectives of intervention. Forfatter: Yannis Katsoulacos.

Governments’ oversight in markets characterized by Significant and Sustainable Market Power (SSMP) is witnessing unprecedented reforms recently throughout the world. The European Commission (EC), European Union (EU) countries, and the UK are at this movement’s forefront to increase both ex ante and ex post regulatory enforcement with the aim of controlling the adverse effects of SSMP, especially in big tech digital markets. Fox mentions that ‘the EC is in front of the world in examining the conduct of Big-Tech gatekeepers....’.

EU Data Act: Will new user access and sharing rights on IoT data help competition and innovation? Forfatter: Wolfgang Kerber.

The DA introduces with its provisions of Chapter II new mandatory data access and sharing rights for the users of IoT devices, leading to a broad institutional framework for the governance of data in the fast-expanding field of the ‘Internet of Things’.² Connected Internet of Things (IoT) devices, like connected cars, smart watches, smart home appliances, smart machines in industrial manufacturing, or agriculture, are spreading very fast and will generate huge amounts of data. This article will explain and assess, whether and to what extent the DA can help to solve the current IoT data governance problems, which are primarily caused by the often exclusive control over the IoT data by the manufacturers of IoT devices. The main focus of this article will be on the question whether the DA can have positive effects on competition and innovation through making more IoT data available.

Prospects for concurrent private enforcement of the DMA and Article 102 TFEU. Forfatter: Jiří Kindl.

In this contribution, I will concentrate on a sub-topic which is the prospect for the cumulative or concurrent private enforcement of the DMA and Article 102 of the Treaty on Functioning of the European Union (TFEU). I will argue that from a litigation standpoint, it could make a considerable practical sense for private litigants to claim a concurrent violation of the DMA and of Article 102 TFEU in order to obtain some (primarily procedural) benefits which are associated with private competition claims based on infringements of Article 101 or 102 TFEU due to the implementation of the EU Damages Directive.¹⁰ At the same time, however, such concurrent private enforcement can bring about unwanted complexities. Given that it would make sense, at the EU or national legislative levels, to introduce similar mechanisms enhancing private litigation as are available under the EU Damages Directive also for claims based on the DMA violations alone, as it has been done recently in Germany.

Litigation under the DSA and DMA. Forfatter: Liza Lovdahl Gormsen.

This short article examines the scope of litigation in the European Union (EU) following the implementation of the Digital Markets Act (the DMA)¹ and the Digital Services Act (the DSA).² This naturally leads to asking not only what decisions can be litigated under the DMA and DSA, but also what are the likely points of contention for litigation. Although the DMA and DSA only came into force on the 1 and the 22 November 2023, respectively, litigation has already started in the EU. Litigation is not only happening at the European level but also at the national level. This article considers both likely litigations from gatekeepers as well as third parties—such as consumers and competitors. The DMA has a direct effect,³ so individuals can go directly to their national courts and demand compliance from designated gatekeepers. Such third-party involvement, whether through private actions in national courts or intervening before the European courts, should



not be underestimated. To avoid fragmentation on the interpretation across the EU, the European Commission (EC) can submit an amicus brief to national courts.

The Digital Markets Act, leaving Europe with an oblique battle order. Forfatter: Thomas Lübbig.

Europe seems so proud of the new legislation! What a phenomenal achievement: Starting from the non-starter which was the hastily presented draft European Union (EU) New Competition Tool (summer of 2020), in about 2 years of accelerated 'better regulation' efforts, the EU successfully enacted the Digital Markets Act (DMA). Let us remind ourselves: This was during a period of significant transatlantic entropy, the global pandemic intermission, and a general environment of polycrisis—hardly fertile ground for forging yet another candidate for the formidable Brussels effect.

A new order for EU merger control in digital markets. Forfattere: Anna Lyle-Smythe og Jacopo Pelucchi.

Recent years have been characterized by competition authorities, academics and commentators expressing concerns that the existing competition law framework may not be fit-for-purpose for addressing the challenges created by digital markets. The imposition of heavy fines has been seen only as a palliative cure to (alleged) antitrust violations by tech giants, and merger control has been regarded as 'too lax', with critics calling for a review of more cases and for the development of new theories of harm. This article investigates how the European Commission (the 'Commission') has been tackling the perceived under-enforcement of digital mergers.

Is the DMA (Un)fair? Forfatter: Mariateresa Maggiolino.

Who among us has not paused to consider, at least once during the formulation of the Digital Markets Act (DMA), whether it unfairly burdens companies that, despite a few slip-ups addressed by antitrust laws, have rightfully earned their dominant positions in digital markets? And who is not still concerned that the DMA, being punitive towards gatekeepers' merits, might stifle their incentives to innovate and operate efficiently?

Regulatory design in the EU Digital Markets Act: no solo run for the European Commission. Forfatter: Imelda Maher.

The European Union (EU) competition law combines stability and innovation. On the one hand, the core provisions of the treaties, Articles 101 and 102 Treaty on the Functioning of the EU (TFEU), remain constant. On the other hand, it has evolved mainly through continuous, incremental change over time with occasional disruptive developments. This article argues that the Digital Markets Act (DMA) as a hybrid regulatory regime operating alongside the competition regime is a major step in the evolution of competition law, adopting strong regulatory structures arising out of experience gained from competition law enforcement in digital markets. The article first locates the Act within the evolution of the EU competition law before outlining the thicket of actors concerned with rule making and policy formation under the Act. It then analyses the roles of those and other actors at the EU and national level concerned with investigation and enforcement, discussing the two main regulatory approaches adopted: regulation by information and self-regulation before concluding by setting out the challenges that will need to be addressed before the first tri-annual review of the Act.

FRAND in Article 6(12) DMA: a pragmatic approach with unintended consequences. Forfatter: Despoina Mantzari.

The article is structured as follows: Section 2 offers a brief overview of the FRAND principle, as the latter has been applied in the fields of competition law, network regulation, and SEP licensing. Section 3 delves into the difficulties surrounding the implementation of Article 6(12) of the DMA. Section 4 discusses the unintended consequences of the current approach to FRAND platform access and Section 5 concludes by offering some concrete recommendations to improve the existing regime.

Digital markets: why extended enforcement is expected. Forfatter: Margarida Matos Rosa.

Prior digital competition cases pursued by the Commission and other competition authorities identified anti-competitive behaviour now prohibited in the DMA rules. As ex ante regulation, the DMA has the advantage of accelerating compliance and thus avoiding such anti-competitive behaviour. This is due primarily to the fact that the burden of proof is shifted from the European Commission to gatekeepers, as they need to demonstrate compliance. The option for ex ante regulation in the digital area was thus considered more efficient than waiting for the final decision on burdensome, lengthy competition cases. Such an option is expected to allow for a competitive digital ecosystem to prosper.

Squaring the circle: information sharing in the single market for data. Forfatter: Jay Modrall.

The new Horizontal Guidelines provide greater guidance on how the traditional framework for assessing information sharing applies to the data economy, but they leave many questions unanswered. Companies continue to face complex issues when determining whether the data they share are commercially sensitive and what precautions they must take to avoid infringing EU antitrust rules. New EU measures encouraging or requiring data sharing do not eliminate antitrust exposure; in fact, antitrust compliance in the EU's single market for data may be more complex than ever before.

**When the DMA's ambitious intentions interact with the EU's constitutional set-up: A future drama in three acts. Forfatter: Julian Nowag.**

In the first act, the setup, we will recognize that the DMA, in fact, limits fairness creating problems for Member States wishing to protect consumers and non-gatekeeper businesses. These problems result from the constitutional logic of the competence allocation between the EU and Member States. In the second act, the confrontation, we will see how the political push to include fairness in the DMA has potentially created further issues. In this act, cases come to the Court which in turns is asked to make difficult judgments on the allocation of competences between the EU and Member States. In the third and final act, the resolution, the Member States react to the Court decisions. Their reaction creates potential future problems for competition law and competition enforcers.

Fairness and contestability in the provision of software application stores services. Forfatter: Jorge Padilla.

On 25 March 2024, the Commission decided to open non-compliance investigations involving Apple, since it suspects that Apple's compliance proposal may fall short of effective compliance of its obligations under the DMA. Precisely, the Commission considers that (i) Apple's proposals may restrict app developers' ability to freely communicate and promote offers and directly conclude contracts by imposing various charges, in contravention of Article 5(4) DMA; (ii) Apple's design of the web browser choice screen may prevent iOS users to truly exercise its choice of app stores, in contravention of Article 6(3) DMA; and (iii) Apple's new fee structure may be defeating the purpose of its obligations under Article 6(4) DMA. Interestingly, the Commission is not planning to investigate whether Apple's proposal complies with Article 6(12) DMA. In this brief essay, I discuss what may be the explanation and comment on the appropriateness of focusing only on the contestability goal of the DMA in the hope that fairness is guaranteed in contestable markets.

News ecosystems: tackling unfinished business. Forfatter: Rupprecht Podszun.

As I write these lines, I feel very uncomfortable: this text is turning into a boomer-like criticism of youth. The old man who wrote it is probably watching his beloved printed daily newspaper go down the drain. From the other side, I can hear the outcry of my legal colleagues who feel that this text can only end in a terrible censorship mania. I hear this and I admit that there is a lot of truth in it. Nonetheless, I will turn to the topic of 'regulating the infosphere', of taking greater care of the information that reaches the members of our societies.

DMA and DSA Effective Enforcement—Key to Success. Forfatter: Agustín Reyna.

The Digital Markets Act (DMA) and the Digital Services Act (DSA) represent a significant step forward in regulating online platforms in the European Union (EU). While pursuing different legislative objectives, both instruments aim to establish fair and open digital environments while ensuring the safety and rights of users online. However, the effectiveness of these regulations hinges largely on their enforcement. In this contribution, we delve into the mechanisms necessary to ensure the effective enforcement of the DMA and the DSA, emphasizing the collaborative efforts of various stakeholders, including consumer organizations, and the important role of the European Commission and national authorities in upholding these new regulations.

The complementary nature of the Digital Markets Act and the EU antitrust rules. Forfatter: Viktoria H S E Robertson.

Two issues stand out when considering the complementary nature of the DMA and the European antitrust rules. On a substantive level, the question arises how the complementary nature of the DMA and the EU antitrust provisions will play out in the enforcement practice of competition authorities.⁹ On a procedural level, the Court of Justice's recent case law regarding the ne bis in idem principle can clarify the complementarity of the DMA and the antitrust provisions as far as parallel proceedings are concerned. We will consider these issues in turn.

'Super-apps' and the Digital Markets Act. Forfatter: Simonetta Vezzoso.

A pertinent question arises regarding the impact of increased platform integration within the EU, under the DMA framework, especially since several potential super-app candidates—such as WhatsApp, Instagram, and TikTok—are already regulated as core platform services. Ofcom, the UK telecom regulator, points specifically to mandated interoperability of messaging services, one of DMA obligations, as possibly mitigating competitive issues raised by super-apps. In a similar vein, this paper investigates whether the DMA provides adequate safeguards precluding, or at least mitigating, the emergence of new risks to the contestability and fairness of digital markets from additional platform integration by certain gatekeepers. Informed by the impressive growth trajectories of WeChat and KakaoTalk, two messaging services, focus is placed on Meta's WhatsApp as a designated gatekeeper poised to potentially expand the platform's service offerings. This possible future scenario prompts a critical examination of whether the DMA is sufficiently forward-looking to safeguard fairness and contestability in the face of such potential developments.

**Digital antitrust and the DMA: in praise of institutional diversity. Forfatter: Florian Wagner-von Papp.**

Some of these delays are due to the adoption of the unfortunate effects-based, allegedly 'more economic' approach; some are due to a reliance on the misguided notion that the commitment procedure could act as a speeding-up mechanism before the case is fully developed. The Commission is currently attempting to row back from its crusade against the form-based approach at the beginning of the millennium, while still paying lip service to the effects-based approach, merely calling for it to be made 'dynamic and workable'. Whether the emasculation of Article 102 TFEU by the effects-based approach is reversible, despite now having been (at least partially, albeit not unequivocally) adopted by the Court, only time will tell. Even assuming that a reversal can be achieved, and even considering that we will soon have established a body of case law on some of the typical infringements in the digital sector, Article 102 TFEU is unlikely to become an instrument for quick intervention; the facts are too different from case to case.

Meta v Bundeskartellamt—data-based conduct between antitrust law and regulation. Forfatter: Anne C Witt.

In the digital economy, both undertakings and enforcers are facing an increasingly complex regulatory landscape. Data-based conduct is subject to an ever-growing body of regulation. It is also subject to competition law. In *Meta v Bundeskartellamt*,¹ the European Court of Justice issued a preliminary ruling in one of the more curious competition law cases of the past decade, in which the German Bundeskartellamt established an abuse of dominance based on a violation of data protection law. This contribution critically discusses the key takeaways and implications of the ruling for the interaction of data regulation and competition law.

Artikler fra Journal of European Competition Law and Practice

Volume 15, issue 3, April 2024:

Unraveling Labor Market Collusion: A Comprehensive Analysis Under EU Competition Law. Forfatter: Muhammed Mustafa Polat.

Key points:

- Monopoly and monopsony power can have similar detrimental impacts on competition, although the latter is the neglected corner of competition law.
- Welfare standards may struggle to address anti-competitive practices in labor markets, while the focus on protecting the competitive process provides a more inclusive approach.
- Public policy considerations, such as increasing wages or improving working conditions, should not play a direct role in competitive analysis.
- No-poach agreements, wage-fixing practices, and the exchange of competitively sensitive information regarding working conditions can harm competition in the same way as market-sharing and price-fixing agreements.

Corporate Sustainability Due Diligence and EU Competition Law. Forfatter: Lois Elshof.

Key points:

- The upcoming Corporate Sustainability Due Diligence Directive (CS3D) requires companies to collaborate on supply chain due diligence and these due diligence collaborations will raise intricate questions under Article 101 (1) TFEU.
- The strict understanding in EU competition law of the requirements of Article 101 (3) TFEU does not provide sufficient leeway for CS3D collaborations to be implemented.
- The revised Horizontal Guidelines provide an opportunity to exempt CS3D collaborations from the application of Article 101 (1) TFEU by qualifying them as agreements that solely intend to ensure compliance with international standards that are not or inadequately enforced.
- Placing CS3D collaborations outside the scope of Article 101 (1) TFEU can be considered as an application of the public policy justifications that have been accepted by the European Court of Justice under the *Wouters*-doctrine.

Efficiency and Capabilities in Article 102 TFEU. Forfatter: Selçukhan Ünekbaş.

Key points:

- Unilateral conduct rules protect equally efficient competitors based on a static understanding of efficiency that mainly champions cost reduction.
- While there is appetite for protecting dynamic efficiencies and innovation, it has been problematic to identify which firms are (potentially) innovative.
- Instead of relying on structural metrics, the law can incorporate relevant insights to directly measure firm innovativeness.



- Using firm-level drivers of innovation, such as cost curves and capabilities, as well as contextual factors like the financing environment, can help identify firms with the potential to increase future welfare.

Reconsidering the Limits of EU Competition Law on the IP-Competition Interface. Forfatter: Quentin B Schäfer.

Key points:

- The number of intellectual property rights in the modern economy has given rise to intellectual property law, which overprotects inventions and creations to the detriment of those who seek licences, particularly for follow-on innovation.
- EU competition law has expanded considerably over the last decades to become the default device for the resolution of the overprotection problem, while the TRIPS agreement has marginalised compulsory licences outside intellectual property law.
- Due to its institutional framework, EU competition law is not well suited towards this broader role but is indispensable to provide access to confidential information, including know-how.
- Other overprotection concerns are better addressed by exercising the courts' discretion to deny injunctive relief or making changes to the substantive rules of intellectual property law.

Access to Environmental Justice under the Aarhus Convention: Evaluating the Contemporary Hurdles for ENGOs in Challenging State Aid Decisions under EU Law. Forfatter: Anna-Lici Scherer.

Key points:

- State aid can, on the one hand, support climate goals but, on the other hand, hinder them by directly funding projects which harm the environment.
- As also laid down in the Aarhus Convention (AC), administrative decisions must remain contestable, where civil society, including Environmental Non-Governmental Organizations (ENGOs), have access to justice.
- The role of ENGOs in the environmental policy discourse is of paramount importance, as they scrutinise the Commissions approving of aid measures by ensuring compatibility with EU environmental law, thus pro-actively protecting the rule of law, democracy, and ensuring legal certainty.
- Currently, State aid decisions are not contestable for ENGOs, and thus, the EU does not risk non-compliance with the AC but also, furthermore, jeopardises a fair, just, and green transition as envisaged under the EU Green Deal.

Competition and the Green Deal: a Study of Consumers' WTP for CO2 Emissions Reduction in the Italian Car Market. Forfatter: Alessandra Catenazzo.

Key points:

- This study focuses on the investigation of consumers' willingness-to-pay for sustainability to understand the role played by competition policy in reaching sustainability goals.
- The analysis aims at estimating the consumers' willingness-to-pay for reduced CO2 emissions in the Italian car market using data on new car registered in Italy between 2019 and 2020 merged with a dataset on car prices.
- The results show a significant willingness-to-pay for lower emissions from Italian car buyers and hence a large potential for voluntary contributions to emissions reduction in passenger car transport in Italy.
- The results imply that the traditional application of competition law, which leads to increased competition, will collaterally increase sustainability.

Artikler fra World Competition

Christians artikel er "pre-publication".

Artikler fra Antitrust Law Journal

Intet nyt.

Artikler fra Antitrust Bulletin

Intet nyt.

Artikler fra Competition Law and Policy Debate

Intet nyt.



Artikler fra Competition Law Scholars Forum

Intet nyt.

Artikler fra Journal of Regulatory Economics

Intet nyt.

Artikler fra International Review of Law and Economics

Intet nyt.

Artikler fra Competition Law Journal

Intet nyt.

Artikler fra European Competition and Regulatory Law Review

Volume 8, issue 2, 2024:

Protecting the Conditional Autonomy of Governing Bodies in Sport From Review 'From a Competition Standpoint'. Forfatter: Stephen Weatherill.

The Court of Justice's case law, stretching back fifty years, provides that sporting practices which fall within the scope of EU law may be applied on the condition that it is shown they are necessary to achieve legitimate objectives and that they comply with the demands of the test of proportionality. This admirable model of 'conditional autonomy' is in danger. On 21 December 2023, the Court changed its approach. It restricted the scope for arguments specific to sport to be advanced in defence of practices reviewed against the demands of EU competition law. The risk is that an interpretation of EU law 'from a competition standpoint' – as the Court put it on 21 December - in pending cases concerning the transfer system, the regulation of agents and club (re)location will prevent sport's (claimed) special features even being assessed as part of the legal analysis. This paper urges the Court not to wreck its excellent track record in the development of EU sports law. It should treat most choices about governance in sport as restrictions of competition by effect, not object. The intent is not to immunise them from review but rather to ensure that review stretches beyond Article 101(3) TFEU and is fully sensitive to the economic and sporting context in which governing bodies operate as regulators.

Parallel Application of EU and National Competition Law: Time to Think Again? Forfatter: Michal Petr.

Most national competition authorities apply national and EU competition law in parallel. It is explicitly permitted by Regulation 1/2003 and the practice itself is not much debated. This article argues that it should nonetheless be abandoned, as it may cause substantial problems, both for the parties to the proceedings and more generally, to the predictability of competition law, while not bringing any clear benefits.

How Excessive Pricing Jurisprudence Could Help the EU Commission Take a Big Bite Out Of Apple's Commission Fee. Forfattere: Dermot Cahill og Jing Wang.

This article considers the European Commission's approach to tackling various Apple anti-competitive strategies. It considers why the European Commission has not applied excessive pricing abuse of dominance jurisprudence to challenge Apple's high commission fees charged to app developers, instead preferring to use a variety of other approaches to restore competition to certain parts of Apple's closed ecosystem.

Estonia: Application of United Brands Test for Excessive Pricing in Digital Sector. Forfattere: Martin Mäesalu og Miikael Tuus.

Finland: The Finnish Market Court Issued Penalty Payment in a Joint Bidding Case. Forfatter: Satu-Anneli Kauranen.

Lithuania: (In)Effective Private Antitrust Enforcement in Lithuania? Forfatter: Rita Paukštė.

Poland: Competition Authority Fines Distribution Network for RPM and Market Sharing. Forfattere: Tomasz Feliszewski og Aleksander Kanton.



United Kingdom: Abuse of Dominance Claim and Interim Relief: Nailing Football Kits. Forfatter: Kiran Desai.

Case T-136/19 Bulgarian Energy Holding v Commission: From Pipeline to Plea. Forfatter: Seppe Maes og Helena Verspagen.

On 25 October 2023, the General Court annulled a Commission Decision regarding an alleged abuse of a dominant position by Bulgarian Energy Holding (BEH) and its subsidiaries for obstructing access to the transmission network, the Romanian Pipeline 1 and the UGS Chiren storage facility to potential entrants. The Commission's Decision was annulled in its entirety by the General Court based mainly on an incorrect finding of abuse of a dominant position and an infringement of the rights of defence.

Case C-376/20 P CK Telecoms: Back to Basics? The Grand Chamber of the ECJ Sheds Light on Key Features of the EUMR. Forfatter: Chris Grech.

The year 2023 proved to be quite a rollercoaster for EU merger control. 2023 was the year of innovation, which saw the introduction of the use of Article 22 of the EU Merger Regulation¹ (EUMR) to capture concentrations that do not meet turnover thresholds in the Illumina/Grail saga,² as well as the 'rebirth' of applying Article 102 TFEU in assessing concentrations ex post. Yet, it was also the year in which more 'traditional' concepts which have been around in the EUMR for nearly two decades, were subject to judicial review before the European Court of Justice (ECJ) for the first time ever. One such case was the CK Telecoms judgment,³ in which the ECJ clarified the standard of proof applicable to merger control in oligopolistic markets as well as the application of the significant impediment to effective competition (SIEC) test to so-called gap cases. This case note will focus on these two points arising out of this judgment.

Case C-449/21 Towercast: Continental Can strikes back – the (Still) Good Law of Article 102 TFEU. Forfatter: Rita Ferreira Gomes.

Annotation of the Judgment of the Court of Justice (Second Chamber) of 16 March 2023 in Case C-449/21 Towercast.

Case C-25/21 Repsol Comercial de Productos Petroliferos: The European Court of Justice Clarifies the Role of Final Decisions of National Competition Authorities in Follow-On Actions. Forfatter: Riccardo Molè og Giulia Lodigiani.

Annotation on the Judgment of the Court (First Chamber) of 20 April 2023, Case C-25/21 ZA and Others v Repsol Comercial de Productos Petroliferos SA [2023] EU:C:2023:298.

Book Review. Forfatter: Stavros Makris.

Abuse of Platform Power: Leveraging Conduct in Digital Markets Under EU Competition Law and Beyond. By Friso Bostoen.

Artikler fra Communications Law

Intet nyt.

Artikler fra Computer and Telecommunications Law Review

Intet nyt.

Artikler fra Global Competition Litigation Review

Intet nyt.

Artikler fra Market and Competition Law Review

Intet nyt.

Andre udenlandske artikler

Intet nyt.



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Post Danmark: More than Just Another Serial Infringer. Forfatter: Christian Bergqvist i World Competition Volume 47, issue 3.

The Danish Postal incumbent's, Post Danmark, struggle to acclimatize to a market without special rights has yielded epic competition cases such as Post Danmark I and Post Danmark II. While it is tempting to label Post Danmark as a serial infringer, it is fundamentally a company that was slow in accepting that letter mail presented a dying business case and viewed other services as being merely and capable of being priced accordingly. The extreme fall in letter volumes has made this position untenable, explaining the company's financial collapse and persistent clashes with competition law. Studies of Post Danmark's 'troublesome' relationship with competition law offer insights into the treatment of multi-product companies under competition law, the need to police their allocation of costs and the consequences of failing in this.