BECCLE has completed its second whole calendar year as an independent research center in competition law and economics. Bergen Center for Competition Law and Economics was established in 2011, and it is a center jointly owned by Norwegian School of Economics and the University of Bergen.

The idea to establish a center was initiated in 2010 by people at University of Bergen, Norwegian School of Economics and Norwegian Competition Authority. A committee submitted two reports to the rector at the University of Bergen and Norwegian School of Economics, one in October 2010 and one in January 2011. In May and June 2011 the boards at University of Bergen and the Norwegian School of Economics decided to establish such a joint center.

BECCLE is a meeting place for economists and lawyers interested in competition policy questions. The center is located in Jekteviksbakken 31, Bergen, Norway. In 2012 BECCLE joined a European network of research institutions with a similar focus: CLEEN (Competition Law and Economics European Network).

**News in 2013**

BECCLE moved into a new building in August 2013, and our visiting address is Jekteviksbakken 31, Bergen.

Some facts and figures for BECCLE in 2013 (more details below):
- 17 seminars were given
- Hosted one international conference and one international workshop at BECCLE
- Co-organized two workshops at University of Berkeley
- Four persons affiliated with BECCLE defended their PhD (two economists and two lawyers)
- 13 master thesis were written on competition policy issues
- 6 doctoral students affiliated with BECCLE are now working on competition law and economics

BECCLE was heavily involved in a committee that at the end of April submitted a report where they proposed a new law for code of conduct in the grocery sector. Tommy S. Gabrielsen at University of Bergen (and leader of BECCLE), Tina Søreide, Faculty of Law at University of Bergen and Erling Hjelmeng (leader of the committee) at University of Oslo were among the members in the committee and affiliated with BECCLE.

In addition, BECCLE submitted a report on buyer power in the grocery sector (see below), which was input to the committee’s work.

In May 2013 BECCLE hosted the annual conference of CLEEN (Competition Law and Economics European Network), a network consisting of nine institutions (see below).

BECCLE is partner in a joint project between University of California Berkeley and three institutions in Norway (University of Bergen, Norwegian School of Economics and Norwegian Business School) which received funding from Peder Sather Center. In November it organized two workshops.
at Berkeley in November, one on industrial organization and one on industrial organization in health care markets (see below).

Professor Thibaud Verge, CREST in Paris, and professor Greg Shaffer, University of Rochester in the US, have both started on their part time position at BECCLE. These are part time position shared with Department of Economics at NHH (Verge) or Department of Economics at UiB (Shaffer). They are both experts on industrial organization and competition policy, with a particular focus on the economics of vertical restraints. When they visited BECCLE in October we organized a workshop on vertical restraints (see below).

At the end of 2013 there are six doctoral students affiliated with BECCLE that work on competition law and economics. Two of them started recently (Håvard Ormberg and Ingrid Halvorsen, both at Faculty of Law at University of Bergen), while four others started their PhD project before 2013 (Ignacio Herrera Anchustegui at Faculty of Law at University of Bergen, Teis Lunde Lømo at Department of Economics at University of Bergen, and Morten Sæthre and Simen Aardal Ulsaker, both at Department of Economics at NHH).

**Seminars in 2013**

**Spring**

**Tuesday, January 29 at 14.15 -16:15**
Senior risk analyst Eirik N. Christensen, Sparebanken Vest: From Basel to Bergen – How will future regulation of the banking sector influence competition?

**Tuesday, February 26 at 14:15-16:00**
Bernard McCabe, Senior Member of the Australian Administrative Appeals Tribunal: Airline alliances and competition regulation at the other end of the world.

**Tuesday, March 19 at 1415-1600**
Halvard Haukeland Fredriksen, Stipendiat ved juridisk fakultet, UiB: Konkurransetilsynets erstatningsansvar for uvyldige vedtak.

**Friday, April 12 at 14:15 -16:15**
Phd candidate Malgorzata Agnieszka Cyndecka, Faculty of Law University of Bergen: The Applicability and Application of the MEIP.

**Tuesday April 23 at 14:15-15:30**
Advisor Hanne Gard Lund, Norwegian Competition Authority and post doc Bjørn Olav Johansen: RPM in competition law – legal and economic perspectives.

**Thursday April 25 at 12:30-13:45**
Tommy Staalh Gabrielsen, BECCLE and UiB: Resale price maintenance and up-front payments: achieving horizontal control under seller and buyer power. Joint seminar with Department of Economics, University of Bergen.

**Thursday May 2 at 14:15-15:30**
Professor Tommy Staalh Gabrielsen, University of Bergen and BECCLE: Code of Conduct for the Norwegian Grocery Sector?

**Thursday May 30 at 11:00-12:15**
Professor Erling Hjelmeng, University of Oslo and BECCLE: Forslag til lov om god handelsskikk – samfunnsøkonomisk effektivitet inni kontraktsretten.

**Wednesday June 19 at 14:15-15:30**
Helder Vasconcelos, ANACOM and University of Porto: Structural remedies in merger control, joint seminar with Department of Economics, NHH.

**Fall**

**September 17 at 13:00-14:30**
‘Konkurranse på like vilkår mellom offentlige og private bedrifter? Hva kan vi lære av Sverige?’, juridisk direktør Per Karlsson, Konkurrensverket og professor Trond Bjørnenak, NHH.

**October 3 at 12:30-13:45**
Research seminar: Post doc Bjørn Olav Johansen, BECCLE/UiB. Topic: “The opportunism problem revisited: the case of retailer sales effort”. This seminar is held at Department of Economics, University of Bergen.

**October 11 at 12:15-13.30**
Professor Greg Shaffer, University of Rochester and BECCLE/UiB. Topic: “Exclusionary Discounts”.

**October 17 at 14:15-15.30**
Professor Thibaud Verge, CREST-LeI/ENSAE/BECCLE/NHH. Topic: “Quantitative methods for unilateral effects: UPP vs Merger Simulation”.

**October 29 at 14:15-15.30**
‘Criminal Cartel Enforcement in the UK: Rectifying the Mistakes of the Past’, associate Professor Peter Whelan, School of Law, University of Leeds.

**November 6 at 14:15-15.30**
‘Kommisjonssalg fra et juridisk og økonomisk perspektiv’, post doc Ronny Gjedemsjø, UiB and BECCLE and post doc Bjørn Olav Johansen, UiB and BECCLE.

**November 28 at 14:15-15.30**
‘Market Structure and the Competitive Effects of Vertical Integration’, Professor Markus Reisinger, WHU – Otto Beisheim School of Management.

**December 5 at 14:15-15.30**
Er særregulering av bokbransjen nødvendig? Professor Erling Hjelmeng UiO og BECCLE og Postdoc Ronny Gjedemsjø, UiB og BECCLE.

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The CLEEN conference

May 13-14 BECCLE hosted the annual conference of CLEEN (Competition Law and Economics European Network), a network consisting of nine institutions.

This was the 7th annual meeting, and more than 50 people from the nine European institutions participated at the conference. The keynote speaker was professor Carl Shapiro from University of Berkeley, and he talked about merger control. There were in addition two plenary sessions, one by professor Giorgio Monti and one by professor Erling J. Hjelmeng, and 20 presentations in parallel sessions. Most of the presenters were doctoral students or post doc fellows, and it was a mixture of lawyers and economists both as presenters and as discussants.

Director General Christine B. Meyer, professor Carl Shapiro and BECCLE director Tommy S. Gabrielsen

The program you can find here. Next year the CLEEN conference will be held at University of East Anglia in Norwich.

Workshop on vertical restraints

In two weeks in October Greg Shaffer and Thibaud Vergè, the two professor II in economics at BECCLE, visited Bergen.

This made it possible to organize a one day workshop on vertical restraints for researchers in this particular field on October 16. In addition to talks by Shaffer and Vergè, Özlem Bedre-Defolie from ESMT in Berlin and Stephane Caprice from GREMAQ and TSE in Toulouse visited BECCLE and gave talks at the workshop. There were also talks by Bjørn-Olav Johansen and Morten Sæthre, two persons at BECCLE.

IO workshops at University of Berkeley

In November Peder Sather Center for Advanced Study arranged two workshops in Industrial Organization. The goal of the Peder Sather Center is to stimulate collaboration between researchers in Norway and at the University of Berkeley. BECCLE co-financed those two workshops in November, both related to competition policy issues. The first one (on November 18) was a workshop on Industrial Organization, and the second one (on November 19) was a workshop on Industrial Organization and Health Care markets. Several researchers in economics affiliated with BECCLE participated in the workshops: Kurt Brekke, Trond E. Olsen, Eirik G. Kristiansen, Tommy S. Gabrielsen, Bjørn Olav Johansen, Lars Sørgard and Morten Sæthre.

Peder Sather tower at Berkeley

Doctoral dissertations

Four persons that have been affiliated with BECCLE had a public defense for their dissertation in 2013.

Harald Nygaard Bergh had his public defense May 3. The topic of his thesis was pricing in media industries. Pricing in these industries is often complicated by customer groups being interconnected through network effects. For instance, a viewer's willingness to pay for watching a TV program is usually decreasing with advertisement volume, while an advertiser's willingness to pay for an ad increases with the size of the audience. Media firms must take these effects into account when they set prices. Against this backdrop, Bergh analyzes in four essays how media firms should respond to technological change. Bergh is now at Oslo Economics, among other things doing consultancy on antitrust cases.

Halvard Haukeland Fredriksen defended his thesis ‘Offentligrettlig erstatningsansvar ved brudd på EØS-avtalen’ May 31. The topic of the thesis is the principle of State liability for breach of EEA law. The legal basis of the
principle is analyzed in chapter 2. Chapter 3 offers an overview over the conditions for the liability of the State. It is demonstrated that the EFTA Court has taken over the conditions from the case-law of the ECJ concerning State liability under EU law. In the following chapters the content of the principle and its consequences for the established rules on the liability of public authorities are presented. Fredriksen is now an Associate Professor at the faculty of Law, University of Bergen.

Herdis Helle defended her thesis ‘Konkurransereglane i EU- og EØS-retten som skranke for nasjonale styresmakter’ February 22. The thesis is providing a comprehensive overview of the obligations of Member States and EFTA-states under EU and EEA competition rules. Chapter 2 provides a detailed picture of the interplay between the competition rules and other parts of the EU/EEA law. In chapter 3 the important concept of undertaking is discussed. Chapter 4 provides an analysis of the so called state action doctrine and the related provision in article 106 (1) TFEU. Chapter 5 deals with the exception from the competition rules for services of general economic interest (SGEI) in article 106 (2) TFEU. Both the concept of SGEI and the scope of the exception are discussed. Helle is now an in-house lawyer for the local government in Bergen.

Bjørn-Atle Reme had his public defense June 6. The topic in his thesis was strategic interaction, with one paper on a laboratory experimental and two papers on industrial organization. The first paper on industrial organization discussed how the competition between two producers offering different product qualities is affected by the consumers' lacking ability to correctly assess quality. The second paper on industrial organization is about the strategic interaction between buyers and sellers, such as for example food producers and retail chains. It show how such factors as the sequence of negotiations and the interplay between the sellers products – either competing products or complementary products – affects the outcome and distribution of profits in the industry. Reme has now a post doc position at Telenor.

Master theses – some topics

Rune Jakob Furset provides an overview over the economic literature on resale price maintenance (RPM). The past and present antitrust policy on RPM both in the EU and the US is described, and the possible pro-and anticompetitive effects of RPM are discussed.

Katrine Birkeland Larsen explains how the welfare standard – either consumer or total welfare standard – in principle should affect the assessment of mergers. The merger between DnB and Gjensidige NOR is used as an example to illustrate the importance of the welfare standard.

Stine Morken Kristoffersen investigates the possible price effects of rate parity rules in the Norwegian hotel market. These rules imply that online agents and hotels must set identical prices to consumers.

Therese Ugelvik Kroby and Vibeke Stusvik discuss the proposal to have an internet portal for price comparisons in the Norwegian grocery market. They explain the characteristics of this market, and discuss whether such a price comparison site can have any anticompetitive effects.

Tale Nergård Ronne and Ida Kristin Simonsen use a survey outside book stores in Bergen to investigate the role of book stores as providers of information to consumers. This sheds light on the question whether vertical restraints, such as resale price maintenance, can be beneficial for consumers in this particular industry.

Håvard Ormberg discusses the content of the restriction by object analysis in article 101 TFEU. More precisely he is discussing the meaning of the ECJs statement that one must see the agreement in its legal and economic context, when assessing whether an agreement restricts competitions by its object. One of the main results is that also agreements that are not included in the classic object box can be regarded as object restrictions.

Ingrid Halvorsen has analyzed to what degree national governments can regulate competition through general regulations without violating the EEA-agreement. In the thesis Halvorsen demonstrates how the rules on free movement, the Unfair Commercial Practices Directive (dir. 2005/29) and the provision in ODA protocol 4 chapter II article 3 nr. 2 (regulation 1/2003 article 3 nr. 2 in EU) limits the national governments freedom when they wish to regulate a national markets.

Stine Mari L. Godeseth made an ex post analysis of the price effects of the merger between Gilde and Prior. It was an upstream merger in the food sector in Norway. Gilde produced mainly red meat (beef), while Prior produced ‘white meat (chicken). Both of them had high market shares in each of those segments. It was found that the merger had no effect on the average prices of these upstream firms. This suggests that the two firms’ products were not close enough substitutes to belong to the same relevant market.

Some research topics

Ronny Gjendersjø, Erling J. Hjelmeng and Lars Særgard discuss the need for a new approach concerning the abuse of a collective dominant position. While the concept of collective dominance has developed in line with a sound economic approach focusing on coordinated effects, no genuine concept of abuse in such situations has been established. Instead, the concept of abuse has been closely linked to the abuse concept in single dominance cases. They argue that there is a need to adapt the concept of abuse to the particular challenges posed by collective dominance and that Article 102 TFEU should primarily focus on conduct having as its object or effect the strengthening of the collective dominant position by reinforcing the oligopolistic interdependence and the tightening of the oligopoly. This could imply a more restrictive practice towards, for example, meet competition
In this respect, Article 102 represents an as yet underdeveloped tool.

Kurt R. Brekke, Tor Helge Holmás and Odd Rune Straume study the impact of product margins on pharmacies’ incentive to promote generics instead of brand-names. They show in a theoretical model that pharmacies can persuade patients with a brand-name prescription to purchase a generic version instead, and that pharmacies’ substitution incentives are determined by relative margins and relative patient copayments. Second, they exploit a unique product level panel data set, which contains information on sales and prices at both producer and retail level. In the empirical analysis they find a strong relationship between the margins of brand-names and generics and their market shares. This relationship is stronger for pharmaceuticals under reference pricing rather than coinsurance. In terms of policy implications, their results suggest that pharmacy incentives are crucial for promoting generic sales.

Tommy S. Gabrielsen and Bjorn Olav Johansen analyze the effects of maximum resale price maintenance in the presence of effort on the retailer level (service). They study a setting where the opportunism or commitment problem identified by Hart and Tirole (1990) may arise. With unobservable contracts, an upstream monopolist may sell its product to two differentiated downstream retailers. Contract unobservability induces the manufacturer and each retailer to free-ride on margins earned by rival retailers, resulting in low transfer prices and low overall profit. O’Brien and Shaffer (1992) proposed a solution to this problem involving squeezing retail margins by using maximum RPM and high transfer prices. We show that when retail demand depends in any degree of retail sales effort, this equilibrium breaks down, and the opportunism problem reappears with full force. We show that no type of own-sale contracts will solve the problem if sales effort matters. Moreover we show that certain horizontal commitments, as for example industry-wide minimum RPM, may restore the fully integrated outcome, but only in special cases. This lends support to the present antitrust practice in the US as well as Europe, where maximum RPM is not a hard core violation of competition law.

Ari Hyytinnen, Frode Steen and Otto Toivanen investigate cartel formation in Finland. They study cartel contracts using data on 18 contract clauses of 109 legal Finnish manufacturing cartels. One third of the clauses relate to raising profits; the others deal with instability through incentive compatibility, cartel organization, or external threats. They find that cartels use three main approaches to raise profits: Price, market allocation, and specialization. These appear to be substitutes. Choosing one has implications on how cartels deal with instability. They find that large cartels agree on prices, cartels in homogenous goods industries allocate markets, and small cartels avoid competition through specialization.

**A policy report: Buyer power in the grocery sector**

BECCLE submitted in early April a report on buyer power in the grocery sector to the Ministry of Government Administration, Reform and Church Affairs. The report was an input to the work in the committee that had been asked to propose a new law on code of conduct in the grocery sector, which they did in late April.

The economic literature on buyer power has developed quickly the last decade, and this report summarizes some main lessons from this literature and relates these results to the Norwegian grocery sector.

It is argued that the monopsony model, often referred to by lawyers in competition law cases, is ill suited to shed any light on buyer power in the Norwegian grocery sector. Therefore the report is mainly concerned about buyer power in bargaining situations between suppliers and retailers, the framework used in most of the recent economic literature. In contrast to a monopsony model, in such a framework buyer power is normally a good thing. It typically triggers competition between suppliers, and this might spill over to lower prices and better products for the final consumers.

However, buyer power may in some instances be detrimental to both consumers and the society in general. The report identifies several cases where this might in theory happen. Examples are the so-called waterbed effect, slotting allowances in some special situations, and detrimental effects on innovation (for example due to the hold up problem). Although the picture is complicated and there is lack of detailed data to evaluate the impact of buyer power, the main message is that there is no indication that buyer power in the Norwegian grocery sector has not been harmful to final consumers. It is pointed out, though, that underenforcement might be a problem. The reason is that each supplier, in fear of reactions from the retail chains in future negotiations, might not report any contract breaches.

In the report it is also discussed the development in profitability and productivity in the Norwegian grocery sector. It is found that the retail chains in the grocery sector do not stand out as ones with higher profits than other sectors. This indicates that even if buyer power is present, they have not succeeded in extracting more profit for the owners on the retail level than in other sectors.

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**Publications**

**Doctoral dissertations**

Bergh, H. N.: ‘Four essays in media economics’, Department of Economics, Norwegian School of Economics, 03.05.2013.

Fredriksen, H. H. ‘Offentligrettlig erstatningsansvar ved brudd på EØS-avtalen’, Faculty of Law, University of Bergen, 31.05.2013.

Helle, H.: «Konkurransereglen i EU- og EØS-retten som skranke for nasjonale styremakter», Faculty of Law, University of Bergen, 22.02.2013.


**Articles**


Hjelmeng, Erling and Lars Sørgard: “Produktkobling i konkurranseretten” (Bundling in competition law), *Europarättslig Tidsskrift*, 16(2), 223-248.


**Master theses**


Everts, Cathrine: *Bindende videresalgsspriser i bokmarkedet, Bør forlaget eller bokhandleren sette prisen?*, Master thesis, Norwegian School of Economics, June 2013


Hagen, Martin: *Codesharing innen luftfart*, Master thesis, Norwegian School of Economics, June 2013


Halvorsen, Ingrid, EØS-avtala sine grenser for nasjonal konkurranseregulering, Master thesis, Faculty of Law, University of Bergen, June 2013.

Ormborg, Håvard, Konkurransebegrensende formål og virkning i europeisk konkurranserett, Master thesis, Faculty of Law, University of Bergen, June 2013.

**Working papers**


Jensen, Sissel, Ola Kvaløy, Trond E. Olsen and Lars Sørgard: “Crime and punishment: When tougher antitrust enforcement leads to higher overcharge”, mimeo, Norwegian School of Economics.

Policy reports


Kind, H. J. and L. Sørgard: Fusjon i tosidige markeder, Magma, 2013, 13(8), 53-64.


