

BECCLE

BERGEN CENTER FOR COMPETITION LAW AND ECONOMICS

ANNUAL REPORT 2018

About BECCLE

The Norwegian School of Economics (NHH) and the University of Bergen (UoB) established BECCLE in 2011 following an initiative by a group of researchers in competition policy headed by professor Tommy Staahl Gabrielsen at UoB and professor Lars Sørsgard at NHH.

BECCLE is a unique collaboration scheme between the two main academic institutions in Bergen. NHH and the UoB have joint ownership in BECCLE and provide basic funding to the center. BECCLE's offices are located at the Faculty of Law at UoB, which offers excellent facilities to the researchers affiliated with the center. Our visiting address is Jekteviksbakken 31, Bergen.

The general management group of BECCLE includes Associate Professor Bjørn Olav Johansen at UoB (director), Associate Professor Ronny Gjendemsjø at UoB (deputy director), Assistant Professor Simen Ulsaker at NHH, Professor Tommy Staahl Gabrielsen at UoB, and Researcher Ignacio Herrera Anchustegui at UoB.



Key Ambition

BECCLE's ambition is to improve competition policy by stimulating research in competition law and economics, and provide a meeting place for lawyers and economists interested in the field.

To achieve this BECCLE organizes conferences, seminars and policy debates; funds participation at conferences and workshops for affiliated researchers; sponsors master thesis on competition law and economics; funds visiting and adjunct professors; provides office space for affiliated and visiting researchers; etc.

In February 2016, the UoB and NHH (BECCLE's parent institutions) decided to extend BECCLE's funding for another five years. The decision was based on an evaluation

of BECCLE by an external committee delivered in 2015. The evaluation report was very favorable and concluded that the center had been highly successful in stimulating research on competition policy and providing a meeting place for lawyers and economists.

Main Events in 2018

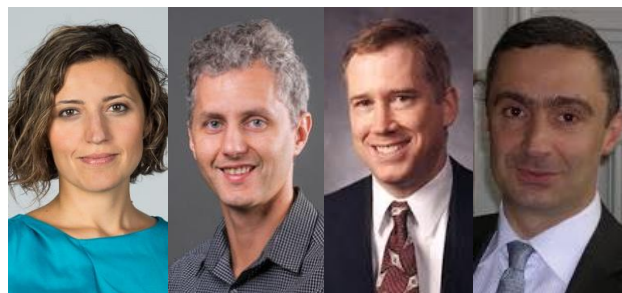
The year 2018 was the seventh year of BECCLE as an independent research center, and it has proved to be an exciting year for us.

We organized the 4th BECCLE Competition Policy Conference on June 11-12, with the participation of international experts on competition policy as speakers. The conference was successful in terms of both quality and attendance.

BECCLE organized many interesting seminars during 2018, among these was the seminar organized in February dealing with the question of equal competitive competition for private and public undertakings - with presentations by professor Erling Hjelmeng (University of Oslo), leader of the working group (appointed by the Ministry of Trade, Industry and Fisheries) responsible for writing the report "Like konkurransevilkår for offentlige og private aktører," Director General Lars Sørsgard at the Norwegian Competition Authority, and professor Kjell Erik Lommerud (University of Bergen).

This annual report will describe the activity of BECCLE in 2018, including the main events.

4th BECCLE conference on competition policy



Özlem Bedre-Defolie, Matthew Weinberg, Greg Shaffer and Thibaud Vergé.

BECCLE organized the 4th annual conference on competition policy on June 11-12 2018. The conference was a great success in terms of quality and attendance. This time the conference program comprised presentations by

invited top international experts on competition policy, including Thibaud Vergé (ENSAE ParisTech), Greg Shaffer (University of Rochester), Özlem Bedre-Defolie (ESTM Berlin), and Matthew Weinberg (The Ohio State University). The full program can be downloaded at the following address: <https://beccle.no/event/the-4th-beccle-competition-policy-conference-11-12-june-2018/>.

BECCLE's Ignacio Herrera Anchustegui awarded the 2018 Meltzer Award for young researchers



Ignacio Herrera
Anchustegui

The Meltzer Award is awarded every year on Lauritz Meltzers birthday, the 8th of March. Last year it was awarded to mathematician Kundan Kumar and BECCLE's Ignacio Herrera Anchustegui – both for their significant contributions to their fields.

Ignacio defended his PhD from UiB in 2017, and received Concurrence's prize for best doctoral thesis of the year in Competition Law and Economics. He has published in

several well-renowned journals and his work has been referred to by the European Commission and by the President of the UK Supreme Court.

"This recognition has been a great and unexpected surprise. While it gives me lots of fresh motivation, I also feel a sense of responsibility. I think the Meltzer prize will give me drive to continue developing new research ideas and to discuss important societal challenges from a legal perspective. The impressive work of the previous recipients sets the bar high for my future output, and I feel the duty to strive to live up to their standards," says Herrera thanking his colleagues at the Faculty of Law.

New EEA Commentary



Halvard Haukeland
Fredriksen

BECCLE's Halvard Haukeland Fredriksen is one of the editors of a new EEA Commentary, to which several of BECCLE's associates have contributed.

The provisions of the Agreement on the European Economic Area (EEA) determine the relations of the EFTA countries Norway, Iceland and Liechtenstein with the EU and its Member States. On its basis, these three countries participate extensively in the internal market.

The EEA is also discussed as a possible model for relations between the EU and the United Kingdom after Brexit.

The new commentary, article by article, explores the importance of the legal practice agreement. It incorporates the extensive annexes and protocols to the agreement, which unlocks key secondary EEA law and establishes links with EU law. The Commentary elaborates on the EEA regulations on the free movement of goods, the movement of persons, services and capital, transport policy and competition law. The tasks and procedures of the two EEA bodies European Surveillance Authority and EFTA Court, which are used for monitoring and dispute resolution, are explained by commenting on the EEA Regulations and the supplementary agreement concluded between Norway, Iceland and Liechtenstein. (Description text from Hart Publishing.)

From BECCLE, in addition to Fredriksen's numerous contributions, Ronny Gjendemsjø have contributed with the chapters on the EEA Competition Rules, Articles 53-58 and 60, Christian Franklin has written the chapters on the Principle of Loyalty in Article 3 EEA and the similar provision in Article 2 SCA, and Håvard Ormberg have contributed with the chapters on Articles 120 – 123 EEA, among other, the security derogation.

Paper nominated for the 2018 Antitrust Writing Awards

The 2017 paper "Buyer Power in the Big Data and Algorithm Driven World: The Uber & Lyft Example," co-authored by Julian Nowag and BECCLE's Ignacio Herrera Anchustegui, was among the papers nominated for the Antitrust Writing Awards in the General Antitrust category last year. The winner of the 2018 General Antitrust category was the paper "Antitrust in a Time of Populism" by Carl Shapiro.

Professor II's at BECCLE

Professor Caroline Heide Jørgensen, University of Copenhagen, started her part time position at BECCLE in and the Faculty of Law, UiB in 2014. Caroline is an expert on EU Competition Law and the deputy chairman of the Danish Competition Council. At the end of 2016 her position was renewed for 3 more years till the end of 2019.

Professor Thibaud Vergé, ENSAE/CREST in Paris, and professor Greg Shaffer, University of Rochester in the US, both started their part time position at BECCLE in 2013 and are still active. Shaffer's position is shared with Department of Economics at NHH (from January 2018) while Vergé's position is shared with the Department of Economics at UoB (also from January 2018). They are both experts on industrial organization and competition policy, with a particular focus on the economics of vertical restraints.

Özlem Bedre-Defolie, ESMT Berlin, and Joseph Harrington, University of Pennsylvania, both accepted to start part time positions at BECCLE from January 2018 onwards. Bedre-Defolie's position is shared with the Department of Economics at UoB, while Harrington's position is shared with the Department of Economics at NHH. Like Shaffer and Vergé, Bedre-Defolie and Harrington are both experts on



Greg Shaffer, Caroline Heide Jørgensen, Thibaud Vergé, Özlem Bedre-Defolie and Joseph Harrington.

industrial organization and competition policy – but with a particular focus on two-sided markets and vertical restraints (Bedre-Defolie), and cartels/collusion (Harrington).

Doctoral students

BECCLE hosted eight affiliated doctoral students in 2018. Five were law students, and three were economics students:

- Ingrid Halvorsen Barlund, Håvard Ormberg, Linda Midtun and Kristian Strømsnes and Øyvind Røed at the Faculty of Law, UoB;
- Håvard M. Sandvik and Ana Beatriz Mateus Davó Luis at Department of Economics, UoB;
- Timothy Wyndham at the Department of Economics, NHH.

Seminars in 2018

BECCLE hosted various seminars in 2018 on competition law and economics. The seminars were both academic and policy oriented.

- **February 8**, [Hotel rankings of online travel agents, channel pricing and consumer protection](#), with Matthias Hunold (Düsseldorf Institute for Competition Economics).
- **February 12**, [Konkurransen på like vilkår?](#) with Erling Hjelmeng (University of Oslo), Lars Sjørgard (Director General for Competition at the Norwegian Competition Authority), and Kjell Erik Lommerud (University of Bergen).
- **February 20**, [Local Market Structure and Consumer Prices: Evidence from a Retail Merger](#), with Dennis Rickert (Toulouse School of Economics).
- **March 1**, [Damages for breach of Public Procurement Law – Fosen-Linjen AS v AtB AS and its implications](#), with Dag Sørli Lund (Hjort DA), Kirsi-Maria Halonen (University of Lapland), Albert Sanchez-Graells (University of Bristol), and Halvard Haukeland Fredriksen (University of Bergen and BECCLE, and Norwegian Complaint Board for Public Procurement).
- **September 7**, [Offentlig oppgavetvveri?](#) with Malgorzata Cyndecka (University of Bergen), Jan Gaute Sannarnes (The Norwegian Competition Authority), Karsten Naundrup Olesen (University of Copenhagen), Beatrice Dankertsen Hennying (KS Advokatene).
- **September 24**, [Competition from Bottom to Top: New Trends in Electricity Markets](#), with Anne Sofie Ravndal Risnes (Statnett), Monika Zsak (BKK Spring), Svein

Harald Bjørlo (Rambøll), Ignacio Herrera Anchustegui (University of Bergen), Endre Bjørndal (NHH), and Mette Bjørndal (NHH).

- **October 23**, [Fastprisavtalen for bøker](#), with Lars Sjørgard (Director General for Competition at the Norwegian Competition Authority), Øystein Foros (NHH), and Ronny Gjendemsjø (University of Bergen).
- **October 26**, [Forhandlinger og kvalifikasjonskrav](#), with Anders Thue (Simonsen Vogt Wiig), Lene Kristin Hennø (Wikrborg Rein), and Linda Midtun (University of Bergen).
- **November 13**, [Recent legal developments and new energy infrastructure](#), with Leigh Hancher (Tilburg University, Director of the Energy Law and Regulation at the Florence School of Regulation)
- **November 21**, [Sukkeravgifter i lys av statsstøttereguleringen](#), with Maarten Aalbers (Leiden University), and Malgorzata Cyndecka (University of Bergen).
- **December 4**, [State aid applied to environmental taxes](#), with Joana Pedrosa (Gothenburg University).

Publications

Selected articles (published in 2018):

Arnesen, Finn; Fredriksen, Halvard Haukeland, Erstatningsansvar ved brudd på anskaffelsesreglene - etter EFTA-domstolens tolkningsuttalelse i Fosen-Linjen. Tidsskrift for forretningsjus 2018, s. 169-195.

Fredriksen, Halvard Haukeland; Strandberg, Magne, Årsaksspørsmål ved krav om erstatning for tapt fortjeneste i anskaffessaker. Tidsskrift for rettsvitenskap 2018; Volum 131.(2-3) s. 141-205.

Herrera Anchustegui, Ignacio; Gjendemsjø, Ronny. "Evaluating the Commission's Proposal for a Directive on Unfair Trading Practices. Competition in Fairness?" European Competition and Regulatory Law Review (CoRe). 2: 1-10.

Herrera Anchustegui, Ignacio; Hunter, Tina. "Oil as Currency: Venezuela's Petro, a New 'Oil Pattern'?" Oil, Gas and Energy Law (OGEL).

Cyndecka, Malgorzata Agnieszka; Wyndham, Timothy G.A. "Price Increasing Tax Reductions for Electronic Newspapers. Implications for State Aid Policy". European State Aid Law Quarterly 2018; Volum 17.(3) s. 375-386.

Fredriksen, Halvard Haukeland, EU-byråene, Grunnloven og EØS-avtalens bærekraft. Tidsskrift for forretningsjus 2018; Volum 22.(1) s. 3-12.

Herrera Anchustegui, Ignacio, "Buyer Power in Merge Control: An Overview of EU and National Case Law". Special issue of e-Competitions. e-Competitions Bulletin. 16 pages. Published 2018-02-01.

Herrera Anchustegui, Ignacio, "Buyer power and Dominance: An overview of EU and national case law". Special issue of e-

Competitions. e-Competitions Bulletin. Published 2018-04-19.

Cyndecka, Malgorzata Agnieszka, "Once an Aid Recipient, Always an Aid Recipient? The Post-Crisis State Interventions in the Banking Sector and Beyond". *European State Aid Law Quarterly* 2018; Volum 17.(2) s. 192-203.

Cyndecka, Malgorzata Agnieszka, "The MEOP in the FIH Case - Where Law and Economics Meet, but Law Prevails" (C 579/16 P *Commission v FIH* · Annotation on the Judgment of the Court of Justice (Grand Chamber) of 6 March 2018, in Case C 579/16 P *European Commission v FIH Holding and FIH Erhvervsbank (FIH)*). *European State Aid Law Quarterly* 2018; Volum 17. s. 546-552.

Hyytinen, Ari, Frode Steen, and Otto Toivanen. "An Anatomy of Cartel Contracts," *The Economic Journal*.

Hyytinen, Ari, Frode Steen og Otto Toivanen, "Cartels Uncovered," *American Economic Journal: Microeconomics*.

Gabrielsen, Tommy Staahl, Bjørn Olav Johansen and Teis Lunde Lømo, "Resale price maintenance in two-sided markets," *Journal of Industrial Economics*.

Nilsen, Øivind Anti og Magne Vange, "Intermittent Price Changes in Production Plants: Empirical Evidence using Monthly Data," *Oxford Bulletin of Economics and Statistics*.

Books, chapters in books and monographs

Arnesen, Finn; Fredriksen, Halvard Haukeland, EEA Agreement, Article 1 [Objects and purpose] and Article 2 [Definitions]. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s 171-180.

Arnesen, Finn; Fredriksen, Halvard Haukeland, EEA Agreement, Contracting parties and Preamble. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s.145-180.

Arnesen, Finn; Fredriksen, Halvard Haukeland, Surveillance and Court Agreement, Preamble and Article 1. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 973-978.

Arnesen, Finn; Fredriksen, Halvard Haukeland; Graver, Hans Petter; Mestad, Ola; Vedder, Christoph, *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 (ISBN 978-3-8487-3219-7) 1177 s.

Arnesen, Finn; Mestad, Ola; Graver, Hans Petter; Fredriksen, Halvard Haukeland; Vedder, Christoph, Introduction. The EFTA states, the EEA and the different views on legal integration of Europe. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 1-12.

Einarsson, Olafur Johannes; Fredriksen, Halvard Haukeland, EEA Agreement Article 110. Enforceability of decisions of the ESA and the Commission and of judgements of the EFTA Court and the EU Courts. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 860-865.

Fredriksen, Halvard Haukeland; Strandberg, Magne, *Norwegian Civil Procedure Under the Influence of EU Law. I: Transformation of Civil Justice - Unity and Diversity*. Springer 2018 ISBN 978-3-319-97357-9. s. 41-62.

Fredriksen, Halvard Haukeland; Jonsdottir, Johanna, *Agreement on a Standing Committee of the EFTA States. I: Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 1079-1101.

Fredriksen, Halvard Haukeland, EEA Agreement Article 112-114. Safeguard measures and rebalancing measures. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 883-890.

Christian Franklin, "The Effectiveness and Application of EU and EEA Law in National Courts - Principles of Consistent Interpretation". Intersentia. 576 sider. ISBN: 978-1-78068-655-4.

Christian Franklin, "Article 3 - Principle of Loyalty". Part I, sider 180-196, og "Article 2 SCA - Principle of Loyalty". Part III, sider 978-980. Begge i Arnesen, Finn; Fredriksen, Halvard Haukeland; Graver, Hans Petter; Mestad, Ola; Vedder, Christoph. 2018. "Agreement on the European Economic Area - A Commentary". Nomos Verlagsgesellschaft. 1177 sider. ISBN: 978-3-8487-3219-7.

Gjendemsjø, Ronny, Article 53. Agreements, decisions and concerted practices. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 525-546.

Gjendemsjø, Ronny, Article 54. Abuse of a dominant position. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 546-555.

Gjendemsjø, Ronny, Articles 55 - 58. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 555-568.

Ormberg, Håvard, Article 120. The EEA Agreement and pre-existing agreements. I: *Agreement on the European Economic Area - A Commentary*. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 919-924.

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Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 924-929.

Ormberg, Håvard, Article 122. Secrecy obligations. I: Agreement on the European Economic Area - A Commentary. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 927-929.

Ormberg, Håvard, Article 123. National security and trade in arms. I: Agreement on the European Economic Area - A Commentary. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 929-939.

Herrera Anchustegui, Ignacio; Midtun, Linda; Strømsnes, Kristian. "Service Concessions. Directive 2014/23 on the award of concession contracts. A comparative study of its transposition into Norwegian law". Chapter in: Lazo Vitoria, Ximena. 2018. Service Concessions in the EU. Forlaget Thomson. 350 pages. ISBN: 978-84-9177-232-3.

Cyndecka, Malgorzata Agnieszka; Røed, Øyvind. „Norway - National Report - XXVIII FIDE Congress. I: Tax, State Aid and distortions of competition". Congress Proceedings Vol. 2. Livraria Almedina 2018 ISBN 978-972-40-7479-5. s. 412-428.

Cyndecka, Malgorzata, «Effectiveness and Application of EU & EEA law in Polish Courts: The principle of consistent interpretation», i: Christian N.K. Franklin (red.) «The Effectiveness and Application of EU and EEA Law in National Courts», Intersentia 2018 (ISBN 9781780686554), 44 sider.

Fredriksen, Halvard Haukeland, The EFTA Court. I: The Legitimacy of International Trade Courts and Tribunals. Cambridge University Press 2018 ISBN 9781108335690. s. 138-181.

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Fredriksen, Halvard Haukeland, EEA Agreement Article 105-107. Homogeneous interpretation of EU and EEA law. I: Agreement on the European Economic Area - A Commentary. Nomos Verlagsgesellschaft 2018 ISBN 978-3-8487-3219-7. s. 825-839.

Research projects

Tommy Staahl Gabrielsen, Odd Rune Straume and Bjørn Olav Johansen have been awarded funding for the project "Ikke-pris effekter av fusjoner – implikasjoner for

Fusjonskontrollen" by 'Det alminnelige prisreguleringsfond'.

Members of committees and boards

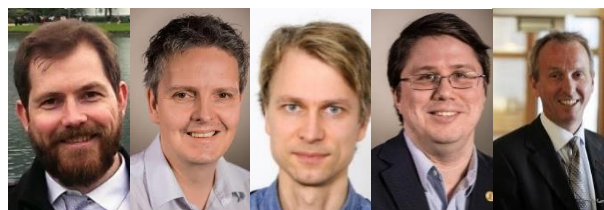
On April 1st 2017 the Complaint board for competition was established. Two of the eight members of the board are BECCLE associates, namely Ronny Gjendemsjø and Tore Lunde.

BECCLE

Bergen Center for Competition Law and Economics (BECCLE) was [established](#) in 2011, and it is a center jointly owned by Norwegian School of Economics and the University of Bergen. It is a meeting place for economists and lawyers interested in competition policy questions. The center is located in [Jekteviksbakken 31](#) in the centre of Bergen.

In 2012 BECCLE joined a European network of research institutions with a similar focus: [CLEEN](#) (Competition Law and Economics European Network).

The general management of BECCLE consists of five academics. They are associate professor Bjørn Olav Johansen from Department of Economics at University of Bergen (leader), associate professor Ronny Gjendemsjø from Faculty of Law at University of Bergen (deputy leader), post doc Simen Ulsaker from Department of Economics at Norwegian School of Economics, researcher Ignacio Herrera Anchustegui from Faculty of Law at University of Bergen and professor Tommy Staahl Gabrielsen from Department of Economics at University of Bergen.



The general management: Bjørn Olav Johansen, Ronny Gjendemsjø, Simen Ulsaker, Ignacio Anchustegui and Tommy Staahl Gabrielsen.