

BECCLE

BERGEN CENTER FOR COMPETITION LAW AND ECONOMICS

ANNUAL REPORT 2019

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 Sørgard 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 Associate Professor 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 2019

The year 2019 was the eight year of BECCLE as an independent research center, and it has proved to be an exciting year for us.

We organized the 5th BECCLE Competition Policy Conference on April 25-26, with the participation of international experts on competition policy as speakers. The conference was successful in terms of both quality and attendance.

BECCLE organized several interesting seminars during 2019, among these was the seminar organized in October dealing with the questions of how and why the authorities should incentivize small and medium-sized firms to participate in public procurement processes. Among the speakers were economist and Associate Professor Malin Arve (NHH and BECCLE) and legal consultant Ragnhild Kristina Ølstad (Inventura).

This annual report will describe the activity of BECCLE in 2019, including the main events.

5th BECCLE conference on competition policy



Keynote speakers at the 2019 BECCLE conference: Joseph Harrington, Daniel O'Brien and Ariel Ezrachi.

BECCLE organized the 5th annual conference on competition policy on April 25-26 2019. The conference was a great success both in terms of quality and attendance. The conference program comprised presentations by

invited top international experts on competition policy, including Dr. Daniel O'Brien (Compass Lexecon), Professor Joseph Harrington (U Pennsylvania and NHH/BECCLE), and Professor Ariel Ezrachi (University of Oxford).

Dr. O'Brien's keynote speech, "Price Discrimination Policy in Intermediate Markets," was accompanied by an invited session on input price discrimination, with Claire Chambolle (INRA ALISS) and Hugo Molina (U Leuven).

Professor Harrington's keynote speech, "Competition Law and Pricing Algorithms," and Professor Ezrachi's keynote speech, "I can't believe it's not butter – The tale of digitalisation, competition and misconception," were accompanied by an invited session on algorithms and markets, with Gabriele Rovigatti (Bank of Italy), Timo Klein (U Amsterdam), and Giacomo Calzolari (EUI).

The full program can be downloaded at the following address: <https://beccle.no/event/bergen-competition-policy-conference-25-26-april-2019/>.

Professor IIs at BECCLE

BECCLE has had the pleasure of hosting an impressive list of Professor IIs in 2019. 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 until 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



Professor IIs at BECCLE in 2019, from left to right: Greg Shaffer, Caroline Heide Jørgensen, Thibaud Vergé, Joseph Harrington, Özlem Bedre-Defolie, Odd Rune Straume.

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

Professor Odd Rune Straume, University of Minho, is the most recent addition to the BECCLE team. Straume accepted a part time position at BECCLE, shared with the Department of Economics at UoB, that started in January 2019. Straume is also an expert on industrial organization, with a special focus on competition and regulation in health care and labor markets.

BECCLE's Özlem Bedre-Defolie awarded prestigious ERC Starting Grant

The economist Özlem Bedre-Defolie has been awarded the prestigious Starting Grant from the European Research Council. The grant is awarded to promising young researchers, who have excelled in their research and who got their PhD over the past two to seven years.

Bedre-Defolie is today an Associate Professor ESMT Berlin, and has been a BECCLE affiliate since January 2018.

Bedre-Defolie's project "Digital Platforms: Pricing, Variety, and Quality Provision" (DIPVAR) will receive €1.49 million between 2020 and 2024. This includes funding of several new positions for post-doctoral researchers and PhD candidates.

New Associate Professors at the Faculty of Law: BECCLE's Malgorzata Cyndecka and Ignacio Herrera-Anchustegui



Malgorzata Cyndecka (top) and Ignacio Herrera-Anchustegui.

BECCLE's Malgorzata Cyndecka and Ignacio Herrera-Anchustegui were both promoted to Associate Professors at the Faculty of Law last year. Cyndecka has been with the Faculty of Law since 2009, first as a PhD Research fellow and later as a Postdoctoral Researcher, and has been an active member of BECCLE. She defended her PhD from UiB in 2015, and received the European State Aid Quarterly's award for best PhD dissertation since 2012 within the field of state aid law.

Herrera-Anchustegui has been with the Faculty of Law since 2012, first as a PhD Research fellow and later as a Researcher, and has been an active member at BECCLE for several years. He defended his PhD from UiB in 2017, and received Concurrence's prize for best doctoral thesis of the year in Competition Law and Economics.

BECCLE associate Malgorzata Cyndecka accepted to the Young Academy of Norway

BECCLE associate Malgorzata Cyndecka has been accepted to the Young Academy of Norway (Akademiet for yngre forskere).

The Young Academy of Norway consists of talented, junior researchers from all disciplines, with a demonstrated commitment to science policy and innovative research dissemination. Members have been selected through an application process involving a scientific review process followed by interviews, and have membership for four years.

Cyndecka is Associate Professor at the Faculty of Law, and she is the only researcher from UoB to be accepted to the Young Academy of Norway in 2019.

BECCLE associates appointed to committee evaluating the need to regulate groceries



In October 2019 The Norwegian Ministry of Trade, Industry and Fisheries appointed **BECCLE's Professor Tore Nilssen (University of Oslo) and Professor Tommy Staahl Gabrielsen (UoB)** to a committee with the task of evaluating the need to adopt a ban on input price discrimination in the Norwegian grocery industry. Professor Espen Rasmus Moen (Norwegian Business School) was appointed as the third and final member of the committee. Professor Nilssen acted as the leader of the committee.

Professor Tommy Staahl Gabrielsen (top) and Professor Tore Nilssen.

There has been an active policy debate in Norway over the past few years about input prices in the Norwegian grocery market. Some of the industry players have argued that the extent of input price discrimination in Norway is hurting the competition at the retail level, by making it hard for the smaller chains to compete

against market leader NorgesGruppen. Several reports have been written on the topic over the past few years. In June 2019 **BECCLE's Bjørn Olav Johansen and Odd Rune Straume** submitted a report on the welfare consequences of input price discrimination commissioned by the Norwegian Competition Authority. The report advises against a ban on input price discrimination.

In January 2020, after having reviewed the various reports that had already been produced on the topic, professors Nilssen, Gabrielse and Moen concluded that the Norwegian Competition Act has sufficient protections against anti-competitive input price discrimination, and that there is a risk that additional regulations may harm consumers. The committee therefore recommended against a restriction on input price discrimination in the Norwegian grocery industry.

Doctoral defense on leniency and cartel enforcement within EU Competition Law

BECCLE's Ingrid Margrethe Halvorsen Barlund defended her PhD thesis "A Legal Analysis of Leniency in the Interaction of Public and Private Cartel Enforcement within EU Competition Law" on the 25th of January 2019 at the Faculty of Law, University of Bergen. She held her trial lecture on "The role of commitment decisions in the design of the enforcement system – with a particular focus on the impact on private enforcement" on the 24th of January 2019.

Her evaluation committee consisted of Professor Christian Franklin at the University of Bergen, Professor Erling Hjelmeng at the University of Oslo and Professor Pernille Wegener Jessen at Aarhus University. She has been supervised by Professor Caroline Heide-Jørgensen at the University of Copenhagen, and Associate Professor Ronny Gjendemsjø at the University of Bergen.

In her thesis, Barlund examines how the Commission can assure the detection and deterrence of cartels by using leniency. Barlund is now working as a Postdoctoral fellow at the Faculty of Law.

Doctoral students

BECCLE hosted eight affiliated doctoral students in 2019. Three were law students, and five were economics students:

- Håvard Ormberg, Linda Midtun and Kristian Strømsnes at the Faculty of Law, UoB;
- Andreas Tveito, Håvard M. Sandvik and Ana Beatriz Mateus Davó Luis at Department of Economics, UoB;
- Alina Ozhegova and Emil Mathias Strøm Halseth at the Department of Economics, NHH.

Seminars, workshops, small conferences (2019)

BECCLE has hosted the following seminars, workshops and small conferences on competition law and economics in 2019:

- **January 14-15**, [Conference on Developments in Energy Markets](#), with various speakers.
- **March 12**, [Guest lecture: State aid and tender procedures](#), with Cees Dekker (Nysingh).
- **May 20**, [The Competitiveness and Regulation of Offshore Wind Electricity](#), with various speakers.
- **August 22**, [Case Resolution Mechanisms under Articles 101 and 102 TFEU](#), with Katharina Voss (Swedish Competition Authority).
- **September 10**, [Lunchtime lecture on the "Fosen Line" saga](#), with Ragnhild Kristina Ølstad (Inventura AS).
- **October 2**, [Extraterritorial Effects of EU Economic Law: EU Law Beyond the Union](#), with Nuno Cunha Rodrigues (University of Lisbon).
- **October 16**, [Seminar on EU state aid regulation](#), with Linda Nyberg (Lund University).
- **October 17**, [Seminar om hvorfor og hvordan man kan stimulere til lokal deltagelse i anskaffelsesprosesser](#), with Malin Arve (NHH/BECCLE) and Ragnhild Kristina Ølstad (Inventura).

Publications (2019)

Selected articles:

Arve, Malin. "Plattformøkonomi og finans." *Magma*.

Brekke, Kurt Richard, Tor Helge Holmås, Karin Monstad, and Odd Rune Straume. "Competition and physician behaviour: Does the competitive environment affect the propensity to issue sickness certificates?" *Journal of Health Economics*.

Brekke, Kurt Richard, Lars Sørgard, and Andreas Tveito. "Effekter av konkurransereglene for norske forbrukere." *Samfunnsøkonomen*.

Cyndecka, Malgorzata Agnieszka. "State Aid in the Form of Tax Exemptions – Some Thoughts from Norway." *European State Aid Law Quarterly*.

Cyndecka, Malgorzata Agnieszka. "The MEOP in the Larko Case · Case T-423/14 Larko Geniki." *European State Aid Law Quarterly*.

Cyndecka, Malgorzata Agnieszka, Jose Luis Buendia, and Caroline Buts. "Review of EU Case Law on State Aid – 2018." *European State Aid Law Quarterly*.

Fjell, Kenneth, and Debashis Pal. "On repeated myopic use of the inverse elasticity pricing rule." *Economics Letters*.

Gjendemsjø, Ronny, and Ignacio Herrera Anchustegui. "Unfair trading practices in the food supply chain - On-Topic Special Issue". *Concurrences*.

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

Sá, Luís, Luigi Siciliani, and Odd Rune Straume. "Dynamic hospital competition under rationing by waiting times." *Journal of Health Economics*.

Siciliani, Luigi, and Odd Rune Straume. "Competition and equity in health care markets." *Journal of Health Economics*.

Steen, Frode, and Simen A. Ulsaker. "«Sukkeravgiften» skal øke statens inntekter og redusere sukkerforbruket – men virker den?" *Praktisk økonomi & finans*.

Books, chapters in books and monographs

Askeland, Bjarte, Malgorzata Agnieszka Cyndecka, Eirik Holmøyvik, Berte-Elen R Konow, Ernst Nordtveit, and Sigrid Eskeland Schütz. "Klimaretslege utfordringer for rettsvitenskapen." In: *Rett i Vest. Festskrift til 50-årsjubileet for jurist-utdanningen ved Universitetet i Bergen*. Fagbokforlaget 2019 ISBN 9788245027945. s. 177-196.

Barlund, Ingrid H. "Criminalisation of Cartels within EU Competition Law." In: *Rett i Vest - Festskrift til 50-årsjubileet for jurist-utdanningen ved Universitetet i Bergen*. Fagbokforlaget 2019 ISBN 9788245027945. s. 225-236.

Cyndecka, Malgorzata Agnieszka. "Om anvendelsen av EØS-regler om offentlig støtte til den norske universitets- og høyskolesektoren." In: *Rett i Vest. Festskrift til 50-årsjubileet for jurist-utdanningen ved Universitetet i Bergen*. Fagbokforlaget 2019 ISBN 9788245027945. s. 275-292.

Eriksen, Christoffer Conrad, and Halvard Haukeland Fredriksen. "Norges europeiske forvaltningsrett - EØS-avtalens krav til norske forvaltningsorganers organisering og saksbehandling." *Universitetsforlaget 2019* (ISBN 9788215030098).

Fredriksen, Halvard Haukeland, and Gjermund Mathisen. "EU-rett som norsk rettskilde." In: *Juridisk metode og tenkemåte*. Universitetsforlaget 2019 ISBN 9788215028354. s. 386-419.

Fredriksen, Halvard Haukeland, and Magne Strandberg. "Ex Officio Application of EU Consumer Protection Law in Norwegian Courts." In: *Civil Procedure and Harmonisation of Law*. Intersentia 2019 ISBN 9781780686936. s. 171-191

Gjendemsjø, Ronny, and Ignacio Herrera Anchustegui. "The Scope for National Regulation of Unfair Trading Practices." In: *Rett i Vest - Festskrift til 50-årsjubileet for jurist-utdanningen ved Universitetet i Bergen*. Fagbokforlaget 2019 ISBN 9788245027945. s. 293-316.

Herrera Anchustegui, Ignacio. "Acceso a las Redes de Transmisión de Electricidad y Separación Efectiva: Una Perspectiva Transatlántica" (Third Party Access and Effective Unbundling: A Transatlantic Perspective). In: *Competencia en mercados con recursos esenciales compartidos: telecomunicaciones y energía*. Thomson 2019 ISBN 9788491779469. s. 91-128.

Herrera Anchustegui, Ignacio. "Collaborative Centralized Cross-Border Public Procurement: A Feasibility and Comparative Implementation Analysis." In: *Centralização e Agregação de Compras Públicas- Reflexões Sobre uma Tendência Actual da Contratação Pública*. Livraria Almedina 2019 ISBN 9789724079141. s. 337-372.

Kielland, Torger, Tore Lunde, and Knut Martin Tande. "Immateriellretts europeisering." In: *Rett i Vest. Festskrift til 50-årsjubileet for jurist-utdanningen ved Universitetet i Bergen*. Fagbokforlaget 2019 ISBN 9788245027945. s. 395-418.

Lunde, Tore. "Det juridiske fakultet og konkurranseretten." In: *Rett i Vest - Festskrift til 50-årsjubileet for jurist-utdanningen ved Universitetet i Bergen*. Fagbokforlaget 2019 ISBN 9788245027945. s. 435-448.

Lunde, Tore. "§ 95 Noen hovedlinjer i markedsføringsretten og § 96 Generalklausulen." In: *Knophs oversikt over Norges rett*. Universitetsforlaget 2019 ISBN 978-82-15-03193-4. s. 537-548.

Lunde, Tore. "Konkurranseretten i møte med grunnleggende prosessuelle rett og prinsipp." In: *Integritet og ære: festskrift*

til Henry John Mæland, Gyldendal Norsk Forlag A/S 2019
ISBN 9788205509436. s. 401-411.

Lunde, Tore, Anders Bratholm, and Birger Stuevold Lassen.
“Personlighetens rettsvern.” In: Knophs oversikt over Norges
rett, Universitetsforlaget 2019 ISBN 978-82-15-03193-4. s.
110-122.

Lunde, Tore, Terje Lundby Michaelsen.
“Markedsføringsloven med kommentarer, 3. utgave.”
Gyldendal Akademisk 2019 ISBN 9788205506589.

Lunde, Tore, Birger Stuevold Lassen. “§ 94
Konkurransbegrensningsrett.” In: Knophs oversikt over
Norges rett. Universitetsforlaget 2019 ISBN 9788215031934.
s. 532-537.

Media (2019)

People associated with BECCLE are active in the public
debate. One example of this is opinion pieces written in the
press:

Arve, Malin. “Permanent pengebruk på tynt grunnlag.”
Dagens Næringsliv.

Arve, Malin. “Gode innkjøp – eller bare billigere telefoni?”
Dagens Næringsliv.

Arve, Malin, and Gunnar S. Eskeland. “Elbuss-satsing kan
koste oss fremtidens løsninger.” Dagens Næringsliv.

Arve, Malin, and Ignacio Herrera Anchustegui. “La små
bedrifter få konkurrere på like vilkår.” Bergens Tidende.

Foros, Øystein, and Frode Steen. “Kundene får ikke vite når
bensinprisen er lavest.” Dagens Næringsliv.

Fredriksen, Halvard Haukeland. “Fosen-saken til
Høyesterett: Håp om reell rettsavklaring?” Rett24.no.

Fredriksen, Halvard Haukeland. “Polsk trøbbel for EØS-
avtalen?” Rett24.no.

Hjelmeng, Erling. “Er problemet misbruk av kjøperkraft
eller av selgerkraft?” Dagens Næringsliv.

Hjelmeng, Erling, and Tina Søreide. “For lett å kjøpe seg ut
av konkurranse.” Dagens Næringsliv.

Johansen, Bjørn Olav, and Odd Rune Straume. “Bør få bruke
makt til å presse prisene.” Dagens Næringsliv.

Johansen, Bjørn Olav, and Odd Rune Straume. “Galt å
skremme med duopol i dagligvaremarkedet.” Dagens
Næringsliv.

Johansen, Bjørn Olav, and Odd Rune Straume. “Uredelig
debattstil.” Dagens Næringsliv.

Master theses (2019)

Nilsen, P. K., “Velferdseffekter av et forbud mot
prisdiskriminering i lys av egne merkevarer,” Master thesis,
Department of Economics, University of Bergen, June 2019.

Orlova, L., “Kan et forbud mot prisdiskriminering fremme
etablering av nettaktører i dagligvaremarkedet?” Master
thesis, Department of Economics, University of Bergen,
June 2019.

Havsgård, K. N., “Lojalitetsprogram og deres innvirkning på
konkurransen i drivstoffmarkedet,” Master thesis,
Department of Economics, University of Bergen, June 2019.

Ragnhildstveit, M. og Silver, C., “The Effect of Credit
Portfolio Diversification and Ownership on Banks’ Risk
Exposure,” Master thesis, Norwegian School of Economics,
June 2019.

Gangstøe, S. H., “Hemmelige kontrakter i
dagligvaremarkedet,” Master thesis, Department of
Economics, University of Bergen, June 2019.

Fossli, A., “Hva innebærer et prisdiskrimineringsforbud, og
er det hensiktsmessig?” Master thesis, Faculty of Law,
University of Bergen, June 2019.

Hjelle, A., “Commitment Decisions in EU Competition Law:
When is Article 9 of Regulation 1/2003 Applicable?” Master
thesis, Faculty of Law, University of Bergen, June 2019.

Bakke, H. G., “Commitment Decisions Under Article 9 of
Council Regulation (EC) No 1/2003,” Master thesis, Faculty
of Law, University of Bergen, June 2019.

Nes, L., “Joint Bidding under Competition Law,” Master
thesis, Faculty of Law, University of Bergen, June 2019.

Nyborg, M., “Er MFN-klausuler i avtaler mellom hoteller og
OTAer i strid med konkurranseloven § 10?” Master thesis,
Faculty of Law, University of Bergen, June 2019.

Dahl, S. T., “Forholdet mellom gjennomføringsforbudet i
konkurranseloven § 19 og fusjonskontrollforordningen
artikkel 7 (1),” Master thesis, Faculty of Law, University of
Bergen, June 2019.

Research projects with external funding (2019)

Arve, Malin, and Ronny Gjendemsjø. “Between predation
and bid rigging: Competition issues in procurement
markets.” Det alminnelige prisreguleringsfond, NOK
1.400.000.

Barlund, Ingrid H. “Handheving av kartell i EU
konkurranseretten.” Det alminnelige prisreguleringsfond,
NOK 246.000.

Gabrielsen, Tommy Staahl, Bjørn Olav Johansen, and Odd
Rune Straume. “Ikke-pris effekter av fusjoner –

implikasjoner for fusjonskontrollen.” Det alminnelige prisreguleringsfond, NOK 1.319.000.

Hjelmeng, Erling, and Tina Søreide. “Skyldkravet i konkurranseretten og alternative håndhevelsesformer.” Det alminnelige prisreguleringsfond, NOK 1.437.000.

Members of committees and boards

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

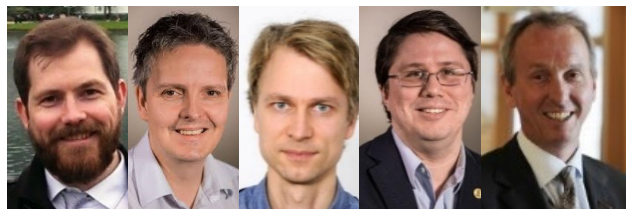
In October 2019 Tore Nilssen (leader) and Tommy Staahl Gabrielsen became members of a government appointed committee responsible for evaluating the need to legally restrict input price discrimination in the Norwegian grocery industry. The committee submitted its final report in January 2020.

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, Associate Professor 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, from left to right: Bjørn Olav Johansen, Ronny Gjendemsjø, Simen Ulsaker, Ignacio Herrera Anchustegui and Tommy Staahl Gabrielsen.
