

# BECCLE

BERGEN CENTER FOR COMPETITION LAW AND ECONOMICS

## ANNUAL REPORT 2015

### About BECCLE

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

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



### Key Ambition

The key ambition of BECCLE is to improve competition policy by stimulating research in competition law and economics, and providing a meeting place for lawyers and economists interested in competition policy.

To achieve the ambition, 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.

### Main Events in 2015

The year 2015 was the fourth year of BECCLE as an independent research center in competition law and economics. This year has been particularly exciting for BECCLE. The main events this year has been the following:

First, we organized the 1<sup>st</sup> BECCLE competition policy conference in April 23-24 with top international experts on

competition policy as keynotes. The conference was successful in terms of both quality and attendance.

Second, an external committee appointed by NHH and UoB evaluated BECCLE. 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.

Third, BECCLE organized 11 seminars during 2015. Among those were a full day seminar about the grocery market and a half-day seminar about the proposal by the Consumer Board of establishing a price portal in the grocery market. Both seminars were successful in terms of attendance and quality of discussion. BECCLE was also co organizers of the Nordic Academic Network for Competition Law workshop, hosted in Copenhagen in October.

Fourth, professor Lars Sjørgard was appointed as the new chief economist of the Norwegian Competition Authorities (NCA) in August 2015, and was replaced by professor Kurt Brekke (NHH) in the general management of BECCLE.

This annual report will describe the activity of BECCLE in 2015, including the main events.

### 1<sup>ST</sup> BECCLE conference on competition policy

BECCLE organized the 1<sup>st</sup> annual conference on competition policy on 23-24 April 2015.

The conference had three top international experts as keynote speakers:

- David Bailey (King's college)
- Joe Harrington Jr. (University of Pennsylvania)
- Patrick Rey (Toulouse School of Economics)



David Bailey, Joe Harrington and Patrick Rey.

The conference also had two invited sessions. The first session was on Verticals with Greg Schaffer (University of Rochester), Daniel O'Brien (Indiana University), and Thibaud

Verge (ENSAE Paris Tech). The second session was on Cartels with Frode Steen (NHH), Christine Zulehner (Goethe University), and Ari Hyytinen (University of Jyväskylä). In addition, we had several contributed parallel sessions with a total of 37 papers being presented. The conference was a great success in terms of quality and attendance, and BECCLE will organize the 2<sup>nd</sup> conference on April 21-22 in 2016.

## Evaluation Report on BECCLE

When BECCLE was established in 2011 it was required that BECCLE be evaluated within the fourth year of operation. A committee consisting of professor Lars Henriksson, Stockholm School of Economics, professor Thomas Rønne, Copenhagen Business School and legal director Karin Stakkestad Laastad, Norwegian Competition Authority, carried out the evaluation in 2015. The Committee's overall perception is "*that BECCLE has succeeded in achieving its objectives. The center has a high level of activity. The members of BECCLE organize seminars and conferences, contribute significantly to the generation of new and interdisciplinary courses, and participate actively in the public debate in Norway.*"

*BECCLE's members are highly qualified researchers who (continue to) publish well in journals within their own fields. More importantly, the center has succeeded in stimulating interdisciplinary collaboration, resulting in a number of publications co-authored by economists and legal scholars. The committee finds that continued funding according to the existing financing model is well warranted and highly recommended."*

## Day Seminar on the grocery market

May 5<sup>th</sup> 2015, BECCLE organized a day seminar in Oslo on competition issues in the grocery market. The seminar had a [program](#) with twelve speakers covering different issues from both a legal and economic perspective. The audience consisted of legal and economic experts from governmental bodies, law firms, business and academia.

## Lars Sjørgard new Director General at NCA



Lars Sjørgard (Photo: Paul Sigve Amundsen).

Lars Sjørgard was recently appointed by the government as the new Director General for Competition at the NCA for six years. Sjørgard came from the position as chief economist at NCA, which he started at in August 2015. Sjørgard is also a

professor in economics at NHH and one of the founders and previous directors of BECCLE. NCA has now a Director General that is an international top expert on competition policy. BECCLE looks forward to future collaboration with Sjørgard and the NCA.

## Professor II's at BECCLE



Greg Shaffer, Caroline Heide Jørgensen and Thibaud Verge.

Professor [Caroline Heide Jørgensen](#), University of Copenhagen, started in her part time position at BECCLE in 2014. Her part time position is shared with the Faculty of Law, UiB. Caroline is an expert on EU Competition Law and the deputy chairman of the Danish Competition Council.

Professor [Thibaud Verge](#), CREST in Paris, and professor [Greg Shaffer](#), University of Rochester in the US, both started on their part time position at BECCLE in 2013 and are still active. 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.

## Doctoral students

BECCLE hosted nine affiliated doctoral students in 2015. Five are law students, while four are economics students.

- Ignacio Herrera Anchustegui, Ingrid Halvorsen Barlund, Håvard Ormberg, Linda Midtun and Kristian Strømsnes at the Faculty of Law, UoB;
- Teis Lunde Lømo and Håvard M. Sandvik at Department of Economics, UoB;
- Simen Aardal Ulsaker and Timothy Wyndham at the Department of Economics, NHH.

## Seminars in 2015

BECCLE hosted eleven seminars in 2015 on competition law and economics, both academic and policy oriented seminars.

### Spring

- **February 16** [Barriers to trade in services: OECD's STRI project](#), Hildegunn Kyvik Nordåas, Senior trade policy analyst, OECD.
- **April 10** [Social Networks and the Demand for News](#), Lisa George, Hunter College.
- **April 15** [TeliaSonera/Tele2](#), Jostein Skaar, Oslo Economics, Gjermund Nese and Katrine Holm Reiso, Konkurransetilsynet, og Tommy S. Gabrielsen og Bjørn

Olav Johansen, Department of Economics, UoB, and BECCLE.

- **May 5** [Matmarkedet](#) Full day seminar on issues in the grocery market at NHHs Campus in Oslo
- **22 May** [The Directive on antitrust damages actions](#), Sebastian Peyer, School of Law, University of Leicester, and Lars Henrikson, Stockholm School of Economics.

## Fall

- **September 10** [Kan Konkurransetilsynet forhindre høye bensinpriser?](#), Erling Hjelmeng, Professor, Institutt for Privatrett, UiO, NHH og BECCLE.
- **September 24** [Variable inventory costs intensify retail competition](#), Joao Montez, London Business School.
- **October 27** [Posting matters revisited](#), Professor Catherine Barnard, University of Cambridge.
- **October 28** [Are Platform Price Parity Clauses Necessarily Anticompetitive?](#), Professor Thibaud Vergé, ENSAE ParisTech, NHH and BECCLE.
- **November 20** [Dagligvareportalen – til gunst for norske forbrukere?](#), Ronny Gjendemsjø, Juridisk fakultet, UiB, og BECCLE, Randi Flesland, Forbrukerrådet, Ingvill Størksen, Virke, Stian Mårdalen, REMA 1000, Tommy Staahl Gabrielsen, Institutt for økonomi, UiB, og BECCLE, og Tor Arne Fanghol, Bergens Tidende.
- **October 28** [Forslaget om innføring av kartellforlik i konkurranseloven](#), Nils Olav Widme, avdelingsdirektør, Nærings- og fiskeridepartementet, og Håkon Cosma Størdal, Advokat, Wiersholm.

## Publications

### Selected articles (published in 2015)

Kjetil Bjørvatn, Anna B. Milford and Lars Sørgard (2015): Farmers, Middlemen and Exporters: A Model of Market Power, Pricing and Welfare in a Vertical Supply Chain”, *Review of Development Economics*, 19, 31–44.

Herrera Anchustegui, Ignacio (2015): EFTA Court case E-24/13 Casino Admiral AG v Wolfgang Egger: the obligation of transparency and consequences of its breach when awarding service concessions, *The Public Procurement Law Review*, 2015 (1), pgs. NA1-NA9.

Brekke, Kurt, Holmås, Tor Helge, and Odd Rune Straume (2015): [Price Regulation and Parallel Imports of Pharmaceuticals](#), *Journal of Public Economics*, 129, 92-105.

Brekke, Kurt, Siciliani, Luigi, and Odd Rune Straume (2015): [Hospital competition with soft budgets](#), *Scandinavian Journal of Economics*, 117, 1019-1048.

Fjell, Kenneth, Foros, Øystein, and Hans Jarle Kind (2015): On the choice of royalty rule to cover fixed costs in input joint ventures, *International Journal of the Economics of Business*, 22, 393-406.

Johansen, Bjørn Olav, and, Gabrielsen, Tommy Staahl (2015): [Buyer power and exclusion in vertically related markets](#), *International Journal of Industrial Organization*, 1-19.

Fredriksen, Halvard Haukeland; Franklin, Christian. 2015. Of pragmatism and principles: The EEA agreement 20 years on. *Common market law review*. 52: 629-684

Fredriksen, Halvard Haukeland. 2015. Best i klassen? EØS-Norge sett utenfra. *Nytt Norsk Tidsskrift*. 32: 147-162.



Halvard Haukedal Fredriksen, Bjørn Olav Johansen and Ignacio Herrera Anchustegui. (Photo: UiB)

Herrera Anchustegui, Ignacio (2015): “Centralising Public Procurement and Competitiveness in Directive 2014/24”, *European Law Reporter* 2015 pp. 119-132

Herrera Anchustegui, Ignacio (2015): “Competition law through an Ordoliberal Lens”, *Oslo Law Review* 2015, pp. 139-174

Lunde, Tore (2015): “An overview of the draft Directive on the protection of undisclosed know-how and business information (trade secrets), COM(2013) 813. Protection of trade secrets in Norway in the light of the proposed Directive”, *Nordiskt immateriellt rättskydd*. pp. 127-137

Cyndecka, Malgorzata Agnieszka (2015): “The problem of objectives pursued by the state under the application of the Market Economy Investor Principle (MEIP)”, *Tidsskrift for Rettsvitenskap* pp. 263-294

## Books, chapters in books and monographs

Foros, Øystein, Kind, Hans Jarle, and Lars Sørgard (2015): Merger Policy and Regulation in Media Industries, Ch. 6 in *Handbook of Media Economics*, S.P. Anderson, J. Waldfogel and D. Strömberg (eds), North-Holland.

Lunde, Tore; Mestad, Ingvild; Michaelsen, Terje Lundby (2015): *Markedsføringsloven med kommentarer*, 2. utgave. Gyldendal Juridisk 2015

## Master thesis

Helvik Morken, K.: [“Effekter av innkjøpsamarbeid i det norske dagligvaremarkedet – En litteraturstudie.”](#) Master thesis, Department of Economics, University of Bergen, September 2015.

Graven, L. H. og M. Larsen: [“ex post analyse av Sats-Elixia fusjonen”](#), Master thesis, Norwegian School of Economics, August 2015.



Gjesteland Ekern, A. C. og M. Eide: [“TeliaSoneras oppkjøp av Tele2”](#), Master thesis, Norwegian School of Economics, August 2015.

Heimdal, K. W. og K. J. Solberg: [‘The effect of competition on non-performing loan rates. Evidence from the Norwegian banking market’](#), Master thesis, Norwegian School of Economics, June 2015.

Fjellstad, H. og E. Sund Karlsen: [‘Koordinert adferd i banknæringen’](#), Master thesis, Norwegian School of Economics, June 2015.

Bjartnes, K. og K. Malde: [‘Slipper norske karteller billig unna? En analyse av det norske bøtenivået i forhold til bøtenivået i EU’](#), Master thesis, Norwegian School of Economics, June 2015.

Mork Sandvik, H. [‘Eksklusivavtaler og investering’](#), Master thesis, Department of Economics, University of Bergen, June 2015. This thesis was awarded the price for the best thesis in competition economics of the year by the NCA:



Håvard Mork Sandvik and Magnus Gabrielsen. (Photo: NCA)

Eikeland, Elisabeth S. [‘Virkningen av nasjonale konkurransemyndigheters vedtak i etterfølgende erstatningssøksmål etter direktiv 2014/104/EU’](#), Master thesis, Faculty of Law, University of Bergen, June 2015

## Doctoral thesis on State Aid Law

Malgorzata Cyndecka submitted here thesis on the Market Economic Investor Principle (MEIP) in State Aid Law in May 2014.



Malgorzata Cyndecka (Photo: UiB)

The two main parts of the thesis discusses the applicability and application of the MEIP. In addition, the thesis covers the Court's judicial review of the application of the MEIP and

discusses the criticism towards the MEIP. Malgorzata successfully defended her thesis in January 2015. The thesis will be published by Wolters Kluwer in May 2016.

## International networking

BECCLE associates have also presented papers at EARIE 2015 in Munich, and at various international and national workshops, smaller conferences and seminars.

Ignacio Herrera Anchustegui and Ingrid Margrethe Halvorsen Barlund visited CCP in Norwich for two weeks. Several BECCLE associates were also present at the CLEEN conference in Tilburg, the Netherlands.

## Research projects

In 2015 BECCLE and its associates have been awarded funding for several research projects. The Norwegian Finance Market Fund awarded Faculty of Law, UoB and BECCLE funding for a project on [state aid in the financial sector](#). Project leader is Ronny Gjendemsjø. The project includes one post.doc. position and a PhD scholarship.

From the funding awarded by the Norwegian Competition Authority associated from BECCLE are leading funded projects on price signaling (Ronny Gjendemsjø), competition in hospital markets (Kurt Brekke), web portals (Bjørn Olav Johansen, and “Issues in competition policy” (Tommy Staahl Gabrielsen).

## Members of public committees and boards

Several of the members have been active in the public debate through work in committees and as board members:

Erling Hjelmeng (leader) and Tommy Staahl Gabrielsen were members of ‘Markedsbalanseringsutvalget’, submitting a report early summer 2015 on the market structure and regulation of the Norwegian agricultural industry.

Sissel Jensen joined as a member of the expert group to evaluate alternatives for public funding of NRK.

## Policy reports

Gabrielsen, T. S., A. Jakubanecs, H. J. Kind, Ø. A. Nilsen, F. Skjeret, L. Sørgard, H. Thomassen, H. Østbye: [‘Konkurransmessige virkninger av noen utvalgte NRK-tjenester’](#), SNF-rapport 2/15, skrevet på oppdrag av Kulturdepartementet.

## Debate

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

Tommy Staahl Gabrielsen: [“Mener prisportal rammer kundene”](#), Bergens Tidende, 26.10.2015. Oppfølger i NRK nyheter (NRK P1), “Her og Nå” (NRK P1), Dagsnytt 18 (P2 og NRK2), Dagsrevyen 21 (NRK1) og TV2-nyhetene

(morgensending 27/10).

Tommy Staahl Gabrielsen: “[Hver tiende nordmann er redd for å miste jobben](#)“, TV2 nyhetene, 13.09.2015.

Øystein Foros, Erling Hjelmeng og Frode Steen: ‘[Kan hindre kartellpris på bensin.](#)’ Dagens Næringsliv, 14.08.2015

Tommy Staahl Gabrielsen: ‘[Kan ikke leve av bivirkninger.](#)’ Dagens Næringsliv, 26.05.2015.

Lars Sjørgard: ‘[Mulige virkninger av NRK på nett](#)’, Vox Publica, 28. april 2015.

Tommy Staahl Gabrielsen, Hans Jarle Kind og Lars Sjørgard: ‘[NRK bidrar til mediemangfold](#)’, Dagens Næringsliv, 14.04.2015

Erling Hjelmeng og Øystein Foros: ‘[Berget Ica fra milliardblunder.](#)’ Dagens Næringsliv, 01.04.2015.

Tommy Staahl Gabrielsen: ‘[Kunne stanset Ica-Coop-fusjonen.](#)’ Dagens Næringsliv, 31.03.2015.

Frode Steen: ‘[Nei til utflagging, ja til nedbygging?](#)’ Dagbladet, 11.03.2015.

Frode Steen: ‘[Kursskifte i luftfarten](#)’, Dagens Næringsliv, 11.03.2015.

Tommy Staahl Gabrielsen: ‘[En dårlig dag for forbrukerne](#)’, Dagens Næringsliv, 07.03.2015.



Øystein Foros og Lars Sjørgard: ‘[Høyt spill av ICA og Coop](#)’, Dagens Næringsliv, 23.01.2015.

## Blog posts

Ingrid Margrethe Halvorsen Barlund: ‘[Recognition from the Commission](#)» 7. October 2015.

Ronny Gjendemsjø: ‘[AG Szpunar on concerted practices and unilateral communication](#)’, 26. August 2015.

Håvard Ormberg: ‘[Wathelets uttalelse I C-170/13 – Inngrep I standardpatent, forføyningsbegjering og misbruk av dominans](#)», 9. January 2015.

## 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 three academic persons. For the period 2011-2014 they are professor Tommy Staahl Gabrielsen from Department of Economics at University of Bergen (leader), associate professor Ronny Gjendemsjø from Faculty of Law at University of Bergen and professor Kurt Brekke from Department of Economics at Norwegian School of Economics.



The general management: Kurt Brekke, Tommy Staahl Gabrielsen and Ronny Gjendemsjø.