

BECCLE

BERGEN CENTER FOR COMPETITION LAW AND ECONOMICS

ANNUAL REPORT 2016

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 2016

The year 2016 was the fifth 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 2nd BECCLE competition policy conference on April 21-22 with top international experts on

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

In February 2016, UoB and NHH (BECCLE's parent institutions) decided to extend the funding of BECCLE 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.

Third, BECCLE organized 10 regular seminars during 2016. Among those was a seminar on the challenges in cases before national courts involving challenging economic considerations and a full day seminar on the grocery market in Oslo. Both seminars were successful in terms of attendance and quality of discussion.

Fourth, former member of BECCLE, professor Kurt Brekke was appointed as the new chief economist of the Norwegian Competition Authorities (NCA) in May 2016, and was replaced by professor Frode Steen (NHH) in the general management of BECCLE. Professor Steen was the former leader of BECCLE's board.

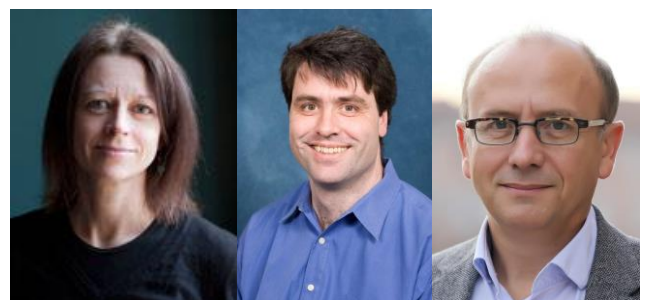
This annual report will describe the activity of BECCLE in 2016, including the main events.

2nd BECCLE conference on competition policy

BECCLE organized the 2nd annual conference on competition policy on April 21-22 2016.

The conference had three top international experts as keynote speakers:

- Alison Jones (King's College)
- Kai-Uwe Kühn. (University of East Anglia)
- Bruno Jullien (Toulouse School of Economics)



Alison Jones, Kai-Uwe Kühn and Bruno Jullien.

The conference also had three invited sessions. The first session was on Verticals with Greg Schaffer (University of Rochester), Thibaud Verge (ENSAE Paris Tech) and Roman Inderst (Goethe Universität). The second session was on competition policy in health care with Luigi Siciliani (University of York) and Philippe Chone (CREST). The third was on enforcement of competition law with Sebastian Peyer (University of East Anglia), Andreas Stephan (University of East Anglia) and Paul Grout (University of Bristol). In addition, we had several contributed parallel sessions with a total of 30 papers being presented. The conference was a great success in terms of quality and attendance, and BECCLE will organize the 3rd conference on April 27-28 in 2017.

Awards



Malgorzata Agnieszka Cyndecka and Ignacio Herrera Anchustegui

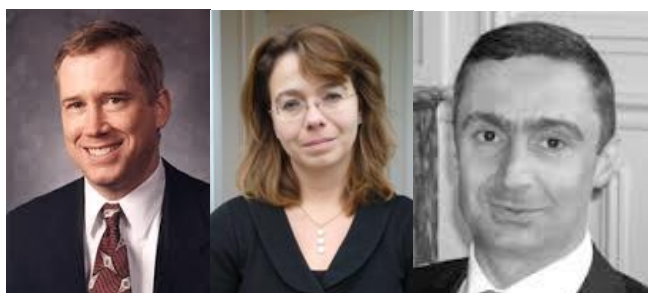
Two of BECCLE's researchers received awards for their research during 2016.

Malgorzata Agnieszka Cyndecka, postdoctoral fellow at the Faculty of Law, UoB, has been awarded the prestigious [European State Aid Quarterly's award for best PhD dissertation](#) since 2012 within the field of state aid.

Malgorzata's doctoral dissertation from 2015 bears the title 'The Applicability and Application of the Market Economy Investor Principle', and has newly been published in a revised version by the publishing house Kluwer Law International.

Ignacio Herrera Anchustegui has been awarded the prestigious [Scholar-In-Residence Program](#) award by the Antitrust Law Section of the American Bar Association. Ignacio was one of two recipients of the Scholar-In-Residence Program award for the period 2017. The award is a grant that allows Ignacio to spend at least three months in Washington D.C. and to carry out a comparative study of the regulation concerning US Antitrust law.

Professor II's at BECCLE



Greg Schaffer, 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. Her position was recently renewed for 3 more years.

Professor [Thibaud Vergé](#), 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 eleven affiliated doctoral students in 2016. Six are law students, and five are economics students:

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

Simen Aardal Ulsaker (NHH) and Teis Lunde Lømo (UoB) are now recruited as post-doctoral fellows at their institutions and affiliated with BECCLE.

Seminars in 2016

BECCLE hosted ten regular seminars in 2016 on competition law and economics. The seminars were both academic and policy oriented.

Spring

- **January 21**, [Særegne EØS-rettslige utfordringer knyttet til direktiv 2014/104 om private erstatningssøksmål for brudd på EU/EØS-konkurranseretten](#), Gjermund Mathisen, Director, Competition and State Aid Directorate, EFTA Surveillance Authority.
- **February 3**, [BECCLE-seminar om konkurransepolitikk og innovasjon](#), Christian Riis, Professor, Institutt for samfunnsøkonomi, Handelshøyskolen BI.
- **March 7**, [Ny konkurranseklagenemd](#), Helge Stemshaug, Partner, Advokatfirmaet BA-HR, og Ørnulf Øyen, Professor, Det juridiske fakultet, Universitetet i Bergen.
- **March 10**, Lars Sjørgard, Konkurransedirektør, Konkurransetilsynet. Hva bør være Konkurransetilsynets oppgaver?
- **April 25**, [Partial Exclusivity](#), Thibaud Vergé, ENSAE/CREST
- **June 13**, [Recommender systems: biased advice](#), Emilio Calvano, University of Naples.

Fall

- **September 13**, [Kryssubsidiering, effektiv ressursbruk og ESAs kontroll av det offentlige](#), Malgorzata A. Cyndecka, BECCLE, Herdis Helle, kommuneadvokaten i Bergen kommune, og Steinar Vagstad, UiB.
- **November 1**, [Markedsbalansering i kjøttindustrien og unntak fra konkurranseloven](#), Hans Thorn Wittusen, Visekonsernsjef i Nortura, Magnus Gabrielsen, Avdelingsdirektør i Konkurransetilsynet, Per Ingvar Olsen, Professor BI, og Tommy Staahl Gabrielsen, Professor, økonomisk institutt, UiB og BECCLE.
- **November 10**, [BECCLE-seminar om matmarkedet](#), Tommy Staahl Gabrielsen, Professor, UiB og BECCLE, Frode Steen, Professor, NHH og BECCLE, Kurt Brekke, Sjefsøkonom i Konkurransetilsynet, Niklas Strand, RBB Economics Stockholm, Eirik Østerud, Førsteamanuensis, UiO, Thibaud Verge, Professor, CREST, NHH og BECCLE, Bjørn Olav Johansen, Forsker, UiB og BECCLE, og Erling Hjelmeng, Professor, UiO og BECCLE
- **November 22**, [Økonomisk fagkunnskap i domstolen](#), Professor Asbjørn Strandbakken, dekan ved Det juridiske fakultet, Førstelagmann Magni Elsheim, Gulating lagmannsrett, Sven Marius Urke, Direktør for domstolsadministrasjonen, Professor Tommy Gabrielsen, Institutt for Økonomi, Universitetet i Bergen, og BECCLE

Publications

Selected articles (published in 2016)

Herrera Anchustegui, Ignacio and Sánchez Graells, Albert (2016), 'Revisiting the concept of undertaking from a public procurement law perspective - a discussion on EasyPay and Finance Engineering', *European Competition Law Review* 37 (2016) 93-98.

Cyndecka, Malgorzata Agnieszka, 'The applicability and application of the market economy investor principle' *European State Aid Law Quarterly* 16 (2016) 381-399.

Johansen, B. O., & Nilssen, T. (2016). The economics of retailing formats: competition versus bargaining. *The Journal of Industrial Economics*, 64(1), 109-134.

Øyvind Nilsen, Lars Sjørgard, Simen Ulsaker, "Upstream merger in a successive oligopoly: who pays the price?" *International Journal of Industrial Organization*.

Simen Ulsaker, "Interlocking relationships and quantity rationing", *Economic Letters*.

Simon Anderson, Hans Jarle Kind and Øystein Foros, "Competition for advertisers and for viewers in media markets", *Economic Journal*.

Kurt Brekke, Chiara Canta and Odd Rune Straume, "Reference pricing with endogenous generic entry", *Journal of Health Economics*.

Kurt Brekke, Luigi Siciliani and Odd Rune Straume "Hospital Mergers with Regulated Prices", *Scandinavian Journal of Economics*.

Kurt Brekke, Rosella Levaggi, Luigi Siciliani, and Odd Rune Straume, "Patient Mobility and Health Care Quality when Regions and Patients Differ in Income", *Journal of Health Economics*.

Kind, H.J., T. Nilssen and L. Sjørgard, "Inter-firm Price Coordination in a Two-sided Market", *International Journal of Industrial Organization*, 44(1), pp. 101-112, 2016.

Canta, C. and M-L. Leroux, "Public and Private Hospitals, Congestion, and Redistribution", *Journal of Public Economic Theory*, 18 (1), pp. 42-66, 2016.

Ulsaker, S., "Menu contracts and the division of profits in vertical relationships", *Economics Letters*, 138, pp. 72-74, 2016.

Juranek, S., "Creating a National Champion – International Competition and Unbundling in Rails Transportation", *Journal of Transport Economics and Policy*, 50 (1), pp. 56-75, 2016.

Books, chapters in books and monographs

Cyndecka, Malgorzata Agnieszka, *The Market Economy Investor Test in EU State Aid Law: Applicability and Application*, Kluwer Law International 2016.

Franklin, Christian; Fredriksen, Halvard Haukeland; Halvorsen Barlund, Ingrid Margrethe: 'National report on private enforcement of European competition law in Norway' in *Private Enforcement and Collective Redress in European Competition Law - Private Rechtsdurchsetzung und kollektiver Rechtsschutz im europäischen Wettbewerbsrecht - Contentieux indemnitaire et réparation collective en droit européen de la concurrence*, (Wolters Kluwer 2016) 665-691.

Simen Aardal Ulsaker: 'On vertical restraints: Essays in Industrial Organization,' PhD dissertation. Department of Economics, Norwegian School of Economics.

Master thesis

Svarstad Ytreberg, N. "[Competitive effects of Airbnb on the Norwegian hotel market](#)". Master thesis, Department of Economics, University of Bergen, December 2016

Dahl Sveum, T. og Svendsli M. "[Markedet for kollektive boliglån i Norge.](#)" Master thesis, Norwegian School of Economics, June 2016.

Bergh, M. og Obrestad Gabrielsen, Å. [“Møt-konkurransen-klausuler i det norske sportsmarkedet.”](#) Mthesis, Norwegian School of Economics, June 2016.

Haugen, A og Lien, G. [“Competitive aspects of the Norwegian Broadcasting Corporation’s \(NRK\) radio services.”](#) Master thesis, Norwegian School of Economics, June 2016.

Skjervheim Bernes, H og Flo, I. M. [“Paraplykjedenes overtakelse av distribusjon i daglivaremarkedet”](#). Master thesis, Norwegian School of Economics, June 2016.

Liland Hartveit, K.J. [“En konkurranseøkonomisk analyse av ulike motiver for å bruke en kategorikaptein”](#). Master thesis, Department of Economics, University of Bergen, June 2016

Bråthen, S. S. og Waaler, I. K. [“Forbrukere i drivstoffmarkedet.”](#) Master thesis, Norwegian School of Economics, February 2016.

Lahn-Johannessen Lillebøe, F. og F. Holm Jansen: [“Byttekostnader i skadeforsikringsmarkedet – Fører byttekostnader til lavere kundemobilitet og høyere priser?”](#) Master thesis, Norwegian School of Economics, February 2016.

Doctoral thesis on buyer power

Ignacio Herrera Anchustegui submitted his thesis on Buyer Power in EU Competition Law in November 2016.



His dissertation aims at presenting with a holistic discussion of buyer power across all competition law areas. Unlike most works in the field the study is not centered in different areas of the application of the law (coordinated and unilateral behavior and mergers) but rather in different ‘theories of harm’ that explain how buyer power may produce anticompetitive effects that adversely impact market conditions. As one of the main findings of Ignacio’s work is that buyer power can indeed be employed in anticompetitive manners and when those situations occur EU competition law is well equipped to deal with these market power abuses. Ignacio successfully defended his thesis in February 2017.

Doctoral thesis on vertical contracts

Teis Lunde Lømo submitted his thesis on “vertical contracting with externalities” in September 2016.



His dissertation is about vertical restraints. Specifically, he uses game theoretical models to study how firms can use vertical restraints strategically in markets with externalities, e.g., from network effects, service provision or risk aversion, and to evaluate how such use may affect total and consumer welfare. His findings contribute in current debates over antitrust policy in the EU and US.

International networking

Many of BECCLE affiliated researchers presented their work on seminars and conferences such as the EARIE conference and CLEEN-workshop in 2016.

Research projects

In 2017 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 the project *“EØS-finanstilsyn – en rettsvitenskapelig analyse om Norges tilknytning til EUs tilsynssystem for finansmarkedet”*. Project leader is Halvard Haukeland Fredriksen.

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

Ignacio Herrera Anchustegui has been granted 2,5 million kroner from Akademia-avtalen (Statoil) to carry out a personal post-doctoral project regarding Competition and Public Procurement Law regulation of energy markets.

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:

Tommy Staahl Gabrielsen was appointed as the leader of a governmental committee to propose regulation of the Sharing Economy. (‘Delingsøkonomiutvalget’). The committee submitted its report February 6th 2017.

In August 2016, Małgorzata joined the Norwegian government's external working group, 'Competition on a level playing field', that shall analyze inter alia implicit guarantees and tax exemptions in favor of public entities and undertakings that compete with private market operators.

Media

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

Tommy Staahl Gabrielsen og Erling Hjelmeng, "[Markedsbalansering av kjøtt og egg](#)", Dagens Næringsliv, 24.10.2016.

Tommy Staahl Gabrielsen og Erling Hjelmeng, "[Kartellisering av kjøttbransjen](#)", Dagens Næringsliv, 27.09.2016. Oppfølging i Dagsnytt 18, 29.09.2016.

Asbjørn Strandbakken, "Juristene kommer til kort", Bergens Tidende, 03.09.2016.

Halvard Haukedal Fredriksen: "Skatt og markedsregulering etter brexit", Dagens Næringsliv, 12.07.2016.

Erling Hjelmeng: "Vridd konkurranse", Dagens Næringsliv, 22.02.2016.

Onsdag 9. mars 2016 | Dagens Næringsliv

Debatt

debatt@dn.no

Dyre dommer kan bli billigere

Mange og lange rettsmøter gjør domstolene dyre. Løsningen er skriftlig behandling, samt spesialisering.

Sven Martin Urke, domstoladministrasjonens direktør, tar til orde for effektivisering av domstolene (DN 8. februar). Bakgrunnen er et økende saksmfang og stadig flere store og kompliserte saker. Dette fører til at domstolene sliter med å overholde Stortingets krav til sakbehandlingstiden.

I innlegget trekker Urke fram digitalisering av domstolene som en måte å effektivisere domstolene på. Gjennom å gjøre sakdokumenter tilgjengelig digitalt for parter og dommere kan store summer spares, samtidig som rettsakene kan gjennomføres



Tommy Staahl Gabrielsen og Halvard Haukedal Fredriksen: "[Dyre dommer kan bli billigere](#)", Dagens Næringsliv, 09.03.2016.

Halvard Haukedal Fredriksen og Eirik Holmøyvik: "Formaljus om finanstilsyn", Dagens Næringsliv, 12.05.2016.

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 four academic persons. 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, Frode Steen from Department of Economics at Norwegian School of Economics and professor Halvard Haukeland Fredriksen from Faculty of Law at University of Bergen.



The general management: Tommy Staahl Gabrielsen, Frode Steen, Ronny Gjendemsjø and Halvard Haukeland Fredriksen.