



TILEC

Annual Report

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The Tilburg Law and Economics Center (TILEC) was created in 2003 as a joint research center of the Tilburg School of Economics and Management (TISEM) and the Tilburg Law School (TLS) at Tilburg University.

TILEC's vision is to be, and be recognized as, a global leader in the research on governance of economic activity at the frontier between law and economics, known for its interdisciplinary method, path-breaking research output and societal relevance.

TILEC research is distinguished by the following characteristics:

- **Interdisciplinary:** TILEC research integrates law and economics together on an equal footing, or at least includes substantial input from the other discipline;
- **Innovative:** TILEC brings law and/or economics further, and opens up new perspectives. Whilst this might imply that it leaves established paths in each discipline, it remains state-of-the-art at the technical and methodological level;
- **Fundamental:** TILEC research addresses basic questions of each discipline, including the relationship between the two disciplines and how they can mutually strengthen each other;
- **Relevant:** TILEC research is inspired by real world problems and aims to contribute to the ultimate solution of these problems.

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FOREWORD

The Tilburg Law and Economics Center (TILEC), a Center of Excellence at Tilburg University, will soon celebrate its 15th anniversary. What started as a joint venture of the Tilburg Law School (TLS) and the Tilburg School of Economics and Management (TiSEM), two institutions which have been at the forefront of academic innovation and internationalization in the Netherlands for the past 30 years, and soon became a vibrant, outward-looking research center, globally renowned for its academic achievements, interdisciplinarity and high societal relevance. Our vision is simple: through its research and its activities, TILEC aims to be recognized as a leading inter-disciplinary research center worldwide, as evidenced by the high quality of its publications and its international reputation in academic and policy circles.

2016 was once again a very successful year for TILEC, whereby our members made decisive progress in analyzing the role that legal institutions and market designs play in the promotion of economic welfare. Be it a major contribution in a leading journal in the field or a monograph that revisits key concepts in the field of economic governance, TILEC research exemplifies the benefits of creating an intellectually stimulating environment in which economists and legal scholars can reflect on existing concepts, test new ideas, and launch innovative projects jointly.

In 2016, we welcomed our first Ronald Coase Visiting Professor on Law and Economics, Professor Lisa Bernstein of the University of Chicago Law School. Professor Bernstein is a renowned law and economics scholar with major contributions in the broader field of institutional design and private ordering. This visiting professorship, offered annually, will be bringing to TILEC some of the leading minds in the field.

In 2016, we were particularly proud to learn that two TILEC members, Sigrid Suetens (TiSEM) and Panagiotis Delimatsis (TLS) each received a Consolidator Grant by the European Research Council (ERC). This is the most prestigious research grant for mid-level academics in Europe and comes with a funding of €2 million for a period of 5 years. Both Suetens' and Delimatsis' projects lie at the core of TILEC, notably our research on institutions and incentives. As a result of these grants, they will have the possibility to build and lead their own research teams. Our warmest congratulations for this great achievement.

TILEC continued strengthening its ties with other academic institutions, regulatory authorities, European institutions or private companies with a view to improving our understanding of complex market mechanisms and regulatory concerns. On fundamental and policy issues alike, when it comes to the role of institutions and incentives, competition policy, innovation, regulated industries, financial markets, or international trade, our expertise is routinely sought after. We strive to make sure that the knowledge we produce is not accessible to our fellow researchers only, through academic publications. We also disseminate our research to students, market participants and policy-makers through our education programs, contract research, conferences, and policy work.

We are eager to engage with partners within and outside academia. We hope that this report on our 2016 activities will give you an accurate picture of what we do, and what we stand for. Feel free to contact us in case you want to know more about us.

Cédric Argenton
Panagiotis Delimatsis

TILEC Directors



*Pierre Larouche (director a.i.), Cédric Argenton
and Panagiotis Delimatsis*

1. RESEARCH

In accordance with its 2012-2017 research program, TILEC focuses on the study of **the governance of economic activity**. In 2016 TILEC researchers produced and disseminated their research in six core research areas: (1) Institutions and incentives; (2) Competition policy; (3) Innovation; (4) Health care markets regulation; (5) Regulation of network industries; and (6) Finance, trade, and investment.

1.1. RESEARCH OUTPUT AND KEY RESULTS

Overview

TILEC members were again highly productive in 2016. The table below provides a summary of the research output of TILEC members in 2016. For each category it shows the number of publications that fall within the scope of the TILEC research program. Appendix A provides the list of TILEC members and Appendix B the list of publications.

	2016
Academic publications	
Journal articles	40
Book chapters.....	20
Monographs and edited books.....	10
Other academic publications.....	4
Professional publications	
Journal articles	8
Book chapters.....	1
Books and reports	6
Other	3
Discussion papers	38

Table: Relevant publications by TILEC members

In 2016 TILEC members again produced high-quality research and successfully ran a number of sponsored projects. This is reflected not only in the volume of TILEC research output but also in its quality, as evidenced by publications in top journals and their very good or excellent inter- or multidisciplinary quality. Given the broad scope of the TILEC research program and the many results achieved, what follows is only a summary of key substantive results across the different areas of the TILEC research program.

Institutions and incentives

Within this cluster, TILEC members conduct fundamental research into questions of how institutions should be designed to further societal objectives, especially when the incentives of individual decision-makers may not be aligned with the objectives of society.

Exemplary of TILEC work on the design and functioning of institutions is **Jens Prüfer's** article "[Business association and private ordering](#)" (*Journal of Law, Economics and Organization*, 32, 306-358). The paper focuses on the design of business associations and the incentives that firms have to join them. The author studies the capacity of business associations – private, formal, non-commercial organizations designed to promote the common business interests of their members – to support contract enforcement and collective action, and shows how associations provide value to their members even if members are already embedded in informal social networks.

It is well known that information asymmetries are an important impediment to the functioning of markets. In their article "[Market transparency, adverse selection, and moral hazard](#)" (*Journal of Political Economy*, 124, 1677-1713), TILEC member **Tobias Klein** and his co-authors Christian Lambertz and Konrad Stahl argue that the Internet has led to an increase in transactions taking place under informational asymmetry. Examples are on-line markets for hotel, restaurant, and travel services. Both moral hazard – whereby sellers provide insufficient effort – and adverse selection –whereby conscientious sellers exit the market – can arise. Using data from eBay, the authors study how an improvement in market transparency affects seller exit and the behavior of sellers who stay in the market. The improvement was achieved by reducing strategic bias in buyer ratings. It led to a significant increase in buyer satisfaction with seller performance, but not to an increase in seller exit. When sellers had the choice between exiting—a reduction in adverse selection—and staying but improving behavior—a reduction in moral hazard—they preferred the latter. Increasing market transparency led to better market outcomes.

Asymmetric information also plays an important role in procurement. In their article "[Procurement with specialized firms](#)" (*RAND Journal of Economics*, 47, 661–687), TILEC member **Jan Boone** and extramural fellow **Christoph Schottmüller** analyze optimal procurement mechanisms when firms are specialized. They assume that the procurement agency has incomplete information concerning the firms' cost functions and values high quality as well as low price. Lower type firms are cheaper than higher type firms when providing low quality but more

expensive when providing high quality. They show that the optimal mechanism with specialized firms limits the informational distortion for the worst types and leads to zero profits for a mass of types (“profit bunching”). If first best welfare is U-shaped in type, the optimal mechanism is not efficient in the sense that types providing a lower second best welfare win against types providing a higher second best welfare. As standard scoring rule auctions cannot implement the optimal mechanism, the authors introduce a dual score auction with tie breaking that implements the optimal mechanism.

There is by now a substantial body of evidence showing that people do not always behave rationally. For the design of institutions and incentives, it is important to understand in which ways behavior deviates from rationality, and whether behavioral theories are useful in describing observed behavior. In their article [“Predicting lotto numbers: A natural experiment on the gambler’s fallacy and the hot hand fallacy”](#) (*Journal of the European Economic Association*, 14, 584-607), TILEC member **Sigrid Suetens** and her co-authors Claus B. Galbo-Jørgensen and Jean-Robert Tyran investigate the ‘law of small numbers’ as formalized in recent behavioral theory. They use a data set on lotto gambling that allows to measure players’ reactions to draws. While most players pick the same set of numbers week after week, the authors find that those who do change, react on average as predicted by the law of small numbers. In particular, players tend to bet less on numbers that have been drawn in the preceding week, as suggested by the ‘gambler’s fallacy’, and bet more on a number if it was frequently drawn in the recent past, consistent with the ‘hot-hand fallacy’.

Whether arbitral tribunals should be allowed to adjudicate disputes on the basis of legal grounds different from those submitted by the parties has been long debated. In TILEC Discussion Paper No. 2016-027, entitled [“The power of arbitral tribunals to raise public policy rules ex officio: The case of EU competition law”](#), TILEC member **Damien Geradin** seeks to answer the question when arbitral tribunals may be well advised to raise legal grounds on an ex officio basis in order to ensure the validity and enforceability of the award. Geradin analyzes contractual disputes where the agreement under scrutiny of a tribunal may breach EU competition law, which according to the Eco-Swiss judgment of the “Court of Justice of the EU” belongs to public policy. Geradin concludes that whether arbitral tribunals should raise EU competition rules on their own motion largely depends on the circumstances of each case and arbitral tribunals should be guided by pragmatism rather than theoretical considerations.

*Bert Willems, Suren Gomtsyan,
Nicolo Zingales, Eric van Damme,
Pierre Larouche.*



Anna Marhold



Pierre Larouche





Agnieszka Janczuk-Gorywoda and Eric van Damme

Standardization belongs to the core of TILEC research. It also once again has come to the forefront of the EU policy. What is more, standardization has moved beyond goods to services. The EU has paved the way for a revolution in service standard-setting as encouraged by the controversial EU Services Directive, and, more recently, by the Single Market Act. Yet, standard-setting in services remains uncharted territory owing to the tailor-made, typically non-technical nature of rules on services supply. In his article, “[Standardization in services – European ambitions and sectoral realities](#)” (*European Law Review*, 41, 4, 513-534) TILEC member **Panagiotis Delimatsis** maps this new area of rule-making in services, clarifies the substantive scope of the relevant legal instruments and identifies the prospects for pan-European service standards with a view to promoting trade in services.

Competition policy

EU competition law plays a central role in the process of European integration as a multifaceted tool both for creating and policing the internal market and for organizing national markets. Yet, as a consequence of this role EU competition law is also subject to increasingly complex demands, a proliferation of (sectoral) regimes, and multiple objectives at both an EU and national level. This profligacy entails risks of fragmentation and divergence – which could jeopardize the proper functioning of the internal market. In his monograph “[Coherence in EU competition law](#)” (Oxford University Press), TILEC member **Wolf Sauter** discusses three main issues: (i) what degree of coherence exists in EU competition law; (ii) how this coherence can be explained, particularly in the broader context of integration by EU law; and (iii) how it contributes to the legitimacy and effectiveness of EU competition law.

A decade ago, the Netherlands opened its retail electricity market to competition. How have product portfolios, pricing strategies, retail margins and consumer behavior evolved since then? In TILEC Discussion Paper No. 2016-011, entitled “[Competition in retail electricity markets: An assessment of ten years Dutch experience](#)”, TILEC member **Bert Willems** and his co-author Machiel Mulder analyze a dataset collected by the Dutch Competition and Consumer Protection Authority (ACM) to answer this question. The dataset contains monthly prices for all products in Dutch retail electricity markets over the period 2008-2014. The authors find that the market remains concentrated: although some entry has happened, the effects of this have been offset by mergers between incumbents. At the same time, the market has seen a proliferation of products, in particular of the green energy variety. This proliferation could be a sign of a well-functioning market that caters to consumer preferences, but could also be the result of strategic

product differentiation to soften price competition. Gross retail margins remain relatively high, especially for green products. Price differences across retailers for identical products also remain high. Overall, fewer consumer complaints and higher switching rates suggest that the functioning of the retail market has improved.

National courts play a crucial role in the enforcement of EU competition law. In her article “[The judicial reception of competition soft law in the Netherlands and the UK](#)” (*European Competition Journal*, 12, 1-33), TILEC member **Zlatina Georgieva** examines how Dutch and UK courts engage with Commission-issued competition soft law. Georgieva shows that explicit recognition, explicit rejection, persuasion, and neglect can all be found in national judicial decisions. The overall picture shows that the individual soft law instruments examined are treated differently across jurisdictions and even across courts within the same jurisdiction. This rings alarm bells with regard to the principle of enforcement consistency, uniform application and legal certainty.

In TILEC Discussion Paper No. 2016-034, entitled “[The Opinion of AG Wahl in Intel: Bringing coherence and wisdom into the CJEU’s pricing abuses case-law](#)”, TILEC member **Damien Geradin** discusses the recent Opinion delivered by Advocate General (AG) Wahl in Intel’s appeal to the Court of Justice of the EU against the judgment of the General Court of the EU. In this Opinion, in which AG Wahl advises the Court of Justice to set aside the judgement of the General Court, AG Wahl addresses questions of fundamental importance with respect to pricing conduct by dominant firms. The most remarkable feature of AG Wahl’s Opinion is that it brings coherence to an otherwise seemingly incoherent case-law in explaining that all forms of pricing conduct should be assessed under a similar test, whereby the assessment of whether the conduct is capable of producing foreclosure effects should require an analysis of “all the circumstances” of the case. In addition, the Opinion brings the analysis of exclusive or more generally loyalty rebates in line with the teachings of economics whereby what matters is not the form of the rebates but their effects on competition.

In 2015, the Institute of Electrical and Electronics Engineers (IEEE) Standardization Association made some controversial changes to its patent policy. The changes include a recommended method of calculation of FRAND royalty rates, and a request to members holding a standard essential patent (SEP) to forego their right to seek an injunction except under limited circumstances. The updated policy was adopted by the IEEE Board of Directors after obtaining a favorable Business Review Letter by the US Department of Justice, which found any

potential competitive harm from the policy to be outweighed by potential pro-competitive benefits. In their article, entitled “[The IEEE-SA patent policy update under the lens of EU competition law](#)” (*European Competition Journal*, 12, 195-235), TILEC members **Olia Kanevskaia** and **Nicolo Zingales**, examine whether the same favorable conclusion would be reached under EU competition law. After discussing the role of patent policies of Standard-Setting Organizations and the rules and principles applicable to the IEEE’s activities, the article concludes that standardization agreements based on the updated policy may constitute a violation of article 101 TFEU.

As recognized experts in the field, TILEC members **Leigh Hancher** and **Wolf Sauter** contributed to the latest volume on [State Aid Law of the European Union](#) published by Oxford University Press. Hancher contributed to the section on ‘Procedures before the Commission’. She authored the first chapter of the section, which examines a number of key principles that form the basis of the European Commission’s approach to classifying the various types of notifications, complaints, and ex officio investigations. Hancher also contributed to the section’s second chapter, focusing on the limited rights of the interested parties in the administrative procedures and offering a potential explanation for the current situation. Wolf Sauter, in turn, authored a chapter on the notion of undertaking and co-authored a chapter on the criterion of advantage. The interpretation of these concepts has become increasingly policy-specific, as one can see, for example, from the debate on the notion of undertaking in sectors such as health care, education, infrastructure and many more. Furthermore, the concept of an advantage in State aid has become a specialized legal field in its own right following the various interpretations of the concept of a service of general economic interest.

Innovation

In more and more industries, innovative new platforms (Airbnb, Uber) sidestep regulations that load costs onto incumbent players and restrict their ability to compete. This phenomenon of ‘spontaneous private deregulation’ occurs because existing regulations may be excessive or obsolete, protecting consumers against low-probability risks. In such situations, the case for respecting the rules is weakened. Another factor triggering the said phenomenon is that the authorities may be slow to enforce regulations, leaving incumbents subject to rules that entrants avoid. The question asked, thus, is: how can incumbent firms that are subject to existing regulation respond? In their article “[Spontaneous Deregulation](#)” (*Harvard Business Review*, 94(4), 80-87), TILEC member **Damien Geradin** and his co-author Benjamin Edelman argue that incumbents have four options: first, they can take legal action to try to get the current laws enforced. Second, they can

TILEC IS ONE OF THE FEW RESEARCH CENTERS IN EUROPE WHERE LAW AND ECONOMICS HARMONIZE TRULY.



JENS PRÜFER

And if I can believe my friends in top US law schools, where law and economics researchers are often situated, TILEC is one of the best of such centers in Europe. How could this happen? Obviously, it helps to have excellent monodisciplinary researchers, who contribute to the research frontiers in their home disciplines, as members. But the trick, from my viewpoint, is that TILEC has managed to gather an open-minded crowd of researchers from both disciplines, junior and senior, in weekly interactions – for 13 years. It is these regular meetings (internal and external seminars, case presentations, feedback-on-research-ideas sessions, etc.) that make the difference because they expose everyone to unknown (and sometimes uncomfortable) approaches, thereby facilitating the transition from a monodisciplinary to an interdisciplinary scholar. As our late job market placements suggest, the value generated through this transition has been recognized by others as well. Going a step further, the TILEC experience helps researchers not only to build bridges between law and economics but also with other disciplines. I shall be curious to see what is possible in this respect.

embrace aspects of the new entrant's model. Third, they can look for ways to leverage what they do best. Finally, and as a last resort, incumbents may have little choice but to bow gracefully out of business. Geradin and Edelman conclude that platform-based companies such as Airbnb and Uber are here to stay -and grow-. To survive, incumbents in industries that are vulnerable to software platforms must themselves adopt modern tools but also play to their strengths. With diligence and foresight, the authors argue, established providers can avoid loss of customers.

In modern high-tech industries, standardization plays an increasingly important role in determining firms' incentives to invest in innovation. Standardization often involves the selection of one particular technology, among several alternatives, to be included in the standard. The patent on the technology then becomes standard essential, and its holder gains market power because the standard effectively eliminates substitute technologies. This may allow the patent holder to charge higher royalties than those that would have been negotiated *ex ante*, a phenomenon often referred to as hold-up. In TILEC Discussion Paper No. 2016-010, entitled "[Repeated interaction in standard setting](#)", TILEC members **Pierre Larouche** and **Florian Schuett** argue that two additional features of the standard-setting process are important for understanding the risk of hold-up: technological complementarities and repeated interaction. Complementarities mean that technology companies have an incentive to keep the royalties charged by others low, as this positively affects demand for their own patents. Repeated interaction – the fact that many standards evolve through multiple generations (e.g., mobile communications standards) – gives technology companies the ability to discipline those that charge excessive royalties by excluding them from future generations of the standard. Using an economic model, the authors analyze how the procedural rules of standard-setting organizations can help sustain good behavior. The model highlights the important role played by openness, super-majority requirements, and the use of tie-breakers.

One of the key innovation policy debates in recent years has been about the proliferation of low-quality patents, i.e., patents that do not satisfy the patentability criteria of novelty and non-obviousness (or inventive step). Many problems of today's patent system, such as patent thickets and the abusive practices of assertion entities, can be traced to a lack of patent quality. How can policy makers make better use of the instruments at their disposal to improve screening? The available instruments range from patent office examination via pre- and post-grant fees to validity challenges in the courts. Yet, most economic models focus on only a subset of these instruments and therefore fail to provide a complete picture. In TILEC Discussion Paper No. 2016-036, entitled "[Screening for patent quality: examination, fees, and the courts](#)", TILEC member **Florian Schuett** and his co-author Mark Schankerman

develop an integrative theoretical framework that allows them to study how the various instruments interact and to evaluate possible policy reforms. They identify an important complementarity between patent office examination and pre-grant fees, neither of which is an effective screening device on its own. In addition, they show that ‘frontloading’ patent office fees – shifting fees from post-grant to pre-grant – improves screening and welfare. The authors then parameterize a simulated version of the model to match US patent and litigation data. The simulations enable them to quantify the welfare effects of different reforms.

In his article “[Intellectual property rights and integration by conflict: The past, present and future](#)” (*Cambridge Yearbook of European Legal Studies*, 18, 239-269 31), TILEC member **Martin Husovec** analyzes how the Court of Justice of the European Union resolves conflicts of intellectual property rights (IPR) with other fundamental rights and economic freedoms and with what consequences. Husovec argues that the resolution of the conflict, by means of the proportionality interest-balancing exercise, pursues a pro-harmonization agenda not only in the obvious context of free movement, but also in the setting of fundamental rights. Husovec shows that the recent *Coty Germany* ruling is likely to accelerate this trend because of its recognition of positive obligations of the Member States in the context of fundamental rights. This could be used by national courts to improve an existing IPR framework, in particular by filing preliminary references that question legislators’ choices such as non-implementation of permissible exceptions and limitations. Husovec also outlines why *Coty Germany* is a worrying reading of Article 17(2) of the EU Charter, and suggest that this could be remedied by synchronizing its interpretation with the Court’s doctrine of ‘specific subject matter’ in the context of free movement.

Health care markets regulation

In the pharmaceuticals sector there is an inherent tension between intellectual property rights and antitrust. In their paper “[A dose of competition: EU antitrust law in the pharmaceuticals sector](#)” (*Journal of Antitrust Enforcement*, 4, 381-410), TILEC members **Leigh Hancher** and **Wolf Sauter** examine this tension over the past 10 years since the modernization of EU competition law. They look at three types of problems: (i) restrictions on parallel imports; (ii) abuse of administrative procedure; and (iii) pay for delay cases. Their overview shows that the European Commission is now especially active in areas (ii) and (iii) and generally relies on a more formalistic approach of finding restrictions by object instead of using economic arguments to demonstrate restrictions by effect. The by object approach is supported by the EU Courts. Also, the molecule (active ingredient) is often regarded as the relevant product market, facilitating a finding of dominance.

Panagiotis Delimatsis



Martin Husovec





Cédric Argenton and Tobias Klein

Some national competition authorities have followed in the footsteps of the Commission but on the whole they are less active, for instance on pay for delay. This may be because the EU Courts have yet to rule on this type of case. For pharmaceutical companies the net result is that they cannot assume their intellectual property rights will stand in the way of a finding of antitrust infringement and their behavior will be scrutinized closely.

Consumers who benefit from health insurance tend not to be sensitive to the price of the drugs they consume. This is deemed to be detrimental to competition because it alleviates downward pressure on drug prices. Regulators try to induce patients to take into account treatment costs by forcing them to bear part of the cost, for example through co-payments. In TILEC Discussion Paper No. 2016-021, entitled [“Cost-sharing and drug pricing strategies: Introducing tiered co-payments in reference price markets”](#), TILEC member **Moritz Suppliet** and his co-author Annika Herr study the effects of a regulatory change in Germany that introduced a co-payment exemption for drugs whose price is below a certain limit. They implement a difference-in-difference approach that exploits variation in the timing of the introduction of the exemption. Their estimates show that the policy had differential effects on the prices of generic and branded drugs: while the prices of generics decreased, the prices of branded drugs increased. The authors relate this result to a particular feature of the German health insurance market, where public and private health insurance co-exist. Private insurance schemes tend to be more generous and were not affected by the co-payment exemption. The policy may have led branded-drug producers to target consumers with private insurance.

Governments and regulators often worry about the increasing costs of health care. It is important to understand where in the life cycle the bulk of these costs arise. In their article [“Skewed, persistent and high before death: Medical spending in Germany”](#) (*Fiscal Studies*, 37, 527-559), TILEC member **Tobias Klein** and his co-authors Martin Karlsson and Nicolas Ziebarth use claims panel data from a big German private health insurer to provide detailed individual-level evidence on medical spending between 2005 and 2011. This includes evidence on the distribution of medical spending, the dependence of medical spending on age and other demographic characteristics, its persistence, and how medical spending evolves in the years before death. The authors’ main findings are that health care spending more than doubles between ages 50 and 80 and that spending is very concentrated: the top 10 per cent of all spenders are responsible for 53 per cent of all medical spending in a given year. Medical spending in the year of death is six times higher for the deceased than for everybody else in that year and accounts for 7.9 per cent of lifetime spending. Females use more office-based care and have

higher spending at younger ages, whereas males have higher spending at older ages, particularly for hospital care, and die younger.

Regulation of network industries

Net neutrality – the idea that all data packets should be treated equally, regardless of source and type of content – continues to draw the attention of scholars and policymakers in the field of telecoms regulation. In 2015, the US Federal Communications Commission decided to enforce tougher net neutrality rules on the Internet. Shortly thereafter, the European Parliament passed a package of rules that takes a more permissive stance towards certain net neutrality violations, such as paid prioritization. In their article “[Net neutrality and inflation of traffic](#)” (*International Journal of Industrial Organization*, 46, 16-62) TILEC member **Florian Schuett** and his co-author Martin Peitz argue that strict net neutrality may create a “tragedy of the commons.” They develop a model in which content differs in its sensitivity to delay (think of real-time video versus email). Certain techniques used by content providers (CPs) to minimize delay – so called congestion control techniques – affect the volume of traffic on the network, and thus other CPs, but this is not taken into account by the originating CP. In such a framework, enforcing strict net neutrality rules may worsen network congestion. Net neutrality effectively turns the network into an unmanaged common property resource, which CPs overexploit by generating too much traffic. The authors show that departures from strict net neutrality can alleviate the overexploitation problem, as the Internet service provider (ISP) is enabled to manage this resource. However, they caution that piece-meal departures from net neutrality may be counterproductive. In their simple setting, allowing the ISP to create a fast and a slow lane and to charge a premium for faster delivery can implement the first-best allocation.

In recent years, academics and policy makers alike have recognized that price-cap regulation has shortcomings in environments where investments are durable and demand is uncertain. The European energy directives, for example, explicitly allow for exempting certain investments from regulation, a policy known as a regulatory holiday. Such a policy, however, has so far been lacking solid theoretical underpinnings. In TILEC Discussion Paper No. 2016-008, entitled “[Regulatory holidays and optimal network expansion](#)”, TILEC member **Bert Willems** and extramural fellow **Gijsbert Zwart** take a step towards closing this gap. They study optimal regulation of capacity investments in a dynamic setting in which a regulated private firm with superior information on investment costs has to gradually expand its network to respond to growth in demand and needs to fund its investments from operating profits. The regulator contracts with the firm about when it should expand capacity, at which price the capacity should be sold, and

I INTERCONNECT THE RESEARCH INTEREST OF TWO INSTITUTES AT THE INTERSECTION OF DIGITAL ECONOMY AND INNOVATION.



MARTIN HUSOVEC

I interconnect the research interest of two institutes at the intersection of digital economy and innovation. My own work is mostly in the area of intellectual property law. I came to know TILEC as a very vibrant research community with a lot of potential for more future growth. While our lawyers contribute by their understanding of the regulatory landscape, its challenges and common assumptions, our economists in return offer their rigorous analytical frameworks and predictive insights of models of behavior. In the discussions, the theoretical questions are usually more at the forefront because, at the moment, TILEC houses fewer empirical and/or experimental projects on both sides. What I like about TILEC is that it offers different levels of engagement between two professions depending on one's preferences. This modularity has a lot of potential in my view, especially if further encouraged by common projects. In terms of TILEC's culture, I particularly appreciate the collegiate atmosphere, professionalism at research and can-do attitude of the management and of the support staff.

which fraction of its revenues it may keep. In the optimal regulatory mechanism, capacity is expanded whenever the price for capacity reaches a threshold value. This price threshold increases with investment costs, and is always higher than under the first-best symmetric information optimum with demand uncertainty. If the information asymmetry between the regulator and the firm is large, the relatively efficient firms will be allowed to invest as if they were unregulated monopolists, as this provides the largest possible information rents. The relatively inefficient firms will face a markup regime whereby they receive only a fraction of capacity revenues. These results provide a rationale for regulatory holidays for firms with low investment costs.

The World Trade Organization (WTO) cannot deal comprehensively with restrictive export practices maintained by energy cartels such as the OPEC. The main reason for this is the absence of competition rules in the multilateral trading system. However, in spite of the fact that the WTO does not have rules on competition, it provides for other rules such as GATT Article XI on the General Elimination of Quantitative Restrictions. In her paper “[WTO law and economics and restrictive practices in energy trade: The case of the OPEC cartel](#)” (*Journal of World Energy Law & Business*, 32) TILEC member **Anna Marhold** takes a law and economics approach and explores whether restrictive practices in the energy sector as maintained by OPEC could be caught by Article XI. It analyzes whether OPEC’s ‘monopolist market power instrument of choice’, namely the administration of production quotas on petroleum, could fall within the definition of this Article. In doing so the paper contributes to our understanding of the economic and legal rationales and functioning of both the WTO and OPEC.

European energy consumers, who previously had a rather passive, consuming role, and were confronted with top-down determined energy supply options, services, as well as prices, are now assuming a more proactive role, in some cases becoming ‘prosumers’ of energy. Originally the focus of both individual and collective prosumers was on local sustainable energy production. However, currently the focus is slowly shifting to both own production and own consumption of local sustainable energy, as well as to participation in the local and national market (e.g. supplying energy to one’s neighbors or to one’s family residing in a different region). As technology progresses and the formats of market design evolve, the problem of ‘regulatory disconnection’ could arise, meaning that the existent regulatory framework might not be ‘fit for purpose’ any longer due to its disconnection from rapidly developing innovation. In such cases the existing regulatory framework (perhaps unintentionally) represents obstacles for (further)

development of local energy in Europe. In TILEC Discussion Paper No. 2016-015, entitled “[User-Centered Innovation and Regulatory Framework: Energy Prosumers’ Market Access in EU Regulation](#)”, **Anna Butenko** focuses on user-centered innovation by the local sustainable energy collectives and uses the issue of prosumers’ market access to test the current degree of ‘fit’ between the European regulatory framework on the one hand and innovation in the energy sector on the other hand.



“I’ve attended several TILEC events over the years, and they are consistently excellent: strong speakers, interesting topics, lively and often spirited discussions, just great energy overall. There is a good reason why TILEC is the main European law-and-economics center known in the US. I appreciated an opportunity to present my own paper this year. The audience was, as usual, feisty and helpful. Graduate students deserve a special note – bright and inquisitive, very impressive.”

– [Yekaterina Valerie Litvak](#)

Finance, trade, and investment

In her article “[Online platforms as providers of transnational payments law](#)” (*European Review of Private Law*, 24, 223–251) TILEC member **Agnieszka Janczuk-Gorywoda** uses the example of one of the best-known global payment systems provided by an online platform, PayPal, to analyze the role of private legal orders in creating new markets beyond jurisdictional borders. Janczuk-Gorywoda shows that a relatively uniform legal order reduces risks involved in cross-border transactions and in this way enables transnational markets. While transnational law is more easily created by private entities rather than states, it remains embedded in state laws. The continuous role of state law in shaping transnational private legal orders is guaranteed because the latter operate with the endorsement and support of states. In this way states facilitate globalization. At the same time, the impact of state laws is fragmentary and disintegrates the applicable global private legal framework. Finally, the scattered influence of state laws undermines the protection offered to consumers. This is particularly important because mutual rights and

obligations between transnational private rule-makers, like the online platform PayPal, and their ‘users’ tend to be strongly biased in favor of the former.

In their article “[Behind the scenes: The corporate governance preferences of institutional investors](#)” (*Journal of Finance*, 28, 2905-2932), TILEC member **Joseph McCahery** and his co-authors Zacharias Sautner and Laura T. Starks survey institutional investors to better understand their role in the corporate governance of firms. Consistent with a number of theories, they document widespread behind-the-scenes intervention as well as governance-motivated exit. These governance mechanisms are viewed as complementary devices, with intervention typically occurring prior to a potential exit. The authors further find that long-term investors and investors that are less concerned about stock liquidity intervene more intensively, and that most investors use proxy advisors, in the belief that the information provided by such advisors improves their own voting decisions.

Using corporate social responsibility (CSR) ratings for 23,000 companies from 114 countries, TILEC member **Luc Renneboog** and his co-author Hao Liang investigate the origins of CSR. In their article “[On the foundations of corporate social responsibility](#)” (*Journal of Finance*, 72, 853-910), they find that a firm’s CSR rating and its country’s legal origin are strongly correlated. Legal origin is a stronger explanation than “doing good by doing well” factors or firm and country characteristics (ownership concentration, political institutions, and globalization): firms from common law countries have lower CSR than companies from civil law countries, with Scandinavian civil law firms having the highest CSR ratings. Evidence from quasi-natural experiments such as scandals and natural disasters suggests that civil law firms are more responsive to CSR shocks than common law firms.

The interaction between climate change and trade has grown in prominence in recent years. TILEC member **Panagiotis Delimatsis** edited a [Research Handbook on Climate Change and Trade Law](#) (*Edward Elgar*) containing authoritative original contributions from leading experts working at the interface between trade and climate change. It maps the state of affairs in such diverse areas as: carbon credits and taxes, sustainable standard-setting and trade in ‘green’ goods and services or investment, from both a regional and global perspective. Delimatsis redefines the interrelationship of trade and climate change for future scholarship in this area. Secrecy rather than transparency is the name of the game in diplomatic negotiations and political discussions. Nevertheless, EU trade negotiations with Canada for CETA and with the US for TTIP acquired an unprecedented public criticism for

their lack of transparency. In TILEC Discussion Paper No. 2016-020, entitled “TTIP, CETA, TiSA Behind Closed Doors: Transparency in the EU Trade Policy”, TILEC member **Panagiotis Delimatsis** analyzes both constitutional and political reasons for transparent trade diplomacy of the EU and chronicles this quest for and turning moments relating to transparency during the negotiations for CETA, TTIP and with a group of WTO Members for the Trade in Services Agreement (TiSA). Delimatsis reviews the existing EU case-law on access to documents and discusses the transition towards an unprecedented level of transparency in the EU trade-related dealings. He concludes with some suggestions to streamline transparency-related efforts.

In TILEC Discussion Paper No. 2016-022, entitled “Subsidy regulation in WTO Law: some implications for fossil fuels and renewable energy”, TILEC member **Anna Marhold** discusses the paradox of WTO law with respect to subsidies towards fossil fuels vis-à-vis those towards renewable energy. Subsidies on clean energy production and consumption can be justified to correct market failures and to promote legitimate policy goals such as contributing to sustainable development through the scale up of clean energy, including expanding its trade. However, experience has shown that support schemes for clean energy by their nature and design make them sensitive to WTO dispute settlement. Much more harmful subsidies on fossil fuels, on the other hand, are omnipresent yet often escape being addressed in the multilateral trading system. The contribution uses the examples of ‘energy dual pricing’ and Feed-In Tariffs (FITs) and argues that while it may be difficult to tackle fossil fuels subsidies in the WTO forum, more efforts are needed to (re)legalize environmental subsidies.

1.2. PH.D DISSERTATIONS

2016 was an important year for four TILEC junior members and two TILEC external PhD students who defended their PhD dissertations: Suren Gomtsyan, Victoria Daskalova, Elena Aydos, Gyula Seres, Safari Kasiyanto, and Vikas Kathuria.

On 18 May 2016, **Suren Gomtsyan** was awarded a doctorate in law for a thesis entitled “Rebalancing conflicts of interest in hybrid business forms: Mandatory law versus contractual arrangements” co-supervised by TILEC member **Joe McCahery**. The rise of hybrid business forms – combining limited liability of corporations with partnership law principles of organizational flexibility and private autonomy – has made many corporate law mechanisms for balancing conflicting interests optional. It raises the question if corporate law appropriately protects the incumbent parties as well as creditors, and how the parties complement the

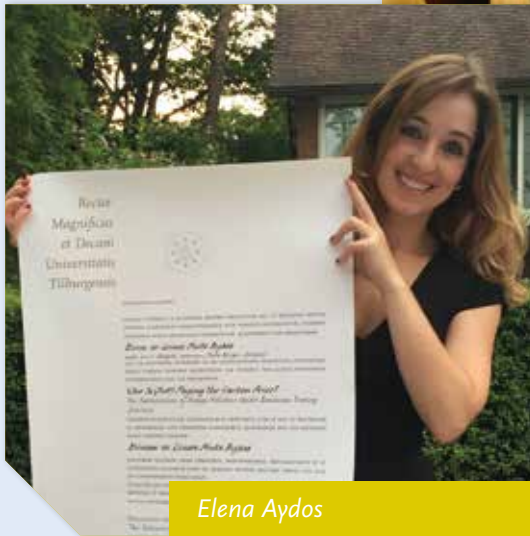
law with private contractual arrangements. Gomtsyan analyzed these legal and contractual relationships and developed appropriate mechanisms protecting the incumbent weaker parties as well as third parties.

On 6 June 2016, a doctorate in law was awarded to **Elena Aydos** for her doctoral thesis "[Who is \(not\) paying the carbon price? The subsidisation of heavy polluters under emissions trading schemes](#)" (Edward Elgar, forthcoming) co-supervised by TILEC member **Panagiotis Delimatsis** in the framework of a joint doctorate program in law between Tilburg Law School and the University of Sydney. Aydos analyzes the practice of freely allocating permits in Emissions Trading Schemes (ETSs) and demonstrates how many heavy polluters participating in ETSs are not yet paying the full price of carbon. Aydos develops a framework to assist policymakers in the design of transitional assistance measures that are both legally robust and will support the effectiveness of the ETSs whilst limiting negative impacts on international trade.

On 29 June 2016, **Gyula Seres** was awarded his doctorate after successfully defending his PhD dissertation. His doctoral thesis, entitled "[Essays on bid rigging](#)" and supervised by TILEC member **Jan Boone** and by Charles Noussair, deals with the problem of collusion in auctions. Collusion lowers the revenue of the auctioneer and creates information rents. Bid rigging is a prevalent phenomenon and the affected market is enormous, as public procurement amounts to between 10 and 25 percent of national GDP in industrialized countries. Gyula's thesis contributes to the literature by showing that the source of information asymmetry between cartel members has a profound effect on the feasibility and form of collusion. The policy relevance of these results lies in helping us understand how to combat collusion and promote allocative efficiency. Chapter 1 builds up a model showing that public revelation of information by the auctioneer may foster cartel formation and decrease expected revenue, contradicting the Linkage Principle. Chapter 2 investigates the form of cartel mechanisms. A theoretical model shows why knockout auctions are the prevalent form of bid rigging. Full information revelation within a cartel is generally not possible in equilibrium. Chapter 3 is an experimental study focusing on the effect of auction cartels on allocative efficiency. Robust estimates show that the effect is negative and significant.

On 30 June 2016, **Victoria Daskalova** was awarded a doctorate in law after a successful defense of her doctoral thesis entitled "[Buyer power in EU competition law](#)" (Edward Elgar, forthcoming) supervised by TILEC members **Pierre Larouche** and **Wolf Sauter**. Daskalova inquires to what extent buyer power issues fall within the scope of EU competition law, and the ability of EU competition law to address

Suren Gomtsyan



Elena Aydos

Vikas Kathuria



Victoria Daskalova



ology
Discussed Local Loop Unbundling
Universal Service Obligation (USO)
away: Regulatory choices are available
between the short-term and lo
gging markets.



Gyula Seres

potentially anticompetitive buyer conduct – in light of what is known about the economic impact of buyer power. She argues that there is a paradox. On the one hand, the approach to the application of the antitrust rules has been recently modernized in order to align the EU competition rules with economic theory. Economic theory holds that buyer power and seller power are identical in terms of effects on welfare. Despite this, buyer power issues seem marginalized in the list of enforcement priorities of competition authorities. Despite the fact that the law on its face seems to apply to buyer power, there seem to be few cases against powerful buyers. Overall, Daskalova argues that competition law has the capacity to play a larger role in the regulation of buyer power. However, adaptation of the antitrust tests in light of the knowledge about buyer power is necessary.

On 7 August 2016, a doctorate in law was awarded to **Safari Kasiyanto** for his thesis "[Essays on retail payment systems](#)" supervised by TILEC members **Panagiotis Delimatsis** and **Pierre Larouche**. This thesis consists of seven papers covering major issues in retail payment systems, encompassing competition, innovation, safety, and consumer protection issues. The first paper discusses interchange fees for card payments in nine major countries in Asia, an area where interchange fees have been scarcely researched. The second paper discusses the pros and cons of attributing e-money the status of legal tender. The third paper outlines the legal issues surrounding the rise of peer-to-peer network currency and the measures available for dealing with such a rise. The fourth paper of the thesis discusses how to bring the Bitcoin system into the mainstream for payments. The fifth paper discusses economic obstacles in implementing end-to-end encryption in online payment systems as one of the most secure methods so far. The sixth paper of the thesis discusses the security issues of mobile payments and Bitcoin as a new innovative payment method. The final paper in the thesis discusses the emerging needs for alternative dispute resolution to resolve the disputes in retail payment systems.

Finally, on 11 November 2016, **Vikas Kathuria** obtained a doctorate in law after successfully defending his doctoral thesis "[Emerging markets and innovation in the ICT and pharmaceutical sector: Role of competition policy](#)" co-supervised by TILEC member **Pierre Larouche**. The thesis comprises four papers linked by a broader research question: to what extent can competition law foster innovation in the ICT and pharmaceutical sectors in emerging markets? Kathuria asked this question in the context of the short run imperative of ensuring easy access. In this context, the first paper, "A Conceptual Framework to Identify Dynamic Efficiency" (published in *European Competition Journal*) develops a conceptual framework to understand

dynamic efficiency and differentiate it from static efficiency. The second paper, “Access and Investment in the ICT Sector for Developing Countries” (published in *Law and Development Review*), looks at the trade-off between static and dynamic efficiency in the ICT sector, in the sense of balancing access to telecom services with the need to foster innovation generating better ICT technology offering better potential but at the same time being more expensive. The paper discusses two specific policies, Local Loop Unbundling and Universal Service Obligations, and suggests measures to facilitate investment and innovation without jeopardizing access. The third paper, “Pharmaceutical Mergers and their Effect on Access and Efficiency: A Case of Emerging Markets” (published in *World Competition Law and Economics Review*), shifts to the pharmaceutical sector, where the choice between short run and long run efficiency is more difficult because access to healthcare is one of the basic human needs. The paper looks at the effect of pharmaceutical mergers on access and efficiency in developing countries. The final paper of the thesis, “Competition Law and Compulsory Licenses in Emerging Markets: A Systems of Innovation Approach” deals with compulsory licenses. By relying on the Sectorial Systems of Innovation approach, the paper investigates the Brazilian and Indian pharmaceutical sectors. The principle for compulsory licenses that emerges from this research is: when a sector does not exhibit any innovative capability, the policy choice should be in favor of maximizing the short-run welfare, as the short run gains are higher than the long run losses.

1.3. EVENTS AND DISSEMINATION OF RESEARCH

TILEC maintained a busy program of regular activities in 2016. Following TILEC’s well-established tradition, members met every Wednesday morning to discuss recent developments and present their research. In addition, monthly seminars gave TILEC members the opportunity to interact with leading scholars working in the areas of the TILEC research program. As space is lacking to display the full range of TILEC events, Appendix C provides a list of all events organized and held by TILEC in 2016. Here we mention only a handful of major events.

Competition policy

TILEC organized two events in its Competition Workshop series in 2016. The competition workshops are organized in cooperation with CPB and the Dutch Ministry for Economic Affairs. The first one took place on 26 January 2016 on the topic of “[Mergers in health care](#)”. The speakers were TILEC member Eric van Damme, Fred Krapels (VWS), Anne Fleur Roos (iBMG), and Marco Varkevisser (iBMG). The second one took place on 4 October 2016, on the topic of “[Big data, platforms, and privacy](#)”. The background was the increasingly important role that

A background image showing a field of tall, golden-brown grass in the foreground, blurred. In the middle ground, several white wind turbines are visible, also blurred, suggesting a sense of motion or a wide-angle shot. The sky is a deep blue with scattered white clouds. The text is overlaid on the upper half of the image.

INTEGRATING LAW AND ECONOMICS ON AN EQUAL FOOTING



information plays in our economy. Through mobile telephony, internet platforms, or payment systems, firms gather larger amounts of data ('big data') on consumer behavior and characteristics. Privacy law plays an important role in these markets. How does privacy law influence the possibilities of platforms to compete and/or to develop new products and services? Speakers were Sander Klous (University of Amsterdam, KPMG) and Bas Straatshof (CPB).

Innovation

As part of its continuing efforts to foster debate between academics and practitioners in the field of standardization, TILEC organized an expert [workshop on the functioning of standard-setting organizations \(SSOs\)](#) that took place on 14 June 2016 in Tilburg. The workshop focused on the incentives to participate in SSOs, trade-offs of different SSO governance structures, and potential competition between SSOs and their alternatives, in particular their relationship with Open Source. The event was held in an informal setting of 30 invited engineers, economists and lawyers participating under the Chatham House Rule on the premises of Tilburg University. The aim of the workshop was to enlighten researchers on the dynamics of standardization ongoing in the industry. The first session of the workshop, entitled "Company View of Standardization", discussed what technological and commercial factors drive standardization and how these factors interact within firms. The panel's speakers were Prof. Knut Blind (Professor for Innovation Economics, TU Berlin and Fraunhofer FOKUS), acting also as chair, Haris Zisimopoulos (Director, Technical Standards at Qualcomm) and Scott Mansfield (Principal Engineer in Ericsson's Development Unit IP and Broadband group). The second session, entitled "Governance of Standardization", discussed how much SSO governance (e.g. equality of votes, composition of members, consensus building, etc.) matters in the standardization process. The panel's speakers were Prof. Rudi Bekkers (Associate Professor of Economics of Innovation and Technical Change at TU Eindhoven), acting also as chair, Christian Loyau (Director for Legal Affairs of the European Telecommunications Standards Institute (ETSI)) and Roya Ghafele (OxFirst & Oxford University). The third and last session, entitled "Alternatives to Standardization", discussed alternatives to standardization, in particular, the role that open source projects play in the standardization context. The panel's speakers were Scott Mansfield (Principal Engineer in Ericsson's Development Unit IP and Broadband group), Mirko Boehm (Technical University of Berlin, Open Innovation Network, CEO at Endocode), Hermann Brand (Director Innovation at ETSI) and Martin Husovec (TILEC & TILT), acting as chair.

Health care markets regulation

As part of the series of health policy workshops TILEC organizes jointly with the Netherlands Bureau for Economic Policy Analysis (CPB) and the Dutch Healthcare Authority (NZA), on 17 February 2016, the 8th Health Policy Workshop took place at the Dutch Healthcare Authority (NZA) in Utrecht on the topic “[Prospects for curative mental care.](#)” In 2008, the Dutch government decided to include curative mental health care into the new health care system with regulated competition and performance based funding. The goal of this reform was to improve efficiency and client orientation in the mental health care sector. After almost eight years, it was time to take stock, decide whether this policy has been a success, and to discuss the challenges for the following eight years, given the Dutch health care system. The speakers were Edwin de Beurs (Leiden University), Philippe Delespaul (Maastricht University), Tom McGuire (Harvard Medical School), and Femke van de Pol (Dutch Healthcare Authority).

Regulation of network industries

23 February 2016 TILEC a workshop on the [new roles of the consumers in the energy market.](#) The liberalization of the energy market was supposed to allow energy consumers to make the most advantageous economic choices for their situation. The reality, however, is that consumers may even make more ‘bad’ choices, limiting competition in the retail markets of the EU Member States. By contrast, other consumers are very active in setting up cooperatives for the production and supply of energy from renewable sources within specific geographical areas. During this workshop several critical questions were discussed: (1) How does competition affect the motives, preferences, behaviour and roles of consumers in the energy market? (2) What roles do consumers play? (3) How does their behaviour affect competition in the retail market? (4) Which policy instruments have been adopted to influence the behaviour of the consumers and prosumers? The speakers were: Martijn Groenleer (Tilburg University), Saskia Lavrijssen Tilburg University, TILEC), Frans Stokman (University of Groningen), Catherine Waddams University of East Anglia), Bert Willems, Tilburg School of Economics, TILEC).”

On 17 June 2016, TILEC member **Saskia Lavrijssen** held her inaugural address accepting the chair, partly sponsored by VEMW, for economic regulation and governance of network industries at Tilburg Law School. In her address, Saskia Lavrijssen argued that the Netherlands is lagging far behind in implementing European obligations for a transition to smart and sustainable energy. More specifically, she held that in light of the energy system of the future, where consumers will be more active players, both market surveillance and legal protection of consumers are in urgent need of adjustment. According to Lavrijssen, one of the major problems is that European and national laws are still based on the traditional, old fashioned market model in which centrally managed, large-scale coal- and gas-fired power plants produce energy to meet customer demand. Energy consumers are regarded as passive parties.

By contrast, the energy system of the future is smart and sustainable, with IT applications making it possible to efficiently match supply of and demand for sustainable energy. It will turn consumers into active players, responding to financial incentives to use (or not) energy at specific moments, or supply self-generated energy to the system. The system will be organized in such a way that everybody will charge their cars when the sun is shining, for instance, or will postpone their use of energy when there is not enough sunshine or wind. In that context, Lavrijssen pointed out that new legislation is needed to ensure that innovations for energy transition can take place and for market parties and consumers to take on new roles. Procedures for the implementation of important energy decisions and the required level of legal protection will also have to be adjusted to the new systems and to the active role of consumers. Procedural innovations are needed to improve the position of energy consumers. It is important that consumers be given better opportunities to exert influence in advance on the conditions and rates for access to the energy system. By creating support for the content of energy decisions, time-consuming and expensive legal procedures afterwards can be prevented.

On 21 October 2016, TILEC member **Misja Mikkers** held his inaugural address on 'The Dutch health care system in international perspective' in the auditorium of Tilburg University. This chair is sponsored by the Dutch Healthcare Authority (NZa). The Dutch system can be characterized as managed competition. It aims to deliver the public objectives of affordability, quality and accessibility. Due to market failures, the health care sector is regulated. The most important regulations in the Dutch health insurance market are that all citizens are required by the government to take out a health insurance package that is determined by the government and that health insurance firms are obliged to accept all

TILEC PROVIDES FOR YOUNG SCHOLARS

AND PHD STUDENTS EXCELLENT OPPORTUNITIES



OLIA KANEVSKAIA

Since then, I have been working on my dissertation on the mechanics of international standard-setting. What I appreciated the most during the past couple of years are the excellent opportunities TILEC provides for young scholars and PhD students, such as becoming part of an international community of researchers, presenting the research findings at various academic conferences, publishing in scholarly journals and gaining some teaching experience. Being part of such an interdisciplinary environment as TILEC has been beneficial not only for my academic research, but also for my personal development. Regular feedback from senior and junior colleagues encourages me to explore new legal fields and consider ideas I would never have thought of before. Moreover, intense discussions on legal and economic topics during our weekly meetings greatly help me to place my own research in a different perspective, making it more sophisticated and relevant to modern legal challenges.

citizens without premium differentiation. To prevent possible adverse selection, the government introduced an elaborate risk adjustment system. In this inaugural address, the outcomes of the Dutch system were compared to those of other countries. On the dimensions of affordability and quality the outcomes in the Netherlands turned out to be comparable to those of surrounding countries. The Dutch system scores very well on the dimension of accessibility and solidarity. The inaugural address concluded with some suggestions to improve the Dutch health care system.

1.4 RONALD COASE VISITING PROFESSORSHIP IN LAW AND ECONOMICS

In 2015, TILEC offered the first Ronald Coase Visiting Professorship in Law and Economics. This visiting chair aims to bring to Tilburg University and TILEC experienced scholars of academic distinction, who will conduct research and offer seminars of high quality while in residence. The first holder of the Chair for 2016 was Professor Lisa Bernstein from the University of Chicago Law School, who visited Tilburg in June 2016. In addition to giving a seminar on the topic “Beyond relational contracts: social capital and network governance in procurement contracts”, Professor Bernstein hosted a PhD workshop on “Presenting American style”, in which TILEC junior members had the opportunity to present their research projects and receive feedback.

1.5 TILT-TILEC FELLOWSHIP

In cooperation with the Tilburg Institute for Law, Technology and Society (TILT), TILEC offers a joint TILT-TILEC fellowship, typically of one semester in Tilburg, on issues of common interest to the two research institutes such as those relating to intellectual property, technology regulation, and innovation. The first holder of this fellowship in 2016 was Professor John Golden from the University of Texas. As part of his visit, on 23 November 2016 Professor Golden gave a TILEC seminar on “Troll check? A proposal for administrative review of patent litigation”.

2. EDUCATION

Although TILEC is not formally responsible for running any of the university’s educational programs, it plays a key role in a number of them, especially masters-level and doctorate-level education at TiSEM and TLS.

TILEC members are very active in the MSc in Economics program at TiSEM (in the Competition and Regulation track, in particular) as well as the Global Law Bachelor, the International Business Law Master and the Master in International and EU law at TLS. In addition, additional courses are offered at the PhD level. In

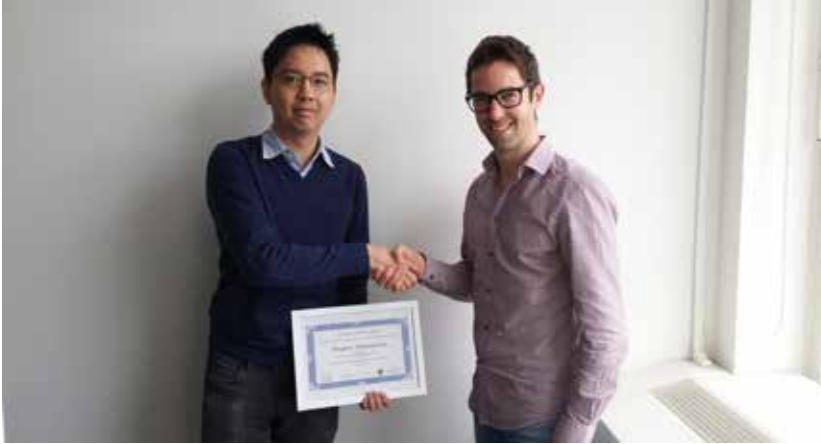
2016, on top of general courses, many courses directly linked up with the TILEC research program.

Examples on the side of TiSEM include the bachelor course “Competition policy and regulation” (**Jan Boone**, **Moritz Suppliet** and **Clemens Fiedler**), the master courses “Competition policy” (**Cédric Argenton** and **Eric van Damme**), “Methods: Game theory” (**Florian Schuett** and **Wieland Müller**), and “Competition and regulation in network industries” (**Bert Willems**). Examples on the side of TLS include the bachelor course “Mededingingsrecht/competition law” (**Saskia Lavrijssen**), the Global Law bachelor courses “Tort Law” (**Pierre Larouche**), “Methods and Techniques of Legal Research” (**Panagiotis Delimatsis** and **Zlatina Georgieva**), “Final Essay” (**Pierre Larouche**), and master courses “European competition law” (**Wolf Sauter** and **Zlatina Georgieva**), “Advanced competition law and economic regulation” (**Nicolo Zingales**, **Leigh Hancher**, and **Branislav Hock**), “Banking and securities regulation” (**Joseph McCahery**), “Crisis and EU Law” (**Agnieszka Janczuk-Gorywoda**), “Law and Economics” (**Cédric Argenton** and **Pierre Larouche**), and “Trade and WTO law”, “EU Internal Market Law”, and “EU External Relations” (**Panagiotis Delimatsis**). In addition, TILEC member **Cédric Argenton** has contributed to the TiSEM Research Master program by offering specific courses in Law and Economics, while **Bert Willems** and **Jan Boone** taught Competition and Regulation and Industrial Organization.

TILEC does not have its own PhD program but accommodates doctoral students through its affiliation with the graduate schools of its parent schools. Doctoral students who become junior TILEC members are provided with regular supervision by a team of academic experts from both TiSEM and TLS and become part of a congenial research environment. In 2016, 2 new junior members and 2 external PhDs started their doctoral studies at TILEC, and 25 junior members and external PhDs continued their doctoral studies in Tilburg.

TILEC Best Master Thesis

Through its Best Master Thesis prize, inaugurated in 2013, TILEC encourages and promotes innovative attempts towards high quality and interdisciplinary research by students. Excellent theses are eligible for the Best Master Thesis award if they fit within TILEC’s research program, and are written under the supervision of a TILEC member. Each nomination is assessed on the quality of the writing, the strength of the argument provided, the importance of the insights generated, and the extent to which it adopts an inter-disciplinary approach.



TILEC awarded its Best Master Thesis prize for the academic year 2015/2016 on 23 September 2016, at the annual TILEC Retreat. Two theses – one in law and one in economics – were honored with the title ‘Best TILEC Master Thesis’. For economics, the laureate was Chayanin Wipusanawan with his work entitled “Does FRAND Licensing Lead to Optimal Innovation Investment?”, supervised by **Florian Schütt**. For law, the prize was awarded to Francesca Germinario for her thesis “The Value of Expertise: Judicial Deference to the Securities and Exchange Commission”, supervised by **Saskia Lavrijssen**. The laureates are awarded a certificate of acknowledgment of their achievement and a monetary prize of EUR 250 each (to be paid in vouchers).

3. FINANCES

TILEC is funded through a mix of internal funds provided by the University or TILEC’s parent schools, as well as external funds. External funds comprise research funding obtained from the Netherlands Organization for Scientific Research (NWO) and assimilated institutions, larger-scale agreements with public authorities or private firms, and revenues from research contracts.

More specifically, research at TILEC was funded by the following organizations:

- **Centre on Regulation in Europe (CERRE)**, for research projects on the changing role of the DSO
- **JRC Seville**, research on the interplay of SDO’s and IPR systems in the ICT industry
- **Qualcomm Inc**, for research on innovation, intellectual property, standard setting, and competition
- **Royal Netherlands Academy of Arts and Sciences**, for research on the role of markets in society

AS AN ECONOMIST WORKING ON COMPETITION POLICY

TILEC OFFERED ME
AN ACTIVE ACADEMIC
COMMUNITY THAT I AM
PROUD TO BE PART OF.



CLEMENS FIEDLER

The unique aspect of TILEC are the close collaborations between legal and economic scholars. The multitude of backgrounds and perspectives combined with the friendly and open atmosphere provided me with many opportunities to critically reflect on my own work and see problems from a different angle. While this was menacing to me when I joined TILEC in 2015 as a junior member I soon came to appreciate it. In fact, the TILEC seminars, covering a wide array of topics in law and economics, are the highlight of my week.

3.1 EUROPEAN RESEARCH GRANTS

2016 was an exceptionally successful year for TILEC with regard to research grants. Two TILEC members were awarded prestigious grants by the European Research Council (ERC): **Panagiotis Delimatsis** and **Sigrid Suetens**. Both Delimatsis and Suetens won ERC Consolidator Grants, which are designed to support excellent young researchers who have shown potential for research independence and evidence of scientific maturity. The grants help them build their research team and develop a successful career in Europe; they are awarded for a period of five years and carry up to € 2 million in funding.

In his project, entitled “The Resilience and Evolution of Economic Activism and the Role of Law”, Delimatsis investigates the origins and causes of the dominance of private rule-making bodies, focusing on their mutability and resilience. What enabling conditions, innate traits and mechanics allow for the transformation, adaptability and resilience of private rule-making bodies amid exogenous regulatory shocks? And how does the law perpetuate this dominance? The project develops a novel and multidisciplinary conceptual framework to analyze structures, institutional design and resilience strategies in ten non-public regulatory bodies and their public law counterparts in the areas of manufacturing and finance with a view to identifying trajectories of change and causation spanning three decades.

Suetens’ project is titled “Discriminative preferences and fairness ideals in diverse societies: An ‘experimental economics’ approach”. She will investigate whether natives are as altruistic, reciprocal, and envious toward immigrants as they are toward the indigenous population. Do natives have different fairness ideals where non-natives are concerned? And do preferences and fairness ideals of natives change as contact with non-natives increases, and, if so, how?



APPENDIX

2016

APPENDIX A. MEMBERS PER 31 DECEMBER 2016

Senior members applicable	TiSEM/TLS	II*	CP*	IN*	HC*	NI*	FT*	Fte
Argenton, Cédric	TiSEM		•	•				0.3
Bijlsma, Michiel	TiSEM				•			0,1
Boone, Jan	TiSEM				•			0.2
Brouwer, Erik	TiSEM			•				0.4
Da Rin, Marco	TiSEM				•			0.1
Damme, Eric van	TiSEM	•	•					0.4
Delimatsis, Panagiotis	TLS	•					•	0.4
Devarakonda, Shivaram	TiSEM			•				0.2
Filistrucchi, Lapo	TiSEM		•		•	•		0.2
Geradin, Damien	TLS		•	•				0.2
Hancher, Leigh	TLS		•			•		0.1
Husovec, Martin	TLS			•				0.5
Janczuk-Gorywoda, Agnieszka	TLS					•		0.5
Klein, Tobias	TiSEM		•					0.1
Larouche, Pierre	TLS		•	•		•		0.5
Lavrijssen, Saskia	TLS		•			•		0,4
McCahery, Joseph	TLS						•	0.1
Mikkers, Misja	TiSEM				•			0,1
Müller, Wieland	TiSEM		•					0.1
Potters, Jan	TiSEM	•						0.1
Prüfer, Jens	TiSEM	•	•	•		•		0.2
Renneboog, Luc	TiSEM						•	0.2
Sauter, Wolf	TLS				•			0.2
Schütt, Florian	TiSEM			•		•		0.5
Suetens, Sigrid	TiSEM	•						0.1
Suppliet, Moritz	TiSEM		•	•	•			0,8
Vermeulen, Erik	TLS						•	0.4
Willems, Bert	TiSEM					•		0.2
Wolswinkel, Johan	TLS		•			•		0,1

Junior members	TiSEM/TLS	II*	CP*	IN*	HC*	NI*	FT*
Broulik, Jan	TLS	•					
Capkurt, Fatma	TLS		•				
Dengler, Sebastian	TiSEM	•					
Fernandez Machado, Roxana	TiSEM	•				•	
Fiedler, Clemens	TiSEM		•	•			
Georgieva, Zlatina	TLS		•				
Habetinova, Lenka	TiSEM	•					
Hock, Branislav	TLS	•				•	
Kanevskaia, Olia	TLS	•		•			•
Li, Jing	TLS			•			•
Srivastava, Vatsalya	TiSEM	•					
Wang, Takumin	TiSEM	•		•			
Wang, Xiaoyu	TiSEM	•	•				
Xu, YiLong	TiSEM	•					•
Yang, Yadi	TiSEM			•			

★ **II:** Institutions and incentives
IN: Innovation
NI: Regulation of network industries

CP: Competition policy
HC: Health care markets regulation
FT: Finance, trade, and investment

EXTRAMURAL FELLOWS

Bijl, Paul de
Brunekreeft, Gert
Calcagno, Riccardo
Carletti, Elena
Cengiz, Firat
Chaudhuri, Amrita
Chirico, Filomena
Cserne, Peter
Cziraki, Peter
Daskalova, Victoria
Degryse, Hans
Dijk, Theon van
Dimopoulos, Angelos
Foldes, Eva Maria
Gabor, Barbara
Gomtsyan, Suren
Haar, Ilse van der
Halbersma, Rein
Johan, Sofia
Kasiyanto, Safari
Kathuria, Vikas
Kervel van, Vincent
Littler, Alan
Luttikhuis, Karin
Motchenkova, Evgenia
Mulder, Machiel
Negrinotti, Matteo
Overvest, Bastiaan
Penas, Maria Fabiana
Rodriguez Acosta, Mauricio
Schottmüller, Christoph
Seres, Gyula
Sidak, Gregory
Sluijs, Jasper
Sorana, Valter
Szilagyi, Peter

Radicand Economics
Jacobs University
EM Lyon
Bocconi University
University of Liverpool
University of Winnipeg
European Commission
University of Hull
University of Toronto
University of Twente
KU Leuven
E.CA Economics
Queen Mary, University of London
The Hague University of Applied Sciences
European Commission
University of Leeds
Tele2
Kansspelautoriteit
York University
Bank of Indonesia
Bennet University
Pontificia Universidad Católica de Chile
Kalff Katz & Franssen
Maastricht University
VU University Amsterdam
University of Groningen
Italian Competition Authority
CPB
Universidad Torcuato Di Tella
Universidad del Rosario
University of Copenhagen
Humboldt University
Criterion Economics
Andersson Elffers Felix
Charles River Associates
CEU Business School

EXTRAMURAL FELLOWS

Tajana, Alessandro
Tarantino, Emanuele
Verouden, Vincent
Zhou, Jun
Zingales, Nicolo
Zwart, Gijsbert

Johnson & Johnson
University of Mannheim
E. CA Economics
Bar-Ilan University
University of Sussex
University of Groningen

EXTERNAL PHD STUDENTS

Argyropoulou, Venetia
Butenko, Anna
Comnenus, George
Edens, Marga
Hiemstra, Liebrich
Katona, Katalin
Ochieng Pernet, Awilo
Trias, Ana

European University Cyprus
University of Amsterdam

Energy Trading
Nederlandse Zorgautoriteit
Codex Alimentarius Commission



LIST OF PUBLICATIONS

BREAKING NEW GROUND IN RESEARCH



List of publications 2016

List of publications by TILEC members falling within the scope of the TILEC research program

English publications

Academic publications – Journal articles

Boone, Jan

Procurement with specialized firms. *RAND Journal of Economics*, 47 (3), 661–687 (with Christoph Schottmüller).

Da Rin, Marco

The importance of trust for investment: Evidence from venture capital. *The Review of Financial Studies*, 29, 9, 2283-2318 (with Laura Bottazzi and Thomas Hellman).

Delimatsis, Panagiotis

Trade in services and regulatory flexibility: 20 years of GATS, 20 Years of critique. *European Yearbook of International Economic Law*. 2016, 153-173.

Standardization in services - European ambitions and sectoral realities. *European Law Review*, 41(4), 513-534.

European Union trade policy and the prospects for a transatlantic trade and investment partnership. *The Fletcher Forum of World Affairs*, 40, 29-40.

Devarakonda, Shivaram

Mechanisms of hybrid governance: Administrative committees in non-equity alliances. *Academy of Management Journal*, 59, 510-533 (with Jeffrey J. Reuer).

Georgieva, Zlatina

The judicial reception of competition soft law in the Netherlands and the UK. *European Competition Journal*, 12, 1-33.

Geradin, Damien

Android and competition law: Exploring and assessing Google's practices in mobile. *European Competition Journal*, 12, 159-194 (with Benjamin Edelman).

Spontaneous deregulation. *Harvard Business Review*, 94(4), 80-87 (with Benjamin Edelman).

Hancher, Leigh and Sauter, Wolf

A dose of competition: EU antitrust law in the pharmaceuticals sector. *Journal of Antitrust Enforcement*, 4, 381-410.

Hock, Branislav

Services liberalization in the EU and the WTO: Concepts, standards, and regulatory approaches. *International Trade Law & Regulation*, 22, 53-54.

Husovec, Martin

Intellectual property rights and integration by conflict: The past, present and future. *Cambridge Yearbook of European Legal Studies*, 18, 239-269.

Janczuk-Gorywoda, Agnieszka

Online platforms as providers of transnational payments law. *European Review of Private Law*, 24, 223-251.

Kanevskaia, Olia

The IEEE-SA patent policy update under the lens of EU competition law. *European Competition Journal*, 12, 195-235 (with Nicolo Zingales).

Kathuria, Vikas

Pharmaceutical mergers and their effect on access and efficiency: A case of emerging markets, *World Competition Law and Economics Review*, 39(3), 451-478.

Klein, Tobias

Skewed, persistent and high before death: Medical spending in Germany. *Fiscal Studies*, 37, 527-559 (with Martin Karlsson and Nicolas Ziebarth).

Market transparency, adverse selection, and moral hazard. *Journal of Political Economy*, 124, 1677-1713 (with Christian Lambertz and Konrad Stahl).

Lavrijssen, Saskia

The right to participation for consumers in the energy transition. *European Energy and Environmental Law Review*, 25, 152-171.

Marhold, Anna

WTO law and economics and restrictive practices in energy trade: The case of

the OPEC cartel. *Journal of World Energy Law & Business*, 9(6), 475-494.

McCahery, Joseph A.

Behind the scenes: The corporate governance preferences of institutional investors. *Journal of Finance*, 71(6), 2905-2932 (with Zacharias Sautner and Laura T. Starks).

McCahery, Joseph A. and Vermeulen, Erik

Venture Capital 2.0: From venturing to partnering. *Annals of Corporate Governance* 1, 2, 95-173 (with Erik Vermeulen).

Potters, Jan

Do cheaters in the lab also cheat in the field? *European Economic Review*, 87, 26-33 (with Jan Stoop).

Probability numeracy and health insurance purchase. *De Economist*, 164, 19-39 (with Rik Dillingh and Peter Kooreman).

Why do promises affect trustworthiness, or do they? *Experimental Economics*, 19, 382-393 (with Huseyn Ismayilov).

Prüfer, Jens

Firms, nonprofits, and cooperatives: A theory of organizational choice. *Annals of Public and Cooperative Economics*, 87, 315-343 (with Patrick Herbst).

Business associations and private ordering. *Journal of Law, Economics and Organization*, 32, 306-358.

Renneboog, Luc

Socially responsible firms. *Journal of Financial Economics*, 122(3), 585-606 (with Allen Ferrell and Hao Liang).

Executive remuneration and the payout decision. *Corporate Governance: An International Review*, 24, 42-63 (with Philipp Geiler).

Creditor rights, claims enforcement, and bond returns in mergers and acquisitions. *Journal of International Business Studies* (JIBS), 63 (with Peter G. Szilagyi and Cara Vansteenkiste).

Sauter, Wolf

Joint purchasing of pharmaceuticals under competition law: The case of the Netherlands. *European Competition Law Review*, 37, 458-464 (with Susan van Velzen).

Schuett, Florian

Net neutrality and inflation of traffic. *International Journal of Industrial Organization*, 46, 16-62 (with Martin Peitz).

Suetens, Sigrid

Predicting lotto numbers: A natural experiment on the gambler's fallacy and the hot hand fallacy. *Journal of the European Economic Association*, 14, 584-607 (with Claus B. Galbo-Jørgensen and Jean-Robert Tyran).

Yilong Xu

Futures markets, cognitive ability, and mispricing in experimental asset markets. *Journal of Economic Behavior & Organization*, 130, 166-179 (with Charles Noussair and Steven Tucker).

Academic publications – Book chapters

Delimatsis, Panagiotis

Introduction: Climate change and trade law - challenges for governance and coordination. In: Panagiotis Delimatsis (ed) *Research Handbook on Climate Change and Trade Law*. Edward Elgar (pp. 1-9).

Sustainable standard-setting, climate change and the TBT Agreement. In: Panagiotis Delimatsis (ed) *Research Handbook on Climate Change and Trade Law*. Edward Elgar (pp. 148-180).

Standard-setting in services: New frontiers rule-making and the role of the EU. In: Pierre Sauvé and Martin Roy (eds) *Research handbook on trade in services*. Edward Elgar (pp 268-300).

Geradin, Damien

European Union competition law, intellectual property law and standardization. In: Jorge L. Contreras (ed.), *The Cambridge Handbook of Technical Standardization Law*. Cambridge University Press.

Hancher, Leigh

Part IV on 'Procedures before the Commission. In: Herwig Hofmann and Claire Micheau (eds) *State Aid Law of the European Union*. Oxford University Press (pp. 341-381).

Compatibility of aid: General introduction. In: Philipp Werner & Vincent Verouden (eds.), *EU State Aid Control Law and Economics*. Wolters Kluwer (with Phedon Nicolaides).

Janczuk-Gorywoda, Agnieszka

The sources of EU payments law. In: Gabriella Gimigliano (ed) *Europeanisation of money and payments: The State-Central Bank-Currency Paradigm*. Cambridge Scholars Publishing.

Marhold, Anna

EU Regulatory Private Law in the Energy Community: The Synergy between the CEER and the ECRB in Facilitating Customer Protection. In: Marise Cremona and Hans-W Micklitz (eds) *Private Law in the External Relations of the EU*. Oxford University Press (pp. 249-272).

The nexus between the WTO and the ECT in global energy governance. In: Giovanna Adinolfi, Freya Baetens, José Caiado, & Anna G. Micara (Eds.) *International Economic Law: Contemporary Issues*. Springer (pp. 190-210).

Sauter, Wolf

The notion of undertaking. In: Herwig Hofmann and Claire Micheau (eds) *State aid law of the European Union*. Oxford University Press (pp. 74-83).

Criterion of advantage. In: Herwig Hofmann and Claire Micheau (eds) *State aid law of the European Union*. Oxford University Press (pp. 84-128).

Wolswinkel, Johan

The need for optimal choice: Exploring a hierarchy between allocation procedures for limited authorisations under EU Law. In: Paul Adriaanse, Frank an Ommeren, Willemien den Ouden en Johan Wolswinkel (eds) *Scarcity and the state I: The allocation of limited rights by the administration*. Cambridge: Intersentia (pp187-218).

The magic of five in the duration of concessions: Refining corollaries in the Concessions Directive. In: Grith Skovgaard Ølykke and Albert Sanchez-Graells

Reformation or deformation of the EU Public Procurement Rules. Edward Elgar (pp. 318-342).

The allocation of radio frequencies in the Netherlands. In: Paul Adriaanse, Frank an Ommeren, Willemien den Ouden en Johan Wolswinkel (eds) *Scarcity and the state II: Member state reports on the allocation of gambling licences, radio frequencies and CO2 emission permits*. Cambridge: Intersentia (pp. 155-173).

The allocation of limited rights by the administration: A quest for a general legal theory. In: Paul Adriaanse, Frank an Ommeren, Willemien den Ouden en Johan Wolswinkel (eds) *Scarcity and the state I: The allocation of limited rights by the administration*. Cambridge: Intersentia, (pp. 3-25).

The allocation of limited rights by the administration: Developing a general legal theory by comparison. In: Paul Adriaanse, Frank an Ommeren, Willemien den Ouden en Johan Wolswinkel (eds) *Scarcity and the state II: Member state reports on the allocation of gambling licences, radio frequencies and CO2 emission permits*. Cambridge: Intersentia (pp. 1-7).

Aggregate purchasing: public contracts and beyond. In *Compra conjunta y demanda agregada en la contratación del sector público: Un análisis jurídico y económico*. Valcarcél Fernández, P. (ed.). Pamplona: Thomson Reuters/Aranzadi (pp. 469-493).

Academic publications – Monographs and edited books

Delimatsis, Panagiotis

Delimatsis, Panagiotis (ed.) *Research handbook on climate change and trade law*. Edward Elgar.

Daskalova, Victoria

The monopsony paradox: Buyer power and enforcement of the EU antitrust provisions. Tilburg: Prisma Print. Prom.: prof.dr. Pierre Larouche and prof.mr. Wolf Sauter.

De Lemos Pinto Aydos, Elena

Who is (not) paying the carbon price?: The subsidisation of heavy polluters under emissions trading schemes. Tilburg: Prisma Print. Prom.: prof.dr. Panagiotis Delimatsis, Prof. Rosemary Lyster and dr. Celeste Black.

Gomtsyan, Suren

Rebalancing conflicts of interests in hybrid business forms: Mandatory law versus contractual arrangements. Tilburg: Prisma Print. Prom.: prof.dr. Christoph van der Elst and prof.dr. Joseph A. McCahery.

Kasiyanto, Safari

Essays on retail payment systems. Tilburg: Prisma Print. Prom.: prof.dr. Pierre Larouche and prof.dr. Panagiotis Delimatsis.

Kathuria, Vikas

Emerging markets and innovation in the ICT and pharmaceutical sector: Role of competition policy. Tilburg: Prisma Print. Prom.: prof.dr. Pierre Larouche and prof. Morag Goodwin.

Sauter, Wolf

Coherence in EU competition law. Oxford University Press.

Seres, Gyula

Essays on bid rigging. Tilburg: CentER, Center for Economic Research. Prom.: prof. dr. Jan Boone and prof.dr. Charles Noussair

Wolswinkel, Johan

Paul Adriaanse, Frank an Ommeren, Willemien den Ouden en Johan Wolswinkel (eds) *Scarcity and the state I: The allocation of limited rights by the administration.* Cambridge: Intersentia.

Paul Adriaanse, Frank an Ommeren, Willemien den Ouden en Johan Wolswinkel (eds) *Scarcity and the state II: Member state reports on the allocation of gambling licenses, radio frequencies and CO₂ emission permits* Cambridge: Intersentia

Academic publications – Others

Marhold, Anna

Comment: Towards a coherent system of global energy trade and investment rules

Research output: Borderlex.eu, 28 April 2016

‘Energy in international trade law’, Florence School of Regulation, Robert

Schuman Centre for Advanced Studies, Energy Law and Policy Podcast Series,
Podcast, July 2016

Mikkers, Misja

Inaugural address: The Dutch healthcare system in international perspective.
PrismaPrint, Tilburg University.

Professional publications – Chapters

Kanevskaia, Olia

IEEE IP policy update under the scrutiny of the EC guidelines on horizontal cooperation. In: Kai Jakobs, Anne Mione, Anne-Francoise Cutting-Decelle and Sophie Mignon (eds.), *EURAS Proceedings 2016: Co-opetition and Open Innovation* (pp. 255- 271) (with Nicolo Zingales).

Professional publications – Reports

Husovec, Martin

Study on the role of intermediaries - Summary of the public consultation.
European Commission (with Ronald Leenes).

Study on filtering, blocking and take-down of illegal content on the Internet,
Slovakia, Council of Europe.

Lavrijssen, Saskia and Marhold, Anna

The changing world of the DSO in a smart energy system environment: Key issues and policy recommendations. Centre on regulation in Europe (with Anna Marhold and Ana Trias Lopez).

Marhold, Anna

The Nexus between the WTO and the Energy Charter treaty in Global Energy Governance: Analysis and policy implications. International Centre for Trade and Sustainable Development (ICTSD).

McCahery, Joseph A.

Foreword, Washington, D.C.: IFC World Bank Group.

Professional publications – Other

Damme, Eric van

Economics and business administration in the Netherlands: Moving to triple-A or risking a downgrade to single-A. Deans of the Disciplines of Economics and Business Administration (with Eric Bartelsman, Pursey Heugens and Coen N. Teulings).

Wolswinkel, C

Book review: François Lichère, Roberto Caranta and Steen Treumer (eds.), Modernising Public Procurement: The New Directive. Common Market Law Review, 53(1), 268-270.

TILEC discussion papers

DP 2016-001

Title: Measuring the effectiveness of anti-cartel interventions: A conceptual framework

Authors: Yannis Katsoulacos, Evgenia Motchenkova & David Ulph

DP 2016-002

Title: The history and scope of EU health law and policy

Authors: Mary Guy & Wolf Sauter

DP 2016-003

Title: Sustainable standard-setting, climate change and the TBT agreement

Author: Panagiotis Delimatsis

DP 2016-004

Title: The sorry clause

Author: Vatsalya Srivastava

DP 2016-005

Title: Trademark use doctrine in the European Union and Japan

Author: Martin Husovec

DP 2016-006

Title: The dynamics of leniency application and cartel enforcement spillovers

Author: Jun Zhou

DP 2016-007

Title: Too good to be truthful: Why competent advisers are fired

Author: Christoph Schottmüller

DP2016-008

Title: Regulatory holidays and optimal network expansion

Authors: Bert Willems & Gijsbert Zwart

DP2016-009

Title: What do the decisions of the European Court of human rights tell about property rights across Europe?

Author: Suren Gomtsyan

DP2016-010

Title: Repeated interaction in standard setting

Authors: Pierre Larouche & Florian Schuett

DP2016-011

Title: Competition in retail electricity markets: An assessment of ten years Dutch experience

Authors: Bert Willems & Machiel Mulder

DP2016-012

Title: Accountable, not liable: Injunctions against intermediaries

Author: Martin Husovec

DP2016-013

Title: Negotiating services liberalization within TTIP – the EU external trade policy at crossroads

Author: Panagiotis Delimatsis

DP2016-014

Title: WTO law and economics and restrictive practices in energy trade: The case of the OPEC cartel

Author: Anna Marhold

DP2016-015

Title: User-centered innovation and regulatory framework: Energy prosumers' market access in EU regulation

Author: Anna Butenko

DP2016-016

Title: Technology standard-setting under the lens of global administrative law: Accountability, participation and transparency of standard-setting organizations
Author: Olia Kanevskaia

DP2016-017

Title: The consistency requirement in EU internal market law: Last refuge of the unimaginative or legal standard for rational administration?
Author: Wolf Sauter

DP2016-018

Title: Safeguards for consumers in the energy transition
Author: Saskia Lavrijssen

DP2016-019

Title: Understanding bank payouts during the crisis of 2007-2009
Author: Peter Cziraki

DP2016-020

Title: TTIP, CETA, TiSA behind closed doors: Transparency in the EU trade policy
Author: Panagiotis Delimatsis

DP2016-021

Title: Cost-sharing and drug pricing strategies: Introducing tiered co-payments in reference price markets
Authors: Moritz Suppliet & Annika Herr

DP2016-022

Title: Subsidy regulation in WTO Law: Some implications for fossil fuels and renewable energy
Author: Anna Marhold

DP2016-023

Title: Seven 'corporate venturing' strategies to foster innovation (and create an environment for long-term growth)
Authors: Erik Vermeulen & Mark Fenwick

DP2016-024

Title: Regulation tomorrow: What happens when technology is faster than the

law?

Authors: Erik Vermeulen, Mark Fenwick & Wulf A. Kaal

DP2016-025

Title: Intelligent cars inc. – governance principles to build a disruptive company

Authors: Erik Vermeulen, Mark Fenwick & Masato Hisatake

DP2016-026

Title: Corporate disruption: The law and design of organizations in the 21st century

Authors: Erik Vermeulen, Mark Fenwick, J. William Callison & Joseph A. McCahery

DP2016-027

Title: The power of arbitral tribunals to raise public policy rules ex officio: The case of EU competition law

Author: Damien Geradin

DP2016-028

Title: FRAND arbitration: the determination of fair, reasonable and non-discriminatory rates for SFPs by arbitral tribunals

Author: Damien Geradin

DP2016-029

Title: Public policy and breach of competition law in international arbitration: A competition law practitioner's viewpoint

Author: Damien Geradin

DP2016-030

Title: An informational theory of privacy

Authors: Ole Jann & Christoph Schottmüller

DP2016-031

Title: The IEEE-SA patent policy update under the lens of EU competition law

Authors: Olia Kanesvkaia & Nicolo Zingales

DP2016-032

Title: The changing world of the DSO in a smart energy system environment: Key issues and policy recommendations

Authors: Saskia Lavrijssen, Anna Marhold & Ana Trias

DP2016-033

Title: Arbitrability of EU competition law-based claims: Where do we stand after the CDC hydrogen peroxide case?

Authors: Damien Geradin & Emilio Villano

DP2016-034

Title: The opinion of AG Wahl in Intel: Bringing coherence and wisdom into the CJEU's pricing abuses case-law

Author: Damien Geradin

DP2016-035

Title: Co-investments of sovereign wealth funds in private equity

Authors: Joseph A. McCahery & F. Alexander de Roode

DP2016-036

Title: Screening for patent quality: Examination, fees, and the courts

Authors: Mark Schankerman & Florian Schuett

DP 2016-037

Title: The judicial reception of competition soft law in France and Germany

Author: Zlatina Georgieva

DP 2016-038

Title: Competition soft law in national courts: Quo Vadis?

Author: Zlatina Georgieva

Academic publications – Journal articles

Non-English publications

Husovec, Martin

Das neue Urheberrecht in der Slowakei. *Medien und Recht International*, 13, 1/16.

Lavrijssen, Saskia

Rechterlijke toetsing van energieregulering door het CBB en het recht op effectieve rechtsbescherming?

SEW: Tijdschrift voor Europees en Economisch Recht, 4, 142-161 (with Julia Eijkens and Fatma Capkurt)

Academic publications – Book chapters

Damme, Eric van

Waarom doceren wij ouderwetse economie? In A. L. Bovenberg, & F. Haan (Eds.), *Preadviezen van de Koninklijke Vereniging voor de Staathuishoudkunde* 2016: *Economieonderwijs*. (pp. 161-171).

Academic publications – Other

Lavrijssen, Saskia

Inaugural address: Waarborgen voor de energieconsument in de energietransitie. Prisma Print, Tilburg University.

Professional publications – Journal articles

Damme, Eric van

De kwaliteitssprong van Tilburg: 1985-2015. *Economisch Statistische Berichten*, 101, 4726, 89-91 (with Aart de Zeeuw).

Liefde, geluk en economische wetenschap. *Economisch Statistische Berichten*, 101(4742S), 57-61.

Economisch inzicht in menselijke drijfveren. *M & O: Tijdschrift voor Management en Organisatie*, 70(3/4), 103-116.

Canon deel 25: Marktordening. *Economisch Statistische Berichten*, 101(4729), 166-171 (with Maarten Janssen and Maarten Pieter Schinkel).

Drijfveren van de mens. *Economisch Statistische Berichten*, 101(4732), 269-269.

Diversiteit en discriminatie. *Economisch Statistische Berichten*, 101(4728), 143-143.

Tom als inspiratiebron. *Markt en Mededinging, special issue*, 1-6 (with C. Dekker, B.J. Drijber, P. Lugard, B.M.J. van der Meulen, G. Niels and R. Wesseling).

Economisering. *Markt en Mededinging*, 2016/5, 171-174.

Professional publications – Reports

Damme, Eric van

De ordening van de markt voor speelcasino's. Den Haag: Ministerie van Veiligheid en Justitie (with E. Maasland).

Professional publications – Other

Misja C. Mikkers

De rol van data-analyse binnen Nederlandse Zorgautoriteit. *De Actuaris*, 24(2), 24-26 (met Ramsis Croes).

APPENDIX C. ACTIVITIES 2016

1. TILEC SEMINARS

A Seminar is devoted to a specific topic within the TILEC research program. It is organized for the benefit of faculty members and other researchers at Tilburg University.

13 January 2016

Elisabeth Perlman, Boston University

Dense enough to be brilliant: Patents, urbanization, and transportation in nineteenth century America

20 January 2016

Ruotao Tang, University of Alberta

Environmental regulation and firm innovation: Evidence from China

17 February 2016

Mirjam Salish, University of Bonn

Learning faster or more precisely? Strategic experimentation in networks

24 February 2016

Özlem Bedre-Defolie, European School of Management and Technology

Contracts as a barrier to entry in markets with non-pivotal buyers

02 March 2016

Edith Loozen, Erasmus University Rotterdam

Current competition rules serve Dutch public health care interests best

09 March 2016

Damien Gérard, University of Louvain (UCL)

Integration through cooperation: The case of competition

16 March 2016

Moritz Suppliet, Düsseldorf Institute for Competition Economics, Heinrich Heine University

Umbrella branding in pharmaceutical markets

13 April 2016

Steffen Hoernig, Nova School of Business and Economics

Fixed and mobile telephony: Substitution and integration

20 April 2016

Christoph Engel, Max Planck Institute

Bargaining in the absence of property rights: An experiment

25 May 2016

Daniel M. Klerman, USC Law School

The economics of legal history

08 June 2016

Eric Brousseau, University of Paris-Dauphine

Why are modern bureaucracies special? State support to private firms in early-eighteenth century France

23 June 2016

Lisa Bernstein, University of Chicago Law School

Beyond relational contracts: social capital and network governance in procurement contracts

29 June 2016

Patrick Rey, Toulouse School of Economics

Prizes versus contracts as incentives for innovation

21 September 2016

Angus Johnston, Oxford University

The ongoing saga of energy retail price regulation under EU law

22 September 2016

Inge Graef, the Centre of IT & IP Law (CiTiP) of KU Leuven

Online platforms, data and the essential facilities doctrine

12 October 2016

Hannes Ullrich, University of Zurich and DIW Berlin

Assessing the impact of payment card fee regulation

23 November 2016

John Golden, University of Texas

“Troll” check? A proposal for administrative review of patent litigation

07 December 2016

Kate Litvak, Northwestern University

The SEC's busted randomized experiment: What can and cannot be learned

14 December 2016

Roberto Galbiati, Science Po

The political cost of being soft on crime: Evidence from a natural experiment

2. WORKSHOPS AND CONFERENCES

TILEC organizes larger conferences and workshops, devoted to specific topics open to everyone interested in our research themes and activities. More often than not, those larger events are used to bring together academics, policy-makers and representatives from the business world.

26 January 2016

Competition workshop on *Fusies in de gezondheidszorg*, jointly organized by the Netherlands Bureau for Economic Policy Analysis (CPB) and TILEC

Speakers:

Eric van Damme, Tilburg University

Fred Krapels, VWS

Anne Fleur Roos, iBMG

Marco Varkevisser, iBMG

17 February 2016

The 8th Health Policy Workshop *Prospects for curative mental health care*.

Jointly organized by The Dutch Healthcare Authority (NZa), the Netherlands Bureau for Economic Policy Analysis (CPB) and TILEC

Speakers:

Edwin de Beurs, Leiden University

Philippe Delespaul, Maastricht University

Tom McGuire, Harvard Medical School
Femke van de Pol, Dutch Healthcare Authority

23 February 2016

KNAW Conference Dienstbare Markten: *The new roles of the consumers in the energy market.*

Speakers:

Michiel Boersma, Tilburg University
Gabriella Doci, Tilburg University
Martijn Groenleer, Tilburg University, TLS
Leigh Hancher, Tilburg University, TILEC
Manon Janssen, Ecorys
Saskia Lavrijssen, Tilburg University, TILEC
Frans Stokman, University of Groningen
Bert Willems, Tilburg University, TILEC
Catherine Waddams, University of East Anglia

14 June 2016

TILEC workshop on SSO's

Speakers:

Rudi Bekkers, faculty of Technology Management, Eindhoven University of Technology
Knut Blind, TU Berlin and Fraunhofer FOKUS
Mirko Boehm, Technical University of Berlin, Open Innovation Network, CEO at Endocode
Hermann Brand, ETSI
Roya Ghafele, OxFirst & Oxford University
Kirti Gupta, Qualcomm
Martin Husovec, Tilburg University, TILEC
Pierre Larouche, Tilburg University, TILEC
Christian Loyau, ETSI
Scott Mansfield, Ericsson's Development Unit IP and Broadband group
Haris Zisimopoulos, Qualcomm

04 October 2016

Competition workshop on *Big data, platforms and privacy*, jointly organized by the Netherlands Bureau for Economic Policy Analysis (CPB) and TILEC

Speakers:

Sander Klous, University of Amsterdam, KPMG

Bas Straathof, CPB

Bert Willems, Tilburg University, TILEC

3. CLUB MED / CLUB IO

Club Med (for Club Mededingingsrecht – or competition law, in Dutch) meetings have long been a cornerstone of TILEC's weekly activities. In 2013, the format of the meetings was changed: A Club Med meeting is sometimes coupled with a so-called Club IO (for Club Industrial Organization) meeting, taking place the following week. In the Club Med, recent legal and policy developments are discussed, including Commission decisions, judgments of the European or US courts, legislative initiatives, and policy guidelines. In the Club IO, these same developments are examined through the lens of economic analysis.

27 January 2016

Cédric Argenton, Tilburg University, TILEC

What is law?

30 March 2016

Xiaoyu Wang, Tilburg University, TILEC

The politics of compromise by Bonatti & Rantakari (forthcoming AER)

22 June 2016

Yadi Yang, Tilburg University, TILEC

A survey of the hold-up problem in experimental literature

4. WORK-IN-PROGRESS (WIP) MEETINGS

WIP Meetings are internal events where TILEC members present their own work at an early stage for comments and discussion.

03 February 2016

Jens Prüfer and Maria Larrain, Tilburg University, TILEC

Innovation incentives and knowledge spillovers in standard setting organizations

23 March 2016

Olia Kanevskaia and Nicolo Zingales, Tilburg University, TILEC
IEEE's patent policy update under the lens of EU competition law

06 April 2016

Martin Husovec, Tilburg University, TILEC
Accountable, not liable: How injunctions against intermediaries change intermediary liability landscape

04 May 2016

Zlatina Georgieva, Tilburg University, TILEC
Competition soft law in national courts – where are we at? An empirical overview for the UK, the Netherlands, France and Germany

11 May 2016

Marco Da Rin, Tilburg University, TILEC
Voluntary information disclosure at IPO

18 May 2016

Jens Prüfer, Tilburg University, TILEC
Competing with big data

15 June 2016

Jan Broulik, Tilburg University, TILEC
Economics in antitrust enforcement: Why are there advocates of too much or too little economics?

06 July 2016

Branislav Hock, Tilburg University, TILEC
The effectiveness of extraterritorial enforcement: Credibility and clarity problems

14 September 2016

Wieland Müller, Tilburg University, TILEC
Building trust: The costs and benefits of gradualism

28 September 2016

Tobias Klein, Tilburg University, TILEC
How to improve the timing of advertising: An empirical study

05 October 2016

Anna Butenko, University of Amsterdam, TILEC

Sharing energy: Dealing with regulatory disconnect in Dutch energy law

26 October 2016

Sébastien Broos, University of Liège (TILEC visitor)

Targeted advertising and consumer information

02 November 2016

Or Brook, University of Amsterdam

Mapping the role of public policy in EU competition law: Empirical coding

09 November 2016

Alastair MacIver, European University Institute

Reverse Greenland' as a response to Brexit: Some doubts about territorial differentiation

16 November 2016

Bert Willems, Tilburg University, TILEC

State aid sector inquiry on capacity mechanisms in electricity markets.

5. OTHER

17 June 2016

Inaugural address Saskia Lavrijssen: *Bouwstenen voor een duurzaam reguleringskader voor de energiesector*

22 June 2016

PhD Workshop 'Presenting American-Style' by Lisa Bernstein, Ronald Coase visiting professor

21 October 2016

Inaugural address Misja Mikkers: *The Dutch health care system in international perspective*

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