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Tilburg Law and  
Economics Center

# TILEC

## Annual Report 2019

**TILEC**  
**Annual**  
**Report**  
**2019**

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

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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# What makes a successful research center?

First, its membership – and the ever-increasing attractiveness of this status. Second, the ability to agree on a common vision, purpose and strategic plan that is regularly evaluated and, if needed, updated. Third, the diffusion of knowledge and the creation of positive spillovers in the academic institution that it belongs to. Fourth, a sound financial management that allows investment in strategically designed hires and creates reserves to face potential hardship in the future.

However, academic research institutes – in Europe at least – do not function in a vacuum; rather, broader institutional support at the faculty and university level is warranted if they are to sustain activities. The latter sometimes depends – unfortunately – on subjective criteria and personal agendas, which make it harder for researchers to excel and create.

In recognition of its past world-class performance, the Tilburg Law and Economics Center (TILEC) has been a Center of Excellence at Tilburg University since 2014. Other than the honorary title, such status came with significant funding by Tilburg University for five years. This investment paid off: Compared to 2015, TILEC membership (excluding extramural fellows) has grown by almost one third, as new colleagues sought to become TILEC members or new positions were filled. Investment at the university level also had a significant multiplier effect: Two Consolidator Grants awarded by the European Research Council (ERC), participation in collaborative projects and consortia and significant grants from external sources broadened TILEC's research activity. This type of significant money flow (valued more than five times the initial investment by the university) also allowed us to invest in strategic areas such as innovation and standardization, energy and sustainability, competition law and digital platforms. This strategy upgraded TILEC's profile in policy circles and relevant academic discussions. Internally, it also had significant positive spillovers: colleagues and, increasingly, students became part of our academic events and got to familiarize themselves with TILEC's research output and outreach. Nothing came out of the blue: Since 2011, TILEC develops 5-year strategic plans the enforcement of which is subject to evaluation by international assessment committees in regular intervals. Of course, the institutional red tape can hamper implementation – and it often does.

Excellent research on economic regulation and governance remains TILEC's core strength. In 2019, the prestigious [TILEC Discussion Paper Series](#) on the Social Science Research Network (SSRN) exceeded 400'000 downloads. This makes about 60 percent of Tilburg Law School's total downloads, thereby contributing greatly to Tilburg ranking 1st on SSRN's top international law school list. As a renowned law and economics center, we rank No 3 in total downloads (behind powerhouses such as Chicago and Columbia Law Schools and ahead of other top institutions such as Stanford, Yale, NYU, and Texas). TILEC is also routinely ranked in the Top 10 of economics departments and research centers on SSRN. These results show what well-thought investments, common vision and ambition can achieve.

Research results by TILEC members in 2019 are again impressive amidst significant changes occurring in the surrounding academic environment in the past year: over 40 articles in top journals in law and in economics have been published in 2019. We have also been actively participating in the policy debates about the role and effectiveness of competition law in the digital era. Some of TILEC's finest research was featured in events relating to the governance of data and the role of institutions and actors in a given market; the event on patent pools that we organized in Brussels or TILEC's participation in the report published by the EU's Joint Research Center (JRC) on the governance of standard-setting organizations (TILEC DP 2019-21). In the Netherlands, TILEC members continued leading the discussion on energy transition, data sharing, critical infrastructure and economic regulation in network industries, notably through large-scale projects such as the LONGA VIA. These are achievements in which we take pride and encourage financially and otherwise in the best way we can. However, as our aspirations grow, the limits and weaknesses of the underlying academic structures also become more evident!

In these difficult times, amidst the most severe crisis we have ever seen in our lifetime, I want to congratulate and express my gratitude to all TILEC for their hard work and dedication to the TILEC cause for yet another year. New projects and collaborations are in the pipeline but strengthening the motivation of researchers is key. This is critical for everybody (be it academic leaders, advisors, or support staff) to understand. Without this motivation and encouragement, distrust reigns and thus the entire academic edifice becomes fragile.

TILEC will continue strengthening its ties with other academic institutions, regulatory authorities, European institutions and private companies, offering, where appropriate, informed insights in policy debates and contributing to a better understanding of complex market mechanisms and regulatory concerns. After strengthening our team on competition policy led by Professor Giorgio Monti for the last couple of years, we will now focus more on prioritizing research themes and expanding our collaboration with regulatory authorities and companies alike. We remain eager to engage with partners within and outside academia so do reach out if you want to hear more about TILEC's expertise and discuss sponsorship options with us. All feedback and queries should be addressed to: [tilec@tilburguniversity.edu](mailto:tilec@tilburguniversity.edu).

I am confident that this report on our 2019 activities will give you an accurate picture of what we do, and what we stand for. If you want to hear regularly from us, please subscribe to the TILEC newsletter (<https://forms.tilburguniversity.edu/205>).

Panos Delimatsis  
TILEC Director



*Panos Delimatsis*

**1**

**Research**



# 1. RESEARCH

## 1.1 RESEARCH OUTPUT AND KEY RESULTS

### 1.1.1 Overview

The table below provides a summary of the research output of TILEC members in 2019. For each category, it shows the number of publications that fall within the scope of the TILEC research program. An exhaustive overview of TILEC publications is provided in Appendix B; the full list of TILEC members is to be found in Appendix A.

	2019
<b>Academic publications</b>	
Journal articles	46
Book chapters	12
Monographs and edited books	3
Other academic publications	2
<b>Professional publications</b>	
Journal articles	0
Book chapters	1
Books and reports	1
Other	5
<b>Discussion papers</b>	<b>34</b>

*Table: Relevant publications by TILEC members*

In 2019, TILEC members produced cutting-edge academic research and successfully ran a number of externally financed research 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.

# Ruben Durante

## Professor in Economics – Pompeu Fabra University; Barcelona



*Keynote speaker at the TILEC-GovReg Workshop on “Governance of Big Data and Artificial Intelligence: Economic, Legal, and Political Perspectives”*

“A wonderful workshop, bringing together economists, political scientists, and computer scientists for a truly refreshing interdisciplinary discussion on how information technology and the new media are changing politics and economics, all in a friendly and stimulating environment.”

### 1.1.2 Institutions

Within this research cluster, TILEC studies the formal and informal institutions that underlie and govern the production and exchange of goods or services, and contribute to other public policy objectives with a view to strengthening their resilience and adaptability. Formal institutions at the center of TILEC's work comprise legal regimes such as contract, criminal and competition law, private standard-setters as well as administrative and judicial institutions entrusted with the task of enforcing substantive rules disciplining economic activity. Informal institutions include evolving social norms and private networks.

Technical standards, and in particular international standards, are fundamental drivers for both innovation and trade. In 'International trade law and technical standardization' (in Jorge Contreras (Ed.) *The Cambridge Handbook of Technical Standardization Law: Further Intersections of Public and Private Law*. Cambridge University Press: 2019), TILEC member **Panos Delimatsis** focuses on treatment of standards under World Trade Organization (WTO) law in light of their trade facilitating functions. As WTO rules consider public measures based on international standards as compatible with international trade obligations, WTO law functions as a mechanism for diffusion and incorporation of international standards. At the same time, the WTO Agreements, in combination with dispute settlement, have the potential to profoundly affect standard-setting processes. By reviewing the main rules applicable to both technical and international standards under the Technical Barriers to Trade (TBT) Agreement and the TBT Committee Decision on Principles for the Development of International Standards, Guides and Recommendations, the article highlights the importance of procedural guarantees for standard-setting and the potential of WTO law in being a drive for change in standard-setting. Delimatsis posits that undue deference has been granted to standardizing bodies, to an extent which may question both their legitimacy and their standards. However, since the Appellate Body ruling in *US - Tuna II*, WTO bodies have demonstrated a more interventionist attitude likely to result in more transparent and open international standardization.

EU authorities are increasingly engaging with private standards in forms that differ from the traditional interplay based on agency relations and incorporation by reference. This phenomenon becomes particularly evident in global value chain regulation, where several EU measures regulating biofuel sustainability, public procurement, non-financial reporting and timber legality permit the employment of voluntary sustainability standards (VSS). In 'Orchestration as a form of

public action: The EU engagement with voluntary sustainability standards' (*European Law Journal* 25(1), 94-117), TILEC member **Enrico Partiti** investigates the effects of EU use of VSS. The article identifies features of 'orchestration', a distinct form of public action aiming at using and steering transnational private regulation in the area of sustainability. By bringing to the fore regulatory complementarity of private regimes as well as the potential of orchestration in publicizing transnational private standard, Partiti explains the underlying reasons behind different modalities of public 'use' of private authority, such as exploiting monitoring and implementing functions of private regimes. The article exposes hidden dynamics generated by the interplay between public and private rules, and in particular a threat of dilution of more stringent and effective standards. Finally, the article identifies a number of procedural and substantive conditions under which orchestration and employment of VSS should be deployed to improve effectiveness of public measures, while contributing to improving procedures and substantive rules of transnational private regimes.

The nonprofit sector accounts for significant shares of both GDP and the total wage bill in most developed economies, making nonprofits an important part of the economy. Because nonprofits are not allowed to distribute profits, they pursue objectives other than profit maximization. How do culture and religion influence these objectives? In their article "Faithful strategies: How religion shapes nonprofit management" (*Management Science*, 65(1), 188-208), TILEC members **Lapo Filistrucchi** and **Jens Prüfer** study the strategies employed by Catholic and Protestant nonprofit hospitals in Germany and trace them back to the theological foundations of those religions. They find that Catholic nonprofit hospitals follow a strategy of horizontal diversification and maximization of the number of patients treated. By contrast, Protestant hospitals pursue a strategy of horizontal specialization and focus on vertical differentiation, putting in more sophisticated inputs and producing more complex services. These effects increase if the environment of a hospital becomes more competitive. The authors present a model that rationalizes the strategic differences as a result of the difference between Catholic and Protestant values identified in the literature. They also test alternative explanations to the observed empirical differences and show that none of them is supported by the data.

One of the greatest challenges for the judiciary in the 21st century is the review of discretionary powers exercised by the administrative state. Traditionally, courts exercise self-restraint when

reviewing acts of administrative bodies implying a degree of discretion. Review is often limited to whether a decision is non-arbitrary, or whether there is no manifest error of assessment. The question, however, arises as to whether ensuring non-arbitrary exercise of administrative discretion is sufficient and appropriate to guarantee that the administration uses its powers in a legitimate way. The volume edited by TILEC member **Saskia Lavrijssen**, with Ernst Hirsch Ballin and Jurgen de Poorter (Tilburg University) and titled ‘Judicial review of administrative discretion in the administrative state’ (T.M.C. Asser Press/Springer: 2019) searches for new modalities of judicial review of administrative discretion. With case studies on the practice of European courts, national courts and competition authorities, the edited volume brings together academics researching judicial discretion and practitioners from both higher and lower administrative courts. As forms and paradigms of the administrative state evolve, the volume explores how administrative courts across the EU reconsider their roles and design novel modalities of judicial review. On the basis of experience from different legal domains and jurisdictions, the book provides comprehensive theoretical and empirical foundations to reflect on, and evaluate, various models of review and their constitutional implications.

Immigrants in most Western European countries earn less and are more likely to be unemployed than the native-born population. Research has shown that discrimination plays an important role in explaining these differences in outcomes, but it is not clear whether discrimination is statistical – e.g., employers may be reluctant to hire immigrants because they are more likely to be unemployed, which employers attribute to lower productivity – or taste-based. TILEC member **Sigrid Suetens** and her co-author Elena Cettolin (Tilburg University) examine this question in their article “Return on trust is lower for immigrants” (Economic Journal, 129(621), 1992-2009). They conduct an experiment with a representative sample of the Dutch population to study whether trustworthiness depends on the ethnicity of the interaction partner. Native Dutch trustees play with an anonymous trustor, who is either another native Dutch or a non-Western immigrant. They find that trustees reciprocate trust up to 12% less if the trustor is a non-Western immigrant than if he/she is native Dutch. This percentage increases up to 23% for trustees who report disliking ethnic diversity in an independent survey. Since the decision to reciprocate does not involve behavioral risk, their results provide evidence of taste-based discrimination.

### 1.1.3 Competition

Within this research cluster, TILEC members investigate the design and application of competition law and policy, paying special attention to the way in which economics can be integrated into the competition policy framework, while retaining the prime features of a sound legal system. TILEC members also study the benefits and costs of competition as a governance mechanism. In addition, their work in the area of competition encompasses the study of the regulation of important sectors of the economy such as the network industries and healthcare markets.

Collusion was again one of the topics of focus for TILEC in the area of competition. One example of this is the article by TILEC member **Jan Potters**, co-authored with Maria Bigoni (University of Bologna) and Giancarlo Spagnolo (University of Rome Tor Vergata), entitled “Frequency of interaction, communication and collusion: An experiment” (Economic Theory, 68(4), 827-844). It is widely accepted that the frequency of interaction facilitates collusion by reducing gains from defection. Under imperfect monitoring, however, flexibility – defined as the ability to react swiftly to others’ choices – may hinder collusion. The reason is that when imperfect information arrives frequently, high flexibility forces players to react to bad news early, when it is still very noisy. This generates many costly mistakes which erode the value of collusion. Theoretically, the interplay of these forces generates an inverse U-shaped effect of flexibility on collusion. The authors test this prediction in a laboratory experiment featuring an indefinitely repeated Cournot duopoly, with different degrees of flexibility. Results turn out to depend crucially on whether subjects can communicate with each other at the beginning of a supergame (explicit collusion) or not (tacit collusion). Without communication, the incidence of collusion is low throughout and not significantly related to flexibility; when subjects are allowed to communicate, collusion is more common throughout and significantly more frequent in the treatment with intermediate flexibility than in the treatments with low or high flexibility.

Cartels often do not cover an entire industry but achieve only partial coverage, i.e., they do not include all relevant producers. There is evidence that successful partial-coverage cartels try to deter the entry of potential competitors or drive out actual ones. In his article “Colluding on excluding” (European Economic Review, 113, 194-206), TILEC member **Cédric Argenton** asks why a cartel would choose to assume incomplete coverage of the industry and then use anticompetitive practices towards outsiders rather than pursue full collusion of the industry from the start.

The answer he provides is that partial cartelization combined with joint predatory pricing may be more profitable than full cartelization. He presents a simple, symmetric model of a three-firm Bertrand oligopoly characterized by barriers to (re-)entry, a finite horizon, complete information, and convex costs. There exists a subgame-perfect equilibrium in which two of the firms (the predators) can choose to charge an initial price that is so low that the third (the prey) decides to exit immediately. In this predatory pricing equilibrium, the predators can enjoy higher profits than in the best collusive equilibrium with three firms. Thus, a coalition of two firms can benefit from colluding on excluding.

The phenomenon of EU law exercising regulatory effects beyond EU borders has recently attracted considerable academic interest. The ‘global reach’ of EU law includes forms of extraterritorial application, territorial extension, and the so-called ‘Brussels Effect’ resulting from unilateral legislative and regulatory activity. It also encompasses the impact of the EU’s bilateral relationships and its engagement with multilateral fora and the negotiation of international legal instruments. In ‘The global reach of EU competition law’ (in Marise Cremona and Joanne Scott (Eds.) EU law beyond EU borders: The extraterritorial reach of EU law. Oxford University Press: 2019), TILEC member **Giorgio Monti** explores the extraterritorial implications of EU competition law. Through extensive case studies, the chapter appraises the application of EU cartel rules, rules on unilateral conduct of dominant undertakings and merger control. Monti argues that the Commission’s global reach is extensive; however, it is far from being hegemonic. It is tempered by a cooperative stance that the Commission nurtures with competition agencies from other States as well as by a global tendency towards convergence of antitrust standards. Domains such as merger control permit more extensive cooperation between the Commission and other competition authorities, but cooperation is considerably lessened where there is disagreement about the appropriate standard - such as for unilateral conduct. The chapter identifies limits to the many forms of cooperation pursued by the EU and the global strive for convergent standards.

Online display advertising is now the second most popular advertising medium after TV advertising. It is no surprise that it represents a large source of revenues for online publishers. In light of its vital economic importance for both publishers and advertisers, healthy competition in the digital advertising ecosystem is desirable. Yet, in the ‘programmatic’ era, where ads are sold through computerized decision-making processes managed by ‘ad tech’ intermediaries, the sector remains

characterized by a high degree of opacity. As some of its segments seem to be dominated by Google, concerns have been expressed that it may engage in anti-competitive strategies. In ‘An EU competition law analysis of online display advertising in the programmatic age’ (European Competition Journal 15(1), 55-96), TILEC member **Damien Geradin** and Dimitrios Katsifis (Geradin Partners) explore the display advertising ecosystem and identify pressing competition law concerns. Geradin and Katsifis first discuss market definitions to demonstrate that Google may be considered as holding a position of dominance on several ad tech markets. The article then tackles the highly technical practical functioning of programmatic advertising and exposes a number of practices which may constitute abuse of dominant position under Article 102 TFEU such as lack of transparency, hidden fees and exploitation, as well as vertical foreclosure. In light of the importance of display advertising, recent initiatives by competition authorities in the EU are expected to cast some much-needed light on the functioning of an opaque sector.

Differentiated treatment is a key aspect in current competition investigations launched by both the European Commission and national competition authorities against platforms. Differentiated treatment includes conduct such as a more prominent placement of one’s own services in a ranking, preferential access to data, and the favoring of businesses that pay higher levels of commission. In ‘Differentiated treatment in platform-to-business relations: EU competition law and economic dependence’ (Yearbook of European Law 38, 448–499), TILEC member **Inge Graef** distinguishes three types of differentiated treatment on online platforms based on their exclusionary and/or exploitative character. Through the discussion of pure self-preferencing, pure secondary line differentiation, and hybrid differentiation, the article lays out a comprehensive analytical framework for assessing the extent to which such practices may be considered as abusive under Article 102 TFEU. Graef argues that the main area where EU competition law currently does not offer effective protection is under the most far-reaching situation where a business is blocked from a platform without legitimate justification. To address harm in such cases, the article suggests giving a stronger role to economic dependence both within and outside EU competition law. Finally, the contribution explores further possible forms of regulatory intervention drawing upon the Platform-to-Business (P2B) Regulation, as well as the notion of fairness of platform-to-business relations.

One of the reforms introduced by the General Data Protection Regulation (GDPR) is a strengthening of the concept of consent. The changes brought about by the GDPR arguably imply that

access to services may no longer depend on the consent of data subjects. In reality, however, data subjects often find themselves confronted with standard privacy policies and take-it-or-leave-it offers. In ‘Pre-formulated declarations of data subject consent: Citizen-consumer empowerment and the alignment of data, consumer and competition law protections’ (German Law Journal 20(5), 679-721), TILEC member **Inge Graef**, together with Damian Clifford and Peggy Valcke (KU Leuven), examine the alignment of the respective data protection and privacy, consumer protection, and competition law policy agendas through the lens of pre-formulated declarations of consent. Graef, Clifford and Valcke delineate the role of each area with specific reference to the GDPR and ePrivacy Directive, the Unfair Terms Directive, the Consumer Rights Directive, and the Digital Content Directive. In addition, competition law and the concept of market dominance describe the conditions under which a clear imbalance in controller-data subject relations emerges in connection to the requirement that consent must be freely given. As data protection and consumer protection regimes focus on the specific reference to the Unfair Terms Directive in the GDPR, holding that pre-formulated declarations of consent should not contain unfair terms, competition law emerges as an effective complement to these legal areas.

In designing federal systems of competition law enforcement, allocating responsibilities and duties between the federal and the national levels is fundamental for the design and operation of an effective regime. In ‘Galvanizing national competition authorities in the European Union’ (in Damien Gerard and Ioannis Lianos (Eds.) *Reconciling efficiency and equity: A global challenge for competition policy*. Cambridge University Press: 2019), TILEC member **Giorgio Monti** discusses how, in the EU, the Commission attempts to invigorate and direct national competition authorities (NCAs) in a multi-level system of competition law enforcement. The article focuses on the interplay between the NCAs, the European Competition Network (ECN) and the Commission, and on the strategies enacted to complement coordination between authorities with regional procedural norms and monitoring mechanisms. In particular, the article assesses the steps currently taken in the so-called ‘ECN-plus’ project, which culminated in a proposal for an EU Directive to harmonize competition law procedures across Member States. Monti posits that this approach suffers from the defect of being premised on the incorrect assumption that antitrust enforcement by NCAs is ‘regional’. NCAs, however, operate mostly to address market failures at local level; cases where NCAs apply EU competition law to anticompetitive conduct outside their jurisdictions are exceptional and rather controversial. Monti is skeptical about the chances of success of the ‘ECN-plus’

project. Further extraterritorial enforcement, deeper coordinated enforcement and more attention to competition advocacy by NCAs would instead be more effective strategies at this stage.

TILEC members were also once again very active in researching health care and energy markets. A good example of the former is the article by TILEC members **Jan Boone** and **Michiel Bijlsma**, together with their co-authors Minke Remmerswaal and Rudy Douven (both at CPB), entitled “Cost-sharing design matters: A comparison of the rebate and deductible in healthcare” (Journal of Public Economics, 170, 83-97). Since 2006, the Dutch population has faced two different cost-sharing schemes in health insurance for curative care: a mandatory rebate in 2006 and 2007, and a mandatory deductible since 2008. With administrative data for the entire Dutch population and using a difference-in-differences design, the authors compare the effect of these schemes on healthcare consumption. They draw upon a regression discontinuity design to extrapolate effects to the cut-off age 18 and incorporate the size of the cost-sharing scheme. Their estimates show that for individuals around the age of eighteen, one euro of the deductible reduces healthcare expenditures 18 eurocents more than one euro of the rebate. This demonstrates that different designs of a cost-sharing scheme can have substantially different effects on total healthcare expenditure.

Selective contracting in health care markets is a practice whereby an insurer limits the choice of providers that can be visited by the insured when they need treatment. There is evidence that selective contracting helps to reduce costs. This is intuitive: since insured patients do not pay for their treatments, they may select inefficient providers. What is more controversial is the effect of selective contracting on the quality of the health care services that the market provides. In their article “Do health insurers contract the best providers? Provider networks, quality, and costs” (International Economic Review, 60(3), 1209-1247) TILEC member **Jan Boone** and extramural fellow **Christoph Schottmüller** (University of Cologne) point out that whereas they might be indifferent to costs, patients do care about provider quality; yet they may not be able to observe it ex ante (i.e., before knowing which treatment they need). In a framework with two health care providers that differ in quality and costs, the authors show that an insurer’s choice of whether to use selective contracting may signal to consumers whether he is focused on costs or quality. Selective contracting focuses on low-cost providers; contracting both providers signals high quality. Market power reduces the scope for signaling, thereby leading to lower quality and inefficiency.

How have product portfolios, pricing strategies, retail margins and consumer behavior evolved since the Netherlands opened their retail electricity markets to competition? In their article “The Dutch retail electricity market” (Energy Policy, 127, 228-239), TILEC member **Bert Willems** and his co-author Machiel Mulder (University of Groningen) analyze a dataset collected by the Dutch Competition and Consumer Protection Authority (ACM) to answer this question. They examine market structure, regulation, and market performance of the Dutch electricity retail market for households since its opening in 2004. Using data containing monthly prices for all products offered in the Dutch retail electricity markets over the period 2008–2014, they provide quantitative results on the intensity of retail competition and the benefits to consumers. Regulation of the retail electricity market encompasses structural measures, contractual restrictions, rules on information provision, price surveillance and market monitoring. In contrast to most other countries, the Dutch regulator surveys all new retail prices before market introduction in order to prevent too high retail prices. The Dutch retail electricity market has remained relatively concentrated, with retailers offering an increasing variety of retail products, often using multiple brands. Competition is characterized by product innovation, especially for green energy, rather than price competition on homogenous products. Gross retail margins remain relatively high, as is price dispersion across retailers. The market matured, as evidenced by fewer consumer complaints and higher switching rates.

#### 1.1.4 Innovation

Within this research cluster, TILEC researchers investigate the phenomenon of innovation, broadly construed as the creation and diffusion of new knowledge. Innovation has long been recognized as the main driver of economic growth and holds the potential to provide solutions to a wide array of societal problems, ranging from combating diseases through medical innovation to fighting climate change through green technology. Putting in place a regulatory framework that is conducive to innovation has been a central policy concern within the EU for many years. Although TILEC studies innovation in general, it focuses particularly on innovation in the areas of ICT, as well as in the creative industries and data-intensive industries.

As tobacco firms are pushing against cigarette packaging laws, they claim that their rights to intellectual property are violated. In their view, such legislative changes take away the essence of their IP rights. They claim that the CJEU redefines the ‘essence’ of fundamental rights and its function

in the system of limitations, and it develops a set of core inviolable rights. How justified are these arguments? In ‘Essence of intellectual property rights under Art 17(2) of the EU Charter’ (German Law Journal 20(6), 840-863), TILEC member **Martin Husovec** investigates how intellectual property rights are protected in the EU Charter of Fundamental Rights. The article conceptualizes such protection in the context of absolute and relative theories on the essence of rights. Husovec explores the case-law of the CJEU to determine to which theory the Court subscribes. After concluding that the CJEU does not yet advance an absolute theory of essence of rights in intellectual property law, the article investigates sources of constitutional traditions from which the CJEU might draw. It concludes that a notion of ‘essence’ is hardly applied in the context of intellectual property rights. Any reference to essence in the case-law of the CJEU points only towards a higher level of scrutiny, but not towards the emergence of an ‘untouchable’ core of rights. Essence is only viewed as a tool to identify core features of legislative design of various intellectual property rights — their substance — which are then weighted against conflicting interests.

The ‘Building a European Data Economy’ initiative is based on the notion that the current regulatory environment is not capable of unleashing the full potential of the data-driven economy. As in the General Data Protection Regulation and the ePrivacy Directive, the initiative focuses on non-personal data as a way to complement data protection rules that regulate processing of personal data. In ‘Towards a holistic regulatory approach for the European data economy: Why the illusive notion of non-personal data is counterproductive to data innovation’ (European Law Review 44(5), 605-621) TILEC members **Inge Graef** and **Martin Husovec**, with Raphaël Gellert (Tilburg University) argue that the idea of non-personal data as a starting-point for new data innovation policies is counterproductive on a number of grounds. Firstly, datasets are often mixed and the boundaries of personal data are too fluid to act as regulatory anchor. Furthermore, having two separate regimes applicable to mixed datasets might lead to strategic behavior of firms exploiting this regulatory rivalry. Finally, data has economic value irrespective of its legal classification; there is no evidence that an elusive zone of non-personal data is more essential as innovation input. The authors conclude that a holistic approach to ‘data’ as such, which a priori incorporates data protection considerations in its design, is more likely to deliver a successful innovation policy.

Standardization often involves the selection of one particular technology 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. In their article “Repeated interaction in standard setting” (Journal of Economics & Management Strategy, 28(3), 488-509), TILEC member **Florian Schuett** and extramural fellow **Pierre Larouche** (University of Montreal) argue that two additional features of the standard-setting process are important for understanding the risk of SEP holders charging excessive royalties: technological complementarities and repeated interaction. Complementarities mean that technology contributors 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 a simple model of repeated standard setting, the authors analyze how the procedural rules of standard-setting organizations can help sustain good behavior. The model highlights the important role played by super-majority requirements and tie-breaking rules.

In another contribution on the artificial monopoly power created by standardization, TILEC members **Jan Boone** and **Florian Schuett**, together with TILEC extramural fellow **Emanuele Tarantino** (University of Mannheim), analyze the use of ex ante price commitments to address this problem. Under such a scheme, recently advocated by Lerner and Tirole (2015), SEP holders commit ex ante to the maximum royalty they would charge were their technology included in the standard. With complete information, price commitments restore the competitive benchmark royalty rates, but their effectiveness with incomplete information has not yet been studied. In TILEC Discussion Paper no. 2019-004, entitled “Price commitments in standard setting under asymmetric information”, the authors examine a setting with demand uncertainty and asymmetric information between upstream innovators and downstream implementers. Their analysis is motivated by the fact that there is often considerable uncertainty as to how much consumers are willing to pay for certain functionalities, and that innovators tend to be less well informed about these demand parameters than implementers of the standard. In the absence of price commitments, an upstream firm will design its royalty scheme so as to elicit the downstream firm’s private information. The optimal contract involves an output distortion in the low-demand state, which serves to reduce the downstream firm’s information rent. The authors show that introducing ex ante price commitments reduces – or even completely eliminates – the distortion of the low type’s output,

thereby improving efficiency. This provides an additional rationale for the use of price commitments in the standard-setting context.

In spite of their considerable impact for innovation, rules and policies of standard development organizations (SDOs) are not always transparent or easily accessible. In ‘Making the rules. The governance of standard development organizations and their policies on intellectual property rights’ (Science for Policy Report by the European Commission’s Joint Research Centre, and TILEC Discussion Paper no. 2019-021), TILEC member **Martin Husovec**, with extramural fellows **Pierre Larouche** (University of Montreal) and **Jorge Contreras** (University of Utah), and Justus Baron (Northwestern University) provide the first comprehensive analysis of the governance of SDOs, with a particular emphasis on organizations developing standards for information and communication technologies. The analysis is based on 17 SDO case studies, a survey of SDO stakeholders, an expert workshop, and a comprehensive review of legal and economic literature. The study examines external factors conditioning SDO rules and procedures, including binding legal requirements, government influence, the network of cooperative relationships with other SDOs and related organizations, and competitive forces. SDO decision-making is also shaped by internal factors, such as the SDOs’ institutional architecture of decision-making bodies and their respective decision-making processes, which govern the interaction among SDO stakeholders and between stakeholders and the SDO itself. The study also evaluates governance principles such as openness, balance of interests, consensus in decision-making and discusses their interplay. The insights acquired from the analysis are applied to SDO decision-making relating to intellectual property rights policies, which represents a particularly salient and controversial aspect of SDO policy development.

## Stephanie Bijlmakers

“TILEC provides an intellectually challenging and inspiring environment for junior and senior researchers from various disciplines to engage and cooperate in cutting-edge research on complex issues facing today’s globalized society. The weekly seminars provide ample opportunity to discuss and test ideas, learn and seek feedback from some of the brightest minds in law and economics.”



## Giorgio Monti speaking at the Competition and Consumer Day in Helsinki, September 2019





## 1.2 EVENTS AND DISSEMINATION OF RESEARCH

TILEC maintained a busy program of regular activities in 2019. 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 2019. Here we mention only a handful of major events.

### 1.2.1 Institutions

Datafication has massively influenced processes within organizations, on markets, and more generally throughout society. In 2019, TILEC organized two workshops on these issues. On 6-7 June, TILEC hosted a workshop on "Governance of Big Data and Artificial Intelligence: Economic, Legal, and Political Perspectives," co-organized together with the Governance and Regulation Chair at the University Paris-Dauphine, to discuss the economic, political, legal, and social effects of these developments. The two-day workshop took place in Tilburg and brought together an interdisciplinary audience comprised of computer scientists, economists, legal scholars, and political scientists. In the first keynote lecture, Viktor Mayer-Schönberger (University of Oxford) argued that, because innovation is increasingly the product of artificial intelligence and thus requires access to large data sets, it becomes harder for start-ups to challenge incumbents. The keynote was followed by a number of contributed sessions. In particular, Sergio Pastorello (University of Bologna) presented results of a study showing that algorithms can learn to collude. The day wrapped up with the second keynote lecture, in which Molly Roberts (UC San Diego) discussed how China uses a combination of censorship, propaganda, and AI to create distraction and diversion for its citizens. The following day started with the third keynote lecture, given by Antoine Bordes (Facebook), who talked about recent advances in AI and speculated on where it might be headed. Among the presentations that were given during the ensuing contributed sessions, Yigitcan Karabulut (Frankfurt School of Finance & Management) presented empirical evidence that automation may be causing increases in wealth dispersion between workers whose jobs are susceptible of being automated and those who are not. Finally, in the fourth keynote lecture, Ruben Durante (University Pompeu Fabra) showed how presidents use the timing of executive orders to manage the public's attention to controversial policy measures.

On 22 November, TILEC – together with TILT, and with sponsorship from Microsoft – organized a workshop around the theme "Governing Data as a Resource." An increasing number of legislative and policy initiatives target the functioning of data markets. Yet, key foundational questions about possible governance structures for data remain unresolved. Data is regarded as an essential resource for innovation, economic growth, and societal progress in various fields, ranging from health, agriculture and energy to intelligent transport systems, finance and smart cities. To unleash the full potential of data for the economy, mechanisms to create wider accessibility and reuse of data across private and public actors are now being devised in many areas of our lives. However, the design of adequate governance models for data is not a straightforward exercise, because there is a myriad of legal, economic, technical, and social interests to be reconciled. Based on a call for papers, the workshop brought together scholars from across the globe who reflected on the governance of data from their own expertise in areas such as intellectual property, open data, data protection, data ethics and competition law. The workshop started with a keynote speech given by Michael Madison (University of Pittsburgh), who applied the concept of knowledge commons to data. Other contributions explored different governance structures for data, including data pooling, various types of data intermediaries and data sharing models. In addition, lessons were drawn from a number of real-life case studies where data sharing was implemented in the context of smart cities. Discussions also involved trade-offs between different interests like privacy, competition and innovation as well as the role of various actors, namely public authorities, private businesses and individuals.

On 5 November, TILEC organized the kickoff workshop for the ERC-funded project REVEAL (The Resilience and Evolution of Economic Activism and the Role of Law). The project investigates enabling features and strategies that have allowed private regulatory bodies in Europe and elsewhere to endure despite multiple exogenous challenges and shocks. The objective of REVEAL is to think afresh and systematically investigate the birth, evolution and resilience of private rule-making bodies before and after regulatory and policy watersheds. The workshop brought together experts in transnational private regulation and standard-setting such as Prof. Fabrizio Cafaggi (Council of State, Italy), Prof. Linda Senden (University of Utrecht), Prof. Alessandra Arcuri (Erasmus University, Rotterdam) and Dr. **Jens Prüfer** (Tilburg University) who provided extensive feedback on the arguments, claims and hypotheses proposed by the REVEAL research team. The workshop interrogated the extent to which private regulators' resilience is due to exogenous factors or contextual

elements or is instead the result of the mutability of these bodies through adaptive processes. The workshop identified private bodies' resilience in connection to their core rule-making activities and the continuous promulgation of voluntary standards that are rapidly drafted, adopted and diffused to pre-empt rules by rule-making competitors and thus ensure continuous dominance. The discussion also addressed exogenous episodes and regulatory crisis, which are crucial moments for explaining how and why standard-settings institutions are capable to survive through crises and regulatory failures.

### 1.2.2 Competition and Innovation

Patent pools can be a source of efficiencies when they comprise complementary technologies. Attempts to create patent pools have failed with respect to mobile communication standards, however. The main SEP holders have stayed away from the pool and engaged in bilateral negotiations. Bilateral negotiations are hard to envisage in the IoT context where thousands of companies, large and small, will have to implement mobile communication standards. Patent pools hold much promise in the IoT context, but it is important to make sure that they are correctly designed and managed. Against that background, the TILEC conference on "Patent pools 2.0: Modernizing collective licensing mechanisms in the IoT context," organized by TILEC member **Damien Geradin** and held on 26 April 2019 in Brussels, discussed the strengths and weaknesses of patent pools, the regulatory framework under which they operate, the challenges they face, and the ways in which they should operate to provide an attractive alternative to bilateral licensing in the IoT era. In the morning, Prof. Michael Mattioli (U Indiana) set the scene by giving a historical perspective on patent pools, Carter Elzroth (DVB Project) discussed how SSOs can foster the formation of pools, and Tim Pohlmann (IPLytics) presented data on the 5G landscape. In his keynote lecture, Prof. Rob Merges (UC Berkeley) stressed the enormous potential of patent pools to bring down transaction costs. The afternoon was devoted to practical issues, including a description of the governance of patent pools by Thomas Chia (Via Licensing). Prof. Rudi Bekkers (TU Eindhoven) and Nikolaus Thumm (JRC Sevilla) then engaged the audience in a debate about the merits of essentiality checks for SEPs. The conference was rounded out by a panel discussion on the best way forward for patent pools in the IoT context featuring Prof. Merges, Dylan Lee (Huawei), Jan Sandstrom (Nokia), Martin Heinebrodt (Bosch), and Guillaume Ménage (France Brevets).

On 6 September, together with TILT and with sponsorship from Intel, TILEC organized a workshop around the theme "Remedies in IP Law: Do We Need Common European Principles". The workshop was part of the European Law Institute's 2019 Annual Conference in Vienna. Remedies, such as injunctions, damages, or claims for information, are increasingly of relevance in the policy debates in IP law. IP rights are believed to incentivize the creation and dissemination of new technical solutions and help to disclose their workings to the public in exchange for limited exclusivity. Much academic research has been produced about the various elements of IP regimes. Surprisingly, however, despite its high practical relevance, the issue of drafting, granting and enforcing remedies remains underexplored in comparative legal literature. This is in stark contrast with their key policy relevance. At the workshop, the panels composed of leading scholars in the area discussed remedies as an increasingly important policy lever when adjusting the IP system to quickly changing industries and business practices. The speakers included **Martin Husovec**, Orit Fischman-Afori, John Golden, Willem Hoyng, Norman Siebrasse, Rafal Sikorski, Alain Strowel, Alessandro Cogo, Thibault Gisclard, Franz Hofmann, Peter Georg Picht, Tomasz Targosz, Andreas Wiebe and Matej Myska. The discussion addressed in particular whether general principles for intellectual property rights could be useful, and whether common European principles are needed.

On September 10, in the context of the LONGA VIA research project (a collaboration between researchers from TLS and TiSEM), TILEC organized a seminar to discuss opportunities and challenges of data sharing in the context of critical infrastructure management. The seminar gathered more than 50 participants from different backgrounds and organizations such as researchers, infrastructure managers, lawyers and procurement experts. The presentations and discussions revolved around two main topics. Firstly, contributions addressed the potential of data sharing to improve management of critical infrastructures and contribute to crucial social challenges. For example, sharing maintenance and condition data enables smarter maintenance techniques. Sharing data about energy production and energy needs facilitates the energy transition, and obtaining real-time data from smart water meters contributes to securing the supply of drinking water. Secondly, presenters touched upon the role of legal rules, formal contracts and relational governance aspects to govern and facilitate data sharing between two or more parties, ensuring that the right incentives and safeguards are implemented. Two main challenges emerge for researchers and practitioners interested in data sharing for critical infrastructure management. These concern the ever-increasing diversity of the collected data used in the infrastructure sector and the various actors involved in

data collection with often competing interests. The seminar highlighted the importance of research that combines both legal and organizational perspectives, as they may be conflicting and in need to be mediated.



*On September 10, in the context of the LONGA VIA research project (a collaboration between researchers from TLS and TiSEM), TILEC organized a seminar to discuss opportunities and challenges of data sharing in the context of critical infrastructure management*



## Giorgio Monti

Professor of  
Competition Law;  
Tilburg University;  
Ronald Coase Visiting  
Professor in Law and  
Economics at TILEC  
during academic year  
2018-2019



“TILEC is a superb place to carry out research on fields that straddle law and economics because of the deep interaction between researchers in both fields. The Center has succeeded in facilitating conversations between the two fields in a manner that leads to joint research on a wide range of topical fields. The diverse perspective each member brings makes for stimulating discussions. I am looking forward to working at TILEC and develop new projects with the team.”

# Marie le Mouel



“As someone with experience in both academia and policy-making, I feel very much at home at TILEC. The frequent interactions within its network of academics, policymakers, and business-practitioners ensures that the research agenda of the community is always strongly connected to pressing societal issues. As an economist interested in innovation and competition, this exposure has helped me steer my own research into exciting areas that I would not have otherwise envisaged. I particularly enjoy the weekly interactions with legal scholars, because it creates the challenge of framing my own research in a broader perspective and forces me to communicate across disciplinary boundaries.”

## 1.3 RONALD COASE VISITING PROFESSORSHIP

The Ronald Coase Visiting Professorship in Law and Economics is a visiting chair that 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 holder of the 2018-2019 Ronald Coase Visiting Professorship was Giorgi Monti, in that period at the European University Institute (EUI) in Florence. Professor Monti now holds the Chair in Competition Law at Tilburg Law School.

Before joining the EUI in 2010, Giorgio Monti taught law at the University of Leicester (1993-2001) and at the London School of Economics (2001-2010). He received his legal training in the United Kingdom. While Monti's main research focus is in the field of competition law, he has also engaged in research projects in fields ranging from feminist legal studies, to commercial law, to comparative tort law. During his stay in Tilburg as Ronald Coase Professor, Professor Monti collaborated with TILEC researchers working in the area of competition policy and innovation. In addition, he shared his knowledge and expertise with TILEC PhD researchers and prospective PhD students by providing extensive feedback on their doctoral projects. Professor Monti also delivered guest lectures in the advanced competition law classes offered by TILEC at the Tilburg Law School, and gave a presentation titled 'Excessive pricing: Competition Law in Shared Regulatory Space' at TILEC Seminars. The Ronald Coase Chair in Law and Economics was established in 2008. The late Nobel Memorial Prize Laureate in Economic Sciences Ronald Coase (1910-2013), globally renowned for his pioneering and inspiring work on institutional economics, and transaction costs in particular, gave his personal consent to the establishment of the Chair.

**2**

**Education**

## 2. EDUCATION

### 2.1 TEACHING

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. TILEC members are very active in the BSc and MSc Economics programs at TiSEM (in the Law and Economics track, in particular) as well as the Global Law Bachelor, the Data Science Bachelor, the International Business Law Master, the Master in Law and Technology and the Master in International and EU law at TLS. Additional courses are also offered at the PhD level. In 2018, on top of general courses, many courses directly linked up with the TILEC research program.

Examples on the TiSEM side include the bachelor courses “Industrial Economics” (**Florian Schuett**) and “Competition Policy and Regulation” (**Cédric Argenton**), as well as the master courses “Seminar Competition Policy” (**Misja Mikkers** and **Erik Brouwer**) and “Seminar Innovation and Networks” (**Jens Prüfer** and **Madina Kurmangaliyeva**).

Examples on the TLS side include the master courses ‘Regulating Competition’ (**Giorgio Monti**); ‘International Competition Law’ (**Alex Ruiz Feases**); ‘Competition Law and Technology Industries’ (**Inge Graef**); ‘Banking and Security Regulation’ (**Joseph McCahery**); ‘Advanced EU Competition Law and Economic Regulation’ (**Francisco Costa-Cabral**, **Leigh Hancher**, and **Damien Geradin**); ‘Crisis and the EU’ (**Konrad Borowicz**); ‘Trade and WTO Law’ (**Panos Delimatsis** and **Enrico Partiti**); ‘Law and Economics’ (**Konrad Borowicz** and **Enrico Partiti**); ‘Trade and Development’ (**Panos Delimatsis**); ‘EU External Relations’ (**Panos Delimatsis**, **Stephanie Bijlmakers** and **Olga Hrynkiv**); ‘EU Internal Market Law’ (**Panos Delimatsis** and **Alex Ruiz Feases**); ‘Making and Shaping of Markets’ (**Konrad Borowicz**). TILEC TLS members are also involved in several bachelor courses including: the Data Science Bachelor course ‘Innovation and Regulation’ (**Olia Kanevskaia**), the Bachelor of Liberal Arts course ‘European Public Law and Public International Law’ (**Francisco Costa-Cabral**) the Global Law Bachelor courses ‘Methods and Techniques of Legal Research’ (**Stephanie Bijlmakers** and **Enrico Partiti**) and ‘Global Law Final Essay’ (**Stephanie Bijlmakers** and **Panos Delimatsis**), as well as the Rechtsgeleerdheid Bachelor course ‘Mededingingsrecht’ (**Saskia Lavrijssen**).

In addition, **Sebastian Dengler**, who obtained his PhD in economics with TILEC and is now a TILT postdoc, teaches a standalone course on “Innovation and Privacy”, where **Freek van Gils** (TILEC junior member, TiSEM) is a teaching assistant. This demonstrates the enhanced level of cooperation in education between TLS and TiSEM that has been made possible by TILEC.

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 TILEC junior 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 2019, 5 new junior members and one external PhD student started their doctoral studies at TILEC, bringing the total up to 34 PhD candidates (resident and external) currently pursuing their doctoral studies at TILEC.



20 September 2019,  
at the annual TILEC Retreat

### 2.2 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 2018/2019 on 20 September 2019, at the annual TILEC Retreat. This year's laureate is Tjaša Petročnik (LLM International and European Law), whose thesis is entitled "The relevance of market definition for finding a restriction of competition by object in *Hoffmann-La Roche II*". The thesis, written under the supervision of TILEC member **Francisco Costa-Cabral**, explored the normative significance of the CJEU's preliminary ruling in *F. Hoffmann-La Roche Ltd and Others v. Autorità Garante della Concorrenza e del Mercato*. The thesis exposes the interplay between competition law and pharmaceutical regulation in a context of scientific and regulatory uncertainty surrounding off-label use of medicines. The thesis concludes that, by setting a legal standard for misleading information for the purposes of application of Article 101 TFEU, the Court considered the (legal) context in which the information at hand was provided as essential in finding the agreement's anticompetitive object. This confirms a highly contextual approach of the CJEU.

Laureates of the TILEC Best Master Thesis prize are awarded a certificate of acknowledgment of their achievement and a monetary prize of EUR 500 (to be paid in vouchers).



## Tobias Klein

"TILEC has organized some of the best conferences I have attended as an academic economist. TILEC conferences are attended by scholars and practitioners from all over the world and the papers that are presented are often of very high quality. One can

experience at these conferences that bringing legal scholars and economists together can add real value. The discussions that arise as a result are insightful and have often influenced my own thinking."

3

Finances



## 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 for 2019 was funded by the following organizations:

- **Qualcomm Inc.**, for research on innovation, intellectual property, standard setting, and competition
- **The European Research Council (ERC)**, for research on the resilience of non-State regulatory bodies in times of crisis
- **JRC Sevilla**, for research on the interplay of SDO and IPR systems in the ICT industry
- **Netherlands Organization for Scientific Research (NWO)**, in cooperation with the think tank NGInfra, for research into legal and organizational network and governance aspects of data-driven innovations in infrastructure management
- **Netherlands Organization for Scientific Research (NWO)**, for research into innovative possibilities for horizontal cooperation between trade and production companies in the logistics sector
- **VEMW** for the chair "Economic regulation and market governance of network industries"
- **Tilburg Law School**, for research into how data portability in big data affects individuals, innovation and competition
- **Greenpeace E.V.**, for a legal study on the design of WTO-compliant sustainable commodities regulation
- **PowerShift E.V.**, in cooperation with the University of Amsterdam, for research on alternatives for the Raw Materials and Energy Chapters in EU trade agreements.

## Pinar Akman

### Professor of Law, University of Leeds

"TILEC offers a genuinely interdisciplinary set-up where scholars can exchange ideas and receive feedback with insights from multiple disciplines and thus, different perspectives. It has been a center of excellence in its bringing together of leading lawyers and economists under one roof and will no doubt continue to do so with its mix of bright early career researchers and eminent senior scholars."



# Appendix

## APPENDIX A – MEMBERS PER 31 DECEMBER 2019

### Senior Members

Senior members	TiSEM/TLS	II	CP	IN	FTE applicable
Alves Da Costa-Cabral, Francisco	TLS		*	*	0.6
Argenton, Cédric	TiSEM		*	*	0.3
Bijlmakers, Stephanie	TLS	*			0.9
Bijlsma, Michiel	TiSEM		*	*	0.1
Boone, Jan	TiSEM	*	*		0.2
Borowicz, Maciej Konrad	TLS	*			0.9
Brouwer, Erik	TiSEM			*	0.4
Da Rin, Marco	TiSEM			*	0.1
Damme, Eric van	TiSEM	*	*		0.4
Delimatsis, Panagiotis	TLS	*	*		0.8
Dengler, Sebastian	TLS/TiSEM	*		*	0.8
Filistrucchi, Lapo	TiSEM		*		0.2
Geradin, Damien	TLS		*	*	0.2

II: Institutions  
 CP: Competition  
 IN: Innovation

Senior members	TiSEM/TLS	II	CP	IN	FTE applicable
Graef, Inge	TLS		*	*	0.5
Hancher, Leigh	TLS		*		0.2
Husovec, Martin	TLS			*	0.5
Klein, Tobias	TiSEM		*		0.1
Kurmangaliyeva, Madina	TiSEM		*	*	1.0
Lafarre, Anne	TLS			*	0.1
Lavrijssen, Saskia	TLS	*	*		0.4
Le Mouel, Marie	TiSEM			*	1.0
McCahery, Joseph	TLS	*		*	0.1
Mikkers, Misja	TiSEM			*	0.1
Monti, Giorgio	TLS		*		1.0
Müller, Wieland	TiSEM		*		0.1
Partiti, Enrico	TLS	*			0.9
Potters, Jan	TiSEM	*			0.1
Prüfer, Jens	TiSEM	*	*	*	0.2

Senior members	TiSEM/TLS	II	CP	IN	FTE applicable
Renneboog, Luc	TiSEM	*		*	0.2
Ruiz Feases, Alexandre	TLS		*		0.8
Ruys, Pieter	TiSEM		*		0.0
Schindler, David	TiSEM	*			0.1
Schütt, Florian	TiSEM			*	0.6
Suetens, Sigrid	TiSEM	*			0.1
Vermeulen, Erik	TLS	*		*	0.1
Willems, Bert	TiSEM	*	*		0.2
Wolswinkel, Johan	TLS	*			0.1

## Junior

Junior members	TiSEM/TLS	II	CP	IN
Atik, Can	TLS			*
Bonani, Michela	TiSEM			*
Boom, Jasper van den	TLS		*	
Capkurt, Fatma	TLS		*	
Dongen, Lisa van	TLS			*
Espinosa Apraez, Brenda	TLS	*		*
Gils, Freek van	TiSEM	*		*
Fiala, Lenka	TiSEM	*		
Fiedler, Clemens	TiSEM		*	*
Hrynkiv, Olha	TLS	*		
Li, Jing	TLS			*
Petročnik, Tjaša	TLS		*	*
Pusceddu, Piergiuseppe	TLS	*		*

II:	Institutions
CP:	Competition
IN:	Innovation

Junior members	TiSEM/TLS	II	CP	IN
Phúc Phùng, Quang	TiSEM	*		
Ruhela, Shanya	TLS	*		
Samranchit, Peerawat	TiSEM		*	
Shacham, Ittai	TiSEM		*	*
Srivastava, Vatsalya	TiSEM	*		
Verghese, Zuno	TLS	*		
Wang, Takumin	TiSEM	*		*
Wang, Xiaoyu	TiSEM	*	*	
Wipusanawan, Chayanin	TiSEM			*
Yang, Yadi	TiSEM			*

## EXTRAMURAL FELLOWS

Mauricio Rodriguez Acosta  
 Konstantina Bania  
 Paul de Bijl  
 Jan Burke  
 Jan Broulík  
 Gert Brunekreeft  
 Riccardo Calcagno  
 Elena Carletti  
 Firat Cengiz  
 Amrita Chaudhuri  
 Filomena Chirico  
 Peter Cserne  
 Peter Cziraki  
 Victoria Daskalova  
 Hans Degryse  
 Theon van Dijk  
 Angelos Dimopoulos  
 Roxana Fernandez Machado  
 Natalia Fiedziuk  
 Eva Maria Földes  
 Barbara Gabor  
 Suren Gomtsian  
 Ilse van der Haar  
 Rein Halbersma  
 Branislav Hock  
 Sofia Johan  
 Vikas Kathuria  
 Safari Kasiyanto  
 Vincent van Kervel  
 Pierre Larouche

*Universidad del Rosario, Colombia*  
*EBU*  
*Radicand Economics*  
*The bar of Ireland, The Law Library*  
*University in Amsterdam*  
*Jacobs University*  
*EMLyon*  
*European University Institute*  
*University of Liverpool*  
*University of Winnepe*  
*European Commission*  
*University of Hull*  
*University of Toronto*  
*University of Twente*  
*KU Leuven*  
*E.CA Economics*  
*Queen Mary, University of London*  
*CREST*  
*European Commission*  
*Universität Wien*  
*European Commission*  
*University of Leeds*  
*PostNord*  
*Kansspelautoriteit*  
*University of Portsmouth*  
*York University*  
*Bennet University*  
*Bank of Indonesia*  
*Pontificia Universidad Catolica de Chile*  
*Université de Montréal*

Alan Littler  
 Karin Luttikhuis  
 Evgenia Motchenkova  
 Machiel Mulder  
 Matteo Negrinotti  
 Bastiaan Overvest  
 Maria Fabiana Penas  
 Christoph Schottmüller  
 Gyula Seres  
 Gregory Sidak  
 Jasper Sluijs  
 Moritz Suppliet  
 Peter Szilagyi  
 Alessandro Tajana  
 Emanuele Tarantino  
 Vincent Verouden  
 Jun Zhou  
 Nicolo Zingales  
 Gijsbert Zwart

*Kalff Katz & Franssen*  
*Li & Van Wieringen*  
*VU University Amsterdam*  
*University of Groningen*  
*Italian Competition Authority*  
*CPB*  
*Universidad Torcuato Di Tella*  
*University of Cologne*  
*Humboldt University*  
*Criterion Economics*  
*Andersson Elffers Felix*  
*European Commission*  
*CEU Business School*  
*Johnson & Johnson*  
*University of Mannheim*  
*E.CA Economics*  
*Bar-Ilan University*  
*University of Sussex*  
*University of Groningen*

## EXTERNAL PHD STUDENTS

Butenko, Anna  
 Comnenus, George  
 Corte, Emmanuel de  
 Edens, Marga  
 Hiemstra, Liebrich  
 Katona, Katalin  
 McCutcheon, Patrick  
 Ochieng Pernet, Awilo  
  
 Pourrahim, Maryam  
 Trias, Ana  
 Vitéz, Blanka

*University of Amsterdam*  
*Independent*  
*Ecorys*  
*Staedion*  
*Vattenfall*  
*Nederlandse Zorgautoriteit*  
*European Commission*  
*Swiss Federal Food Safety and*  
*Veterinary Office*  
*University of Neuchâtel*  
*University of Bonn*  
 AKD

Former and current TILEC Research Coordinators Lapo Filistrucchi and Florian Schuett exchanging views on best practices in the organization of TILEC research activities.



## APPENDIX B – PUBLICATIONS

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

### ENGLISH PUBLICATIONS

#### Academic publications – Journal articles

##### **Argenton, C.**

Colluding on excluding. *European Economic Review*, 113, 194-206.

##### **Boone, J. & Bijlsma, M.**

Cost-sharing design matters: A comparison of the rebate and deductible in healthcare. *Journal of Public Economics*, 170, 83-97 (with Remmerswaal, M., Douven, R. C. M. H.).

##### **Boone, J.**

Do health insurers contract the best providers? Provider networks, quality, and costs. *International Economic Review*, 60(3), 1209-1247 (with Schottmueller, C.).

Health provider networks with private contracts: Is there under-treatment in narrow networks?. *Journal of Health Economics*, 67.

##### **Da Rin, M.**

Trust and foreign ownership: Evidence from intra-European foreign direct investments. *Review of International Economics*, 27(1), 313-346 (with Di Giacomo, M. & Sembenelli, A.).

##### **Delimatsis, P.**

Subsidies and investment promotion reaching new heights in the aviation sector: The US- tax incentives dispute. *World Trade Review*, 18, 327-351 (with Buzard, K.).

##### **Filistrucchi, L. & Prüfer, J.**

Faithful strategies: How religion shapes nonprofit management. *Management Science*, 65(1), 188-208.

**Geradin, D.**

An EU competition law analysis of online display advertising in the programmatic age. *European Competition Journal*, 15(1), 55-96 (with Katsifis, D.).

Google's (forgotten) monopoly: Ad technology services on the open web. *Concurrences* 2019, 3 (with Katsifis, D.).

Patent assertion entities and EU competition law. *Journal of Competition Law and Economics*, 15(2-3), 204-236.

**Graef, I.**

Differentiated treatment in platform-to-business relations: EU competition law and economic dependence. *Yearbook of European Law*, 38, 448-499.

Pre-formulated declarations of data subject consent: Citizen-consumer empowerment and the alignment of data, consumer and competition law protections. *German Law Journal*, 20(5), 679-721 (with Clifford, D. & Valcke, P.).

Rethinking the essential facilities doctrine for the EU digital economy. *Revue Juridique Thémis de l'Université de Montréal*, 53(1), 33-72.

**Graef, I. & Husovec, M.**

Toward a holistic regulatory approach for the European data economy: Why the illusive notion of non-personal data is counterproductive to data innovation. *European Law Review*, 44(5), 605-621 (with Gellert, R.).

**Hiemstra, L.**

Professional secrecy of supervisory authorities under MiFID: No longer sacred?. *Law and Financial Markets Review*, 13(4), 228-233.

**Husovec, M.**

Essence of intellectual property rights under Art 17(2) of the EU Charter. *German Law Journal*, 20(6).

**Lafarre, A.**

Blockchain and smart contracting for the shareholder community. *European Business Organization Law Review*, 20(1), 111-137 (with van der Elst, C.).  
Consequences of significant minority shareholder revolt over executive pay. *European Company Law*, 2019(4), 114-120.

**Lavrijssen, S. & Edens, M.**

Balancing public values during the energy transition: How can German and Dutch DSOs safeguard sustainability. *Energy Policy*, 128, 57-65.

**Lavrijssen, S.**

Independence, regulatory competences and the accountability of national regulatory authorities in the EU. *Oil Gas and Energy Law Intelligence*, 2019, 1.

The Energiewende as a public value challenge for German DSOs. *European Energy and Environmental Law Review*, 28, (6), 200-228.

Li, J. All roads lead to Rome: Internationalization strategies of Chinese law firms. *Journal of Professions and Organization*, 6(2), 156-178.

**Mc Cahery, J.D.**

Close corporations and the financing gap of SMEs: An introduction. *European Business Organization Law Review*, 20(4), 591-595 (with Giudici, P.).

The financing of small and medium-sized enterprises: An analysis of the financing gap in Brazil. *European Business Organization Law Review*, 20(4), 633-664 (with Godke-Veiga M.).

The end of "corporate" governance: Hello "platform" governance. *European Business Organization Law Review*, 20(1), 171-199 (with Fenwick, M.).

**Monti, G.**

Abuse of a dominant position: A post-intel calm?. *CPI Antitrust Chronicle*, 3 (1).



**Nikolic, I.**

A FRAND regime for dominant digital platforms. *JIPITEC: Journal of Intellectual Property, Information Technology and E-Commerce Law*, 10(1), 38-55 (with Heim, M.).

**Partiti, E.**

Orchestration as a form of public action: The EU engagement with voluntary sustainability standards. *European Law Journal*, 25(1), 94-117.

**Potters, J.**

Frequency of interaction, communication and collusion: An experiment. *Economic Theory*, 68(4), 827-844 (with Bigoni, and Spagnolo, G.).

Friends for (almost) a day: Studying breakaways in cycling races. *Journal of Economic Psychology*, 75 (part B) (with Brouwer, T.).

**Renneboog, L.**

Creative corporate culture and innovation. *Journal of International Financial Markets, Institutions and Money*, 63 (with Fiordelisi, F., Ricci, O. and Lopes, S.S.).

Failure and success in mergers and acquisitions. *Journal of Corporate Finance*, 58, 650-699 (with Vansteenkiste, C.).

Insider trading and networked directors. *Journal of Corporate Finance*, 56, 152-175 (with Goergen, M. and Zhao, Y.).

My kingdom for a horse (or a classic car). *Journal of International Financial Markets, Institutions and Money*, 58, 184-207 (with Laurs, D.).

**Schindler, D.**

µCap: connecting FaceReader™ to z-Tree. *Journal of the Economic Science Association*, 5(1), 136-141 (with Doyle, L.).

Unleashing animal spirits: Self-control and overpricing in experimental asset markets. *The Review of Financial Studies*, 32(6), 2149-2178 (with Kocher, M. G. and Lucks, K. E.).

**Schindler, D. & Xu, Y.**

Risk, time pressure, and selection effects. *Experimental Economics*, 22(1), 216–246 (with Kocher, M.G. and Trautmann, S.T.).

**Schuett, F.**

Repeated interaction in standard setting. *Journal of Economics & Management Strategy*, 28(3), 488-509 (with Larouche, P.).

**Suetens, S.**

Guilt aversion in economics and psychology. *Journal of Economic Psychology*, 73, 52-59 (with Bellemare, C. and Sebald, A.).

Perfect and imperfect strangers in dilemma games. *European Economic Review*, 116, 148-159 (with Ghidoni, R. and Cleave, B.).

Return on trust is lower for immigrants. *The Economic Journal*, 129(621), 1992-2009 (with Cettolin, E.).

**Supliet, M.**

Cross-national drug price comparisons with economic weights in external reference pricing in Germany. *Expert Review of Pharmacoeconomics & Outcomes Research*, 19(1), 37-43 (with Mahlich, J. and Sindern, J.).

**Vermeulen, E.**

Platform-driven legaltech & the new world of legal design. *Journal of Internet Law*, 22(10), 3-13 (with Fenwick, M., Corrales, M., and Haapio, H.).

**Vermeulen, E.**

Technology and corporate governance: Blockchain, crypto, and artificial intelligence. *Texas Journal of Business Law*, 48(1), 1-15 (with Fenwick, M.).

**Willems, B.**

The Dutch retail electricity market. *Energy Policy*, 127, 228-239 (with Mulder, M.).

**Wolswinkel, J.**

Limited authorisations between EU and domestic law: Comparative remarks from Dutch law. *European Public Law*, 25(4), 559-586 (with van Ommeren, F., and den Ouden, W.)

**Academic publications – Book chapters****Delimatsis, P.**

International trade law and technical standardization. Contreras, J. (ed.), *The Cambridge Handbook of technical standardization law: Further intersections of public and private law*, 7-27. Cambridge University Press.

When disruptive meets streamline: International standardization in blockchain, Hari, O., Kraus, D. and Obrist, T. (eds.), *Blockchains smart contracts, decentralized autonomous organisations and the law*, 83-100. Edward Elgar.

**Husovec, M.**

Standardization, open source, and innovation: Sketching the effect of IPR policies. Contreras, J. (ed.), *Cambridge Handbook of technical standardization law: Further intersections of public and private law*, 177-197. Cambridge University Press.

How Europe wants to redefine global online copyright enforcement. Synodinou, T. (ed.), *Pluralism or universalism in international copyright law*, 513-539. Wolters Kluwer.

Closing the gap: How EU law constrains national rules against imitation?, G. Dinwoodie, A. Ohly, N. Brun, & M. Levine (Eds.), *Transition and coherence in intellectual property law*, 17, 2. Oxford University Press.

The fundamental right to property and the protection of investment. How difficult is it to repeal new intellectual property rights, *Research handbook on intellectual property and investment law*, Edward Elgar, (40 p).

**Kanevskaia, O.**

The need for multi-disciplinary education about standardization. Idowu, S.O., de Vries, H., Mijatovic, I., Choi, D. (eds.) *Sustainable development: Knowledge and education about standardization*, 161-178, Springer.

**Lafarre, A.**

Corporate sustainability and shareholder activism in the Netherlands. *The Cambridge Handbook of corporate law, corporate governance and sustainability*, Sjøfjell, B & Bruner, C. (eds.), 260-275. Cambridge University Press/UNEP (with van der Elst, C.).

**Lavrijssen, S.**

Who guards the guardians? Judicial oversight of the authority consumer and market's energy regulations in the Netherlands. Lavrijssen, S.J.D.P. and Hirsch Ballin, E. (eds.), *Judicial review of administrative discretion in the administrative state*, 133-173. T.M.C. Asser Press (with Capkurt, F.).

**Monti, G.**

Galvanising national competition authorities in the European Union. Gerard, D. & Lianos, I. (eds.) *Reconciling efficiency and equity: A global challenge for competition policy*, 365-382. Cambridge University Press.

The global reach of EU competition law. Cremona, M. and Scott, J. (eds.) *EU law beyond EU border: The extraterritorial reach of EU law*, 174-196. Oxford University Press.

**Wolswinkel, J.**

Economic law meets environmental law: New expansion of the services directive?. Tans, S. and Veenbrink, M. (eds.) *Upgrading trade and services in EU and international economic law*, 41 – 61. Wolf Legal Publishers.

**Academic publications – Book/Report****Husovec, M. & Larouche, P.**

Making the rules: The governance of standard development organizations and their policies on intellectual property rights. *Joint Research Center*, (214 p.) (with Baron, J. and Thumm, N.).

**Lavrijssen, S.**

Lavrijssen, S., Hirsch Ballin, E., & de Poorter, J. (Eds.) *Judicial review of administrative discretion in the administrative state*. T.M.C. Asser Press (198 p.).

**Monti, G.**

*European Union law: Text and materials*. Cambridge University Press (1022 p.) (with Chalmers, D. and Davies, G.).

**Academic publications – Other****Delimatsis, P.**

At the service of market integration in the EU, From Sacchi to Uber.  
*Oxford Business Law Blog*.

**Partiti, E.**

International trade and the regulation of responsible global value chains,  
*Legal Issues of Economic Integration*, 46(1), 1-6.

**Professional publication – Book chapters****Graef, I.**

Happiness and competition law, Rethinking IT and IP law: Celebrating 30 years  
CiTiP Inter sentia, 295-299.

**Professional publications – Book/Report****Monti, G.**

Study on the enforcement of State aid rules and decisions by national courts.  
*Luxembourg: Publications Office of the European Union*, (124 p).

**TILEC discussion papers****DP 2019-001**

*Title*: The uneasy case for parsimony in (law and) economics: or how to talk about value judgements  
*Author*: Péter Cserne

**DP 2019-002**

*Title*: A duty of care to prevent online exploitation of consumers? Digital dominance and special responsibility in EU competition law  
*Author*: Wolf Sauter

**DP 2019-003**

*Title*: Complements and/or substitutes? The Competitive Dynamics between news publishers and digital platforms and what it means for competition policy  
*Author*: Damien Geradin

**DP 2019-004**

*Title*: Price Commitments in Standard Setting under Asymmetric Information  
*Authors*: Jan Boone, Florian Schütt and Emanuele Tarantino

**DP 2019-005**

*Title*: Spill-overs in data governance: the relationship between the GDPR's right to data portability and EU sector-specific data access regimes  
*Authors*: Inge Graef, Martin Husovec and Jasper van den Boom

**DP 2019-006**

*Title*: Uncertain Commitment Power in a Durable Good Monopoly  
*Author*: Gyula Seres

**DP 2019-007**

*Title*: Digital Tax, making Enterprises pay their “Fair” Share?  
*Author*: Venetia Argyropoulou

**DP 2019-008**

*Title:* Hospital competition in the Netherlands an empirical investigation

*Authors:* Caroline Berden, Ramsis Croes, Ron Kemp, Misja Mikkers, Rob van der Noll, Victoria Shestalova and Jan Svitak

**DP 2019-009**

*Title:* On the Competitive Effects of Screening in Procurement

*Authors:* Adam Pigón and Gyula Seres

**DP 2019-010**

*Title:* Green Technology and Patents in the Presence of Green Consumers

*Authors:* Corinne Langinier and Amrita Ray Chaudhuri

**DP 2019-011**

*Title:* Governance of ICT standardization: Due process in technocratic Decision-making

*Author:* Olya Kanevskaia

**DP 2019-012**

*Title:* Trust and global governance. Ensuring trustworthiness of transnational private regulators

*Author:* Enrico Partiti

**DP 2019-013**

*Title:* Regulating trade in forest-risk commodities

*Author:* Enrico Partiti

**DP 2019-014**

*Title:* Shareholder Engagement by Large Institutional Investors

*Author:* Suren Gomtsian

**DP 2019-015**

*Title:* EU Labelling Practices for Products Imported from Disputed Territories

*Author:* Olya Kanevskaia

**DP 2019-016**

*Title:* How Europe Wants to Redefine Global Online Copyright Enforcement

*Author:* Martin Husovec

**DP 2019-017**

*Title:* The fundamental right to property and the protection of investment: How difficult is it to repeal new intellectual property rights?

*Author:* Martin Husovec

**DP 2019-018**

*Title:* Essence of Intellectual Property Rights under Art 17(2) of the EU Charter

*Author:* Martin Husovec

**DP 2019-019**

*Title:* Coherence and Divergence in Agreements on Trade in Services – A Drama in Three Acts

*Author:* Panos Delimatsis

**DP 2019-020**

*Title:* Good Governance and the Regulation of the District Heating Market

*Authors:* Saskia Lavrijssen and Blanka Vitez

**DP 2019-021**

*Title:* Making the Rules: the Governance of Standard Development Organizations and their Policies on Intellectual Property Rights

*Authors:* Justus Baron, Jorge. L. Contreras, Martin Husovec, Pierre Larouche and Nikolaus Thumm

**DP 2019-022**

*Title:* Exit, Voice and Loyalty: Strategic Behavior in Standards Development Organizations

*Authors:* Panos Delimatsis, Olya Kanevskaia and Zuno Verghese

**DP 2019-023**

Title: Mapping the Legal Framework Assisting China's Innovation Policies: Standardization and IPRs

*Author:* Piergiuseppe Pusceddu

**DP 2019-024**

Title: Limits and Enablers of Data Sharing. An Analytical Framework for EU Competition, Data Protection and Consumer Law

*Authors:* Inge Graef, Thomas Tombal and Alexandre de Streef

**DP 2019-025**

Title: Global convergence through European Union value chain regulation and voluntary standards

*Author:* Enrico Partiti

**DP 2019-026**

Title: Mergers and Innovation Portfolios

*Authors:* José Luis Moraga-González, Evgenia Motchenkova and Saish Nevrekar

**DP 2019-027**

Title: The Lost Decade for Hedge Funds: Three Threats

*Authors:* Joseph A. McCahery and F. Alexander de Roode

**DP 2019-028**

Title: Rethinking the Essential Facilities Doctrine for the EU Digital Economy

*Author:* Inge Graef

**DP 2019-029**

Title: 'Trust me, I'm Fair': Analysing Google's Latest Practices in Ad Tech From the Perspective of EU Competition Law

*Authors:* Damien Geradin and Dimitros Katsifis

**DP 2019-030**

Title: Google's (Forgotten) Monopoly-Ad Technology Services on the Open Web

*Authors:* Damien Geradin and Dimitros Katsifis

**DP 2019-031**

Title: An EU Competition law Analysis of Online Display Advertising in the Programmatic Age

*Authors:* Damien Geradin and Dimitros Katsifis

**DP 2019-032**

Title: ESG Performance and Disclosure: A Cross-Country Analysis

*Authors:* Florencio Lopez-de-Silanes, Joe McCahery and Paul C. Pudschedl

**DP 2019-033**

Title: Economic approaches to legal reasoning

*Author:* Péter Cserne

**DP 2019-034**

Title: What is Forensic Economics?

*Author:* Jan Broulík

## NON-ENGLISH PUBLICATIONS

### Academic publications – Journal articles

#### Lafarre, A.

De algemene vergadering van aandeelhouders: Van een niet-representatieve formaliteit naar een modern beslissingsplatform. *Maandblad voor Ondernemingsrecht*, 2018(10-11), 294-300 (with van der Elst, C.).

De impact van de eerste en de herziene aandeelhoudersrechtenrichtlijn op de aandeelhoudersparticipatie vanuit rechtseconomisch perspectief. *Tijdschrift voor vennootschapsrecht, rechtspersonenrecht en ondernemingsbestuur*, 2019(3), 86-96.

#### Lavrijssen, S. & L. Hancher

De investeringstoets in vitale infrastructuren: Laatste redmiddel of reden tot zorg?. *Markt en Mededinging*, 6, 203-210 (with van Breugel, T.).

#### Mc Cahery, J.D. & Vermeulen, E.

Kurumsal yönetim'de yeni yaklaşımlar. *Kurumsal Yönetim (Corporate Governance)*, 40(1), 24-28 (with Fenwick, M.).

#### Wolswinkel, J.

Het algoritme van de Afdeling: De realiteit van complex bestuursrecht. *Ars Aequi*, 68, 776-785.  
Inbesteding bij schaarse vergunningen? Institutionele excepties op de transparantieplichting. *Nederlands Tijdschrift voor Europees Recht*, 2019 (3/4), 119-127 (with Wildemors, R.).

### Academic publications – Book chapters

#### Wolswinkel, J.

Verdelingsrecht en algemeen bestuursrecht: Naar een algemeen deel verdelingsrecht?. *25 jaar Awb in eenheid en verscheidenheid*, T. Barkhuysen, B. Marseille, W. den Ouden, H. Peters, & R. Schlössels (eds.), 805-814. Wolters Kluwer.

### Professional publications – Journal articles

#### Espinosa Apraez, B., S. & Lavrijssen, S.

Pratende bruggen en andere slimme onderhoudsoplossingen: Wat houdt ons tegen?, *NGinframeMagazine March* 8(1), 30-33 (with Aben, T. and Valk, van der W.).

### Professional publications – Other

#### Espinosa Apraez, B. & Lavrijssen, S.

Van wie zijn data eigenlijk? *NGinframeMagazine* 2019, 3, 44-45.

#### Wolswinkel, J.

ABRvS, AB 2019/111 (windpark Zeewolde). *AB Rechtspraak Bestuursrecht*, 2019(11), [AB 2019/111].

ABRvS, AB 2019/496 (ligplaatsvergunning Amsterdam). *AB Rechtspraak Bestuursrecht*, 2019(42), [AB 2019/496].

ABRvS, (Wet hergebruik overheidsinformatie). *Mediaforum*, 24-26 (Afd. bestuursrechtspraak Raad van State 3/10/18).

HvJ EU, AB 2019/492 (Spika e.a.). *AB Rechtspraak Bestuursrecht*, 2019(42), [AB 2019/492].

## APPENDIX C – ACTIVITIES 2019

### 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.

30 January 2019

**Patricia Funk**, Università della Svizzera Italiana  
*Policy Choices in Assembly versus Representative Democracy: Evidence from Swiss Communes*

06 February 2019

**Henry Hu**, University of Texas Law School  
*A Regulatory Framework for Exchange-Traded Funds*

03 April 2019

**Caio Mario da Silva Pereira Neto**, FGV Law School, São Paulo – Brazil  
*Towards a layered approach to relevant markets in multi-sided transaction platforms*

29 May 2019

**Assaf Kovo**, Hebrew University  
*Inferring Market Definitions and Competition Groups From Empirically-Estimated Demand Systems: A Practitioner's Guide*

12 June 2019

**Or Brook**, University of Leeds  
*Priority setting as a double-edged sword: how modernisation strengthens the role of public policy*

04 September 2019

**Jorge Lemus**, Illinois University  
*Pay-for-delay with Follow-on Products*

18 September 2019

**Theo Koutmeridis**, Glasgow University  
*Shaking Criminal Incentives*

02 October 2019

**Victoria Daskalova**, Twente University  
*Competition law in human resource markets*

23 October 2019

**Pierre Larouche** and **Martin Husovec**  
*Making the Rules: The Governance of Standard Development Organizations and their Policies on Intellectual Property Rights*

30 October 2019

**Pinar Akman**, University of Leeds  
*Online Platforms, Agency, and Competition Law: Mind the Gap*

20 November 2019

**Evgenia Motchenkova**, VU Amsterdam  
*Mergers and Innovation Portfolios*

11 December 2019

**Josephine van Zeben**, Wageningen University and **Ana Bobic**, Hertie School of Governance, Berlin  
*Polycentricity in the EU*

## 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 April 2019

*Conference on Patent pools 2.0: Modernizing collective licensing mechanisms in the IoT context*

Speakers:

**Damien Geradin**, EUCLID Law & TILEC, Tilburg University

**Robert Pocknell**, N&M Consultancy

**Michael Mattioli**, Indiana University

**Kirti Gupta**, Qualcomm

**Carter Eltzroth**, DVB Project

**Avantika Chowdhury**, Oxera

**Tim Pohlmann**, IPlytics GmbH

**Rob Merges**, UC Berkeley (Keynote)

**Rafal Sikorski**, Poznan University, SMM Legal

**Nicholas Townsend**, Sky

**Thomas Chia**, Via Licensing

**Mathias Hellman**, Ericsson

**Matthias Schneider**, Audi

**Ief Daems**, Cisco Systems

**Rudi Bekkers**, Technical University of Eindhoven

**Nikolaus Thumm**, European Commission

**Dylan Lee**, Huawei

**Jan Sandstrom**, NSN

**Martin Heinebrodt**, Bosch

**Guillaume Ménage**, France Brevets

06 and 07 June 2019

*A joint TILEC – GovReg Workshop on Governance of Big Data and Artificial Intelligence: Economic, Legal and Political Perspectives*

Speakers:

**Jens Prüfer**, TILEC, Tilburg University

**Eric Brousseau**, Paris Dauphine

**Viktor Mayer-Schönberger**, Oxford University (Keynote)

**Federica Liberini**, ETH Zürich

**Francesco Sobbrino**, LUISS Rome

**Sergio Pastorello**, Bologna University

**Tobias Klein**, TILEC, Tilburg University

**Wolf Sauter**, ACM

**Freek van Gils**, TILEC, Tilburg University

**Molly Roberts**, UC San Diego (Keynote)

**Antoine Bordes**, Facebook Research (Keynote)

**Yigitcan Karabulut**, Frankfurt School of Finance & Management

**Madina Kurmangaliyeva**, TILEC, Tilburg University

**Inge Graef**, TILEC, Tilburg University

**Lapo Filistrucchi**, Florence and TILEC, Tilburg University

**Ruben Durante**, U Pompeu Fabra, (Keynote)

**Mario Milone**, Imperial College

**Jan Boone**, TILEC, Tilburg University

06 September 2019

*European Law Institute (ELI) and TILEC organised Workshop on: The Remedies in Intellectual Property Law: Do We Need Common European Principles?*

Speakers:

**Alessandro Cogo**

**John Golden**

**Tomasz Targosz**



**Thibault Gisclard**  
**Rafa Sikorski**  
**Willem Hoyng**  
**Martin Husovec**  
**Lisa van Dongen**  
**Orit Fischman-Afori**  
**Norman Siebrasse**  
**Vadym Semenov**  
**Matej Myska**  
**Franz Hofmann**  
**Andreas Wiebe**

10 September 2019

*Conference on Data Sharing & Management of Critical Infrastructures: opportunities and challenges*  
*A Research Project LONGA VIA funded by the “Responsive Innovations” Program of NWO and NGInfra*

Speakers:

**Geert Vervaeke**, Tilburg University  
**Saskia Lavrijssen**, TILEC, Tilburg University  
**Wendy van der Valk**, Tilburg University  
**Tom Aben**, Tilburg University  
**Brenda Espinosa**, TILEC, Tilburg University  
**Ruud Berndsén**, Alliander  
**Chiel Bakker**, VEMW  
**Rian Kloosterman**, Vitens  
**Inge Graef**, TILEC, Tilburg University  
**Fredo Schotanus**, University of Twente  
**Robert van der Linden**, Port of Rotterdam

05 November 2019

*“The Resilience of Private Collective Action in Finance and Manufacturing: Theoretical Challenges”*  
*Workshop organised by the Tilburg Law and Economics Center (TILEC) and supported by the European Research Council (ERC Consolidator Grant Agreement 725798 – REVEAL)*

Speakers:

**Panos Delimatsis**, TILEC, Tilburg University  
**Stephanie Bijlmakers**, TILEC, Tilburg University  
**Konrad Borowicz**, TILEC, Tilburg University  
**Enrico Partiti**, TILEC, Tilburg University  
**Shanya Ruhela**, TILEC, Tilburg University  
**Zuno Verghese**, TILEC, Tilburg University  
**Fabrizio Cafaggi**, Council of State, Italy  
**Linda Senden**, University of Utrecht  
**Alessandra Arcuri**, Erasmus University, Rotterdam  
**Jens Prüfer**, TILEC, Tilburg University

22 November 2019

*Workshop on ‘Governing Data as a Resource’*

Speakers:

**Michael Madison**, University of Pittsburgh  
**Charlotte Ducuing**, KU Leuven  
**Giorgio Monti**, TILEC, Tilburg University  
**Teresa Scassa**, University of Ottawa  
**Alina Wernick**, Alexander von Humboldt Institute for Internet and Society  
**Daithí Mac Síthigh**, Queen’s University Belfast  
**Linné Taylor**, LTMS TILT, Tilburg University  
**Alexandre de Streel**, University of Namur  
**Thomas Tombal**, University of Namur

**Michal Gal**, University of Haifa  
**Damien Geradin**, TILEC

## 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 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, recent advances in the economic analysis of institutions, competition, or innovation are discussed. Sometimes they are linked to preceding Club Med presentations.

23 January 2019

**Inge Graef**, Tilburg University, TILEC and **Francisco Costa Cabral**, Tilburg University, TILEC  
*Commission Decisions in the Google Android and Google Shopping competition cases*

13 February 2019

**Madina Kurmangaliyeva**, Tilburg University, TILEC  
*Agrawal, Gans, and Goldfarb “Exploring the impact of AI: prediction vs judgement”*

10 April 2019

**Sebastian Dengler**, Tilburg University, TILEC  
*“Artificial Intelligence and the Modern Productivity Paradox: A Clash of Expectations and Statistics”*  
 by Erik Brynjolfsson, Daniel Rock, Chad Syverson

25 September 2019

**Inge Graef**, Tilburg University, TILEC and **Francisco Costa Cabral**, Tilburg University, TILEC  
*Revising EU competition law: from the challenges of digitization to a new EU industrial policy*

06 November 2019

**Francisco Costa Cabral**, Tilburg University, TILEC  
*Common ownership in competition law: an overview of the debate focused on EU law.*



04 December 2019

**Marie Le Mouel**, Tilburg University, TILEC  
*“Do Increasing Markups Matter? Lessons from Empirical Industrial Organization”, by Steven Berry, Martin Gaynor and Fiona Scott Morton, published in the Journal of Economic Perspectives*

## 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.

16 January 2019

**Jingze Li**, Tilburg University, TILEC  
*When FRAND meets an open source license: challenges to IPR rules in standard setting organizations - the case of Apache v.2 in ETSI under the lens of EU competition law as an example*

20 February 2019

**Konrad Borowicz**, Tilburg University, TILEC  
*Contracts as regulation: the ISDA Master Agreement*

27 February 2019

**Xiaoyu Wang**, Tilburg University, TILEC  
*Litigation and settlement under loss aversion*

20 March 2019

**Lenka Fiala**, Tilburg University, TILEC and **Martin Husovec**, Tilburg University, TILEC  
*Using Experimental Evidence to Design Optimal Notice and Takedown Process*

17 April 2019

**Clemens Fiedler**, TILEC  
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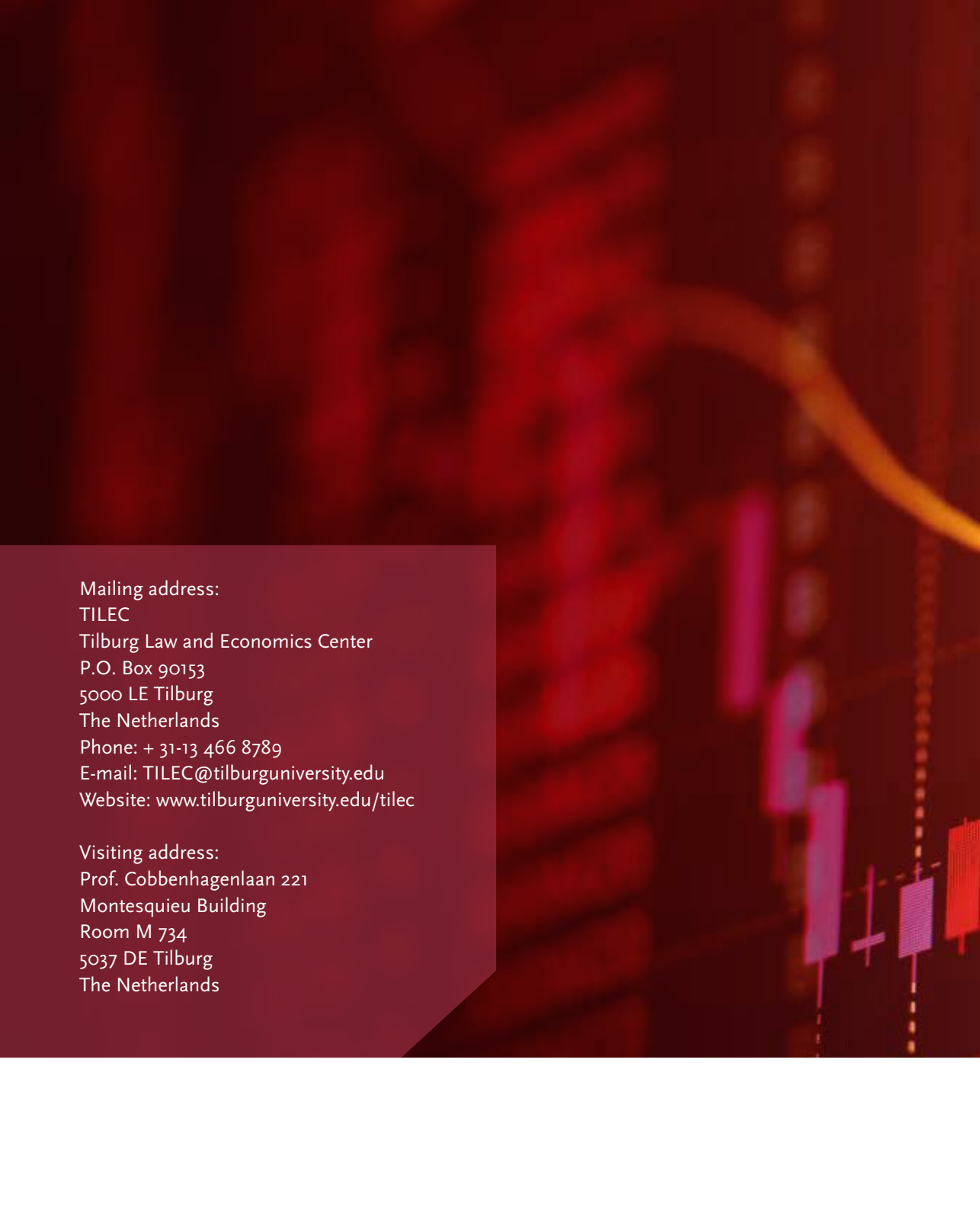
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