



TILEC Annual Report 2009

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Tilburg Law and
Economics Center

TILEC
ANNUAL REPORT 2009

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The Tilburg Law and Economics Center (TILEC) was created in 2002 as a joint research centre of the Tilburg School of Economics and Management (TISEM) and the Tilburg Law School (TLS) at Tilburg University.

For the participating researchers from the two Faculties, TILEC's mission is to provide support for and stimulates joint research activities, thereby enhancing the intellectual climate for research at Tilburg University. Towards the outside, TILEC aims to belong to the top in Europe and to be recognized as a leading centre in its areas of activity also in the US.

TILEC research is distinguished by the following characteristics:

- (i) *Interdisciplinary*: TILEC research integrates law and economics together on an equal footing, or at least includes substantial input from the other discipline;
- (ii) *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;
- (iii) *Fundamental*: TILEC research addresses basic questions of each discipline, including the relationship between the two disciplines and how they can mutually strengthen each other.
- (iv) *Relevant*: TILEC research is inspired by real world problems and aims to contribute to the ultimate solution of these problems.

FOREWORD



*Pierre Larouche (left) and
Eric van Damme (right).*

Photographer: Ben Bergmans

This annual report provides an overview of the activities undertaken, and the research results achieved, at TILEC, the Tilburg Law and Economics Center, during 2009.

TILEC signed a long-term agreement whereby Microsoft financially supports TILEC research. This contract will enable us to continue and deepen our interdisciplinary research on innovation in dynamically competitive industries. At about the same time, the European Commission decided to finance the GRASP consortium in the context of its 7th Framework Program. GRASP commits and enables TILEC to conduct research on innovation policy in the EU. With other TILEC research in this area being sponsored by public and private organizations, such as the Dutch Science Foundation (NWO),

PriceWaterhouseCoopers and Qualcomm, TILEC has now achieved a critical mass, which will allow us to make a difference. We are proud that our research efforts in this domain will be enhanced by Greg Sidak, who was appointed (part time) on the Ronald Coase Chair of Law and Economics. Greg will be at Tilburg a few times per year, and he will also act as liaison for TILEC researchers in the US.

Other large-scale projects at TILEC are the ones sponsored by the Dutch regulators AFM and NZa, on financial market regulation and on liberalization and competition in health care markets, respectively. In 2009, the NZa-project reached full steam, with important activities taking place. The year started with a workshop on the occasion of the inaugural lectures of Marcel Canoy and Wolf Sauter, while in the fall a conference was organized in which the healthcare systems in the US and the Netherlands were compared, with a view on improving both of them in the future. Of somewhat smaller scale is the energy project at TILEC, which however displays an impressive output/input ratio, thanks to the efforts of the project leaders.

Membership at TILEC remained relatively stable in 2009, showing that we have now reached a mature phase. As in previous years, our members published widely, in top quality outlets in a significant number of cases. The year was full of enjoyable activities, not only internal meetings (taking place every week), but also larger events that are open to public. We were particularly pleased to host the 2009 CLEEN Workshop.

CLEEN, the Competition Law and Economics European Network, is an international network between interdisciplinary research centers that pursue research agendas similar to that of TILEC. Participation in this network allows us to learn from best international practice and it offers our junior members in particular the possibility to work with colleagues from abroad.

During 2009 TILEC participated in the national research evaluation of academic research programs in Law organized by VSNU, the Dutch Association of Universities. Within this context, for the first time, the TILEC Research Program on Market Governance was evaluated on the criteria of quality, productivity, relevance, and viability. With confidence, we are looking forward to the results, which will be published in 2010. We thank TILEC members for their commitment to TILEC and their contributions to the TILEC research program and to the research climate of our parent schools at Tilburg University.

Eric van Damme, Pierre Larouche

TILEC Directors

1. TILEC: HIGHLIGHTS FROM 2009

In 2009, research on competition and innovation, financial markets, and health care markets remained central to TILEC's agenda. Private law and energy markets also received attention, while, as usual, many other, smaller-scale initiatives added to the congeniality of the research environment.

1.1 COMPETITION AND INNOVATION

1.1.1 Competition and Innovation

In the summer of 2009, TILEC signed a four-year **cooperation agreement**, whereby **Microsoft** committed itself to a significant financial contribution to the TILEC research program on competition and innovation. TILEC is honored to be among the very few European research centers selected by Microsoft for academic partnership. The funds will allow TILEC to expand its research on key developments in the information and communication technologies sector. This research will be conducted by an interdisciplinary team of legal scholars and economists, under the direction of TILEC members Damien Geradin, Pierre Larouche and Wolf Sauter. As a result of this agreement, the appointment of Wolf Sauter could be expanded, significantly strengthening TILEC's capacity on the law side.

At the same time, a Europe-wide consortium led by CEPR (the Centre for Economic Policy Research) and called GRASP (**Growth and Sustainability Policies for Europe**), was awarded €2.36 million by the **European Union** in the context of the Seventh Framework Program. GRASP addresses European policy concerns about growth within a comprehensive and coherent framework that builds on the model of Schumpeterian growth developed by Philippe Aghion and co-authors. Next to CEPR, the consortium includes DIW Berlin, Bocconi University Milan, the University of Oslo, the Free University of Brussels (ULB), and TILEC. It brings together theorists, applied econometricians and institutional researchers (law, political science and economics) to pursue complementary analyses. Within this context, TILEC will be responsible for the project investigating the coherence of EU innovation policies, in the hope of formulating recommendations as to how those policies can be made more effective. The project runs for four years, starting in January 2010. Pierre Larouche will act as project leader at TILEC.

To further boost TILEC's activities in this area and to intensify links with law and economics scholars in the US, **Greg Sidak** was appointed on the **Ronald Coase Chair of Law and Economics** at Tilburg University in April at the initiative of TILEC. Sidak is founder and chairman of Criterion Economics, L.L.C. in Washington DC, and an

internationally recognized expert on antitrust, intellectual property, regulation of network industries, and complex economic litigation. Together with TILEC member Damien Geradin, he co-founded the *Journal of Competition Law & Economics*, published by Oxford University Press since 2004. As of 2009, Greg Sidak will come to TILEC a few times per year as a visiting professor. In addition, he will act as liaison for TILEC researchers and PhD-students in the US.

Wolf Sauter, Professor of Health Care Regulation, Tilburg University

Could you tell us about yourself and summarize your research background?



Wolf Sauter. Photographer: Ben Bergmans

I am a Dutch national and primarily a lawyer by training, although I also studied history, political science and public administration —the obvious gap from a TILEC perspective being economics. I pursued research questions regarding the interface of law and political science while working at the European University Institute in Florence and the Centre for European Law and Politics in Bremen. However, over time my research interests have shifted more to the interface of law and economics. This could at least in part be explained by the fact that since completing my PhD I have worked closely with economists both in private practice and while employed by various sectoral regulators, most recently the Dutch Healthcare Authority (NZa).

What are the core research questions/projects you are currently working on?

The focus of my research is on competition and regulation in relation to healthcare liberalization in the context of the cooperation with the Dutch Healthcare Authority (NZa), and more recently —after an absence of some years— in relation to electronic communications, specifically cloud computing, in the context of the Microsoft project. In both cases it is a great

pleasure to work with committed and inspired colleagues, such as my recent co-authors Leigh Hancher, Marcel Canoy and Jasper Sluijs. I am also interested in some general issues of EU law, notably services of general economic interest, and proportionality, i.e. in both cases the rationalization of the balancing of public interests with the internal market freedoms and competition.

What do your findings so far imply for the design and regulation of markets?

My general observation would be both the importance of economic insights and the limitations thereof. Economists' inputs are of course key for regulation but, forgive me for employing a caricature, they are often happy to remain at a theoretical level or to refer to insufficient data when actual decisions have to be made in legal terms. And in order to get anything done in practice the institutional framework and political support are in the end important too. Which means informed debate is of the essence, and therefore the kind of crossover work that TILEC specializes in.

Also, I have become more sanguine about the role of sector-specific regulation. Initially I saw this as something to be abolished as quickly as possible, to be replaced by general competition policy. I now believe that in new markets both are required in tandem and often for a much longer term than initially expected. Otherwise you end up with private monopolists instead of public ones. At the same time it is still healthy to "guard against" unnecessarily perpetuating sectoral regulation.

One area of interest where I have no particular views yet regards the role of the general consumer interest and users' rights in the context of competition and regulation. This is important in relation both to healthcare and cloud computing. It will be interesting to examine whether common concerns and possibly solutions exist there. This makes the work on comparing and quantifying different dimensions of consumer interest that is being carried out in economics for instance by Katalin Katona of particular interest.

Next to Wolf Sauter and Greg Sidak, several additional **researchers** were brought in to strengthen TILEC's research in the area of innovation. On the side of law, **Matteo Negrinotti** was hired as assistant professor, while **Jasper Sluijs** started as a PhD student, working on network neutrality under the supervision of Pierre Larouche. On the side of economics, **Florian Schütt** and **Emanuele Tarantino** joined the TILEC ranks as postdoctoral researchers, both from the European University Institute in Florence. Further details are provided in Section 2 of this report.

A major event relating to innovation was the **TILEC conference on patent reforms**, which took place in Amsterdam in March. Academic scholars and practitioners reviewed hotly-debated issues such as whether patents contribute to or restrict competition; whether the patent regime is too lax or too strict; whether it is misused and whether patents over- or under-compensate innovators. In December, the second **workshop on innovation, intellectual property and competition (IIPC)** took place in Tilburg, featuring the winners of the second IIPC competition. Those events were part of a larger research program on innovation sponsored by **Qualcomm Inc.**, and could be organized thanks to the involvement of TILEC members Damien Geradin, Annette Hirschfeld and Willem Hoynig.



TILEC conference on Patent reforms

1.2 REGULATION OF FINANCIAL MARKETS AND FINANCIAL INSTITUTIONS

At the beginning of 2009, the performance of the TILEC research project on **financial markets regulation** was evaluated by a supervisory council. This project had run since 2006 under the sponsorship of the Dutch regulator for financial markets, **AFM**. The supervisory council reached a positive conclusion on what had been accomplished by the research group, both in terms of quantity and quality, and welcomed the joint initiatives of TILEC-AFM chair holders Hans Degryse, Joe McCahery and Erik Vermeulen in an area in which it generally proves difficult to get interdisciplinary research off the ground. On the basis of this assessment, the AFM decided to continue financing the chair for another two years, although at 75% of the original project budget, due to recent Dutch case law preventing AFM from using taxes levied on regulated financial market institutions to fund academic research. The sponsors of this project at Tilburg University (the two parent schools of TILEC as well as the University's executive board) decided to renew their support to the project so that research and other activities could continue unabated.

The research group not only publishes in leading academic journals but also sums up the stock of knowledge on topical issues in books that are called upon becoming classics in the field. TILEC-AFM chair holders Joe McCahery and Erik Vermeulen published '**The law and economics of alliances and joint ventures**' with Cambridge University press. TILEC member Sofia Johan published (with Douglas Cumming of York University) '**Venture capital and private equity contracting: an international perspective**' with Elsevier. TILEC members Hans Degryse and Steven Ongena (together with Moshe Kim of Haifa University) published '**Microeconometrics of banking**' with Oxford University Press, which provides a compendium to the empirical work that investigates the hypotheses generated by recent banking theory.

The group was active in the organization of various meetings as well. In April, the TILEC-AFM research network joined forces with CentER's accounting research group to organize the **Accounting Spring Camp** at Tilburg University. This event focused on the role of regulation in financial reporting and in particular on the impact of accounting rules and practices on market efficiency and cyclicity. In June, TILEC organized a workshop on the **challenges and new directions in the regulation of financial services** in Berne, Switzerland, together with the Swiss National Centre of Competence in Research (NCCR). Papers presented at this workshop will be published in 2010 in a volume edited by TILEC member Panagiotis Delimatsis. In September, TILEC organized a **workshop on insider trading** at the AFM premises in Amsterdam, on the occasion of which TILEC members Peter de Goeij and Jérémie Lefebvre presented their recent (co-authored) papers on the subject.

1.3 COMPETITION IN HEALTH CARE MARKETS

2009 also proved a very active year for the TILEC research group on health care markets, which had started its activities just one year before as part of major partnership with the Dutch health care regulator, NZa.

In February, **Marcel Canoy** and **Wolf Sauter**, who were both appointed in the context of this program in 2008, delivered their **inaugural lectures**.



Marcel Canoy. Photographer: Ben Bergmans.

On that occasion, a special **workshop** was organized at Tilburg University. One topic which received considerable attention was whether **competition law is sufficient to guard the public interest** in this sector or whether one needs specific merger control rules in order to prevent mergers that, while not significantly restricting competition at the time of the transaction, might hinder the development of effective competition in the future. Several papers presented during this workshop were subsequently published in a special issue of the Dutch professional journal, *Markt & Mededinging*, edited by TILEC director Eric van Damme.

Meanwhile, TILEC director Eric van Damme was appointed by Dutch Minister of Health Care Ab Klink member of a committee entrusted with the task of evaluating the proposal of the Dutch Parliament for a **general prohibition of vertical mergers** in the healthcare sector. The committee concluded that a general prohibition was unnecessary and would potentially conflict with European law.

In October, in cooperation with Tranzo, TILEC organized a large **conference on 'Effective managed competition: health care on both sides of the ocean'**, sponsored by the Dutch Ministry of Health. Speakers compared the US and Dutch healthcare systems and attempted to draw comparative lessons. Presenters included highly prestigious scholars from the US. The conference was closed with remarks by high-level officials from the Obama administration and a keynote speech by Dutch Minister Ab Klink. Several lessons emerged from the discussions, such as the importance of a well-functioning *ex ante* risk equalization scheme, the need to



TILEC conference on *Effective managed competition: health care on both sides of the ocean*

move from fee-for-service to fee-for-performance, and the possibility that with the right dose of competition, lives as well as costs may be simultaneously saved.

TILEC's capacity in this research area was substantially strengthened over the year. At the beginning of 2009, TILEC hired **Laura Nistor** from the University of Groningen to work of the legal aspects of healthcare regulation. At the end of the year, however, Laura left to take up a position at the European Commission, where she will work on the pharmaceutical sector. The resulting vacancy will be filled again as of March 2010. To strengthen the links with the professional world, TILEC welcomed **Misja Mikkers** and **Rein Halbersma**, who are both working at the NZa, as extramural fellows. Furthermore, **Katalin Katona**, another employee at NZa, was admitted as external PhD student.

1.4 PRIVATE LAW

In 2009, TILEC concluded its work within the EU-financed **network of excellence on European private law, CoPECL** (for 'common principles of European contract law'). Within CoPECL, TILEC was responsible for the work of the Economic Impact Group (EIG), which was charged with the task of evaluating the general principles for European contract law that were drawn up by other working groups within the network, from the point of view of law and economics. In the last four years, the EIG focused on two broad research questions: (i) is it necessary and/or desirable to harmonize European private law to obtain welfare benefits? and (ii) in areas in which this is the case, what should such harmonized rules be, that is, are the proposed principles consistent with economic insights? In November, the results of the EIG's work were presented in a final conference in Brussels. The EIG found that the so-called Draft Common Frame of Reference (DCFR) would have been strengthened by a greater use of economic analysis in order to identify trade-offs more clearly and take the effect of law on private incentives into account. The resulting book, '**Economic Analysis of the DCFR**', edited by Pierre Larouche and TILEC extramural fellow Filomena Chirico, is available by Sellier publishers.

Meanwhile, TILEC worked on the completion of its work on the convergence and divergence of legal systems for HIIL (**The Hague Institute for Internationalization of Law**) under the leadership of TILEC director Pierre Larouche and with the help of TILEC members **Maartje de Visser** and **Péter Cserne**.

1.5 ENERGY MARKETS

Although the research project on energy markets is of smaller financial scope than other projects, project leader **Bert Willems** substantially developed and expanded it in 2009, *inter alia* by successfully involving research master students. Part of the funding for the group comes from energy firm **Essent**.

Justin Dijk and Georgios Petropoulos studied the effects of congestion management in the electricity sector on investments and competition, and presented their work at the Toulouse Energy Conference. Veronica Valencia looked at the efficiency of take-or-pay clauses and oil indexation of long-term contracts in the gas sector. The outcome of this project was presented at the infrastructure conference in Berlin. TILEC member Bastian Henze conducted a project for the Dutch competition authority (NMa) on the **regulation of investments in the gas sector** using experimental economics. Emmanuel de Corte, a TILEC external PhD student in law, mainly worked on the need for a regulatory framework for offshore wind farms in Europe.

TILEC is also a partner in the multi-disciplinary research network Unecom, headed by former TILEC member Geert Brunekreeft. Unecom researches the effects of vertical unbundling in the energy sector. TILEC contributed the Ph.D. project of Eckart Ehlers, who defended his thesis in December.

In 2009, two highly successful **energy economics policy seminars** were organized in The Hague together with the Netherlands Bureau for Economic Policy Analysis (CPB), the Dutch regulator of energy markets (NMa/DTe) and the Dutch Ministry of Economic Affairs (EZ). The first one focused on the liberalization of gas markets, the second on investments in energy networks.

The research group was strengthened by the addition of the chief economist of NMa/DTe, **Machiel Mulder**, as **extramural fellow** and **Michiel de Nooij**, a researcher at SEO (Amsterdam) and a graduate from Tilburg University as **external PhD-student**.

1.6 OTHER MAIN ACADEMIC ACTIVITIES

In May, TILEC organized the third annual meeting of the **CLEEN** network, thanks to the efforts of TILEC research coordinator **Cédric Argenton**. **CLEEN**, the **Competition Law and Economics European Network**, associates several European research centers with a similar profile as the one of TILEC. The **CLEEN** meetings offer researchers in this area, especially PhD students, the opportunity for presenting their work and

learning from one another.

In June, TILEC organized a two-day **workshop on competition in media markets**. This workshop was organized by TILEC members Lapo Filistrucchi and Ilse van der Haar and received support from the Royal Dutch Academy of Sciences (KNAW). It addressed the challenges posed to the traditional media markets by the Internet, with a specific focus on questions such as whether globalization is threatening cultural diversity, and whether specific merger regulation would be needed to maintain such diversity.

TILEC continued its cooperation with the Netherlands Bureau for Economic Policy Analysis (CPB) and the Dutch Ministry for Economic Affairs (EZ) in the organization of **competition workshops** in The Hague. In the spring, a first meeting focused on whether and how regulation could influence **innovation and productivity**. The fall meeting was devoted to procurement issues with presentations focusing on the transaction costs in procurement, as well as on how to procure in specific sectors, such as health care. **Auctions and procurement mechanisms** received substantial attention at TILEC in 2009 since in February, TILEC member Cédric Argenton and Tilburg University professor Hans Schumacher had also organized a one-day workshop on the ‘Theory and Practice of Auctions’ together with the Department of Econometrics and the Dutch Mathematical Society.



Tilburg University campus in the snow. Photographer: Ton Toemen.

Three other meetings were organized in cooperation with other institutions. Thanks to the efforts of Lapo Filistrucchi, TILEC co-organized the Second Dolomites Summer School on **Antitrust for Network Industries** in Alba di Canazei, Italy, in cooperation with the University of Verona and the Association of Competition Economists. In July, TILEC and CRESSE (the Competition and Regulation European Summer School) jointly sponsored special policy sessions on **Article 82 CE and dynamic efficiencies in the enforcement of competition policy** at the Fourth European Conference on Competition and Regulation in Chania, Greece. Finally, in November, TILEC member Alan Littler co-organized a one-day international **conference on gambling regulation in Europe**, in cooperation with KU Leuven and the Belgian gambling regulator (Kansspelcommissie).

1.7 HONOURS AND AWARDS

In 2009 the VSNU (the Association of Universities in the Netherlands) published a book entitled '**A country of colourful variety: Samples of excellent academic research in the Netherlands**'. This publication aims at presenting examples of excellent academic research performed in the Netherlands. **TILEC** appeared as one of the 21 academic centers of excellence performing research of exceptionally high quality and direct relevance to society, across all fields of study. (See www.vsnul.nl/excellentresearch.)

Maartje de Visser received the **second prize for the best thesis** defended at Tilburg University during the academic year 2008-2009. Maartje had presented her doctoral dissertation, which was supervised by Pierre Larouche and entitled 'Network-Based Governance in EC law; the examples of EC Competition Law and EC communications Law', in January 2009.

Catherine Schaumans won a prestigious **Veni grant** of the Dutch National Science Foundation (NWO) for her research project 'Regulation in the pharmacy market – structural modelling of entry and location choices'. The grant, in the amount of €250,000, will allow Catherine to focus on research for the next 3 years. It was one of the 29 successful proposals in social sciences out of the 225 applications in this field. At a VVE-conference in Hasselt, Belgium, Catherine had previously shared the **best paper award** by a young economist for her paper 'Strategic Interaction between General Practitioners and Specialists – Implications for Gate keeping'.

Wolf Wagner won the **Best Paper Award** at the 2009 Emerging Scholars in Banking and Finance Conference of Cass Business School, London for his paper 'A market-based measure of credit quality and banks' performance during the subprime crisis'

co-authored with CentER PhD- student Martin Knaup.

On the occasion of the Queen's Birthday, **Eric van Damme** was appointed knight, **Ridder in de Orde van Oranje Nassau**. This royal honour was granted in recognition of Eric's contributions to economics and game theory as well as his accomplishments for Tilburg University and other social organizations. In this connection, the press release issued by Tilburg University mentioned his 'striven' support and stimulation to multidisciplinary research not only within TILEC but also between economics and psychology.

Hans Degryse received one of the prestigious Belgian '**Francqui Chairs**'. As a result, he is to deliver a series of lectures on 'Competition and regulation in banking and financial markets' at the University of Bergen (Mons) in Belgium in 2010.

1.8 ADMINISTRATIVE ASPECTS

In 2009, the administrative aspect that required most attention from the TILEC Management Team was the preparation of the **VSNU research evaluation of the Tilburg Law School**. According to the so-called standard evaluation protocol (SEP) of KNAW, NWO and VSNU, academic research in the Netherlands is evaluated once every 6 years. Since TILEC is formally recognized as a research unit within the Tilburg Law School (TLS), it participated in the formal research evaluation exercise. The results are expected to become available in the course of 2010. Within TiSEM (the Tilburg School of Economics and Management) TILEC is not recognized as a separate, independent research group. TILEC output is evaluated through other CentER research groups to which TILEC members formally belong. In particular, economists working in the TILEC research line 'Institutions, Competition and Regulation' are typical members of the **microeconomics** group, while economists working in the 'Law & Finance' line are usually members of the **finance** group. Both groups were **evaluated** in 2009 for the period 2001–2007. Both scored 5 (the maximum score) on the dimensions of quality, productivity and relevance, while the scores on viability were 4.5 for microeconomics and 4 for finance. TILEC is proud to have partly contributed to this excellent performance.

2009 also witnessed some changes among the TILEC supporting staff. Ilse van der Haar, who had started as academic manager and research coordinator in law in September 2008, left TILEC in June 2009 to take up a position at the Dutch telecommunications regulator (OPTA). Elvira van Vliet left the TILEC Office in the Spring of 2009. Subsequently, Firat Cengiz was hired as new research coordinator in law, while

Nicola Heeren was hired as manager of the TILEC Office. With the hiring of Rochelle van Rooij, Katja Zondervan and Leon Pijpers (all on a part-time basis) and with additional support of student assistants such as Quinten Blok, the administrative staff was brought to an adequate level. In this period of high turnover, the **support of TILEC's coordinating parent school**, the Tilburg School of Economics and Management, through its research arm, CentER, and the active involvement of Carina Schlosser and Tim Nieuwenhuijsen, proved crucial.

TILEC is very grateful for the commitment and support of its parent schools and their staff members. It is uppermost thankful to its members for the time and energy they devote to TILEC and the TILEC research program.

2. MEMBERS, VISITORS, AND MANAGEMENT

In 2009, TILEC accommodated 58 members. The number of senior members grew from 43 to 45. The number of junior members decreased from 18 to 13. In total TILEC welcomed 15 new members: eight at the senior level and seven at the junior level. 10 members left TILEC, including one junior member who completed the PhD education. More details can be found in Tables 1 and 2 of Appendix A.

2.1 MEMBERS

2.1.1 New members

On the side of the Tilburg School of Economics and Management, eight new members joined TILEC: two at the senior level and six at the junior level. On the side of the Tilburg Law School, six new members joined TILEC: five at the senior level and one at the junior level.

Senior level

Firat Cengiz joined TILEC in July 2009 as a post-doctoral researcher in law. Firat received her PhD degree from the ESRC Centre for Competition Policy at the University of East Anglia in 2009 with a dissertation entitled 'Antitrust Federalism in Comparison: Multi-level Enforcement of Competition Policy in the US and the EC'. Firat's doctoral research analyzed relations between the competition laws and authorities at different levels in the US and the EU from a law and political science perspective. After completing her doctoral research, Firat held a Max Weber Fellowship at the European University Institute in Florence where she analyzed private enforcement of competition rules in the US and the EC. Firat is currently busy transforming her PhD dissertation into a book manuscript. Institutional aspects of competition policy and multi-level governance in general constitute Firat's main research interests.

Péter Cserne joined TILEC in February 2009 as a post-doctoral researcher in law. Peter received his PhD from the University of Hamburg with his dissertation entitled 'Freedom of Choice and Paternalism in Contract Law: Prospects and Limits of an Economic Approach'. Before joining TILEC, Péter worked as a graduate fellow at the Doctoral College of Law and Economics of the University of Hamburg and is currently on leave from his assistant professor position at the Pázmány Péter Catholic University in Budapest. At TILEC Péter works under the framework of the HILL project and looks at issues which cut across the disciplines of law, economics, legal philosophy and legal history, such as the role of consequence-based arguments in legal reasoning and the role of regulatory emulation in the drafting of new civil codes.

Matteo Negrinotti joined TILEC as assistant professor in law. Matteo is currently a PhD candidate at the University of Siena in Italy where he analyzes predatory pricing from a comparative perspective. In addition to this doctoral research, Matteo works on other research questions, such as the relationship between competition law and sector specific regulation in the EU and the US. Before joining TILEC, Matteo was a research scholar at the University of Michigan in Ann Arbor. He has taught competition law in various academic institutions and continues to do so at the Tilburg Law School.

Laura Nistor joined TILEC in January 2009 as a post-doctoral researcher to work under the framework of the TILEC-NZa (Dutch Healthcare Authority) research network. Laura received her first degree in law from the University of Craiova in Romania and she has an LL.M. degree from the University of Groningen. Laura conducted her PhD degree studies at the University of Groningen where she focused on the impact of EU law on welfare services. Laura has also taught courses in competition law and different aspects of EU substantive law.

Gregory Sidak was appointed **Ronald Coase Chair of Law and Economics** at Tilburg University in April 2009. Greg is founder and chairman of Criterion Economics, L.L.C. in Washington D.C. He is an internationally recognized expert on competition law, intellectual property, regulation of network industries and complex economic litigation. He has testified as an expert witness in proceedings before courts, regulatory commissions, international commercial arbitration panels and committees of Congress. He has published six books and more than eighty articles in scholarly journals. He co-edits the *Journal of Competition Law & Economics* for Oxford University Press with TILEC member Damien Geradin. As of 2009, Greg Sidak will come to TILEC a few times per year as a visiting professor. In addition, he will act as liaison for TILEC researchers and PhD students in the US.

Florian Schütt joined TILEC in September 2009 as a post-doctoral researcher in economics. Florian received his PhD from the University of Toulouse in 2008 with a dissertation entitled 'Essays in Industrial Organization and Political Economy', which he wrote under the supervision of Jean Tirole. His doctoral research analyzed the examination of patent applications by the patent office, how it affects incentives to invest in research, and how compensation schemes for examiners should be designed. After completing his PhD, Florian held a Max Weber Fellowship at the European University Institute in Florence. At TILEC, in addition to his individual research agenda, Florian conducts an experimental research project on network neutrality and consumer behaviour in the broadband market with TILEC members Jasper Sluijs and Bastian Henze. In general, Florian's research interests include industrial organization, political economy and behavioural economics.

Emanuele Tarantino joined TILEC in September 2009 as a post-doctoral researcher in economics. Emanuele conducted his doctoral research at the European University Institute in Florence under the supervision of Massimo Motta. Emanuele's main research interests lie in industrial organization and his PhD dissertation looked at policy aspects of the relationship between bankruptcy law and corporate investment decisions, and the scope for exclusion of pure innovators in standard-setting organisations. His current research focuses on the analysis of the working of standard certification bodies and on the profitability of vertical integration and foreclosure in frameworks with complementary inputs.

Rein Halbersma and **Misja Mikkers** from the Dutch Healthcare Authority (NZa) and **Machiel Mulder** from the Dutch Competition Authority (NMa) all joined TILEC in 2009 as **extramural fellows**. Likewise, **Ilse van der Haar** became a **TILEC extramural fellow** after her departure from TILEC to the Dutch telecoms regulator (OPTA).



TILEC members enjoying themselves at TILEC Retreat 2009

Junior level

Peter Cziraki joined TILEC as a junior member in 2009. Peter has been a PhD candidate in finance at the CentER Graduate School of Tilburg University since September 2008. Peter completed his research master in finance at CentER Graduate School in 2008 *cum laude* and ranked first in his class. He holds a M.Sc. in finance from the University of Pecs in Hungary which he received with the highest distinction. Peter currently works on seasoned equity offers. In 2009 Peter conducted research at the Stanford Graduate School of Business as a visiting researcher.

Bastian Henze became a TILEC junior member in 2009. Bastian has been a PhD candidate in economics at the CentER Graduate School of Tilburg University since

September 2008. Bastian received his research master degree in economics from the same institution in 2008. Currently, Bastian works on the experimental evaluation of an incremental surplus subsidy scheme (the so-called 'Vogelsang mechanism'). Additionally, Bastian conducts an experimental research project on network neutrality and consumer behaviour in the broadband market with TILEC members Jasper Sluijs and Florian Schütt.

Katalin Katona joined TILEC as an external PhD student in 2009. Katalin obtained her master's degree in economics at the Corvinus University of Budapest. In 2007 Katalin became a policy advisor at the Dutch Healthcare Authority (NZa). Katalin conducts her doctoral research, which focuses on the trade-off between affordability, quality and accessibility in healthcare markets and especially in merger cases, under the supervision of Marcel Canoy, Wolf Sauter and Jan Boone.

Jing Li joined TILEC in 2009 as a junior member and currently conducts her PhD degree studies at the Business Law Department. Jing completed the research master program at Tilburg Law School in 2008. Prior to that, Jing worked as a corporate lawyer at Paul, Hastings, Janofsky & Walker LL.P. in Beijing. Jing obtained her LL.M. degree from Stockholm University and her LL.B. degree from the University of International Business and Economics in Beijing. Jing's doctoral research centers on the cross-border investments by alternative asset management funds in and out of China, with a particular interest to understand their role in shaping the corporate governance regime of Chinese firms.

Kebin Ma became a PhD candidate in economics at the CentER Graduate School and joined TILEC in 2009. Kebin received his research master degrees in finance and economics both *cum laude* from CentER in August 2009. He currently works on various subjects such as cartel leniency programs, incentive provision of credit rating agencies, credit ratings as a signalling device and banks' lending behaviour over business cycle.

Michiel de Nooij joined TILEC as an external PhD student in 2009 to work on liberalized energy markets. Michiel received his M.Sc. degree in economics from Tilburg University in 1998. He currently works as a senior researcher and project leader at SEO Economisch Onderzoek (Economic Research).

Jasper Sluijs joined TILEC in 2009 as a junior member. Jasper works on his doctoral research at the Tilburg Law School under the supervision of TILEC member Pierre Larouche. Jasper holds MA and BA degrees from the Radboud University Nijmegen in cultural studies, both *cum laude*. Before joining TILEC, Jasper was a Fulbright Scholar at the Digital Media Department of the Georgia Institute of Technology in Atlanta,

and a visiting scholar at the University of Pennsylvania Law School and Annenberg School for Communications in Philadelphia. Jasper conducts comparative research on the regulatory treatment of network neutrality in the EU and the US. In addition to his individual research agenda, Jasper conducts an experimental research project on network neutrality and consumer behaviour in the broadband market with TILEC members Bastian Henze and Florian Schütt.

Fatih Cemil Ozbugday joined TILEC as a junior member and started his PhD degree studies in economics at the CentER Graduate School in September 2009. He holds a research master degree in economics from the same institution. Fatih conducts his doctoral research under the supervision of TILEC member Erik Brouwer. Fatih works on issues closely related to innovation, such as the role of intellectual property rights in stimulating innovation and the effects of state aid on innovation and competition.

Vincent van Kervel joined TILEC in 2009 as a junior member. He currently conducts his PhD degree studies in finance at the CentER Graduate School. Vincent holds a research master degree in finance from the same institution. Vincent's current research focuses on market microstructure. He looks at the impact of financial regulation on the quality of stock exchanges. He also analyzes competition between different trading venues and its effect on liquidity and transaction costs.

2.1.2 Members Leaving

Faysal Barrachi left Tilburg University upon successfully completing the research master program.

Adiba Bouichi left TILEC to De Brauw Blackstone Westbroek LL.P. in Amsterdam, where she occupies the position of associate.

Barbara Gábor became Evaluation Officer at the European Commission.

Stéfanie van Gulijk left TILEC and became an assistant professor at the Private Law Department of the University of Tilburg where she teaches the subjects of construction law and civil procedure and dispute resolution.

Ilse van der Haar left TILEC to take a position at the Dutch telecoms regulator (OPTA).

Jérémie Lefebvre left TILEC to Louvain School of Management where he occupies the position of research fellow at the BNP Paribas Fortis Chair in Risk Management.

Karin Lutikhuis left TILEC upon taking a professorship in comparative insolvency and restructuring at the University of Maastricht.

Laura Nistor became an administrator at the Directorate-General Enterprise and Industry of the European Commission where she works in particular on infringement proceedings in the pharmaceuticals sector.

Theo Raaijmakers left TILEC upon retirement from his professorship at the Tilburg Law School.

Maartje de Visser became a post-doctoral researcher in comparative constitutional law at the Tilburg Institute of Comparative and Transnational Law (TICOM) after completing her PhD *cum laude*.

2.2 VISITORS

In addition to the shorter stays of our seminar guests throughout 2009 (see *Appendix C*), TILEC had the pleasure of hosting **Marilena Filipelli** between October and December 2009. Marilena holds a PhD degree in economics, markets and institutions from the IMT Institute for Advanced Studies, Luca, Italy. She currently is a research fellow at the Business Law Department of 'La Sapienza' University of Rome. During her stay in Tilburg, Marilena conducted further work on her doctoral dissertation which analyzes the treatment of collective dominance in EU and US law from a comparative perspective. After this last effort she successfully transformed her dissertation into a book manuscript which is expected to be published by Edward Elgar soon.

2.3 MANAGEMENT, BOARD AND SECRETARIAL SUPPORT

Due to growth in size and scope, TILEC has experienced significant administrative restructuring since 2008. Following the departure of Academic Manager Ilse van der Haar, **Nicola Heeren** joined TILEC to fill a new function of Manager of the TILEC Office. Nicola heads the TILEC secretariat and handles the day-to-day administration of TILEC.

The task of research coordination in law was entrusted to **Firat Cengiz**, who joined TILEC in July 2009 as a post-doctoral researcher. Firat works with **Cédric Argenton**, who takes care of research coordination on the side of economics. TILEC research coordinators seek to foster interdisciplinary research, assist the directors in the scientific management of TILEC, provide scientific supervision for the TILEC activities

and reports, and supervise TILEC members' contract research activities. They are the natural points of contact for members on research-related issues.

Directors, research coordinators and the office manager make up the TILEC management team. A board consisting of the vice-dean for research of each parent school and a third professor from Tilburg University oversees and advises the management of TILEC. The Board meets twice a year. As of 31 December 2009, the TILEC board comprised **Dick den Hertog** (vice-dean, Tilburg School of Economics and Management), **Jonathan Verschuuren** (vice-dean, Tilburg Law School) and **Theo Camps** (Berenschot Consultancy and Tias Business School).

The TILEC secretariat experienced a dynamic year, with many members of the staff replaced by new faces. **Elvira van Vliet**, who gave TILEC secretarial support for the last three years, moved to another position within Tilburg University. In February, TILEC welcomed **Rochelle van Rooij** as secretary responsible for events management. Soon after, in March, **Katja Zondervan** joined TILEC as webmaster and communications officer. Both Rochelle and Katja had worked for Ericsson Telecommunications before joining TILEC. Student assistant **Lieke van Berkel** left the University in April and was replaced by **Quinten Blok** in June. After being on leave for three months and successfully completing her bachelor degree, **Marlous Winters** returned to TILEC as the secretary responsible for project and finance management. In October, **Leon Pijpers** enthusiastically joined the secretarial team to provide additional support for events management.



Tilburg University campus. Photographer: Erik van der Burgt.

3. RESEARCH

3.1 OVERVIEW

In 2009 TILEC members continued to be very active in research. TILEC members produced an impressive number of 110 academic publications, including 64 journal articles, and 45 TILEC Discussion Papers.

	2009	2008	2007	2006	2005	2004
<i>Academic publications, including</i>	111	88	82	118	67	91
Journal Articles	64	40	43	62	40	39
Chapters in Books	30	30	27	32	21	44
Monographs, Edited Books	12	7	7	21	8	8
Dissertations	4	2	5	3	2	-
<i>Professional Publications</i>	39	21	25	19	22	20
<i>TILEC discussion papers</i>	45	47	35	35	33	25

Table 3.1: Overview of number of publications, see appendix B for a definition of the categories.

In 2009, members of the ‘institutions, competition and regulation’ research line produced cutting-edge interdisciplinary research. For instance, the paper by TILEC Members Eric van Damme, Pierre Larouche and Wieland Müller, entitled ‘Abuse of a dominant position: cases and experiments’, was published as a book chapter in *Experiments in Competition Policy* (edited by J. Hinloopen and H.-T. Normann, Cambridge University Press). The novelty of this work does not only come from its law and economics authorship, which is difficult to achieve in itself, but the paper also serves a very important purpose for the future of experimental economics in the field of competition policy. The paper analyses the EU case-law on the abuse of dominance and the experimental studies on different types of abusive practices side-by-side

in great detail. As a result of this analysis, the paper finds a surprising discrepancy between the practices which were the subjects of case-law as opposed to those which were the subjects of experimental studies. Whereas the case-law particularly targets various rebate schemes and access to facilities, experimental research focuses mostly on exclusion theories. Such discrepancy stems from the fact that the research agenda in experimental economics is mostly driven by theoretical models and other experiments conducted in the past rather than real life problems. However, whatever the reason might be, filling this gap with future studies will prove indispensable if economic analysis is to perform a solid function in the application of competition rules.

In the research line on 'law and finance', TILEC members also produced highly-regarded pieces. For instance, TILEC member Marco Da Rin and co-authors Laura Bottazi and Thomas Hellman published an article entitled 'What is the role of legal systems in financial intermediation? Theory and evidence.' in the *Journal of Financial Intermediation*. The question they ask is fundamental: does the legal system really matter for economic outcomes? The authors focus on the venture capital market and develop a theory and empirical test of the ways in which the legal system affects the relationship between venture capitalists and entrepreneurs. When some actions on both sides are not fully contractible, in a legal system where investors are generally more protected the optimal contract calls for them to give more informal support to entrepreneurs and to receive more downside protection (instruments such as debt or preferred equity). The test, performed in a randomly collected sample of capital venture deals in 17 European countries, fully supports these hypotheses. The results hold for legal origin and support the common (although contested) view that the Anglo-Saxon common law system is better for investors than civil law systems. Remarkably, the hypotheses also hold for two widely-used index measures of the quality of the legal system: the rule of law and the degree of procedural complexity.

3.2 TILEC AND THE OUTSIDE WORLD

Even if the world economy was still reeling from the failure of the financial sector in 2008 and experiencing a severe downturn, 2009 was by no means a lost year in the research areas covered by TILEC.

Nearing the end of its term, the European Commission – led by Neelie Kroes as Commissioner in charge of the competition portfolio – dealt with a number of key cases in the technology sector. Intel received a record fine of € 1 billion for a series of breaches of Article 102 TFEU (ex Article 82 EC) between 2002 and 2007, comprising rebates and conditional payments to computer manufacturers (Dell, HP, NEC, Lenovo)

and to a large retailer, in order to keep rival CPU manufacturer AMD at bay. That decision proved controversial, coming at the end of a long and disputed inquiry, and it has been brought for review before the General Court. Besides *Intel*, the Commission also concluded other high-profile cases. The inquiry into the royalty rates on Qualcomm patents included in the 3G standard was closed without further action in October. In December, the Commission accepted commitments by Rambus concerning the royalty rates for its DRAM patents. A new case against Microsoft, this time concerning the integration of its Explorer browser into Windows, was settled at the end of the year with a commitment from Microsoft to provide a 'browser choice screen' to EU users of Windows. At the end of the year, the Commission also voiced concerns about potential anti-competitive consequences arising from the Google book settlement.

The Commission was equally active in the life sciences sector, with a sector inquiry into the pharmaceutical industry. The results of the inquiry were released in July. They herald continued enforcement activity with respect to patent practices allegedly designed to delay the entry of generic manufacturers once drug patents expire, as well as patent strategies allegedly used by original manufacturers to prevent each other from bringing new drugs to the market.

In keeping with the continuing significance of the technology sector for competition policy, TILEC carries out a large research effort centered on innovation and competition policy, intellectual property and sector-specific regulation, where developments such as those mentioned above feed our activities. The quality of our work in this area has been recognized by third parties, as evidenced through research grants from NWO and the EU 7th Framework Program, and financial support from firms such as PwC, Qualcomm and Microsoft. The main achievements for 2009 are listed elsewhere in this report.

Besides the attention lavished on technology sectors, general competition policy also saw a number of milestones in 2009, as the major reforms of 2004 (Regulations 1/2003 and 139/2004) reached their fifth anniversary. At the end of 2008, the Commission released its Guidance Paper on Article 102 TFEU, which gave rise to considerable debate. TILEC members participated in a CEPS Task Force which produced a reaction to the Guidance Paper in June. The ECJ also weighed in on Article 102 TFEU with its *Wanadoo* judgment in April, where it chose not to include a requirement to prove the ability to recoup lost profits as a necessary part of a predatory pricing case under Article 102 TFEU. Article 101 TFEU (ex Article 81 EC), where the law had not changed much in recent years, was revisited in detail by the ECJ in June, in *T-Mobile Netherlands*, and in October, in the Spanish *GlaxoSmithKline Services*. The ECJ re-affirmed the distinction between restrictions by object and by effect under Article 101(1) TFEU, and insisted

that restrictions by object can be established without the need to prove actual anti-competitive effects on the relevant market. With respect to Article 101(3) TFEU, the ECJ confirmed that the burden of proof rests on the defendant to show that this provision applies, although it can be discharged by adducing evidence such that it is then up to the plaintiff to provide an explanation or justification. In addition to this new case-law, the Commission launched the review of the block exemption for vertical agreements and the accompanying guidelines on vertical restraints. These developments were studied in the TILEC weekly meetings and are inspiring our current research agenda.

There were also a number of developments in State aid law in 2009 that relate to TILEC work. First of all, the Commission issued two important sets of guidelines on the application of State aid rules. Revised guidelines on aid to broadcasting were issued in July, followed by guidelines on the financing of broadband networks in September. TILEC members conducted research on these topics in previous years and will continue to do so. What is more, State aid law came to play a large role in the financial sector, where the Commission seized the initiative again by requiring often wide-ranging commitments before approving restructuring aid packages for banks in difficulty: for instance, the Dutch ING bank had to divest its insurance business and some of its foreign operations. No doubt these decisions will be reflected in the work of TILEC members in both research lines.



Tilburg University Campus Air View.

2009 was also a productive year as far as sector-specific regulation was concerned. First of all, at the EU level, both energy and electronic communications regulations were overhauled, each with a set of amending directives adopted during the year. It is striking that in both areas, central elements of the review were the reinforcement of EU-level coordination through the creation of EU regulatory bodies, and the introduction of deeper-ranging regulatory measures such as the separation or unbundling of the incumbent. Both these elements have been studied within Ph.D. projects at TILEC which were defended in 2009: Maartje de Visser obtained a *cum laude* for her Ph.D. on European networks of agencies and Eckart Ehlers defended his Ph.D. on unbundling in the energy sector. In the end, the adoption of new electronic communications directives was delayed because of a last-minute disagreement relating to network neutrality, a topic which TILEC researchers were among the first to explore in Europe some years ago, and on which a joint Ph.D. project with our sister institute TILT (Tilburg Institute for Law, Technology and Society) was started in 2009.

Last but not least, 2009 ended with the entry into force of the Lisbon Treaty. In the areas covered by TILEC, the Treaty did not make any immediate changes, save for formal changes to Treaty names and numbering. Nevertheless, changes in the statements of the goals of the EU and modifications to the provisions concerning Services of General Economic Interest (SGEIs) could have an impact in the medium- to long-term. Research is already under way regarding SGEIs and TILEC members are eagerly following any policy changes which the Lisbon Treaty might induce in the future.

3.3 RESEARCH FINDINGS

3.3.1 Institutions, competition and regulation

In 2009, TILEC members active in the ‘institutions, competition and regulation’ research line worked on several different themes: (i) contract law, (ii) competition and competition policy, (iii) innovation, (iv) economic integration, and (v) sector-specific issues.

Research output on **contract law**, pursued in part within the framework of the CoPECL project, captures different trajectories of legal history and doctrine from ancient Rome to modern Europe. DP 2009-027 looks at the economic analysis of ‘**necessity**’ in contracts which are concluded in a situation of need. An important characteristic of necessity cases is that both parties have an interest in upholding the contract *ex ante* and sometimes even *ex post*. From an economic perspective, the policy objective of regulating necessity is to give optimal incentives for precaution, search and rescue. These incentive effects have been widely discussed in the law and economics litera-

ture, the settled view being that price control based on the costs of the rescue plus a small reward provides optimal incentives. The paper argues that this settled view is unwarranted. The model developed in the paper suggests that in many cases the socially efficient contract price is higher than the rescue costs. To be sure, due to serious information problems, the practical implementation of this theoretical optimum is much more difficult than the cost-plus scheme supported by the settled view. While the policy implications of the proposed model are rather tentative, the authors suggest that the judicial costs of estimating policy variables should also be taken into account.

DP 2009-037 looks at the concept of '**morality**' in contract law in ancient Rome and asks the appealing question of whether modern contract law can learn anything from the contractual analysis of ancient Romans. The paper argues that the current legal approach of isolating extra-legal standards in the analysis of morality actually goes back to the Roman times. Then, the paper ventures into the problematic of 'immoral' transactions by combining historical, doctrinal and economic analysis. The paper reconstructs how and why the term immorality (*contra bonos mores*) became a general clause of Roman law within a relatively short time; discusses what kind of cases were solved with reference to this clause; and analyzes how this clause shows the practical rationality of Roman lawyers. Finally, the paper raises some substantive and methodological points where this historical case can provide insights for the economic analysis of the interactions of law and morality. The overall analysis shows that Roman lawyers found reasonable answers to issues which, in spite of obvious differences in economic and cultural context, can teach some lessons for our modern understanding of contract regulation.

Finally, DP 2009-041 goes on a journey to the heart of **duress** and attempts to increase communication between doctrinal, jurisprudential and various economic approaches to this fluid and contested doctrine of contract law. Virtually all modern legal systems provide that a party who concluded a contract under unacceptable pressure has a right to avoid the offending agreement. Yet, what is unacceptable is difficult to establish. Legal doctrines and economic models approach contractual duress with little communication and, therefore, at times reach divergent outcomes. The paper finds that in the traditional core of duress i.e. when physical threat was used, jurisprudential and economic justifications converge. It is more controversial whether the range and quality of opportunities available to the contracting parties should also matter or the doctrine should be used to promote substantive fairness or ambitious policy objectives.

The relationship between contracts, **competition and competition policy** also raises many questions. In spite of the Chicago school arguments, it is well known that in certain cases an incumbent firm may use **exclusivity contracts** so as to monopolize an

industry or deter entry. Such an anticompetitive practice could be tolerated if it were associated with sufficiently large efficiency gains, e.g. insuring buyers against price volatility, a rationale that is often invoked to justify long-term contracts in the energy sector. DP 2009-015 studies the trade-off between the positive effects (risk sharing) and the negative effects (exclusion) of exclusivity contracts. The authors revisit one of the main 'theories of harm' under risk-aversion and show that although exclusivity contracts induce optimal risk-sharing, they can be used not only to deter the entry of a more efficient rival to the product market but also to crowd out financial investors willing to insure buyers at competitive rates. The authors further show that in a world without financial investors, purely financial bilateral instruments, such as forward contracts, achieve optimal risk sharing without distorting product market outcomes. Thus, they argue that there is no room for an insurance defence of exclusivity contracts.

How often can **exclusivity clauses** that oblige a consumer to buy a good from a single supplier exclude efficient rivals? One of the main theories of harm, the so-called 'naked exclusion' story, holds that an incumbent firm can play on buyers' coordination difficulties to deny an entrant the scale it needs in order to produce efficiently. DP 2009-017 reports experimental results on the impact of exclusive dealing inspired by this literature. The key findings are as follows. First, exclusion is widespread in lab markets: it occurs in more than two thirds of all cases. Second, contrary to the theory, allowing incumbents to discriminate between buyers increases exclusion rates only when offers can be made sequentially and secretly. Third, allowing discrimination does not lead to significant decreases in the costs of exclusion. Behind these observations lies the fact that the higher the payment the more likely buyers to accept an exclusive deal. The authors conclude that for practical purposes, an antitrust authority should be on high alert whenever the suspected firm (i) staggered its contracts over time and (ii) took active measures to keep previous offers secret.

Moving from abuses of dominant positions to price-fixing, one cannot help noticing that **leniency programs** have become the main tool for competition authorities to fight cartels. DP 2009-038 analyzes maximal cartel prices in infinitely-repeated oligopoly models under leniency where fines are linked to illegal gains, as often outlined in existing antitrust regulation, and detection probabilities depend on the degree of collusion. The authors introduce the notion of 'cartel culture,' which reflects the persistency of cartel activity post conviction. The analysis disentangles the effects of traditional antitrust regulation from those of leniency and cartel strategies. It is shown that without rewarding the strictly-first reporter, leniency cannot reduce maximal cartel prices below those prevailing under traditional regulation. Moreover, in order to avoid adverse effects fine reductions should be moderate in case of multiple reporters.

As the EU was making progress on the path to a single market since the late 1990s, economic integration lost its significance among the objectives of European competition policy. Indeed, both the recent case law and policy initiatives of the European Commission embrace different objectives such as economic efficiency and consumer welfare. The question which naturally emerges is whether and to what extent these mottos are capable of serving as the **fundamental objectives of competition policy**. DP 2009-010 argues that although both economists and lawyers have discovered the significance of this question, they approach the matter from fundamentally different perspectives. It is probably fair to say that most lawyers tend to focus on the law as it stands and as it has evolved over time in legislation and jurisprudence rather than stepping back and questioning what the law is actually aiming to achieve. The paper explores the origins of the present focus on consumers in European competition policy and attempts to broaden the horizon of the debate by including more general EU developments. The paper further argues that there is a need for a public debate on the objectives of the system of European competition law and this debate should not be merely theoretical as objectives have a fundamental impact on law and policy.

Like the substantive aspects and objectives of competition policy, its enforcement methods have been subject to significant transformations since the late 1990s. In 2004 the modernization project decentralized the enforcement of EU competition policy and increased the symbiotic relationship between the national and supranational enforcement regimes through the formation of a network between national competition authorities and the European Commission. Regulation 1/2003, the legal background of modernization, has now completed its fifth year in operation and the Commission released a report regarding the initial functioning of the system. DP 2009-042 takes a retrospective look at the institutional elements of **modernization** in response to this report. In general, the paper comes to positive conclusions regarding the initial experiences, particularly due to the increased communication between competition officials with concrete policy outcomes. Nevertheless, there are significant accountability problems in the functioning of the new regime. Overall, the paper argues that as an unanticipated consequence of modernization, competition policy has lost its special status in Europe and become prone to the general systemic problems of multi-level governance. The paper urges the Commission to give due consideration to these problems and the epistemic community to place competition policy within the broader debate on multi-level governance.

Following on the line of accountability and legitimacy problems of regulation and policy enforcement through expert administrative agencies, DP 2009-016 asks the question of whether the consumer herself could be a cure to these problems. Indeed, existing economic and political science models of regulation tend to focus exclusively

either on the relationship between the regulator and the central authority or on the parties subject to economic regulation, but they forget the ultimate objective of regulation: the consumer interest. In order to fill that void the paper asks whether the general **consumer interest** can provide an additional source of regulatory legitimacy. The paper investigates this question in the context of healthcare regulation in the Netherlands, which constitutes a particularly suitable framework for this investigation, since the Dutch Healthcare Market Regulation Act (Wmg) not only introduces the general consumer interest as a legal concept but also establishes it as the superior objective of regulation. The paper analyzes this concept from the perspectives of quality, affordability and accessibility drawing on different economic approaches to regulation, such as market failure, market power and bounded rationality.

In the context of European regulation, legitimacy and fairness do not only arise in the context of the relationship between regulatory institutions and citizens and consumers. With regards to European **state aid policy**, for instance, Member States appear as the addressees of regulation and they appeal for consistent, predictable and fair policy enforcement. State aid is, in principle, prohibited by European competition law unless it contributes to clearly defined objectives of common interest, such as environmental protection or security of supply. State aid must therefore be notified to the European Commission in order to be assessed for exemption from the state aid prohibition. The need to balance different objectives in the assessment of state aid leaves Member States with great uncertainty about how to design their state aid measures to pass the Commission's scrutiny. This uncertainty jeopardizes planning of the energy infrastructures in particular, as investment in those is essential for the creation of the European internal energy market but often requires financial support of the Member States due to the high costs involved. DP 2009-011 attempts to clarify the approach of the European Commission to state funding of energy infrastructure and analyzes in particular the significance attached to the different objectives of the European energy policy in the final decision-making. One of the conclusions of the paper is that the European Commission tends to be more supportive of state funding of infrastructural projects which deliver the priority objectives of European energy policy.

In the past decade, evidence accumulated that most of productivity gains in the economy are actually realized by entrants. Competition policy often aims at making room for them by preventing incumbents from unduly deterring them but are we sure that some other determinants are not as important? DP 2009-036 studies the effect of **corporate income taxation** on entry patterns. The authors use a novel country-industry panel database with information on newly incorporated firms in 17 European countries between 1997 and 2004. After accounting for the fact that tax rates and tax rules could actually be determined by public authorities in reaction to the observed

entry pattern, they find that a reduction in the effective corporate income tax rate leads to a significant increase in entry rates and to a reduction in the scale of entrants: two possible measures of the ease of entry. Interestingly, these effects are non-linear, suggesting that corporate income tax reductions can facilitate entry only below a certain threshold level.



Tilburg University garden patio Cobbenhagen building. Photographer: Wil van Dusseldorp.

The TILEC research cluster on **innovation** delivered equally interesting research results in 2009. DP 2009-007, which was produced as a result of the TILEC Innovation, Intellectual Property and Competition Policy Competition (IIPC), explores the **interface between** federal **antitrust laws** and federal and state **intellectual property laws** in the US. The paper uses the Supreme Court judgment in *Suisse v. Billing* as the main legal framework of its analysis, where the Court held that the federal securities regulation implicitly precludes application of federal antitrust laws to this sector. Before ruling so, the Court considered several factors, such as the relative effectiveness of sectoral regulation as opposed to antitrust laws in the regulation and prevention of harmful economic activity and in the end reached the conclusion that the application of the antitrust laws would result in ‘unusually serious mistakes’. The paper investigates whether similar considerations exist in the application of federal antitrust laws to patent hold-up by standard-setting organizations. The paper concludes that leaving the

regulation of this kind of behaviour to the federal patent and state contract laws will provide a more efficient solution.

DP 2009-043 looks at the level of royalties charged by **standard-setting organizations** in high technology markets. These royalties have recently caused enforcement actions and policy initiatives on both sides of the Atlantic. Reflecting these policy and enforcement initiatives, law and economics literature produced a large body of research, particularly on patent hold-up and royalty stacking. Against this background, the paper addresses the issue of whether something has gone wrong with royalties in high technology industries. The paper reveals that the behaviour of each firm and consequently following actions of competition authorities will essentially depend on whether or not the firm it is vertically-integrated.

Interesting comparative research results also emerge in the context of **network neutrality**. DP 2009-034 conducts a comparative analysis between different approaches to telecoms regulation on both sides of the Atlantic with a specific focus on the issue of network neutrality. The paper places the question of network neutrality in the greater debate of incentivizing investment in the next generation broadband infrastructure, under the grave uncertainties regarding the future of the broadband market. The concepts of false negatives and positives, which the paper borrows from statistics, constitute the main analytical foundation for the comparison between the European and American regulatory approaches. Overall, the paper finds the European approach more flexible and responsive, as the existence of both consistent sector-specific regulation and a strong antitrust policy makes it possible to address any false negatives and positives swiftly

DP 2009-005, another product of the TILEC Innovation, Intellectual Property and Competition Policy Competition (IIPC), proposes an empirical strategy for estimating **competition in innovation** markets based on a model of creative destruction. The method relates equity in a firm to information about patent citation patterns, as previously done in some other studies, but uses daily abnormal stock returns (rather than annual measures of the value of firms' equity relative to the replacement cost of capital, the so-called Tobin's q) and create citation patterns related to the area of science a firm patents in, as represented by the detailed patent classification system. The authors find that firm's market value increases when their patent portfolio is cited *and* when there are citations to an area of science in which they are prominent. They interpret these findings as being consistent with 'important' R&D-creating value.

DP 2009-006, yet another product of the TILEC Innovation, Intellectual Property and Competition Policy Competition (IIPC), models judicial learning about **optimal**

patent policy. The court is infinitely-lived; the plaintiff and defendant are short-lived. Litigated cases provide the court with information about the optimal rule. Different cases provide different sorts of information. Opinions influence the stream of future cases likely to be litigated and, as a result, change the flow of information to the court. In structuring opinions, courts make decisions as to whether to learn fast or slowly. There are three main results. First, patent law will stabilize even if the court places zero value on the 'predictability' of legal rules. Second, path dependence of law is a rare outcome. It occurs only when the court stops learning and decides that the error costs (the losses from some cases going the wrong way) are lower than the decision costs. Finally, the law can be optimally incoherent in the short run. The court will pay lip service to prior holdings, while dramatically altering the legal landscape. Patent opinion incoherence, which is the subject of much scholarly critique, then makes sense, because it facilitates future learning from the population of cases most important to the court for policy-making.

When it comes to free movement of production factors and *economic integration*, both the EU and the WTO legal regimes matter. Regarding free movement at the global level, the **WTO regime** walks the tightrope between progressively liberalizing world trade and preserving well-intentioned regulatory diversity. This is a difficult task for the WTO adjudicating bodies and current services disputes confirm as much, notably when it comes to origin-neutral measures which nevertheless adversely affect trade. WTO Members are currently negotiating the adoption of rules (the so-called 'Disciplines on domestic regulation') which will purportedly ensure that origin-neutral measures are not unduly trade-restrictive. DP 2009-032 analyzes the Disciplines with a critical eye and draws rudimentary parallels with the EU Services Directive. The paper argues that the Disciplines can only be successful if they incorporate certain proxies which could be easily used by the WTO judiciary in the resolution of conflicts. Besides a strengthening of rules relating to regulatory transparency, the paper proposes a 'necessity test' drawn from the GATT/WTO history, which is tailor-made to free trade in services and, therefore, is likely to gain 'mass support' of WTO members. Absent this type of proxies, the disciplines are doomed to fail, the paper argues.

DP 2009-028 looks at the current legal developments in the EU and analyses the development of EU case-law on the **freedom of establishment** in the healthcare provision market. This analysis shows that the EU case law in this area is somewhat piecemeal and inconsistent: on the one hand non-discriminatory rules are caught and prohibited by the EU legal regime but on the other hand exceptions are applied liberally under the so-called 'Gebhard Test'. The paper also looks at how a more law and economics-based approach in legal analysis would improve the current legal framework by, for instance, securing controlled expenditure and universal service of high quality through effec-

tive entry. The paper identifies the application of the principle of proportionality and the EU state aid policy to the healthcare market as potential areas for further future research.

DP 2009-029, on the other hand, looks at the **free movement of services** in the EU and analyses the impact of the EU 'codes of conduct' on the liberalization of professional services. Codes of conduct in the EU emerged as a soft method of rule-making and as a quasi-automatic method of mutual recognition in the absence of a country of origin principle. These codes may reinforce trust in the quality of the legal regimes and qualification or licensing requirements of the other Members States, dealing notably with issues such as commercial communications or rules of professional ethos. Nevertheless there is a danger that effective market access for service suppliers can depend heavily on such codes which are typically adopted by non-state bodies which enjoy legal autonomy. Likewise, rules of conduct can hinder free movement of professionals across the EU under certain circumstances. As a result, these codes are likely to jeopardize the liberalization of factor mobility which is enshrined in the primary and secondary EC law or agreed at the multilateral level through state-to-state negotiations.

Finally, a handful of papers took interest in the application of legal and economic science to various '**sectoral**' **problems**, be they the fight against crime, the market for health care, the environment or the governance of academic institutions. Previous studies which attempt to assess the impact of policing on **crime** often report a negative effect of police on property crime and no effect of police on violent crime. DP 2009-012 provides evidence that measurement error in recorded crime statistics in the UK results in underestimation of the effect of police on violent crime. The authors do not find a similar estimation bias for the effect of police on property crime. The paper shows that changes in the way the police records violent incidents rather than changes in reporting behaviour of the public cause the estimation bias. This type of measurement error in police-recorded crime has been found in many countries, including the US. To address the classical chicken-and-egg problem in the relation between police and crime, the authors model the police funding formula which is used to distribute police resources across police force areas in England and Wales. By using the difference between actual police levels and police levels predicted by the funding formula, they can identify the real effect of police on crime.

DP 2009-013 analyses three aspects of postgraduate **medical education** programs: financing, quality assurance, and workforce planning. The paper further investigates whether these activities should be regulated by the government or left to market forces. To answer this question the authors rely on the framework offered by different regulation theories. The public interest, contract and capture approaches and the enforce-

ment theory are all explored. The analysis reveals that the enforcement theory offers the best means to deal with this market. The authors find that to guarantee qualitatively good educational programs governmental intervention is desirable in the financing of postgraduate medical education. Both regulation and enforced self-regulation can be used according to the specific conditions of each country. The planning of workforce via regulation is especially important since some professions, like specialists, exhibit time lags. The authors further investigate the situation of the postgraduate medical education in two countries, Belgium and England, to understand how the issues of financing, quality assurance, and workforce planning in these two different contexts have been tackled.

Health care costs are growing faster than national income in most countries and a part of population does not have access to affordable treatment. Selective contracting between insurers and **health care** providers is often presented as a way to meet these twin challenges. The idea is that insurance companies which have the incentives and means to monitor health care providers could reduce their market power by selectively contracting with them. DP 2009-045 revisits this issue in a model where consumers can choose to remain uninsured and shows that selective contracting does not only lead to positive effects. It can raise the price of uninsured care and it can lead to cheaper insurance for the wrong reason (restricted patient choice rather than cheaper inputs). The solution to these potentially anticompetitive effects is not to ban selective contracting, as the entire pattern of contractual relationships matters for determining the harmful or beneficial effects. Instead, the policy implication is that selective contracts should raise alarm bells if all insurers exclude a care provider with market power in the uninsured market.

DP 2009-035 examines the recent experience concerning **hospital mergers** in the Netherlands, a topic that is likely to be of broader relevance as health care reform in the Netherlands is relatively advanced. The authors look in particular at the issues of market definition, vertical integration and efficiency defence. The authors suggest that there might be a case for stricter, possibly sector-specific forms of merger control in a liberalization context. They also argue in favour of flanking measures, such as facilitating market entry. Finally, public interest standards in health care, such as quality, affordability and accessibility, should be developed further to enable them to play a more meaningful role in merger control.

DP 2009-014 analyzes a scenario in which two identical countries emit pollutants which accumulate into a stock of pollution over time. Both countries suffer from this stock of pollution, which, in some sense, is a public bad. The authors look at the case where countries independently and simultaneously- choose their level of pollution and

show that, paradoxically, a cleaner technology (i.e., a decrease in the emission to output ratio) induces each country to increase its emissions and can ultimately yield a higher level of pollution than a polluting technology. Thus, technical innovation may not be a solution to **transboundary pollution problems** if binding international agreements are not feasible.

DP 2009-021 analyzes the implications of the **governance structure of academic faculties** on their recruitment decisions when competing for new researchers. The value of social interaction to individual members within the faculty depends on the average status of their fellow members. In recruitment decisions existing members trade off the effect of entry on the average status of the faculty against alternative uses of the recruitment budget in case no entry takes place. The authors show that the best candidates join the best faculties but that they receive lower wages than some lower-ranking candidates. They argue that in a second-best world majority voting is a rule that approximately maximizes aggregate faculty surplus. The main policy implication is that consensus-based faculties could improve the well-being of their members if they liberalize their internal decision-making processes.

3.3.2 Law and finance

TILEC researchers involved in the 'Law and Finance' research line also had a very busy and productive year. Unsurprisingly, due to the financial crisis, (i) banks and (ii) financial markets emerge as major research themes, although (iii) the determinants of financial decisions, (iv) corporate governance, and (v) art markets also received substantial attention.

The financial crisis unveiled deficiencies in the regulation and supervision of **banks**, leading to calls for institutional changes and therewith opening the opportunity for an alternative approach. The main institutional reforms proposed, including the establishment of a 'global' regulatory body, of 'European' supervisory colleges, or of a European system of financial supervisors, are likely to fail, and it is thus worth considering alternatives. DP 2009-001 explores the merits of a choice-oriented approach. In this model, individual Member States have the option of delegating **prudential supervision** of their largest banks to the European Central Bank, while still retaining the right to re-assume such a role for themselves at a later date. Responsibilities, commitments and costs are allocated by means of a binding agreement with the ECB that can be tailored to Member States' circumstances, to the extent permitted by supervisory coherence and equal treatment. While the authors admit that their approach is not perfect, they believe it to be the best feasible choice in the current circumstances.

Luc Renneboog, Professor of Corporate Finance, Tilburg University

Luc Renneboog, who are you?

I am a Professor of Corporate Finance at Tilburg University. Prior to joining the department of finance and CentER, I was teaching at the Catholic University of Leuven and Oxford University, and was also a visiting lecturer and researcher at, amongst others, the European University Institute (Florence), HEC Paris, London Business school, University Paris-Dauphine, University of Venice, and CUNEF (Madrid).

I have graduated from the Catholic University of Leuven with degrees in Business Engineering (BSc/MSc) and Philosophy (BA), from the University of Chicago with an MBA in finance, and from the London Business School with a PhD in Financial Economics.

I joined TILEC in the year of its inception (2003). I am also a research fellow of the ECGI (European Corporate Governance Institute) in Brussels.



Luc Renneboog. Photographer: Ben Bergmans.

What are your general research interests?

My research is predominantly directed at corporate finance, corporate governance, initial public offerings (IPOs), mergers and acquisitions, remuneration contracts and bonuses of managers, law and economics, and ethical investing. I have published on these topics in journals such as the Journal of Finance, Journal of Law and Economics, Journal of Corporate Finance, Journal of Financial Intermediation, Oxford Review of Economic Policy, European Financial Management and many others.

What are you working on at the moment?

I am currently working on remuneration contracting. First, I am interested in the extent to

which remuneration contracting influences managerial decision-making. In other words, do remuneration contracts bias managers towards specific decisions on the payout policy or capital structure (e.g. share repurchases instead of dividends; debt rather than equity offerings)? With the financial crisis, the suspicion that remuneration contracts have given managers very specific and very powerful incentives that have worked in a counterproductive way has increased and it is worth being empirically investigated before designing any new regulation. Second, I am interested in the influence of directors' professional and social networks (as well as the networks of the remuneration consultants) on the design of compensation contracts. Furthermore, I am also interested in how art markets work and have written with Ph.D. student Christophe Spaenjers a couple of papers on topics such as (i) risk and returns of art markets (based on very large sets of art auction prices) and (ii) what has driven the art market price movements (equity markets, GDP growth, top incomes, income inequality) over the past 200 years. Overall, our results indicate that new wealth accruing to top income earners has a major impact on the price of art.

DP 2009-002 investigates the effects of a **close relationship** between banks and their clients on firm innovativeness using a panel of Italian manufacturing firms. How active are banks in the innovation process? In order to disentangle the impact of bank ties on the R&D phase from the one on the product introduction phase, the analysis proceeds in two steps, estimating two distinct equations for each phase. As there are conflicting theoretical predictions on the effects of the various sources of funding in the different stages of the innovative process, this study provides separate results for small and high-tech firms, so as to control for firm heterogeneity. The results suggest that for small firms, banks do not carry out a sophisticated intervention at the stage of development of new technologies, playing their traditional role of financing investments of cash-constrained firms. In contrast, relationship banking does play an important and positive role in both phases for high-tech firms.

The recent financial crisis, while having its roots in the US, spread globally in a very short span of time. Banks' interdependence played an obvious role but not much is known about world **financial contagion** channels. DP 2009-008 examines cross-border contagion risk over the period 1999-2006. For this purpose the authors use aggregate cross-border exposures of banks in seventeen countries. They find that a shock which affects the liabilities of one country may undermine the stability of the entire financial system. For instance, a shock wiping out 25% of US cross-border liabilities against non-US banks could lead to bank contagion eroding at least 94% of the recipient countries' banking assets. They also find that since 2006 a shock to Eastern Europe, Turkey and Russia has affected most countries. Simulations also reveal that

the speed of contagion has increased in recent years resulting in a higher number of directly exposed banking systems. Finally, they find that contagion is more widespread in geographical proximities. Ironically, the US is the only country immune to cross-border shocks stemming from other countries!

As the recent financial crisis exemplified, the **allocation of credit** is a central determinant of economic growth. Entry by foreign banks into emerging markets could be beneficial if those banks are superiorly managed and extend loans to all borrower types, triggering a decrease in lending rates (performance hypothesis). Foreign banks however are often accused of 'cherry picking' the best borrowers, and in general, of lending more to large transparent firms at the expense of small and medium sized enterprises (SMEs), implying a different portfolio composition (portfolio composition hypothesis). DP 2009-044 uses a unique data set containing bank-specific information to explore this issue. The authors investigate the impact of the mode of foreign entry (greenfield or takeover) on banks' portfolio allocation to borrowers with different degrees of informational transparency, as well as by maturities and currencies. Their results are broadly in line with the portfolio composition hypothesis, showing that information about borrowers' type determines bank credit allocation.

Turning attention to **financial markets**, DP 2009-026 uses a registry of legal insider trading for Dutch listed firms to investigate the **informational content of trades by corporate insiders**. Using the standard event-study methodology, the authors examine short-term stock price behaviour around trades. They find that purchases are followed by economically large abnormal returns. This result is strongest for purchases by top executives and for small market capitalization firms, which is consistent with the hypothesis that legal insider trading is an important channel through which information flows to the market. The authors also analyze also the impact of the implementation of the Market Abuse Directive (European Union Directive 2003/6/EC), which strengthens the existing regulation in the Netherlands, and show that the new regulation reduced the information content of sales by top executives.

DP 2009-043 examines stock exchange trading **rules for market manipulation, insider trading and broker agency conduct** across countries and over time for 42 stock exchanges around the world. Some stock exchanges have extremely detailed rules which explicitly prohibit specific manipulative practices, while others use less precise and broadly framed rules. The paper investigates whether those rules influence investors' decision to trade on a specific exchange. To this end, the authors examine whether differences in trading velocity across exchanges are attributable to differences in rules. A hypothesis is tested that vague regulations create inefficiency as investors and/or traders are not clear as to which activities are acceptable and which ones are in breach of the spirit

of the rules. Conversely, one may argue that detailed regulations create inefficiency as investors and/or traders are able to take advantage of inevitable loopholes. The data show a strongly positive and robust effect of trading rules on trading velocity, suggesting that trading rules are an important information source to consider for explaining differences in trading activity among stock exchanges around the world.

DP 2009-039 presents a two-stage model of the decision-making process of **financial analysts** when issuing earnings forecasts. In the first stage, financial analysts perform fundamental earnings analysis in which they are, potentially, subject to a behavioural bias. In the second stage analysts can adjust their earnings forecast in line with their strategic incentives. The paper analyzes this decision process throughout the forecasting period and explains the underlying drivers. Using quarterly earnings forecasts, the authors document that throughout the entire forecasting period financial analysts overweight their private information. At the same time, financial analysts behave strategically. They issue initial optimistic opinions by strategically inflating their forecast. In their last revision, they become pessimistic and strategically deflate their earnings forecast which creates the possibility of a positive earnings surprise. This analysis of the dynamics of the decision process provides empirical evidence on the coexistence of overconfidence and strategic incentives.

Although the relationship between religion and economic development on the macro-level has been investigated, it is less clear how religious background influences economic attitudes and **financial decision-making** on the level of the individual or household. DP 2009-018 uses panel data from the extensive DNB Household Survey, covering the period from 1995 to 2008, to investigate whether and through which channel **religious denomination** affects household finance in the Netherlands. The authors find evidence that, in general, religious households care more about saving, are more risk-averse, consider themselves more trusting, believe less that their life is determined by their own actions and care more about the inheritance of their children. Furthermore, Catholics and Protestants have longer planning horizons, while Protestants and Evangelicals seem to have a greater sense of individual financial responsibility. Most of these factors matter for household financial decision-making, albeit to differing degrees. Using religion variables as instruments for economic attitudes and controlling for demographic and background risk characteristics, the authors demonstrate that the above-mentioned differences in economic beliefs and preferences explain the higher propensity to saving by religious households in general and the lower investments in risky assets by Catholic households.

DP 2009-020 examines the effect of **trust** on financial investment and contracting decisions in a micro-economic environment where trust is exogenous. Using hand-collected data on European venture capital, the authors show that the Euro barometer measure of trust among nations significantly affects investment decisions. This holds even after controlling for investor and company special characteristics, geographic distance, information and transaction costs. The national identity of venture capital firms' individual partners further contributes to the effect of trust. Education and work experience reduce the effect of trust but do not eliminate it. The authors also examine the relationship between trust and sophisticated contracts involving contingent control rights and find that two parties will not find it worthwhile to write a complex contract if they have low trust in their counterparts' nation, showing that contract, showing that complexity is not a substitute for the absence of trust.

In recent years, the emphasis on **corporate governance** has shifted from board composition, independent directors, separating the position of chairperson and CEO and establishing board committees to 'being in control' and **risk management** issues. However, the corporate law perspective of internal control and risk management does not match up to the multidisciplinary perspective of these themes. DP 2009-023 analyzes the dichotomy between the US and the EU corporate law approaches to internal control and risk management. Lawmakers from the US, the EU, and the EU Member States reacted to the scandals between 2000 and 2003 with provisions requiring public companies to have internal control and risk management systems in order to restore public confidence but the substance of their responses differed. The paper reveals that the US and the EU regulatory frameworks indicate not only that their corporate law approaches to internal control and risk management are different but also that both approaches are incomplete in several areas. The paper puts forward a regulatory proposal to address this 'incompleteness'. This proposal identifies individual steps to be taken in establishing an operational internal control and risk management framework and to address the role of the different parties involved from a corporate law perspective.

From the perspective of law and finance, Belgium appears to be a rather exceptional country, since it did not experience major governance collapses in the nineties. However, DP 2009-024, which analyzes historical and current developments in **Belgian corporate governance**, argues that the country must not be envied. Most importantly, the paper assesses characteristics of the current 'Lippens Code' and the legal framework it has created. The paper also evaluates the influence of the Lippens Code on the corporate governance practices of Belgian firms. It studies compliance with the Code and addresses the weak relationship between corporate governance compliance and corporate performance. Finally, after looking at the 2008 initiative to modernize the Code and briefly comparing other corporate governance codes, the

paper concludes that more effort has to be made so as to improve Belgian corporate governance practices and to promote Belgium into the premier corporate governance league in Europe.

Staying on the line of Belgian corporate governance, DP 2009-025 analyses the **Belgian** transposition of the European **capital requirements** and the initiatives for their modernization under the EU Directive 2006/68. Although the paper finds the new rules on contributions in kind, share buy-backs and financial assistance to acquire the company's shares overall effective, the new legal regime suffers from certain weaknesses. For instance, conditions for setting the requirement of the expert's report for a contribution in kind aside are too complicated, and the new limitation on buying back shares appear too restrictive. On the positive side, the new legal framework scores well on the financial assistance front.

DP 2009-009 investigates **small firms' capital structure**, using a proprietary database containing financial statements of Dutch small and medium-sized enterprises (SMEs) from 2003 to 2005. The authors find that the capital structure decision of Dutch SMEs is consistent with the so-called pecking order theory: SMEs use profits to reduce their debt level, and growing firms increase their debt position since they need more funds. Furthermore, the authors document that profits particularly reduce short-term debt, whereas growth increases long-term debt. This implies that when internal funds are depleted, long-term debt is next in the pecking order. There is also evidence for the maturity matching principle in SME capital structure: long-term assets are financed with long-term debt, while short-term assets are financed with short-term debt. Finally, the authors find that SME capital structure varies across industries but that firm characteristics are more important than industry characteristics.

DP 2009-019 is the first to investigate the corporate governance role of shareholder-initiated **proxy proposals** in European firms. The authors use sample selection models to analyze target selection and proposal success in terms of the voting outcomes and the stock price effects and make several contributions to the literature. First, proposal submissions remain infrequent compared to the US, in Continental Europe in particular. Second, there is some evidence that the proposal sponsors are valuable monitors, because the target firms tend to underperform and have low leverage. Third, while proposals enjoy limited voting success across Europe, they are relatively more successful in the UK. The outcomes are better for proposals targeting the board but are also affected by the target characteristics including the CEO's pay-performance sensitivity. Finally, proposals are met with strong negative stock price effects when they are voted upon at general meetings. This suggests that the market often interprets proposals as a negative signal of governance concerns, rather than attribute them control benefits.

Would banks' management teams have avoided excessive risk-taking if they had been thoroughly monitored by shareholders? Is **shareholder activism** a good thing in general? DP 2009-031 provides evidence on the corporate governance role of shareholder-initiated proxy proposals. Previous studies debate over whether activists use proposals about corporate decisions to discipline firms or to simply advance their self-serving agendas, and whether such proposals are effective at all in addressing governance concerns. Using the largest sample yet examined as well as extensive controls for governance quality, the authors find that activists use the proxy process as a disciplinary mechanism, and as such are valuable monitoring agents. Moreover, proposal announcements in the proxy statements have positive stock price effects, and both the market and the voting shareholders respond as much to the target firm's governance quality as to the proposal's objective and sponsoring shareholder. The authors conclude that shareholder proposals have nontrivial control benefits against the arguments that they should be restricted by regulatory authorities.

Initial public offerings (IPOs) on markets for newly-listed firms have shown very high underpricing. The majority of these IPOs possess specific characteristics such as lock-up agreements, venture-capital financing, ownership by the underwriter and over-allotment options. DP 2009-022 studies how these characteristics influence the underpricing of firms listed on the two largest European 'new markets': the Neuer Markt of Germany and the Nouveau Marché of France. The authors find that contrary to the evidence on the US high underpricing in these two markets is not driven



by insiders' selling behaviour but by the high degree of riskiness of issuing firms and the uncertainty surrounding their valuation. In contrast, venture-capital involvement does not affect underpricing. The authors also explore the reasons for the large difference in underpricing between the German and the French IPOs and find that German firms are more underpriced because they are more risky, have larger price revisions, have less stringent lock-up contracts and mostly went public during the hot issue period of 1999-2000 when the general level of underpricing in all IPO markets was substantially higher.

*Tilburg University campus.
Photographer: Ton Toemen.*

Bankruptcy was once seen as a major moral failure, revealing the reckless nature of the impecunious entrepreneur unable to face up to his obligations. Even nowadays there are conflicting views about the ultimate goal of **bankruptcy** regimes: orderly liquidation of failed businesses or efficient re-organization of viable concerns? In that respect, one often contrasts the 'soft' US regime with the 'tough' regime which until recently prevailed in most EU Member-States. DP 2009-040 challenges the received wisdom according to which 'soft' regimes have positive effects on the financing of long-term projects. Indeed, in the presence of moral hazard, the discontinuation of such projects is the optimal punishment for initially poor performance. If a lender can increase recovery rates in bankruptcy, then such punishment will no longer be credible, as the parties will always prefer renegotiating. Clearly, this exacerbates the difficulty for a lender to commit capital to long-term projects *ex ante* and may bias business activities towards short-term, less valuable investment projects.

DP 2009-046 offers a new explanation of the **gender pay gap** in leadership positions by examining the relationship between managerial bonuses and company performance. Drawing on findings of gender studies, agency theory and the leadership literature, the authors argue that the gender pay gap is a context-specific phenomenon which partly results from the fact that company performance has a moderating impact on pay inequalities. Employing a matched sample of 192 female and male executive directors of UK listed firms; they corroborate the existence of the gender pay disparities in corporate boardrooms. In line with theoretical predictions, they find that bonuses awarded to men are not only larger than those allocated to women but also that managerial compensation of male executive directors is much more performance-sensitive than that of female executives.

DP 2009-004 investigates the evolution of prices and returns in the **art market** since the middle of the previous century. The authors compile a comprehensive list of more than 10,000 artists and then build a dataset that contains information on more than 1.1 million auction sales of paintings, prints, and works on paper. They analyze the **determinants of prices**, which potentially include the artist's reputation, the strength of the attribution to an artist, and the subject matter of the work. They conclude that art has appreciated in value by a moderate 4.03% per year, in real USD terms, between 1951 and 2007. During the art market boom period 2002-2007 prices rose by 11.60% annually which explains the increased attention to 'art as an investment'. However, when comparing the long-term returns on art to those on financial assets, the authors find that between 1982 and 2007 art has underperformed both stocks and bonds. In contrast to earlier studies, the authors find evidence of a positive masterpiece effect: high-quality art makes for a better investment.

DP 2009-033 investigates the prices and returns in the market for modern **Russian art**, one of the most important emerging art markets. Exploring the determinants of prices and returns with an extensive dataset containing information on 52,154 art transactions, the authors find a geometric average return of 4.07%, in real USD terms, between 1967 and 2007. Their Russian art index shows an annualized return of 12.40% since 1997, which is roughly double the average yearly appreciation of a global art market index over the same period. Art from the nineteenth century has especially performed well. The authors demonstrate that the prices of Russian art are affected by both Russian and global stock market movements. Their results illustrate how new wealth created in fast-developing economies has its impact on the demand for art from these countries.

4. EDUCATION

4.1 MASTER PROGRAMMES

TILEC does not offer educational programs of its own but TILEC members play a central role in the teaching of various programs offered by TILEC's parent schools. Within the Tilburg School of Economics and Management, the track 'Competition and Regulation' is part of the M.Sc. in Economics. Courses with an interdisciplinary focus include a seminar on the Competitiveness of the European Union (taught by Erik Brouwer and Eric van Damme), a seminar on Liberalization and Regulation in Network Industries (taught by Bert Willems and Gijsbert Zwart), a seminar on Competition Policy (taught by Jan Boone and Lapo Filistrucchi), as well as a new course on Competition and Regulation in Health Care Markets (taught by Ilaria Mosca and Catherine Schaumans).

Within the Tilburg Law School, teaching in the LL.M. program of International Business Law is almost exclusively performed by TILEC members. In 2009, TILEC members taught various interdisciplinary courses including the courses on Banking and Securities Regulation (taught by Joe McCahery), International Business Law focusing on the corporate governance of non-listed firms (taught by Erik Vermeulen), Business Law and Economics (taught by Peter Cserne and Matteo Negrinotti), European Competition Law (taught by Matteo Negrinotti and Damien Geradin) and a seminar on Advanced Competition Law and Economic Regulation (taught by Damien Geradin and Pierre Larouche).

In addition, TILEC members contribute to the research master programs of its parent faculties. For instance, in the School of Economics, Cédric Argenton is responsible for a full-semester Law and Economics course covering such canonical topics as tort, property, contracts, litigation and enforcement. Likewise, Péter Cserne led a similar course in the research master program of the Law School in 2009.

4.2 PHD PROGRAM AND PHD DISSERTATIONS

TILEC does not have its own PhD program but accommodates doctoral students through its affiliation with the CentER Graduate School and the Tilburg Graduate Law School. Doctoral students who become junior TILEC members are provided with regular supervision by a team of academic experts from both the School of Economics and Management and the Law School and become a part of a congenial research environment. In 2009, four TILEC junior members successfully defended their PhD theses.

TILEC member **Maartje de Visser** was awarded her doctorate *cum laude* at Tilburg University on 23 January 2009. Her dissertation, supervised by TILEC director Pierre Larouche, engages in the debate on better application of European law. Network-based governance was introduced in the European Union for the application and enforcement of EC competition and EC communications law. The networks comprise the European Commission and national authorities, and create a sophisticated web of rights and obligations between these actors. Maartje argues that networks foster cooperation amongst national authorities and with the European Commission. Furthermore, participation in networks 'europeanizes' otherwise nationally-focused authorities when they apply EU law. Maartje's research demonstrates that network-based governance deserves careful consideration as a model that is able to mediate the competing concerns of coherence for internal market reasons and diversity and respect for local autonomy.

On 23 November 2009, TILEC member **Eckart Ehlers** successfully defended his dissertation on electricity and gas supply network unbundling, supervised by TILEC members Leigh Hancher and Pierre Larouche. Eckart's thesis analyzes the legality of supply network divestiture measures proposed by the European Commission and the legislative unbundling measures which entered into force in 2009 on the basis of European law and the constitutional frameworks of the United Kingdom, the Netherlands and Germany.

On 1 December 2009 TILEC member **Alan Littler** was awarded a doctorate with his dissertation on the regulation of gambling which was supervised by Tilburg University professor Cyrille Fijnaut and TILEC member Pierre Larouche. Alan's thesis argues that although EU Member States embrace similar objectives in the regulation of gambling supply services, they follow different regulatory approaches in many respects. Consequently, the thesis argues that coordination between national regulatory authorities is required to ensure that the national competence of regulating gambling does not undermine the internal market.

On 18 December 2009, TILEC member **Zhen Shi** defended her dissertation on pension finance, written under the supervision of Tilburg University Professor Bas Werker. This thesis analyzes the three major participants in pension finance, namely: pension funds, individuals, and sponsoring companies. In the light of the fragile financial market performance, prudential regulatory rules are imposed widely all over the world. The purpose of these regulations is to reduce the risk of pension funds and protect pension fund participants. However, they also provide participants with possibly distorted incentives. The dissertation derives their optimal investment strategies under the prudential regulatory rules that are widely imposed all over the world.

5. SPONSORSHIP, GRANTS AND CONTRACT RESEARCH

In 2009, TILEC's formal budget amounted to about € 1.9 million. About a third of that amount was provided by Tilburg University (at various levels). For the remainder, research at TILEC was funded by the following organizations.

- ActiZ (Organization of Dutch health care providers)
 - o For research on the functioning of markets for home care
- AFM (Autoriteit Financiële Markten)
 - o For the TILEC-AFM research network on financial markets regulation
- Essent
 - o For research on energy markets
- European Commission
 - o For research carried out by the COPECL Network of Excellence
 - o For the Marie Curie grant of Bert Willems
- HiiL
 - o For the research project Convergence and divergence of National Legal Orders
- Microsoft
 - o For the research on competition policy and regulatory aspects of key developments in ICT
- NZa (Nederlandse Zorgautoriteit)
 - o For research on health care markets
- NWO (De Nederlandse Organisatie voor Wetenschappelijk Onderzoek)
 - o For the research project of Ting Jiang
 - o For the research project of Maartje de Visser
 - o For the research project of Natalia Fiedziuk
- NGI (the Next Generation Infrastructures project, coordinated by TU Delft)
 - o For the project on State aid and infrastructure
 - o For the Unecom project
- Program Politie en Wetenschap
 - o For research on criminality
- Staatsloterij
 - o For research on gambling
- TenneT
 - o For research on energy sector regulation
- Qualcomm Inc.
 - o For research on innovation, intellectual property and competition

APPENDIX A: MEMBERS

Table A1: TILEC membership per 31 December 2009

MEMBERS	2009	2008	2007	2006	2005	2004	2003	2002
Total numbers, of whom:	58	61	52	44	36	34	27	19
- <i>Senior</i> , of whom:	45 ¹	43 ¹	33	27	21	22	25	19
- Institutions, Competition and Regulation	35	31	22	19	16	18	21	17
- Law and Finance	11	13	12	8	5	4	4	2
New members since previous period	8	8	7	9	3	3	7	-
Departures since previous period	6	1	1	3	4	6	1	-
Research commitment (fte)	16	12.8	9.9	8.5	5.0	5.4	4.7	3.7
- <i>Junior</i> , of whom:	13 ²	18	19	17	15	12	2	-
- Institutions, Competition and Regulation	10	15	16	10	9	8	1	-
- Law and Finance	3	3	3	7	6	4	1	-
New members since previous period	7	4	4	6	5	10	2	-
Completion of Ph.D.	3	1	2	2	2	-	-	-
Departures since previous period	4	2	-	2	-	-	-	-
Research commitment (fte)	4.7	3.2	5.9	7.5	6.3	1.5	0.3	

¹ One senior member is active in both research lines.

² Until this year, no distinction was made between internal and external PhD students. As of 2009, we list these as separate categories, hence, the decrease. For external PhD students (5 in 2008); see Table A5 for 2009. Table A4 reports on TILEC extramural fellows.

Table A2: Senior Membership overview per 31 December 2009

Member	Commitment (fte) ³	Research Line		School		Since
		ICR4	L&F5	TISEM ⁶	TLS ⁷	
Senior members						
Cédric Argenton	0.5	•		•		2007
Maurits Barendrecht	0.1	•			•	2003
Jan Boone	0.4	•		•		Founding
Erik Brouwer	0.3	•		•		2006
Marcel Canoy	0.1	•		•		2008
Firat Cengiz	0.8	•			•	2009
Amrita Chauduri	0.6	•		•		2007
Péter Cserne	0.8	•			•	2009
Eric van Damme	0.4	•		•		Founding
Panagiotis Delimatsis	0.6	•			•	2008
Hans Degryse	0.6		•	•		2006
Philip Eijlander	0.1	•			•	Founding
Christoph van der Elst	0.1		•		•	2006
Lapo Filistrucchi	0.6	•		•		2006
Damien Geradin	0.5	•			•	2005
Peter de Goeij	0.2		•	•		2008
Leigh Hancher	0.2	•			•	Founding
Willem Hoyng	0.1	•			•	2008
Sofia Johan	0.2		•		•	2003
Tobias Klein	0.1	•		•		2008
Pierre Larouche	0.4	•			•	Founding
Alan Littler	0.8	•			•	2005
Joe McCahery	0.4		•		•	Founding
Ilaria Mosca	0.1	•		•		2006
Wieland Müller	0.1	•		•		2004

Matteo Negrinotti	0.8	•			•	2009
Steven Ongena	0.1		•	•		2006
Laura Parret	0.1	•			•	Founding
Maria Fabiana Penas	0.1		•	•		2006
Jan Potters	0.1	•		•		Founding
Jens Prüfer	0.6	•		•		2006
Luc Renneboog	0.2		•	•		Founding
Marco da Rin	0.1		•	•		2007
Pieter Ruys	0.2	•		•		Founding
Wolf Sauter	0.4	•			•	2008
Catherine Schaumans	0.6	•		•		2008
Florian Schütt	0.8	•		•		2009
Gregory Sidak	0.0	•			•	2009
Sigrid Suetens	0.1	•		•		2007
Emanuele Tarantino	0.8	•		•		2009
Erik Vermeulen	0.4		•		•	2003
Ben Vollaard	0.8	•		•		2008
Wolf Wagner	0.1	•	•	•		2007
Bert Willems	0.5	•		•		2006
Gijsbert Zwart	0.1	•		•		2005

-
- 3 Research time committed to TILEC in fte (full time equivalent). (Numbers are not corrected for the date on which researchers joined TILEC.)
- 4 Institutions, Competition and Regulation
- 5 Law and Finance
- 6 TiSEM: Tilburg School of Economics and Management
- 7 TLS: Tilburg Law School

Table A3: Junior Membership overview per 31 December 2009

Member	Commitment (fte) ⁸	Research Line		School		Since
		ICR ⁹	L&F ¹⁰	TiSEM ¹¹	TLS ¹²	
Junior members						
Peter Cziraki	0.5		•	•		2009
Natalia Fiedziuk	0.7	•			•	2007
Bastian Henze	0.1	•		•		2009
Annette Hirschfeld	0.6	•			•	2008
Ting Jiang	0.2	•		•		2006
Vincent van Kervel	0.7		•	•		2009
Simone Keunen	0.1	•		•		2008
Jing Li	0.1		•		•	2009
Kebin Ma	0.1	•		•		2009
José Mulder	0.1	•			•	2006
Fatih Ozbugday	0.1	•		•		2009
Christoph Schottmüller	0.7	•		•		2008
Jasper Sluijs	0.7	•			•	2009

⁸ Research time committed to TILEC in fte (full time equivalent). (Numbers are not corrected for the date on which researchers joined TILEC.)

⁹ Institutions, Competition and Regulation

¹⁰ Law and Finance

¹¹ TiSEM: Tilburg School of Economics and Management

¹² TLS: Tilburg Law School

Table A4: Extramural Fellows per 31 December 2009

Paul de Bijl	Netherlands Bureau for Economic Policy Analysis (CPB), The Netherlands
Gert Brunekreeft,	Jacobs University, Germany
Riccardo Calcagno	Free University Amsterdam, The Netherlands
Elena Carletti	Goethe University Frankfurt, Germany
Filomena Chirico	European Commission, Belgium
Ilse van der Haar	Dutch Telecommunications regulator (OPTA), The Netherlands
Rein Halbersma	Dutch Healthcare Authority (NZa)
Gregor Langus	European Commission, Belgium
Saskia Lavrijsen	University of Utrecht, The Netherlands
Karin Lutikhuis	Maastricht University, The Netherlands
Misja Mikkers	Dutch Healthcare Authority (NZa)
Evgenia Motchenkova	Free University Amsterdam, The Netherlands
Machiel Mulder	Netherlands Competition Authority (NMa)
Matthijs Nelemans	De Brauw Blackstone, The Netherlands
Valter Sorana	CRA International, United Kingdom
Peter Szilagi	Judge Business School, Cambridge University
Allesandro Tajana	Linklaters, Belgium

Table A5: External PhD Students per 31 December 2009

Brigitte Andersen	Center for European Integration Studies (ZEI), The Netherlands
Machiel Bolhuis	TILEC, The Netherlands
Emmanuel De Corte	TILEC, The Netherlands
Robert Dijkstra	Tilburg University, The Netherlands
Katalin Katona	Dutch Healthcare Authority (NZa), The Netherlands
Michiel de Nooij	TILEC, The Netherlands

APPENDIX B: PUBLICATIONS BY TILEC MEMBERS

The following publications all appeared in 2009.¹³

B I ACADEMIC PUBLICATIONS

B I.1 Journals

Boone, J.

Bringing unemployed back to work: effective labour market policies. *De Economist*, 157(3), 293-313 (with J.C. van Ours).

Experiments on unemployment benefit sanctions and job search behaviour. *European Economic Review*, 53(8), 937-951 (with A. Sadrieh and J.C. van Ours).

Optimal privatisation using qualifying auctions. *The Economic Journal*, 119(534), 277-297 (with J.K. Goeree).

Risky procurement with an insider bidder. *Experimental Economics*, 12(4), 417-436 (with R. Chen, J.K. Goeree and A. Polydoro).

Chaudhuri, A.R.

On trade liberalization and transboundary pollution. *Economics Bulletin*, 29 (4), 2605-12 (with S. Baksi).

Damme, E.E.C. van

Supply and demand determine the market value of food providers in wild vervet monkeys. *Proceedings of the National Academy of Sciences of the United States of America (PNAS)*, 106(29) 12007-12012 (with C. Fruteau, B. Voelkl, and R. Noe).

Da Rin, M.

What is the role of legal systems in financial intermediation? Theory and evidence. *Journal of Financial Intermediation*, 18(4), 559-598 (with L. Bottazzi and T. Hellmann).

Degryse, H.A.

Competition between financial markets in Europe: What to expect from MiFID? *Financial Markets and Portfolio Management*, 23, 93-103.

Dynamic order submission strategies with competition between a dealer market and a crossing network. *Journal of Financial Economics*, 91(3), 319-338 (with M. van Achter and G. Wuyts). **egryse, H.A. and S. Ongena**

The impact of organizational structure and lending technology on banking competition. *Review of Finance*, 13, 225-259 (with L. Laeven).

Lending technology, bank organization and competition. *Journal of Financial Transformation*, 26, 24-30 (with G. Tumer-Alkan).

Delimatsis, P.

Financial innovation and climate change: The case of renewable energy certificates and the role of the GATS. *World Trade Review*, 8(3), 439-460.

En quête de cohérence: l'interprétation des concepts de restriction ou de limitation quantitative dans le GATT et l'AGCS. *Revue Suisse de droit international et Européen*, (1), 25-45 (with P. Lièvre).

Dijkstra, R.J.

Liability of financial regulators: defensive conduct or careful supervision? *Journal of Banking Regulation*, 10(4), 269-284.

Ehlers, E.

Legal and economic aspects of ownership unbundling in the EU. *Journal of World Energy Law and Business (JWELB)*, 96-116 (with J. Chr. Pielow and G. Brunekreeft).

Elst, C.F. van der

New capital preservation law, Belgian style. *European company law*, 6 (3), 110-114.

Internalizing corporate law or externalizing labour law. *European Company Law*, 6(6), 244-245.

New view of the Belgian Supreme Court on 'daily management' of a company. *European Company Law*, 6(5), 230-231.

Biedt de S-BVBA een afdoende antwoord op de Britse Limited? *Tijdschrift voor Rechtspersoon en Vennootschap*, 6, 495-508.

Audit committees in public interest entities. *European Company Law*, 6(6), 271-274.

Corporate regulatory frameworks for risk management in the US and EU. *Corporate Finance and Capital Markets Law Review*, 1/2, 83-94 (with M.M.A. van Daelen).

Upgrading corporate governance: het auditcomité in het Wetboek van Vennootschappen. *Tijdschrift voor Rechtspersoon en Vennootschap*, 5, 397-415 (with I. De Poorter).

Balancing the interests of minority and majority shareholders: a comparative analysis of squeeze-out and sell-out rights. *European Company and Financial Law Review*, 4, 391-439 (with L.S.F. van den Steen).

Over de grenzen van het ondernemingsrecht: Fortis. *Onderneming en Financiering*, (3), 5-17.

Geradin, D.A.A.G.

Pricing abuses by essential patent holders in a standard-setting context: a view from Europe. *Antitrust Law Journal*, 76 (1), 329-358.

A proposed test for separating pro-competitive conditional rebates from anti-competitive ones. *World Competition*, 32(1), 41-70.

The perils of antitrust proliferation: the globalization of antitrust and the risks of over-regulation of competitive behaviour. *Chicago Journal of International Law*, 10(1), 189.

Goeij, P. C. de

Stock and bond market interactions with level and asymmetry dynamics: an out-of-sample application. *Journal of Empirical Finance*, 16(2), 318-329 (with W. Marquering).

Hancher, L.

Networks on track: from European regulatory networks to European regulatory 'network agencies'. *Legal Issues of Economic Integration*, 36(1), 23-55 (with S. Lavrijssen).

Johan, S.A.

Legality and venture capital fund manager compensation. *Venture Capital: An International Journal of Entrepreneurial Finance*, 11, 23-54 (with Douglas Cumming).

Pre seed government venture capital funds. *Journal of International Entrepreneurship*, 7, 26-56 (with Douglas Cumming).

Klein, T.J.

The actual structure of eBay's feedback mechanism and early evidence on the effect of recent changes. *International Journal of Electronic Business*, 7(3), 301-320 (with C. Lambertz, G. Spagnalo and K.O. Stahl).

Larouche, P.

The European Microsoft case at the crossroads of competition policy and innovation. *Antitrust Law Journal*, 75(3), 933-964.

McCahery, J.A.

Optional EU Banking supervision? *European Company Law*, 6(1), 4-5, (with G. Hertig).

McCahery, J.A. and E.P.M. Vermeulen

How does corporate mobility affect lawmaking: a comparative analysis? *The American Journal of Comparative Law*, 57(2), 501-549 (with W.W., Bratton).

Mulder, J.D.W.E.

How do we compensate a victim's losses? An economic perspective. *The International Review of Victimology*, 16, 67-87.

Müller, W.

The miracle as a randomized device: a lesson from Richard Wagner's romantic opera "Tannhauser und der Sanggerkrieg auf Wartburg". *Economics Letters*, 102(1), 33-35 (with H. Harmgart and S. Huck).

Oligopoly limit-pricing in the lab. *Games and Economic Behavior*, 66 (1), 373-393 (with Y. Spiegel and Y. Yehezkel).

Ongena, S.

Financial integration and entrepreneurial activity: Evidence from foreign bank entry in emerging markets. *Review of Finance*, 13, 181-223 (with M. Giannetti).

Ongena, S. and M.F Penas

Bondholders' wealth effects in domestic and cross-border bank mergers. *Journal of Financial Stability*, 5(3), 256-271.

Parret, L.Y.J.M.

En wat met de rechtsbescherming? Het Verdrag van Lissabon en de communautaire rechter. *Sociaal-economische Wetgeving SEW: Tijdschrift voor Europees en Economisch Recht*, 57(3), 103-107.

Potters, J.J.M.

Technology adoption subsidies: an experiment with managers. *Energy Economics*, 31(3), 431-442 (with R.F.T. Aalbers, E.C.M van der Heijden, D.P. van Soest and H.R.J. Vollebergh).

Hierarchy and opportunism in teams. *Journal of Economic Behavior and Organization*, 69(1), 39-50 (with E.C.M. van der Heijden and M. Sefton).

Potters, J.J.M. and S. Suetens

Cooperation in experimental games of strategic complements and substitutes. *Review of Economic Studies*, 76(3), 1125-1147.

Renneboog, L.D.R.

The dividend policy of German firms: a dynamic panel data analysis with partial adjustment models. *Journal of Empirical Finance*, 16(2), 175-187 (with C. Andres, A. Betzer and M. Goergen).

Why are the French so different from the Germans? Underpricing in IPOs on the euro new markets. *International Review of Law and Economics*, 29(3), 260-272 (with M. Goergen and A. Khurshed).

What determines the financing decision in corporate takeovers: cost of capital, agency problems, or the means of payment? *Journal of Corporate Finance*, 15(3), 290-315 (with M. Martynova).

Information salience, investor sentiment and stock returns: the case of British soccer betting. *Journal of Corporate Finance*, (2009).15(3), 368-387 (with F.A. Palomino, C. Zhang).

Sauter, W.

Case T-289/03, British United Provident Association (BUPA), BUPA Insurance Ltd, BUPA Ireland v. Commission. *Common Market Law Review*, 46(1), 269-286.

The proposed Patients' Rights Directive and the reform of (cross-border) healthcare in the European Union. *Legal Issues of European Integration*, 6(2), 109-131.

Is the general consumer interest a source of legitimacy for healthcare regulation? An analysis of the Dutch experience. *European Journal of Consumer Law/ Revue Européenne de Droit de la Consommation*, 8 (2-3), 419-434.

Patiëntenrechten bij grensoverschrijdende zorg. *Nederlands Tijdschrift voor Europees Recht*, 15(1), 1-7.

Sidak, Gregory J.

Dynamic competition in antitrust law. *Journal of Competition Law and Economics*, 5(4), 581-631.

Google and the proper antitrust scrutiny of orphan books. *Journal of Competition Law and Economics*, 5(3), 411-438 (with Jerry A. Hausman).

Patent holdup and oligopsonistic collusion in standard setting organizations. *Journal of Competition Law and Economics*, 5(1), 123-188.

Rewriting the horizontal merger guidelines in the name of dynamic competition. *George Mason Law Review*, 16(4), 885-894.

Vollaard, B.A.

The effect of police on crime, disorder and victim precaution. *International Review of Law and Economics*, 29 (4), 281-293 (with P.W.C. Koning).

Wagner, W.B.

Banking fragility and liquidity creations: Options as a substitute for deposits. *Annals of Finance*, 5(1), 125-129.

Efficient asset allocations in the banking sector and financial regulation. *International Journal of Central Banking*, 5(1), 75-95.

The marketability of bank assets and managerial rents. *Journal of Financial Stability*, 5(3), 272-282 (with F. Fecht).

Willems, B.

Where the Champsaur Commission has got it wrong (Guest editorial). *The Electricity Journal*, 22(7), 81-86 (with C. Crampes, J.M. Glachant, C. von Hirschhausen, F. Levêque, D. Newberry, I. Perez- Arriaga, P. Ranci and S. Soft).

Does more international transmission capacity increase competition in the Belgian electricity market? *The Electricity Journal*, 22(1), 21-36 (with G. Kupper, E. Delarue, B. Delvaux, L. Meeus, D. Bekaert, S. Proost, W. D'haeseleer, K. Deketelaere and R. Belmans).

Cournot versus supply functions: What does the data tell us? *Energy Economics*, (2009). 31(1), 38-47 (with I. Rumiantseva, and H. Weigt).

Zwart, G.T.J.

European natural gas markets: resource constraints and market power, *The Energy Journal*, 30(Special Issue), 151-166.

B 1.2 Book Chapters

Argenton, C. and W. Müller

Bertrand competition with convex costs in symmetric and asymmetric markets. Results from a pilot study. In W. Franz, W. Guth, H.J. Ramser & M. Stadler (Eds.), *Experimentelle Wirtschaftsforschung*. Wirtschaftswissenschaftliches Seminar Ottobeuren 38. Tübingen: Mohr Siebeck.

Barendrecht, J.M.

A code of conduct for negotiating personal injury claims: structuring the shadow of tort law. In F.W. Winkel, R.M. Letschert, G.F. Kirchhoff and P.C. Friday (Eds.), *Victimization in a Multidisciplinary Key: Recent Advances in Victimology*, 207-246. Nijmegen: Wolf Legal Publishers (with C.M.C. van Zeeland and Y.P. Kamminga).

Canoy, M., (2009)

Public perception and intra-EU migration. In Martin Kahanec and Klaus F. Zimmermann (Eds.) *EU Enlargement and the Labor Markets*. Bonn:IZA (with A. Horvath, A. Hubert, F. Lerais and M. Sochacki).

Cserne, P.

A jogosultságok konceptualizálásának és modellezésének lehetőségei a racionális döntések elméletében [Conceptualising and modelling rights in rational choice theory]. In Krisztina Ficsor, Tamás Györfi and Miklós Szabó (Eds.) *Jogosultságok Elmélet és gyakorlat* [Rights: Theory and Practice]. Prudentia Iuris 27, 63–73. Miskolc: Bíbor.

Szerződésértelmezés hermeneutika és jogpolitika között. A contra proferentem szabály [Contract interpretation between hermeneutics and policy: the contra proferentem rule]. In Balázs Fekete, István H. Szilágyi and Miklós Könczöl (Eds.) *Iustitia kirándul Tanulmányok a jog és irodalom köréből* [Iustitia on Excursion: Papers in Law and Literature], 209–227. Budapest: Szent István Társulat.

A közteherviselés (70/I. §) (The duty to contribute to public revenues). In András Jakab (Ed.) *Az Alkotmány kommentárja [Commentary to the Hungarian Constitution]*, 2693–2710, and 2nd ed., 2645–2662. Budapest: Századvég.

Policy considerations in contract interpretation: the contra Proferentem Rule from a comparative law and economics perspective. In Radhika Gavvala (Ed.) *Contract Theory – Corporate Law*, Amicus Books, 66–104. Hyderabad: ICFAI University Press.

Paternalism in policy: prospects and limitations of an economic analysis. In Malte-Christian Gruber and Sascha Ziemann (Eds.). *Die Unsicherheit der Väter Zur Herausbildung paternaler Bindungen*, Beiträge zur Rechts-, Gesellschafts- und Kulturkritik Band 9, 285–303. Berlin: trafo Wissenschaftsverlag.

Damme, E.E.C. van and P. Larouche

Conclusion. In P. Larouche & F. Chirico (Eds.), *Economic Analysis of the DCFR, the Work of the Economic Impact Group within the CoPECL Network of Excellence*, 323-337. Sellier: European Law Publishers (with F. Chirico).

Damme, E.E.C. van, P. Larouche and W. Müller

Abuse of a dominant position: cases and experiments. In J. Hinloopen & H-T Normann (Eds.), *Experiments and Competition Policy*, 107-159. Cambridge: Cambridge University Press.

Degryse, H.A. and S. Ongena

Distance, bank organizational structure and credit. In P. Alessandrini, M. Fratianni & A. Zazzaro (Eds.), *The Changing Geography of Banking and Finance*, 54-74. Heidelberg: Springer-Verlag (with G.M. Cerqueiro).

Delimatsis, P.

GATS, financial services and trade in renewable energy certificates (RECs) - just another market-based solution to cope with the tragedy of the commons? In O. Nartova, T. Cottier, & S. Bigdeli (Eds.), *International Trade Regulation and the Mitigation of Climate Change*, 231-258. Cambridge: Cambridge University Press (with D. Mavromati).

Elst, C.F. van der

Corporate governance codes and practices in Belgium. In F.J. López-Iturriaga (Ed.), *Codes of Good Governance Around the World*. 135-164. New York: Nova Science Publishers.

Effecten en hun overdracht en overgang. In B. Tilleman, O. Caprasse, & A. Benoit-Moury (Eds.), *Wetboek Vennootschapsrecht, Geannoteerd Wetboek van Vennootschappen met Bijzondere Wetgeving*. Brugge: Die Keure.

De 'Limited' als concurrerende vennootschapsvorm: Het Belgische perspectief. In P. Essers, G. Raaijmakers, G. van der Sangen, & A. Verdam (Eds.), *Met Recht: Opstellen over Privaat- en Fiscaalrechtelijk Ondernemingsrecht Aangeboden aan Theo Raaijmakers*, 497-506. Deventer: Kluwer juridisch.

Larouche, P.

Ex ante evaluation of legislation torn among its rationales. In J.M. Verschuuren (Ed.), *The Impact of Legislation: A Critical Analysis of Ex Ante Evaluation*, 39-62. Leiden: Martinus Nijhoff Publishers.

Europe and investment in infrastructure, with emphasis on electronic communications. In L. Hancher, W. Dicke, & G. Arts (Eds.), *New Perspectives on Investment in Infrastructures*, 241-269. Amsterdam: Amsterdam University Press.

Littler, A.D.

Een Europese kijk op de voorgestelde wijziging van de Kansspelwet / Un point de vue européen sur la proposition d'amendement de la loi sur les jeux de hasard. In N. Hoekx & A. Verbeke (Eds.), *Kansspelen in België: Verslagboek Seminars over Kansspelen 2008-2009 / Les Jeux de Hasard en Belgique: Actes des Séminaires sur les jeux de Hasard 2008-2009*, 3-19 / 21-38. Gent: Larcier.

McCahery, J.A.

Reputation in the private loan syndication market. In J. Armour & J. Payne (Eds.), *Rationality in Company Law: Essays in Honour of D.D. Prentice*. Oxford: Hart Publishing (with A.Schwienbacher).

Bank reputation in the private debt market. In J. Armour & J. Payne (Eds.), *Rationality in Company Law: Essays in Honour of Daniel Prentice*. Oxford: Hart Publishing.

McCahery, J.A. and E.P.M. Vermeulen

Current trends and likely developments in private company law. In P. Essers, G. Raaijmakers, G. van der Sangen, A.F. Verdam & E.P.M. Vermeulen (Eds.), *Met Recht: Opstellen over Privaat- en Fiscaalrechtelijk Ondernemingsrecht*, Aangeboden aan Theo Raaijmakers. Deventer: Kluwer.

Does the European company prevent the 'Delaware-effect'? In T. Clarke & J.-F. Chanlat (Eds.), *European corporate governance: Readings and perspectives*. New York: Routledge.

Role of corporate governance reform and enforcement in the Netherlands. In M. Tison, H. De Wulf, C. van der Elst & R. Steennot (Eds.), *Perspectives in Company Law and Financial Regulation*, 322-345. New York: Cambridge University Press.

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The catering theory of dividends. In H.K. Baker (Ed.), *Dividends and Dividend Policy*, Companions to Finance Series, 215-238. Chichester: Blackwell Publishing (with M.A.M. de Rooij).

Sauter, W.

Services of general economic interest and universal service obligations as an EU law framework for curative health care. In R. Nickel (ed), *Conflict of Laws and Laws of Conflict in Europe and Beyond - Patterns of Supranational and Transnational Juridification*. Oslo: ARENA/CIDEL Report.

Visser, M.C.B.F. de

Surveying regulatory regimes for EC communications law. In B. Preissl, J. Haucap, & P. Curwen (Eds.), *Telecommunications markets: Drivers and impediments*, 481-501. Heidelberg: Physica-Verlag.

B 1.3 Monographs and edited books**Damme, E.E.C. van**

Marktwerking en Publieke Belangen. Preadviezen KVS 2009. Amsterdam: KVS (with M.P. Schinkel)

Barendrecht, J.M.

Kitty's ketens: Meer voor minder rond rechtsbijstand. Voorstellen ontwikkeld in een interactief traject met 120 sleutelpersonen uit het veld. Den Haag: Boom Juridische uitgevers (with C.M.C. van Zeeland, P. Sluijter, J.A.E. van Raak-Kuiper, V.M. Smits, T.F.E. Tjong Tjin Tai and P. Vlaardingerbroek).

Degryse, H.A. and S. Ongena

Microeconometrics of Banking: Methodology, Applications, and Results. Oxford: Oxford University Press (with M. Kim).

Elst, C.F. van der

Perspectives in Company Law and Financial Regulation. New York: Cambridge University Press (with M. Tison, H. De Wulf, and R. Steennot).

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Venture Capital and Private Equity Contracting: An International Perspective. Elsevier Science Academic Press (with Douglas Cumming).

Sauter, W.

State and Market in European Union Law. The public and private spheres of the internal market before the EU Courts. Cambridge studies in European Law and Policy, Cambridge University Press (with H. Schepel).

Elst, C.F. van der

Perspectives in Company Law and Financial Regulation. New York: Cambridge University Press (with Michel Tison, Hans De Wulf, and Reinhard Steennot).

Vermeulen, E.P.M.

Met Recht: opstellen over privaats- en fiscaalrechtelijk ondernemingsrecht, aangeboden aan Theo Raaijmakers. Deventer: Kluwer (with G.J.H. van der Sangen, P.H.J. Essers, G.T.M.J. Raaijmakers and A.F. Verdam).

Vennootschaps- en effectenrecht. Nijmegen: Ars Aequi Wetsedities (with G.T.M.J. Raaijmakers).

Vermeulen, E.P.M. and J.A. McCahery

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Visser, M.C.B.F. de

Network-Based Governance in EC Law: The example of EC competition and EC communications law. Modern Studies in European Law 19. Oxford: Hart Publishing.

B 2 PROFESSIONAL PUBLICATIONS

B 2.1 Journals

Argenton, C.

Les médias sont-ils de mauvaise foi ? *Commentaire*, 125, 163-168.

Génération Tchernobyl. *Commentaire*, 127, 703-706.

Barendrecht, J.M.

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Welke rechtsbeschermingstrategie werkt het beste tegen macht? *Recht der werkelijkheid*, 31(1), 74-80.

Verantwoording van rechtspraak richting burger. *Justitiële Verkenningen*, 35(4), 15-30.

Canoy, M.

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Industriepolitiek nieuwe stijl. *Markt en Mededinging*. 12(5), 166-167.

De notaris, de apotheker en de mededingingsadvocaat. *Markt en Mededinging*. 12(6), 193-194.

Ziekenhuisfusies en publieke belangen. *Markt en Mededinging*. 12(2), 54-61 (with W. Sauter).

Benzineprijs in Nederland niet te hoog. *Economisch Statistische Berichten*. 94(4574), 598-600 (with M. van Schijndel en W. van Dijk).

Damme, E.E.C. van

De kwaliteit van ons onderzoek. *Economisch Statistische Berichten*. 94(4594), 591-591.

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New deal versus Wirtschaftswunder. *Economisch Statistische Berichten*. 94(4564), 431-431.

NMa, Zeeuwse ziekenhuizen en het algemeen belang. *Economisch Statistische Berichten*. 94(4559), 271-271.

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Steun of verstoring. *Economisch Statistische Berichten*. 94(4554), III-III.

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De Corte, E.

De vrijgemaakte Europese elektriciteitsmarkt, fundamentele wijzigingen in het risicobeheer binnen de elektriciteitssector. *Technology Upgrade*, (6), 16-18.

Degryse, H.A.

Shedding Light on Dark Liquidity Pools. *Trading*, (1), 147-155 (with M. Van Achter and G. Wuyts).

Elst, C.F. van der

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Hancher, L.

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Hancher, L. and I. M. van der Haar

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McCahery, J.A.

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Renneboog, L.D.R.

Bondholder returns in European takeovers. *FSR Forum*, 12, 14-20 (with P.G. Szilagyi).

Sauter, W.

Ziekenhuisfusies en publieke belangen. *Markt en Mededinging*, 12 (2), 54-61 (with M.F.M. Canoy).

B 2.2 Book Chapters

Barendrecht, J.M.

Micro justice initiative: knowledge sharing on best practices of legal empowerment and micro-justice. In *Envisioning empowerment: A portfolio of initiatives for achieving inclusion and development*, 60-61. New York: UNDP.

Micro justice initiative: micro justice facilitator toolbox. In *Envisioning empowerment: a portfolio of initiatives for achieving inclusion and development*, 59-60. New York: UNDP.

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Damme, E.E.C. van

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Renneboog, L.D.R.

The performance of socially responsible investment funds. In C. Gardner (Ed.), *QFinance: The Ultimate Resource*, 360-363. London: Bloomsbury Publishing.

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Willems, B.

Borging van publieke belangen in de energievoorziening. In E.E.C. van Damme & M.P. Schinkel (Eds.), *Marktwerving en Publieke Belangen. KVS Preadviezen 2009*, 147-178. Amsterdam: KVS (with M. Mulder).

B 2.3 Reports

Elst, C.F. van der

Economic consequences of large shareholder activism. Brussels: DG Internal Policies of the Union (with U. Aslan).

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Directors remuneration in listed companies: the Belgian Situation. Website ECGI: European Corporate Governance Institute (ECGI) (with L.S.F. van den Steen).

Larouche, P.

Contribution as member of task force. In A. Renda (Ed.), *Treatment of Exclusionary Abuses under Article 82 of the EC Treaty: Final report of a CEPS task force.* Brussels: CEPS.

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Ongena, S.

Foreign currency borrowing by small firms. Swiss National Bank Working Paper (Ext. rep. 2009-2). Switzerland: Swiss National Bank (with M. Brown and P. Yesin).

Sidak, Gregory J.

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Willems, B.

Academic opinion on: a system for congestion management in the Netherlands. TILEC Report. The Hague: Ministry of Economic Affairs (with J. Dijk and G. Petropoulos).

The Effect of counter-trading on competition in the Dutch electricity market. TILEC Report (Ext. rep. 2009-002). Tilburg: TILEC (with J. Dijk).

B 3 DISCUSSION PAPERS

DP 2009-001 Gerard Hertig, Ruben Lee and Joseph A. McCahery

Empowering the ECB to Supervise Banks: A Choice Based Approach.

DP 2009-002 Caterina Giannetti

Relationship Lending and Firm Innovativeness

DP 2009-003 Douglas Cumming and Sofia Johan*Exchange Trading Rules***DP 2009-004 Luc Renneboog and Christophe Spaenjers***Buying Beauty: On prices and Returns in the Art Market***DP 2009-005 Darshak Patel and Michael R. Ward***Empirical Tests for Creative Destruction in the Pharmaceutical Industry***DP 2009-006 Scott Baker and Claudio Mezzetti***Optimal Patent Jurisprudence***DP 2009-007 Bruce H. Kobayashi and Joshua D. Wright***Federalism, Substantive Pre-emption, and Limits on Antitrust: An Application to Patent Holdup***DP 2009-008 Hans Degryse, Muhammad Anther Elahi and María Fabiana Penas***Cross-Border Exposures and Financial Contagion***DP 2009-009 Hans Degryse, Peter de Goeij and Peter Kappert***The Impact of Firm and Industry Characteristics on Small Firms' Capital Structure: Evidence from Dutch Panel Data***DP 2009-010 Laura Parret***Do We (Still) Know What We Are Protecting?***DP 2009-011 Natalia Fiedziuk***Title: The interplay between Objectives of the European Union's Energy Policy: The Case of State Funding of Energy Infrastructure***DP 2009-012 Ben Vollaard and Joseph Hamed***The Effect of Police on Recorded Crime Vs. The Effect of Police on Victimization of Crime. Evidence for England and Wales***DP 2009-013 Eveline Berende, Matthias Dehn, Katalin Katona and Ilaria Mosca***Regulation of the Postgraduate Medical Education***DP 2009-014 Hassan Benchechroun and Amrita Ray Chaudhuri***On Cleaner Technologies in a Transboundary Pollution Game*

DP 2009-015 Cédric Argenton and Bert Willems

Exclusion as Inefficient Insurance

DP 2009-016 Wolf Sauter

An Analysis of the General Consumer Interest as a Source of Regulatory Legitimacy in the case of the Dutch Healthcare Authority

DP 2009-017 Jan Boone, Wieland Müller and Sigrid Suetens

Naked Exclusion: Towards a Behavioral Approach to Exclusive Dealing

DP 2009-018 Luc Renneboog and Christophe Spaenjers

Where Angels Fear to Trade: The Role of Religion in Household Finance

DP 2009-019 Peter Cziraki, Luc Renneboog and Peter G. Szilagyi

Shareholder Activism through Proxy Proposals: The European Perspective

DP 2009-020 Laura Bottazzi, Marco Da Rin and Thomas Hellmann

The Importance of Trust for Investment: Evidence from Venture Capital

DP 2009-021 Jens Prüfer and Uwe Walz

How Does the Governance of Academic Faculties Affect Competition among Them?

DP 2009-022 Marc Goergen, Arif Khurshed and Luc Renneboog

Why are the French so Different from the Germans? Underpricing of IPOs on the Euro New Markets

DP 2009-023 Christoph Van der Elst and Marijn Van Daelen

Risk Management in European and American Corporate Law

DP 2009-024 Christoph Van der Elst

The Belgian Struggle for Corporate Governance Improvements

DP 2009-025 Christoph Van der Elst

The Modified Belgian Framework for Contributions in Kind, Share Buy Backs and Financial Assistance

DP 2009-026 Hans Degryse, Frank de Jong and Jérémie Lefebvre

An Empirical Analysis of Legal Insider Trading in the Netherlands

DP 2009-027 Péter Cserne and Ákos Szalai

On the Necessity of Necessity: An Economic Analysis of Contracts Concluded in a Situation of Need

DP 2009-028 Leigh Hancher and Wolf Sauter

One foot in the grave or one step beyond? From Sodemare to DocMorris: the EU's freedom of establishment case law concerning healthcare

DP 2009-029 Panagiotis Delimatsis

'Thou shall not... (dis)trust': Codes of Conduct and Harmonization of Professional Standards in the EU

DP 2009-031 Luc Renneboog and Peter G. Szilagyi

Shareholder Activism through the Proxy Process

DP 2009-032 Panagiotis Delimatsis

Concluding the WTO Services Negotiations on Domestic Regulation – Walk Unafraid

DP 2009-033 Luc Renneboog and Christophe Spaenjers

The Iconic Boom in Modern Russian Art

DP 2009-034 Jasper P. Sluijs

Network Neutrality between False Positives and False Negatives: Introducing a European Approach to American Broadband Markets

DP 2009-035 Marcel Canoy and Wolf Sauter

Hospital Mergers and the Public Interest: Recent Developments in the Netherlands

DP 2009-036 Marco Da Rin, Marina Di Giacomo and Alessandro Sembenelli

Corporate Taxation, Firm Entry Rates, and Entrants' Size: Evidence from Europe

DP 2009-037 Péter Cserne and Gergely Deli

Law and Morality in the Regulation of Contracts: Lessons from Ancient Rome

DP 2009-038 Harold Houba, Evgenia Motchenkova and Quan Wen

The Effects of Leniency on Maximal Cartel Pricing

DP 2009-039 Katrien Bosquet, Peter De Goeij and Kristien Smedts

Coexistence and Dynamics of Overconfidence and Strategic Incentives

DP 2009-040 Emanuele Tarantino

Bankruptcy Law and Corporate Investment Decisions

DP 2009-041 Péter Cserne

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DP 2009-042 Firat Cengiz

Regulation 1/2003 Revisited

DP 2009-043 Damien Geradin

What's Wrong with Royalties in High Technology Industries?

DP 2009-044 Hans Degryse, Olena Havrylchuk, Emilia Jurzyk and Sylwester Kozak

Foreign Bank Entry and Credit Allocation in Emerging Markets

DP 2009-045 Michiel Bijlsma, Jan Boone and Gijsbert Zwart

Selective Contracting and Foreclosure in Health Care Markets

DP 2009-046 Clara Kuhlich, Grzegorz Trojanowski, Michelle Ryan, Alexander Haslam and Luc Renneboog

Who Gets the Carrot and Who Gets the Stick? Evidence of Gender Disparities in Executive Remuneration

B 4 POPULARIZING CONTRIBUTIONS

B 4.1 Articles in newspaper

Canoy, M

Geef de thuiszorg vertrouwen, *De Volkskrant*, Opinie, 30 November 2009 (with Arthur ten Have and Wija Oortwijn).

Het Kabinet kan de kaasschaaf in de la laten. *NRC Handelsblad*, Opinie, 14 September 2009, (with L. Bovenberg).

Doorbreek taboe op winst bij ziekenhuizen (with L. Bovenberg). *Het Financieele Dagblad*, 11 July 2009.

Wij tasten in het duister, Klink; Bij gebrek aan data is succes van marktwerking in zorg niet meetbaar. *NRC Handelsblad*, 4 June 2009.

Met meer preventie kan Nederland nog een wereld winnen in de zorg, *Het Financieele Dagblad*, 2 June 2009 (with Jacques Barth).

Verkeerde voorspelling toch zinvol; Kritiek op CPB miskent het doel. *NRC Handelsblad*, 4 May 2009.

Ga uit van vertrouwen in medisch specialisten *Het Financieele Dagblad*, 14 April 2009 (with Bart Berden en Wim van de Donk).

Bij Wellink valt kwartje nog niet. *Het Financieele Dagblad*, 3 april

Over beloning Wellink. *Het Financieele Dagblad*, 1 april

Regel zorg over de grens beter. *Reformatorisch Dagblad*, 28 March 2009.

Stop legalisering van kartels. *Het Financieele Dagblad*, 10 March 2009.

Het kan goed komen met marktwerking in de zorg. *Trouw*, 17 February 2009.

Crisis creëert ook lucht, *Univers* 29 januari 2009.

Renneboog, L.D.R. and P.G. Szilagyi

Bondholder returns in European takeovers. *FSR Forum*, 12, 14-20.

Sluijs, J.

Skype doet het niet op mijn mobiel. *NRC Next*, 1 May 2009, 18-19.

Zwart, G.

Onderhandelingen op de Europese gasmarkt. *AElementair*, 8 (3), May 2009.

APPENDIX C: ACTIVITIES

C 1 SEMINARS

9 January 2009, TILEC seminar

Emanuele Tarantino, European University Institute
Inefficient exclusion in standard-setting organizations

23 January 2009, TILEC seminar

Heike Schweitzer, European University Institute
European standard-setting policy and the role of competition law

Atilano Jorge Padilla, IECG Madrid
Patent holdup, royalty stacking and FRAND Licensing

20 February 2009, TILEC-AFM/Finance seminar

Kern Alexander, Judge Business School, University of Cambridge
Financial regulation and European company law: balancing prudential regulation with shareholder rights

Koen Schoors, Ghent University
Bank debt restructuring and control rights in bankruptcy

13 March 2009, TILEC seminar

Jennifer Reinganum, Vanderbilt University, Nashville
Privacy, publicity, and choice

30 March 2009, TILEC-AFM/Finance seminar

Gyongyi Loranth, Judge Business School, University of Cambridge
Corporate finance

6 April 2009, TILEC/CTLD seminar

Peter Trepte, Nottingham University
Contracting entities and the commercial market place

20 April 2009, TILEC-AFM/Finance seminar

Manju Puri, Duke University
Corporate finance/banking

12 June 2009, TILEC seminar

Alon Harel, Hebrew University of Jerusalem
Uncertainty revisited: legal prediction and legal postdiction

Robert Witt, University of Surrey
What determines the financial gains to a bank robbery? Some empirical evidence for Great Britain

14 September 2009, TILEC-AFM/Finance seminar

Marco Pagano, University of Naples Federico II
Inheritance law and investment in family firms

22 October 2009, TILEC seminar

Steven Tadelis, UC Berkeley
The effect of information on auction outcomes: a large scale field experiment

6 November 2009, TILEC seminar

Henrik Horn, Research Institute of Industrial Economics, Stockholm
Petros Mavroidis, University of Neuchatel and Columbia University

Legal and economic aspects of national treatment – proposals for interpretations of Art. III GATT

16 November 2009, TILEC-TICOM seminar

Geerte Hesen, Maastricht University
Contractual complexity and the cognitive load of R&D alliance contracts

20 November 2009, TILEC-AFM/Finance seminar

André Betzer, University of Mannheim
Strategic trading and trade reporting by corporate insiders

Merritt Fox, Columbia University
The effectiveness of mandatory disclosure: an empirical test of the line of business regulations

1 December 2009, TILEC Seminar

David Miers, Cardiff University
Gambling regulation in europe

11 December 2009, TILEC seminar

Kathryn Spier, Harvard University
Trial and settlement: a study of high-low agreements

Jonathan Masur, University Chicago School of Law
John Bronsteen, Loyola University Chicago School of Law
Hedonic adaptation and the settlement of civil lawsuits

16 December 2009, TILEC-AFM/Finance seminar

Robert Marquez, Arizona State University
The economics of club bidding in private equity

C2 WORKSHOPS AND CONFERENCES

6 February 2009, Tilburg

Workshop on “Competition in healthcare markets” in conjunction with the inaugural lectures of Professor Marcel Canoy and Professor Wolf Sauter organized by the TILEC-NZa Research Network.

Speakers:

Frank de Grave, Dutch Healthcare Authority (NZa);

Martijn Snoep, De Brauw Blackstone Westbroek;

Theon van Dijk, Lexonomics;

Leigh Hancher, TILEC;

Erik Schokkaert, Department of Economics, Katholieke Universiteit Leuven.

Inaugural lecture **Wolf Sauter**: "Marktwerking in de zorg. Toezicht: met het oog op de consument"

Inaugural lecture **Marcel Canoy**: "Marktwerking in de zorg. Zorgende ondernemers of ondernemende zorg?"

27 February 2009, Tilburg

Workshop on “The theory and practice of auctions” organized by the Royal Dutch Mathematical Society (KWG), section Industrial and Applied Mathematics (ITW), CentERlab and TILEC, sponsored by the Departments of Econometrics and Operations Research, Tilburg University.

Speakers:

Eric van Damme, TILEC;

Jean-Jacques Herings, Maastricht University;

Sven de Vries, University of Trier;

Emiel Maasland, Erasmus University Rotterdam.

26 and 27 March 2009, Amsterdam

TILEC Conference on “Patent reforms”

Speakers:

Vincenzo Denicolo, University of Bologna;
Dietmar Harhoff, University of Munich;
Bronwyn Hall, U.C. Berkeley Graduate School;
Kevin Scott, Philips Intellectual Property & Standards;
Jorge Padilla, LECCG;
Amy Marasco, Microsoft;
Jochen Pagenberg, Bardehle Pagenberg;
G. van Peursem, District Court of The Hague;
P. Véron, Véron & Associés Avocats;
Scott Kieff, University of Washington and Stanford University;
J. Huydecoper, Dutch Supreme Court;
Damien Geradin, TILEC; Willem Hoyng, TILEC.

2 April 2009, The Hague

Competition workshop on “The effects of regulation on innovation and productivity” organized by the Netherlands Bureau for Economic Policy Analysis (CPB), CentER/TILEC and the Dutch Ministry for Economic Affairs (EZ).

Speakers:

Giuseppe Nicoletti, OECD;
Susanne Prantl, Social Science Research Center Berlin (WZB);
Henry van der Wiel, CPB.

22 April 2009, Tilburg

TILEC-AFM workshop “Accounting spring camp on reporting and regulation” organized by CentER/TILEC.

Speakers:

Steven Crawford, Rice University;
Jonathan Rogers, University of Chicago;
Clive Lennox, Hong Kong University of Science and Technology;
Ray Ball, University of Chicago.

23 April 2009, The Hague

Energy Economics Policy workshop on “Liberalization of the gas market: prices and investments” organized by the Netherlands Bureau for Economic Policy Analysis (CPB), CentER/TILEC, the Dutch Ministry for Economic Affairs (EZ) and the Dutch Competition Authority (NMa).

Speakers:

Christoph Riechmann, Frontier Economics;

Christian von Hirschhausen, T.U. Dresden and German Institute for Economic Research.

14 and 15 May 2009, Tilburg

Competition Law and Economics European Network (CLEEN) Workshop

Speakers:

Andreas Glöckner, Max-Planck Institute, Bonn;

Catherine Waddams Price, Centre for Competition Policy (CCP);

Christoph Engel, Max-Planck Institute, Bonn;

Claudio Calcagno, European University Institute (EUI);

Felix Mezzanotte, CCP;

Christophe Wadlow, CCP;

Martijn Han, Amsterdam Center for Law & Economics;

Sebastian Peyer, CCP;

Greg Sidak, TILEC;

Jos Jansen, Max-Planck Institute, Bonn;

Rozeta Karova, EUI;

Oindrila De, CCP;

Yan Li, CCP;

Andreas Nicklisch, Max-Planck Institute, Bonn;

Urksa Petrovic, EUI;

Pinar Akman, CCP;

Sigrid Suetens, Tilburg University;

Anna Pisarkiewicz, EUI;

Morten Hviid, CCP;

Bert Willems, TILEC;

Edward Droste, Charles River Associates;

Agnese Leonello, EUI;

Oles Andriychuk, EUI;

Alexandr Svetlicinii, EUI;
Marco Botta, EUI.

4 and 5 June 2009, Tilburg

TILEC Workshop “Competition policy and regulation in media markets”

Speakers:

Rachael Craufurd Smith, Edinburg Law School;
Simon Anderson, University of Virginia;
Helen Weeds, University of Essex;
Pablo Ibáñez Colomo, European University Institute;
Brendan Cunningham, US Naval Academy;
Peggy Valcke, University of Leuven;
Anthony Bush, The Federal Communications Commission;
Nico van Eijk, University of Amsterdam;
Andres Hervas-Drane, Pompeu Fabra University;
Carlos Canon, Toulouse School of Economics;
Christopher Marsden, University of Essex;
Mira Burri-Nenova, University of Bern;
Joel Waldfogel, University of Pennsylvania.

25 and 26 June 2009, Berne

Workshop on “Challenges and new directions in the regulation of financial Services” organized by the National Centre of Competence in Research and TILEC.

Speakers:

Hans Degryse, TILEC;
Wolf Wagner, TILEC;
Emilios Avgouleas, University of Manchester;
Thorsten Beck, Tilburg University;
Maria Teresa Fabregas-Fernandez, European Commission;
Eva Huepkes, Financial Market Supervisory Authority Switzerland.

22-29 June 2009, Alba di Canazei, Italy

“Second Dolomites Summer School Antitrust for Networks: focus on vertical restraints” organized by the University of Verona, the Association of Competition Economists and TILEC.

Speakers:

Neil Gandal, Tel Aviv University;

Tommaso Valletti, Imperial College;

Daniel O’Brien, Federal Trade Commission;

Stephen Davies, University of East Anglia.

3 July 2009, The Hague

Competition workshop “Regulating investments in the energy sector” organized by the Netherlands Bureau for Economic Policy Analysis (CPB), the Netherlands Competition Authority (NMa) and TILEC.

Speakers:

Juan Rosellon, CIDE and T.U. Dresden;

Bastian Henze, TILEC;

Rob Aalbers, CPB;

Machiel Mulder, NMa.

9 October 2009, The Hague

Energy Economics Policy workshop on “Regulating investments in energy networks” organized by the Netherlands Bureau for Economic Policy Analysis (CPB), CentER/TILEC, the Dutch Ministry for Economic Affairs (EZ) and the Netherlands Competition Authority (NMa).

Speakers:

Ingo Vogelsang, Boston University;

Stephen Littlechild, University of Birmingham.

21 October 2009, The Hague

Competition workshop “Procurement of public services” organized by the Netherlands Bureau for Economic Policy Analysis (CPB), the Netherlands Competition Authority (NMa) and TILEC.

Speakers:

Steven Tadelis, UC Berkeley;

Bjorn Volkerink, Ecorys;

Eric van Damme, TILEC.

26 October 2009, Tilburg

Conference “Effective managed competition: health care at both sides of the ocean” organized by the Dutch Ministry of Health, Welfare and Sport, TRANZO and TILEC.

Speakers:

Michael Chernew, Harvard University;

Meredith Rosenthal, Harvard University;

Martin Gaynor, Carnegie Mellon University;

David Cutler, Harvard University;

Ab Klink, Minister of Health Care, The Netherlands.

10 November 2009, Leuven

Conference on “Gambling regulation in Europe” organized by KU Leuven, Kansspelcommissie and TILEC Member Alan Littler.

Speakers:

Alan Littler, TILEC;

Ellen Heldahl, Ministry of Finance, Sweden;

Toine Manders, Member of the European Parliament (MEP);

Philippa Hentsch, Parliamentary Assistant to Malcolm Harbour, MEP.

Justin Franssen, Van Mens & Wisselink;

Philippe Vlaemminck, Vlaemminck & Partners;

David Miers, Cardiff University;

Nele Hoekx, University of Leuven;

Tilman Becker, University of Hohenheim;

Cyrille Fijnaut, Tilburg University;

Fabienne Peraldi-Leneuf, University of Lille II;

Aurélie Jouette, University of Paris Dauphine;

Carl Devlies, State Secretary for Combating Fraud, Belgium.

27 November 2009, Brussels

CoPECL Network of Excellence Conference on “Economic analysis of the Draft Common Frame of Reference (DCFR): the outcome of the Economic Impact Group (EIG).”

Speakers:

Filomena Chirico, European Commission;
Ann-Sophie van den Berghe, Erasmus University Rotterdam;
Mitja Kovač, University of Ljubljana;
Urs Schweizer, University of Bonn;
Fernando Gomez, Universitat Pompeu Fabra, Barcelona;
Hans-Bernd Schaefer, University of Hamburg;
Patrick C. Leyens, University of Hamburg;
Pierre Larouche, TILEC;
Alain Brun, European Commission.

18 December 2009, Tilburg

TILEC Workshop on “Innovation, Intellectual Property and Competition Policy (IIPC).”

Speakers:

Jens Prüfer, TILEC;
George Norman, Tufts University;
Elisabeth Muller, Centre for European Economic Research (ZEW);
Simone Keunen, TILEC;
James Prieger, Pepperdine University.

C3 TILEC RETREAT

Vincent van Kervel, TILEC

The impact of financial regulation, MiFID, on the market quality of Euronext

Christoph Schottmüller, TILEC

Procurement after liberalization

Maurits Barendrecht, TILEC

Understanding the market for justice

Machiel Bolus, TILEC

An introduction to Google from an economic perspective

C 4 CLUB MED

14 January 2009

Case T-289/03, *BUPA v Commission* (on risk equalization in health insurance market and services of general economic interest), introduction by Wolf Sauter.

11 February 2009

Case C-209/07, *Irish Competition Authority v Beef Industry Development Society* (on cartels in beef market), introduction by Pierre Larouche.

8 April 2009

US Supreme Court Opinion (docket No. 07-512), *Pacific Bell v Link line* (on margin squeeze) and Case C-202/07, *France Telecom v Commission* (on predatory pricing), introduction by Pierre Larouche.

13 May 2009

European Commission Notice on the enforcement of state aid law by the national courts, introduction by Leigh Hancher.

10 June 2009

Case C-8/08, *T-Mobile v Nederlandse Mededingingsautoriteit* (on concerted practices in Dutch mobile telecommunications market), introduction by Laura Parret.

16 September 2009

European Commission Report on the Functioning of Regulation 1/2003, introduction by Firat Cengiz.

14 October 2009

European Commission Guidelines on the application of EU state aid rules to public funding of broadband networks, introduction by Leigh Hancher.

11 November 2009

European Commission's Sector Inquiry in Pharmaceuticals, introduction by Annette Hirschfeld.

9 December 2009

Free movement in healthcare: the services and establishment case law, introduction by Leigh Hancher and Wolf Sauter.

C 5 IO READING GROUP**21 January 2009**

Gijsbert Zwart presents Handbook of Antitrust Economics (2008): chapter 4, "Competitive Effects of Vertical Integration", by Michael H. Riordan.

18 February 2009

Eric van Damme presents Handbook of Antitrust Economics (2008): chapter 16, "Competition Policy in Auctions and Bidding Markets", by Paul Klemperer.

22 April 2009

Thorsten Beck presents "Regulation and Development" (2004): chapters 7 & 8 by J.-J. Laffont on the design of regulatory institutions and the separation of regulatory powers in developing countries.

20 May 2009

Jens Prüfer presents "Regulation and Development" (2004): chapters 1 & 2 by J.-J. Laffont on the specifics of developing countries in regulation.

17 June 2009

Jan Boone presents "Regulation and Development" (2004): chapters 3 & 4 by J.-J. Laffont on privatization and enforcement of regulation in developing countries.

23 September 2009

Florian Schuett presents "How strong are weak patents?" by Carl Shapiro and David Farrell.

21 October 2009

Catherine Schaumans presents "Empirical Models of Entry and Market Structures" (2007): Chapter 29 of the Handbook of IO by Steven Berry and Peter Reiss.

C 6 WORK-IN-PROGRESS (WIP) MEETINGS

7 January 2009

Sigrid Suetens, Jan Boone and Wieland Müller, *Naked exclusion in the lab: towards a behavioral approach to exclusive dealing.*

28 January 2009

Pierre Larouche, *Ex ante evaluation of legislation torn among its rationales.*

4 February 2009

Jan Boone, Michael Bijlsma and Gijsbert Zwart, *Selective contracting in health care.*

4 March 2009

Ben Vollaard, *Explaining the crime drop: empirical findings.*

25 March 2009

Tobias Klein, *Ownership and control in differentiated product markets.*

27 May 2009

Eric van Damme, *Competition in the Dutch home care market.*

3 June 2009

Lapo Filistrucchi, *Predatory pricing in two-sided markets.*

24 June 2009

Annette Hirschfeld, *Amendment of patents and divisional applications.*

9 September 2009

Bastian Henze, *Results of laboratory experiments on the regulation of gas interconnector investment.*

30 September 2009

Jens Prüfer, *Contracts, clubs, and networks: the value of trade associations in market economies with weak contract enforcement.*

7 October 2009

Laura Nistor, *Access to information to patients on medicinal products.*

4 November 2009

Jasper Sluijs, *Network neutrality between false positives and false negatives: introducing a European approach to American broadband markets.*

25 November 2009

Evgenia Motchenkova, *The Effects of leniency on maximal cartel pricing.*

2 December 2009

Cédric Argenton, *Exclusion through speculation.*



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