



Owain Draper

Barrister

Call 2008



Scope of Practice

• Administrative & Public Law and European Law • Civil Fraud • Commercial Litigation • Company, Shareholder and Joint Venture Disputes • Competition and EU Law • Energy and Natural Resources • Injunctions (including freezing orders and search orders, and orders for disclosure of information) • Administrative & Public Law • Sports, Gaming and Licensing

Overview

Owain has substantial experience in commercial litigation and in competition law investigations and proceedings. His broad commercial law experience encompasses injunctive relief, civil fraud, company law, bias and confidentiality.

Recent cases have included: *Floreat Investment Management Ltd v Churchill & Ors* [2022] EWHC 357 (Comm) (deceit claim in real estate finance); *Phones4u Ltd v EE & Ors* [2021] 1 W.L.R. 3270 (Court of Appeal - disclosure in competition proceedings); *Halliburton Co v Chubb Bermuda Insurance* [2021] A.C. 1083 (Supreme Court - apparent bias in international commercial arbitration); *PJSC Tatneft v Bogolyubov & Ors* [2021] EWHC 411 (Comm) (civil fraud claim under Russian law).

Examples of Recent Cases

Competition and EU Law

Owain has substantial experience in competition law investigations and proceedings. He appears regularly in the High Court in substantial commercial disputes involving competition law issues, as well as advising and representing clients in competition investigations, references and appeals. He also has substantial experience in merger references, including advising and representing a major corporate group in relation to two acquisitions.

Owain has particular experience of competition law disputes in the oil and gas and pharmaceutical sectors. Advice to private clients includes horizontal cooperation agreements, vertical arrangements, licensing and abuse of dominance.

"He knows his stuff and is a very good competition law expert junior. He's a good draftsman in pleadings and very good to work with." **Chambers UK 2022**

"He's great at presenting a succinct argument and doing it efficiently." **Chambers UK 2021**

"Demonstrates an excellent capacity to get his head around complex scientific evidence." *"He's very measured and calm"* and is *"diligent and hard-working."* **Chambers UK 2020**

"A real fighter in court" **Legal 500 2019**

"Cool, conscientious and clever. He is capable of charming clients and courts alike." **Legal 500 2018**

"A gifted draftsman." **Chambers UK 2018**

"He is an expert in competition law. A very good and able junior, he is calm, collected and easy to work with." *"Frequently acts and advises on competition issues that form part of larger commercial disputes. He has recent experience of handling damages litigation and offering merger control advice."* **Chambers UK 2017**

- **Phones 4U Ltd (in administration) v EE Limited & Ors**

For the Claimant in an Article 101 TFEU claim against EE, Vodafone and O2 and their parent companies arising from alleged cartel conduct between those companies that caused the claimant to cease trading and enter into administration in 2014. The claim involves contemporaneous evidence of allegedly collusive agreements between the network operators and expert evidence from competition economists as to the independent irrationality of refusals to supply in an oligopoly with only two major retail intermediaries.

- **Federal Deposit Insurance Corp (acting as receiver) v Barclays Bank & Ors**

For Deutsche Bank AG in its defence of a damages claim for billions of USD in relation to alleged collusion between London banks to suppress USD LIBOR, involving alleged infringements of Article 101 TFEU and alleged fraudulent misrepresentations as to the process by which LIBOR was set. The case raises issues as to the statistical significance of rate changes over time, price-fixing of "components of price" and the application of EU competition law to financial benchmarks with global application.

- **Premiership Rugby Club v Premiership Rugby Ltd**

For the Claimant in a challenge to the legality of the rugby union salary cap, relying on Articles 101 and 102 TFEU and the allegation that the salary cap was not a proportionate means of ensuring the viability of premiership rugby.

- **Interchange Fee Litigation: Deutsche Bahn AG, VM Morrisons & Ors, Sainsbury's etc v MasterCard**

For the Defendant in the various High Court claims arising from the European Commission's decision that MasterCard's cross-border multilateral interchange fees involved an infringement of ex Article 81 EC (now

Article 101 TFEU).

- **Burlington Resources Ltd v Hydrocarbon Resources Ltd**

For the Defendant in this Article 102 TFEU (margin squeeze) dispute between subsidiaries of ConocoPhillips (BRL) and Centrica (HRL). The case settled on the eve of a 3-week Commercial Court trial.

- **Hope Construction Materials v CMA (CAT 1225/6/8/14)**

For Hope in its appeal against the Competition Commission's decision to prohibit Hope from purchasing assets that the CC required Lafarge Tarmac to divest as part of a package of remedies put in place to address coordination between competitors in the cement and aggregate markets.

- **Sun Capital Partners & Ors v Hammonds**

For Hammonds in a professional negligence claim arising from advice given to the purchaser of a business in relation to the risk of competition fines by the European Commission.

- **Chemistree v Teva Pharmaceuticals Ltd**

For Teva in its successful defence of expedited High Court Proceedings in relation to an alleged abuse of dominance under Article 102 TFEU (refusal to supply).

- **Chemistree -v- Roche Pharmaceuticals Ltd**

Appeared for Roche in two interim hearings in relation to an alleged abuse of dominance under Article 102 TFEU (refusal to supply).

- **Eden Brown Limited & Others v OFT**

For CDI AndersElite in its successful appeal against the fine arising out of the OFT's Construction Recruitment Forum decision. CDI's fine was reduced from £7.6 million to £1.5 million on appeal.

Commercial Litigation

Owain represents clients in all types of commercial claims, including civil fraud, shareholder disputes, commercial arbitration and banking litigation. He has substantial experience of injunctive relief and other interim matters, including freezing injunctions, "gagging" relief and security for costs.

Chambers UK 2022

"Owain is an effective team player with lots of courtroom experience, who provides very good strategic insight."

"He is brave, commercial and someone who understands clients' needs."

- **Floreat Investment Management Ltd v Churchill & Ors [2022] EWHC 357 (Comm)**

For Defendants in a deceit claim arising out of the repayment of a commercial loan to a football club.

- **Halliburton Co v Chubb Bermuda Insurance Ltd [2018] I W.L.R. 3361**

For the Claimant in its appeal to the Supreme Court in relation to apparent bias in international commercial arbitration.

- **Phones 4U Ltd (in administration) v EE Limited & Ors**

For the Claimant in an Article 101 TFEU claim against EE, Vodafone and O2 and their parent companies arising from alleged cartel conduct between those companies that caused the claimant to cease trading.

- **PJSC Tatneft v Bogolyubov & Ors [2021] EWHC 411 (Comm)**

Successful defence of complex Russian law proceedings arising out of an alleged international fraud. Leading

judgments have been handed down on matters including strike out / summary judgment, security for costs and amendments

- **Federal Deposit Insurance Corp (acting as receiver) v Barclays Bank & Ors**
For Deutsche Bank AG in its defence of a damages claim for billions of USD in relation to alleged collusion between London banks to suppress USD LIBOR, involving alleged infringements of Article 101 TFEU and alleged fraudulent misrepresentations as to the process by which LIBOR was set.
- **Bates v Post Office [2019] EWHC 3408 QB, [2019] EWC 606 (QB)**
For the Defendant in relation to claims from hundreds of sub-postmasters in relation to accounting shortfalls said to arise from failings in electronic accounting systems. The high-profile proceedings involved many weeks of trials and interim hearings. Owain performed much of the advocacy at interim hearings and cross-examined several witnesses at trial.
- **ICC Proceedings (2016)**
For the successful Claimant in a substantial international arbitration between a major Russian manufacturer and its supplier of metal for use in a gas pipeline.
- **Burlington Resources Ltd v Hydrocarbon Resources Ltd (settled in February 2015)**
For the Defendant in this dispute over the termination and proposed replacement of interlocking gas processing agreements. The parties are subsidiaries of ConocoPhillips and Centrica, respectively, and the claim raised difficult issues of construction, rectification and competition law.
- **Tor Generics v Pfizer Ltd**
Sole counsel for Tor in its claim against Pfizer for breach of a contractual duty of confidentiality in relation to the marketing and regulation of a pharmaceutical product.
- **Dany Lions v Bristol Cars Ltd [2014] All ER (Comm) 403**
Sole counsel for Bristol Cars in its defence of a claim arising out of a settlement agreement. One of the leading recent cases on the enforceability of contractual terms alleged to lack legal certainty.
- **Re Beppler & Jacobson Ltd [2013] EWHC 2191 (Ch) and [2014] EWCA Civ 935**
For the Russian parties to a shareholder dispute involving allegations of fraud. The claim was ultimately settled, save for disputes over the valuation of shares and the alleged agreement(s) in relation to the financing of the English company's business ventures.
- **OJSC TNK-PB Holding v Beppler & Jacobson Ltd & Others [2012] EWHC 2596 (Ch) and 3286 (Ch)**
For various foreign defendants in an international fraud claim - freezing injunction discharged and service out set aside on forum grounds and on the merits.
- **Sir Martin Broughton v Hicks & Others [2012] EWCA Civ 1743**
For Sir Martin Broughton and the other English directors in their claims for negative declaratory relief arising from the 2010 sale of Liverpool Football Club. The case also involved a successful defence of an appeal against expedition and security for costs.
- **Fulham Football Club v Richards [2012] Ch. 333**
An unfair prejudice petition arising out of the transfer of Peter Crouch to Tottenham Hotspur. A leading case on the permissible scope of arbitration clauses in company law disputes.

Sports and Entertainment

Owain advises and represents sportspersons and regulatory bodies in relation to commercial, public law and

competition law issues. Clients have included Premiership football players, Saracens, the International Tennis Federation, Portsmouth FC, Nike and Paddy Power. He lectures on a post-graduate sports law course, focusing on the application of competition law to commercial and regulatory sports disputes.

"A thorough, comprehensive, commercial and practical barrister." **Chambers UK 2019**

"He is very confident and clients like him." **Chambers UK 2018**

"A very bright young lawyer." **Legal 500 2018**

"Technically very sound and offers practical advice." **Chambers UK 2017**

Cases include:

- **Premiership Rugby Club v Premiership Rugby Ltd**
For the Claimant in a challenge to the legality of the rugby union salary cap, relying on Articles 101 and 102 TFEU and the allegation that the salary cap was not a proportionate means of ensuring the viability of premiership rugby.
- **Re Rangers FC Takeover**
Advising the Takeover Panel in relation to takeover proceedings concerning the purchase of shares in Rangers International Football Club PLC. The Panel's decisions were defended successfully in subsequent litigation: Panel on Takeovers and Mergers v King [2018] S.L.T 79 (ordering Mr King to make an offer for shares) and [2018] S.L.T 451 (rejecting an appeal)
- **Advanced Engine Research WEC Ltd v Bykolles GMBH**
For the Defendant in proceedings relating to the explosion of a racing engine during an LMP1 endurance race.
- **Sir Martin Broughton v Hicks & Others; RBS v Hicks & Others [2012] EWCA Civ 1743**
For Sir Martin Broughton and the other English directors in their claims for negative declaratory relief arising from the 2010 sale of Liverpool Football Club. The case also involved a successful defence of an appeal against expedition and security for costs.
- **Fulham FC v Richards [2012] Ch. 333**
Dispute arising out of the transfer of Peter Crouch to Tottenham Hotspur. A leading case on the permissible scope of arbitration clauses in company law disputes (an unfair prejudice petition).
- **International Wheelchair Basketball Federation v UK Anti-Doping & Simon Gibbs [CAS 2010/A/2230]**
For the IWBF in its appeal to the Court of Arbitration for Sport, which was described by the CAS as a "frontal assault" on anti-doping rules in reliance on EU, competition and domestic public law.

Administrative & Public Law and European Law

Owain has substantial experience in advising and representing clients in relation to EU law disputes arising in the context of regulation and judicial review, particularly as regards electricity transmission and distribution. He also has more general experience of judicial review and administrative appeals.

- **Greene King v Gambling Commission [2017] 1 W.L.R. 3611G**
For Greene King in relation to the refusal of operating licences for the provision of additional gambling facilities, including bingo and gaming machines.
- **A v HMRC**

For a high-profile businessman in two related judicial reviews challenging the Revenue's decisions issue Partnership Payment Notices ("PPNs") totaling over £12 million.

- **R (RWE Generation UK Plc) v Gas and Electricity Markets Authority [2015] EWHC 2164**
For the Defendant in an EU-law challenge to GEMA's decision to approve a modification to NGET's charging methodology for electricity transmission in the UK.
- **R (Western Power Distribution) v Gas and Electricity Markets Authority (December 2014)**
For the Defendant – permission refused following an oral hearing in an EU law challenge to GEMA's decision to require companies to repay tens of millions of pounds of incentive payments in relation to electricity distribution.
- **R (Imperial Tobacco, BAT, Philip Morris and Gallaher) v Secretary of State for Health**
For the Defendant - judicial review proceedings brought by Imperial Tobacco and others against the prohibition of retail tobacco displays. The challenge, which was ultimately withdrawn, relied on free movement and competition law arguments.
- **The Open University v HMRC [2013] S.T.I.2252**
For the successful Appellant in its appeal, on EU law grounds, against the refusal of a claim for the repayment of VAT in relation to services provided to the OU by the BBC between 1978 and 1994.

Energy and Natural Resources

Owain has substantial experience of commercial and regulatory issues that arise in relation to energy, including most particularly oil, electricity and gas. He worked on secondment at the Gas and Electricity Markets Authority ("GEMA") in the early years of his practice. He has particular experience of cases involving oil and gas supplies from or within Russia.

Legal 500 2017-2022

"He is a future star – composed, unflustered, bright and responsive."

"He has confidence in court and he calmly and systematically makes his points."

"He has a straight alpha legal brain and is first rate senior junior for any financially or legally technical case."

"A solid mid-level junior – proactive, hardworking and a real fighter in court."

"A very bright lawyer"

"A clever, commercial and combative advocate, who is ready to fight the client's corner."

- **PJSC Tatneft v Bogolyubov & Ors [2021] EWHC 411 (Comm)**
For the successful defendants in complex proceedings arising out of an alleged international fraud in relation to oil supplies between Russia and Ukraine.
- **Halliburton Co v Chubb Bermuda Insurance Ltd [2021] A.C. 1083**
For the Claimant in its appeal to the Supreme Court in relation to apparent bias in international commercial arbitration, arising out of the Deepwater Horizon oil disaster.
- **Burlington Resources (Irish Sea) Ltd v Hydrocarbon Resources Ltd**
Owain was instructed as competition law counsel (with two commercial leaders) for the Defendant (a

subsidiary of Centrica) in expedited Commercial Court injunction and damages proceedings in relation to the (anticipated) termination of gas processing services. The Claimant abandoned its competition law claim shortly before trial, and the proceedings subsequently settled.

- **A v B (ICC proceedings)**
For the successful Claimant in a substantial international arbitration between a major Russian manufacturer and its supplier of metal for use in a gas pipeline.
- **ICC Proceedings (2016)**
For the successful Claimant in a substantial international arbitration between a major Russian manufacturer and its supplier of metal for use in a gas pipeline.
- **~~R (RWE Generation UK Plc) v Gas and Electricity Markets Authority [2015] EWHC 2164 (Admin)~~**
For the Defendant in an EU law challenge to GEMA's decision to approve a modification to NGET's charging methodology for electricity transmission in the UK. The challenge was dismissed on all grounds.
- **R (Western Power Distribution) v Gas and Electricity Markets Authority (December 2014)**
For the Defendant – permission to bring a claim for judicial review refused following an oral hearing in an EU law challenge to GEMA's decision to require companies to repay tens of millions of pounds of incentive payments in relation to electricity distribution.

What the Directories Say

"Owain is super clever and incredibly pragmatic at the same time. He understands what it is to be part of a team and delivers his advice as part of a wider project." (Commercial Litigation - Chambers UK 2024)

"Owain Draper is brilliant to work with. He is highly commercial and has excellent technical knowledge." (Commercial Litigation - Chambers UK 2024)

"Owain is excellent in both his written work and his oral submissions. He is very thorough and effective in cross-examining witnesses. He is easy to work with and provides immeasurable support to the silks throughout trials." (Competition - Chambers UK 2024)

"Owain produces clear and well-reasoned submissions. He also makes effective and focused cross-examinations." (Competition - Chambers UK 2024)

'Owain is an excellent junior counsel. His written submissions are persuasive, well structured and impactful.' (Competition - Legal 500 2024)

'Owain is measured, flexible and very responsive.' (Energy - Legal 500 2024)

"He knows his stuff and is a very good competition law expert junior." (Competition - Chambers UK 2017-2023)

"A real fighter in court" (Competition - Legal 500 2017-2023)

"He is a future star – composed, unflustered, bright and responsive." (Energy - Legal 500 2023)

"He's great at presenting a succinct argument and doing it efficiently." (Competition - Chambers UK 2017-2023)

“Demonstrates an excellent capacity to get his head around complex scientific evidence.” (Competition - Chambers UK 2017-2023)

“Has a nice manner with clients and a good commercial feel.” (Competition - Chambers UK 2017-2022)

“A gifted draftsman.” (Competition - Chambers UK 2017-2022)

“He is an expert in competition law. A very good and able junior, he is calm, collected and easy to work with.” (Competition - Chambers UK 2017-2022)

“Cool, conscientious and clever. He is capable of charming clients and courts alike.” (Competition - Legal 500 2017-2022)

“Responsive, bright and commercial” (Competition - Legal 500 2017-2022)

“He has confidence in court and he calmly and systematically makes his points.” (Energy - Legal 500 2021)

“He has a straight alpha legal brain and is first rate senior junior for any financially or legally technical case.” (Energy - Legal 500 2020)

“A solid mid-level junior – proactive, hardworking and a real fighter in court.” (Energy - Legal 500 2019)

“A very bright lawyer” (Energy - Legal 500 2018)

“A clever, commercial and combative advocate, who is ready to fight the client’s corner.” (Energy - Legal 500 2017)

“Owain is an effective team player with lots of courtroom experience, who provides very good strategic insight. “He is brave, commercial and someone who understands clients’ needs.” (Chambers UK 2022 - Commercial Dispute Resolution)

“A thorough, comprehensive, commercial and practical barrister.” (Sports - Chambers UK 2019)

“He is very confident and clients like him.” (Sports - Chambers UK 2018)

“A very bright young lawyer.” (Sports - Legal 500 2018)

“Technically very sound and offers practical advice.” (Sports - Chambers UK 2017)

Education

MA (Hons) English Literature, Edinburgh (First Class) (2002 - 2006)

Graduate Diploma in Law, City University (Commendation) (2006 - 2007)

Bar Vocational Course, BPP London (Very Competent) (2007 - 2008)

Hardwicke Entrance Scholar, Lincolns Inn (2007)

JP Warner European Scholar, Lincolns Inn (2008)

Bar European Group Pegasus Scholar (2009)

Languages

Fluent French

Awards



Contact Clerks



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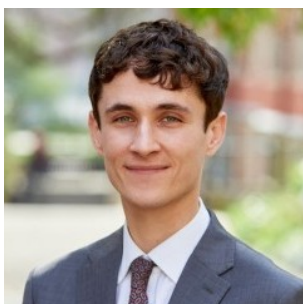


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