

GREG HARMAN

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SUMMARY

Greg Harman is Managing Director at BRG. He joined in September 2019 and leads BRG's EMEA Disputes practice.

During his 30 years in consultancy, he has undertaken a wide range of assignments in the UK and abroad. Mr. Harman is an expert in the areas of valuation, finance, dispute consulting, pricing competition, and economic regulation. Mr Harman has worked on a wide range of assignments relating to abusive pricing (e.g., excessive pricing, predatory pricing and price discrimination) and the setting of regulated prices.

Mr Harman has significant experience of the TMT sector and other regulated sectors (e.g., electricity, gas, post, water, rail and airports).

Mr. Harman's experience has included the production of independent expert reports for submission to government departments, courts, tax authorities, competition and regulatory bodies, and inclusion in international corporate transaction agreements.

Mr. Harman has worked on matters before the UK High Court, AAA, PCA, ICC, ICSID, UNCITRAL, LCIA and SCC Tribunals, the UK Competition Appeals Tribunal, the UK Competition Commission, the UK Competition and Markets Authority, the Competition Tribunal in South Africa, the Competition Commission in South Africa, the High Court in South Africa, Ofcom, the CAA, a port case heard under the provisions of the UK Harbours Act, the Constitutional Court of South Africa and the Court of Arbitration for Sport. Mr. Harman has been involved in mediation procedures.

Mr. Harman is one of the leading global experts active in commercial arbitration, having been ranked consistently in Who's Who Legal Arbitration for over a decade. He is also identified as a leading expert in commercial litigation, competition economics, and the quantification of damages. Clients describe him as 'a brilliant expert', 'highly experienced and very established in the competition scene' and possessing 'an excellent reputation'. Further testimonials relating to Mr. Harman's expertise can be found at <https://whoswholegal.com/greg-harman>.

EDUCATION

BSc in Management Sciences, University of Manchester, Institute of Science and Technology. First Class.

MSc in Competition and Regulatory Economics, The City University London. Distinction.

Executive Programme at Oxford University.

Executive Leadership Programme, Darden School of Business, University of Virginia.

PRESENT EMPLOYMENT

From September 2019: Managing Director, Berkeley Research Group

PREVIOUS POSITIONS

April 2011- June 2019: Partner and Senior Managing Director, FTI. Head of Economic Advisory Practice.

September 2003 – April 2011: Managing Director, LECG

2002 – 2003: Deloitte & Touche

1991- 2002: Arthur Andersen

PROFESSIONAL AFFILIATIONS

Fellow of the institute of Chartered Accountants in England and Wales

Fellow of the Society of Share and Business Valuers

PREVIOUS EXPERIENCE

Telecoms and media

Currently working on a claim against Apple in a class-action (CPO stage).

Currently working on four separate class actions against four large digital platforms for an abuse of a dominant position (confidential). The cases are unrelated.

Provided oral evidence for BT in the access to Sky Sports dispute between BT, Sky and Ofcom (CAT 2010). The CAT concluded that “*Mr Harman gave useful evidence on the matters within his field, on which he is clearly very expert*”.

Provided oral evidence for BT in the second access to Sky Sports dispute between BT, Sky and Ofcom (CAT 2016).

Supported Telkom in South Africa in relation to the Competition Commission’s Data Services Market Inquiry.

Provided written evidence for BT in a dispute between TalkTalk and Vodafone v. Ofcom, BT and CityFibre (CAT 2020).

Provided oral evidence for BT in a case relating to ethernet excessive pricing. Sky, TalkTalk, Virgin Media, Cable & Wireless and Verizon, Ofcom and BT (CAT). The CAT concluded that Mr Harman was an “*honest witness seeking to assist the Tribunal*”.

Assisted BT to respond to Ofcom’s Regulatory Financial Reporting.

Provided oral expert evidence in a dispute between Deutsche Telekom and the Government of India. Devas (which DT had invested in) was awarded spectrum in the S band, to launch a hybrid (i.e., satellite and terrestrial network) to provide broadband, media related services and mobile telephony.

Acted on a dispute between LibanCell (provided GSM communications, Wireless Data Networks, VoIP, and Internet service provision) and the Government of Lebanon.

Provided written expert evidence in proceedings in the telecoms sector in Southeast Asia. The claim related to a shareholder dispute relating the price an entrant was charged to gain access to an incumbent’s network and the effect this had on shareholder value.

Advised Telecom Italia on a range regulatory pricing and valuation issues, including accounting separation, cost allocation, current cost accounting, valuation of the company, setting the cost of capital for regulatory purposes, the format of regulatory accounts and price controls.

Advised Portugal Telcom on a range regulatory pricing and valuation issues.

Advised Kingston Communications on a range regulatory pricing and valuation issues.

Advised Tele Denmark on a range of regulatory pricing and valuation issues.

Produced evidence for a 3G mobile phone operator in the UK, in a potential damages case, relating to mobile number portability.

Engaged by a mobile operator in the UK to respond to Ofcom's consultations on call termination.

Engaged by a mobile operator in the UK to respond to Ofcom's consultations on Mobile Liberalization.

Advised a 3G operator in the UK on a study of the net benefits associated with the diffusion of 3G.

Appointed by ComReg to review Eircom's proposals to separate structurally into two entities.

Appointed by ComReg to determine the financial information Eircom should provide to the regulator to fulfill its regulatory duties.

For a large French bank determined the value of certain non-core media investments.

For a venture capital firm provided valuation advice on the value of certain media related investments.

Assisted a UK TV satellite and telecoms company to develop revenue and pricing strategies for several core activities.

Worked for a Swedish media company to support the development of interactive TV.

Advised Ireland's National Television and Radio Broadcaster on its regulatory strategy.

For a UK television company advised on the economic value add of its different operating units.

Assisted certain regulated television companies with their response to the ITC's consultation paper on the value of channel 3 licences.

Advised a sporting association on the value of certain football broadcasting rights.

Arbitration and Litigation

Provided oral evidence in a dispute between a large Russian petrochemicals business and a creditor (LCIA)

Providing evidence in an arbitration in a dispute between an iron ore company and a steel producer in South Africa (High Court).

Provided evidence in arbitration proceedings in the chemical sector in Greece in relation to a post-acquisition dispute (LCIA).

Provided oral evidence in a shareholder dispute between parties in an oil and gas joint venture in Iraq (ICC).

Provided evidence on valuation issues in a post-acquisition dispute between a Russian oil company and a Russian bank (UK High Court).

Produced evidence in a dispute between an energy company and a global mining company in South Africa (High Court).

Provided evidence on a matter relating to gas commodity prices in arbitral proceedings in India.

Provided written evidence in arbitral proceedings in a gas exploration dispute in Rwanda relating to a change in tariffs following a change in construction costs.

Provided evidence to the Tanzanian High Court in a post-acquisition/shareholder value dispute in the energy sector in Tanzania.

Providing evidence in arbitral proceedings for Lithuania in a regulatory dispute in the energy and district heating sectors (ICSID).

Provided evidence in a large Russian post acquisition/valuation dispute in the steel sector (UK High Court).

Provided evidence in a dispute between a Russian conglomerate and the Russian state, relating to whether it was possible to determine the group structure from publicly available documents (UK High Court).

Provided evidence in a breach of contract dispute between a water company and Philippines (PCA).

Provided expert evidence in the High Court of South Africa on a shareholder dispute in the airports sector.

Provided written and oral testimony in arbitration proceedings in the consumer electronics market in the Middle East (ICC).

Provided written expert evidence relating to a loss of profits claim in the sports apparel market across Europe (ICC).

Provided written expert evidence in arbitration proceedings relating to the termination of a distribution and manufacturing agreement in the music sector (UNCITRAL).

Provided written evidence in arbitration proceedings in a commercial dispute relating to the manufacture and distribution of soft drinks in Eastern Europe (ICC).

Provided written evidence in a matter relating to a failed distribution licence pertaining to the sale of homeopathic remedies (High Court).

Provided expert evidence on the lost profits suffered by a car dealership that acted on a negligent misrepresentation to enter into an asset acquisition agreement (High Court).

For a large international paper manufacturer, assessed economically justifiable transfer prices in the context of a tax dispute (High Court).

Provided written and oral evidence in a dispute between ITV and a production company (High Court).

Provided written expert evidence for the Gibraltar Football Association in a dispute with the Union of European Football Associations (Court of Arbitration).

Provided written expert evidence in a dispute between two football clubs (“Tevez”) (High Court).

Provided written and oral testimony in arbitration proceedings in the sports retail sector (American Arbitration Association).

Produced an expert report for a large newspaper in the context of a labour dispute.

Provided written evidence in a dispute between two regional television companies relating to how sponsorship revenues were negotiated and allocated between TV companies.

In a post-acquisition dispute, produced a valuation of a large international computing company (High Court).

Provided oral evidence in a dispute between ITV and a production company in the High Court.

Competition related disputes

Provided written evidence in a price discrimination / margin squeeze dispute between Royal Mail and Ofcom and Whistl (CAT).

Advised Royal Mail on the range of damages that might be claimed if Whistl decided to file a follow-on damage claim.

Provided oral evidence in the interchange pricing follow-on damages dispute between MasterCard and Sainsbury’s (CAT). The CAT noted that *“Mr Harman was a most impressive expert witness: he was obviously a complete master of his subject, and gave his evidence with clarity and authority... he enabled the Tribunal to understand exactly what was at issue”*.

Provided oral evidence in an excessive pricing dispute in the UK pharmaceuticals sector (CAT). The CAT concluded “*he was an impressive expert witness, giving clear and cogent answers*”.

Currently instructed by the CMA on an excessive pricing dispute in the UK pharmaceuticals sector (CAT).

Currently, instructed on interchange pricing follow-on damages dispute for MasterCard against Asda, Aldi and Morrison (CAT).

Provided oral evidence in an excessive pricing dispute between the Competition Commission of South Africa and a large chemicals company in South Africa over a 3-year period.

Advised a company in an excessive pricing dispute in the South African pharmaceutical sector (SA Competition Commission).

Provided expert written evidence in a pricing dispute in the energy section between downstream operators, NERSA and Sasol Gas (High Court in South Africa).

Provided oral evidence in an excessive pricing dispute between a harbour and various ferry operators (Section 31 of the Harbours Act 1964).

Provided expert evidence in relation to an excessive pricing dispute involving two oil companies and a UK port (High Court).

Provided oral evidence in an excessive pricing dispute between an airport and an airline relating to a change in price for check-in and baggage-handling services (CAA).

Providing evidence in the truck cartel cases for four separate claimants.

Provided expert evidence in a follow-on damages case between two large airlines in South Africa. Gave oral evidence for 12 days in the High Court in Johannesburg.

Provided evidence in the Competition Commission of South Africa’s Private Healthcare Market Investigation on issues relating to excessive pricing.

Advised a Middle Eastern Airline in an abuse of dominance case in South Africa and advised on the level of follow-on damages (SA Competition Commission).

Appointed as expert in a dispute in South Africa relating a change in price at which coal is transported by rail following a change in rail infrastructure costs.

Provided expert evidence in a claim for damages arising from an alleged cartel in the gas sector.

Instructed to provide expert evidence in a potential excessive pricing dispute on behalf of FCA in the banking sector.

Providing written evidence in a dispute between two media companies (advising issues relating to FRAND).

Provided evidence in the UK Competition Commission's Private Healthcare Market Investigation, on issues relating to excessive pricing.

Provided evidence in the UK Competition Commission's Aggregates, Cement and Ready-Mix Concrete Market Investigation, on issues relating to excessive pricing.

Provided evidence in the UK Competition Commission's Pay Day Lending Market Investigation, on issues relating to excessive pricing.

Providing evidence in Competition Commission's Retail Banking Market Investigation, on issues relating to excessive pricing.

Production of written expert evidence in proceedings before the Copyright Tribunal in a pricing dispute between the BPI, music service providers, mobile network operators and the MCPS-PRS alliance

Energy regulation and valuation

Advised a large energy company (oil, gas, refined products and chemicals) in Saudi Arabia on valuation, project appraisal and cost of capital issues.

Advised on two power sector reform engagements in Central India and Northern India over 18 months setting regulated tariffs.

Advised Ofgem on three supply price controls.

Advised Ofgem on Transco's future costs for setting regulated prices in gas transmission.

Advised Ofgas on an application made by British Gas Trading to rebalance its domestic gas tariffs

Advised the Authority for Electricity Regulation in Oman on setting price controls for the Distribution and Supply companies. Advised on a range of valuation issues, the issuance of commercial debt and the potential privatization of state-owned companies

Advised a South African gas company on aspects of price regulation, particularly in relation to its gas transportation network

Advised a consortium of bidders on two attempted regional electricity company transactions

Advised Ofgem on the separation and valuation of eight regional gas networks

Produced a report on the value of British Gas for tax purposes

Performed a valuation of British Gas' gas take or pay liabilities

Produced a report on the value of a gas-fired power plant in the UK, to support the sale of the assets

Advised on the Irish Utility Regulator on the cost of capital for GNI in Ireland

Advised National Grid on the sale of various gas distribution networks

Performed a detailed review of an electricity distribution company during the 2009 price control, to assess whether there was sufficient grounds for appeal Ofgem's price control determination to the UK Competition Commission.

Advised Ofgem on the RPI-X@20 review on the role of ex post regulation

Advised Ofgem on the RPI-X@20 review on extending rights of appeal

Provided support to the DTI with respect to its notification of State aid to the European Commission in relation to British Energy

For UK gas utility helped to develop the financial management reporting function to assist regulatory reporting

Designed and implemented a financial management information system for a UK gas transmission business

For a large global energy firm, performed a review of its trading processes and procedures.

In the context of a joint venture dispute, determined the value of an UK independent gas shipping company

Post regulation and valuation

For Postcomm, developed a **price control** financial model to determine the total level of allowable revenues over a price control and for testing different tariff structure options.

Advised Royal Mail on a range of **price control** issues in 2016.

Advised Royal Mail on **price control** issues and its relative efficiency using panel techniques for PCR 4.

Evaluated Royal Mail's application to introduce **zonal pricing** for certain bulk products

For ComReg reviewed the 2001 Accounting Direction.

For ComReg determined the most appropriate form of **price regulation** for the Irish market following liberalization.

Produced a report reviewing volume trends in Europe and the rest of the world.

Reviewed Royal Mail's financial position to identify the underlying causes of weaker financial viability in PCR3.

For Postcomm, produced a report evaluating ring fencing and separation choices for the contestable parts of Royal Mail's value chain.

For Postcomm, produced an expert report assessing the efficiency of Royal Mail for PCR3.

For Postcomm, developed a set of best practice principles for allocating costs between Royal Mail's business units

Water regulation and valuation

Bristol Water before the UK Competition Commission on its appeal of the PR09 Ofwat price determination.

Audited various NIAUR price control model.

Advised Anglian Water on the options for financing multi-sector water supply assets.

Advised UKWIR on the future approach to price-setting in the wholesale value chain.

Advised Southern Water Board on its price control determination for PR09, and on whether there were grounds to appeal Ofwat's decision to the UK Competition Commission.

Advised WICS on options for the further development of competition in the water industry.

Advised WICS in its price regulation of Scottish Water's remaining monopoly business.

Designed methodology for WICS to calculate the wholesale charges applying to pre-existing non-standard tariff agreements.

Audited the separation between Scottish Water and its retail subsidiary, Business Stream.

Produced a report that identified and quantified the factors that constrain the size of capital investment programmes that could be delivered efficiently.

Advised WICS on governance options of Scottish Water.

Advised WICS on incentive mechanisms

Produced an expert report for on the efficiency of the water sector in Northern Ireland.

Advised a consortium of bidders on two attempted water company transactions

Transport regulation

Advised the rail regulator in the UK over 18 months on the setting of Network Rail's passenger and freight tariffs.

Advised Network Rail on a range of price control and tariff issues, in the context of a dispute with the UK rail regulator.

Engaged by Gatwick Airport to assist with the Q6 price control and to develop a financial model to assess prices on a LRIC basis.

Produced an expert report for the CAA on NATS' labour capitalisation policy for a price control review.

Produced an expert report for the CAA assessing NATS' revenue and cost allocation processes.

Produced an expert report for the CAA assessing NATS' back office efficiency.

Produced an expert report for the CAA assessing BAA's revenue and cost allocation processes.

Acted as a regulatory advisor to CAA on cost efficiency analysis.

Audit

During a three-year period in Arthur Andersen's audit and business advisory division, involved in the statutory audits of both public and private clients. This work involved preparation of statutory financial statements