

Mark Bosley

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PROFESSIONAL NARRATIVE

Mark Bosley is an economist who provides expert evidence on economic and financial issues in competition and commercial disputes. He has been appointed as an expert on matters before the UK Competition Appeal Tribunal, UK High Court and arbitral tribunals and has provided oral testimony. He is listed in Lexology's expert rankings for Competition and Commercial Litigation. He is also a fellow of the Institute of Chartered Accountants in England and Wales.

Mr Bosley has over 17 years' professional experience. He has extensive experience of providing expert evidence in contentious matters, including both litigation and arbitration, in which he has successfully advised both defendants and claimants in the context of both follow-on and standalone actions, including class actions. He also advises clients on competition authority investigations, appeals and regulatory determinations.

Mr Bosley has broad expertise and has been appointed as the expert on competition economics and quantum of damages in a wide range of matters. His experience includes providing evidence on issues such as market definition, dominance, the assessment of overcharge, pass-on and the quantification of losses. He has advised clients across a range of industries, including digital markets, energy, telecommunications, healthcare, pharmaceuticals, financial services and manufacturing.

EDUCATION

2008	MA, Economics, 1 st , University of Cambridge
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PROFESSIONAL AFFILIATIONS

2012	Fellow, ICAEW
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PREVIOUS POSITIONS

2014 – 2021	Senior Director, FTI Consulting
2009 – 2014	Senior Associate, PricewaterhouseCoopers

SELECTED PROFESSIONAL EXPERIENCE

Competition disputes and economic regulation

Appointed as the expert on behalf of a defendant to a follow-on collective action before the Competition Appeal Tribunal seeking damages in relation to resale price maintenance. Ongoing.

Appointed as the expert on behalf of a rights management organisation in relation to a standalone abuse of dominance claim before the UK High Court. Ongoing.

Appointed as the expert in a follow-on claim for damages in relation to a bid-rigging cartel filed before the UK Competition Appeal Tribunal. The matter settled favourably for the claimant.

Appointed as the expert on behalf of the defendant in a standalone claim filed before the UK Competition Appeal Tribunal alleging that the terms of a franchising agreement amounted to anticompetitive vertical restraints. The matter settled favourably for the defendant.

Appointed as the expert on competition economics in a counterclaim alleging an abuse of dominance in response a claim before the UK High Court alleging infringement of intellectual property rights. Ongoing.

Appointed as the expert on competition economics on behalf of the claimants in an abuse of dominance claim before the UK Competition Appeal Tribunal concerning anti-competitive foreclosure in payment services for retail energy. The matter settled favourably for the claimants.

Appointed as the expert on competition economics and damages on behalf of the claimant in a standalone abuse of dominance claim before the UK Competition Appeal Tribunal. The matter settled favourably for the claimant.

Appointed as the expert on competition economics by the defendant in an ICC arbitration brought by the concessionaire operating a privatised state asset, in relation to alleged breaches of the concession agreement. Assessed whether the terms of the agreement infringed competition law.

Appointed as the expert on behalf of a claimant challenging the rules of a sports league in the United Kingdom on competition law grounds.

Advising a major mobile network operator which is defending a standalone collective action alleging abuses of dominance in the market for mobile phone contracts. Ongoing.

Advised a large UK water and sewerage company in connection with a CPO application filed before the CAT in connection with alleged underreporting of sewage discharges. Certification was refused.

Advising the class representative in connection with a standalone collective action which has been filed before the UK Competition Appeal Tribunal in relation to alleged abuses of dominance in digital markets. Ongoing.

Advised the defendant in a standalone claim for abuse of dominance under EU competition law in telecommunications markets. The court found in favour of the client on all material points.

Advising the class representative in connection with a standalone collective action before the UK Competition Appeal Tribunal in relation to alleged abuses of dominance by a digital platform. Ongoing.

Advising the defendant in a counterclaim alleging an abuse of dominance in response a claim before the UK High Court alleging infringement of intellectual property rights. Ongoing.

Advising the class representative in connection with another standalone collective action before the UK Competition Appeal Tribunal in relation to alleged abuses of dominance by a digital platform. Ongoing.

Advising multiple claimants in proceedings in both the UK and the Netherlands on the assessment of losses arising as a result of a cartel among European truck manufacturers. Ongoing.

Advising the claimants in connection with a standalone collective action filed before the UK Competition Appeal Tribunal alleging an abuse of dominance by a hardware manufacturer. Ongoing.

Advised Mastercard in a UK follow-on action arising from a finding of abuse of dominance through the levying of excessive interchange fees by payments system operators.

Advising the respondent (the UK Competition and Markets Authority) in an appeal of a finding of excessive pricing by pharmaceutical companies in the UK.

Advised the respondent (FIFA) in an arbitration under Football Association rules brought by a group of football agents alleging that its new regulations infringe UK competition law.

Advising an interested party on a submission to the UK Competition and Markets Authority in relation a referral of a proposed merger.

Advising the respondent (the Competition and Markets Authority) in relation to an appeal of a finding of excessive pricing by pharmaceutical companies in the UK.

Advising the defendant (an international mining company) on its response to an excessive pricing complaint against a South African subsidiary by a downstream customer. Ongoing.

Advised the defendant (an international pharmaceutical company) on its response to an investigation into alleged excessive pricing in South Africa.

Assessed alleged subsidy received by a CIS fertiliser company in relation to a petition for the imposition of countervailing duties under the US Tariff Act.

Advised a funder on potential quantum in a proposed collective action to be brought against cartelists in the UK.

Advised the appellant in an appeal against an abuse of dominance finding before the Competition Appeal Tribunal.

Advised a major private healthcare provider in South Africa in the context of a South African Competition Commission investigation.

Advised a pharmaceutical business in the context of a CMA investigation into alleged excessive pricing, focusing on the appropriate competitive benchmark price.

Advised an Irish telecommunications network operator on responding to a ComReg consultation on the regulatory framework for broadcasting infrastructure and the proposed allowed return.

Advised the Commission for Energy Regulation on allowed return for the periodic price control for Gas Networks Ireland.

Advised a major European energy generation and supply company throughout the UK Competition and Markets Authority's market investigation.

Advised a trade association on incentive mechanism design for waste electronic equipment recycling.

Advised British Telecom in the context of its appeal of Ofcom's decision to remove the wholesale "must offer" obligation on Sky television.

Secondment to the UK Office of Fair Trading as an Economic Advisor on a market study into the supply of ICT to the UK public sector.

Advised Ofwat on allowed return and financeability in connection with the price control for 2015 to 2020.

Advised PwC throughout the UK Competition Commission's audit market investigation, including the assessment of profitability and price impact of switching auditors.

Advised a major UK private medical insurer in the course of a UK Competition Commission market investigation.

Advised the BBC on options for simplifying its compliance with State Aid and competition law.

Commercial disputes (Arbitration and litigation)

Appointed as the expert in a claim before the UK High Court to assess losses on behalf of an investment management business seeking damages in connection with breaches of duties by a group of departing employees, including theft of intellectual property. Ongoing.

Appointed as the expert in a claim before the UK High Court to assess losses on behalf of an investment bank seeking damages in connection with breaches of contract and torts by a group of departing employees. The case settled favourably for the claimant.

Appointed as the expert in a claim before the UK High Court to assess losses suffered by a trading company as a result of allegedly negligent legal advice provided in relation to import requirements.

Advising a major pharmaceutical company defending a claim for losses arising from alleged fraudulent misrepresentation in respect of the terms agreed regarding a sublicense of intellectual property owned by the claimant. Ongoing.

Advised the majority shareholders in a cosmetics business in the context of shareholder dispute concerning the fair market value of its shares for the purposes of a transaction.

Assessed the potential financial harm suffered by a multinational company as a result of allegedly defamatory statements published by the defendants, in the context of proceedings in the UK High Court.

Advised a multinational software company in connection with an investigation by a special tribunal in South Africa concerning the losses arising in connection with a contract alleged to have been procured corruptly.

Assessed claim and counterclaim brought by investors in an agricultural business arising from their respective breaches of an investment agreement, in proceedings under the Arbitration Act 1996.

Undertook a preliminary assessment of losses suffered by a robotics technology business as a result of alleged breach of its patents.

Assessed losses suffered by a reinsurance brokerage firm as a result of alleged breaches of legal duties by a senior employee who moved to a competitor, in the context of UK High Court litigation.
Assessed the potential financial harm suffered by a multinational company as a result of allegedly defamatory statements published by the defendants, in the context of proceedings in the UK High Court.

Prepared an expert assessment of a brand valuation adduced in support of a claim that assets were sold at an undervalue in the course of an Administration, in the context of UK court litigation.

Assessed the value of an interest in a digital services business – including the value of share classes holding special rights – in the context of proceedings in the UK Family Court.

Assessed losses suffered as a result of an auditor's alleged negligence in failing to detect a fraud, in the context of UK litigation.

Assessed terms for a compulsory licence on a 'reasonable royalty' basis in connection with an infringement of a pharmaceutical patent, in context of proceedings in European jurisdictions.

Assessed the fair market value of expropriated upstream and midstream oil and gas assets, in the context of a claim brought in an UNCITRAL investment treaty arbitration.

Undertook preliminary assessment of the potential losses suffered by a start-up provider of an innovative digital service as a result of patent infringement, in the context of potential UK litigation.

Assessed losses suffered by a reinsurance brokerage firm as a result of alleged breaches of contract by former employees who joined a competing business, in the context of UK High Court litigation.

Assessed losses suffered by an emerging market telecommunications operator arising from taxes alleged to have been wrongfully imposed, in the context of an UNCITRAL investment treaty arbitration.

Undertook a preliminary assessment of losses suffered by a robotics technology business as a result of alleged breach of its patents, in context of potential UK proceedings.

Assessed losses suffered by the vendor of a minority interest in a gas field in Egypt arising from purchaser's breach of SPA, in context of a CRCICA arbitration.

Assessed losses suffered by another reinsurance brokerage firm as a result of alleged breaches of legal duties by a senior employee who moved to a competitor, in the context of UK High Court litigation.

Assessed losses suffered by an auction house as a result of alleged breaches of contract by a group of former employees who set up a competing business, in the context of UK High Court litigation.

Valued a minority interest in an oil field in Iraq, in the context of a claim for breach of agreement, in the context of an ICC arbitration.

Valued a developing market telecommunications business in context of a claim for losses brought by the investor in an UNCITRAL investment treaty arbitration.

Assessed losses claimed by a UK-based real estate investor arising from alleged conspiracy by their professional advisors, in the context of UK High Court proceedings.

Assessed losses suffered by an automotive parts business as result of an alleged wrongful early termination of a supply contract, in an arbitration before the German Institution of Arbitration.

Assessed losses suffered by an asset manager as a result of alleged breach of contract by former employees who established a competing business, in proceedings under the Arbitration Act 1996 and associated UK High Court litigation.

Valued a start-up technology business in the homeland security analytics sector, for the purposes of a negotiated settlement relating to a breach of an SPA.

Assessed a claim for losses of an aircraft leasing business arising from a failure to honour an alleged commitment of financial support, in the context of an ICC arbitration.

Critically reviewed a professional advisor's report on the value of property pledged as loan collateral, in the context of an investor's claim for losses arising from an SFO investigation in UK High Court proceedings.

Assessed claim and counterclaim brought by purchaser and vendor of a 'white label' electronics manufacturer arising from an alleged breach of the SPA, in the context of an ICC arbitration.

Valued of a start-up emerging market telecommunications operator, in the context of a claim for losses arising from alleged breach of agreement.

Assessed losses suffered by a staffing services business, and interest thereon, arising from incorrect historical application of VAT rules, in the context of mediation with HMRC.

Transactions advisory (regulatory)

Advised a consortium of investors on future allowed return and financeability issues in connection with a potential bid for a regulated UK power network operator.

Advised a bidder on regulatory finance issues in connection with its potential acquisition of another regulated UK power network operator.

Other

Advised on the fair market value of intellectual property owned by a UK producer of innovative polymer products, for the purposes of setting a transfer pricing policy.

Audits of FTSE 100 financial institutions, including assessing models for valuing illiquid assets.

Audits of securitisation SPVs, including assessing the fair value of assets where markets were thin or inactive as a result of the Eurozone crisis.