

GREG HARMAN

BRG

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SUMMARY

Greg Harman is a managing director at BRG and leads the firm's EMEA disputes practice.

During more than 32 years in consultancy, Mr Harman has undertaken a wide range of assignments in the United Kingdom and internationally. He is an expert in the areas of valuation, finance, dispute consulting, pricing, competition and economic regulation.

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

Mr Harman has worked on matters before the AAA, PCA, ICC, ICSID, UNCITRAL, LCIA and SCC tribunals in various geographical locations. In the UK, he has worked on matters before the High Court, Competition Appeal Tribunal and Competition and Markets Authority. He has also worked on matters heard under the provisions of the UK Harbours Act, under Rule K of the Football Association Rules, Ofcom and the CAA. In South Africa, Mr Harman has worked on matters before the High Court, Special Tribunal, Competition Tribunal, Competition Commission and Constitutional Court. He has also provided evidence to the Court of Arbitration for Sport in Lausanne.

Lexology Index (formerly Who's Who Legal) has ranked Mr Harman as a leading global expert, as well as a recommended expert in Lexology's Arbitration, Consulting, Competition, Competition Litigation, Commercial Litigation and Energy lists. Peer and client comments relating to his expertise can be found in [his Lexology profile](#).

Mr Harman has given oral evidence on over 40 occasions.

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, 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

International Arbitration and High Court litigation

Provided oral evidence in an investment treaty dispute between a company in the power and energy supply sector and Lithuania (ICSID and SCC).

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 satellite and terrestrial network (ICSID).

Provided oral evidence in an investment treaty dispute in the Philippines relating to the how prices should be set in the water sector (PCA).

Investment treaty dispute between a company providing GSM communications, Wireless Data Networks, VoIP, and Internet service provision and Lebanon.

Provided oral evidence in a dispute between a large Russian oil and petrochemicals business and a creditor (LCIA), relating to the solvency of the business.

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

Provided written evidence in arbitral proceedings in a gas exploration dispute in Rwanda relating to the application of price change mechanisms in the contract following changes in construction costs (ICC).

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

Provided oral testimony in a contractual dispute in the consumer electronics market in the Middle East (ICC).

Provided oral evidence relating to a breach of contract dispute 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 expert evidence in proceedings in the telecoms sector in Southeast Asia.

Provided written evidence in a post-acquisition dispute between a Russian power plant and a Russian bank (UK High Court).

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

Provided written expert evidence in a dispute between two football clubs (the “Tevez” affair) relating to losses suffered due to relegation (High Court). Case settled before trial.

Assisted in a dispute between a Russian conglomerate and the Russian state, relating to the confidentiality of the conglomerate group structure (UK High Court).

Provided oral evidence in a contractual dispute between a TV company and a production company (High Court).

Provided evidence in a contractual dispute relating 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).

Provided evidence in a contractual dispute between two regional television companies relating to how sponsorship revenues should be allocated between the TV companies (High Court).

Produced evidence in a contractual pricing dispute between a power company and a mining (coal) company in South Africa (High Court SA).

Provided written evidence on the level of damages sought in relation fraudulent tendering between an energy company in South Africa and a large multinational IT company. The claim was for a disgorgement of profits (SCCC).

Provided written evidence relating to fraudulent tendering in Allpay and the South African Social Security Agency in relation to distribution of social grants (Constitutional Court of South Africa).

Currently engaged by private hospitals in South Africa relating to a constitutional challenge the new National Health Insurance Act (Constitutional Court of South Africa).

Provided evidence in a post-acquisition/shareholder value dispute in the energy power sector in Tanzania (High Court Tanzania).

Provided expert evidence in a claim for damages arising from an alleged cartel in the gas distribution sector (High Court, South Africa).

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

Provided evidence on a matter relating to gas commodity prices in arbitral proceedings in India. Required the interpretation of complex contractual pricing mechanisms (High Court India).

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

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

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

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.

Energy regulation and valuation

Advised a large power company 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. The work included the valuation of power plants and establishing a tariff mechanism.

Advised a UK energy provided during the CMA's energy market investigation. The work included an assessment of the value and the profitability of the company's power plants.

Produced a commercial valuation report for a gas-fired power plant in the UK in the context of an M&A transaction.

Supported the DTI with respect to its notification of State aid to the European Commission. Advised on the value of British Energy's nuclear power plants.

Advised Ofgem (the UK energy regulator) on three supply price controls.

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

Advised Ofgem 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 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

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.

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

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.

Competition disputes

Neill v Sony PlayStation. Expert in a class action against Sony relating to abuse of a dominant position in the UK. Instructed on market definition, dominance, abuse, overcharge, pass-on and quantum. Addressing issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Ius Omnibus v Sony (PlayStation). Expert in a class action against Sony relating to abuse of a dominant position in Portugal. Instructed on market definition, dominance, abuse, overcharge, pass-on and quantum. Addressing issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Stichting Massaschade & Consument v Sony (PlayStation). Expert in a class action against Sony relating to abuse of a dominant position in the Netherlands. Instructed on market definition, dominance, abuse, overcharge, pass-on and quantum. Addressing issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Stopford v Valve. Expert in a class action against Steam in the UK relating to abuse of a dominant position. Instructed to on issues including market definition, dominance, abuse, overcharge, pass-on and quantum.

Objections to Harbour Dues (2010–2011). Provided oral evidence in a pricing dispute between the Dover Harbour Board and ferry operators, including P&O Ferries, DFDS Seaways, and Sea France (Section 31 of the Harbours Act 1964). Addressed issues relating to excessive pricing, economic profitability, and cost allocation.

Gutmann v Apple. Expert in a class action against Apple relating to abuse of a dominant position in the UK. Instructed on market definition, dominance, abuse and quantum.

Boyle v GTR. Expert in a competition claim against GTR in the UK relating to abuse of a dominant position. Instructed on issues relating to excessive pricing and economic profitability.

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*” (phenytoin). Addressed issues relating to economic profitability, the valuation of intangible assets, circularity and cost allocation.

Provided oral evidence on behalf of the CMA during an excessive pricing dispute in the UK pharmaceuticals sector (liothyronine). Addressed issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Provided oral evidence in a pricing dispute between the Competition Commission of South Africa and a large chemicals company in South Africa. Addressed issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

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

Advised a company (Roche) in a pricing dispute in the South African pharmaceutical sector (SA Competition Commission). Addressed issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Advised a company (Celgene) in an excessive pricing dispute in the South African pharmaceutical sector (SA Competition Commission). Addressed issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Provided evidence in the Competition Commission of South Africa’s Private Healthcare Market Investigation on issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

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).

Provided evidence in the UK Competition Commission’s Aggregates, Cement and Ready-Mix Concrete Market Investigation, on issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Provided evidence in the UK Competition Commission’s Pay Day Lending Market Investigation, on issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

Providing evidence in Competition Commission’s Retail Banking Market Investigation, on issues relating to excessive pricing, economic profitability, the valuation of intangible assets, circularity and cost allocation.

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.

Provided written evidence in a price discrimination / margin squeeze dispute between Royal Mail and Ofcom and Whistl (CAT). Considered whether Royal Mail's pricing would have had a material impact on Whistl's economic profitability and considered whether prices could be justified by reference to economic costs.

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

Provided oral evidence in the interchange pricing follow-on damages dispute between MasterCard and Sainsbury's. 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"*. Retained on the issue of pass-on and aspects of quantum (interest).

Instructed on interchange pricing follow-on damages dispute for MasterCard against Asda, Aldi and Morrison. Retained on the issue of pass-on and aspects of quantum (interest).

Provided oral evidence in the interchange pricing follow-on damages dispute for MasterCard in the Umbrella proceedings. Retained on the issue of pass-on.

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.

Utilita Energy Limited & Another v PayPoint plc & Others. Provided evidence in a dispute against PayPoint, relating to abusive over the countertop up payment services. Instructed to assess damages and to opine on pass-on charges to prepayment customers. Case settled.

Advised a defendant in the gas switchgear cartel, opining on the rate of pass-on in a regulated sector.

CPO applicate in a case against Amazon in the UK.

Instructed in the truck cartel cases for four separate claimants, relating to issues of pass-on and quantum (Dutch claims)

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

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.

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).

Telecoms and media regulation and valuation

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

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.

Postal services 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