

David Scannell

YEAR OF CALL: ENGLAND AND WALES: 2003; IRELAND: 2017

“Very clever”; “an absolutely fantastic eye for detail and very good advocacy skills”; “technically excellent”; “a creative thinker”

Chambers & Partners 2019/Legal 500 2018-19

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Practice Overview

David is recognised by the Legal 500, Chambers & Partners and Chambers Global as a Leading Junior in competition law. He has extensive experience of all aspects of competition and regulatory work, including cartels and follow-on damages actions. He is currently instructed on the claimant side in follow-on damages claims arising from the *CRT Cartel*, the *DRAMs Cartel*, the *LCD Cartel* and the *Trucks Cartel*, having already acted for defendants in the *Refrigeration Compressors Cartel* and for defendants in the *Elevators & Escalators Cartel* before the European Courts. He acts for GlaxoSmithKline in its appeal against the CMA's so-called 'pay-for-delay' decision and acted for Sky in the seminal pay TV dispute, *Sky v Ofcom*. He is also presently instructed in several matters involving CMA investigations of particular UK markets, both on the side of complainants and on the side of investigatees; and by the Law Society (unled) in regulatory proceedings in the High Court.

Within EU law, David has been recognised as an outstanding junior by the Legal 500 for some years, frequently acting unled at all judicial levels and in all areas of EU law. He has particular expertise in constitutional matters, preliminary references to the Court of Justice of the EU, EU pharmaceutical law, the REACH regulation, procurement, State aid and regulatory matters. Recent and pending cases of note include *In re Easynet* (unled, Court of Appeal); *AbbVie Inc and AbbVie Ltd v European Medicines Agency (EU pharmaceutical law)* (General Court and Court of Justice), *PTC v European Medicines Agency (EU pharmaceutical law)* (unled, General Court and Court of Justice, pending), *GE Healthcare v Commission* (unled, for GE Healthcare, GC, pending), *Aer Lingus v Commission (State aid)(GC)* and *R(British American Tobacco) v S/S Health*, where he acted unled for British American Tobacco in the Court of Justice. He is the first British barrister to have appeared before the Board of Appeal of the European Chemicals Agency (*Grace v ECHA*, 2017). He has advised multiple governments and non-State entities on sanctions-related matters and on issues arising from Brexit. He has been called to the Bar of Ireland (2017), to ensure a seamless continuation of Court of Justice and General Court representation post-Brexit. His Ph.D (Cantab.) addressed the EU's common foreign and security policy, including EU sanctions law. In 2018, David was elected by the Bars and Law Societies of England and Wales, Scotland and Northern Ireland to be a UK Representative on the CCBE's Standing Committee in the Court of Justice.

Within commercial law, David has substantial experience of heavy 'City' litigation, international civil fraud, securities law, jurisdiction and IT disputes. He is currently instructed by Russia in multiple disputes. Recent leading cases include *Erste Group Bank AG v Red October* (Commercial Court and Court of Appeal, conspiracy, jurisdiction), *Ageas (UK) Ltd v AIG* (QBD, complex warranty claims and insurance), *Certain Limited Partners in Henderson PFI Secondary Fund II LLP v Henderson PFI Secondary Fund II LP* (banking and finance) and *Thai Airways v KI Holdings* (Aviation). David has further expertise in international art disputes, having appeared in *Iran v Barakat Galleries* for Iran in the Court of Appeal and additional actions of a related nature, and in Venezuelan oil warrants disputes, having represented (unled) global finance houses and investment banks in a

series of disputes relating to unpaid coupon dividends arising from short selling.

David is a member of the BVI Bar, was recently called to the Irish Bar (2017) and is a member of the Treasury A Panel.

Full lists of David's notable cases appear below.

EU law

Recent and ongoing EU law cases include:

- Case T-783/17 *GE Healthcare v Commission* (pending)
- *In re Easynet* [2018] EWCA Civ 10
- *GlaxoSmithKline v CMA, CAT* (pending)
- *Grace GmbH v ECHA* (ECHA Board of Appeal)
- Case C-513/16 P(R) *PTC v EMA*, EU:C:2017:148
- Case C-547/14 *Philip Morris Brands and Others*, EU:C:2016:325
- Case T-500/12 *Ryanair v Commission*, EU:T:2015:73
- Case T-473/12 *Aer Lingus v Commission*, EU:T:2015:78
- Cases T-29, T-44/13 and T-44/13R *AbbVie Inc and AbbVie Ltd v European Medicines Agency* (for AbbVie)
- Case C-389/13P(R) *European Medicines Agency v AbbVie Inc and AbbVie Ltd*
- Ongoing advice to the Government of Gibraltar on matters pertaining to sovereignty issues with Spain
- Ongoing advice to creditors of two of the three failed Icelandic banks

Other notable EU cases include:

- Case C-58/08 R(*Telefonica O2 Europe plc & Ors v S/S Business, Enterprise and Regulatory Reform* (EU constitutional law));
- Case C-558/07 R(*SPCM*) v *S/S Environment, Food and Rural Affairs* (REACH Regulation)); and
- Cases T-498/04 and C-337/09P *Zhejiang Xinan Chemical Industrial Group Ltd v Council* (Anti-dumping)
- Joined Cases C-507 and C-532/03 *Commission v Ireland* (procurement)

Competition

In competition law, recent and ongoing cases include:

- *Sky v Ofcom* (Pay TV) (CAT, for Sky)
- *BT v Sky* (Court of Appeal, for Sky)
- *Ofcom v Sky* (Court of Appeal, for Sky)
- Case T-473/12 *Aer Lingus v Commission* (State aid)

Other significant cases include:

- Case T-161/07 *Kone v Commission* (elevators and escalators cartels)
- *Gatwick v Ryanair* (dominance)
- *Punch Taverns (PTL) Limited v Central Estates plc & Di Stefano* (No.1) (High Court; beer-tie agreements)
- *Punch Taverns (PTL) Limited v Central Estates plc & Di Stefano* (No. 2) (High Court; beer-tie agreements)
- *Punch Taverns (PTL) Limited v Ersin* (High Court; beer-tie agreements)

Commercial

Important Cases

- *Erste Group Bank AG v Red October* (Commercial Court; conspiracy; jurisdiction)
- *Ageas(UK) Ltd v Kwik-Fit (GB) Ltd* (QBD; complex warranty claims)

- *Real Estate Opportunities Ltd v Aberdeen Asset Managers Jersey Ltd* (Commercial Court and Court of Appeal; professional negligence)
- *Government of the Islamic Republic of Iran v The Barakat Gallery Limited* (Court of Appeal; commercial/private international law)
- *Petroval v Stainby Overseas and Others* (BVI High Court; commercial fraud/jurisdiction/freezing relief)
- *Digicel v West Indies Cricket Board* (sports arbitration)
- *Excelsior Group Productions Limited v Yorkshire Television Limited* (Commercial Court; commercial agreements)
- *Eskom v Alstom* (Commercial Court; professional negligence)
- *EMSO v Goldman Sachs* (Commercial Court; short selling of Venezuelan Oil Warrants)
- *Astrium v Conax* (ICC Arbitration, claims arising from satellite failure in orbit)
- *Comanco SA v TGC Ventures and Others* (Commercial Court; conspiracy, fiduciary duty, FSMA, claims in contract, breach of trust/knowing receipt, restitution)

Public Law

Important cases

- R(Royal Brompton and Harefield NHS Foundation Trust) v JCPCT (Court of appeal and Administrative Court)
- Quark Fishing v Director of Fisheries, Govt of South Georgia and the South Sandwich Islands (South Georgia and South Sandwich Islands Supreme Court, Falkland Islands)
- R(Telefonica O2 Europe plc) v S/S Business, Enterprise and Regulatory Reform (Admin.)
- R(SPCM) v S/S Environment, Food and Rural Affairs (Admin.)

Qualifications

LL.B (Hons) Law (First Class); LL.M (Cantab.) (First Class with Distinction, 1st place); Ph.D (Cantab.); Bar Vocational Course. Princess Royal Scholar, Inner Temple.

Other Bar Memberships

Barrister-at-Law (Bar of Ireland)

British Virgin Islands

Appointments

Member of the Treasury 'A' Panel of Junior Counsel to the Crown.

Bar Council EU Law Committee.

Bar European Group Committee

Publications

- Burton (ed.) *Civil Appeals*, 2nd ed., ch. 7, "References to the European Court for Preliminary Rulings" (2013)

- Brealey and Green (eds.) *Competition Litigation, UK Practice and Procedure*, 2nd ed., forthcoming, contributor
- Arnull, Barnard, Dougan and Spaventa (eds.), *A Constitutional Order of States? Essays in EU Law in Honour of Alan Dashwood* (Hart Publishing, 2011) (reviewed by Steinfeld, in (2012) 49 CML Rev 2039 (“an outstanding contribution to the field of European Union law”, written by “a vast array of preeminent authorities within the various fields of EU law”) and by Reich, in (2012) 37 EL Rev 504 (“an invaluable source of material and argument for a high level EU law debate”)), ch. 29, “*Third Time Lucky: the Pre-history of the Common Security and Defence Policy*”
- Brealey and Green (eds.) *Competition Litigation, UK Practice and Procedure* (OUP, 2010), contributor
- *O’Byrne v Aventis Pasteur* [2008] UKHL 34 (2008) Solicitors’ Journal
- *Book Review: European Union Law and Defence Integration* (2006) 43 CML Rev 894
- *Legal Aspects of the EU’s European Security and Defence Policy* (2005), Ph.D dissertation, available from Cambridge University Library
- *Financing EU Military Operations* (2004) 9 EFA Rev 529-550
- (With Hartenstein, Matta and others) *Droit Global: Cinq Ans de Droit Comparé dans le Monde*, Editions Panthéon-Assas, Paris, 2002
- *Trespassing on Sacred Ground: The Implied Competence of the European Community* (2002) Cambridge Yearbook of European Legal Studies 377
- *The Influence of the General Principles of Community Law on Rules of Procedure and Rules of Substance in Ireland* (2001) 1 (1) JSIJ 64

Directory Quotes

David Scannell is recognised in The Legal 500 and Chambers & Partners as a Leading Junior in EU and competition law

- "Very clever and a nice drafter." "He is a great junior with particular experience of the pharmaceutical sector." (Chambers & Partners UK & Global 2019)
- "Scannell has an absolutely fantastic eye for detail and very good advocacy skills." (Chambers & Partners 2019)
- "He is extremely thorough and has a pragmatic approach." (Legal 500 2018-19)
- "A technically excellent and a creative thinker." (Legal 500 2018-19)
- "He has a very strong sense of litigation tactics" and is "knowledgeable on the competition side." (Chambers & Partners 2018)
- "A superb technician who rolls up his sleeves and gives 100%." (Chambers & Partners 2018)
- "A pleasure to work with." (Legal 500 2017)
- "He has a thorough understanding of facts and the ability to simplify complex information." (Legal 500 2017)
- "He is measured, chooses his points selectively and delivers them well." (Chambers & Partners 2017)
- "He is a very fine drafter and really gets things done." (Chambers & Partners 2017)
- "Inquisitive, bright and extraordinarily committed" (Legal 500, 2016)
- "He's very quick and very thorough and can demolish the opposition's arguments." (Chambers & Partners 2016)
- "Extremely hard-working and very good at drafting." (Chambers & Partners 2016)
- "Hard-working and prepared to go the extra mile. He's good at looking at different solutions." (Chambers & Partners 2016)
- "Incredibly clever, one of those people that just has a very impressive mind. He is also very unstuffy and very likeable." (Chambers & Partners 2016)
- "Noted for his expertise in the areas of European and competition law. He continues to impress with his involvement in high-profile cases acting on behalf of household-name brand clients." (Chambers & Partners 2016)
- "Knowledgeable, pragmatic and approachable" (Legal 500 2015)
- "Diligent, professional and responsive - nothing is too much trouble for him." (Chambers & Partners 2015)
- "Intelligent, incisive and easy to get on with." (The Legal 500 2014)

- "Valued for his ability to utilise his specialist expertise in both competition and commercial law. He is praised for his skills at cross-examination, and is particularly good with business witnesses. Has recent experience in state aid work. Expertise: "His written work is fantastic, as is the way he interacts with clients." "He has an unbelievable work ethic." (Chambers & Partners 2014)
- "Has a strong background in European law and is praised for his outstanding knowledge of the field and for his recall of leading cases. He has a range of experience in the area, having appeared before both the Court of Justice and the General Court, and is particularly good on state aid matters and constitutional questions. Expertise: "He knows EU law backwards and his judgement is superb." "He's patient and measured." (Chambers & Partners 2014)
- David Scannell is recognised in The Legal 500 2013 and 2014 as a Leading Junior in EU and competition law.
- "'an excellent emerging talent." He focuses on commercial, competition and EU law, and is praised for his ability to synthesise a large amount of detail in a short amount of time. Scannell was one of the barristers acting for BSkyB in its pay-TV appeal before the CAT. He also represented Gatwick Airport with Mark Hoskins QC in a case against Ryanair." (Chambers & Partners 2013)