BRICK COURT
CHAMBERS

Brick Court Chambers
7-8 Essex Street, London WC2R 3LD
DX 302 London Chancery Lane

Sarah Lee KC

YEAR OF CALL: 1990 **YEAR OF SILK**: 2016

"She has a fantastic legal brain, and is an excellent advocate as well."

Chambers & Partners 2016

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Practice Overview

Sarah Lee KC specializes in Competition, Regulatory Law, EU and Public Law. She is a qualified Mediator and is registered by the Civil Mediation Council

Sarah advises commercial parties in relation to State aid and subsidies, resale price maintenance and facets of abuse of dominance/regulatory pricing conditions, including price controls along with issues relating to margin squeeze, price discrimination and tying. She has a particular interest in trade and trade remedy related matters, along with telecommunications and utilities. She is experienced in commercial and regulatory judicial review and in private damages actions. Sarah has acted for BT on a stream of regulatory challenges, including a successful challenge to a price control and to a non-SMP condition (at each stage, from the Competition Appeal Tribunal up to the Supreme Court).

She is familiar with a wide range of industries, including telecommunications, farming, energy, pharmaceuticals, insurance and public procurement and has a wide Commercial Law background. She undertakes both advisory and advocacy work for private and public clients.

Competition & regulatory

Sarah Lee KC undertakes advocacy and advisory work in all aspects of Competition Law and economic regulation and the overlap between them. She has a specific interest in trade and trade remedies and has recently co-hosted a webinar series on the topic. She has been instructed in a full range of competition law cases including Art 101/102 damages claims, collective actions, State aid damages cases and State aid in broadband (before the General Court of the EU), State aid cases in the High Court, public procurement in relation to Structural Funds grant cases and in ICC arbitrations. Her regulatory practice includes acting for British Telecommunications in a number of

high-profile cases challenging Ofcom decisions, as well as providing advice in relation to telecommunications damages claims and telecommunications commercial agreements. She was involved in the BT v Ofcom 0845 Conditions case at all stages in BT's successful challenge, from the Competition Appeal Tribunal to the Supreme Court, and in the successful overturning of a price control condition in relation to Mobile Call Termination rates.

Important cases

- Advice in relation to digital data, data pooling and Chapter II requirement in an important commercial sector in the UK.
- Advice in relation to State aid on PPE, to the Temporary Framework and to Research, Development and Innovation Framework.
- Advice for ClientEarth on uses of competition and consumer law to tackle deforestation.
- Acting for Defendants in a cartel liability and damages claim, *Secretary of State for Health v Norton Healthcare* (pharmaceutical pricing), Chancery Division.
- Appearing in the General Court in a State aid case (roll out of Broadband in Cornwall), Case T-362/10 *Vtesse Networks Ltd v European Commission*.
- Acting for the Claimants in a private damages claim against a competitor arising out of unlawful State aid, *Betws v DSK,* High Court.
- Acting for Defendants in a cartel liability and damages claim, *Texaco v Heerema (oil derricks),* Commercial Court.
- Acting for ICI challenging an abuse of dominant position decision imposing a fine *Soda Ash II,* General Court of the European Union.
- Acting for Defendants in an abuse of a dominant position liability and damages claim *Arkin v Borchard Lines* (shipping liner conferences), Commercial Court.
- Acting for the Claimants in a *Wrotham Park* damages claim for breaches of a settlement agreement, *World Wildlife Fund for Nature v World Wrestling Federation Entertainment,* Chancery Division and Court of Appeal.
- Acting for a Claimant in Westleigh Motors (motor vehicle distribution claim in relation to a distribution franchise), Chancery Division and mediation.
- Advising on matters relating to 5G spectrum and UK regulation.
- Advising on potential telecommunications margin squeeze issues.
- Acting for BT as a challenger to a number of Ofcom regulatory decisions including:
    - *BT v Ofcom (*0845 numbers) (CAT, Court of Appeal, Supreme Court)
    - *BT v Ofcom* (Ethernet) (CAT)
    - *BT v Ofcom* (Partial Private Circuits) (Court of Appeal)

- *BT v Ofcom* (NCCNs 1101, 1107 and others) (CAT)
- *BT v Ofcom* (Mobile Call Termination) (CAT, Competition Commission)
- *BT v Ofcom* (Carrier Pre-Selection) (Wholesale line rental) (CAT)

- Acting for BT as an intervener in *Freeserve/Wanadoo v Ofcom* (Broadband Pricing)
- Acting for government parties in a number of commercial arbitrations raising competition and telecommunications issues.
- Advising the Homes and Communities Agency in relation to various social housing regulation issues.
- Acting for one of the schools in the *OFT schools investigation* (information exchange).

EU law

Sarah has very extensive experience in EU cases both before domestic and European Courts. In addition to those matters relating to competition and economic regulation (please refer to the the Competition and Regulatory Section of her CV). Subject matters include pharmaceutical regulation, sanctions measures taken against terrorist organisations, oil stocking regulations, environmental information, freedom of movement/services and internal market, advice on structural funds, subsidies and procurement. She has acted before the Information Tribunal in relation to environment information in a challenge against a decision by the Information Commissioner's Office.

Recent work includes advice on the Trade and Cooperation Agreement and on provision of services by UK nationals within the EU whilst in EU territory (Tier 4 provision) and on the European Union (Withdrawal Agreement) Act 2020. She has also looked very recently at trade remedies for a webinar series in relation to the UK's new Trade Remedies system.

Important cases

- Advising on the TCA in relation to UK provision of services within the UK.
- Advising on the Withdrawal Agreement Act as regards a possible damages action following Brexit.
- Advising a big six energy company in relation to possible government pricing caps.
- *Staple v Leeds City Council v Information Commissioner's Office* (access to environmental information), Information Tribunal and related collective action damages claim in relation to property search information, Chancery Division.
- Joined Cases C-293/12 and C-594/12 *Digital Rights Ireland* (data retention), Court of Justice (Grand Chamber).

- *R (on the application of Nottingham University) v Secretary of State for Communities and Local Government* (Structural funds, subsidies, procurement), Administrative Court.
- Case C-176/13 *Council of the EU v Bank Mellat* (Iranian sanctions), Court of Justice
- Joined Cases C-358/13 and C-181/14 D & G (medicines directive regulation and "legal highs")
- Joined Cases C-512/11 and C-513/11 *Terveys and Ylemmat* (maternity and unpaid leave), Court of Justice.
- Case C-648/11 *R (on the application of MA)* (asylum and rights of the child), Court of Justice.
- *Mabanaft v BERR* (Oil stocking, EC Directive), Administrative Court, Court of Appeal and permission hearing in House of Lords, the last ever House of Lords case).
- *R (on the application of Federation of Tour Operators) v HM Treasury and others* (taxation, aviation, Air Passenger Duty), freedom to provide services, Article 1 Protocol 1, High Court, Court of Appeal.
- C-158/07 *Forster* (educational study grant, free movement), Court of Justice.
- C-491/07 *Turansky* (criminal prosecution, *ne bis in idem*), Court of Justice
- T-256/07 *OMPI III* (measures to combat terrorism), General Court.
- T-246/08, T-332/08, T-390/08 *Bank Melli* (interim relief, freezing of funds), General Court.
- C-455/06 *Danske Slagtiere* (limitation), Court of Justice.
- C-438/05 *Viking* (internal market), Court of Justice.
- *R (on the application of Merck Sharpe Dohme)* (pharmaceutical regulation), Administrative Court.
- *R v Secretary of State for Health, ex parte Generics (UK) Ltd (pharmaceutical regulation, interim relief),* Court of Appeal.
- C-372/04 *Watts* (healthcare, freedom to provide services), Administrative Court, Court of Appeal and Court of Justice.
- C-466/04 *Herrera* (healthcare, freedom to provide services), Court of Justice.
- C-46/03 *MST II* (structural funds, decommitment of grant), Court of Justice.
- C-175/06 *Tedesco* (judicial assistance), Court of Justice.
- C-143/06 *Ludwigs-Apotheke* (free movement), Court of Justice.
- C-414/06 *Lidl and Stahlwerks Ergste* (taxation), Court of Justice.
- T-229/02 *PKK* (measures to combat terrorism), General Court.
- *Junttan Oy v Bristol Magistrates Court* (health and safety, EU Directive), Administrative Court and House of Lords.

Public Law

Sarah has acted in a number of judicial reviews, including those with an EU or commercial element. These include *R (ota) Mabanaft v BERR* , which involved a commercial judicial review challenge in the High Court to BERR's oil stocking regulations, which proceeded to the Court of Appeal and a further permission hearing, and in the High Court and Court of Appeal in *R (ota) Federation of Tour Operators v HM Treasury*, which involved a challenge to an increase to air passenger duty. She has frequently advised in relation to pre-action protocol matters.

Her practice has included advising on and appearing in challenges to pharmaceutical products licensing decisions, such as *R v Secretary of State for Health ex parte Generics UK Ltd* , and judicial reviews involving points of EU law, as in *R (ota) Yvonne Watts v Secretary of State for Health* . She advises on A1P1 issues and procedural points relating to consultations and has recently advised on such issues in relation to PPE supplies. She has acted in a number of challenges in respect of structural funds and subsidy decisions with a procurement element.

Important cases

- Advising private clients in relation to energy regulation and standards of review on appeals.
- Advising on A1P1 and procedural judicial review grounds issues as regards PPE supplies.
- *R (on the application of Nottingham University) v Secretary of State for Communities and Local Government* (Structural funds, subsidies, public procurement), Administrative Court.
- Advising on public procurement issues for government departments.
- *Mabanaft v BERR* (Oil stocking, EC Directive), Administrative Court, Court of Appeal and permission hearing in House of Lords, the last ever House of Lords case).
- *R (on the application of Federation of Tour Operators) v HM Treasury and others* (taxation, aviation, Air Passenger Duty), freedom to provide services, Article 1 Protocol 1, High Court, Court of Appeal.
- C-372/04 *Watts* (healthcare, freedom to provide services), Administrative Court, Court of Appeal and Court of Justice.
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- *Junttan Oy v Bristol Magistrates Court* (health and safety, EU Directive), Administrative Court and House of Lords.

Qualifications

Degree

First Class Honours in Jurisprudence Finals, BCL, Oxford

Languages

French and German

Directory Quotes

- "Sarah Lee KC has impressive experience advising telecommunications operators on competition law and spectrum matters. She is a good choice for both regulatory work and commercial disputes arising in the sector." (Chambers & Partners 2026)
- "Very good at explaining complex issues to clients and finding pathways to commercial resolutions." (Legal 500 2026)
- "Sarah gives very clear, practical advice on complex issues." (Chambers & Partners 2025)
- "Sarah Lee provides really good advice." (Chambers & Partners 2025)
- "Sarah is really knowledgeable about telecoms and is very clever." (Chambers & Partners 2024)
- "Sarah's work is very thorough and she has both a very fine academic brain and a good feel for litigation. She pushes the right points and gets the right results." (Chambers & Partners 2024)
- "Sarah Lee KC is very good on competition-related telecommunication matters." (Chambers & Partners 2023)
- "She is an incredible advocate." (Chambers & Partners 2022)
- Sarah Lee KC is well recognised for her excellent work representing telecoms clients in high-value competition disputes. (Who's Who Legal - UK Bar: Telecoms 2020)
- Sarah Lee KC is a telecoms specialist whose first-rate practice focuses on the intersection of EU, competition and public law as well as telecoms-related regulatory matters. (Who's Who Legal - UK Bar: Telecoms 2019)
- The “brilliant” Sarah Lee KC receives high praise as one of the foremost junior silks in the telecoms space. She is regularly instructed for her expert advice and her advocacy in court, with recent clients including such high-profile names as BT. (Who's Who Legal - UK Bar: Telecoms 2018)

- "Genuinely very likeable and has excellent judgement. She's very popular with clients and incredibly busy." (Chambers & Partners 2018)
- "Clients love her commercial approach." (Legal 500 2017)
- "Highly recommended." (Legal 500 2017)
- "An excellent strategist." (Legal 500 2017)
- "The “excellent” Sarah Lee KC regularly acts for BT in its disputes with the regulator before the CMA and the CAT." (Who's Who Legal - UK Bar: Telecoms 2017)
- "She's very passionate, very involved in cases and understands the commercial aspects incredibly well. She grasps our objectives and is able to come up with the key arguments." "Phenomenally hard-working and phenomenally bright." (Chambers & Partners 2017)
- "User-friendly, pleasant to deal with and someone who understands the commercial imperative behind a case." (Chambers & Partners, 2017)
- "Excellent; she understands the commercial imperatives behind a case." (Legal 500, 2016)
- "Recommended for regulatory litigation." (Legal 500, 2016)
- "Very knowledgeable, very calm and a good team player. She is also hard-working and articulate." (Chambers & Partners, 2016)
- "She has a fantastic legal brain, and is an excellent advocate as well." (Chambers & Partners, 2016)
- "She's a team player, who is down-to-earth, easy-going and hard-working." (Chambers & Partners, 2016)
- "Wonderfully talented - she has an incredibly good legal mind and picks up on the nuances of a case much faster than other people. She has an aura about her that is incredibly impressive and she is just a delight to work with." (Chambers & Partners, 2016)
- "Incredibly hard-working and conscientious." (Chambers & Partners, 2015)
- "A phenomenal advocate - she has a fine legal brain and is good on her feet." (Chambers & Partners, 2015)
- "She provides high-quality advice, which is practical, tactical and strategic." (Legal 500, 2015)

Publications

Competition Litigation, UK Practice and Procedure (Blue Book) Brealey and George, first and second editions

Vaughan & Robertson’s *Encyclopedia of EU law* (Competition Law Volume)