

Tom Pascoe

YEAR OF CALL: 2013

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Practice Overview

Tom's practice covers Commercial, EU/Competition and Public Law. He has worked on substantial cases in all three of these practice areas, including:

- *Single Buoy Mooring Inc v Zurich Insurance plc & ors* - \$1.5 billion insurance dispute relating to an oil platform in the North Sea (led by Mark Howard QC, Neil Calver QC and Stephen Midwinter QC, instructed by Herbert Smith Freehills);
- *Sheikh Mohamed v Sheikh Majid* [2016] EWHC 1989 (Comm) - \$62 million claim for repayment of an oral loan agreement between three Saudi nationals. Appeal currently pending before the Court of Appeal (led by Neil Calver QC, instructed by Macfarlanes);
- *Eclairs Group Ltd v JKN Oil & Gas plc* – injunction against restriction of a company's shares, following Supreme Court's ruling that a previous attempt to restrict the shares was unlawful ([2015] UKSC 71) (led by Michael Swainston QC, instructed by Allen & Overy);
- *Pfizer; Flynn v Competition and Markets Authority* [2017] CAT 1 - CAT appeal against CMA decision imposing largest ever competition fine for alleged excessive pricing of epilepsy drugs (led by Kelyn Bacon QC, instructed by Macfarlanes);
- *Trucks cartel litigation* - acting for a defendant truck manufacturer in a series of follow-on claims with estimated claim value in excess of £1 billion (led by Daniel Jowell QC, instructed by Slaughter and May);
- *R (Miller) v SS for Exiting the European Union* [2017] UKSC 5 - representing the Welsh government in landmark constitutional case concerning the government's power to give notice to leave the European Union under Article 50 TEU (led by Richard Gordon QC).

Tom's previous experience includes working as the judicial assistant to Lord Dyson MR in the Court of Appeal, where he was involved in a number of prominent commercial, public and EU law cases. He holds a law degree from the University of Cambridge (Double First) and a BCL degree from the University of Oxford (Distinction).

Tom is called to the Bar of Gibraltar as well as the Bar of England and Wales.

Commercial

Tom has experience of a broad range of commercial cases, including arbitrations and proceedings in the Commercial Court and Chancery Division. His recent cases include:

Single Buoy Mooring Inc v Zurich Insurance plc & ors - \$1.5 billion insurance dispute raising questions of coverage

and causation in connection with the abandonment of an oil platform in the North Sea (led by Mark Howard QC, Neil Calver QC and Steven Midwinter QC, instructed by Herbert Smith Freehills);

Sheikh Mohamed v Sheikh Majid [2016] EWHC 1989 (Comm) - \$62 million claim for repayment of an oral loan agreement. Appeal currently pending before the Court of Appeal (led by Neil Calver QC).

LCIA arbitration worth approximately \$1 billion between two Ukrainian oligarchs (led by Neil Calver QC, instructed by Quinn Emanuel);

AssetCo Plc v Grant Thornton LLP - Acting for the claimant in an auditors negligence claim worth approx £35 million. Six week trial due to be heard by the Commercial Court in June 2018 (led by Michael Swainston QC, Mark Templeman QC and Richard Blakeley).

Otkritie International Investment Ltd v Ivory Key Holdings Ltd (Claim No 12 O No 10) - defending a claim in the Gibraltar Court of Appeal arising out of allegation that the defendant laundered the proceeds of a large-scale fraud carried out by the Urumovs (see [2014] EWHC 191 (Comm)) (led by Neil Calver QC).

Eastcap Ltd v Aon UK Ltd - two week Commercial Court trial concerning a claim for securing insurance business in Romania under an agency agreement, valued at €5 million, and a counterclaim for €25 million for breach of Romanian criminal law (led by Neil Calver QC).

Sinocore International Co Ltd v RBRG Trading (UK) Limited - Commercial Court application to set aside an order for the enforcement of a CIETAC arbitral award on public policy grounds (led by Neil Calver QC)
Eclairs Group Ltd v JGX Oil & Gas plc – injunction application arising out of a company’s decision to restrict shares before a vote on the removal of its directors, following the Supreme Court’s ruling that a previous attempt to restrict the shares was unlawful ([2015] UKSC 71) (led by Michael Swainston QC).

Representing a major mining company in an LCIA arbitration for breach of a guarantee agreement (led by Michael Swainston QC).

Lebara Mobile Ltd v Lycamobile UK Ltd [2015] EWHC 3318 (Ch) – injunction application raising important questions about the “net neutrality” principle over mobile phone networks. Involved 26 causes of action in five jurisdictions (led by Robert O’Donoghue).

Al-Dowaisan v Mayfair Developments and Properties Ltd – Chancery Division claim for £15 million involving property investments in the UK and Morocco made over a period of 20 years (led by Michael Bools QC).

Bradley Sales Consulting Ltd v SCC Marketing Ltd - High Court claim for breach of the Commercial Agents Regulations (led by Fergus Randolph QC).

Mullings v NC Dynamics Inc - \$20 million claim for breach of a commercial agency agreement in respect of the supply of aircraft parts to Bombardier.

A multimillion dollar arbitration concerning the ownership of a privatised Croatian energy company (with Maya Lester QC).

EU/Competition

Tom’s practice covers all areas of EU and competition law, including competition appeals before the CAT, follow-on damages claims, and other areas of EU law such as sanctions. Notable cases includes:

(1) *Pfizer Limited*; (2) *Flynn Pharma Limited v Competition and Markets Authority* - CAT appeal against CMA decision imposing largest ever fine for breach of competition law for alleged excessive pricing of an epilepsy drug sold to the NHS (led by Kelyn Bacon QC). See e.g. the BBC news report [here](#)

Trucks cartel litigation - acting for a defendant truck manufacturer in follow-on claims before a number of tribunals with estimated claim value in excess of £1 billion (led by Daniel Jowell QC, instructed by Slaughter and May);

Vodafone v Infineon; Samsung [2017] EWHC 1383 (Ch) - acting for Part 20 defendant Samsung in follow-on damages claim concerning cartel over SIM card chips (led by Robert O'Donoghue QC, instructed by Covington & Burling);

Leeds CC v Samsung - acting for defendant Samsung in follow-on damages claim concerning cartel over LCD panels (led by Robert O'Donoghue QC, instructed by Covington & Burling);

Advising the IP Federation and IP Law Association on the implications of 'Brexit' for the Unified Patent Court (with Richard Gordon QC). The advice has been widely disseminated and reported. See e.g. the Legal Week report [here](#).

Representing a major sports equipment manufacturer under investigation by the CMA (led by Robert O'Donoghue).

Lebara Mobile Ltd v Lycamobile UK Ltd [2015] EWHC 3318 (Ch) – injunction application concerning a 'Block' applied to Lebara websites over Lyca's mobile network. The case raised important questions about the effect of the forthcoming "net neutrality" Regulation.

(1) *PTC*; (2) *EUCOPE v European Medicines Agency* - Assisting David Scannell with drafting an intervention on behalf of EUCOPE, a consortium of pharmaceutical companies, on the right to access clinical study data under the Transparency Regulation.

R (States of Guernsey) v DEFRA - judicial review against the suspension of Guernsey fishing licences. The claim concerns the scope of the EU Common Fisheries Policy and the application of A1P1 in an international context (led by Marie Demetriou QC).

Fairness in Fees Ltd v Cyprus Bar Association – complaint to EU Commission against a minimum fee regime for the legal profession in Cyprus (led by Robert O'Donoghue)

Emerald Supplies Ltd v British Airways plc ('Air Cargo') [2014] EWHC 3513 (Ch) - multibillion dollar follow-on damages claim for fixing of fuel surcharges on air freight services (as a pupil, with Colin West)

Philip Morris Ltd v Department of Health ('plain packaging') - judicial review by tobacco manufacturers against plain packaging legislation made under the Tobacco Products Directive (as a pupil, with Marie Demetriou QC)

Bringing a CMA complaint against FTSE for an abuse of dominance claim (unled).

Advising OFGEM on a dispute with an energy supplier concerning the compatibility of power plant subsidies with state aid law (led by Jemima Stratford QC).

Advising a major international charity on the compliance of its financial arrangements with EU sanctions and terrorism funding rules (led by Maya Lester QC).

Various sanctions advisory work, including advice on the compliance of an offshore oil rig contract with Libyan sanctions rules; and the compliance of a shipping contract with Myanmar arms embargo legislation (with Maya Lester QC)

Public Law

Tom has experience of a broad range of public law work. Notable cases include:

R (Miller) v Secretary of State for Exiting the European Union [2017] UKSC 5 - representing the Welsh Counsel General in landmark constitutional case concerning the government's power to give notice to leave the European Union under Article 50 TEU (led by Richard Gordon QC).

R (Forge Care Homes) v Cardiff & Vale University Health Boards & ors [2016] EWCA Civ 26 – judicial review concerning the division of responsibility between the NHS and local authorities for care home funding. Appeal heard by the Supreme Court in April 2017 (led by Richard Gordon QC).

R (States of Guernsey) v DEFRA - judicial review against the suspension of Guernsey fishing licences, concerning the scope of the EU Common Fisheries Policy and A1P1 (led by Marie Demetriou QC).

Sophocleus v Foreign and Commonwealth Office – historic claims for torture and ill treatment of Cypriot insurgents by colonial security forces during the 1950s (led by Marie Demetriou QC).

MM (Somalia) v Home Secretary [2016] EWCA Civ 715 – intervening in Court of Appeal for UNHCR on whether an asylum seeker can be expected to give up his profession as a journalist in order to avoid the risk of death and violence from a terrorist organisation (led by Marie Demetriou QC).

MST (Eritrea) [2016] UKUT 443 - intervening in Upper Tribunal for UNHCR in Country Guidance case concerning conditions in Eritrea.

R (LCCSA) v Lord Chancellor [2015] EWHC 295 (Admin) (on appeal [2015] EWCA 230) – Divisional Court challenge to reduction of duty solicitors' legal aid contracts (as a pupil, with Martin Chamberlain QC).

Nzolameso v Westminster CC [2015] UKSC 22 – challenge to Council's policy of relocating homeless people to surrounding areas (as a pupil, with Martin Chamberlain QC).

R (W,X,Y and Z) v Department of Health [2014] EWHC 1532 (Admin) – challenge to arrangements for sharing data about NHS debtors between Trusts and the Home Office (as a pupil, with Marie Demetriou QC)

Estrada v Al-Juffali [2016] EWHC 213 (Fam) - multimillion dollar claim for ancillary relief on diplomatic immunity grounds (as a pupil, with Martin Chamberlain QC).

Publications

Cullen and Pascoe, 'Procedural Fairness in an Information Rights Context' [2015] JR 26

Education & Qualifications

Employment

2014-15: Pupillage, Brick Court Chambers

2014: Judicial assistant to Lord Dyson MR in the Court of Appeal (Civil Division)

2013-14: Stipendiary Lecturer in Tort Law, Wadham College, University of Oxford

2013-14: Supervisor in Constitutional Law, Robinson College, University of Cambridge

2013-14: Teaching Fellow in Tort Law, UCL

Education

2012: BCL, Trinity College, University of Oxford (Distinction)

2011: BA Law, Robinson College, University of Cambridge (Double First)

Prizes

2013: Stephen Chapman scholarship, Inner Temple

2012: Prize for highest mark in BCL Philosophical Foundations of the Common Law paper

2012: Trinity College, Oxford Prize for BCL results

2009-11: Cambridge Law Faculty Rebecca Flower Squire Scholarship (placed 4th in year), Robinson College Scholarship, Robinson College Prize for Tripos results, Nicola Blakeman Memorial Prize