



Sarah Abram

Year of Call 2006

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EXPERTISE

- Commercial
- EU/Competition
- Public Law

“Knows how to take big decisions and is confident in her tactical approach”

- **Chambers & Partners 2018 (Commercial Dispute Resolution)**

“A high-class advocate, who gets to the heart of a legal problem very quickly”

- **The Legal 500 2017 (Competition Law)**

OVERVIEW

Sarah Abram is a leading junior in competition/regulatory, commercial and EU/public law matters, as is recognised by Chambers & Partners (ranked in Commercial Dispute Resolution and Competition Law) and the Legal 500 (ranked in Banking and Finance and EU and Competition). Current directories include comments that Sarah is *“one of the most intellectually able juniors”* and *“really willing to get stuck into a case”*.

She has particular interest and expertise in cases dealing with more than one area of law, e.g. cases that combine commercial elements with other areas such as competition, EU or public law.

She frequently acts unled but also enjoys working as part of a bigger legal team, with other counsel and with instructing solicitors. Sarah speaks fluent French and some German; she is frequently instructed in cases involving documentary evidence in either or both languages.

Sarah works across the full range of competition and EU law disputes, including competition damages claims (both follow-on and freestanding), competition litigation and regulatory investigations and appeals (including in the merger context). She has substantial experience of both European Commission and CMA investigations and regularly works with leaders including Mark Hoskins QC and Marie Demetriou QC. For instance, she is currently representing Panasonic unled in a follow-on damages claim brought against it by a TV retailer in respect of the CRT cartel, with an alleged value of €200 million. She was instructed as junior counsel for Nokia in *Apple v Nokia*, major competition litigation raising issues relating to FRAND terms for the licensing of intellectual property rights. She represented the CMA in its successful defence before the CAT of its first decision to require the unwinding of a completed merger, *Intercontinental Exchange, Inc v CMA* [2017] CAT 6.

Sarah has a broad-based commercial practice, encompassing both litigation and arbitration. Recent leaders have included Mark Howard QC, Mark Hapgood QC and Tim Lord QC. For example, she is currently instructed for the Defendant in *Canal & River Trust v Thames Water Utilities Ltd* (Part 8 proceedings), in which the trial was heard in May 2016 [2016] EWHC 1547 (Ch) and which is due for hearing in the Court of Appeal in early 2018.

Finally, Sarah practises in the field of public and administrative law, particularly where regulatory matters and/or issues of EU law are involved. She is currently instructed as junior counsel for the defendant in a preliminary reference to the CJEU concerning execution of a

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BARRISTERS

European Arrest Warrant (Case C-268/17 AY). She was instructed for the successful Defendant in *R (WXYZ) v Secretary of State for Health* [2015] EWCA Civ 1034 concerning the sharing of patient data for the purpose of imposing immigration sanctions. She also acted as junior counsel for the Claimant in *R (UKPNS) v GEMA* [2014] EWHC 3678 (Admin), a successful application for judicial review of an Ofgem decision applying EU law on electricity markets. In EU constitutional law, Sarah was instructed as junior counsel for the Department of Health in relation to the various challenges before the CJEU to the validity of the Tobacco Products Directive (Directive 2014/40/EU). Finally, Sarah has a particular interest in public procurement law; she is frequently instructed in litigation or to advise in this field.

Sarah was appointed to the Attorney General's C Panel in 2011.

PRACTICE AREAS

Sarah practises in the fields of EU/competition, commercial law and public law.

COMMERCIAL

- Sarah has been instructed (led and unled) in a range of commercial cases covering a wide variety of market sectors, from aviation to mortgage broking to heavy industry.
- Many of the cases in which Sarah is instructed in the spheres of competition, regulatory, EU or public law have commercial law elements or are set in a commercial context. Recent examples include, in the public field, *UKPNS v GEMA* [2014] EWHC 3678 (Admin) and, in competition law, the *Unwired Planet v Huawei, Samsung & Google* litigation.
- *Canal & River Trust v Thames Water Utilities Ltd* [2016] EWHC 1547 (Ch) (with Sa'ad Hossain QC): Sarah is instructed as junior counsel for the Defendant in this Part 8 claim regarding payment for water abstractions from the River Lee, in which the trial took place in May 2016. Appeals by both parties are due to be heard by the Court of Appeal in early 2018.
- *JPMorgan v BVG* [2010] EWCA Civ 390; [2010] 2 WLR 690, [2009] EWHC 1627 (Comm) (with Tim Lord QC and Simon Salzedo QC): credit crunch claim relating to a derivatives transaction (CDS/CDO), raising issues of jurisdiction under the Brussels Regulation. The litigation between JPMorgan and BVG reached the Supreme Court in 2010 and the Court of Justice of the European Union in 2011 at the jurisdiction stage.
- Substantial recent experience of arbitration, acting both led and unled, including in an ICC arbitration relating to the steel industry and an LCIA arbitration relating to an international supply contract.
- *Fortress Value Recovery Fund v Blue Skye Special Opportunities Fund* (with Tim Lord QC) eg [2012] EWHC 261 (Comm); [2012] EWHC 451 (Comm); [2012] EWHC 1486 (Comm): acting for the defendant managers in this dispute concerning a €200M investment structure and claims brought by certain investors and the lender. Amongst other things, the proceedings involved interim freezing injunctions and other interim relief.
- *Tata Steel UK Ltd v Metal & Waste Recycling Ltd*: acted unled for the Claimant in a claim relating to loss caused by a fire in a steelmaking plant.
- *AAH Pharmaceuticals Ltd v Birdi & ors* [2011] EWHC 1625 (QB) (with Harry Matovu QC): acting for the claimant in a fraud claim relating to allegations of diversion of funds, including claims for breach of contract and equitable and tortious wrongs. Proceedings involved (amongst other things) obtaining freezing injunctions against various defendants and dealing with complex issues of service out of the jurisdiction. Summary judgment was obtained against the defendants in June 2011.
- *A Nelson & Co Ltd v Guna SpA* [2011] EWHC 1202 (Comm) (with Fergus Randolph QC): acting for the claimants in a breach of contract claim relating to the failure by a distributor to comply with contractual obligations to transfer registrations necessary for the sale of products in Italy as homeopathic. The Claimants successfully obtained judgment on issues of liability in the Commercial Court.
- Providing expert opinions (with Tim Lord QC) on the application of English law in proceedings in The Netherlands arising out of the syndicated loan financing of a telecoms joint venture.

EU/COMPETITION

Competition

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- *Mediamarkt Saturn Holdings v Panasonic & ors*: acting unled for Panasonic in this follow-on damages claim relating to the CRT cartel, with a claimed value of approximately €200 million.
- *Intercontinental Exchange, Inc v Competition and Markets Authority* [2017] CAT 6 (with Marie Demetriou QC): junior counsel for the CMA in this high-profile case, in which the CMA successfully defended its first decision requiring unwinding of a completed merger.
- *Apple v Nokia* (with Jemima Stratford QC and Adrian Speck QC): junior counsel for Nokia (i.e. the patentee) in this major competition law litigation raising issues relating to FRAND terms and abuse of dominance for the licensing of intellectual property rights.
- *Vattenfall AB & ors v Prysmian & NKT* (with Aidan Robertson QC): junior counsel for the claimants in this follow-on damages claim relating to the power cables cartel.
- Acting as junior counsel for Panasonic and Sanyo, defendants in the lithium ion batteries follow-on claim (*Microsoft v Sony & ors*), which had an alleged value of almost €2 billion.
- *Thomas Armstrong Timber Ltd*: advised and represented a firm subject to an investigation into a cartel in the market for the supply of furniture parts. The firm reached a settlement with the CMA (decision issued 27 March 2017).
- *Whitby Seafoods/Dawnfresh Seafoods*: advised Whitby Seafoods (unled) on the CMA's investigation of its acquisition of assets owned by Dawnfresh Seafoods. The CMA issued a Phase 1 clearance decision in June 2016.
- *Unwired Planet v Huawei, Samsung and Google* (with Jemima Stratford QC and Richard Meade QC): junior counsel for the Claimant in this landmark UK FRAND litigation, leading to the judgment of Birss J, [2017] EWHC 711 (Pat).
- Substantial experience of advising on all stages of CMA investigations (both led and unled).
- Case T-82/13 *Panasonic Corporation v Commission* (with Mark Hoskins QC): appeal to the General Court against a Commission Decision finding a cartel in the market for cathode ray tubes (television components) and imposing a record total fine on the addressees of the Decision.
- *Tomlinson v OFT* [2011] CAT 7 (with Aidan Robertson QC): successful appeal to the CAT against a penalty imposed by the OFT on one of the addressees of its September 2009 Decision concerning cover-pricing in the construction industry.
- *A Nelson & Co Ltd v Guna SpA* [2011] EWHC 1202 (Comm) (with Fergus Randolph QC): acting on behalf of the claimants, successfully contested a competition law Euro-defence, aimed at preventing enforcement of the contract which was the subject of the claim.
- *National Grid v Ofgem* [2009] CAT 14 (with Fergus Randolph QC): instructed for an intervener in National Grid's appeal against a Decision by Ofgem finding that National Grid had abused its position of dominance in the market for domestic gas metering.
- *BAGS and ors v AMRAC and ors* ([2008] EWHC 1978 (Ch); [2008] EWHC 2688 (Ch)) (with Nicholas Green QC, Pushpinder Saini QC and Mark Hoskins QC): competition law claim involving challenges to the validity of various agreements for broadcast media rights to live horseracing.
- Frequent advisory work on issues of competition law, including the law of State aid.

EU

- Case C-268/17 *AY* (with Maya Lester QC): acting for the defendant to national proceedings in a preliminary reference to the CJEU concerning human rights issues in the execution of a European Arrest Warrant, and the principle of *ne bis in idem*/double jeopardy.
- *Speciality Produce Ltd & ors v Secretary of State for the Environment, Food and Rural Affairs* (with Aidan Robertson QC): acting for the Claimants in a Francovich claim relating to losses caused by the wrongful denial of payments under the Common Agricultural Policy. Trial of issues of quantum listed for February 2019, after the Defendant conceded liability in mid-2017 (shortly before trial).
- *Reeves v HMRC*: acting for HMRC in its successful defence of an appeal against a tax determination, raising issues of EU free movement law. The taxpayer's appeal to the Upper Tribunal has been listed for July 2018.
- Challenges to Tobacco Products Directive (Directive 2014/40/EU) [2014] EWHC 3515 (Admin); [2014] EWHC 3669 (Admin) (with Mark Hoskins QC): Sarah was instructed as junior counsel for the Secretary of State for Health in the domestic judicial review claims challenging the validity of the Tobacco Products Directive. All of these claims were referred to the Court of Justice of the European Union; its judgments, dismissing the claims, were given on 4 May 2016.
- In the context of the challenges to the Tobacco Products Directive, Sarah appeared unled on behalf of the Secretary of State to resist an application by the Polish National Association of Tobacco Growers to intervene in the proceedings; in an important judgment on applications to intervene in preliminary reference cases [2014] EWHC 3669 (Admin), the Court dismissed the application.
- *UKPNS v GEMA* [2014] EWHC 3678 (Admin) (with Richard Gordon QC): successful claim for judicial review seeking the quashing of an Ofgem determination on the Third Package of EU law measures providing for access to electricity markets.
- Sarah has a particular interest in public procurement law; she is frequently instructed in litigation or to advise in this field.
- *Door 2 Door Services Ltd v Burton NHS Trust* (unled): public procurement claim relating to a procuring body's withdrawal of a tender process, acting for the claimant.
- *Hargreaves Industrial Services Ltd v Yorkshire Forward*: defending a public procurement claim relating to a decision to award the contract to

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- another tenderer.
- JPMorgan v BVG*: jurisdiction dispute, in which the Supreme Court made a preliminary reference to the CJEU on questions of the interpretation of the Brussels Regulation (for judgments below, see [2010] EWCA Civ 390; [2010] 2 WLR 690, [2009] EWHC 1627 (Comm)) (with Tim Lord QC and Simon Salzedo QC).
- UBS AG v Kommunale Wasserwerke Leipzig* ([2010] EWHC 2566 (Comm)) (with Tim Lord QC and Stephen Midwinter) also raised issues of jurisdiction under the Brussels Regulation.
- Particular interest in agricultural law, especially the Common Agricultural Policy, and in the law of commercial agency.

PUBLIC LAW

- Appointed to the Treasury C Panel in 2011.
- Case C-268/17 AY (with Maya Lester QC): acting for the defendant to national proceedings in a preliminary reference to the CJEU concerning human rights issues in the execution of a European Arrest Warrant, and the principle of *ne bis in idem*/double jeopardy.
- R (WXYZ) v Secretary of State for Health* [2015] EWCA Civ 1034 (with Marie Demetriou QC): Sarah acted as junior counsel for the successful Secretary of State in this claim for judicial review concerning the sharing of patient data for the purpose of imposing immigration sanctions.
- R (Owusu) v Secretary of State for Home Department* [2015] EWHC 1102 (Admin): instructed unled for the Home Secretary in a substantive judicial review concerning a claim for leave to remain on asylum and private/family life grounds.
- Speciality Produce Ltd & ors v Secretary of State for the Environment, Food and Rural Affairs* (with Aidan Robertson QC): acting for the Claimants in a Francovich claim relating to losses caused by the wrongful denial of payments under the Common Agricultural Policy. Trial of issues quantum listed for February 2019, after the Defendant conceded liability in mid-2017 (shortly before trial).
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- Canal & River Trust v Thames Water Utilities Ltd* [2016] EWHC 1547 (Ch) (with Sa'ad Hossain QC): Sarah is instructed as junior counsel for the Defendant in this Part 8 claim regarding payment for water abstractions from the River Lee, in which the trial took place in May 2016. Appeals by both parties are due to be heard by the Court of Appeal in early 2018.
- R (Linda Ellard Ltd) v Legal Services Commission*: acted unled for the LSC in a judicial review claim involving a challenge to the rules on the allocation of duty solicitor slots.
- Judicial Review proceedings generally. In particular, Sarah has substantial experience of acting for the Secretary of State in immigration and unlawful detention matters.
- Public law advisory work.
- Frequent pro bono work: for instance, Sarah has acted on a pro bono basis for a professional pianist challenging the terms of a noise abatement order prohibiting her from playing the piano at home and for a vicar challenging the way in which unproven allegations of a sexual assault made against him were placed on record by a local authority.

QUALIFICATIONS

- Bar Vocational Course, Inns of Court School of Law- Outstanding (2006)
- Bachelor of Civil Law, Oxford University- Distinction (2005)
- LL.B., Law and French, Bristol University- First Class Honours, finished 1st in year (2004); also finished 1st in first and second year examinations (2001 and 2002)
- University of Poitiers, Diploma of French Law- Mention Très Bien (equivalent to First Class) (2003)
- Grays Inn Tax Chambers Award for highest mark in the law of Personal Taxation on the BCL (2005)

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- AHRB Postgraduate Award to fund study on the BCL (2004-2005)
- Freshfields Prize for Trusts for highest mark in Trusts Law (2004)

DIRECTORY QUOTES

- "Knows how to take big decisions and is confident in her tactical approach." "She's an excellent junior for competition disputes." (Chambers & Partners 2018)
- "Her attention to detail, accuracy and ability to communicate complicated things to clients is fantastic." (Chambers & Partners 2018)
- "Highly recommended for banking disputes." (The Legal 500 2017)
- "A high-class advocate, who gets to the heart of a legal problem very quickly." (The Legal 500 2017)
- "An outstanding junior, who always sees the wood for the trees." (The Legal 500 2017)
- "She's really willing to get stuck into a case and gets to the nub of very complicated cases in a ridiculously quick time." (Chambers & Partners 2017)
- "She has very fine analytical skills, is very responsive and has the ability to absorb and digest complex facts and issues very rapidly." (Chambers & Partners 2017)
- "She is totally reliable and has excellent judgment." (The Legal 500 2016)
- "One of the most intellectually able juniors." (The Legal 500 2016)
- "Sarah is clearly incredibly intelligent and her written advocacy is really superb. She excels at becoming part of the team." (Chambers & Partners 2016)
- "Incredibly helpful, very clever and someone who always puts the instructing solicitor in the best position to advise the client." (Chambers & Partners 2016)
- "She's very approachable so you can call her any time." (Chambers & Partners 2016)
- "A fast and very hard worker, who is excellent and going places." (The Legal 500 2015)
- "Always offers extremely sound advice." (The Legal 500 2015)
- Ranked in Competition Law – UK in Chambers Global 2015.
- "Enters the table this year on the back of a consistent level of praise from the market. She is particularly singled out for her client service and advocacy skills." (Chambers & Partners 2015)
- "She was very, very good and excellent with the client." "She is beyond where she should be in terms of her litigation skills and decision making for one of her call." (Chambers & Partners 2015)
- "Has a strong commercial litigation and arbitration practice, and has expertise in EU and competition law." (Chambers & Partners 2015)
- "Highly intelligent, extremely hardworking and also great fun to work with." (The Legal 500 2014)
- "Brings a quality to her cases which is well beyond her year of call." (The Legal 500 2014)
- "She's an incredibly fast worker, seriously clever and very user-friendly and versatile" (Chambers & Partners 2014)
- "a market favourite" (Chambers & Partners 2013)
- "has been identified by a number of sources as one to watch closely. Instructing solicitors say she is '*a strong junior*' who is '*very hard-working*' and '*willing to get into the detail*' of a case." (Chambers & Partners 2013)
- "Sarah Abram is '*very much in demand and on her way to the very top*'" (The Legal 500 2012)

LANGUAGES

French and German