BRICK COURT
CHAMBERS

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

Sir Gerald Barling

YEAR OF CALL: 1972 **YEAR OF SILK**: 1991

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Practice Overview

After pupillage in commercial chambers in London and initially practising in Manchester, Sir Gerald joined Brick Court Chambers in 1981, and took silk in 1991. He specialised in European Union, regulatory and public law until appointed to the High Court Bench in 2007. He was President of the Competition Appeal Tribunal until 2013, and in 2017 was appointed Vice-Chancellor of the County Palatine of Lancaster and Business and Property Courts Supervising Judge for the Northern and North Eastern Circuits.

Practice at the Bar

At Brick Court his practice encompassed virtually every field of EU law, with major cases in competition law, state aids, free movement, sectoral regulation (particularly telecommunications), pharmaceutical licensing, VAT, direct taxation and public procurement. He was instructed over several years on behalf of the successful claimants in the well-known *Factortame* litigation and he acted for B&Q in the Sunday Trading litigation, which culminated in the reform of the Shops Act 1950. He appeared in the Court of justice on at least 50 occasions.

As well as acting for corporate clients, he was frequently instructed by the UK government, both in UK courts and in the Court of Justice. Among such cases are those concerning the impact of EU law on direct and indirect taxation. For example, he acted for HM Revenue and Customs in several Group Litigation Order challenges to the validity of UK corporation taxes

He acted in some of the leading cases on state aid and public procurement, as well as representing government and private clients in numerous CAP, fisheries, maritime transport, environmental, and free movement cases.

Sir Gerald worked extensively in telecommunications regulation, representing telecom companies

in the European Court and in national courts and tribunals. He was instructed in a number of arbitrations, including disputes relating to international roaming agreements. Other work in this sector involved disputes relating to leased lines/partial private circuits, local loop unbundling, the provision of radio base station links, regulation of carrier pre-selection, interconnection pricing, retail rental pricing for apparatus, wholesale and retail broadband pricing (allegations of predation and margin squeeze), Directory and DQ pricing and many other issues. He appeared for BT in the first ever appeal to the Competition Appeal Tribunal in a case relating to mobile links. He chaired international arbitration panels dealing with access and interconnect pricing disputes.

Sir Gerald also advised and acted regularly in cases relating to pharmaceutical regulation and data exclusivity, both in this jurisdiction and in the Court of Justice. He represented appellants before the National Institute for Health and Clinical Excellence's (NICE) appeal panel, and was a "Person Appointed" under the statutory dispute resolution machinery relating to medicines licensing. He worked in the water, gas and electricity sectors, as well as representing government and private clients in numerous CAP, fisheries, maritime transport, environmental, and free movement cases.

He has appeared as an expert witness on EU law in US commercial litigation.

Academic and Judicial

Sir Gerald was a Burnett Open Exhibitioner at New College, Oxford, where he obtained a First in Jurisprudence and later taught law as a "weekender" for several years.

He was called to the Bar by the Middle Temple in 1972, and awarded a Harmsworth Entrance Exhibition and Astbury Law Scholarship. He took silk in 1991 (and in Northern Ireland in 1992) and was elected a Bencher of Middle Temple in 2001. He was appointed Assistant Recorder in 1990, Recorder in 1993, Acting Deemster, Isle of Man Court of Appeal in 2000, and Deputy High Court Judge in 2007. The same year he was appointed to the High Court Bench, Queen's Bench Division. He was then re-assigned to the Chancery Division in order to take up an appointment as President of the Competition Appeal Tribunal (CAT), a role he fulfilled until 2013. During his time as President he pressed for extension and rationalisation of the CAT's jurisdiction over private enforcement of the competition rules. These changes were implemented by the Consumer Rights Act 2015, which also enabled the CAT to hear "opt-out" class actions – the only UK court or tribunal to have such a jurisdiction.

In 2017 Sir Gerald was appointed Vice-Chancellor of the County Palatine of Lancaster and Business and Property Courts Supervising Judge for the Northern and North Eastern Circuits.

He has regularly lectured and chaired legal seminars, participating in the Lord Slynn of Hadley Foundation for European Law programme by assisting in the training of judges and government lawyers in Poland, Hungary and Lithuania.

He has written many papers on legal topics including competition law, and co-edited the "Practitioners' Handbook of EC Law".

Sir Gerald is married with three daughters.