



## RHODRI THOMPSON KC

### MAIN AREAS OF PRACTICE:

Arbitration  
Commercial Law  
Competition and Regulation  
Environmental Law and Natural Resources  
EU Law  
Human Rights  
Immigration, Asylum and Free Movement  
Media and Information Law  
Mediation  
Public Law  
Sports Law  
Telecommunications

Called to the Bar 1989  
Appointed to Silk 2002

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Recent and notable cases of Rhodri's experience in Commercial Law include:

#### **2019 Rail Franchise Litigation [2020] EWHC 1568 (TCC)**

Disqualification of Stagecoach and Arriva for non-compliance with pensions requirements of three major rail franchise competitions upheld as lawful

#### **UKTC v. Fiat and Daimler [2019] CAT 15, 26**

Application for collective proceedings order for 'opt-out' damages caused by EU Trucks cartel (adjournment and funding issues)

#### **MasterCard v. EU Commission (2012) GCt; (2014) CJEU**

Appeal against EU Commission decision that multilateral interchange fee for international credit and debit card transactions infringed Article 101 TFEU – Rhodri acted for HSBC as an intervener in the appeals to the General Court and Court of Justice.

#### **CGL and others v. OFT [2011] CAT 41**

Appeal to the CAT of Co-operative Group Limited - £14 million fine - Decision annulled after OFT conceded that its theoretical case was not supported by the evidence - scope of CAT powers on appeal.

#### **Adidas- Salomon AG v. Draper et al. [2006] EWHC 1318 (Ch)**

Rules of sporting organization – regulation of dress code – Allegations of breach of Articles 101 and 102 TFEU – interim injunction pending trial

Albion Water v Water Services Regulation Authority (Shotton Paper) [2005] CAT 40, [2006] CAT 23, 35, [2007] CAT 1, 8 (CAT); [2008] EWCA Civ 536 (CA), [2008] CAT 31, [2009] CAT 12 ;

#### **Genzyme v Office of Fair Trading [2004] CAT 4; [2005] CAT 32 (CAT)**

Abuse of dominant position - bundling and margin squeeze - appropriate remedy.

Case T-83/91 Tetra Pak v Commission [1994] ECR II-755; [1997] 4 C.M.L.R. 726 (CFI)

Abuse of dominant position - Tied sales - Unfair terms - Predatory prices.

Recent and notable cases of Rhodri's experience in Sports Law include:

#### **R (Sky Blue) v Coventry City Council [2018] EWCA Civ 2252**

Further State aid claim concerning acquisition by Wasps of 250 year leasehold interest in Ricoh Arena

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BT v. Ofcom (VULA margin) – [2016] CAT 3 and 12 (CAT and CMA)

Challenge to the imposition of a regulatory condition restricting BT's pricing of superfast broadband and bundles including BT's new coverage of UEFA Champions League and Europa League competitions.

R (Sky Blue et al.) v. Coventry City Council – Admin. Ct. [2014] EWHC 2089 (Admin) and CA [2016] EWCA Civ 453

Challenge to decision of Council to lend £14.4m to the operator of the Ricoh football stadium on the basis that it constituted an unnotified State aid and/or was irrational.

Adidas- Salomon AG v. Draper et al. [2006] EWHC 1318 (Ch)

Rules of sporting organization – regulation of dress code – Allegations of breach of Articles 101 and 102 TFEU – interim injunction pending trial

In re Televising Premier League Football Matches [1999] UKCLR 258 (Restrictive Practices Court)

Restrictive trade practices - rights to televising of Premier League football - not against public interest

Gough and Smith v Chief Constable of Derby [2001] 3 WLR 1392 (DCt); [2002] 3 WLR 289 (CA)

Football banning orders - compatibility with EC and ECHR law - free movement of persons.

R v Independent Television Commission, ex parte TV Denmark [2001] 1 WLR 435 (HL)

"Listed events" - powers and duties of UK authorities to ensure access for viewers in other Member States.

#### Recent and notable cases of Rhodri's experience in Telecommunications include:

BT v. Ofcom (VULA margin) – [2016] CAT 3 and 12 (CAT and CMA)

Challenge to the imposition of a regulatory condition restricting BT's pricing of superfast broadband and bundles including BT's new coverage of UEFA Champions League and Europa League competitions.

BT and others v. Ofcom (Ethernet) – [2014] CAT 14 and [2017] EWCA Civ 330

Challenge to determination of Ofcom imposing liability on BT to pay substantial sums to its customers for breach of "cost orientation" obligations imposed under EU telecoms framework.

Case C-222/94 Commission of the European Communities v United Kingdom [1996] ECR I-4025; [1996] 3 CMLR 793 (ECJ)

TV broadcasting - Directive 89/552 - Failure to fulfil obligations - Telecommunications - Jurisdiction over broadcasters.

#### UK Judicial Review Cases include:

R (Sky Blue) v Coventry City Council [2018] EWCA Civ 2252  
Further State aid claim concerning acquisition by Wasps of 250 year leasehold interest in Ricoh Arena

R (Miller and Santos) v. Secretary of State for Exiting the European Union [2017] UKSC 5

Scope of prerogative powers do not extend to notification of the UK intention to withdraw from the EU without authority from an Act of Parliament.

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Heathrow v Office of Rail and Road [2017] EWHC 1290 (Admin)  
Charging for access to Heathrow Spur for Crossrail services

R (Sky Blue et al.) v. Coventry City Council – Admin. Ct. [2014] EWHC 2089 (Admin) and CA [2016] EWCA Civ 453, CA [2018] EWCA Civ 2252  
Challenge to decision of Council to lend £14.4m to the operator of the Ricoh football stadium on the basis that it constituted an unnotified State aid and/or was irrational.

Stagecoach v. Competition Commission [2010] CAT 14  
Irrationality of conclusions in relation to a "counterfactual" to the acquisition of a local bus company.

Hoverspeed v Commissioners of Customs and Excise [2003] QB 1041 (DCt)  
Excise duty - powers of HM Customs to confiscate goods and vehicles - interpretation of Directive 92/12 - incompatibility of implementing legislation and administrative practices with EC and ECHR law.

Three Rivers District Council v Governor and Company of the Bank of England (No.3) [2000] 2 WLR 1220 (HL); [2000] 2 W.L.R. 15 (CA); [1996] 3 All ER 558 (Commercial Ct)  
Collapse of BCCI - misfeasance in public office - no arguable action for damages for breach of Community law.

R v Chief Constable of Sussex, ex parte International Trader's Ferry Ltd [1999] 2 A.C. 418 (HL), [1998] Q.B. 477 (CA), [1996] Q.B. 197 (DCt)  
Restrictions on policing of exports of livestock to France - scope of discretion under EU and domestic law.

R v Secretary of State for Foreign and Commonwealth Affairs, ex parte Rees-Mogg [1994] Q.B. 552 (DCt)  
Ratification of Maastricht Treaty.

#### CJEU Cases include:

C-382/12 P MasterCard v. Commission ECLI:EU:C:2014:2201  
Article 101 TFEU - Multilateral interchange fee – adverse effects on acquiring banks and merchants – infringement of Article 101(1) – no exemption under Article 101(3).

Case C-16/10. The Number Ltd and Conduit Enterprises Ltd v Office of Communications and British Telecommunications plc. [2011] ECR I-691  
Telecommunications - Designation of undertakings to provide universal service - Specific obligations imposed on the designated undertaking – Directory enquiry services and directories. - preliminary ruling on reference from Court of Appeal.

Joined cases C-189/02 P, C-202/02 P, C-205/02 P to C-208/02 P and C-213/02 P ABB and others v Commission (Pre-Insulated Pipes cartel) [2005] ECR I-[5425] (ECJ)  
Cartel - Commission fining guidelines - legitimate expectations – leniency.

Joined cases C-46/93 and C-48/93 Brasserie du Pecheur S.A. v Federal Republic of Germany; Regina v Secretary of State for Transport, Ex parte Factortame Ltd. (No. 4) [1996] Q.B. 404, [1996] ECR I-1029 (ECJ)  
Conditions for State liability for damage under EC law.

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