Rival lobbies clash on mass claims

Eduardo Reyes

The causes, purpose and impact of the growth in 'mass claims' were hotly contested at the main conference of London International Disputes Week.

Seema Kennedy, executive director of Fair Civil Justice, a lobby group funded by the US Chamber of Commerce, criticised 'predatory litigation' by 'assertive, aggressive law firms… and CMCs [claims management companies]'. The UK jurisdiction, she said, has become 'fertile for intermediaries'.

Panel members at a morning session on the rise of mass claims were unable even to agree on the data. Kennedy claimed the 'boundary fares' claim at the Competition Appeal Tribunal (CAT) had delivered £216,000 to consumers against £20m in legal costs. Not so, Matrix Chambers barrister Nicholas Gibson KC countered – claiming a figure of '£5.5m-£6m' on fees.

Gibson noted that consumer redress was not the sole aim of group claims being taken to the CAT. 'Disgorgement of profits by wrongdoers' was an equally important public policy goal.

Kennedy criticised the growth in 'private enforcement' through litigation in industries that are closely regulated. But Mishcon de Reya partner Shazia Yamin retorted: 'It shouldn't be a choice between courts and regulators… Regulators are underfunded… the courts fill in where "accountability" is otherwise lacking.'


Photo: LIDW/Tritum Media/Fraser Allan

Nicholas Gibson KC: 'Disgorgement of profits by wrongdoers' a key public policy goal'

The impact on business confidence and investment of a growth in mass claims was also disputed. Sophie Thomson, BT's head of competition and regulatory law, said the company spent £26m defending a claim that was dismissed. That equated to a figure of 100,000 homes receiving fast broadband services through new fibre optic cables.

Shell USA's executive vice president, legal policy and advocacy, Kimberley Phillips, told the conference that climate change challenges demanded 'legislative policy change', rather than the 'piecemeal litigation' faced by companies like Shell.

On the question of whether a growth in mass claims has a 'chilling effect' on business innovation, Yamin said: 'The question is, chilling what? Innovation that depends on a lack of accountability is not innovation [worth having].'

Legal threats grow to free navigation of seas

Eduardo Reyes

Steps taken by the US government last year to allow commercial exploitation of the minerals and rare metals of the deep seabed risk a knock-on effect for laws governing free navigation of the seas, the conference heard.

President Donald Trump's executive order 'Unleashing America's offshore critical minerals and resources', issued in April 2025, was a departure from US policy that respected the UN Convention on the Law of the Sea (UNCLOS) as established international law, although the US was never a signatory.

To date, 'there hasn't yet been an exploitation of the seabed', noted Matrix Chambers barrister Toby Fisher. Under part XI of UNCLOS, minerals may only be exploited with permission from the International Seabed Authority (ISBA), headquartered in Jamaica. ISBA superintends the seabed for 'the common heritage of humankind'.

If US projects go ahead, Fisher warned, and exploitation is 'commercially successful', then 'part XI collapses' and the convention 'starts to unravel'. Extractive businesses would have an alternative licensing route to ISBA permission.

The resulting damage to UNCLOS' authority would have implications for the convention's role in superintending 'freedom of navigation', he added.

Don't ditch diversity focus – client warning to law firms

Eduardo Reyes

Clients deciding which law firms to instruct should demand a demonstrable commitment to diversity and pro bono, a senior and respected general counsel told the London International Disputes Week conference.

Clare Wardle, former general counsel for Coca-Cola Europacific Partners, said firms' 'great competence' needed to be a given, but in addition, she looked for 'people with the right qualities and values'. Therefore, to be considered, firms had to be able to say 'how [they are] doing on diversity and pro bono' initiatives.

Two years ago, Wardle's declared focus on diversity would have been unexceptional. But in 2025, under the direction of president Donald Trump's White House, the US Equal Employment Opportunity Commission wrote to 20 international law firms demanding information about their DEI policies.

The letters were based on the premise that treatment of underrepresented groups that appeared preferential to that group in policy or practice was unequal treatment for other groups, and therefore discriminatory.

But diversity is a key concern, Wardle said. A firm with a good record has an answer to her question, she said: 'Will this person bring the right people into the room?'

A well-developed pro bono programme, she added, signals that junior people had a wider experience of legal matters and had shouldered responsibilities earlier in their career. Crucially, that experience hones skills such as 'listening'.