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# Oxera's litigation and arbitration practice

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An introduction to working with Oxera

Prepared for the European Forum on Competition Litigation

18 November 2020

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# Who we are and what sets us apart

## Leading economics consultancy

Established in 1982, we have a reputation for independence, integrity and analytical excellence among companies, policymakers, regulators and lawyers

## International capability and reach

From our offices in Amsterdam, Berlin, Brussels, London, Milan, Oxford, Paris and Rome, and with consultants from over 25 countries, we work with clients and cases from all over the world



## Sectoral knowledge

We bring together economic and financial skills with our extensive industry experience across many sectors

## Compelling and accessible outputs

We pride ourselves on being able to deliver the results from our rigorous analysis in a way that can be understood by all

'Oxera goes beyond rigorous analysis to argue each case based on a depth of quality thinking, an inherently innovative approach, deep and wide contextual understanding and a direct presentation style.

It means when Oxera speaks, people listen.'



# In depth: our litigation and arbitration support practice

## The Oxera approach: quality, rigour and insight

- We understand the importance of effective dispute resolution in delivering the best outcomes for consumers, businesses and governments. How can you ensure you and your clients are provided with the most robust and insightful analytical support to their case?
- One way is to consult a group of economists who know how markets work, understand the impact of unlawful practices and commercial disputes and can quantify the effects. We have helped claimants and defendants across the litigation/arbitration spectrum in commercial disputes, appeals against regulatory decisions and original-action competition complaints.
- We are experts in financial valuation and damages quantification, preparation of expert reports and advising during mediations; have dedicated sectoral teams; and work with all leading law firms and barrister chambers. This approach allows us to develop compelling cases and deliver best outcomes for our clients.

## Our services

Competition damages

Commercial damages

State aid

Intellectual property

Regulatory disputes

## Our clients

Law firms

Litigation funders

Courts and Tribunals

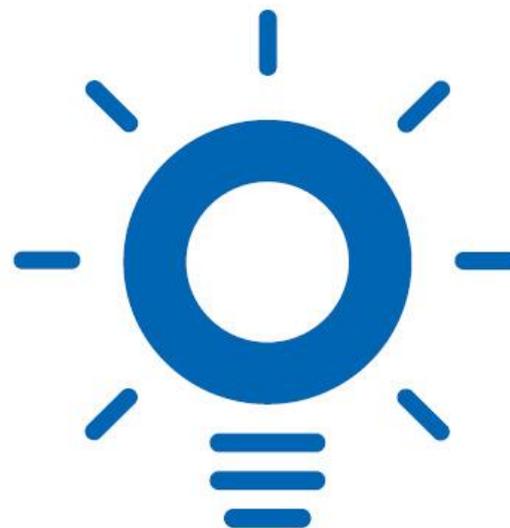
Corporations

Class representatives

# Selected Oxera publications on damages quantification

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- Oxera (2020), '**COVID-19 and damages quantification: key challenges for the post-pandemic world**', *Agenda*, May
- Oxera (2019), '**Blinded by the sun: the future of renewables disputes**', *Agenda*, August
- Oxera (2018), '**The curious case of the valueless valuation—the Signia Wealth v Vector Trustees ruling**', *Agenda*, May
- Niels, G., Noble, N. and Shi, M. (2014), '**Economic experts on trial: Can courts rely on the evidence?**', *Global Competition Review*, 14 April
- Niels, G., Jenkins, H. and Kavanagh, J. (2011), ***Economics for Competition Lawyers***, Oxford University Press
- Oxera (2011), '**A sky-high damages claim: assessing the harm from a loss of customers**', *Agenda*, 15 August
- Oxera (2011), '**Damages and customer portfolio valuation: a case on paper**', *Agenda*, 15 February
- Oxera and a multi-jurisdictional team of lawyers led by Dr Komninos (2009), '**Quantifying antitrust damages: towards non-binding guidance for courts**', prepared for the European Commission Directorate General for Competition
- Noble, R. (2008), '**How to quantify damages? A brief overview of economic concepts and techniques**', *Competition Law Journal*, 7:1, pp. 57–82



# Stand-alone and follow-on antitrust litigation

# Anti-trust litigation

## Your trusted partner throughout the litigation process

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- insights from economists often produce profound and sometimes unexpected conclusions in modern antitrust litigation cases. Both claimants and defendants rely on us for the qualified advice across all areas of antitrust litigation, including:
  - cartels and information-sharing;
  - abuse of dominance;
  - mass torts and group litigation.
- our experts work closely with you on all parts of the process, from initial risk assessments and claim valuations to shaping case strategy, defining disclosure requirements, assisting with settlement negotiations, providing support in producing evidence for the trial, and giving expert testimony at the trial itself.
- if your case requires specific sector knowledge, our specialisms include energy, financial services, high-tech, retail, telecoms, transport and water. All aspects of your claim will be scrutinised, tested, challenged and supported by our detailed knowledge of regulation and expertise in financial valuation and damages quantification.



# Anti-trust litigation

## European leader in competition damages

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### Unparalleled experience

- The Oxera 2009 study for the European Commission on the quantification of damages, which formed the basis for the Commission guidance to courts
- regularly provide training to EU judges on competition economics and damages quantification
- advice to clients in cartel damages actions in multiple jurisdictions including the Netherlands, Germany, Belgium, Spain, the UK, the USA, South America, and South Africa
- dedicated Litigation & Arbitration support team that combine our expertise in antitrust, analytics and valuation with the experience of our seasoned testifying experts

### Multiple Global Competition Review awards

Oxera is consistently ranked as a leading economics consultancy in antitrust litigation in the Global Competition Review (GCR) rankings, with 52 litigation cases noted in 2020, more than any other consultancy based in Europe

Oxera has also won a number of GCR awards in recent years, including:

2015 GCR 'litigation of the year—cartel prosecution award' for the National Grid's GIS cartel claim

2017 GCR 'litigation of the year—non-cartel defence' for interchange defence of MasterCard

2020 GCR 'economist of the year' – Nicole Robins

# Anti-trust litigation

## Selected project experience: claimants

### Rechargeable batteries cartel

USA/UK

- Oxera advised Microsoft in its multi-jurisdictional damages claim against the rechargeable batteries cartel. This included actions in the UK and USA.
- Oxera's support included all aspects of the quantification of damages, including identifying the value of cartelised purchases and estimating the overcharge on those purchases.
- our analysis employed novel econometric techniques to account for the possibility that the effects of the cartel may have persisted beyond the collapse of the cartel.

### Sugar

Germany

- in 2014, the German competition authority, Bundeskartellamt (BKartA), fined three sugar producers a total of €280m for fixing prices and output as well as allocating customers between the mid-1990s and 2009. More than 100 potential claimants requested access to the BKartA's case file. Dozens of claims were launched at different courts of first instance across Germany
- Oxera was a leading economic advisor to the claimants in these cases

### De Glazen Lift case

Netherlands

- the elevator cartel damages claim was one of the first follow-on damages cases in the Netherlands. Naturally, many of the issues encountered in 2018 were uncharted territories in this popular jurisdiction for damages claims
- working with Dentons Boekel, Oxera presented an overcharge analysis on behalf of the claimants

### National Grid GIS Cartel

UK

- Oxera submitted four expert reports in support of National Grid's claim of over £100m against a group of cartelists in GIS—Alstom, ABB, Siemens and Areva
- bringing together our expertise in corporate finance, regulation, competition, modelling, Oxera developed innovative analyses to get to the bottom of the quantification of damages in this complex case that lasted six years. Oxera played a significant role in achieving the final settlement in this antitrust follow-on damages claim which happened just a few days before the hearing

# Anti-trust litigation

## Selected project experience: defendants

### Mastercard interchange fee damages

UK

- Oxera provided expert evidence on behalf of Mastercard in its defence against claims by Sainsbury's and Arcadia & others, focused on assessing Art. 101 from first principles, and in the case of Sainsbury's, assessing the competitive dynamics in the counterfactual and economic pass-on for the causation and quantum workstream
- the case included extensive analysis under Article 101(3) to determine if interchange fees in respect of payment cards meet the economic conditions for exemption through the efficiencies they generate

### FX damages

UK

- we advise RBS in its defence against damages claims brought against it in the High Court by Allianz Global Investors GmbH and others, following on from a finding of an infringement in foreign exchange trading
- we also advise RBS in respect of two collective actions lodged in the Competition Appeal Tribunal regarding the same matter

### Trucks

Various Jurisdictions

- we have submitted a number of expert reports across a range of jurisdictions (including Poland, Germany, the Netherlands, France, Belgium, Italy, Spain and the UK)
- our advice has included critical examinations of the possible theories of harm arising from the Commission Decision, the relationship with the economics of information exchange and the empirical framework within which to evaluate trucks damages resulting from the trucks infringement

### Google Shopping

UK, Germany and Portugal

- we are instructed by Google in relation to a number of damages claims from shopping comparison websites across Europe following on from the Commission finding that Google abused its dominant position - to date we have submitted expert reports in Germany and Portugal in response to expert reports submitted by the claimants
- the cases involve assessing the damages taking into account the complex counterfactual assessment and involves the triple play of Oxera's competition, econometric and finance and valuation skills

# Anti-trust litigation

## Selected project experience: collective and group claims

### Group indirect litigation: Air cargo cartel Multiple

- Multiple airlines were found to have operated a global cartel on the provision of air cargo freight transportation services by multiple competition authorities around the world, including the US Department of Justice and the European Commission. Oxera has advised claimants for follow on damages in multiple jurisdictions
- In the UK, Oxera advised Hausfeld and Co LLP in a group litigation claim in the High Court in London for damages against the cartelists on behalf of a large group of claimants.

### Volkswagen defeat devices Multiple

- Oxera has also provided evaluations of claims relating to the Volkswagen emissions defeat devices in multiple jurisdictions, including Scotland, Ireland and Germany.
- By way of example, our work in the Scottish context set out the conceptual framework under which losses should be calculated, and the main channels through which owners of affected vehicles suffered harm. We provided an aggregate estimate of harm for the entire group, as well as estimates of the harm suffered by representative individuals.

### Horizontal agreements Canada

- Oxera is advising a defendant in a antitrust damages collective action following a long-running vertical and horizontal agreement in the horeca segment in Canada.

### Dorothy Gibson vs Pride mobility UK

- This was the first case to be brought under the new opt-out regime implemented via the Consumer Rights Act 2015. in the UK
- Oxera provided economic support for the Collective Proceedings Order Application, which included an assessment of whether a) the claim raised common issues among the class, b) the claim was suitable to be brought in collective proceedings, and c) the claim could be brought on behalf of an identifiable class of people.
- Oxera developed the economic theories of harm, and empirical analysis to show the magnitude of the harm and damages sought. Robin Noble provided expert testimony at the CPOA Hearing to the Competition Appeal Tribunal (CAT).

# Commercial disputes and shareholder actions

# Commercial disputes and shareholder actions

Global Arbitration  
Review (GAR) 100  
Expert Witness  
Firms' Power Index  
2019 lists Oxera in  
its top 10

- we have deep expertise in **financial valuation** and **damages quantification** in commercial litigation and international arbitration cases
- we combine our detailed **sectoral knowledge** from our other services with our reputation for delivering compelling and robust analysis to bring you successful outcomes
- we provide **end-to-end support**—early assessment of the economic merit of a claim, preparation of expert reports, assistance with cross-examination preparation, testimonies at hearings, and advice for settlement negotiations
- we have **experienced forensic and quantum experts** who have testified in courts and tribunals across many jurisdictions including the UK High Court, CAT, LCIA, ICC, ICSID, SCAI, UNCITRAL and the PCA
- we are able to assemble a **highly experienced and responsive team** that would work closely with you throughout the engagement

# Commercial disputes and shareholder actions

## Collective and investor-firm disputes

### SUAL v Glencore et al.

LCIA, 2013–14

- Dr Helen Jenkins and Professor Julian Franks submitted two expert reports and **testified in a \$1bn** LCIA-administered arbitration regarding a dispute between shareholders of a major global commodities producer
- the dispute related to a long-term contract with a global commodities trader and involved assessing control within a complicated ownership structure in a country with a weak legal system. The claim settled on very favourable terms to our client at the beginning of 2014

### PCP Capital v Barclays

UK High Court, 2017–

- Dr Min Shi is acting as the expert for a private equity firm in a dispute with a large international bank relating to the **lost opportunity for the private equity firm to invest in the bank's recapitalisation** and realise a return
- Dr Shi has submitted two expert reports to the High Court; with a hearing scheduled to take place in 2020

### Investors v European bank

Class action, 2020–

- Dr Min Shi and Mohammed Khalil are acting as the experts on behalf of various institutional investors in a **large group action claim** brought by the shareholders of a **large European bank**
- this involves using an **event study** approach to assess the harm suffered by the shareholders who purchased the shares at artificially inflated prices due to bank covering up money laundering activities

### Investors v FTSE100 company

Class action, 2018–

- Dr Min Shi is acting as the expert on behalf of the Claimants in a **large group action claim** brought by the shareholders of a **FTSE100 company**
- this involves using an **event study** approach to assess the harm suffered by the shareholders who purchased the shares at artificially inflated prices

# Commercial disputes and shareholder actions

## Investor-state disputes

### EDF International v Hungary

PCA, 2011–14

- Professor Stephen Schaefer and Jostein Kristensen quantified damages to an EDF-owned generating asset caused by Hungary's premature termination of three **long-term power purchase agreements**
- we submitted two expert reports and testified at the Permanent Court of Arbitration in the Hague in November 2013. The claim was **brought under the ECT**, and the Tribunal awarded €107m to EDF in December 2014

### Tallinna Vesi v Republic of Estonia

ICSID, 2015–17

- Andrew Meaney submitted expert reports and **testified** before the **ICSID tribunal in Paris** as the quantum expert on behalf of Tallinna Vesi, a water company, in its claim against the Republic of Estonia
- the claim was brought under the BIT for a **breach of privatisation contract** resulting from Estonia's decision to prevent Tallinna Vesi from setting prices in accordance with the contract

### Client confidential

PCA, 2016–18

- Jostein Kristensen acted as quantum **expert on behalf of the a large south Asian government** in a dispute with an energy company on a billion dollar claim **under the BIT**
- our work involved assessing the price impact of shareholding divestments in the relevant capital market

### Client confidential

ICSID, 2014–16

- Oxera acted as a quantum expert on behalf of a foreign investor against an Eastern European country in an **ICSID international arbitration dispute**
- the claim consisted of damages arising from (i) unequal enforcement of excise duties and taxes; and (ii) non-policing of taxes in the consumer retail market

# Commercial disputes and shareholder actions

## Financial services and financial instruments

### Investors v S&P Federal Court of Australia, 2017–18

- Dr Min Shi provided a **valuation of structured finance products** in the context of a dispute between institutional investors and a rating agency
- as part of the exercise, Dr Shi examined to what extent the losses suffered by the investors during the financial crisis can be attributed to factors other than the credit ratings

### Client confidential SCAI, 2018–2019

- Dr Luis Correia da Silva and Dr Min Shi submitted expert reports and **testified** in a SCAI international arbitration case regarding the **valuation of a large wealth management bank** head-quartered in Italy
- working for the respondents, we submitted two expert reports critiquing the damages estimates put forward by the claimant's experts

### Client confidential ICC, 2013–14

- Dr Luis Correia da Silva and Dr Min Shi **testified in a multi-billion dollar** arbitration case involving a global telecoms company and an asset management company in Latin America

### Signia Wealth v Vector Trustees UK High Court, 2017

- Dr Min Shi **testified** before the UK High Court in London on behalf of an ultra high net worth individual in a shareholder dispute involving the **valuation of a wealth management firm**

### Madoff Securities v Raven & Others UK High Court, 2013

- Dr Min Shi **testified** in the UK High Court in the Madoff trial regarding the **valuation of certain financial services** purchased by the Madoff company

### UniCredit v Barclays UK High Court, 2016

- Dr Min Shi submitted expert reports on behalf of a global bank regarding the **value of a set of complex financial structures** entered into by two global banks

# Commercial disputes and shareholder actions

## Health and pharmaceuticals

### Blue Bio v MHRA

UK High Court, 2018–

- Dr Avantika Chowdhury is currently advising a pharmaceutical company in its damages claim for **lost profit**
- the claim arises from an **incorrect classification by the MHRA** of alternative medicinal products as food supplements, which resulted in smaller market size for the pharmaceutical company relative to the counterfactual

### Client confidential

LCIA, 2018–19

- Dr Min Shi acted as the quantum expert on behalf of a multinational pharmaceutical company in its dispute with its drug manufacturer following the **termination of their manufacturing and sales agreement**
- Dr Shi submitted an expert report to the LCIA tribunal before the case **settled on favourable terms**

### Pfizer v generics

Federal Court of Australia, 2017–18

- Dr Helen Jenkins acted as the expert and **testified** in the Federal Court of Australia on behalf of Pfizer in a claim brought by three generic pharmaceutical manufacturers that **could not enter the Australian market due to an injunction**

### Client confidential

LCIA, 2018–

- a leading pharmaceuticals company engaged Oxera to provide expert advice in its dispute with a patent owner regarding **the terms of a collaboration agreement**
- our advice covers the **reasonable royalty rates** and **damages payable to the patent owner**

### Client confidential

LCIA, 2017–18

- Robin Noble **testified** on behalf of a leading drug manufacturer, quantifying the damages it suffered arising from a **breach of confidentiality of a licensing agreement**

### AstraZeneca v Krka

UK High Court, 2013–14

- Dr Helen Jenkins acted as the quantum expert for AstraZeneca in relation to a damages claim by a generic supplier arising from **an injunction order**, including **testifying** at the UK High Court

# New frontiers of collective litigation

# New frontiers of collective litigation

## Quantitative experts for novel cases

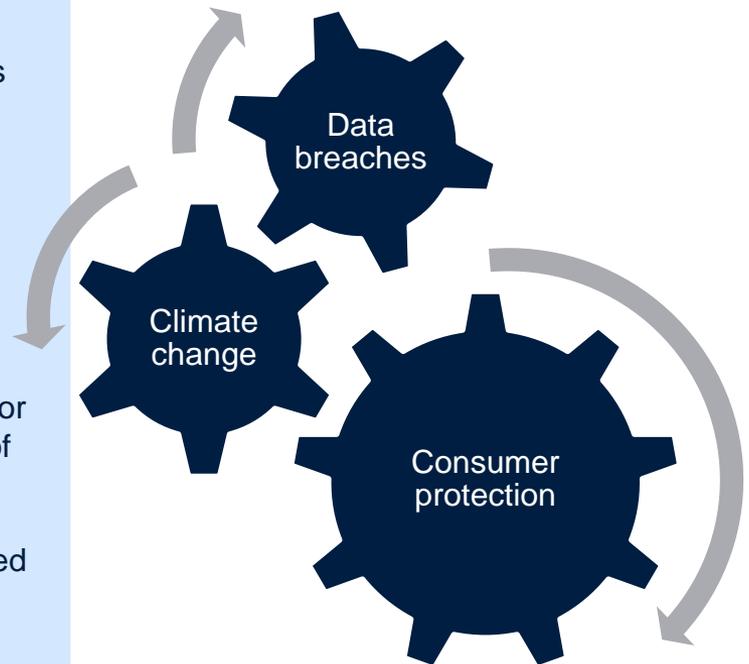
**The disputes landscape, in particular in the class action space does not stand still. Neither do we.**

We don't believe in a one size fits all approach to economic and financial analysis, no matter how rigorous. Every dispute that raises novel issues provides an opportunity for us to apply our range of sectorial experience and skills to find the right tools for effective damages quantification.

Our 2009 study set the quantitative framework under which European courts are guided to evaluate competition damages.

Today, we are still active in developing, publishing and communicating the economic techniques and frameworks needed for effective, efficient and practical damages quantification in a range of novel areas for collective litigation across Europe, including losses arising from data breaches, violation of privacy, climate change, environmental damages, and a range of contemporary issues related to consumer protection.

This means as new disputes arise for you and your clients, Oxera can always provide the most robust and rigorous support in all matters relating to damages quantification.



# Selected expert profiles

# Our expert: Dr Helen Jenkins

## Profile

### Helen is an expert in competition and antitrust litigation

- she testified before courts and competition authorities in the USA, UK, Australia, Republic of Ireland, South Africa and Hong Kong, and has been listed in *The International Who's Who of Competition Lawyers & Economists* since 2001
- she is a co-author of *Economics for Competition Lawyers* (Oxford University Press, 2nd ed, 2016)



- her recent clients include Pfizer, Nokia, The Co-operative Group Ltd, Thomas Cook, The Royal Bank of Scotland, ITV, Mastercard, and Scottish Power

## Selected experience

- **submitted expert reports and testified in the Federal Court of Australia** in 2018 on behalf of Pfizer in a claim brought by three generic pharmaceutical manufacturers
- **submitted expert reports and testified in the High Court in London** in 2018 on behalf of BritNed in its claim for damages with respect to its purchases of power cables
- **submitted expert reports and testified in the High Court in London** in 2014 on behalf of AstraZeneca in relation to a damages claim by a generic supplier arising from an injunction order
- **submitted expert reports and testified in an LCIA arbitration** in 2014 in a \$1bn dispute between shareholders of a major global commodities producer
- **submitted expert reports and testified in the US District Court San Francisco** in 2012 'In Re TFT-LCD (Flat Panel) Antitrust Litigation'
- **submitted expert reports and testified in the High Court in London** in 2009 on behalf of EDS against BSkyB in relation to the failure to deliver a CRM system

# Our expert: Dr Gunnar Niels

## Profile

### Gunnar is an expert in competition and antitrust litigation

- he testified before courts and competition authorities in the UK, the Netherlands, Austria, Spain, South Africa, and New Zealand, and has presented at oral hearings in European Commission inquiries
- he is a co-author of *Economics for Competition Lawyers* (Oxford University Press, 2nd ed, 2016), and has been listed in *The International Who's Who of Competition Lawyers & Economists 2014*
  - his recent clients include Deutsche Bahn, Nokia, Belgacom, Mars and Mastercard, as well as government bodies and the European Commission



## Selected experience

- **submitted expert reports to the Court of Amsterdam** in 2017–18 on behalf of a large technology firm in the semiconductor industry in its dispute
- **appointed as expert by the Court of Amsterdam** in 2015–17 in an abuse of dominance case involving property search websites
- **testified before courts in the UK and Germany** in 2017 on behalf of Unwired Planet in its IP litigation with Samsung and Huawei
- **testified before UK courts** in 2016–17 on behalf of Mastercard in the interchange fees damages claims by various retailers
- **submitted expert reports to the Court of Appeal in Belgium** in 2016–17 on behalf of Telenet in its dispute with Proximus
- **appointed as expert by the Austrian Cartel Court** in 2013–15 in a case involving long-term ‘take-or-pay’ gas contracts
- **testified before the UK High Court** in 2013 on behalf of Arriva for an abuse of dominance case against Luton Airport
- **testified before the New Zealand High Court** in 2011 for the Commerce Commission’s prosecution of the air cargo cartel

# Our expert: Robin Noble

## Profile

### Robin is an expert in damages quantification

- he has testified before courts and tribunals in the UK, Republic of Ireland, South Africa and Chile on damages quantification for breach of statutory duty, breach of contract, tax disputes, abuse of dominance, and cartel cases
- he led the Oxera team that worked with DG Competition to develop a handbook to aid quantification of antitrust damages

- he is listed in *The International Who's Who of Competition Lawyers & Economists 2014*

- his recent clients include Ryanair, Microsoft, Nokia, National Grid, IKEA, and Samsung



## Selected experience

- **testifying expert** in an LCIA administered arbitration on behalf of a leading drug manufacturer in a dispute involving breach of confidentiality (2018)
- **economic expert to Microsoft** in its claims regarding the lithium-ion batteries cartel—US federal litigation, UK litigation, and Finnish arbitration (2015–)
- **advising on a breach of contract arbitration** between Ryanair and a confidential European airport (2016–17)
- **advising truck manufacturers on potential damages claims** flowing from a cartel settlement decision at the European Commission (2017–)
- **testifying expert in the UK's first ever application for a class action**; Dorothy Gibson vs Pride Mobility, in the Competition Appeal Tribunal (2016–17)
- **testifying expert in a dispute in Ireland** regarding the VW EA189 engine emissions dispute (2016)
- **testifying expert in class action damages quantification exercise** for a defendant in Chile in the FMCG sector (2016–17)

# Our expert: Dr Avantika Chowdhury

## Profile

### Avantika leads Oxera's Life Sciences and IP-related work.

- she has provided economic and valuation advice in a range of cases involving IP, including fair and reasonable royalties, valuation of patent portfolios, abuse of dominance and damages
- she advised clients such as AstraZeneca, Merck, Lupin, Pfizer, Sandoz and Pinewood Healthcare on a wide range of matters including damages, valuation and abuse cases
  - listed in the *International Who's Who of Competition Lawyers & Economists Future Leaders*
  - regularly provides training for EU judges in assessment of damages



## Selected experience

- **appointed as expert for Sandoz** in a litigation (confidential) and for Labinvesta in its case against Dako at the Competition Appeal Tribunal
- **advised Unwired Planet** in its successful defence against antitrust allegations brought by Huawei in the context of a FRAND royalty dispute (2014–17)
- **advises multiple SEP owners** on FRAND assessments and on antitrust issues, including in the UK and China, and **advised Nokia** on policy issues
- **advised Merck KGa** in relation to the Competition and Markets Authority's investigations into patent settlement agreements with GSK (2016–17)
- **advised AstraZeneca** in defending against a damages claim by a generic entrant arising from an IP litigation (2013–15)
- **advised parties involved in the European Commission's investigations** into patent settlement agreements with Lundbeck and Servier (2012–15)

# Our expert: Joseph Bell

## Profile

### Joseph is one of Oxera lead advisors in follow-on anti-trust litigation

- experienced competition economist and qualified accountant providing advice on litigation, antitrust, market investigations and mergers.
- specialises in the application of econometrics to damages quantification.
- led projects providing evidence to competition authorities (including the CMA and European Commission) and a number of national courts.



- particular experience working in the fields of payments services and telecoms
- experience providing expert testimony in the UK and to the European Commission

## Selected experience

- economic advice to European truck OEMs in defending cartel claims in multiple European jurisdictions (2018–)
- litigation support to National Grid in evaluating the damages resulting from a European cartel in the power cables market (2016–2020)
- competition advice and expert testimony for a major international card scheme in relation to a European Commission investigation into alleged Article 101 infringements (2015–2018)
- competition and impact assessment advice in an intellectual property dispute for a global producer of microchip manufacturing equipment (2016–18)
- economic advice to Dorothy Gibson, class representative in the UK's first collective proceedings under the Consumer Rights Act, in her claim against Pride Mobility (2017)
- expert advice and testimony to Stagecoach Group through submissions to the QCS Board on the legal economic tests required to introduce a QCS under the Transport Act 2000 (2015)

# Our expert: Dr Min Shi, CFA

## Profile

### Min heads the Commercial Litigation and Arbitration team at Oxera

- she is an expert in the fields of corporate finance and financial valuation, and has been listed in *Who's Who Legal Consulting Experts* since 2016
- 2009–11, Lecturer in Economics at the Queens College; Associated Fellow at Saïd Business School, University of Oxford
- 2001–05, Assistant Professor of Finance, Business School of University of Wisconsin–Madison



- Chartered Financial Analyst (CFA) since 2008
- PhD and MA Economics, Harvard University; BA International Economics, Beijing University

## Selected experience

- **submitted expert reports and testified in a SCAI arbitration** in Zurich in 2019 regarding the valuation of a large wealth management bank head-quartered in Italy
- **submitted expert reports and testified in an ICC arbitration** in Paris in 2019 regarding the lost profits resulting from the termination of a sale and purchase agreement between a telecoms company and a digital financial services company
- **submitted expert reports and testified in an ICC arbitration** in London in 2018 regarding the extra costs incurred by an E&C company due to the breach of contract by its subcontractor
- **submitted expert reports and testified in the High Court of Justice** in London in 2017 on behalf of the owners of asset management company regarding the value of the company
- **submitted expert reports and testified in an ICC arbitration** in London in 2017 on behalf of a private equity firm regarding the financial performance of a company it invested in
- **submitted expert reports and testified in a multi-billion dollar ICC arbitration** in Paris in 2014 between a global telecoms company and a Latin American asset management company

# Our expert: Professor Tim Jenkinson

## Profile

**Tim is a leading authority in finance and valuation**, including private equity, IPOs, asset management, the cost of capital, and corporate valuation

- he has advised companies and regulators in the gas, electricity, transport, water, telecoms, sports, media and financial services sectors
- he is a Professor of Finance at Saïd Business School, University of Oxford, and Director of the Private Equity Institute
- Winner of 2016 Harry Markowitz Prize; 2015 Commonfund Prize; 2014 Brattle Group Prize



- DPhil Economics, University of Oxford; MA Economics, University of Pennsylvania; BA Economics, University of Cambridge

## Selected experience

- **advising the trustees of a large UK company** that was sold to a private equity firm during its insolvency proceedings (2017–)
- **submitted expert reports** on behalf of a German bank in the valuation of a multi-million dollar sports business (2016–17)
- **special adviser to the UK Parliament Culture, Media and Sport Committee** on financial issues associated with the regulation and structure of the broadband market (2016)
- **advised Dollar Financial** on affordability and conduct risk (2016)
- **advised BT** on cost of capital issues (2011)
- **provided expert services** for the Financial Times in a high-profile libel action regarding IPOs (2006)
- **advised London Stock Exchange and the British Venture Capital Association** on private equity-backed IPOs (2005)
- **advised the ORR** on Network Rail's price control and financial restructuring (2003)
- advised on the Mid Kent Water Competition Commission case (2000)

# Our expert: Dr Luis Correia da Silva

## Profile

### Luis leads the Finance & Valuation and Regulation teams at Oxera

- he is the author of many academic publications in valuation, financial markets, corporate finance, financial regulation and the impact of corporate governance
- he has advised governments, regulators and companies in the energy industry for over 20 years
- Luis is a Trustee of Trust for London and responsible for its investment decisions



- DPhil Economics, University of Oxford; MBA European Studies, Solvay Business School; MSc and BA Economics, Université libre de Bruxelles

## Selected experience

- **testified and been cross-examined in a SCAI arbitration** on the valuation of a large wealth management bank
- **testified and been cross-examined in an ICC arbitration** in Paris in 2014 regarding a multi-billion-dollar damages claim
- published the book ***Corporate Governance and Dividend Policy***, with M. Goergen and L. Renneboog, Oxford University Press, 2004
- **testified in front of European regulatory and competition authorities** on matters relating to the energy market, including valuation of take or pay contracts, cost of capital disputes, collapse of Enron and damages to a third party
- **had a seat on the Board of Directors** of one of the largest independent oil and gas exploration and production (E&P) companies in the world, with significant E&P operations in Africa, Latin America, Europe and Asia, during a time of significant disputes with local governments and other parties on the companies' contracts (2012–14)
- **led Oxera's internal work** in many litigation and dispute cases requiring the quantification of damages

# Our expert: Jostein Kristensen

## Profile

### Jostein heads Oxera's Energy team and is an expert in energy-related issues

- his work covers oil and gas, coal and electricity (including renewable and nuclear generation)
- Jostein provides economic and financial advice to clients involved in commercial disputes, regulatory investigations and transactions in the electricity, natural gas and oil sector

- MSc Business Economics, University of Manchester Institute of Science and Technology (UMIST);
- MEng Engineering Manufacture and Management, UMIST



## Selected experience

- **submitted reports and testified at the Permanent Court of Arbitration at The Hague** on behalf of EDF International in its claim against the Republic of Hungary under the BIT (2011–14)
- **submitted expert reports and testified to the Competition and Markets Authority (UK)** on behalf of firmus energy in its appeal of the GD17 price control (2016–17)
- **submitted expert reports** for an international energy trading firm in a dispute relating to multiple breaches of a long-term commodity supply contract (2012–13)
- **submitted expert reports** for Endeavour International Corp in the context of a dispute over third-party access tariffs (2010)
- **submitted expert reports** for Budapest Power Plant in its appeal of the European Commission's state aid decision involving the termination of Power Purchase Agreements (2008–11)
- **advised RWE and Drax** during state aid investigations related to their biomass conversions (2015)

# Our expert: Felipe Flórez Duncan

## Profile

### Felipe heads the Telecoms, Media and Technology (TMT) team at Oxera

- he has extensive experience in the application of competition and regulatory economics, including in abuse of dominance cases, margin squeeze assessments, vertical agreements, mergers, and regulatory policy
- his clients include major operators such as BT Group, Openreach, Liberty Global and Vodafone, as well as regulators such as ComReg and the Regulatory Authority of Bermuda



- Felipe is also a **seasoned economic expert**, having provided expert witness testimony in regulatory, competition and damages cases before UK and European courts

## Selected experience

- **acting as economic expert for a major European mobile operator** in a margin squeeze case in Spain (ongoing)
- **acted as a third-party economic expert** in a dispute between an MNO and an MVNO regarding wholesale access tariffs (2019)
- **acted as an economic expert for a European collecting society** in a dispute with a TV platform over whether the royalty rates requested for the use of songs in films were reasonable under competition and copyright law (2017)
- **acted as economic expert for Turk Telekom in a competition case** concerning an alleged margin squeeze in the sale of broadband and TV bundles (2016)
- **provided expert economic advice in multiple mergers** assessed by the European Commission, including *Liberty Global/ Vodafone* (2016); *Three/ Telefonica O2* (2016) *Liberty Global/ De Vijver Media* (2015); *Liberty Global/ Ziggo* (2014)
- **acted as an economic expert witness in the Italian Courts** on behalf of a major European telecoms operator in a damages claim as a result of a margin squeeze abuse in the mobile sector (2013)

# Our expert: Andrew Meaney

## Profile

### Andrew heads Oxera's Transport team and advises clients across Europe

- he has extensive experience of advising companies and regulators on the impact of transport policy interventions, economic regulation, pricing, transactions and state aid
- he provides expert testimonies before arbitral panels and in public inquiries
- his clients include major players in the transport sector such as Gatwick Airport, Etihad Airways, Port of Rotterdam



- he is a member of the Association for European Transport's Railways Programme Committee
- MSc Economics and Finance from Warwick Business School

## Selected experience

- provided expert witness services in a **rail industry arbitration** (2017–19)
- **testified on behalf of Tallinna Vesi**, the largest water company in Estonia, and its owner, United Utilities, in their claim against the Republic of Estonia under the BIT in an ICSID administered arbitration (2014–16)
- provided **evidence in a public inquiry** related to M4, which included quantifying the impact on logistics providers
- routinely **provides expert witness services** at the European Commission and the UK Competition Commission, and in-depth advice on all forms of regulation and its application in many world jurisdictions (ongoing)
- provides **strategic advice** on pricing transport services, including train and bus fares, charges for using ports, access charges for rail-related services, and leasing transport vehicles (2004–)
- **adviser on transactions** ranging from rail franchise bids to asset sales in the transport and energy sectors (2005–)

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