

# Thomas de la Mare KC

*“Thomas is a powerhouse; he is incredibly impressive on his feet, and has an extraordinary capability to manage a complex case load effortlessly.”*

– CHAMBERS & PARTNERS, 2024

Year of call: **1995**  
Appointed to silk: **2012**  
Degree: **BA (Oxon)**  
Languages: **French (working knowledge), Italian (some knowledge)**



Tom is a highly versatile lawyer whose practice straddles public law, competition/regulatory law and commercial law, and who has achieved recognition as a leading practitioner in eleven different practice areas. Tom is noted for his innovative legal problem solving - drawing upon the many aspects of his practice - and his excellent advocacy.

In the public law field, Tom's work has a strong emphasis on: commercial JR, where Tom has acted in a number of the leading cases (Camelot, Eisai), particularly pharmaceutical litigation and sanctions work; civil liberties, national security (Binyam Mohammed, Kamoka) and data and privacy work (Privacy International/LQDN); and on environmental cases. Tom is a noted expert on the control of secondary legislation and on proportionality and fundamental rights challenges (FACT, Lumsdon), having obtained the first ever declaration of incompatibility by consent (Blood No.2) and the last EOC declaration to disapply primary legislation for incompatibility with EU law (Hughes).

In the competition and regulatory field, Tom has appeared in many of the leading competition law damages cases (Provimi, Devenish), acting regularly for both Claimants (e.g. Peugeot in the bearings litigation) and Defendants (e.g. Goldman Sachs in the FX litigation), as well as in standalone cases (e.g. the ongoing Genius sports betting data litigation). Tom has particular expertise in the application of the competition rules in the context of sport, acting for both the regulated (clubs, players etc) and the regulators/leagues (RFU, Premier League, ECB). Tom has also acted for and against many of the key sectoral regulators (Ofgem, Ofcom, Oftwat etc) in energy and telecommunications disputes, professional discipline matters and the like.

Tom's commercial work has an emphasis on group litigation (most recently various Dieselgate disputes), conflicts issues (Tom has led in many leading cases domestically and in the CJEU ranging from Grovit v Turner, AMT Futures and most recently MV Prestige), economic torts (particularly market-facing disputes), privacy (e.g. ENRC v Gerrard) and restitution litigation (e.g. the ALFs litigation).

A unifying feature of all of Tom's work is his noted expertise in EU law work in all hues, public, regulatory or commercial. Before Brexit, Tom appeared in many CJEU/GC cases, in areas ranging from sanctions (NITC), to competition (FIFA/UEFA, Topps Europe), trademarks (Philips), pharmaceutical work (Teva), social security to conflicts, data protection/privacy (Fish Legal, Privacy International/LQDN) and to Brexit itself (Wightman). Tom appeared in the last two Article 267 TFEU references from the UK (DfCNI and MV Prestige).

Tom is recognised as a leading silk by latest editions of both the independent legal directories, Legal 500 and Chambers & Partners. Key recent quotes include:

- "He is legendary for his creative and lateral thinking. He comes up with winning ideas that others just don't think of." - Legal 500, 2024
- "Thomas is a powerhouse; he is incredibly impressive on his feet, and has an extraordinary capability to manage a complex case load effortlessly." - Chambers & Partners, 2024

Previous comments include:

- "He is an excellent and engaging advocate." - Chambers UK, 2023
- "He is very quick to see the key points and very practical. He is extremely articulate and forceful when putting across his points for the client." - Chambers UK, 2023
- "Thomas de la Mare is a Premier League KC who always adds value." - Chambers UK, 2023
- "Incredibly bright; he thinks of different perspectives and can pick up totally new areas of law in no time at all. He is otherworldly." - Chambers UK, 2023

## EXPERIENCE

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### Public & Regulatory

There is a very considerable overlap between Tom's public law, human rights and EU and environmental expertise. Clients seek Tom out, in particular, for his ability to provide comprehensive expert advice straddling these fields.

Tom has expertise in a wide range of fields of commercial, technical and professional regulation and discipline, particularly where harmonized by EU law such as: pharmaceuticals, foods and food supplements pesticides and GMOs; financial services, legal services; medical services and qualifications; aviation, broadcasting and advertising (see Media section below for further detail).

Tom's EU public law practice is extremely broad (see further below for the commercial aspects of Tom's EU practice). He regularly appears for and against the UK in the CJEU/GC and in cases raising EU law points in domestic tribunals. The public law dimension to Tom's EU practice embraces subjects as diverse as customs and duties control, social security co-ordination, discrimination, citizenship, free movement (goods, persons, services), immigration, the EU Charter.

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— CHAMBERS AND PARTNERS, 2023

Tom also has considerable experience in Francovich claims against public bodies, most recently in the Tom's civil liberties practice has a wide scope: terrorism, torture, unlawful detention, free speech, privacy, property and fair hearings have featured particularly prominently in Tom's recent work for a diverse range of individual, corporate and public clients. litigation where Tom obtained sizeable compensation for his client from the Home Office for extreme delays in the recognition of her EU rights of residence that had the effect of preventing her from working.

## Cases

### **Friends of Antique Cultural Treasures Ltd v DEFRA**

[2020] EWCA Civ 649

The Court of Appeal has upheld the High Court's dismissal of a challenge to the ban on dealing in ivory imposed by the Ivory Act 2018. Tom acted for the Appellant company.

### **R (Kamoka) v Security Services & Others**

Ongoing

Tom is representing a large number of Libyans said to members of or affiliated to the LIFG in connection with their: (a) detention in the UK under immigration detention pending DWA and/or under Control Orders; (b) detention and torture abroad; and (c) subjection to domestic sanctions. The Claimants contend that UK administrative action was tainted by UK complicity in wrongdoing and its non-disclosure to the Courts; and (in the case of those detained abroad) of UK complicity in torture, arbitrary detention or CIDT.

### **Beghal v DPP**

[2015] UKSC 49; [2016] AC 88

Tom represented interveners on this leading case on suspicionless stop and search powers at ports and airports.

### **Bruton v Duchy of Cornwall**

Upper Tribunal, pending

Tom also represented the Duke of Cornwall in the subsequent Upper Tribunal case which will establish whether the Duchy of Cornwall has legal personality and whether it or the Duke of Cornwall is a "public authority" for environmental information purposes.

### **Tolley v Secretary of State for Work & Pensions**

[2015] UKSC 55; [2016] 1 All E.R. 40

Tom acted for the Secretary of State throughout the litigation from the Upper Tribunal to the Supreme Court in a case that raises fundamental issues about who is an "employed person" and when for the purposes of EU social security law.

**NA (Pakistan) v Secretary of State for the Home Department**

[2015] 1 C.M.L.R. 9

Tom acts for the appellant in a test case about retained rights of residence for third country nationals. The appellant, who is Pakistani, has German national children raised in the UK. They moved to the UK to live with their worker father (a German national) but his violence ended the marriage and he left the country. Quite apart from the Charter issues (above) the case raises key issues under the Citizenship Directive and in relation to Teixeira rights of residence.

**National Iranian Tanker Co v Commission; Golparvar v Commission**

Tom is acting for NITC and Mr Golparvar in the EU General Court in two unrelated cases under the Iranian sanctions regime.

**R (Blue Bio) v Secretary of State for Health**

[2014] EWHC 1679 (Admin); [2014] Med. L.R. 233

Tom is appearing with Tristan Jones for the Claimant in a case that is set to be the leading domestic authority on the definition of a “medicinal product” and the duties of the MHRA to apply the so-called functional test in a consistent fashion to like products. The case is currently listed in the Court of Appeal.

**FIFA/UEFA v Commission**

Case C-204/11 P et al [2014] 1 CMLR 20

Tom successfully represented the UK in these three joined appeals brought by FIFA and UEFA that questioned the legality of the UK’s broadcasting “Crown Jewels” so far as they contained the entirety of the World Cup and EURO tournaments as events that must be broadcast of free to air television.

**Fish Legal**

Case C-279/12 [2014] QB 521

Tom represented large number of intervener water only and water and sewerage companies in the CJEU and in the subsequent contest Upper Tribunal in the lead test case on what constitutes a “public authority” for the purposes of the Environmental Information Regulations with implications for a wide range of regulated utilities.

## Civil Liberties & Human Rights

Tom’s civil liberties practice has a wide scope: terrorism, torture, unlawful detention, free speech, privacy, property and fair hearings have featured particularly prominently in Tom’s recent work for a diverse range of individual, corporate and public clients.

***“Thomas is tenacious and creative and relishes intellectual challenges.”***

– CHAMBERS AND PARTNERS, 2023

## Cases

### **R (Kamoka) v Security Services & Others**

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### **Privacy International v Security Services (IPT)**

July 2016

Tom is representing the Claimants (with Ben Jaffey) in this challenge to the Security Services powers to gather and operate Bulk Personal Datasets and to obtain Bulk Communications Data using obscure powers under the Telecommunications Act rather than RIPA. The case raises key issues under Article 8 ECHR/7 CFREU.

### **Beghal v DPP**

[2015] UKSC 49; [2016] AC 88

Tom represented interveners on this leading case on suspicionless stop and search powers at ports and airports.

### **R (Lumsdon) v Legal Services Board**

[2015] UKSC 41; [2015] 3 WLR 121

Tom represented the Claimants in a case raising a range of fair trial and fair hearing issues under the common law and the ECHR focusing on issues such as the right to independence of advocates, judicial independence and fair hearings (to the CA); and EU proportionality (to the SCT).

### **NA (Pakistan) v Secretary of State for the Home Department**

[2015] 1 C.M.L.R. 9

Tom acts for the appellant in a test case about retained rights of residence for third country nationals. The appellant, who is Pakistani, has German national children raised in the UK. They moved to the UK to live with their worker father (a German national) but his violence ended the marriage and he left the country. Quite apart from the Charter issues (above) the case raises key issues under the Citizenship Directive and in relation to Teixeira rights of residence.

## EU & Competition

Tom is a highly experienced and sought-after EU and competition lawyer. He has an extensive practice ranging from pure commercial/competition work, through EU regulatory (with its blend of public and competition law), commercial EU (such as financial services and conflicts) to diverse “pure public” EU work in areas such as pharmaceutical regulation, data protection and privacy, free movement cases, EU social security and EU fundamental rights and discrimination.

Tom is an acknowledged expert on both Brexit (in particular the operation of EUWA 2018, EUFRA 2020 and the TCA) and state liability claims. He is a member of the CAT Users Group.

Tom was the Legal 500's EU and Competition Silk of the Year in 2019 and is ranked:

- Band 1 for EU Law (“Tom is pre-eminent in the field, entrusted by clients and plainly highly respected by the tribunals before whom he appears”) by both Legal 500 and Chambers & Partners; and
- Band 1 and 2 for Competition law in Legal 500 and Chambers & Partners respectively (“He is a leader in this area and really knows his stuff. He was one of the first barristers to really see the potential of group and class actions”).

“Pure” competition damages: Tom has acted in a large number of the most prominent competition damages claims since the Vitamins litigation in the mid-00s (in which Tom acted for the Defendants, Aventis, in Provimi, Devenish and other reported cases). Since then, Tom has acted for Claimants in Air Cargo (Emerald), RoRo, Interchange (multiple parties and firms) and Peugeot Bearings, among others. He is also working for Defendants in the various vitamin cases (Aventis), LCDs (Toshiba in Nokia) on Power Cables (Nexans) and is instructed in the FX litigation (Goldman Sachs).

Blended competition claims and competition consumer law: Tom is at the forefront of modern cases involving competition law claims/counter-claims/defences blended with other private law claims. This is a particular characteristic of the two strands of the ongoing Genius litigation (which also involve database and unlawful means claims). Tom's particular interest in consumer law and data protection means he is well placed to advise and act on such issues where they interface (as they increasingly do, particularly in the digital space) with competition law, especially in abuse of dominance claims.

CPOs and “book built” claims: Tom has written extensively, advised, and acted in relation to CPOs, including in the Mobility Scooters application (the first under the Act), including both follow on and standalone claims. Tom was a member of the CAT Working Party on collective proceedings. Tom has acted in claims involving large multi-party “book built” claims (e.g. Interchange, Trucks, FX, Air Cargo).

Competition & Sport: Tom is an acknowledged expert on the interface between competition law, common law, restraint of trade, and sport, in relation to issues such as salary caps (RFU, Scarlets, F1), financial fair play (RFU, competition law arbitrator in the QPR arbitration), player nationality requirements (ECB, RFU, F1), fixture and league sanctioning/breakaway competitions (Premier League) and regulation by dominant sports bodies (ECB, RFU). Tom is also well versed in the competition (and other) events relating to “Listed Events” (having acted in the GC/CJEU in the FIFA/UEFA cases) as well as the competition law issues in relating to sports broadcasting (e.g. Virgin complaint, Genius litigation).

***“Immensely clever and dynamic. A great person to work with.”***

– CHAMBERS AND PARTNERS, 2023

Regulatory EU/competition work: Tom has undertaken work in all the main fields of sectoral regulation based on EU frameworks on both pure competition points and sectoral regulatory issues (such as systems access, price control etc), notably telecoms (both for and against Ofcom, including currently acting against Ofcom in the first exercise of its competition investigation powers), gas and electricity (for and against Ofgem and the NIAUR) and water (against Ofwat).

Conflicts/Brussels Regulation: Tom's damages work in multi-jurisdictional cartels frequently raises conflicts issues (jurisdiction, applicable law) and associated problems of limitation, exclusive jurisdiction, arbitration and claims characterisation. His conflicts expertise dates back to successfully arguing, as a junior, the seminal Grovit case in the CJEU and the Provimi case in Commercial court. Notable recent cases include the AMT Futures litigation in the Supreme Court and the MV Prestige case before the CJEU Grand Chamber argued in January 2022 (the last ever reference from an English Court), which raises fundamental issues about the interface with arbitration.

State liability: Tom has acted on both sides of many EU state liability claims, including recently for a claimant class of persons affected by mistransposition of an EU Directive, and for the MIB in the Colley litigation (heard by the CA in January 2022). Such cases require a mix of public law expertise (is a breach 'manifest and grave?') and commercial litigation know-how (causation, quantum, market modelling) and have strong similarities with competition law "follow on" claims.

Brexit: Tom is one of the acknowledged experts on the UK's Brexit arrangements, including all aspects of EUWA 2018 and EUFRA 2020 and the Withdrawal Agreement and TCA. Tom acted for the Public Law Project in the Miller2 litigation and for the UK in CJEU GC hearing in Wightman. He frequently gives presentations on these topics, has advised extensively on them, and has been brought into litigation to advise specifically on these issues.

EU Fundamental Rights and Treaty rights cases: Tom has been involved in some of the most prominent recent cases involving EU Fundamental Rights and EU Treaty rights issues of recent years, including Lumsdon in the Supreme Court (the leading authority on EU proportionality), FACT (proportionality and free movement of goods in relation to the Ivory Act), Hughes (Pensions Act disapplied as incompatible with EU fundamental age discrimination rights), TfL (EU free movement and proportionality) and the Privacy International Litigation (s.94 Telecommunications Act inconsistent with EU privacy law).

## Cases

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**National Grid & Scottish Power v ABB & Others**

Tom is acting for a key Part 20 Defendant, the Nexans Group, in the damages claims arising out of a power cables cartel.

**WH Newson v IMI and others**

[2014] Bus LR 156

Tom (leading Tristan Jones) conducted the claims brought against two of three main copper cartels (copper tubes, copper fittings) for companies in the Travis Perkins Group. Before settlement, the case gave rise to an important ruling from the Court of Appeal on the characterisation of a cartel as an unlawful means conspiracy.

**The Air Cargo Litigation**

Tom appeared for the Claimants in the Air Cargo litigation.

**Car Glass & Car Bearings**

Tom is acting for Peugeot and Saab (leading Tristan Jones) in two separate actions relating to the automotive car glass and bearings cartels. The car glass claims brought by Peugeot and Saab are pending before the High Court and the CAT and are likely to raise important issues about limitation in CAT claims under the Foreign Limitation Periods Act.



### **Chemistree Homecare Ltd v AbbVie Ltd**

[2014] UKCLR 1

Tom was brought in (with James Segan) to act for Chemistree in the Court of Appeal in its attempt to get injunctive relief against AbbVie to continue the supply of a particular drug on abuse of dominance grounds.

### **Lindum Construction v Office of Fair Trading**

[2014] Bus LR 681

Tom acted for Lindum and Interserve (with Andrew Scott) in claims brought by parties affected by the OFT's Construction Cartel Decision that sought restitution of fines unlawfully paid.

### **Recolight litigation**

Tom acted in the recent sizeable Recolight litigation which raised significant issues about, amongst other things, the interface between A.101(3) justification and environmental regulation/benefits. Tom acted for Recolight the Producers Compliance Scheme that seeks to maximise the recycling of modern energy efficient (but toxic) lightbulbs.

## **Environment**

Tom practises extensively in environmental law. Thanks to the Fish Legal case, and earlier work in waste (Barr v Biffa) etc., he has recently developed a growing practice in water regulation, principally for water and sewerage undertakers.

Examples of Tom's current and recent work in this area can be found below.

***“He's very creative in finding solutions to problems. He is a formidable operator.”***

— CHAMBERS AND PARTNERS, 2023

## **Cases**

### **Friends of Antique Cultural Treasures Ltd v DEFRA**

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## **Commercial**

Given Tom’s strength in EU and competition law, he is regularly in demand in commercial cases raising issues of EU, commercial (financial services, telecoms), conflicts of laws and competition law. Tom has regularly acted in commercial issues in the CJEU, Court of Appeal as well as the Commercial Court and Chancery Division. Beyond these areas Tom’s general commercial litigation practice spans a wide range of areas including: conspiracy and economic torts (especially using civilian unfair competition torts with English disclosure); civil fraud, particularly in a commercial employment context; confidential information and soft IP (trademarks, copyright); restraint of trade and restrictive covenants; and conflicts of law.

***“Tom is a highly effective advocate with a valuable array of specialisms.”***

– CHAMBERS AND PARTNERS, 2023

## **Cases**

### **National Grid & Scottish Power v ABB & Others**

Tom is acting for a key Part 20 Defendant, the Nexans Group, in the damages claims arising out of a power cables cartel.

### **AMT Futures v Marzillier etc**

[2015] QB 699

Tom is acting (with Andrew Scott) for the execution only broker AMT in its novel claim for procuring breach of exclusive jurisdiction clauses against a German law firm alleged to have canvassed claims by former clients using confidential information. The case is the leading case on the approach to Art 5(3) jurisdiction for the tort of procuring breach, and is on appeal to the Supreme Court.

## AMT Futures v Mikic

Commercial Court

A second round of AMT actions against the former retail clients seems set to become the leading domestic case on whether someone engaged in aggressive speculation for short term profit on the futures and options markets can be a “consumer” under Section 4 of the Recast Regulation.

## WH Newson v IMI and others

[2014] Bus LR 156

Tom (leading Tristan Jones) conducted the claims brought against two of three main copper cartels (copper tubes, copper fittings) for companies in the Travis Perkins Group. Before settlement, the case gave rise to an important ruling from the Court of Appeal on the characterisation of a cartel as an unlawful means conspiracy.

## The Air Cargo Litigation

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## SSL v TTK

[2012] 1 WLR 1842

Tom acted for SSL/Durex in its attempts to obtain English jurisdiction for contractual and tort claims arising out of alleged economic duress on the part of a joint venture partner in India. The case raised fundamental points about service upon foreign companies in the jurisdiction and enforcement of injunctions abroad.

## Lebara v Lyca

Tom is acting for Lebara (leading Ben Jaffey & James Segan) in a dispute with its close commercial rival Lyca which has been blocking its users from accessing Lebara's services throughout the EU. The case raises novel issues about internet neutrality and consumer protection in the telecoms field, as well as difficult issues about EU e-privacy law, economic torts (both types of conspiracy) and foreign law (a variety of civilian unfair competition torts having been pleaded as well).

### **The Weaving litigation**

(to 2012)

Tom acted for the liquidators of Weaving Capital UK in its successful attempts to recover funds from its former directors. The claims arose in connection with the collapse of the \$500 million Weaving Hedge Fund and raised claims in deceit/misrepresentation, breach of fiduciary duty, negligence and breach of statutory duty.

### **Octopus Investments v Hunt & Others**

Tom was instructed (with Hanif Mussa) in the EIS fraud claims brought by Octopus Investments against its former advisers.

### **Wimbledon Village Surgery v Sutton & Merton PCT**

Tom acted for the NHS Defendants (leading Tom Cleaver) in this high value test case litigation about the construction of superannuation provisions of a standard form PMS Agreement, as used by a significant number of PCTs/GP providers.

## **Civil Fraud, Asset Recovery & Injunctive Relief**

Tom practises extensively in civil fraud and examples of his current and recent work in this area can be found below.

***“She is erudite and very persuasive on her feet.”***

– LEGAL 500, 2017

## **Cases**

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## **Pharmaceuticals**

Complex jurisdictional and applicable law advice has been a key part of Tom's multi-jurisdictional follow on damages practice ever since the seminal *Provimi v Aventis* case (still a leading jurisdiction authority), in which it is an invariable issue for consideration by Claimants and Defendants alike.

Tom has extensive experience of pharmaceuticals cases and examples of his current and recent work in this area can be found below.

His recent clients in this sector include: Pfizer, Eisai, Medtronic, BMS, Goldshield, Novartis, Sandoz, Teva, Aventis, Waymade, , Blue Bio, Remedy UK, Perrigo, Intermune, Gilead, Chemistree and Nutricia, Diomed and ABPI, PMCOPA, as well as the CPA, CHRE, MHRA, DoH, PCT/CCGs, in the pharmaceutical/medical devices/FSMPs field.

## **Cases**

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[2014] EWHC 1679 (Admin); [2014] Med. L.R. 233

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Tom acted for SSL/Durex in its attempts to obtain English jurisdiction for contractual and tort claims arising out of alleged economic duress on the part of a joint venture partner in India. The case raised fundamental points about service upon foreign companies in the jurisdiction and enforcement of injunctions abroad.

## Sport

Tom practises extensively in sports law and examples of his current and recent work in this area can be found below.

Tom has written (with Ravi Mehta) the Chapter in Lewis & Taylor on Sport on EU free movement rights.

***“He is just extraordinarily bright.”***

– CHAMBERS AND PARTNERS, 2023

## Cases

### **Topps Europe Ltd. v The European Commission**

Case T-699/14

Acting for the applicant in this case on their right to trade cards featuring UEFA tournaments.

### **FIFA/UEFA v Commission**

Case C-204/11 P et al [2014] 1 CMLR 20

Tom successfully represented the UK in these three joined appeals brought by FIFA and UEFA that questioned the legality of the UK's broadcasting “Crown Jewels” so far as they contained the entirety of the World Cup and EURO tournaments as events that must be broadcast of free to air television. Tom also advised the DCMS on the related consultation on the review of the current UK list of protected events.

### **London Welsh v RFU**

(July 2012 and May 2013)

Tom acted for London Welsh (with Tom Richards) in its successful challenge to the legality of the RFU's rule requiring clubs to have “primacy of tenure” in order to be eligible for promotion. Such rule was found to be an anti-competitive restraint being unnecessary/disproportionate for the aims of settling a stable fixture list to maximise broadcast revenue. London Welsh were promoted to the Rugby Premiership in consequence. Tom also acted for London Welsh in its appeal against sanction for having fielded an ineligible player in 11 matches.

### **R (Tottenham Hotspur FC) v Newham BC and others – “Olympic Stadium JRs”**

Tom appeared (with John Howell QC and Paul Luckhurst) for Newham BC in its defence of the various judicial reviews brought on EU state aid grounds arising out of the proposed West Ham/Newham joint venture and its selection as preferred bidder for the Olympic Stadium. The case raised profound issues about public funding of sport, public benefits, infrastructure and the state aid rules.

## Media & Entertainment

Ever since pupillage with Ian Mill QC Tom has pursued a practice in Media & Entertainment, Sports and Broadcasting litigation, embracing matters such as record company and recording agreement disputes, restraint of trade, film finance, collecting society disputes, broadcasting disputes and advertising regulation. Tom undertakes a wide range of related IP litigation, whether in copyright, trademarks, passing off and the like.

With the increasing intrusion of EU harmonization into IP and EU regulation (notably consumer regulation) and EU competition law into media and broadcasting, as well as sports, Tom's expertise in these areas of cross-over has been increasingly called upon. Tom regularly provides competition and EU advice in a media, sports, advertising and broadcasting context.

Tom has a broad media practice embracing film and music industry work, broadcasting regulation and the law of advertising.

***“Thomas is brilliantly clever and really responsive. He has a huge brain and is a delight to work with.”***

– CHAMBERS AND PARTNERS, 2023

## Cases

### **R (BASCA) v Secretary of State for Business, Innovation and Skills**

[2015] Bus LR 1435; [105] 4 Costs LR 627

Tom acted (with Ian Mill QC) in the successful challenge to the Regulations brought to introduce a private copying exemption pursuant to Article 5(2)(b) of the EU Copyright Directive.

### **Privacy International v Security Services (IPT)**

July 2016

Tom is representing the Claimants (with Ben Jaffey) in this challenge to the Security Services powers to gather and operate Bulk Personal Datasets and to obtain Bulk Communications Data using obscure powers under the Telecommunications Act rather than RIPA. The case raises key issues under Article 8 ECHR/7 CFREU.

### **Advertising Regulation**

Tom is an acknowledged expert in advertising law, particularly EU law relating to consumer protection. He has regularly advised the OFT/CMA, the ASA, BCAP and other self-regulatory bodies, as well as private parties such as C&C, Diomed, Sainsburys, Martin Grant Homes and SodaStream about advertising regulation across a variety of media, in particular comparative and misleading advertising. In the last two years Tom acted for Sainsbury's in its challenge to the ASA; and is acting for claimants in cases against Clearcast and the Portman Group.

## Telecommunications

Over the years Tom has been involved in a number of high profile telecommunications disputes, acting for, amongst others, O2, H3G, Vodafone, Virgin, 118 118, Lebara, Inmarsat, the MoD and Ofcom.

***“Thomas de la Mare is a Premier League KC who always adds value.”***

– CHAMBERS AND PARTNERS, 2023

## Cases

### **Lebara v Lyca**

Tom is acting for Lebara (leading Ben Jaffey & James Segan) in a dispute with its close commercial rival Lyca which has been blocking its users from accessing Lebara’s services throughout the EU. The case raises novel issues about internet neutrality and consumer protection in the telecoms field, as well as difficult issues about EU e-privacy law, economic torts (both types of conspiracy) and foreign law (a variety of civilian unfair competition torts having been pleaded as well).

### **Spectrum litigation: 4G refarming**

Tom has over a number of years been acting for and advising O2 in relation to the complex legal issues arising about spectrum allocation, refarming, liberalisation and use in 4G services. Recently Tom has advised the MoD on similar issues.

### **118 118**

Tom acted for 118 118 in relation to the legal issues and appeals arising from Ofcom’s review of Non-Geographic Numbers.

### **Advisory work**

Tom has provided advice across a range of issues connected with telecoms regulation, in particular in relation to issues triggered by the Revised European Framework. Recently Tom has been advising Virgin Media in relation to issues arising under the CRF.

## Sanctions

Tom has undertaken a broad array of sanctions work, advisory and litigated, in relation to both the EU sanctions regime and purely domestic measures. Tom’s EU sanction work before the GC/CJEU has concentrated principally on Iranian sanctions, acting for individuals/companies (Golparvar, NITC, Bank Saderat), but Tom has also worked on the EU Russian Crimean sanctions (Rosneft).

***“A clever and charming gentleman who on account of his background in competition and EU law is well suited to sanctions work.”***

– CHAMBERS AND PARTNERS, 2022



Domestically, pre-Brexit Tom worked extensively on Al Qaeda and terrorism related sanctions, particularly against the LIFG (Kamoka). Post-Brexit, Tom has advised both governmental and private individuals on the new UK (EU inspired) sanctions regime. Tom, is through his national security work as both a former special advocate and for claimants, is well placed to advise on the application of the Justice & Security Act 2013 to the domestic sanctions regime, a new issue likely to be at the forefront of current UK sanctions challenges.

## Cases

### **National Iranian Tanker Co v Commission; Golparvar v Commission**

Tom is acting for NITC and Mr Golparvar in the EU General Court in two unrelated cases under the Iranian sanctions regime.

## ACHIEVEMENTS

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### Education

BA (Oxon), LLM (EUI)

### Publications

- Tom co-wrote three chapters in Lester & Pannick (ed), *Human Rights Law & Practice* (2nd ed).
- Tom wrote the chapter, Remedies, in B. Lang (ed), *Administrative Court: Practice & Procedure*.
- Tom wrote the chapter on Preliminary Rulings in Craig & de Burca, *EU Law in Social and Political Context* and rewrote the chapter in the 2nd edition with Catherine Donnelly.
- Tom is a regular contributor to publications such as *Judicial Review*, on a wide range of public law topics.
- Tom is a regular speaker at seminars organised by bodies like PLP, Liberty, JUSTICE, ALBA and BEG.
- Tom is regularly involved in Human Rights training and lecturing for a wide variety of organisations, including JUSTICE and the GLS.
- Tom co-wrote (with Robert Howe QC) the chapter on Confidential Information in Goulding (ed), *Employee Competition: Covenants, Confidentiality and Garden Leave*.
- Tom regularly lectures on competition law, conflicts, fraud and other commercial topics and has published a number of articles on state liability claims.

### Appointments

- Chairman of the Bar European Group (2011-2013)
- Committee Member of BEG and ALBA
- Member of Bar Pro Bono board

## Selected earlier reported cases

### Public & Regulatory, Civil Liberties & Human Rights and EU law

- Rahmatullah v Secretary of State for Foreign & Commonwealth Affairs [2013] 1 AC 614
- Barr v Biffa Waste Services [2012] 3 All ER 380
- Gray v News Group Newspapers Ltd [2012] 2 WLR 848
- Case C-446/09 Koninklijke Philips Electronics NV [2012] ETMR 13
- Case C-503/09 Stewart v Secretary of State for Work & Pensions [2012] 1 CMLR 13
- Case C-446/09 Philips [2012] Bus LR 1850
- Case C-62/09 R(ABPI) v MHRA [2011] All ER (EC) 102
- SS(Libya) v Secretary of State for the Home Department [2011] EWCA Civ 1547
- R (Sinclair Collis) v Secretary of State for Health [2012] QB 394
- R (Broom) v Secretary of State for Justice [2012] 4 Costs LO 504
- R (Sainsbury's Supermarkets Ltd) v Independent Review of the Advertising Standards Authority [2015] ACD 23
- VB Penzugyi Lizing [2011] 2 CMLR 1
- R (Binyam Mohamed) v Secretary of State for Foreign and Commonwealth Affairs Court of Appeal (Civil Division) [2010] EWCA Civ 65; [2010] 3 WLR 554

### Competition

- Historic car glass claims (3 separate actions – Jaguar, Saab and Volvo, claimants)
- Industrial Bags (claimants)
- Paraffin Wax for Total (Part 20 Defendant)
- Vitamins Cartels: Tom acted for Aventis in five separate actions, four as defendants, one as Part 20 Defendant
- LCD/CRT for Toshiba (Defendant)
- The generic medicines cartel, acting for Goldshield (Defendant) in both civil and criminal proceedings

### Telecommunications

- Telefonica O2 UK Ltd v Ofcom [2010] CAT 25
- Vodafone v BT [2010] EWCA Civ 391; [2010] Bus LR 1666
- T-Mobile (UK) Ltd v Ofcom [2009] 1 WLR 1565

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