

Tom Coates

Year of call: 2013
Degree: Classics (BA Hons, Oxon): First Class
Languages: French (working knowledge)



Tom practises in all of chambers' main practice areas: Public and Regulatory Law, Human Rights, Commercial, EU and Competition, Sport, and Media and Entertainment. He has appeared before a range of tribunals including the High Court, Court of Appeal, Employment Tribunal, and various sports, arbitral and disciplinary tribunals. Tom is a member of the Attorney General's C panel of counsel.

EXPERIENCE

Public & Regulatory

Tom has been involved in a wide range of public law cases. He has particular experience of regulation in the energy and telecommunications sectors. He regularly advises Ofgem and energy businesses and has advised on (or appeared in litigation relating to) several high-profile energy issues of recent years (such as the RIIO-ED1 appeal to the CMA, various other price control matters, competition in the retail market, and the connections scheme). In 2015, he spent five months on secondment to Ofgem. In the telecommunications sector, Tom has appeared in high profile cases relating to spectrum awards and annual licence fees.

Cases

R (ICAEW) v Lord Chancellor

[2019] EWHC 461 (Admin)

Instructed as junior counsel (led by Natalie Lieven QC) in a judicial review brought by the ICAEW against the Lord Chancellor's refusal to approve its application to become an approved regulator in respect of legal services.

Virgin Media v Ofcom (Competition Appeal Tribunal)

Instructed as junior counsel (led by Javan Herberg QC) in an appeal by Virgin Media against an enforcement decision concerning the early termination charges paid by Virgin Media's customers.

R (Ryanair DAC) v Civil Aviation Authority

Instructed as junior counsel (led by Brian Kennelly QC) in judicial review proceedings challenging a decision of the Civil Aviation Authority which sought to limit the terms of which Ryanair could contract with alternative dispute resolution providers.

R (British Gas Trading Limited) v Ofgem

Instructed as junior counsel to Ofgem (led by Alan Maclean QC and Jessica Boyd) in British Gas's judicial review of the Ofgem's domestic retail energy price cap.

ICAEW v White

Instructed as sole counsel for the Institute of Chartered Accountants in a 7-day disciplinary hearing relating to the former accountant for the Sugababes, charged with failing to deal in a timely manner with certain aspects of the band's affairs and those of the former member, Amelle Berrabah.

R (Hutchison 3G UK Ltd) v Ofcom

[2017] EWHC 3376

Instructed as junior counsel (led by Dinah Rose QC, Jessica Boyd and Hanif Mussa) for Ofcom in two expedited judicial review claims brought by Hutchison 3G and BT/EE with respect to Ofcom's award of the 2.3 and 3.4 GHz spectrum. The case raised important issues of fairness in consultation. Ofcom was successful at first instance and successfully resisted permission to appeal at a rolled-up hearing before the Court of Appeal.

R (Allam Marine) v Secretary of State for International Trade

Instructed as junior counsel (with Naina Patel and Ben Jaffey) in a judicial review claim brought by an exporter of diesel generators challenging an export licence refusal decision by the Export Control Office. The claim raises Article 6 issues regarding the duty to give reasons and further issues under A1P1.

R (Everything Everywhere Limited) v Ofcom

[2016] EWHC 2134 (Admin)

Instructed as junior counsel (led by Michael Fordham QC) for Vodafone as an interested party to EE's challenge to Ofcom's decision to revise annual license fees payable by the MNOs for their use of radio spectrum. The case raised issues as to the proper interpretation of the telecommunications Common Regulatory Framework.

British Gas Trading Limited v Gas and Electricity Markets Authority

Instructed as junior counsel (led by Pushpinder Saini QC, Jane Collier, and Hanif Mussa) for the Gas and Electricity Markets Authority (Ofgem) in the appeal brought by British Gas against Ofgem's RIIO-ED1 price control decision for the electricity distribution sector. This was the first appeal to be brought under section 11 of the Electricity Act 1989 and was successfully defended by Ofgem.

R (The Hepatitis C Trust) v National Health Service Commissioning Board

Instructed as junior counsel (led by Alan Maclean QC) for the Hepatitis C Trust in its challenge to a decision by the NHS limiting the availability of new treatments for Hepatitis C to NHS patients.

R (Morris) v Human Embryology and Fertilisation Authority

Acting for the Human Embryology and Fertilisation Authority (assisting Catherine Callaghan) in a claim which concerned whether or not the Authority had lawfully decided not to release the eggs of a deceased woman to her claimant mother for use in IVF treatment. Tom was specifically instructed to assist on the issue of whether or not the decision engaged or infringed Article 8 ECHR.

R (UK Power Networks) v Gas and Electricity Markets Authority

[2017] EWHC 3543 (Admin)

Instructed as junior counsel (led by Javan Herberg QC) for Ofgem in a judicial review claim brought by an electricity distributor challenging Ofgem's decision of a connections dispute referred to it under section 23 of the Electricity Act 1989. The case raises the issue of whether or not electricity distributors can request payment in advance of connection works without paying interest thereon.

Re Premium Rate Services

Instructed (with Tom Richards) to advise certain premium rate service telecommunications companies on a potential dispute reference to Ofcom relating to MNOs' restrictions on the provision of premium rate services.

Re Private Healthcare Market Competition Investigation

Instructed as junior counsel (led by Brian Kennelly QC) to advise private healthcare practitioners on the practical or commercial implications of the CMA's recent decision following its investigation into the private healthcare market.

Commercial

Tom has been involved in a wide range of commercial cases in the Commercial Court, Chancery Division and arbitration proceedings. He has experience in areas such as fraud, asset recovery, and injunctive and Norwich Pharmacal relief. Tom recently represented a defendant in the high profile construction industry vetting information litigation and has further represented applicants and respondents in injunction cases and high-profile fraud claims. He is frequently instructed as sole counsel on commercial matters in the High Court and county courts.

Cases

Nazarbayeva v Ishmuratov and Korotkov-Koganovich

Instructed as junior counsel (with Andrew Hunter QC, Adam Baradon and Harry Adamson) for the defendants to a US\$200m fraud claim. The case involved an application to discharge a US\$160m freezing injunction inter alia on the basis of material non-disclosures and several ancillary applications.

Construction Industry Vetting Information Group Litigation

Instructed as junior counsel (led by Michael Bloch QC) for the Lend Lease defendants in the group litigation brought by various former construction workers who alleged that they had been "blacklisted" by a consortium of construction companies during a period from 1970 to 2010. The case raised issues of defamation, breach of privacy, data protection, conspiracy and joint liability. Tom appeared as a sole advocate for Lend Lease at CMCs before the High Court.

Injunction restraining the use of confidential information

Instructed as junior counsel (led by Tom Weisselberg QC) for a high-profile applicant seeking an injunction restraining the defendant from misusing confidential information acquired in working on the applicant's biography.

Proposed claim under sections 90 and 90A FSMA

Instructed as junior counsel (led by Andrew Hunter QC and Andrew Scott) to advise on and plead a potential class action against a bank under sections 90 and 90A of the Financial Services and Markets Act 2000.

Longreef v Venezuela

Instructed to act for the tribunal, chaired by Sir David Edward QC, in this ICSID arbitration concerning the alleged expropriation of Longreef's interest in various coffee producing companies by Venezuela in breach of a bilateral investment treaty.

Bott & Co Solicitors Ltd v Ryanair DAC (Chancery Division)

[2018] EWHC 534 (Ch), [2019] EWCA Civ 143

Instructed as junior counsel (with Brian Kennelly QC) for Ryanair in a claim brought by a firm of solicitors concerning Ryanair's handling of flight disruption compensation claims under EU Regulation 261/2004 and the alleged entitlement to protection of solicitors' liens. Tom appeared as sole advocate for Ryanair in an application for the proceedings to be transferred from Part 8 to Part 7. Ryanair successfully defended the claim at first instance and the claimant's appeal to the Court of Appeal was dismissed.

Re arbitration proceedings

Instructed as junior counsel (with Adam Baradon) for the defendant to a multi-million pound LCIA arbitration claim for breach of contract, fraud and negligent mismanagement of the claimant company's business.

Validis Holdings Ltd v Future Route Ltd (in liquidation) (Chancery Division)

Instructed as junior counsel (led by Alan Maclean QC) for the defendant to Chancery proceedings concerning misrepresentation and fraud in the sale of a software development business.

Oro Agri International Ltd v Vivagro SARL (Commercial Court)

Instructed as junior counsel (with James Segan) for the defendant in a multi-million Euro claim for breach of distribution agreements governing the parties' supply and sale of pesticide products in Europe.

EU & Competition

Tom has been gained significant experience of competition and EU law matters. He has been involved in a wide range of cases before the High Court, Competition Appeal Tribunal and the General Court of the European Union. Recently, Tom has acquired significant experience advising clients in the aviation sector on EU law issues. His competition experience includes involvement in follow-on damages claims in the High Court (including the Visa litigation) as well competition investigations by the CMA, Ofcom and Ofgem. His general EU law experience includes involvement in Francovich damages claims (such as *Delaney v Secretary of State for Transport* [2014] EWHC 1785 (QB)), immigration cases (such as *Nazia Ahmed v Secretary of State for the Home Department* [2014] EWCA Civ 995), judicial reviews raising EU law issues (such as *R (Gibraltar Betting and Gambling Association) v Secretary of State for Culture Media and Sport* [2015] 1 CMLR 28) and applications to annul Commission and Council decisions.

Cases

Fletcher v Ryanair

Instructed as sole counsel in the leading domestic authority concerning whether or not air traffic control issues concern extraordinary circumstances so as to provide air carriers with a defence to flight delay compensation claims under Regulation EC 261/2004. The Liverpool County Court determined that air traffic control issues amounted to extraordinary circumstances.

Mikola v Ryanair

Instructed as sole counsel for Ryanair in the leading domestic authority on whether or not strikes amount to extraordinary circumstances so as to provide air carriers with a defence to flight delay compensation claims under Regulation EC 261/2004. The Liverpool County Court determined that such strikes did amount to extraordinary circumstances.

Bott & Co Solicitors Ltd v Ryanair DAC (Chancery Division)

[2018] EWHC 534 (Ch), [2019] EWCA Civ 143

Instructed as junior counsel (with Brian Kennelly QC) for Ryanair in a claim brought by a firm of solicitors concerning Ryanair's handling of flight disruption compensation claims under EU Regulation 261/2004 and the alleged entitlement to protection of solicitors' liens. Tom appeared as sole advocate for Ryanair in an application for the proceedings to be transferred from Part 8 to Part 7. Ryanair successfully defended the claim at first instance and the claimant's appeal to the Court of Appeal was dismissed.

R (Everything Everywhere Limited) v Ofcom

[2016] EWHC 2134 (Admin)

Instructed as junior counsel (led by Michael Fordham QC) for Vodafone as an interested party to EE's challenge to Ofcom's decision to revise annual license fees payable by the MNOs for their use of radio spectrum. The case raised issues as to the proper interpretation of the telecommunications Common Regulatory Framework.

Varey v Ryanair DAC (QBD)

Instructed as junior counsel (led by Brian Kennelly QC) for Ryanair in an appeal to the High Court in a claim concerning flight delay compensation under Regulation (EU) 261/2004. The appeal raises the issue of whether or not infants are entitled to compensation under the Regulation.

Gorenje v Danfoss and others

Instructed as junior counsel (led by Brian Kennelly QC) for Secop GmbH, a defendant to a follow-on damages claim in the High Court arising from the refrigeration compressors cartel. The case raised issues of the jurisdiction of the English courts to hear the case.

W H Newson v IMI and Delta (Part 20 Defendants)

[2015] EWHC 1676 (Ch)

Instructed as junior counsel (led by Brian Kennelly QC) for Delta in follow-on damages proceedings brought in the High Court by W H Newson following a finding that IMI, Delta and others had participated in a copper fittings cartel. Tom appeared at the trial of a preliminary issue concerning whether or not Delta were entitled to rely on a limitation defence to resist contribution proceedings brought by IMI under the Civil Liability (Contribution) Act 1978 once the main action had settled.

Re competition investigation by Ofgem

Instructed as junior counsel (led by Michael Fordham QC) in advising an energy company in relation to a competition investigation brought by Ofgem.

Re competition investigation by Ofcom

Instructed as junior counsel (with Tom Richards) in advising telecommunications company in relation to a potential competition investigation to be brought by Ofcom.

Telecommunications

Tom has been involved in a range of telecommunications cases, advising and representing MNOs and other entities in the sector on regulatory and other matters.

Cases

Virgin Media v Ofcom (Competition Appeal Tribunal)

Instructed as junior counsel (led by Javan Herberg QC) in an appeal by Virgin Media against an enforcement decision concerning the early termination charges paid by Virgin Media's customers.

R (Hutchison 3G UK Ltd) v Ofcom

[2017] EWHC 3376

Instructed as junior counsel (led by Dinah Rose QC, Jessica Boyd and Hanif Mussa) for Ofcom in two expedited judicial review claims brought by Hutchison 3G and BT/EE with respect to Ofcom's award of the 2.3 and 3.4 GHz spectrum. The case raised important issues of fairness in consultation. Ofcom was successful at first instance and successfully resisted permission to appeal at a rolled-up hearing before the Court of Appeal.

R (Everything Everywhere Limited) v Ofcom

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Re Premium Rate Services

Instructed (with Tom Richards) to advise certain premium rate service telecommunications companies on a potential dispute reference to Ofcom relating to MNOs' restrictions on the provision of premium rate services.

Re licence breach investigation

Instructed as junior counsel (with Tom Richards) to advise a mobile network operator on various issues arising out of a preliminary Ofcom investigation into possible breach of a general licence condition.

Sport

Tom has gained a wide experience of sports cases before a variety of tribunals. He has been involved in disputes between sports clubs and owners, before sports disciplinary panels, and between clubs and regulators. He recently appeared in the Court of Arbitration for Sport for the International Association of Athletics Federations in a disciplinary case concerning the corruption of officials of a member federation.

Cases

UK Anti-Doping v Thomas Minns

Instructed as sole counsel for Thomas Minns, a rugby league player, defending doping charges brought by UK Anti-Doping.

IAAF v Okeyo and Kinyua (Court of Arbitration for Sport)

Instructed as junior counsel (led by Kate Gallafent QC) for the IAAF in two conjoined appeals arising out of disciplinary proceedings brought by the IAAF against two senior officials at Athletics Kenya on corruption charges.

Cardiff City FC v Segal and others (Mercantile Court)

Instructed as junior counsel (led by Ian Mill QC) for the defendant football agent to a claim by a football club for fraudulent misappropriation of agency fees. Tom successfully represented the defendant in an application under section 9(4) of the Arbitration Act 1996 for a stay of proceedings in favour of arbitration.

Re sports arbitral injunctive proceedings

Tom recently assisted Ian Mill QC in acting for a racing driver who sought injunctive relief from a sports arbitral panel to enforce the terms of a contract which it was alleged had been breached by his team.

X v FA

Instructed to represent a football manager facing an FA Rule E3 improper conduct charge.

Re Gambling Commission licensing decision

Instructed as junior counsel (led by Charles Flint QC) to advise a racecourse on a potential challenge to an adverse licensing decision by the Gambling Commission.

Media & Entertainment

Tom has been instructed in a range of cases in the field of media, entertainment and technology and has appeared in IPEC and Chancery Divison proceedings. His experience includes commercial disputes concerning licensing agreements, agency, and copyright, as well as regulatory matters. Tom is further well-versed in legal issues arising in the field of art, cultural property and luxury goods, including: export licensing; artists' resale rights; copyright; title issues; mis-attribution; and spoliation. He successfully assisted Nick De Marco for the third defendant in the QBD trial of *Ecclestone v Khyami* [2014] EWHC 29 (QB), a claim by Tamara Ecclestone for the unlawful conversion of a Lamborghini Aventador. He is a member of the Institute of Art and Law.

Cases

Thomas v Paget and others (BPC)

Instructed as sole counsel for a defendant in a partnership dispute concerning the break-up of the heavy metal band, Bullet For My Valentine.

Damone Walker v Abood Music Limited (BPC)

Instructed as sole counsel for a musician in High Court proceedings claiming termination of a publishing agreement.

Young Kim v Barry Cain (BPC)

Instructed as sole counsel in High Court proceedings concerning the ownership of copyright in materials relating to an unpublished biography.

Reformation Publishing Ltd v Cruiseco Ltd

Instructed to represent Reformation in an IPEC claim for breach of copyright in 2 famous Spandau Ballet songs: "Gold" and "True". The case mainly concerned the proper quantification of notional licence fees and raised a legal issue as to the term of the hypothetical licence.

ICAEW v White

Instructed as sole counsel for the Institute of Chartered Accountants in a 7-day disciplinary hearing relating to the former accountant for the Sugababes, charged with failing to deal in a timely manner with certain aspects of the band's affairs and those of the former member, Amelle Berrabah.

Drayton v Lumiserv

Instructed for the claimant in proceedings arising out of a joint venture agreement concerning the provision of online and technological engineering services.

Matlock v Sex Pistol Residuals

Instructed as junior counsel (led by Robert Anderson QC) in High Court proceedings brought by a former member of the Sex Pistols for revenues due to him from the other members of the band under a licensing agreement.

Oro Agri v Vivagro (Commercial Court)

Instructed (with James Segal) for the Defendant in Commercial Court proceedings alleging breaches of licensing and distribution agreements in relation to intellectual property.

Re Premium Rate Services

Instructed (with Tom Richards) to advise telecommunications companies providing premium rate services on mobile platforms in relation to restrictions on their ability to provide content. The case raised regulatory issues (involving dispute references to Ofcom) as well as potential competition infringements by mobile network operators.

Re publication of confidential information

Instructed as junior counsel (led by Tom Weisselberg QC) by a high profile businessman and media personality in an application to restrain the publication of confidential information which the respondent had acquired when drafting the applicant's biography.

Validis Holdings Ltd v Future Route Ltd (in liquidation) (Chancery Division)

Instructed as junior counsel (led by Alan Maclean QC) for the defendant to Chancery proceedings concerning misrepresentation and fraud in the sale of a software development business.

Civil Liberties & Human Rights

Tom has been involved in a wide range of human rights cases in practice. In addition to the cases listed below, Tom has been involved in litigation in the Court of Appeal concerning whether or not the Secretary of State for Defence had complied with its procedural duty under Articles 2 and 3 ECHR in investigating extra-judicial deaths in Afghanistan.

Cases

R (Morris) v Human Embryology and Fertilisation Authority

Acting for the Human Embryology and Fertilisation Authority (assisting Catherine Callaghan) in a claim which concerned whether or not the Authority had lawfully decided not to release the eggs of a deceased woman to her claimant mother for use in IVF treatment. Tom was specifically instructed to assist on the issue of whether or not the decision engaged or infringed Article 8 ECHR.

Al-Attia v Al-Thani

Acting for the claimant (led by Timothy Otty QC and Tom Hickman) in a claim alleging unlawful detention, torture and confiscation of property against the former prime minister of Qatar. The case raised important issues of diplomatic immunity and the extent to which Foreign Office certification was determinative in conferring immunity and whether or not the commercial activities of a diplomat were relevant to the Court's determination on this issue.

R (Allam Marine) v Secretary of State for International Trade

Instructed as junior counsel (with Naina Patel and Ben Jaffey) in a judicial review claim brought by an exporter of diesel generators challenging an export licence refusal decision by the Export Control Office. The claim raises Article 6 issues regarding the duty to give reasons and further issues under A1P1.

Civil Fraud, Asset Recovery & Injunctive Relief

Tom has gained significant experience of fraud cases and others involving claims for injunctive relief. He has represented both applicants and respondents to injunction applications and was recently involved in a high profile fraud claim involving a world-wide freezing order with a value of US\$160m.

Cases**Nazarbayeva v Ishmuratov and Korotkov-Koganovich**

Instructed as junior counsel (with Andrew Hunter QC, Adam Baradon and Harry Adamson) for the defendants to a US\$200m fraud claim. The case involved an application to discharge a US\$160m freezing injunction inter alia on the basis of material non-disclosures and several ancillary applications.

Injunction restraining the use of confidential information

Instructed as junior counsel (led by Tom Weisselberg QC) for a high-profile applicant seeking an injunction restraining the defendant from misusing confidential information acquired in working on the applicant's biography.

Re sports arbitral injunctive proceedings

Tom recently assisted Ian Mill QC in acting for a racing driver who sought injunctive relief from a sports arbitral panel to enforce the terms of a contract which it was alleged had been breached by his team.

Validis Holdings Ltd v Future Route Ltd (in liquidation) (Chancery Division)

Instructed as junior counsel (led by Alan Maclean QC) for the defendant to Chancery proceedings concerning misrepresentation and fraud in the sale of a software development business.

Public International Law

Tom has been involved in a wide range of public international law cases, in particular those raising issues of state and diplomatic immunity. In addition to the cases listed below, Tom assisted Lord Pannick QC and Shaheed Fatima QC in *Harb v Aziz* [2014] EWHC 1807 (Ch), a case raising issues of whether or not the agent of a Head of State can benefit from immunity and whether or not a Head of State's immunity endures following his death. Tom has further advised on state immunity issues relating to human rights and other claims brought directly against officials of foreign states.

Cases

Al-Attiya v Al-Thani

Acting for the claimant (led by Timothy Otty QC and Tom Hickman) in a claim alleging unlawful detention, torture and confiscation of property against the former prime minister of Qatar. The case raised important issues of diplomatic immunity and the extent to which Foreign Office certification was determinative in conferring immunity and whether or not the commercial activities of a diplomat were relevant to the Court's determination on this issue.

Longreef v Venezuela

Instructed to act for the tribunal, chaired by Sir David Edward QC, in this ICSID arbitration concerning the alleged expropriation of Longreef's interest in various coffee producing companies by Venezuela in breach of a bilateral investment treaty.

Employment

Tom has acted in a wide range of employment cases, and is frequently instructed as sole counsel to advise clients and appear in employment tribunals. He has worked for both claimants and respondents on issues relating to unfair dismissal, discrimination, redundancy, wages claims, and disputes concerning parental leave. He also has represented parties in employee competition and injunctive proceedings.

Cases

Construction Industry Vetting Information Group Litigation

Instructed as junior counsel (led by Michael Bloch QC) for the Lend Lease defendants in the group litigation brought by various former construction workers who alleged that they had been "blacklisted" by a consortium of construction companies during a period from 1970 to the present. The case raised issues of defamation, breach of privacy, data protection, conspiracy and joint liability. Tom appeared as a sole advocate for Lend Lease at CMCs before the High Court.

Ranceford-Hadley v Noel Gay

Instructed to represent the claimant in a three-day constructive dismissal claim in the employment tribunal.

Rono v Marie Stopes International

Instructed to represent the respondent in a race discrimination claim in the employment tribunal.

BCM Group Plc v 365 Print Solutions Ltd and others

Instructed to represent the defendants to employee competition and breach of covenant claims.

ACHIEVEMENTS

Education

Classics (BA Hons, Oxon): First Class (fifth in year); Graduate Diploma in Law (City): Distinction; BPTC (Kaplan): Outstanding.

Prizes & Scholarships

- Prince of Wales Scholarship (Gray's Inn)
- The Times Law Prize (Second Place) (The Times/One Essex Court)
- David Karmel Award (Gray's Inn)
- Henry Wilde Prize (for the top mark in philosophy papers in Finals across all Honours Schools including philosophy) (University of Oxford)
- Invitation to sit the All Souls Prize Fellowship Exams (University of Oxford)
- Comparative Philology Prize (University of Oxford)
- Scholar of New College (University of Oxford)

Prior to joining Chambers, Tom worked in the office of capital defence attorney in Houston, Texas, assisting clients facing the death penalty. While in Texas, Tom observed and participated in a full capital murder trial, in which his client escaped the death penalty.

Before coming to the Bar, Tom worked as a Classics teacher of students aged thirteen to eighteen at Westminster School.