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Brian Kennelly KC



"Brian is just an absolutely magical advocate. He is absolutely brilliant to work with and an incredible team player. He has extreme command of his subject area and amazing judgement."

— CHAMBERS AND PARTNERS, 2026

Year of call:	**1999**
Appointed to silk:	**2016**
Degree:	**MA (Cantab), Licence spéciale en droit européen (ULB), (Scholarship: Queen Mother Scholar, Middle Temple)**
Languages:	**French (fluent)**

Brian is widely regarded as one of the leading advocates in the fields of competition law, EU law, public and regulatory law and sanctions law. He also practices from the Law Library in Dublin where he was appointed Senior Counsel in 2020. He appears regularly in the Court of Justice of the EU and the General Court, the Supreme Court, Court of Appeal and the Commercial Court and the Competition Appeal Tribunal. He has appeared in competition and regulatory cases in Hong Kong, the Cayman Islands and the Virgin Islands.

Brian has acted in over 80 cases before the CJEU and General Court in a broad range of competition, regulatory and sanctions matters.

He is a leading advocate in private competition damages actions, including collective proceedings e.g. those concerning alleged abuse of dominance by major tech companies, and the cartel claims concerning Car Emissions, Trucks, USD Libor, Ro-Ro Shipping, Foreign Exchange, Orange Juice, Wire harnesses, Interchange, EURIBOR, Air Cargo, CRT, Copper Fittings, Industrial Bags, Paraffin Wax, Car Glass, Marine Hose and Vitamins.

Brian is a mergers and market investigations specialist and has appeared in a number of the most important recent cases before the EU and UK courts, including Microsoft/Activision, CK Hutchison v Commission, Hitachi/Thales, Cargotec Corporation / Konecranes Plc, Facebook/Kustomer, viagogo/StubHub, JD Sports v CMA, Cérélia v CMA, Ecolab v CMA and Bouygues S.A/Equans SAS. He has advised in relation to over 50 mergers investigations in the UK and in the EU.

Brian also has appeared in many of the significant recent challenges to antitrust infringement decisions before the EU and UK courts including in the Liothyronine litigation in the UK and the "Pay for Delay" pharma cases in the EU courts. He has represented parties in a large number of CMA and EU Commission antitrust investigations.

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In the area of sanctions, Brian is one of the leading specialists in the EU. He has acted for over 50 designated persons and entities and advised Governments, banks and corporates on compliance and restructuring issues. He acted for the successful applicants in Mubarak v Council and for the successful respondent in Lamesa v Cynergy Bank in the Court of Appeal. He regularly acts for the Bank of England on sanctions matters.

In EU law, Brian has acted in the leading cases concerning the role of EU law in the UK post-Brexit e.g. Crossley v Volkswagen (which was also one of the largest group actions ever in the UK) and CAA v Ryanair in the Court of Appeal. Brian also acts in EU law cases in Ireland and has advised parties on EU law litigation in other EU Member States. There is a significant overlap with Brian's financial services work (e.g. acting for the European Banking Authority in Fédération bancaire française v ACPR and for ESMA in relation to CFDs and Binary Options) and aviation work.

In telecommunications, Brian has acted in many of the most significant cases in the UK, including the challenge to the licence fees in Vodafone v Ofcom and to the terms of the 5G spectrum auction in Hutchison 3G UK v Ofcom. Brian acted for Three in its challenge to the terms of the 5G spectrum auction in Ireland in 2022.

Prior to taking silk, Brian was on the Attorney General's 'A' Panel of Counsel to the Crown.

In 2017 Brian was appointed as Specialist Adviser to the House of Commons Treasury Select Committee to advise on Brexit issues.

Brian is recognised as a leading silk in the latest editions of both the leading legal directories, Chambers UK and Legal 500, for his expertise in admin and public, banking and finance, competition, European law, media and entertainment, sanctions and telecommunications. Recent comments include:

- "Brian is just an absolutely magical advocate. He is absolutely brilliant to work with and an incredible team player. He has extreme command of his subject area and amazing judgement."- Chambers and Partners, 2026
- "Brian is a top advocate. He balances brilliant advocacy with tremendous client service."- Legal 500, 2026

Previous quotes include:

- "Brian is right at the top of the competition Bar. He is a tremendous advocate who combines for precision, authority and charm brilliantly. He is the most client-friendly silk in this area."- Legal 500, 2025
- "Brian Kennelly KC is second to none in terms of advising on complex and sophisticated EU law matters." - Chambers UK, 2025
- "Exceptionally knowledgeable expert with immense experience both as an advisor and an advocate, including in the European Court of Justice. Brian is a fantastic communicator and a trusted advisor with great judgement."- Legal 500, 2024
- "Brian is absolutely one of the best at the competition Bar, and I use him wherever I can. He is incredibly smart, very commercial, and combines those attributes well with a natural charm which clients and judges consistently warm to."- Chambers UK, 2024
- "Brian is clearly a leader in his field, perfectly in tune with market developments and consistently evidences an ability to think laterally."- Legal 500, 2023
- "He is just charm personified; judges love him. He always finds a way to get the right tone. Charisma and charm are exuded. He can be making a difficult point but when he says it, it's just better."- Chambers UK, 2023

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EXPERIENCE

Competition

Brian is widely regarded as one of the leading competition law advocates.

"Brian is one of the pre-eminent silks doing competition work. He is one of the best in the field."
— CHAMBERS AND PARTNERS, 2026

He has been at the forefront of private competition damages actions for over 20 years and has acted in many of the leading cases such as Viegas v Cutrale (jurisdiction), FDIC v Barclays Bank and Arcadia v Visa Inc (limitation), Sainsbury's plc v Visa (restriction), Iiyama Benelux BV v Schott AG (territorality) and WH Newson v IMI (contribution). Brian acted in the damages actions in relation to the following matters: Car emissions, Crypto exchanges, Ro-Ro shipping, USD Libor, Musical Instruments, Orange Juice, Foreign Exchange, Interchange fees, Wire Harnesses, EURIBOR, Air Cargo, CRT, Copper Fittings, Industrial Bags, Paraffin Wax, Car Glass, Marine Hose, Tobacco and Vitamins. Brian is representing Apple Inc in its defence of claims of abuse of dominance in Kent v Apple Inc and Gutmann v Apple Inc.

Brian has a particular expertise in collective proceedings before the CAT and is acting in BSV Claims, Fender, O'Higgins/Evans, Interchange Claims I&II, Kent v Apple and Gutmann v Apple.

Brian is a mergers and market investigations specialist and has appeared in a number of the most important recent cases before the EU and UK courts, including Microsoft/Activision, CK Hutchison v Commission, Hitachi/Thales, Cargotec Corporation / Konecranes Plc, Facebook/Kustomer, viagogo/StubHub, JD Sports v CMA, Cérélia v CMA, Ecolab v CMA and Bouygues S.A/Equans SAS. He has advised in relation to over 50 mergers investigations in the UK and in the EU.

Brian also has appeared in many of the significant recent challenges to antitrust infringement decisions before the EU and UK courts including in the Liothyronine litigation in the UK and the "Pay for Delay" pharma cases in the EU courts. He acted for the EU Commission in the leading cases of Deutsche Bahn v Commission and Masco v Commission. Brian has represented parties in a large number of CMA and EU Commission antitrust investigations.

Brian is Star ranked in the Chambers & Partners directory for Competition law.

Cases

Hitachi / Thales merger inquiry

Brian acted for the parties in the CMA's investigation of the acquisition by Hitachi Rail of Thales SA's Ground Transportation Systems business in the supply of digital mainline signalling systems and the supply of communications-based train control signalling systems. The merger was cleared with undertakings in November 2023.

Microsoft / Activision Blizzard

Brian acted for Activision before the CAT in the challenge to the CMA's decision to prohibit this major merger – Microsoft's $68.7 billion acquisition of the maker of Call of Duty. The acquisition was ultimately cleared by the CMA.

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Cérélia v CMA

Brian acted for the applicant in this challenge to the CMA's prohibition of Cérélia's acquisition of Jus-Rol. The Court of Appeal will hear the appeal in January 2024.

Bouygues S.A. / Equans S.A.S. merger inquiry

Brian advised the parties in this merger which concerned high-speed overhead catenary systems, the supply of non-highspeed OCS, and the provision of certain maintenance-focused facilities management services, in particular to customers in the healthcare sector. Undertaking in lieu were accepted and the merger was cleared.

Daimler v WWL and ors

[2020] EWHC 525 (Comm)

Brian acted for Daimler in this major Commercial Court damages action arising from the global Ro-Ro Shipping cartel.

FDIC v UBS

Brian is acting for the Bank in this multi-billion dollar damages claim arising out of the alleged USD LIBOR cartel.

On the Beach v Ryanair

[2022] EWHC 861 (Ch)

Brian is acting for the airline in resisting an allegation of abuse of dominance relating to its control of its own flight information.

Visa Interchange

Brian is acting for the defendants in these hundreds of cases claiming damages in respect of allegedly anti-competitive interchange fees. The litigation has been running since 2015 and has given rise to a number of important judgments.

Kent v Apple Inc

[2022] CAT 45

Brian is acting for Apple in relation to allegation of abuse of dominance regarding the App Store.

Gutmann v Apple Inc

[2022] CAT 55

Brian is acting for Apple in resisting an allegation of abuse of dominance regarding alleged failures in mobile batteries and software.

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Trucks Cartel Case

Brian is acting for Scania in this investigation and significant litigation in the Competition Appeal Tribunal.

Airwave v CMA

[2022] CAT 4

Brian acted for the applicant in this challenge to the CMA's decision to commence a market investigation.

Volkswagen v MOL and ors

[2022] EWHC 2350 (Comm)

Brian is acting for VW in this major damages action arising from the global Ro-Ro Shipping cartel.

Foreign Exchange

[2022] CAT 16

Brian acted for UBS in the Allianz domestic litigation in the Commercial Court and in the O'Higgins/Evans collective proceedings in the CAT arising from the alleged anti-competitive conduct concerning FX spot trading.

HG Capital v CMA

Brian acted for the appellants in challenging a finding of abusive excessive pricing under Art 102 in relation to the drug Liothyronine.

Viegas v Cutrale

[2021] EWHC 2956 (Comm)

Brian is acting for the defendant orange juice producer accused of operating a cartel in Brazil.

Ranbaxy v Commission

T-460/13, C-586/16 P

Brian acted for the generic pharmaceutical manufacturer in this "pay for delay" case.

CK Telecoms UK Investments Ltd v European Commission

C-376/20 P

Brian acted for the applicant in this case which is widely regarded as the most significant in this area in the EU for over 10 years. It determines the approach to mergers in particular involving allegedly oligopolistic markets.

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JD Sports v CMA

[2020] CAT 24

Brian acted for the successful appellant in persuading the CAT that the CMA had acted irrationally in finding an SLC

Ecolab v CMA

[2020] CAT 12

Brian acted for the appellant in this important case concerning the standard of review applied by the CAT in testing an SLC finding by the CMA.

Deutsche Bahn, Schenker and others v Commission

T-265, 267/12

Brian successfully defended the Commission in appeals to the General Court by freight forwarders challenging findings of global price fixing and fines totalling €169 million.

Emerald Supplies Ltd v British Airways Plc

[2016] Bus. L.R. 145

Brian acted for a defendant airline, accused of participating in a worldwide air freight cartel. This judgment addressed many significant issues in damages litigation, such as the scope of Pergan rights and third party access to the file.

iiyama Benelux BV v Schott AG

[2016] EWHC 1207 (Ch)

Brian acted for LG in successfully striking out on jurisdiction grounds claims worth in excess of €600m relying on the EU Cathode Ray Tubes cartel decision: [2016] 5 CMLR 15.

Ryanair v CMA

[2015] CAT 14

Brian advised and acted for Ryanair 2011-2016 in this major case involving the airline's minority stake in Aer Lingus. It has involved three substantive appeals to the CAT and three appeals to the Court of Appeal.

WH Newson Holding Ltd v IMI Plc

[2015] 1 WLR 4881, [2017] Ch 27

Brian acted for a defendant in this major damages claim arising out the EU's copper fittings cartel decision. It has given rise to an important judgment on contribution.

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EU Law

Brian has appeared in many of the leading EU law cases in the EU and UK courts. In the CJEU, Brian has acted in over 30 preliminary reference cases concerning a wide range of EU law issues including free movement of persons (St Prix, NA, Alarape), rights of children (SM), family rights (Banger), division of powers in the EU (Commission v Council and Parliament), social security (Tolley, Garcia-Nieto), powers of the European Banking Authority (Fédération bancaire française v ACPR), financial services (Khorassani, Robeco Hollands Bexit, Profit Investment SIM, Banif Plus Bank), advertising regulation (Philip Morris) and jurisdiction and judgments (Alpha Bank, Gazprom, London Steam-Ship Owners' Mutual Insurance Association, Meroni).

In the EU courts, Brian has represented the EU Commission (Sanitec, Keramag), the European Banking Authority (Fédération bancaire française), the UK Government and private parties. Brian has advised the EU Commission, the EBA and the European Securities and Markets Authority.

In domestic courts, Brian has acted in the leading cases concerning the role of EU law in the UK post-Brexit e.g. Crossley v Volkswagen (which was also one of the largest group actions ever in the UK) and CAA v Ryanair in the Court of Appeal. Brian also acts in EU law cases in Ireland and has advised parties on EU law litigation in other EU Member States.

> *"Brian is one of the real leading silks in the space, he is really creative and willing to come up with creative arguments. He is really skilled on his feet, he has a manner that judges really like."*
>
> — CHAMBERS AND PARTNERS, 2026

Cases

Motor Insurance Bureau v Secretary of State for Transport

2022

Brian acted for the UK in resisting this major Francovich damages claim arising for the UK's implementation of EU road insurance rules.

Civil Aviation Authority v Ryanair

[2022] EWCA Civ 76

Brian acted for the airline in this important case regarding compensation for flight cancellations and the status of EU judgments post Brexit.

The VW NOx Emissions Group Litigation

[2021] EWHC 3444 (QB)

Brian acts for Volkswagen AG in this class action arising out of what the claimants call "Dieselgate". With 900,000 claimants, this is one of the largest group actions ever in the UK.

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London Steam-Ship Owners' Mutual Insurance Association Ltd v Spain

C-700/20

Brian acted for the UK in this case where the CLEU held that arbitration proceedings in the UK could not not block the recognition of a Spanish judgment ordering the insurer to pay compensation for the damage caused by the oil spill following the sinking of the oil tanker Prestige in 2002: [2023] 1 CMLR 5.

Lamesa Investment Limited v Cynergy Bank Limited

[2020] EWCA Civ 821

Brian acted for the successful defendant in this sanctions case which concerned the EU Blocking Statute.

Fédération bancaire française v Autorité de contrôle prudentiel et de résolution

C-911/19

Brian acted for the European Banking Authority in this leading case which confirmed the powers of the EBA to regulate retail banking products in the EU.

Wire harnesses cartel

2019

Brian acted for the defendant in this arbitration before the German Institute of Arbitration arising from the European Commission's decision finding a cartel in the market for the supply of wire harnesses to vehicle manufacturers.

Ryanair Ltd v Autorita Garante della Concorrenza e del Mercato

C-28/19

Brian acted for the airline in this leading case regarding alleged hidden fees in booking flights and regulation 1008/2008.

SM (Algeria) v Entry Clearance Officer

[2018] 1 WLR 1035, C-129/18

Brian acted for the UK in this major case concerning the status of children brought into the EU under kefala arrangements and whether they should be treated as equivalent to children adopted under domestic law.

Secretary of State for the Home Department v Banger

C-89/17 ECLI:EU:C:2018:570

Brian acted for the UK in this reference from the Upper Tribunal concerning EU citizenship and residence rights forunmarried couples where one party is a third country national.

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Khan v Secretary of State for the Home Department

[2018] 1 WLR 1256

Brian acted for the Home Office in this important case concerning the proper appeal route for non-core family members of EU citizens who are third country nationals seeking to establish derived residence rights.

EU Securities and Markets Authority - intervention regarding CFDs and binary options

Brian acted for ESMA in its significant intervention restricting these products for retail investors in the EU. This is the first time these powers have been used.

R(Gurekis) v Secretary of State for the Home Department

[2018] 4 WLR 9

Brian acted for an intervener (the AIRE Centre) in this successful challenge to the policy of deporting homeless EU citizens who were exercising their free movement rights.

European Insurance and Occupational Pensions Authority/Gibraltar Financial Services Commission

Brian acted for the GFSC concerning the interpretation of Solvency II, and minimum capital requirement rules for insurers.

Discovery

Brian advised the TV channel media service provider on Brexit issues and the application of the AVMS Directive.

Gutierrez Naranjo

Case C-154/15 [2017] 2 CMLR 25

Brian acted for the FCA in this case before the CJEU involving unfair terms in mortgage loan agreements under EU law.

R (British American Tobacco UK Ltd) v Secretary of State for Health

[2017] QB 327

Brian acted for Imperial Tobacco in its challenge to the plain packs legislation. This major case, which led to one of the leading judgments in regulatory judicial review, concerned common law and ECHR property rights, EU free movement and trade mark law as well procedural fairness.

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Tolley

C-430/15 ECLI:EU:C:2017:74 [2017] 1 WLR 1261

Brian acted for the Department of Work and Pensions in this reference from the Supreme Court as to whether under EU social security law the claimant was entitled to the care component of the UK's disability living allowance where the claimant had moved permanently to Spain and had long since ceased to work or have employment-based sickness coverage under the relevant UK schemes.

Private Equity Insurance Group

C-156/15 ECLI:EU:C:2016:851 [2017] 1 WLR 1602

Brian acted for the FCA in this case which concerned the interpretation of the Directive on Financial Collateral Arrangements, and whether that Directive applies only to collateral arrangements involving accounts used for settlement in securities settlement systems.

Robeco Hollands Bezit

C-658/15 ECLI:EU:C:2017:870

Brian acted for the FCA in this important case which determined the definition of a "regulated market" under MiFID and in particular whether that definition covered a trading system such as Euronext Fund Services.

Profit Investment SIM

C-366/13 ECLI:EU:C:2016:282 [2016] 1 WLR 3832

Brian acted for the UK in this case concerning the test for a close connection under the Brussels Recast Regulation.

Western Sahara Campaign

[2016] 1 CMLR 36, C-104/16 ECLI:EU:C:2018:118

Brian advised the UK Government in this case in which the EU fisheries and agricultural agreements with Morocco were challenged on the ground that they violated the UN Charter and international law in recognising Moroccan jurisdiction over Western Sahara.

TrustBuddy

C-311/15 ECLI:EU:C:2015:759

Brian acted for the UK in this case which concerned whether the definition of a "creditor" included a peer-to-peer lending platform.

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

[2015] 1 CMLR 9 and in Case C-115/15 ECLI:EU:C:2016:487 [2017] QB 109

Brian acted for the SSHD in these appeals (and before the CJEU) relating to the scope of protection for non-EEA abandoned divorcees under the Citizenship Directive, and derived rights by virtue of their children's EU citizenship rights and right to continued education in the host Member State.

Public & Regulatory

Brian is a leading public and regulatory lawyer. He has a particular expertise in regulatory investigations, and in relation to sanctions, telecommunications, pharmaceuticals, utilities regulation and pensions. He is an expert in the interaction between domestic public law and EU law. He has appeared in many of the leading regulatory public law cases in the Admin Court and the CAT including BASCA, Gibraltar Betting and BAT (tobacco plain packs).

"Brian is an extremely bright and strong advocate."

— CHAMBERS AND PARTNERS, 2021

Brian has advised and acted for the UK Government in wide range of public law cases before the Court of Appeal, the Supreme Court and the CJEU covering immigration and EU citizenship issues. Brian has also advised tribunals and government agencies in Ireland, the Virgin Islands, Hong Kong and the Cayman Islands.

Cases

Autonomous Non-Profit Organisation (RT) v Office of Communications (Ofcom)

[2020] EWHC 689 (Admin)

Brian acted for Ofcom in this root-and-branch challenge by RT (the Russian state-owned broadcaster) to Ofcom's broadcast impartiality regime. The Divisional Court rejected RT's judicial review challenge of Ofcom's decisions that various programmes broadcast by RT breached regulatory requirements of 'due impartiality', and its imposition of a fine of £200,000.

Ryanair/Aer Lingus

[2015] CAT 14

Brian advised and acted for Ryanair 2011-2016 in this major case involving the airline's minority stake in Aer Lingus. It has involved three substantive appeals to the CAT and three appeals to the Court of Appeal.

Crossley & Ors v Volkswagen Aktiengesellschaft (the "VW NOx Emissions Group Litigation")

[2019] EWHC 783(QB)

Brian acts for Volkswagen AG in this class action arising out of what is often described as "Dieselgate".

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Secretary of State for the Home Department v Banger

C-89/17 ECLI:EU:C:2018:570

Brian acted for the UK in this reference from the Upper Tribunal concerning EU citizenship and residence rights forunmarried couples where one party is a third country national.

SM (Algeria) v Entry Clearance Officer

[2018] 1 WLR 1035, C-129/18

Brian acted for the UK in this major case concerning the status of children brought into the EU under kefala arrangements and whether they should be treated as equivalent to children adopted under domestic law.

R(Gurekis) v Secretary of State for the Home Department

[2018] 4 WLR 9

Brian acted for an intervener (the AIRE Centre) in this successful challenge to the policy of deporting homeless EU citizens who were exercising their free movement rights.

Khan v Secretary of State for the Home Department

[2018] 1 WLR 1256

Brian acted for the Home Office in this important case concerning the proper appeal route for non-core family members of EU citizens who are third country nationals seeking to establish derived residence rights.

Civil Aviation Authority v Ryanair (strikes cancellations)

(2019)

Brian is acting for the airline in this test case concerning the interpretation of EU261 and whether cancellations caused by internal strikes constitute "extraordinary circumstances".

Civil Aviation Authority v Ryanair (pilot rostering cancellations)

Brian acted for the airline against the Civil Aviation Authority in the investigation arising from the cancellation of thousands of flights 2017.

National Grid v Ofgem (Hinkley Seabank price control)

(2019)

Brian is acting for National Grid Electricity Transmission in its dispute with Ofgem regarding the price control covering the major works needed to connect the new power station at Hinkley Seabank. This case concerns RIIO-1 and RIIO-2.

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National Grid v Ofgem (T1 reopener)

(2019)

Brian is acting for National Grid Gas Transmission in its dispute with Ofgem regarding the reopening of the price control covering particular significant tunneling replacements.

R (British Academy of Songwriters, Composers and Authors) v Secretary of State for BIS

[2015] 3 CMLR 28

Brian acted for musicians challenging the government's private copying exemption. This is a leading case on the proper approach to expert and technical evidence in judicial review.

R (Gibraltar Betting & Gaming Association Ltd) v Revenue and Customs Commissioners

[2016] STC 151

Brian acted for the claimant in this challenge to the new remote gambling taxation, which engaged the EU freedom to provide services and has led to a reference to the CJEU.

R (Gibraltar Betting & Gaming Association) v Secretary of State for DCMS

[2014] EWHC 3236 (Admin)

Brian acted for the claimant in this challenge to the new remote gambling licensing regime, which engaged the EU freedom to provide services and raised important issues regarding the application of EU law to Gibraltar.

Granada UK Rental & Retail Ltd v Pensions Regulator

[2015] 4 All ER 919

Brian acted for the appellants in this challenge to the Determinations Panel of the Pensions Regulator. The question was whether the Panel had a discretion to allow the Pensions Regulator to rely on additional grounds which it had not mentioned in the warning notice issued to the target company. The Court of Appeal held that this discretion was not fettered by a "good reason" requirement.

R (Diomed Direct) v Clearcast

(2016)

Brian acted for Clearcast in successfully arguing that it was not amenable to judicial review. This was on the basis that the body acted on behalf of broadcasters for a commercial purpose, namely to advise on whether proposed advertisements were likely to survive scrutiny by the ASA.

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R (British American Tobacco UK Ltd) v Secretary of State for Health

[2017] QB 327

Brian acted for Imperial Tobacco in its challenge to the plain packs legislation. This major case, which led to one of the leading judgments in regulatory judicial review, concerned common law and ECHR property rights, EU free movement and trade mark law as well procedural fairness.

Saint Prix v Secretary of State for Work and Pensions

(C-507/12) EU:C:2014:2007; [2015] 1 CMLR 5

Brian acted for the UK in this case about the citizenship right to reside of a woman who gave up her job in order to have and care for her child. Although she had no direct right under the Citizenship Directive, the CJEU extended the definition of worker under the Treaty to ensure that she was protected.

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

[2015] 1 CMLR 9 and in Case C-115/15 ECLI:EU:C:2016:487 [2017] QB 109

Brian acted for the SSHD in these appeals (and before the CJEU) relating to the scope of protection for non-EEA abandoned divorcees under the Citizenship Directive, and derived rights by virtue of their children's EU citizenship rights and right to continued education in the host Member State.

R (Ezz) v HM Treasury

[2016] EWHC 1470 (Admin)

Brian acted for the applicant in this leading case on the basis for calculating, under domestic licences, legal expenses for foreign proceedings. This case is subject to appeal on the issue of whether the Treasury can justify the use of a "purchasing power parity" methodology in cases such as that of the prosecution of Mr Ezz in Egypt.

Garcia-Nieto

C-299/14 ECLI:EU:C:2016:114 [2016] 1 WLR 3089

Brian acted for the UK in this important and politically significant case concerning the extent to which a Member State can limit social assistance to EEA nationals in the first three months of residence in that Member State, including jobseekers.

Secretary of State for the Home Department v Vassallo

[2016] 2 CMLR 12

Brian acted for the SSHD in her successful appeal regarding the test for permanent residence under the Citizenship Directive and whether an applicant can count on rights acquired before accession to the EU.

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AA (Nigeria) v Secretary of State for the Home Department

[2015] EWCA Civ 1249

Brian acted for the SSHD before the Court of Appeal in this case which relates to the power to deport the spouse of an EU citizen. This case examines the proper approach to the risk of re-offending.

Garland v Secretary of State for Work and Pensions

[2014] EWCA Civ 1550

Brian acted for the SSWP successfully in this appeal relating to EU social security requirements. This is also an important case for the relationship between the UK and Gibraltar.

Tolley

C-430/15 ECLI:EU:C:2017:74 [2017] 1 WLR 1261

Brian acted for the Department of Work and Pensions in this reference from the Supreme Court as to whether under EU social security law the claimant was entitled to the care component of the UK's disability living allowance where the claimant had moved permanently to Spain and had long since ceased to work or have employment-based sickness coverage under the relevant UK schemes.

R (Western Sahara Campaign UK) v Revenue and Customs Commissioners

[2015] EWHC 1798 (Admin)

Brian acted for the UK Government in this important challenge to the UK's alleged acquiescence in a violation of the sovereignty of Western Sahara, addressing the status of UN Security Council and General Assembly resolutions, customary international law and justiciability issues.

Federation of Independent Practitioner Organisations v Competition and Markets Authority

[2015] CAT 8

Brian is acting for the claimant challenging the remedies imposed on hospital consultants under the CMA's Private Healthcare Investigation Report and the CMA's conclusions regarding competition in these markets. The case is pending before the Court of Appeal.

CCT v Telecommunications Regulatory Commission (Virgin Islands)

2017

Brian acted for the regulator in this challenge to its 4G spectrum allocation and re-farming decision.

Digicel and LIME v Telecommunications Regulatory Commission (Virgin Islands)

(2015)

Brian acted for the regulator in this major margin squeeze case in the Caribbean.

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R (Philip Morris Brands Sarl and ors) v Secretary of State for Health

[2014] EWHC 3669 C-547/14 ECLI:EU:C:2016:325

Brian acted for Imperial Tobacco in its challenge to the EU's Second Tobacco Products Directive. This important judgment of the CJEU establishes the limits of the EU's internal market legislative competence in public health matters and on limiting IP rights on public health grounds.

R (Barbara Gordon-Jones) v Secretary of State for Justice

[2014] EWHC 3979 (Admin)

Brian acted for the Secretary of State in this challenge to the policy of restricting access to parcels (including those containing books) in prisons.

International Committee of the Red Cross and the proposed EU data protection regulation

Brian advised the ICRC in relation to the new EU legislation enacted in 2016, which threatened the ICRC's rights under international human rights and humanitarian law. The ICRC won important concessions in this respect.

PISC/PETA v European Chemicals Agency

(pending)

Brian is acting for the animal rights bodies in a series of cases before the ECA and before the European Ombudsman challenging the Agency's approach to EU rules which seek to minimise animal testing.

Sanctions

Brian is one the leading sanctions lawyers in the EU. He has acted for over 40 designated persons and entities before the General Court and the Court of Justice. Brian has also been involved in the political and administrative process of persuading the EU and OFAC to delist individuals and businesses. Brian has advised Governments, banks and corporates on a wide range of compliance issues relating to the EU, US and domestic sanctions. He has assisted designated entities in dealing with the consequential effects of such restrictive measures in their own countries. Brian has also advised the Bank of England and HM Treasury on sanctions matters.

"Brian is an outstanding silk for sanctions matters. He is a brilliant advocate with an assured and reassuring client manner. He is go-to barrister for all things sanctions-related."

— CHAMBERS AND PARTNERS, 2026

Cases

Ezz v Council

T-256/11, T- 279/13, C-220/14 ECLI:EU:C:2015:147, T-288/15 ECLI:EU:T:2018:619

Brian appeared before the General Court and the CJEU for Mr Ezz and his wives whose assets have been frozen by the EU because of an alleged misappropriate of Egyptian State funds in conjunction with the Mubarak regime. The Ezz judgment is one of the leading cases in this area.

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PIAM v Upper Brook

(2019)

Brian acted for the plaintiff in this major trial in the Cayman Islands Grand Court concerning the interpretation of UN Libyan sanctions, the proper control of frozen Libyan state funds and claims of circumvention by those seeking to obtain control of the funds.

Sharif v Council

Brian is acting in the General Court for a Syrian businessman accused of assisting the regime.

Mubarak and Others v Council

T-275/16 etc

Acting for the sons of the former president of Egypt and their wives, in challenging the EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that no evidence has been supplied to the Council in relation to the wives, the Egyptian courts have dismissed the allegations related to the sons and their single conviction, which is nevertheless spent, as well as their ongoing proceedings are marred by flagrant violations to Articles 6 & 7 ECHR.

Saleh Thabet v Council

T-274/16 ECLI:EU:T:2018:826

Brian is acting for the wife of the former president of Egypt in challenging EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that no evidence has been supplied to the Council.

Ezz and Others v Council

C-220/14 P ECLI:EU:C:2015:147

Brian is acting for Mr Ezz and his wives subject to EU sanctions arising from alleged crimes in Egypt contrary to the UN Convention against Corruption.

S. Klyuyev v Council

T-341/14 ECLI:EU:T:2016:47, T-731/15 ECLI:EU:T:2018:90

Brian is acted for the applicant, a former Ukrainian politician, in successfully overturning EU sanctions on the ground of lack of evidence. It was demonstrated that the EU had no evidence that the applicant had misappropriated State assets as alleged.

Al Matri v Council

T-545/13 ECLI:EU:T:2016:376

Brian acted for the applicant in this leading case in relation to the EU Tunisian sanctions, which establishes the kind of evidence required to overturn EU restrictive measures.

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A. Klyuyev v Council

T-731/15, T-240/16, T-305/18

Brian is acting for the former Chief of Staff of the former Ukrainian President in challenging EU sanctions alleging misappropriation and corruption, on the grounds of breach of human rights and lack of evidence.

Ivanyushchenko v Council

T-246/15 ECLI:EU:T:2017:789

Brian acted for a Ukrainian businessman and former politician who had been subjected to sanctions on the grounds of alleged illegal conduct and corruption within the former administration. The Ukrainian request for the sanctions contained serious misrepresentations and the EU sanctions were annulled.

Klymenko v Council

T-245/15 ECLI:EU:T:2017:792

Brian acted for a former Ukrainian Minister of Revenue and Duties in his challenge to EU sanctions, on the basis that the allegations made by the new administration were false and driven by the commercial interests of the new rulers in Ukraine.

Tri-Ocean Energy v Council

T-719/14 ECLI:EU:T:2016:458

Brian acted for the applicant, listed on the EU Syrian regulation and decision, as the parent company of an entity allegedly supplying crude oil to the Syrian government.

Tri-Ocean Trading v Council

T-709/14 ECLI:EU:T:2016:459

Brian acted for the applicant, listed on the EU Syrian regulation and decision, for allegedly supplying crude oil to the Syrian government.

Farahat v Council

T-830/14 ECLI:EU:T:2016:462

Brian acted for an individual subject to the EU Syrian sanctions on the ground of being employed by a company allegedly supplying crude oil to the Syrian government.

Kurchenko v Council

T-339/14 ECLI:EU:T:2015:1011

Brian acted for a businessman listed on the EU Ukrainian sanctions regulation and decision for allegedly illegal conduct under the previous regime.

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R (Ezz) v HM Treasury

[2016] EWHC 1470 (Admin)

Brian acted for the applicant in this leading case on the basis for calculating, under domestic licences, legal expenses for foreign proceedings. This case is subject to appeal on the issue of whether the Treasury can justify the use of a "purchasing power parity" methodology in cases such as that of the prosecution of Mr Ezz in Egypt.

Sumitomo sanctions issues

Brian acts for this major Japanese multinational in relation to EU law sanctions issues.

Financial Services & Banking

Brian has extensive experience of regulatory issues and litigation before the RDC and Upper Tribunal. Brian has particular expertise in EU financial services issues and investigations by ESMA and EIOPA and the implications of Brexit for financial services. He acted for ESMA in the recent investigation concerning CFD and binary option trading by retail investors. Brian has advised and acted for the Financial Services Compensation Scheme in a number of important cases. Brian has acted for the FCA and the Bank of England in a number of important financial services cases before the European courts.

"A silk who is exceptionally knowledgeable and user friendly."

— LEGAL 500, 2022

Cases

EU Securities and Markets Authority - intervention regarding CFDs and binary options

Brian acted for ESMA in its significant intervention restricting these products for retail investors in the EU. This is the first time these powers have been used.

Foreign Exchange

[2022] CAT 16

Brian acted for UBS in the Allianz domestic litigation in the Commercial Court and in the O'Higgins/Evans collective proceedings in the CAT arising from the alleged anti-competitive conduct concerning FX spot trading.

European Insurance and Occupational Pensions Authority/Gibraltar Financial Services Commission

Brian acted for the GFSC concerning the interpretation of Solvency II, and minimum capital requirement rules for insurers.

FDIC v UBS

Brian is acting for the Bank in this multi-billion dollar damages claim arising out of the alleged USD LIBOR cartel.

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Comité d'entreprise de Nortel Networks

C-649/13 ECLI:EU:C:2015:384

Brian acted for the UK in this important case on jurisdiction under the Insolvency Regulation. The CJEU found that the jurisdiction to rule on the determination of the debtor's assets falling with the scope of the effects of secondary insolvency proceedings lay with the courts of the Member State in which secondary insolvency proceedings had been opened, concurrently with the courts of the Member State in which the main proceedings had been opened.

Gutierrez Naranjo

Case C-154/15 [2017] 2 CMLR 25

Brian acted for the FCA in this case before the CJEU involving unfair terms in mortgage loan agreements under EU law.

Financial Services Compensation Scheme Limited v The Depositors' and Investors' Guarantee Fund (TIF)

Case E-8/15

Assisted the Financial Services Compensation Scheme via HM Treasury on these two major cases involving jurisdictional issues.

Judicial review against the Office of Financial Sanctions Implementation

Brian is advising the family of former Egyptian president Mubarak in relation to a judicial review against the OFSI relating to licences to release frozen funds.

Robeco Hollands Bezit

C-658/15 ECLI:EU:C:2017:870

Brian acted for the FCA in this important case which determined the definition of a “regulated market” under MiFID and in particular whether that definition covered a trading system such as Euronext Fund Services.

Khorassani

C-678/15 ECLI:EU:C:2017:451 [2018] Bus LR 54

Brian acted for the FCA in this important case which determined whether, under MiFID, “the reception and transmission of an order” to a “portfolio manager” is an “investment service”.

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Banif Plus Bank Zrt v Lantos

C-312/14 EU:C:2015:794 [2016] 2 CMLR 26

Brian acted for the FCA in this important case relating to MiFID, the concept of 'investment services and activities', the provisions to ensure investor protection and the conduct of business obligations when providing investment services to clients. This is a leading case on the obligation to assess the suitability or appropriateness of the service to be provided and the contractual consequences of non-compliance with that obligation.

TrustBuddy

C-311/15 ECLI:EU:C:2015:759

Brian acted for the UK in this case which concerned whether the definition of a "creditor" included a peer-to-peer lending platform.

Financial Services Compensation Scheme/Der Nederlands Bank v Iceland

Case E-8/15

Brian acted for the FSCS in this case which concerned whether a "systemic crisis" allows the legal obligation of a Deposit Guarantee Scheme under EEA law to compensate savers to be reduced from the minimum guaranteed level to such sums as may be available to the DGS at that time.

Private Equity Insurance Group

C-156/15 ECLI:EU:C:2016:851 [2017] 1 WLR 1602

Brian acted for the FCA in this case which concerned the interpretation of the Directive on Financial Collateral Arrangements, and whether that Directive applies only to collateral arrangements involving accounts used for settlement in securities settlement systems.

Palacios Martinez

C-307/15 ECLI:EU:C:2016:980

Brian acted for the UK in this case which concerns whether minimum interest rate clauses in mortgage loans granted to consumers were unfair under EU consumer protection law and whether a ruling to that effect could be limited to apply prospectively only.

Profit Investment SIM

C-366/13 ECLI:EU:C:2016:282 [2016] 1 WLR 3832

Brian acted for the UK in this case concerning the test for a close connection under the Brussels Recast Regulation.

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Collective investment scheme disputes

(2014)

Brian has advised extensively on these issues and represented clients before the FCA and the Tribunal.

Wells Fargo & Co. v United States of America

Brian assisted the defendant banks in a major US financial services case arising from the operation of collective investment schemes in the UK.

Advice post-demise of Equitable Life

Brian advised in relation to a major class action arising from the demise of Equitable Life.

FCA and US CFTC investigation

Brian acted for a leading international group of oil traders in an FCA and US CFTC investigation.

Telecommunications

Brian is one the UK's leading telecoms lawyers and has appeared in many of the leading telecoms cases in recent years, in the CAT, Court of Appeal and Court of Justice of the EU. Brian is acting for the Irish regulator ComReg in relation to telecoms satellite issues. Brian also acted for the telecoms regulator of the Virgin Islands in cases concerning abusive margin squeeze. Brian specialises in the overlap between telecommunications law and competition law.

"Brian Kennelly is very well-spoken, which you want in an advocate. He is very good with clients. He is really one of our go-tos, I can't speak highly enough of him."

— CHAMBERS AND PARTNERS, 2026

Cases

Hutchison 3G UK Ltd v Ofcom (Annual Licence Fees)

(2019)

Brian is acting for Three in its claim for restitution of Annual Licence Fees for 900 MHz and 1800 MHz spectum (over £30m) paid pursuant to an ultra vires public law instrument.

Hutchison Whampoa v Commission (merger challenge)

Brian is acting for the applicant in this challenge in the General Court against the European Commission's refusal to allow the merger between Three and O2.

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Commission for Communications Regulation/ViaSat

(2019)

Brian is advising ComReg on the use of 2 GHz spectrum by ground stations in connection with the operation of a satellite mobile communications network. This concerns EU and international law and satellite-provided broadband services to passenger in aircraft across Europe.

Net Neutrality and International Roaming

Brian is advising the mobile network operator Three in relation to a major project to ensure compliance with the new EU Net Neutrality Regulation and rules on international roaming.

Payment Surcharge Regulations dispute

Brian advised Three in an Ofcom investigation into Three's (and other MNOs') advertising and presentation of call and data packages.

Ofgem UK Regulatory Network advice

Brian advised Ofgem on the funding and resourcing of the UK Regulatory Network (UKRN) under the Better Regulation Principles and Schedule 1 of the Utilities Act 2000.

Hutchison 3G UK Ltd v Ofcom

[2017] EWHC 3376 (Admin)

Brian acted for the mobile network operator Three in its judicial review of Ofcom's 5G mobile spectrum auction.

Non-Geographic Numbers

Brian has advised in relation to the consultation response and engagement with Ofcom on this matter in addition to compliance with the NGN rules regarding tariffs and billing.

Three's challenge to Ofcom's Statement on Public Sector Spectrum Release

Brian acted for Three in successfully persuading Ofcom to reconsider its decision on competition and auction design issues for the 2.3 and 3.4 GHz spectrum award, including reserve prices.

4G spectrum

(2014)

Brian advised a major telecoms operator in relation to State aid issues arising from the "refarm" of existing 2G spectrum holdings for 4G use.

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CCT v Telecommunications Regulatory Commission (Virgin Islands)

2017

Brian acted for the regulator in this challenge to its 4G spectrum allocation and re-farming decision.

LIME v Telecommunications Regulatory Commission (Virgin Islands)

(2015)

Brian acted for the regulator in this challenge to a finding of dominance relating to ex ante regulation of international connectivity.

Digicel and LIME v Telecommunications Regulatory Commission (Virgin Islands)

(2015)

Brian acted for the regulator in this major margin squeeze case in the Caribbean.

Commission's investigation of Apple (distribution agreements)

(pending)

Brian has advised a major telecoms operator in relation to this investigation.

Ofcom's investigation into alleged breaches of General Condition 14

(2014)

Brian advised and appeared for Three in this investigation.

Ofcom's consultation on annual licence fees for 4G spectrum

(2014)

Brian advised and assisted Three in this consultation.

An Post

(2018)

Brian has advised the Irish postal services operator on Brexit related issues.

Energy

Brian has established expertise in energy issues, and in particular price controls, emissions and energy trading. Brian is acting for National Grid in relation to the RIIO-1 and RIIO-2 price controls. He has also advised Ofgem on several competition law issues and acted for Shell in important competition and emissions trading cases. Brian has advised local authorities on renewables issues covering thermal recovery facilities and combined heat and power.

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Cases

Crossley & Ors v Volkswagen Aktiengesellschaft (the "VW NOx Emissions Group Litigation")

[2019] EWHC 783(QB)

Brian acts for Volkswagen AG in this class action arising out of what is often described as "Dieselgate".

National Grid v Ofgem (Hinkley Seabank price control)

(2019)

Brian is acting for National Grid Electricity Transmission in its dispute with Ofgem regarding the price control covering the major works needed to connect the new power station at Hinkley Seabank. This case concerns RIIO-1 and RIIO-2.

National Grid v Ofgem (T1 reopener)

(2019)

Brian is acting for National Grid Gas Transmission in its dispute with Ofgem regarding the reopening of the price control covering particular significant tunneling replacements.

Commission v Council

C-425/13 EU:C:2015:483; [2016] 1 CMLR 11

Brian acted for the UK in this case which addresses the roles of EU institutions in negotiating international agreements, here the Emissions Trading Agreement with Australia.

Gazprom OAO

(C-536/13) EU:C:2015:316; [2015] 1 WLR 4937

This case concerned a gas supply contract and arbitration between Gazprom, E.ON Ruhrgas International and the Lithuanian State Property Fund and the extent to which the arbitration could issue a form of anti-suit injunction preventing the parties from litigating in the State courts.

Ofgem UK Regulatory Network advice

Brian advised Ofgem on the funding and resourcing of the UK Regulatory Network (UKRN) under the Better Regulation Principles and Schedule 1 of the Utilities Act 2000.

Tempus Energy

Brian advised the Department for Energy and Climate Change on the Tempus Energy and Tempus Energy Technology v Commission (T-793/14) case challenging the Commission's decision not to raise objections to UK State aid which is to be paid under the newly implemented scheme called the Capacity Market.

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Standard licence conditions compliance advice

Brian has advised major operators on Ofgem investigations regarding compliance with standard licence conditions in gas and electricity supply licences.

R (Shell) v Secretary of State for Energy and Climate Change

(2015)

Brian acted for Shell in its challenge to the EU Commission's decision on allocation of "carbon credits" in the EU emissions trading scheme.

Energy-from-Waste advice

Brian advised in relation to the Energy-from-Waste infrastructure plant which forms the backbone of the Greater Manchester Waste Disposal Authority's £4.4 billion waste PFI contract with Viridor and Laing.

Commercial

Brian has substantial experience in the Commercial Court and the Chancery Division and before arbitral tribunals. Brian has acted in a number of the largest commercial cases brought in the UK involving claims based on competition law breaches. Brian has appeared in commercial cases in Hong Kong, Ireland, the Cayman Island and the BVI. He is expert in the overlap between commercial and regulatory work, in areas such as energy, pharmaceuticals, aviation and telecommunications. Brian has also litigated in the commercial courts many of the contractual issues arising from the sanctions imposed by the EU and the US on companies and individuals.

"He brings massive experience and has got a great way with clients. He is good at putting his case forward, a persuasive man."

— CHAMBERS AND PARTNERS, 2023

Cases

Sainsbury's v Visa

[2018] 4 CMLR 24, [2018] 5 CMLR 9

Brian is acting for Visa Inc in this stand-alone damages claim alleging that interchange fees breached EU, English and Irish competition law. The claimants claim in excess of £1bn. Brian has also advised in relation to the Commission's inter-regional MIF investigation. Brian is also acting for Visa in its appeal before the UK Supreme Court (2019).

Ryanair v Revenue Commissioners and Minister for Finance

(pending)

Brian is acting for the claimant in this claim arising from the Irish Government's decision to impose a discriminatory tax on airlines in breach of EU free movement rules. Trial is listed in late 2019.

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Foreign Exchange

[2022] CAT 16

Brian acted for UBS in the Allianz domestic litigation in the Commercial Court and in the O'Higgins/Evans collective proceedings in the CAT arising from the alleged anti-competitive conduct concerning FX spot trading.

Daimler v WWL and ors

[2020] EWHC 525 (Comm)

Brian acted for Daimler in this major Commercial Court damages action arising from the global Ro-Ro Shipping cartel.

FDIC v UBS

Brian is acting for the Bank in this multi-billion dollar damages claim arising out of the alleged USD LIBOR cartel.

Wire harnesses cartel

2019

Brian acted for the defendant in this arbitration before the German Institute of Arbitration arising from the European Commission's decision finding a cartel in the market for the supply of wire harnesses to vehicle manufacturers.

Arcadia and ors v Visa Inc and ors

Acted for the defendants in this major Commercial Court claim for damages arising out alleged anti-competitive behavior (value in excess of £1bn).

Emerald Supplies Ltd v British Airways Plc

[2016] Bus. L.R. 145

Brian acted for a defendant airline, accused of participating in a worldwide air freight cartel. This judgment addressed many significant issues in damages litigation, such as the scope of Pergan rights and third party access to the file.

iiyama Benelux BV v Schott AG

[2016] EWHC 1207 (Ch)

Brian acted for LG in successfully striking out on jurisdiction grounds claims worth in excess of €600m relying on the EU Cathode Ray Tubes cartel decision: [2016] 5 CMLR 15.

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Bott v Ryanair/Ryanair passenger claims

[2018] EWHC 534 (Ch)

Acting for the airline in a major class action brought by hundreds of passengers and claims harvesting companies arising out of delays and EU rights, raising complicated jurisdiction and consumer issues. The airline succeeded in its Chancery Div trial, appeal listed in 2019.

Bord na Móna v Bischof + Klein

(2015)

Brian acted for the defendant in this claim for damages arising from the Industrial Bags cartel decision of the EU Commission. It involved complex upstream and downstream pass-on issues.

BM-Bank JSC v Chernyakov

Acting for the defendant, the former owner of a major Russian construction company in a £100m claim brought by a Russian bank.

Ryanair v Hertz

Brian acted for the claimant in a major breach of contract action in the English Commercial Court arising from Ryanair's decision to allow its tickets to be sold through travel agents.

Marme Inversiones v RBS

(pending)

Brian acted for RBS in its defence of a misrepresentation claim based on rates alleged fixed by reference to the EURIBOR infringement, in which RBS admitted liability and paid a €131m penalty.

WH Newson Holding Ltd v IMI Plc

[2015] 1 WLR 4881, [2017] Ch 27

Brian acted for a defendant in this major damages claim arising out the EU's copper fittings cartel decision. It has given rise to an important judgment on contribution.

Gazprom OAO

(C-536/13) EU:C:2015:316; [2015] 1 WLR 4937

This case concerned a gas supply contract and arbitration between Gazprom, E.ON Ruhrgas International and the Lithuanian State Property Fund and the extent to which the arbitration could issue a form of anti-suit injunction preventing the parties from litigating in the State courts.

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Profit Investment SIM

C-366/13 ECLI:EU:C:2016:282 [2016] 1 WLR 3832

Brian acted for the UK in this case concerning the test for a close connection under the Brussels Recast Regulation.

Meroni

C-559/14 ECLI:EU:C:2016:349 [2017] QB 85

Brian acted for the UK in this leading case on the compatibility of worldwide freezing orders which affect third parties and the Charter of Fundamental Rights of the EU. The CJEU held that the provisions in the standard form English order sufficed for that purpose.

Comité d'entreprise de Nortel Networks

C-649/13 ECLI:EU:C:2015:384

Brian acted for the UK in this important case on jurisdiction under the Insolvency Regulation. The CJEU found that the jurisdiction to rule on the determination of the debtor's assets falling with the scope of the effects of secondary insolvency proceedings lay with the courts of the Member State in which secondary insolvency proceedings had been opened, concurrently with the courts of the Member State in which the main proceedings had been opened.

Antonio Gramsci Shipping

C-350/13 ECLI:EU:C:2014:1516

Brian acted successfully for the UK in this case relating to the circumstances in which a court may refuse to recognise a judgment on public policy grounds.

Major air transport-related arbitration

(2018)

Brian acted in an LCIA arbitration where competition issues (abuse of dominance) were raised in a dispute in the EU air transport sector. This case involved questions of discriminatory pricing and essential facilities.

Madoff Securities International Ltd and Bernard L. Madoff Investment Securities LLC and ors v Dale and ors

(2014)

Brian acted for the former Finance Director of Bernard Madoff's UK operation in resisting the claims by the trustee of Mr Madoff's US businesses for recovery of all of the sums which Mr Madoff obtained by fraud.

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Alpha Bank Cyprus Ltd v Si Senh

C-519/13 EU:C:2015:603 [2016] 1 W.L.R. 1115

Brian acted for the Bank in this leading case on the requirements of service of proceedings under EU law in international litigation.

Granville v Chunghwa

(2019)

Brian is acting for the defendant in this major Commercial Court action arising from the European Commission's finding of a cartel in the global market for cathode ray tubes.

Hutchison 3G UK Ltd v Ofcom (Annual Licence Fees)

(2019)

Brian is acting for Three in its claim for restitution of Annual Licence Fees for 900 MHz and 1800 MHz spectum (over £30m) paid pursuant to an ultra vires public law instrument.

PIAM v Upper Brook

(2019)

Brian acted for the plaintiff in this major trial in the Cayman Islands Grand Court concerning the interpretation of UN Libyan sanctions, the proper control of frozen Libyan state funds and claims of circumvention by those seeking to obtain control of the funds.

Arbitration

International arbitration is a significant part of Brian's commercial practice. He has advised or appeared in many of the main arbitral centres, including London, Hong Kong, Paris and Dubai and before the German Institute of Arbitration. Brian has particular expertise in arbitrating competition law issues. He has represented clients in arbitration proceedings across a broad spectrum of industries, including: aviation; construction and infrastructure; energy and mining; finance and banking; insurance; transport; and telecommunications. Brian has also represented private investors in substantial investor-state disputes.

Cases

Wire harnesses cartel

2019

Brian acted for the defendant in this arbitration before the German Institute of Arbitration arising from the European Commission's decision finding a cartel in the market for the supply of wire harnesses to vehicle manufacturers.

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Gazprom OAO

(C-536/13) EU:C:2015:316; [2015] 1 WLR 4937

This case concerned a gas supply contract and arbitration between Gazprom, E.ON Ruhrgas International and the Lithuanian State Property Fund and the extent to which the arbitration could issue a form of anti-suit injunction preventing the parties from litigating in the State courts.

Aluminium trading consortium

Brian acted for one of the main parties in the LCIA arbitration involving the aluminium trading consortium SUAL and Glencore regarding a disputed $47bn aluminium supply deal.

French airport authorities

Brian is acting for the claimant in a major LCIA arbitration concerning contracts with French airport authorities.

Major metal-related arbitration

(2015)

Brian acted for defendants in a major competition law damages claim raised in an arbitration (settled).

Cypriot airport authorities

Brian is acting for the claimant in a major LCIA arbitration concerning contracts with Cypriot airport authorities.

Major air transport-related arbitration

(2018)

Brian acted in an LCIA arbitration where competition issues (abuse of dominance) were raised in a dispute in the EU air transport sector. This case involved questions of discriminatory pricing and essential facilities.

Ukraine & Russia

Brian had advised extensively on arbitral claims arising from bilateral investment treaties with Russia, Ukraine and various EU Member States arising from the consequences of the sanctions imposed on certain businesses in Ukraine and Russia.

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Public International Law

Brian's public law and EU law practice has involved detailed consideration of a number of complex public international law matters. Brian has extensive experience in international tribunals and has written widely on these matters. He has advised the Foreign Office in relation to a range of PIL matters and has acted for litigants arguing PIL points in domestic tribunals in Egypt, Tunisia and Ukraine.

Cases

R (Western Sahara Campaign UK) v Revenue and Customs Commissioners

[2015] EWHC 1798 (Admin)

Brian acted for the UK Government in this important challenge to the UK's alleged acquiescence in a violation of the sovereignty of Western Sahara, addressing the status of UN Security Council and General Assembly resolutions, customary international law and justiciability issues.

Western Sahara Campaign

[2016] 1 CMLR 36, C-104/16 ECLI:EU:C:2018:118

Brian advised the UK Government in this case in which the EU fisheries and agricultural agreements with Morocco were challenged on the ground that they violated the UN Charter and international law in recognising Moroccan jurisdiction over Western Sahara.

R (British American Tobacco UK Ltd) v Secretary of State for Health

[2017] QB 327

Brian acted for Imperial Tobacco in its challenge to the plain packs legislation. This major case, which led to one of the leading judgments in regulatory judicial review, concerned common law and ECHR property rights, EU free movement and trade mark law as well procedural fairness.

Commission v Council

C-425/13 EU:C:2015:483; [2016] 1 CMLR 11

Brian acted for the UK in this case which addresses the roles of EU institutions in negotiating international agreements, here the Emissions Trading Agreement with Australia.

Ezz and Others v Council

C-220/14 P ECLI:EU:C:2015:147

Brian is acting for Mr Ezz and his wives subject to EU sanctions arising from alleged crimes in Egypt contrary to the UN Convention against Corruption.

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Bott v Ryanair/Ryanair passenger claims

[2018] EWHC 534 (Ch)

Acting for the airline in a major class action brought by hundreds of passengers and claims harvesting companies arising out of delays and EU rights, raising complicated jurisdiction and consumer issues. The airline succeeded in its Chancery Div trial, appeal listed in 2019.

Judicial review against the Office of Financial Sanctions Implementation

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Hutchison 3G UK Ltd v Ofcom

[2017] EWHC 3376 (Admin)

Brian acted for the mobile network operator Three in its judicial review of Ofcom's 5G mobile spectrum auction.

PIAM v Upper Brook

(2019)

Brian acted for the plaintiff in this major trial in the Cayman Islands Grand Court concerning the interpretation of UN Libyan sanctions, the proper control of frozen Libyan state funds and claims of circumvention by those seeking to obtain control of the funds.

Commission for Communications Regulation/ViaSat

(2019)

Brian is advising ComReg on the use of 2 GHz spectrum by ground stations in connection with the operation of a satellite mobile communications network. This concerns EU and international law and satellite-provided broadband services to passenger in aircraft across Europe.

SM (Algeria) v Entry Clearance Officer

[2018] 1 WLR 1035, C-129/18

Brian acted for the UK in this major case concerning the status of children brought into the EU under kefala arrangements and whether they should be treated as equivalent to children adopted under domestic law.

State Aid

Brian has considerable experience of litigating State aid points before the EU courts and domestically. He has advised private litigants and the UK Government on a wide range of State aid matters, in particular in relation to export credit financing and spectrum allocation in telecommunications.

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Cases

Commission v Ryanair

C-165/15 P ECLI:EU:C:2016:990

Brian appeared for the airline in the CJEU in defending the General Court judgment in the Irish Air Travel Tax case and in Ryanair and Aer Lingus' cross-appeal.

Ryanair v Commission

T-500/12 ECLI:EU:T:2015:73, C-164/15 ECLI:EU:C:2016:990 [2017] 2 CMLR 23

Brian acted for Ryanair in the General Court and the CJEU in its challenge against the Commission's State aid decision in respect of Ireland's Air Travel Tax (ATT).

R (British Academy of Songwriters, Composers and Authors) v Secretary of State for BIS

[2015] 3 CMLR 28 and [2015] RPC

Brian acted for musicians claiming that the private copying exemption from copyright was a State aid to cloud providers and other beneficiaries of the measure.

Minister of Finance and ors v Ryanair and ors

(Irish High Court, pending)

Brian is acting for Ryanair in resisting the State's claim for repayment of the ATT found to be a State aid on the grounds of a set off and Francovich counterclaim.

4G spectrum

(2014)

Brian advised a major telecoms operator in relation to State aid issues arising from the "refarm" of existing 2G spectrum holdings for 4G use.

Greater Manchester Waste Disposal Authority

(2014)

Brian has advised the GMWDA in relation to State aid compliance on a number of occasions.

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ACHIEVEMENTS

Education

MA (Cantab), Licence spéciale en droit européen (ULB), (Scholarship: Queen Mother Scholar, Middle Temple)

Publications

- Co-author of EU Competition Law: General Principles
- Counting the pennies in sport: UEFA's Financial Fair Play Regulations under the competition law microscope (2014, CPI Anti-Trust Journal)
- "Judicial Review of Sanctions Decisions: "The Wrong Point in the Wrong Court with the Wrong Defendant?" (2013) Judicial Review
- "Competition Law: Review of 2011" (2012) Competition Law Journal 7
- "Anti-trust forum-shopping in England: is Provimi Ltd v Aventis correct?" (May 2010) CPI Anti-Trust Journal 46 (cited in Cooper Tire & Rubber Co v Shell Chemicals UK Ltd [2010] EWCA Civ 864 and Toshiba Carrier UK Ltd v KME Yorkshire Ltd [2011] EWHC 2665 (Ch) at [30]).
- Co-author of Human Rights Law and Practice edited by Lester & Pannick (3rd ed., 2009) – chapters on Article 6 and 8 ECHR and Administrative Court: Practice and Procedure (1st ed., 2006).
- "Piggybacking tips: lessons from the section 47A case-law" (2009) Competition Law Journal 180
- Major author of the chapter on competition law in the 2nd edition of Sport: Law and Practice (eds. Lewis and Taylor)(2008).
- Author of the competition law chapters in Schmitthoff's Export Trade (11th ed.)(2007) and Employee Competition (2007).
- Co-author of EU Competition Law: General Principles (2006)
- Co-author (with David Vaughan QC) of Competition Law: Abuse of a Dominant Position (2005) in the Encyclopedia of EU Law (eds Vaughan and Robertson).
- "Regulators and Split Personality" (2007) Legal Week 30
- "Judicial Review and the Competition Appeal Tribunal" (2006) Judicial Review.
- "Damages actions before the CAT and the passing on defence" (2004) Competition Law Journal 238.

Appointments

- Until he took silk, Brian was a member of the Attorney-General's 'A' Panel.
- Appointed to the Sports Advocacy Section of the London 2012 Olympic and Paralympic Pro Bono Legal Advice and Representation Service.
- Specialist Adviser on Brexit to the Treasury Select Committee of the House of Commons (2017)

Memberships

- Bar European Group
- Justice
- Liberty

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Selected earlier reported cases

EU & Competition

- Sintesi e Ricerca v Royal Dutch Shell (settled)
- Deutsche Bahn AG & Others v Morgan Crucible Company PLC & Others (2014)
- Universal/EMI Group (2013/2014)
- London Olympic Stadium State aid (2012)
- National Grid v Gas and Electricity Markets Authority [2010] EWCA Civ 114; [2010] UKCLR 386
- Provimi v Aventis [2003] 2 All E.R. (Comm) 683
- BCL v Aventis
- Devenish Nutrition Ltd v Sanofi-Aventis SA & Ors [2009] 3 WLR 198 (Court of Appeal)
- Hutchinson 3G UK Ltd v O2 Ltd & Ors [2008] All ER (D) 80
- Case C-162/13 Vnuk
- Case C-435/11 CHS Tour Services
- Case C-139/10 Prism Investments
- Case C-308/11 Chemische Fabrik Kreussler & Co GmbH
- R (Sinclair Collis Ltd) v Secretary of State for Health [2011] 3 CMLR 37
- Case C-16/10 The Number (UK) Ltd v Ofcom and BT plc
- Case T-121/09 Al Shanfari v Council and Commission
- Case T-55/08 UEFA, FIFA v Commission
- Case C-58/08 R(Vodafone and ors) v Secretary of State for Business Enterprise and Regulatory Reform

Public International Law

- Grovit v De Nederlandsche Bank N.V. & Ors [2008] 1 WLR 51

Sanctions

- Bredenkamp and Others v Commission T-145/09
- Al Shanfari v Council T-121/09

Public & Regulatory

- Case C-403/13 Kelly
- Case C-680/11 Anita Chieza
- Franzen v Raad van bestuur van de Sociale verzekeringsbank (C-382/13) EU:C:2015:261
- Case C-529/11 Alarape and Tijani [2013] 1 WLR 2883
- R (Cable & Wireless) v Communications Commission of the Isle of Man
- BT plc v Competition Commission [2013] EWCA Civ 154
- R (Barco de Vapor) v Thanet DC [2012] EWHC 3429

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- R (Leyton Orient Football Club Ltd) v Secretary of State for DCMS (2012)
- R (Imperial Tobacco) v Secretary of State for Health (2012)
- R (Sinclair Collis Ltd) v Secretary of State for Health [2011] 3 CMLR 37
- R (ICO Satellite Ltd) v Ofcom [2011] EWCA Civ 1121
- R (ABS Financial Planning Ltd) v Financial Services Compensation Scheme [2011] EWHC 18 (Admin)
- Sita UK Ltd v Greater Manchester Waste Disposal Authority [2011] 2 CMLR 32
- Case C-58/08 R(Vodafone and ors) v Secretary of State for Business Enterprise and Regulatory Reform (8 June 2010)
- R (Al Shanfari) v Secretary of State for Foreign and Commonwealth Affairs (2010)
- Times Newspapers Ltd v United Kingdom [2009] EMLR 14 (European Court of Human Rights)
- R (Eisai Ltd) v National Institute of Health and Clinical Excellence [2008] Times Law Reports, 7 May (Court of Appeal)
- AES Kilroot v NIAUR (Utility Regulator) [2008] NIQB 62

Commercial

- Sukhoruchkin v Van Bekestein [2013] EWHC 1993
- Ahmad Hamad Algosaibi and Brothers v Maan al-Sanea

Civil Fraud, Asset Recovery & Injunctive Relief

- Group Lotus plc v 1MRT and ors [2011] EWHC 1366 (Ch)
- Re Bloomsbury International Ltd [2010] EWHC 1150 (Ch)
- Sukhoruchkin v Van Bekestein [2013] EWHC 1993
- Ahmad Hamad Algosaibi and Brothers v Maan al-Sanea

Financial Services

- Advice on the Report of the Independent Commission on Banking ("Vickers Report") (2012)
- Anderson Ross Group v Financial Services Commission; Financial Services Review Panel (2011)
- R (ABS Financial Planning) v Financial Services Compensation Scheme Ltd [2011] EWHC 18 (Admin)
- R (on the Application of Kaupthing Bank Hf) v HM Treasury (2010)
- Kaupthing Singer & Friedlander (Isle of Man)
- Bankas Snoras
- IG Markets v Taaffe
- LIFFE v Molenbergnatie
- Phoenix/MG Rover
- FSA/US CFTC investigation into Vitol Oil Traders
- Grovit v De Nederlandsche Bank N.V. & Ors [2008] 1 WLR

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Sport

- Case T-55/08 UEFA, FIFA v Commission (17 February 2011, General Court of the EU)
- Group Lotus plc v 1MRT and ors [2011] EWHC 1366 (Ch)
- R (Leyton Orient Football Club Ltd) v Secretary of State for Culture, Media and Sport and ors (2011)
- British Horseracing Authority/Tyrell (2011)
- Chelsea FC v Adrian Mutu (2010)
- FIFA "6+5" Rule in football (2010)
- FA dispute re new WADA "whereabouts" rules (2010)
- Association of Rugby Agents v Premier Rugby Limited
- Proposed Licensing System for the Rugby League Super League 2012-2014
- British Horseracing Authority/Phelan (2010)
- District Government of Dusseldorf v Betfair (2009)
- Betfair v Horserace Betting Levy Board (2009)
- Football Players' Agents' Regulations (2007/2008)

Telecommunications

- 4G Spectrum refarm and new spectrum auctions (2013)
- British Telecommunications plc v Ofcom (MCT) [2013] EWCA Civ 154
- Mobile Wallet Joint Venture (2012)
- Case C-16/10 The Number (UK) Ltd v Ofcom and BT plc (17 February 2011)
- British Telecommunications plc v Ofcom (MCT) [2011] EWCA Civ 245
- British Telecommunications plc v Ofcom (MCT) [2011] CAT 31
- Everything Everywhere Ltd v Ofcom (0845/0870) [2011] CAT 26
- British Telecommunications plc v Ofcom (080) [2011] CAT 15
- Case C-58/08 R (Vodafone and ors) v Secretary of State for Business Enterprise and Regulatory Reform (8 June 2010, Court of Justice of the EU)
- Vodafone Ltd v British Telecommunications Plc [2010] EWCA Civ 391
- British Telecommunications Plc v Ofcom [2010] CAT 17
- Ofcom v Floe Telecom Ltd [2009] EWCA Civ 47; [2009] UKCLR 659
- Hutchison 3G UK Ltd v Ofcom [2009] EWCA Civ 683
- Hutchison 3G UK Ltd v Ofcom [2009] CAT 11
- Vodafone Ltd v Ofcom [2008] CAT 22
- Hutchison 3G UK Ltd v Ofcom [2008] CAT 10, [2007] CAT 33
- Hutchison 3G UK Ltd v Ofcom [2008] CAT 5
- Software Cellular Network Ltd v T-Mobile (UK) Ltd [2007] All ER (D) 314.

Media & Entertainment

- Case T-55/08 UEFA, FIFA v Commission [2011] ECR II-271
- R (ICO Satellite Ltd) v Ofcom [2011] EWCA Civ 1121
- University of Oxford v Broughton and others (2010/2011)

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- Times Newspapers Ltd v United Kingdom [2009] EMLR 14 (European Court of Human Rights)
- Channel 6 (2009)
- BBC Trust/Freesat

Pharmaceuticals

- Mercury Pharma/Shire v Department of Health (2013)
- Case C-308/11 Chemische Fabrik Kreussler & Co GmbH (6 September 2012)
- R (Napp Pharmaceuticals) v Home Office (2012)
- R (Eisai Ltd) v National Institute of Health and Clinical Excellence [2008] EWCA Civ 438

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