



Mark D. Powell

Partner, Brussels, London

T +32 2 239 25 78
+32 2 219 16 20

E mpowell@whitecase.com

Bars and Courts

Solicitor of England and Wales, 1989

Brussels Bar (E list), 1998

Education

Final Diploma in Portuguese Language and Literature, University of Coimbra, 1987

Professional Practising Certificate, College of Law, Chester, 1985

LLB, University of Lancaster, with Honours, 1983

Awards and Recognition

Leading Lawyer, Chambers Europe 2016, Global 2016

Competition/European Law – Belgium

Recommended Lawyer, The Legal 500 EMEA 2015

Competition – Belgium

2012 Antitrust Writing Awards -- Best Business Anticompetitive Practices Article, Institute of Competition Law

Languages

English

Practice Experience

Mark has been advising clients on competition law issues for nearly thirty years. His practice has a particular focus on the interface between competition law and sector-specific regulatory requirements, in such areas as telecommunications, pharmaceuticals, energy, the media and transport.

Clients benefit from his considerable experience handling regulatory clearance for complex mergers and acquisitions, including Zimmer/Biomet, Telia/Telenor (abandoned), Acergy/Subsea7, HBO/Ziggo, and Sanofi-Aventis/Zentiva. His work on Aegean/Olympic II was so persuasive that it resulted in the European Commission clearing it in a Phase II proceeding- the first time that it had cleared such a deal, having previously prohibited it.

In addition, Mark has developed a significant track record representing and advising clients involved in cartel investigations, in areas including Euribor derivatives, nucleotides, synthetic rubber, candle wax, calcium carbide, ball bearings and power cables.

Executive Partner of the Brussels office, he has helped clients to make successful appeals to the European Commission regarding matters ranging from infringement decisions to the re-negotiation of fines. Based in Brussels and London, he is able to advise international clients on both European and UK market investigation and merger cases.

Recent court cases in which Mr. Powell has been involved include:

- *Kaučuk/Unipetrol v Commission* in cases T-44/07 and T-45/07 regarding the application for annulment of the Commission decision finding Kaučuk liable for the BR/ESBR cartel infringement and imposing a fine of €17.55 million. In July 2011, the General Court annulled the European Commission's infringement decision against the companies, and overturned in their entirety the fines imposed on them.
- *Nexans France v Commission* in case T-135/09 regarding the application for annulment of a Commission Dawn Raid Decision adopted in the context of an ongoing proceeding pursuant to Article 101 EC concerning the European market for electric cable and related equipment.
- *Garantovana v Commission* in case T-392/09 regarding the application for annulment and suspension of operation of the Commission's calcium carbide cartel decision. In this case, he

French

successfully obtained interim measures from the General Court.

Portuguese

Citizenship

British

- *Budapesti Erömű Rt., Hungary (BERT) v Commission* in joined cases T-80/06 and T-182/09 regarding the application for the annulment of the Commission State aid decision with regard to power purchase agreements (PPAs) concluded between network operator MVM and the Hungarian State and certain electricity producers.
- *Microsoft v Commission* in cases T-271/06, T-209/06, T-313/05 and T-201/04 regarding the application for annulment of Commission Decision finding infringements of Article 82 EC. In this case, he focused on the IP aspects of the case.
- *UPC France Holding BV v Commission* in case T-376/05 regarding the application for the annulment of the Commission decision providing that the public funding of a broadband network in the Limousin region does not contain any element to State aids (subsequently withdrawn).
- *Nintendo v Commission* in case T-13/03 regarding the application for cancellation or reduction of the amount of the fine imposed on the applicants by Article 3, first indent, of Commission Decision 2003/675/EC of 30 October 2002 relating to a proceeding pursuant to Article 81 [EC] and Article 53 of the EEA Agreement.

Mark has also been involved in some of the leading abuse of dominance cases, including Rambus, Magill, IPCom and IMS Health.

Mark was singled out for recognition in the first edition of Euromoney's Expert Guide to the World's Leading Competition and Antitrust Lawyers. He has been described by clients in The Legal 500 EMEA as "very knowledgeable with a pragmatic and commercial approach... [and] a convincing style and self-confidence which... is very persuasive." Chambers has noted that clients value Mark as "a charismatic lawyer with terrific business sense" who is "practical and savvy" and "enjoyable, hard-working and client-friendly".

Publications

Recent publications include:

- "The EU Commission extends settlement procedure to abuse of dominance cases" (Alstoff Recycling Trust Concurrences, e-

Competitions, National Competition Laws Bulletin, N° 81366)

- Ian S. Forrester QC LL.D. – A Scot Without Borders – Liber Amicorum – Volume II - "Has merger control spun out of control? The effects of a quarter of a century of EU merger control", (Concurrences)
- Lessons to keep in mind for your next complex global deal (Concurrences, 2016 Antitrust Writing Award winner – Business category, Cross-border issues section)
- Getting The Deal Through, "Cartel Regulation 2015 – Global Overview", (Law Business Research Ltd)
- Global Competition Review (GCR), "Cartel Regulation 2014 – Global Overview", (Law Business Research Ltd)
- Legal Expertise – Corporate & Commercial "Aegean/Olympic II merger clearance", (MLG Communications UK)
- "E-Books in the EU: Competition, pricing, and the expansion of a new digital market" (Concurrences)
- Prescription Markets – Can Competition Law deal with the principal/agent issue? – "What medicines and text books have in common – a few thoughts of prescription and competition law" (Concurrences)
- The synthetic rubber cartel – The European Commission's factual assessment is spotlighted (Competition Law Insight)
- Recent EU Antitrust Investigations into Financial Services – What is the scope for antitrust intervention? (CPI Antitrust Chronicle)
- AG Sharpston voices opinion on the standard of judicial review over fines in cartel cases – White & Case – Winner of the "Best Business Anticompetitive Practices Article – 2012 Antitrust Writing Awards" (Institute of Competition Law)
- Getting the Deal Through – Intellectual Property & Antitrust – European Union Chapter (GCR, Law Business Research Limited)
- EU-competition rules apply in full to conduct of dominant

companies in regulated industries: lessons from judgment of European Court of Justice in Deutsche Telekom case (EuroWatch)

- Director disqualification as a complement to EU antitrust fines: towards a more balanced sanctions policy (CPI Antitrust Journal)
- Legal privilege for in-house lawyers in EU competition investigation: the end of the road? (Commercial Litigation Journal)

Speaking Engagements

- **IFLR Competition Law Forum 2016**, International Financial Law Forum (IFLR) (London, United Kingdom), 9 November 2016 (Speaker)
- **Annual EU Competition Law Seminar**, White & Case (Brussels, Belgium), 21 – 22 October 2016 (Speaker)
- **Legal Council "Mergers & Acquisitions, Recent Developments"**, The Conference Board (Brussels, Belgium), 6 October 2016 (Moderator)
- **Legal Council "Global M&A transactions, International Arbitration, Migration, IP law and policy"**, The Conference Board (Geneva, Switzerland), 15 – 16 June 2016 (Moderator)
- **New Frontiers of Antitrust**, Concurrences (Paris, France), 13 June 2016
- **10th Anniversary colloquium on global antitrust enforcement 10 years and beyond**, Colloquium (Brussels, Belgium), 3 June 2016
- **Strategic considerations in cartel follow-on litigations**, Concurrences Review / Herbert Smith Freehills (Brussels, Belgium), 2 June 2016
- **Current developments in European Competition law**, White & Case (Seoul, S. Korea), 10 May 2016 (Speaker)
- **Dominance in the pharma sector – an EU/US perspective**, Concurrences / Compass Lexecon (Brussels, Belgium), 12 April

2016

- **Procedure workshop – To settle or not to settle – EU settlement procedure, hybrid settlements and the judicial point of view**, Concurrences (Brussels, Belgium), 23 February 2016
- **Breakfast Meeting with Margrethe Vestager to discuss current EU competition issues**, Amcham /Harvard Club of Belgium (Brussels, Belgium), 4 February 2016
- **The EC tax probe – when State aid met**, White & Case (Brussels, Belgium), 25 January 2016
- **Economic Developments in European Competition**, Charles River Associates (CRA) (Brussels, Belgium), 9 December 2015
- **Competition Law and Regulation in the Energy Sector: Regulatory Developments in the Energy Market**, IBC Legal Conferences (Brussels, Belgium), 17 November 2015 (Speaker)
- **IFLR Competition Law Forum 2015**, International Financial Law Forum (IFLR) (London, United Kingdom), 12 November 2015 (Speaker)
- **Autumn Seminar Series 2015: Survive your cross-border investigation**, Globalisation Facing the Challenges (London, United Kingdom), 10 November 2015 (Speaker)
- **INsigLTEC2015: Competition Investigation, Dawn Raids, Second Requests and Private Damages**, E-Discovery Europe s.r.o. (Brussels, Belgium), 26 October 2015 (Speaker)
- **Legal Council "Data protection, sanctions, compliance and antitrust"**, The Conference Board (Brussels, Belgium), 19 – 20 October 2015 (Moderator)
- **Annual EU Competition Law Seminar**, White & Case (Brussels, Belgium), 16 – 17 October 2015 (Speaker)
- **The 54th Annual London-Leiden meeting conference**, British Institute of International & Comparative Law (BI ICL) (London, United Kingdom), 27 June 2015 (Moderator)
- **24th Annual EU Pharmaceutical Law Forum**, Informa Life

Sciences (Brussels, Belgium), 19 May 2015 (Speaker)

- **Annual EU Competition Law Seminar**, White & Case (Brussels, Belgium), 17 – 18 October 2014
- **Competition Law Seminar: Cooperation agreements and Antitrust**, IBC Legal Conference (Brussels, Belgium), 16 October 2014 (Speaker)
- **IP & Competition Law Seminar: Patent Settlements according to the European Commission**, IBC Legal Conference (Brussels, Belgium), 17 September 2014 (Speaker)
- **Sanctions vs. Damages: cumulative impact of private enforcement and EU directive**, Oxera (Brussels, Belgium), 17 September 2014 (Speaker)
- **Newly Qualified Associate Training Programme**, White & Case (London, United Kingdom), 15 September 2014 (Speaker)
- **Private Equity & Antitrust**, White & Case (London, United Kingdom), 22 May 2014 (Speaker)
- **Abuse of Dominance in the Pharmaceutical Sector Under EU Competition**, Concurrences (Brussels, Belgium), 6 May 2014 (Moderator)
- **2014: The changeover year - Expectation management for businesses with Jonathan Faull Director General, DG Markt**, Britcham (Brussels, Belgium), 20 March 2014
- **Best & worst practices in compliance with Maria Jaspers, head of Unit, Cartels, DG Comp**, Britcham (Brussels, Belgium), 11 March 2014
- **Analysing Restructuring Transactions: Reviewing Mergers in Markets in Decline**, Concurrences (Brussels, Belgium), 25 February 2014 (Speaker)