

## David Scannell KC

YEAR OF CALL: ENGLAND AND WALES: 2003; IRELAND: 2017

YEAR OF SILK: 2020

*"He is one of the most knowledgeable competition lawyers I have ever had the pleasure of working with"; "extraordinarily able"; "A strong and considered advocate who gains the trust of the judge."*

Chambers & Partners 2021; Legal 500 2021

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## Practice Overview

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David Scannell KC is a specialist in competition, pharmaceutical, regulatory and EU law.

### Competition

David is recognised by Legal 500, Chambers & Partners and Chambers Global as a leading silk in competition law. He has extensive experience of all aspects of competition work, including cartels, regulatory investigations, stand-alone actions and follow-on damages claims, representing both claimants and defendants.

He acted as leading counsel for the claimants in the *CRT Cartel* follow-on damages claims (now successfully settled), and continues to act as leading counsel on the claimant side in the *DRAMs follow-on claims*. He acts as leading counsel on the defendant side for *Sun/Ranbaxy* in the *Lundbeck* follow-on damages claims brought by the NHS, and as leading counsel for the Cinven Appellants in the *Prochlorperazine* regulatory appeals currently being heard by the Competition Appeal Tribunal.

He acted for the defendants in *Power Cables* and *Refrigeration Compressors* (both in the English courts) and in *Elevators & Escalators* (in the European Courts). He currently acts for Orange in the *Phones 4U* litigation (Ch. Div.) and acted for GlaxoSmithKline in the *'Pay-for-Delay'* litigation and for Sky in *Pay TV*. He is currently instructed in several matters involving CMA investigations.

### Regulatory and EU law

David has an extensive pharmaceuticals regulatory practice, and regularly acts in cases arising under the national and EU pharma regulatory codes. He has been recognised as an outstanding

practitioner in both EU and life-sciences law by Legal 500 and Chambers and Partners for some years.

Apart from EU pharmaceutical law, he has extensive experience in constitutional matters, the REACH regulation, procurement, State aid, regulatory matters and mergers.

Pending and recent cases of note include *ViiV Healthcare v European Medicines Agency* (General Court, pending), *ABOCA and Others v Commission* (General Court, pending) and *Symrise v European Chemicals Agency* (General Court, pending), *Easynet* (Court of Appeal); *AbbVie v European Medicines Agency (EU pharmaceutical law)* (General Court and Court of Justice), *PTC v European Medicines Agency (EU pharmaceutical law)* (General Court and Court of Justice), *GE Healthcare v Commission* (General Court), *Aer Lingus v Commission* (State aid) (General Court) and *R(British American Tobacco) v S/S Health* (Court of Justice).

He is the first British barrister to have appeared before the Board of Appeal of the European Chemicals Agency (*Grace v ECHA*, 2017) and has since appeared before that Tribunal on multiple occasions. He has advised multiple governments and non-State entities on sanctions-related matters and on issues arising from Brexit. His PhD (Cantab) addressed the EU's common foreign and security policy, including EU sanctions law. In 2018, David was elected by the Bars and Law Societies of England and Wales, Scotland and Northern Ireland to be a UK Representative on the CCBE's Standing Committee to the Court of Justice. He also sits on the Bar Council's EU Law Committee.

David is a member of the BVI Bar and has been called to the Irish Bar (2017). Before taking silk, David was a member of the Attorney General's 'A' Panel of Counsel to the Crown.

Full lists of David's notable cases appear below.

## EU law

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### Recent and ongoing EU law cases include:

- Case T-783/17 *GE Healthcare v Commission* (pending)
- *In re Easynet* [2018] EWCA Civ 10
- *GlaxoSmithKline v CMA, CAT* (pending)
- *Grace GmbH v ECHA* (ECHA Board of Appeal)
- Case C-513/16 P(R) *PTC v EMA*, EU:C:2017:148
- Case C-547/14 *Philip Morris Brands and Others*, EU:C:2016:325
- Case T-500/12 *Ryanair v Commission*, EU:T:2015:73
- Case T-473/12 *Aer Lingus v Commission*, EU:T:2015:78
- Cases T-29, T-44/13 and T-44/13R *AbbVie Inc and AbbVie Ltd v European Medicines Agency* (for AbbVie)

- Case C-389/13P(R) *European Medicines Agency v AbbVie Inc and AbbVie Ltd*
- Ongoing advice to the Government of Gibraltar on matters pertaining to sovereignty issues with Spain
- Ongoing advice to creditors of two of the three failed Icelandic banks

**Other notable EU cases include:**

- Case C-58/08 R( *Telefonica O2 Europe plc & Ors v S/S Business, Enterprise and Regulatory Reform* (EU constitutional law);
- Case C-558/07 R(*SPCM*) v *S/S Environment, Food and Rural Affairs* (REACH Regulation)); and
- Cases T-498/04 and C-337/09P *Zhejiang Xinan Chemical Industrial Group Ltd v Council* (Anti-dumping)
- Joined Cases C-507 and C-532/03 *Commission v Ireland* (procurement)

## Competition

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**In competition law, recent and ongoing cases include:**

- *Sky v Ofcom* (Pay TV) (CAT, for Sky)
- *BT v Sky* (Court of Appeal, for Sky)
- *Ofcom v Sky* (Court of Appeal, for Sky)
- Case T-473/12 *Aer Lingus v Commission* (State aid)

**Other significant cases include:**

- Case T-161/07 *Kone v Commission* (elevators and escalators cartels)
- *Gatwick v Ryanair* (dominance)
- *Punch Taverns (PTL) Limited v Central Estates plc & Di Stefano* (No.1) (High Court; beer-tie agreements)
- *Punch Taverns (PTL) Limited v Central Estates plc & Di Stefano* (No. 2) (High Court; beer-tie agreements)
- *Punch Taverns (PTL) Limited v Ersin* (High Court; beer-tie agreements)

## Public Law

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**Important cases**

- *R(Royal Brompton and Harefield NHS Foundation Trust) v JCPCT* (Court of appeal and Administrative Court)
- *Quark Fishing v Director of Fisheries, Govt of South Georgia and the South Sandwich Islands* (South Georgia and South Sandwich Islands Supreme Court, Falkland Islands)

- *R(Telefonica O2 Europe plc) v S/S Business, Enterprise and Regulatory Reform* (Admin.)
- *R(SPCM) v S/S Environment, Food and Rural Affairs* (Admin.)

## Qualifications

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LL.B (Hons) Law (First Class); LL.M (Cantab) (First Class with Distinction, 1st place); Ph.D (Cantab); Bar Vocational Course. Princess Royal Scholar, Inner Temple.

### Other Bar memberships

Barrister-at-Law (Bar of Ireland)

British Virgin Islands

### Appointments

Bar Council EU Law Committee

Bar European Group Committee

## Publications

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- Burton (ed.) *Civil Appeals*, 2<sup>nd</sup> ed., ch. 7, "References to the European Court for Preliminary Rulings" (2013)
- Brealey and Green (eds.) *Competition Litigation, UK Practice and Procedure*, 2<sup>nd</sup> ed., forthcoming, contributor
- Arnull, Barnard, Dougan and Spaventa (eds.), *A Constitutional Order of States? Essays in EU Law in Honour of Alan Dashwood* (Hart Publishing, 2011) (reviewed by Steinfeld, in (2012) 49 CML Rev 2039 ("an outstanding contribution to the field of European Union law", written by "a vast array of preeminent authorities within the various fields of EU law") and by Reich, in (2012) 37 EL Rev 504 ("an invaluable source of material and argument for a high level EU law debate")), ch. 29, "Third Time Lucky: the Pre-history of the Common Security and Defence Policy"
- Brealey and Green (eds.) *Competition Litigation, UK Practice and Procedure* (OUP, 2010), contributor
- *O'Byrne v Aventis Pasteur* [2008] UKHL 34 (2008) Solicitors' Journal
- *Book Review: European Union Law and Defence Integration* (2006) 43 CML Rev 894
- *Legal Aspects of the EU's European Security and Defence Policy* (2005), Ph.D dissertation, available from Cambridge University Library
- *Financing EU Military Operations* (2004) 9 EFA Rev 529-550
- (With Hartenstein, Matta and others) *Droit Global: Cinq Ans de Droit Comparé dans le Monde*,

Editions Panthéon-Assas, Paris, 2002

- *Trespassing on Sacred Ground: The Implied Competence of the European Community* (2002) Cambridge Yearbook of European Legal Studies 377
- *The Influence of the General Principles of Community Law on Rules of Procedure and Rules of Substance in Ireland* (2001) 1 (1) JSIJ 64

## Directory Quotes

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David Scannell is recognised in Legal 500 and Chambers & Partners in EU, Competition Law and Life Sciences Regulatory:

- "He is and will remain at the top of his profession." (Chambers & Partners 2024)
- "David is a great advocate; on a very difficult case, he was very good and persuasive." (Chambers & Partners 2024)
- "He is excellent and very knowledgeable in this sector. He has a wide and long experience. He is always happy to roll up his sleeves." (Chambers & Partners 2024)
- "David Scannell is a formidable advocate who is well prepared and considered in his exchanges with the Bench. He has a keen eye for detail and understanding of the legal and commercial ramifications of the issues clients are facing. He is also a fantastic person to work with and nothing is ever too much trouble." (Chambers & Partners 2024)
- "David is a pleasure to work with, particularly on technical matters, where his wealth of knowledge is readily apparent." (Chambers & Partners 2024)
- "David is an experienced advocate who is able to think creatively." (Chambers & Partners 2024)
- "David is a delight to work with. His grasp of the law is formidable and his ability to boil down complex points of law to simple propositions is very impressive." (Legal 500 2024)
- "A great tactical thinker and a natural leader." (Legal 500 2024)
- "His written submissions are clear, persuasive and powerful. I value his calm and considered approach to discussions, and his advocacy is understated but powerful." (Chambers & Partners 2023)
- "He has an excellent strategic mind, and navigated the legal issues and the client's objectives with ease. He produces high-quality drafting and is a pleasure to work with." (Chambers & Partners 2023)
- "He is a very clear thinker, who has a good style and a sharp mind." "He has an academic's ability to cut through the complex cases, and has no problem with the science either." (Chambers & Partners 2023)
- "David has an excellent strategic mind, navigating the legal issues and client's objectives with seeming ease." (Legal 500 2023)
- "Clearly very smart, thorough and diligent, and thinks of new creative arguments." "David is a very academically strong lawyer and also has good drafting skills and is easy to get on with." "He processed a lot of work in a short amount of time." (Chambers & Partners 2022)

- "Very bright, with exceptional attention-to-detail, he can really do a number on the other side." (Legal 500 2022)
- "Very personable, easily approachable and excellent at rigorous analysis of the legislation." (Legal 500 2022)
- "He is one of the most knowledgeable competition lawyers I have ever had the pleasure of working with." (Chambers & Partners 2021)
- "He is extraordinarily able and seems to be doing very well indeed." (Chambers & Partners 2021)
- "A strong and considered advocate who gains the trust of the judge." (Legal 500 2021)
- "He has a good mix of competition law and general commercial experience." (Legal 500 2021)
- "He has a strategic focus." (Chambers & Partners 2020)
- "Well-known senior junior who earns praise for his drafting and analytical skills in complex competition law cases. He has acted in CAT cases that are referred up to the CJEU for clarification on the application of competition law to 'pay-for-delay' agreements in the pharmaceuticals sector, and is further noted for handling follow-on damages claims and advising companies on ongoing CMA investigations." "His grasp of the issues and ability to be extremely succinct really come across in his drafting - he is able to articulate so fluently the issues in the case." "Very measured and thorough, you can trust him to be the voice of reason." (Chambers & Partners UK & Global 2020)
- "His wealth of legal knowledge is truly indispensable." (Legal 500 2020)
- "Very clever and a nice drafter." "He is a great junior with particular experience of the pharmaceutical sector." (Chambers & Partners UK & Global 2019)
- "Scannell has an absolutely fantastic eye for detail and very good advocacy skills." (Chambers & Partners 2019)
- "He is extremely thorough and has a pragmatic approach." (Legal 500 2018-19)
- "A technically excellent and a creative thinker." (Legal 500 2018-19)
- "He has a very strong sense of litigation tactics" and is "knowledgeable on the competition side." (Chambers & Partners 2018)
- "A superb technician who rolls up his sleeves and gives 100%." (Chambers & Partners 2018)
- "A pleasure to work with." (Legal 500 2017)
- "He has a thorough understanding of facts and the ability to simplify complex information." (Legal 500 2017)
- "He is measured, chooses his points selectively and delivers them well." (Chambers & Partners 2017)
- "He is a very fine drafter and really gets things done." (Chambers & Partners 2017)
- "Inquisitive, bright and extraordinarily committed" (Legal 500, 2016)
- "He's very quick and very thorough and can demolish the opposition's arguments." (Chambers & Partners 2016)
- "Extremely hard-working and very good at drafting." (Chambers & Partners 2016)
- "Hard-working and prepared to go the extra mile. He's good at looking at different solutions." (Chambers & Partners 2016)

- "Incredibly clever, one of those people that just has a very impressive mind. He is also very unstuffy and very likeable." (Chambers & Partners 2016)
- "Noted for his expertise in the areas of European and competition law. He continues to impress with his involvement in high-profile cases acting on behalf of household-name brand clients." (Chambers & Partners 2016)
- "Knowledgeable, pragmatic and approachable" (Legal 500 2015)
- "Diligent, professional and responsive - nothing is too much trouble for him." (Chambers & Partners 2015)
- "Intelligent, incisive and easy to get on with." (The Legal 500 2014)
- "Valued for his ability to utilise his specialist expertise in both competition and commercial law. He is praised for his skills at cross-examination, and is particularly good with business witnesses. Has recent experience in state aid work. Expertise: "His written work is fantastic, as is the way he interacts with clients." "He has an unbelievable work ethic." (Chambers & Partners 2014)
- "Has a strong background in European law and is praised for his outstanding knowledge of the field and for his recall of leading cases. He has a range of experience in the area, having appeared before both the Court of Justice and the General Court, and is particularly good on state aid matters and constitutional questions. Expertise: "He knows EU law backwards and his judgement is superb." "He's patient and measured." (Chambers & Partners 2014)
- David Scannell is recognised in The Legal 500 2013 and 2014 as a Leading Junior in EU and competition law.
- ""an excellent emerging talent." He focuses on commercial, competition and EU law, and is praised for his ability to synthesise a large amount of detail in a short amount of time. Scannell was one of the barristers acting for BSkyB in its pay-TV appeal before the CAT. He also represented Gatwick Airport with Mark Hoskins KC in a case against Ryanair." (Chambers & Partners 2013)