

PINAR BAGCI

Principal

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Dr. Bagci has over 20 years of experience advising on the economics of competition, regulation, and damages assessment. She has provided economic analysis for clients throughout in-depth competition and regulatory investigations, commercial litigation, and international arbitrations.

Dr. Bagci has advised Europe's leading financial institutions and companies throughout merger, cartel, dominance, State Aid, and market investigations by the European Commission and the UK CMA. She has particular experience with abuse of dominance, exclusionary conduct, and alleged foreclosure strategies, including testimony at trial. Dr. Bagci has submitted expert economic analysis and testimony before regulatory authorities and in international arbitration and litigation proceedings brought before European courts, the European Court of Justice, the London Court for International Arbitration (LCIA), the Permanent Court of Arbitration (PCA), and the Stockholm Chamber of Commerce.

In litigation matters, Dr. Bagci has prepared expert testimony in relation to liability and the estimation of damages for unilateral and coordinated conduct in a number of industries, including the financial, energy, industrial products, consumer electronics, and mining sectors. Several of these industries and matters involve multi-sided digital platform markets. Dr. Bagci is currently retained as a testifying expert in connection with several private damages actions and class action claims arising from antitrust infringements filed in the UK High Court and the UK Competition Appeals Tribunal.

AREAS OF EXPERTISE

- Competition
- Litigation
- International Arbitration
- Damages Assessments

EDUCATION

- PhD Economics, University of Cambridge UK (1997)
- MPhil Economics, University of Cambridge UK (1994)
- MBA, Victoria University of Wellington, New Zealand (1991)
- BA, Victoria University of Wellington, New Zealand (1986)

EXPERIENCE IN COMPETITION LITIGATION AND ARBITRATION

- **HIGH COURT OF ENGLAND AND WALES: FOLLOW-ON CARTEL DAMAGES CLAIM: (2019 -):** Retained by a global investment bank to provide expert economic testimony in a claim for damages brought by institutional investors in the High Court of England and Wales (Commercial Division). The claim follows on from an EC investigation finding that a group of investment banks had participated in a cartel to manipulate foreign exchange benchmarks.
- **UK COMPETITION APPEALS TRIBUNAL: CARTEL DAMAGES CLASS ACTION (2019 -):** Retained by a global investment bank to provide expert testimony in a class action claim brought in the UK Competition Appeals Tribunal, concerning the alleged manipulation of bid-ask spreads and benchmarks in global foreign exchange markets.
- **UK COMPETITION APPEALS TRIBUNAL: INTERCHANGE FEE LITIGATION (2020-21):** Advising in connection with the estimation of damages in potential claims brought by merchants and consumers against payment card providers.
- **US ANTITRUST DAMAGES CLAIM IN CAUSTIC SODA MARKET (2021):** Retained to provide expert testimony in relation to alleged collusion in an antitrust lawsuit against US manufacturers of caustic soda.
- **PERMANENT COURT OF ARBITRATION: INVESTOR-STATE ARBITRATION (2018-2020):** Provided expert witness reports and oral testimony regarding damages to international investors arising from changes in the regulatory regime concerning support for renewables investment in Poland. The case was heard before the Permanent Court of Arbitration (PCA) in the Hague.
- **LONDON COURT OF INTERNATIONAL ARBITRATION: EXCLUSIONARY CONDUCT (2018):** Provided expert witness reports and oral testimony on market definition, vertical restraints, foreclosure and raising rivals' costs in an international commercial arbitration brought by a large distributor of consumer electronics against a leading digital platform and consumer electronics manufacturer in the London Court for International Arbitration (LCIA). The case concerned vertical restraints, discriminatory pricing and alleged anticompetitive foreclosure.
- **SWEDISH CHAMBER OF COMMERCE: INTERNATIONAL ARBITRATION OF ANTICOMPETITIVE EFFECTS OF LONG-TERM CONTRACTS (2015-2017):** Submitted economic analysis and expert testimony regarding competitive effects of long-term contracts in one of the largest gas contract arbitrations in the world. This entailed analysis of contract terms and prices for gas supply and transit; analysis of dominance and related abuses including vertical restraints, market segmentation, discriminatory and excessive pricing and foreclosure.
- **EUROPEAN COURT OF JUSTICE: APPEAL TO EUROPEAN COURT OF JUSTICE REGARDING TPA TERMS (2018):** Provided economic analysis of competitive effects and expert witness testimony on behalf of

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a large European gas transporter to appeal an EC decision modifying terms of third party access to the OPAL gas pipeline.

- **SPANISH LITIGATION CONCERNING ALLEGED MANIPULATION OF EURIBOR (2017):** Prepared economic analysis and expert witness testimony on behalf of a global investment bank as part of legal proceedings in the Spanish Court of First Instance regarding interest rate swaps linked to EURIBOR.
- **UK COMMERCIAL COURT: ALLEGED MANIPULATION OF LIBOR (2014):** Submitted expert testimony in the UK Commercial Court in relation to the assessment of competitive effects and damages arising from the alleged manipulation of the LIBOR benchmark. The claimant alleged that the bank manipulated the benchmark Libor rate in order to increase payments to the bank from the Libor-linked loan and swap arrangements sold to the claimant. The investigation involved detailed economic analysis of the causes of movements in the Libor benchmark, and the relationship between Libor and key macroeconomic variables over the period of the loan and swap arrangements and the key re-set dates.
- **ELECTRICITY PRICE ARBITRATION GREECE (2013):** Advised Aluminium of Greece (AoG) in connection with electricity prices charged by the state-owned generator PPC, in Greece. AoG claimed that the electricity price charged by PPC was significantly above the cost of supplying AoG and significantly higher than the cost of electricity from independent power producers (IPPs) and higher than the costs of AoG self-supply electricity. Dr Bagci led a team which analysed the electricity market in Greece and modeled the cost of AoG constructing a lignite-fired power station for self-supply. Our report was influential in AoG persuading the arbitration panel that the price of electricity purchased from PPC should be equal to the alternative of AoG constructing its own lignite fired plant for self-supply.
- **ELECTRICITY SECTOR ARBITRATION IN TURKEY (2011):** Assisted the Government of Turkey in quantifying and assessing damages in an international arbitration arising from the cancellation of private investor license agreements in the Turkish electricity power sector.
- **INTERNATIONAL ARBITRATION IN THE MINING SECTOR (2011):** Assisted an Australian mining company in connection with an arbitration regarding the terms for price escalation in a coal mining services contract in Indonesia.

EXPERIENCE IN ANTITRUST, MERGER, AND REGULATORY INVESTIGATIONS

- **NZ ELECTRICITY AUTHORITY: INVESTIGATION OF ALLEGED MARKET MANIPULATION (2020-2021)**
Advising New Zealand's largest electricity generator, Meridian, in connection with the investigation of a so-called undesirable trading situation in the NZ electricity market.
- **CMA: UK COMPETITION COMPLAINT CONCERNING ANTICOMPETITIVE FORECLOSURE (2019):**
Retained by a financial technology company to support a complaint to the UK Competition and

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Markets Authority (CMA) concerning anticompetitive conduct in the markets for payment cards and electronic wallets.

- UK PAYMENT SYSTEMS REGULATOR (2020-21): Advised a retail bank in connection with the PSR's investigation of competition in the market for acquiring credit and debit card payments.
- EC: INVESTIGATION OF ALLEGED COLLUSION (2017-2019): Provided economic analysis to a global investment bank in connection with the estimation of fines and analysis of competitive effects in an EC investigation of alleged collusion by investment banks to manipulate foreign exchange benchmarks during 2008-2012.
- CMA: UK COMPETITION AND MARKETS AUTHORITY INVESTIGATION OF COMPETITION IN ELECTRICITY AND GAS MARKETS (2014-2016): Advised EDF Energy throughout a UK Competition and Markets Authority (CMA) investigation of competition in GB energy markets. Worked in partnership with the client's legal counsel and senior executives in responding to the CMA review. This included assessments of: dominance; unilateral and coordinated conduct; wholesale market liquidity and efficiency; companies' pricing strategies; wholesale and customer foreclosure; analysis of consumer switching behavior and gains from switching; responding to the CMA's assessments of cost efficiency benchmarking; evaluating the effects of a proposed retail price cap; and reviewing profitability in generation and supply.
- CMA: UK COMPETITION AND MARKETS AUTHORITY INVESTIGATION OF COMPETITION IN RETAIL BANKING MARKETS (2014-2016): Advised one of the UK's largest retail banks in connection with a market investigation of the effectiveness of competition in current accounts and other retail banking products, including overdrafts. This included assessments of: market concentration; companies' pricing strategies; analysis of consumer switching behavior and gains from switching.
- FCA: UK FINANCIAL CONDUCT AUTHORITY (FCA) REVIEW OF RETAIL BANKING MARKETS AND HIGH COST CREDIT (2017-19): Assisting a UK retail bank in its response to the competitive effects of the FCA's proposed changes to the pricing of current accounts and overdrafts under its wide ranging Strategic Review of retail banking business model and high cost credit.
- CMA: UK COMPETITION AND MARKETS AUTHORITY INVESTIGATION OF COMPETITION IN RETAIL BANKING MARKETS (2015-2016): Advised one of the UK's leading retail banks in a CMA investigation of competition in retail banking markets. This entailed analysis of pricing, quality, switching, investment and innovation and an evaluation of the relationship between concentration and competition. Prepared economic analysis and expert reports and represented the client in oral hearings before the CMA.
- EC: CARTEL INVESTIGATION (2013-2014): Advised a global investment bank in responding to an EC investigation of the allegation that investment banks colluded to prevent the entry of exchanges in the market for credit default swaps (CDS). The work entailed detailed economic and statistical analysis to evaluate liquidity in the market for over-the-counter CDS trading. Examined the

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preparedness of exchanges to enter the market and carried out analysis of whether there would be a loss in efficiency for market participants to move from OTC to exchange-based trading

- **EC STATE AID INVESTIGATION OF PRICES IN LONG-TERM ELECTRICITY CONTRACTS (2012-2014):** Advised Alro, a European aluminium producer, in connection with State Aid Proceedings initiated by the European Commission against the Government of Romania. The Commission claimed that the state owned electricity company, Hidroelectrica, was providing electricity to Alro at a preferential tariff. The Commission deemed that such preferential treatment was tantamount to an anticompetitive subsidy, or state aid. The assignment entailed modeling wholesale electricity prices in Romania, building a financial model to estimate the value of the long-term contracts between Alro and Hidroelectrica, and assessing risks to investors of alternative contractual arrangements.
- **EC: EUROPEAN SPECIALISED OIL/CHEMICALS MERGER (2011-2013):** Provided economic analysis to support Nynas, a European naphthenic oil producer, in its proposed acquisition of an oil refinery owned by Shell. Conducted geographic and product market definition; analysed competitive and pricing effects; provided analysis of capacity and transaction related efficiencies.
- **SPECIAL ADVISER TO UK PARLIAMENT TREASURY SELECT COMMITTEE (2010-2012):** In the aftermath of the financial crisis, the UK Government instructed the UK Parliament Treasury Select Committee to analyze issues related to competition in retail banking. Dr Bagci advised the Select Committee on an economic framework for assessing the impact of the financial crisis on competition and choice in both retail and wholesale banking markets, with a view to assessing: the effect of widespread consolidation among banks; barriers to entry, including regulation; the role of consumers in evaluating options and switching; the relationship between competition and financial stability; and the competitive effects of “free” banking.
- **PROPOSED GLOBAL ENERGY MERGER (2011):** Assisted Mexican oil company PEMEX in connection with an assessment of competition issues, and potential conflicts of interest, arising from its increased joint shareholding with Sacyr of Spanish oil company Repsol.
- **ENERGY MARKET REGULATION AUSTRALIA (2012):** Prepared a report for the Australian Energy Market Regulator (AEMC) on regulation of electricity and gas transmission and distribution businesses.
- **EC INVESTIGATION OF ALLEGED PRICE FIXING IN PAYMENT CARD INTERCHANGE FEES (2010-2013):** Advised Visa Europe in connection with an investigation into the determination of the multilateral interchange fee for credit and debit card payments in Europe. The analysis involved design and implementation of consumer and merchant surveys of the cost of cash and card transactions throughout the EU; analysis of the benefits of cards for consumers and merchants; and economic analysis of consumers’ response to credit card surcharges. The analysis was used to estimate an efficient level of card interchange fees and evaluation of the effects on consumer behavior of the introduction of payment card surcharges.

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- EC CARTEL INVESTIGATION (2008): Provided economic analysis in the case brought by the EC against Guardian Glass and other manufacturers of flat glass in the EU.
- TELECOMS MARGIN SQUEEZE (2008): Assisted eircom, the incumbent telecommunications company in Ireland, in a margin squeeze assessment carried out by ComReg, the telecommunications regulator.
- TELECOMS REGULATED THIRD PARTY ACCESS (2008): Advised PCCW, the incumbent telecoms operator in Hong Kong in connection with various litigation cases concerning the terms of negotiated third party access.
- EC ANTITRUST INVESTIGATION OF MICROSOFT (2007): Assisted the Trustee appointed by the European Commission to ensure that Microsoft complied with the regulatory remedies required under the case brought by the EC against Microsoft.
- OFFICE OF FAIR TRADING TEST CASE CONCERNING UNAUTHORIZED OVERDRAFT FEES (2007-2008): Provided economic support to the legal counsel of HBOS, now part of Lloyds Banking Group, in a test case brought by the UK Office of Fair Trading in the High Court on unauthorized overdraft charges. Entailed analysis of costs and prices of different retail banking products, examining both transaction and fee based charges to determine the extent to which prices were cost reflective and/or cross-subsidized between the different product categories.
- EC INVESTIGATION OF INTERCHANGE FEES FOR EU DIRECT DEBIT (2005-2009): Assisted the European Payments Council, an association of over 800 European banks and financial institutions, in an EC investigation of proposed interchange fees for a pan European direct debit payment scheme. Lead economic analysis to evaluate an efficient level of interchange for the scheme. This entailed estimating the costs and benefits of direct debit payments for corporates and consumers and evaluating banks' costs of interchange to determine the most efficient method of cost recovery.
- EC: EU ENERGY MERGER E.ON/MOL (2005-2006): Assisted MOL, the Hungarian gas company, throughout the in-depth investigation by the European Commission of its merger with E.ON Ruhrgas. The merger was cleared with gas release and regulatory remedies.
- EC: EU ENERGY MERGER DONG/ELSAM (E2) (2006): Advised in connection with the merger between gas company Dong and electricity company Elsam E2 in Denmark. The merger was assessed by the European Commission.
- UK COMPETITION COMMISSION: MERGER IN UK BROADCASTING SECTOR (2007-2008): Provided economic support to Macquarie Bank and Arqiva, the owner of the UK's television transmission network in an in-depth investigation by the UK Competition Commission of Arqiva's merger with National Grid Wireless.
- EU RETAIL BANK MERGER (2006-2007): Advised BCP, one of the largest retail banks in Europe, in connection with an in-depth investigation carried out by the Portuguese competition authority of a proposed merger with BPI, one of its smaller rivals. Economic analysis entailed evaluating the effect

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of the proposed merger on the price and quantity of different banking products in the retail and small business banking sectors. Also investigated the role of other competitors to determine the extent to which they might, or otherwise, constrain the ability of the merged entity to raise prices and/or restrict output.

- **COST OF CROSS-BORDER CREDIT TRANSFERS (2005-2006):** Led a study for the European Commission (DG Markets) on the competitive effects of implementing a price cap on cross-border payments. The study culminated in a report, published by the EC, which examined the market for cross-border transfers and estimated the impact on price and availability of a proposed price cap on the price of cross-border credit transfers.
- **EC: COMPETITION IN SECURITIES CLEARING AND SETTLEMENT (2006):** Assisted Euroclear in its response to a European Commission assessment of competition in the market for securities clearing and settlement in Europe. The analysis examined the benefits of alternative market structures for promoting competition and efficiency in clearing and settlement. In particular the analysis compared competition for the market – where one independent clearing house would provide a single clearing organization for the whole market versus competition in the market which would promote competition between different clearing houses.
- **COMPETITION AND REGULATION IN EU ENERGY MARKETS (2005-2010):** Advised Bord Gais, a European energy company, on all aspects of regulation and competition in European energy markets including market design, business separation, network access regulation and wholesale and retail market competition in EU gas and electricity markets.
- **MARGIN SQUEEZE ASSESSMENT (2007-2008):** Advised IEG, an electricity and gas lines business in Europe, in connection with the determination of margin squeeze arising from UK distribution network operators' third party access charges.
- **NZ ELECTRICITY MARKET REGULATION (2007-2008):** Advised Powerco, owned by Babcock and Brown International, on input methodologies concerning the regulation of electricity distribution businesses.
- **NZ GAS LINES REGULATION METHODOLOGY (2008):** Provided economic analysis on regulatory and competition matters in Powerco's dispute with the NZ Commerce Commission regarding the methodology for regulating gas distribution infrastructure.
- **CER: COMPETITION IN ELECTRICITY MARKETS (2006):** Advised Viridian, a UK electricity company, on the Commission for Energy Regulation's (CER's) proposed measures to mitigate market power in the Single Electricity Market in Ireland. This included advice on the design, allocation and pricing of directed contracts for differences.
- **REGULATION OF ELECTRICITY AND GAS MARKETS (1999-2004).** Led several multidisciplinary assignments for the Commission for Energy Regulation (CER) in Ireland, including:
 - advising on market structure and the promotion of wholesale and retail competition;

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- advice on the regulatory arrangements and price setting in the electricity and gas sectors;
- developing rules for trading and settlement of electricity and gas.
- FINANCIAL REGULATION (UK FSA 1999-2006). Led several studies for the UK Financial Services Authority including:
 - econometric study on the impact of rules for front-running and analyst bias using daily trading data on FTSE 250, mid cap and small cap companies;
 - cost-benefit analyses for the Financial Services Authority on proposed conduct of business regulation of general insurance and mortgage regulations.

SELECTED PUBLICATIONS

- “THE UK HIGH COURT REJECTS METHODOLOGY FOR ESTIMATING OVERCHARGES ON CABLES BASED ON ECONOMIC EVIDENCE (BRITNED/ABB): *Antitrust Bulletin, CONCURRENCES*, October 2019
- “THE USE AND INTERPRETATION OF ECONOMIC EVIDENCE IN THE ABB-BRITNED CASE”, 23rd Annual Competition Conference, International Bar Association, Florence, September 2019
- “RECENT DEVELOPMENTS IN THE ASSESSMENT OF TELECOM MERGERS IN THE EUROPEAN UNION”, co-authored with Lucrezio Figurelli and Pedro L. Marin, *Competition Law Journal*, Volume 17, Issue 1, September 2018. (Shortlisted for the 2019 Concurrences Antitrust Writing Awards)
- “MARKET INVESTIGATIONS: UK OVERVIEW”: UK CHAPTER OF GLOBAL COMPETITION REVIEW HANDBOOK, 2017
- “INACTIVE CUSTOMERS AND UNILATERAL MARKET POWER: THE CMA’S ENERGY MARKET INVESTIGATION”, *Critical Thinking*, co-authored with Dr Serena Hesmondhalgh, The Brattle Group, July 2016
- “JUST PASSING THROUGH? CARTEL DAMAGES UNDER THE NEW EU DIRECTIVE” Co-authored with Dr Andrew E. Abernethy, *Corporate Disputes*, April-June 2015
- “BANKING MERGERS IN A SYSTEMIC FINANCIAL CRISIS” Co-authored with Paul Muysert, *The Handbook of Competition Economics Global Competition Review*, 2010
- “EVALUATING THE COMPETITIVE HARM OF INFORMATION EXCHANGE UNDER EC LAW,” *CEG Note* May 2009
- “CARTEL DAMAGE OVERCHARGE: HOW ECONOMICS CAN PROVIDE RULES OF THUMB ON WHO BEARS THE OVERCHARGE”, *Casenote* co-authored with Cento Veljanovski, *Case Associates*, September 2008
- “MARKET POWER IN ELECTRICITY MERGERS: THE PROS AND CONS OF THE PIVOTAL SUPPLY INDEX”, *Casenote*, *Case Associates*, September 2007

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- “UNBUNDLING ENERGY NETWORKS: THE CHILL WINDS OF THE EUROPEAN COMMISSION’S REGULATORY PROPOSALS”, Casenote, Case Associates, February 2007.
- “CURBING MARKET POWER IN ELECTRICITY MARKETS: ARE REGULATED CONTRACTS THE SOLUTION?” Utilities Law Review 15, 2006
- “THE IMPACT OF THE FSA’S FINAL POLICY MEASURES FOR MANAGING CONFLICTS OF INTEREST”, June 2005. Co-authored with Stephen Powell et al
- THE FSA’S METHODOLOGY FOR COST BENEFIT ANALYSIS: A Report for the UK Financial Services Authority, co-authored with Mary Starks and Jon Stern, November 2004
- ESTIMATING THE ECONOMIC COSTS AND BENEFITS OF ECGD, January 2003. Co-authored with Stephen Powell, James Grayburn. Vakhtang Kvekvetsia and Professor Anthony Venables (London School of Economics)

SELECTED CONFERENCE AND SEMINAR PRESENTATIONS

- “GLOBAL CLASS ACTIONS”: MERRICKS V MASTERCARD IN THE UK CAT: Presentation at the Concurrences Global Economics Antitrust Conference with NYU Stern, New York, December 2020
- “UK CLASS ACTIONS”: Private Enforcement of Competition Law, Informa, Brussels, March 2020.
- “DOMINANCE AND EXCLUSIONARY CONDUCT IN MULTI-SIDED MARKETS”: Chaired economics panel at GCR Live 2019: Competition Litigation, London, November 2019.
- “UNILATERAL CONDUCT IN DIGITAL MARKETS: MOVING TOWARDS EFFECTS BASED ANALYSIS”, Presentation at the Annual King’s College EU Competition Law Conference, Brussels, May 2019.
- “ECONOMICS OF MARKET DEFINITION”, Annual Seminar to post-graduate students at the School of Law, Queen Mary College, University of London, 2017 and 2018.
- “IT’S REBATABLE: PRICING ABUSES UNDER ARTICLE 102 AFTER INTEL”, GCR Live, Brussels, June 2018
- “FIDELITY REBATES AND EXCLUSIVITY CLAUSES AFTER INTEL”, workshop on “Antitrust Enforcement in Europe after Intel and Cartes Bancaires. A Kind of Trouble to Enjoy”, Florence Competition Programme, European University Institute, April 2018.
- “ABUSE OF DOMINANCE CASES: A NEW HORIZON” CDR Spring Competition Litigation Symposium, London, February 2018
- “EXPERT EVIDENCE IN MULTINATIONAL CLASS ACTION PROCEEDINGS” CDR Spring Competition Litigation Symposium, London, February 2017
- “CONTRACTS AND ANTITRUST IN THE ENERGY SECTOR”, Presentation to Conference on Commercial Strategies to Manage Antitrust and Regulatory Risks in the energy sector, Munich, January 2012

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- “COST OF INTERCHANGE”, Presentation to Card Association Conference (CAC), Iceland, June 2011.
- “BEHAVIOURAL ECONOMICS AND COMPETITION POLICY”, Presentation at roundtable discussion hosted by Global Competition Review, March 2009, London.
- “AN OPTIMAL COMPETITION POLICY FOR NETWORK INDUSTRIES: THE NETWORK ACCESS PROBLEM”: Which Competition Policy for Regulated Industries: Governance and Sector Specific Perspectives, Institute for Competition Law and Policy Studies Athens, University College London and Istanbul Bilgi University, Istanbul 5-6 September 2008.
- “MAKING ECONOMIC REGULATION MORE EFFECTIVE: THE CASE OF NZ ELECTRICITY NETWORKS,” Public Lecture Hosted by the NZ Institute for Competition and Regulation, Wellington, July 2007.
“COMPETITION BETWEEN EXCHANGES: ANALYSIS OF MARKET TRENDS AND REGULATORY DEVELOPMENTS”, Presentation to conference on Exchanges Regulation and Strategy, London January 2007.