

Dr Peter Whelan

LLB (Ling Fran), LLM (Hons), PG Cert, PhD (Cantab), Attorney-at-Law (New York)

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Current Position

Dr Peter Whelan is an Associate Professor in Law at the University of Leeds, where he is the Deputy Director of the Centre for Criminal Justice Studies. He is an Associate Member of the Centre for Competition Policy.

Education

Peter holds both a Degree in Law and French and a Master of Laws from Trinity College Dublin. During his primary degree, and under the Erasmus programme, he spent a university year studying French law at the Université de Poitiers, France. Peter came first overall in his class in his Senior Freshman year at Trinity. Peter also holds a PhD in Law from St John's College, University of Cambridge. Peter is a US Attorney-at-Law and is a registered member of the New York State Bar.

Previous Employment

Prior to taking up his position at the School of Law, University of Leeds Peter was a Senior Lecturer in Law at UEA Law School, University of East Anglia, where he was a Faculty Member of the ESRC Centre for Competition Policy (CCP). For a number of years, he was also the Research Fellow in Competition Law at the Competition Law Forum of the British Institute of International and Comparative Law (BIICL) in London. In addition to conducting competition law research for BIICL, he also provided training in EU competition law to various consumer organisations across 14 EU Member States. Peter was also a Research Assistant (to Professor Sciarra) at the University of Cambridge and was the Managing Editor of the *Cambridge Student Law Review*.

Research

Peter's research focuses on competition law issues. In particular, he has researched cartels, competition enforcement mechanisms, the objectives of competition law, legal regulation of distribution systems, the rights of the defence, international cooperation, and antitrust criminalisation.

In August 2014, Peter published a monograph with Oxford University Press analysing the theoretical, legal and practical challenges of European cartel criminalisation.

Peter has published widely in specialist competition law journals as well as in generalist law journals (including *Oxford Journal of Legal Studies*, *Modern Law Review* and *Cambridge Law Journal*). In 2014, he was shortlisted by the Institute of Competition Law for an Antitrust Writing Award. In 2009, Peter won the ‘Reddy Charlton McKnight Prize for Legal Scholarship’, which was awarded by the *Trinity College Law Review*. Peter’s work on antitrust criminalisation has also received judicial endorsement: his published research was quoted with approval by Mr Justice McKechnie in the Central Criminal Court (High Court) in Dublin in the leading Irish criminal cartel case of *DPP v. Duffy and Duffy Motors (Newbridge) Ltd* [2009] IEHC 208.

To date, Peter's competition law research has been cited in almost 300 publications. It has been relied upon by the Australian Senate, the Swiss Competition Commission (in an antitrust decision), the Finnish delegation to the Competition Committee of the OECD, the International Competition Network, the (then) Chairman of the UK Competition Commission, the Australian Competition and Consumer Commission, legal counsel at the Competition Commission of South Africa, the Research Office of the Danish Ministry of Justice, and researchers in the Ministry of Economic Development in New Zealand.

Wider Engagement

In November 2012, Peter presented oral evidence to the Commerce Committee of the New Zealand Parliament on Clause 18 of their Commerce (Cartels and Other Matters) Amendment Bill. In November 2013, he was appointed as an ‘International Expert’ by the Finnish Competition and Consumer Authority to advise it on the desirability of introducing criminal cartel sanctions in Finland. He presented his final report to the Finnish Ministry of Employment and the Economy in May 2014. In Bucharest in October 2014, Peter provided training in competition law to a variety of judges from different levels of the Romanian judicial system. Peter is currently a Non-Governmental Advisor to the International Competition Network.

Presentations

Peter regularly presents his research at home and abroad. For example, he has delivered guest lectures at the University of Oxford, University of Cambridge, University College London, Queen's University Belfast, Strathclyde University, City University, NALSAR (Hyderabad), Christ University (Bangalore) and National Law School of India University. He has presented papers at a number of prestigious conferences, including in Japan, China, Spain, Norway, Finland, France, Romania, Holland, Hungary, South Africa, and at the Competition Appeal Tribunal in London.

Editorial Work

Peter is the Managing Editor of *Oxford Competition Law*, an innovative national competition law case-reporting service operated by Oxford University Press. Peter is also a member of five Editorial Boards: *World Competition – Law and Economics Review*; *Journal of Antitrust Enforcement*; *New Journal of European Criminal Law*; *Romanian Competition Journal*; and *Journal of Financial Crime*. Peter has reviewed articles for *Modern Law Review*, *European*

Competition Law Review, European Competition Journal, European Law Review, Oxford University Commonwealth Law Journal, Irish Journal of European Law, Journal of Competition Law and Economics, Regulation and Governance, and Melbourne Journal of International Law. He is also a peer-reviewer of (law) book proposals for Oxford University Press, Cambridge University Press, Routledge, and Pearson UK.

Other Achievements

In the Spring of 2013, Peter was a visiting Professor at the Institute of International Trade and Law in Moscow, Russia.

Peter is a Member of the Academic Society for Competition Law. He also sits on the Council of the Society of Legal Scholars.

He is an Associate Member of the Centre for Competition Policy. He is also a peer-reviewer of grant applications under the Newton Fund of the British Council.

Publications

Books (Monographs)

- *The Criminalisation of European Cartel Enforcement: Theoretical, Legal and Practical Challenges* (Oxford University Press: Oxford, 2014)

Books (Edited Collections)

- *The Consistent Application of EU Competition Law - Substantive and Procedural Challenges*, Almășan and Whelan (eds), (Springer, 2017, forthcoming)
- *Current Competition Law V*, Marsden, Hutchings and Whelan (eds), (London: BIICL, 2007)

Chapters

- 'European Cartel Criminalisation and Regulation 1/2003: Avoiding Potential Problems', Chapter 6, *The Consistent Application of EU Competition Law - Substantive and Procedural Challenges*, Almășan and Whelan (eds), (Springer, 2017, forthcoming)
- 'Competition Law and Criminal Justice', Chapter, *The Intersections of Antitrust*, Galloway (ed.), (Oxford University Press, 2017, forthcoming)
- 'Criminal Antitrust Enforcement and Procedural Fairness: A Critical Analysis', Chapter in *The Procedural Aspects of the Application of Competition Law*, Nagi (ed.), (Europa Law Publishing, 2016)
- 'Criminal Cartel Enforcement in the European Union: Avoiding a Human Rights Trade-Off', Chapter 10, *Criminalising Cartels: Critical Studies of an International Regulatory Movement*, Beaton-Wells & Ezrachi (eds), (Hart Publishing: Oxford, 2011)

- 'Protecting Human Rights in the Context of European Antitrust Criminalisation', Chapter 9, *The Reform of EC Competition Law: Towards an Optimal Enforcement System*, Lianos & Kokorris (eds), (Kluwer International: Amsterdam, 2010)
- 'The "Consumer Welfare" Standard as a Form of Substantive Protection for Consumers under European Competition Law', Chapter 16, *Own Labels, Branded Goods and Competition Policy: The Changing Landscape of Retail Competition*, Bernitz & Ezrachi (eds), (Oxford University Press: Oxford, 2009), with P Marsden

Articles (Sole Author)

- 'Beyond the Theoretical: Articulating Enforcement Strategies for Successful European Antitrust Criminalization' (2017) 82 *Antitrust Law Journal*, forthcoming
- 'Section 47 of the Enterprise and Regulatory Reform Act 2013: A Flawed Reform of the UK Cartel Offence' (2015) 78(3) *Modern Law Review* 493
- 'Cartel Criminalization and the Challenge of Moral Wrongfulness' (2013) 33(3) *Oxford Journal of Legal Studies* 33(3)
- 'Cartel Criminalisation and Due Process: The Challenge of Imposing Criminal Sanctions Alongside Administrative Sanctions within the EU' (2013) 64(2) *Northern Ireland Legal Quarterly* 143
- 'Strengthening Competition Law Enforcement in Ireland: The Competition (Amendment) Act 2012' (2013) 4(2) *Journal of European Competition Law and Practice* 175
- 'The CISAC Judgment: How Difficult It Is To Prove a Concerted Practice' (2013) 4(6) *Journal of European Competition Law and Practice* 486
- 'Legal Certainty and Cartel Criminalisation within the EU Member States' (2012) 71(3) *Cambridge Law Journal* 677
- 'Improving Criminal Cartel Enforcement in the UK: The Case for the Adoption of BIS's "Option 4"' (2012) 8(3) *European Competition Journal* 589
- 'An Argument in Favour of the Passing-On Defence: A Response to *Private Actions in Competition Law: A Consultation on Options for Reform*' [2012] *Competition Law Journal* 211
- 'Trading Negotiations between Retailers and Suppliers: A Fertile Ground for Anti-Competitive Horizontal Information Exchange?' (2009) 5(3) *European Competition Journal* 823
- 'Morality and Its Restraining Influence on European Antitrust Criminalisation' (2009) 12 *Trinity College Law Review* 40
- 'Contemplating the Future: Personal Criminal Sanctions for Infringements of EC Competition Law' (2008) 19(2) *King's Law Journal* 364
- 'A Principled Argument for Personal Criminal Sanctions as Punishment under EC Cartel Law' (2007) 4(1) *Competition Law Review* 7
- 'The Role of Third Parties in the Competition Enforcement Landscape: A Critical Review' [2007] *Competition Law Journal* 41

Articles (Co-Author)

- ‘Selective Distribution in the Age of Online Retail’ (2010) 31(1) *European Competition Law Review* 36, with P Marsden
- ‘Re-Examining Trans-Atlantic Divergences in Substantive and Procedural Competition Law’ (2009) 10 *Sedona Conference Journal* 23, with P Marsden
- ‘Intervention and the Internal Market: Contemporary European Competition Initiatives Concerning Distribution in the Market for New Cars’ (2008) 4(2) *European Competition Journal* 485, with P Marsden
- ‘“Consumer Detriment” and its Application in EC and UK Competition Law’ (2006) 27(10) *European Competition Law Review* 569, with P Marsden
- ‘Consumer Interest in Competition Law Cases’ (2006) 16(5) *Consumer Policy Review* 180, with M Hutchings OBE

Case Notes

- ‘Resisting the Long Arm of Criminal Antitrust Laws: *Norris v. US*’ (2009) 72(2) *Modern Law Review* 272
- ‘The *Degussa Case*’ (2008) 7(8) *Competition Law Insight* 13
- ‘Private Enforcement and Commission Decisions: The *Crehan Case*’ (2007) 3 *Cambridge Student Law Review* 108

Legal Features

- ‘Article 7 ECHR and the Cartel Offence’ (Summer 2012) 23 *CCP Research Bulletin* 2
- ‘Foreword to Special Edition: Criminal Sanctions - An Overview of EU and National Case Law’, January 2012, e-Competitions, No.41902
- ‘Something of a Burden: Is the Passing-On Defence Appropriate?’ (2008) 7(9) *Competition Law Insight* 5
- ‘When Markets are Failing: Part II’ (2007) 6(2) *Competition Law Insight* 6, with P Marsden
- ‘When Markets are Failing: Part I’ (2007) 6(1) *Competition Law Insight* 6, with P Marsden
- ‘Competition Law Feature: Recent Developments Concerning the Rights of Complainants and Third Parties under both UK and EC Competition Law’ [2006] 14 *Bulletin of Legal Developments* 157

Book Reviews

- ‘Book Review: *Sanctions in EU Competition Law* (Frese)’ (2015) 11(3) *European Competition Journal* 637
- ‘Book Review: *EU Competition Law Handbook* (van der Woude et al)’ (2015) 36(9) *European Competition Law Review* 409
- ‘Book Review: *The Criminal Law of Competition in the UK and in the US* (Furse)’ (2013) 9(2) *European Competition Journal* 497
- ‘Book Review: *Efficiency and Justice in European Antitrust Enforcement* (Wils)’ (2009) 34(1) *European Law Review* 160

- 'Book Review: *What About Law?* (Barnard, O'Sullivan & Virgo, eds)' (2008) 4(2) *Cambridge Student Law Review* 337
- 'Book Review: *The Antitrust Religion* (Rockefeller)' (2008) 4(1) *European Competition Journal* 397
- 'Book Review: *Global Competition Law and Economics* (Elhauge & Geradin, eds)' (2008) 66(1) *Cambridge Law Journal* 211
- 'Book Review: *Butterworths Competition Law Handbook* (Lindrup, ed.)' (2008) 4(1) *Cambridge Student Law Review* 141
- 'Book Review: *Criminalization of Competition Law Enforcement: Economic and Legal Implications for the EU Member States* (Cseres, Schinkel & Vogelaar, eds)' (2006) 2 *European Competition Journal* 451

Academic Papers

- 'The Appropriateness of the Passing-On Defence in Private Competition Law Enforcement', paper presented at the UKAEL Conference: 'Competition and Private Enforcement: The Next Steps', University College London, 4 July 2008
- 'The Concept of Price Discrimination under EC and UK Law', paper presented to the American Bar Association (ABA), Antitrust Teleseminar Series, 27 February 2006, with P Marsden
- 'The Contribution of Bilateral Trade or Competition Agreements to Competition Law Enforcement Cooperation between Canada and Chile' (London: CEPR, 2005), paper presented at the Centre for Economic Policy Research (CEPR) Conference, Brussels and Paris, April and October 2005, with P Marsden
- 'The Contribution of Bilateral Trade or Competition Agreements to Competition Law Enforcement Cooperation between Canada and Costa Rica' (London: CEPR, 2005), paper presented at the Centre for Economic Policy Research (CEPR) Conference, Brussels and Paris, April and October 2005, with P Marsden
- 'The Contribution of Bilateral Trade or Competition Agreements to Competition Law Enforcement Cooperation between the EU and Mexico' (London: CEPR, 2005), paper presented at the Centre for Economic Policy Research (CEPR) Conference, Brussels and Paris, April and October 2005, with P Marsden

Legal Submissions

- 'Submission to the Commerce Committee of the New Zealand Parliament on the Commerce (Cartels and Other Matters) Amendment Bill', 5 September 2012
- 'Response to *Private Actions in Competition Law: A Consultation on Options for Reform*', Submission to the (UK) Department for Business, Innovation and Skills, June 2012
- 'Reforming the UK Cartel Offence: A Response to *A Competition Regime for Growth: A Consultation on Options for Reform*', Submission to the (UK) Department for Business, Innovation and Skills, June 2011
- 'Reform of Regulation 1/2003: Correcting the Current Lack of Effective Communication: The Competition Law Forum's Submission to the European Commission in relation to its

Consultation on Regulation 1/2003', 30 September 2008, with the CLF Working Group
on Regulation 1/2003