



# ECONOMICS, FINANCE & ACCOUNTING TRAINING

FOR THE LEGAL COMMUNITY



EXPERTS WITH IMPACT™

# Our Training Offerings for Dispute Lawyers

FTI Consulting's experts have experience of explaining economics, financial, accountancy and situational concepts to lawyers. We leverage that experience to provide free training seminars and workshops for the legal community on these topics and the appointment of expert witnesses.

Examples are shown below. We are also happy to develop bespoke training around a particular topic on request. Our seminars usually run for 60 to 90 minutes.

## FINANCIAL AND DAMAGE TOPICS

### Introduction to damages

What is the framework for calculating losses? How does the date of assessment affect loss calculations? What is discounted cash flow analysis? This presentation explains the foundations of damages calculations, considering these questions and others, with the objective of giving lawyers the tools to address the quantification of damages effectively.

### Accounting for lawyers

We explain some of the basic accounting concepts that can underpin many damages calculations. We also describe different accounting documents, which can help lawyers prepare disclosure requests, understand what financial documents may be relevant and consider the evidential weight that can be placed on different types of documents.

### The role of the expert in damages analysis

We explain the role of independent experts in damages analysis and the most efficient ways of working with experts. We consider when to instruct an expert, how to work with an expert and the attributes of a good expert. We also describe some red flags to watch for in expert reports. We illustrate a number of the points with "war stories" which help bring this to life.

### Damages workshop

This is a hands-on seminar involving small groups of participants working through a damages calculation. It helps lawyers understand the choices that damages experts need to make, and the evidence that is useful in making those choices.

### Valuation in the context of disputes

Of interest to practitioners who work with cases involving questions of value, we explain key valuation concepts, common valuation methods (including discounted cash flow and relative valuation) and the approaches of arbitral tribunals and courts to assessing value.

### Interest and damages

Interest often receives limited attention in arbitration (and litigation) – even though the amounts at stake can be large, such as in the controversial award for P&ID vs Nigeria. There is also a wide variation in the stated rationale for awarding interest, and in the rate ultimately awarded. This presentation discusses some of the issues around interest on damages, such as its treatment in notable awards and the implications of the discontinuation of LIBOR (a common reference point for interest calculations).

### Damages and taxation

The treatment of tax on losses and on awards, and the treatment of currency, can have a major effect on the value of awards, and yet may not receive much attention. This session identifies and explains the main considerations.

### M&A disputes

We cover different types of M&A-related disputes such as: completion accounts disputes, breaches of reps & warranties, pre-contractual (disclosure) duties, fraud, earn-outs, MACs, and others. We also discuss statistics from our proprietary M&A disputes database to identify the factors that give rise to the dispute: common types of warranty breaches, alternative types of completion mechanisms, as well as red flags for fraud. M&A disputes also give rise to specific damages valuation problems, often different from those in other types of disputes (as the parties have usually already valued the target business – absent a breach – and agreed a price). We also cover lessons learned from our work on M&A disputes, ie how a dispute could have been avoided. This aspect may also be of interest to M&A lawyers.

### Valuation discounts and premiums

Various premiums and discounts applied in valuations can be the subject of material disagreements, in particular those related to the effects of control, liquidity and marketability. This presentation explores some of these issues and explains how valuers identify and apply appropriate premiums and discounts.

### The use of hindsight in damages calculations

The date at which damages are assessed can have a significant effect on the loss quantified. In this presentation we consider the differences between assessments at the date of harm and at the date of hearing, and the consequences for the use of hindsight. We explain some of the practical challenges in applying different dates, and identify some common mistakes made when experts assess losses at either date.

### Discount rates

Discount rates are an important component of the discounted cash flow approach to valuation. This presentation explores the key parameters in the discount rate including beta, the "country risk premium", and the "size premium".

### Quantifying Damages in Uncertain Times

Damages calculations often require experts to apply judgement to hypothetical scenarios: in a lost profits claim the expert must consider what would have happened to the profits of company absent the harm complained of. Similarly, if the measure of loss is the market value of an asset (such as in an expropriation) then the expert must estimate at what price a willing seller and buyer would have agreed to exchange the asset in a hypothetical sale. These questions can be difficult to answer even in stable market conditions, but the challenge is amplified in times of uncertainty. In this presentation, we discuss how the Covid-19 pandemic, war in Ukraine and sanctions against Russia, and the spectre of 'Stagflation' have created significant market volatility and the effect that has on damages calculations.

### Reliance losses and wasted costs

A key issue in many arbitrations is whether a claimant should be awarded the amounts it has invested in a project (its wasted costs) or should instead be awarded a forward-looking measure of its lost profits, often assessed using a DCF. Yet outside of quantum exercises, valuers rarely value businesses by reference to the amounts invested in them. This presentation discusses some of the issues around wasted costs awards: does the cost of an asset reflect its value? Why do tribunals award wasted costs? And how do you assess wasted costs if that is the right approach?

### Valuing early stage companies

Valuing a company with no track record can be challenging given the need to assess its potential future performance and related risks. This presentation considers techniques for examining that uncertainty and producing a reliable valuation.

### Calculating cartel damages

This seminar examines approaches to damages in cases where infringement of competition law has been alleged or established. We review economic theory and methods for assessing price overcharges, pass-on and output effects. The session can be run with or without a case study.

## ADVOCACY TRAINING

### MOCK CROSS-EXAMINATION SESSIONS

We work with law firms to develop practical can workshops in the cross-examination of experts. This involves a mock arbitration with FTI Consulting experts being cross-examined by participants on a case

study. Sessions can be run over a lunchtime, or more frequently are extended over half a day, or across a series of two hour sessions.

## INTELLECTUAL PROPERTY

### Valuation of IP

Intellectual property rights, including patents, brands and copyright are often significant sources of value. In this presentation we introduce the methods used to value intellectual property rights for disputes, commercial transactions, taxation and financial reporting.

### Determination of royalty rates

There are two methods commonly used to determine royalty rates; the comparables approach and the economic benefits approach. The comparables method relies on similar licences or transactions. The economic benefits method assesses the incremental value from the licensee's use of the IP and divides it between the licensee and the licensor. This presentation explains how to determine a royalty using both methods and considers the issues that commonly arise with each one.

### Assessing royalties subject to FRAND obligations

Standard essential patents (SEPs) are licensed on fair, reasonable and Non-Discriminatory (frAND) terms. frAND royalties should both fairly remunerate inventors and ensure all implementers have access to the technology. This presentation covers the methods used to assess frAND royalties, including the 'top down'

apportionment of the aggregate royalty burden, the 'bottom up' evaluation of incremental contribution and the comparables approach. We highlight the issues to consider when valuing SEPs versus non-SEPs and the challenges of valuing a portfolio of SEPs.

### Financial remedies for infringement of IP rights

Remedies for infringement of IP rights under English law may be assessed on the basis of lost profits or based on a reasonable royalty or, as an account of profits. In this presentation we consider each step of a lost profits calculation. We consider the range of methods available to estimate lost sales. We explain the key issues to consider when estimating incremental costs. We discuss the primary approaches available for assessing a reasonable royalty including the comparables approach and the economic benefits approach.

### IP as security

IP assets are often companies' most valuable assets. They may be available to act as collateral for debt finance. In this presentation, we explain the key issues affecting suitability. We consider the characteristics of IP assets that are likely to be appropriate assets to act as security and the issues relevant to valuation of the assets and structuring of the associated debt finance.

## STATISTICS AND ECONOMETRICS

### Context

There is rapid growth in the use of techniques from statistics and econometrics in expert evidence, driven by: (1) organisations accumulating ever larger, more expansive and more complex datasets; and (2) the expectation of courts, tribunals (and often the parties themselves) that this data is put to use in an effective, thorough and proportionate way.

This series of seminars will provide an intuitive understanding of how the most commonly used techniques work, and the circumstances in which they can be deployed – not only for assessing damages, but also factual causation and liability.

### Format

The seminars will be heavy on intuition, light on equations and theory, and instead provide real-life examples and case studies to explain the concepts and their applications.

### Content

#### Connecting cause and effect

How are analytical techniques from economics and statistics used to assess factual causation?

#### A crash course in regression

Ordinary Least Squares (OLS) regression is the most widely-used empirical technique for assessing causation: but how does it actually work?

#### Testing, testing, testing

How is data used to quantify the range of uncertainty around a number, and to test hypotheses?

#### Sample design in disputes

How can statistical samples be used in assessing liability and damages in disputes, and what are the important considerations in designing and analysing these samples?

#### A simple analysis of share prices

How can movements in share prices be used to assess damages, and how can such evidence work alongside other approaches to assessing damages?

# INDUSTRY SESSIONS

We employ a number of experts who have previously worked as equity analysts, in-house or for regulators, focusing on a particular sector. These presentations draw upon that expertise to provide insight into industries that are often the focus of disputes.



## OIL & GAS

### Upstream oil and gas

Over the last few years there have been several high-profile disputes involving upstream oil and gas companies, including the \$50bn arbitration award to YUKoS shareholders. In this presentation we describe the key features of the industry, including business models and cost structures. We explain how such businesses are valued and the factors influencing value.

### Natural gas pricing disputes

The liberalisation of European gas markets, and the development of gas trading “hubs”, has led to an ongoing shift in the way in which gas is priced in European markets, with the process often requiring dispute resolution. This seminar describes the European gas markets and explains the economic issues that commonly arise in gas pricing disputes.



## CLEAN ENERGY

### Industry overview

The Clean Energy sector has grown rapidly and encompasses a number of different renewable technologies including solar, wind and biomass. In this presentation we present an overview of the key renewable technologies, relevant and changing regulation in the sector and an overview of the value chain and key players in the Clean Energy sector.

### Economics of the sector

Returns and margins in the sector have been evolving as business models have changed in this rapidly changing and dynamic sector. We present key ranges

for returns, an understanding of the ‘levelised cost of energy’ concept, margins across the value chain as well as some key parameters for valuing companies in the Clean Energy sector.

### Clean Energy disputes

As the Clean Energy sector has matured and with significant capital now deployed in the sector, disputes are more commonplace. Disputes include those resulting from unexpected/retroactive regulatory changes, investment treaty related actions, warranty disputes, construction disputes, pricing/ supply disputes, IP disputes, and shareholder disputes/ underperformance of assets.



## TECHNOLOGY

The technology industry is subject to rapid change. New business models emerge quickly. Valuations are often volatile and established businesses can be affected by competition from new entrants. In this presentation,

we explain the value chain of the technology industry, current trends, and the key valuation issues when considering businesses in the technology sector.



## LEISURE AND HOTELS

The leisure sector is diverse and comprises hotel owners and operators, gambling companies (retail and online), pub and restaurant owners and operators, tour operators, cruise lines and catering companies. In this presentation we consider the economic models underlying each of these sub-sectors, their

growth drivers and risks, and how investors take these into account when valuing companies in the sector. We comment on current trends and illustrate the presentation by reference to recent disputes. The presentation can be tailored such that it deals with the entire leisure sector or particular sub-sectors.



## CONSUMER GOODS

The consumer goods industry comprises a number of subsectors, including food and beverage and home and personal care. The industry has gone through consolidation in recent years as companies have sought

to expand market share and secure access to growth markets. In this training session we explain how brand strength, market presence, exposure to raw materials costs, and relationships with retailers impact value.



## TELECOMS

In recent years there have been a number of disputes relating to the telecoms sector, particularly in emerging economies. In this presentation we describe key features of the industry, including regulation, business

models and cost structures. We explain how businesses are valued and factors influencing value. We also identify some common mistakes in DCF models of mobile telecoms businesses.

We have specialists in a number of other industries including aviation, healthcare, infrastructure and mining. Please let us know if you would like to arrange training on a particular topic.

**To find out more or to book a seminar contact us on: [ftitraining@fticonsulting.com](mailto:ftitraining@fticonsulting.com)**

# FINANCIAL MARKETS, PRODUCTS AND INVESTMENTS

**We offer a 5 session programme covering a wide range of financial industry topics:** Understanding financial markets requires good knowledge about their function in the economy and the various stakeholders and products being exchanged. This program provides an overview of the spectrum of financial instruments (from traditional products to complex instruments such as derivatives) and their ecosystem.

This course helps develop a practical knowledge and understanding of the concepts underpinning financial markets and financial instruments. We use examples from our experience as advisers, or in the context of disputes, and investigations as expert witnesses.



## MODULE 1 TREASURY MARKETS

### Session 1

This session covers money markets. We give an introduction to market structure and market participants. We look at financial instruments in the cash market: term deposits and loans, the securities market: T-Bills, CPs and CD, and money market derivatives: futures, forwards, caps, floors, IRS, OIS. We discuss our experiences as experts in money market disputes, litigations and investigations (e.g. Libor and Euribor investigations, IRHPs suitability, and US T-bills manipulation, LIFFE futures execution).

### Session 2

This session covers foreign exchange markets – including the cash market. We give an introduction to foreign exchange derivatives: futures, forwards, options, cross currency swaps etc. We discuss issues we have faced in FX disputes, litigation and investigations: 4pm Reuters fix, hedging arrangements, and structured products suitability.

## Audience & Format

The programme is split into five sessions with each session covering a different aspect of the financial markets. Each talk, allowing for Q&A at the end, will typically last 1 hour 15 minutes. The talks are aimed at partners, senior associates and associates.

We can adapt the length and content of the session to the audience's requirements and interest in specific themes. We cover aspects of the associated regulation and regulatory considerations where relevant.



## MODULE 2 CAPITAL MARKETS

### Session 3

This session covers the debt and equity markets. It includes seniority and capital structure. We cover types of equity: private vs. public equity, common vs. preferred shares etc. We also cover types of debt: corporate vs sovereign bonds, floating rate notes, convertible bonds, loans, off-balance sheet financing, covered bonds and contingent convertibles. We discuss forms of secured lending, such as repurchase agreements and securities lending (i.e. GMRA, GMSLA) and non-standard recourse and non-recourse lending.

### Session 4

This session covers the Derivatives and Structured Products markets. It includes the topics of futures, swaps and options. We also look at credit default swaps and structured credit/ financing transactions: CDOs, CDS, ABS, RMBS, CMBS, CPDOs and CFOs.

During those two sessions, we share our insights based on our involvement in capital markets disputes e.g. ISDA close-outs, GMRA close-outs, best-execution, valuation disputes, mispricing, mis-selling and misrepresentations.



## MODULE 3 COMMODITIES MARKETS

### Session 5

This session covers the Commodities markets, including Soft Commodities: agricultural products such as wheat, coffee, cocoa and sugar, Hard Commodities: mined commodities such as precious metals (i.e. gold, silver) or energy (e.g. coal, oil,

renewables), and also covers structured financing. We also look at physical commodity trading and the business models of commodity trading firms; arbitrage, structured financing, risk-management, logistics.

We can also offer more in-depth training on financial topics such as Basel, best execution, measuring and understanding risks of structured products and derivatives, portfolio construction (investment recommendations and suitability), valuation adjustments (XVAs), etc. Please let us know if you would like to arrange training on a particular topic.

## PAYMENT SERVICES

The payments industry has undergone huge changes in the last few years with the development of new and innovative ways to pay, an increase in regulation, and incumbent businesses being challenged by new entrants.

These trends have led to extensive M&A activity in the sector. In this presentation, we explain the economics of 'two-sided markets' such as the payments industry, the effects of regulation and the key valuation issues when considering disputes involving businesses in the payments industry.

# About FTI Consulting



● FTI Consulting Offices

**#1**

Firm for Leading Experts in Arbitration

**7,000+**

Employees

**59/100**

59 of Fortune Global 100 corporations are clients

**30**

Countries with FTI Consulting Offices

**2**

Nobel Laureate Economists

**850+**

Employees in Europe

**98/100**

Advisor to 98 of world's top 100 law firms

**88**

Offices Globally

**\$5.7B**

Equity Market Capitalisation\*

**30**

Countries

**9/10**

Advisor to 9 of the world's top 10 bank holding companies

**20+**

Testifying Experts in Europe

\*Number of total shares outstanding as of July 21, 2022, times the closing share price as of July 28, 2022.

# Speaking with authority from our recognised experience



**GAR 100: Expert Witness Firms' Power Index (2019 - 2021)**



**Ranked Band 1 in the Global Economic Analysts category (2021)**



**Arbitration Expert Firm of the Year 2015-2020**



**31 Experts Named Top Arbitration Experts including 5 global thought leaders**

## EXPERTS WITH IMPACT™

**FTI Consulting** is an independent global business advisory firm dedicated to helping organizations manage change, mitigate risk and resolve disputes: financial, legal, operational, political & regulatory, reputational and transactional. FTI Consulting professionals, located in all major business centers throughout the world, work closely with clients to anticipate, illuminate and overcome complex business challenges and opportunities.

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