



## HERBERT SMITH FREEHILLS COMPETITION LAW MOOT 2021

# – Rules –

### I. DEFINITIONS AND INTERPRETATIONS

#### 1. Definitions and Annexes

1.1. The following definitions are used in the Rules:

- “Bench” means competition law experts judging both written pleadings and oral arguments;
- “Competition” means the Herbert Smith Freehills Competition Law Moot;
- “Executive Secretary” means the person defined in the Rules;
- “OT” means an organising team to help in the arranging of the Competition under the direction of the Executive Secretary;
- “Problem Question” means a hypothetical law problem, which will be pleaded during the Competition.

1.2. Each of the Annexes hereto constitutes an integral part of these Rules.

#### 2. Interpretation and revision of the Rules

2.1. Any questions concerning the interpretation of the Rules arising during the written phase or Oral Round must be submitted to the Executive Secretary.

### II. THE COMPETITION

#### 3. Structure

3.1. The Competition consists of two phases:

- a written phase, in which all teams shall prepare written pleadings for both the claimant and the defendant (see Annex A);
- and an oral phase, in which the teams, who are selected on the basis of their written pleadings, shall defend their argumentation before the Bench, pleading for both, the claimant and the defendant (see Annex B).

#### 4. Language

4.1. English is the official language throughout the Competition.



## 5. Executive Secretary

5.1. The OT will among its members designate an Executive Secretary. The Executive Secretary's task, other than specified in the following paragraphs, is to ensure that the Competition is carried out in consistency with the overall spirit and aim of competition and to resolve all matters, which would otherwise be detrimental to the organisation of the Competition. In particular, where the Bench is not able to reach a decision, the Executive Secretary will have the final decision, including but not limited to matters of disqualification and calculation of results.

5.2. All decisions of the Executive Secretary are final and not subject to appeal.

## 6. The Bench

6.1. The written pleadings of each team and the oral contribution of each individual team member selected to proceed to Oral Round will be graded by an independent Bench.

6.2. The Bench shall consist of competition law experts who are selected by the OT.

6.3. A member of the Bench shall not assess the written pleadings or take part in a hearing involving a team from the University he or she is professionally engaged in. The Executive Secretary shall notify the Bench of any potential conflict of interest. The Bench shall settle the matter prior to the hearing in question.

## **III. PARTICIPATION**

### 7. Admission of teams

7.1. There shall only be one team per university.

7.2. Only students from a university or law faculty enrolled in undergraduate or master courses are allowed to participate.

7.3. The team shall consist of two to four law students and they must be enrolled in the same university or law faculty. Students being on exchange in another country are eligible to participate under the host university. The teams shall submit their team composition using the link available on the Competition website, via registration form available at King's College London eStore.

7.4. Any change in the composition of a team is only permitted prior to submission of written pleadings and subject to approval by the Executive Secretary.

7.5. Each team may have a team coach. Having a team coach is not mandatory and the maximum number of coaches permitted per team is two. A team coach may only assist in general discussions concerning the Problem Question, general points of law, research techniques, linguistic matters or presentational skills and no substantial advice. The team coach is not allowed to actively take part in the



oral pleadings. However, he or she may attend them. Teams deemed to not be obeying this rule by the Executive Secretary, will be disqualified with immediate effect.

7.6. Registered team members from one team are permitted to engage in practice moots amongst themselves and within their own institutions. Any assistance given in this phase will also be limited to a general discussion of the issues, linguistic help and training in presentation skills.

7.7. Students involved in any of the following points will be excluded or disqualified: Student who was/is engaged in extensive 'practice of law' (including judges, advocates, lawyers, attorneys, barristers, solicitors, notaries, bailiffs, legal officers). Qualified lawyers with more than six-months of post-qualification working experience will generally be considered to have engaged in extensive 'practice of law'. For the avoidance of doubt, any qualified lawyer wishing to participate in the Competition must obtain permission to participate from the Executive Secretary.

7.8. Team members and coaches are prohibited in engaging in communication with the Bench before the end of the Competition.

## 8. Fees

8.1. The registration fee is £120 per team.

8.2. The method of payment is card payment via the King's College London eStore upon registration.

8.3. The team is considered as a participating team after the Executive Secretary has timely received the online registration and registration confirmation of the payment of the registration fee by the King's College London eStore.

## **IV. OVERRIDING PRICIPLES**

### 9. Sportsmanship

9.1. The participants must conduct themselves in a sportsmanlike manner at all stages of the Competition.

### 10. Anonymity

10.1. Strict anonymity of the teams is required. Each team will be assigned an alias during the Competition. The alias for the written phase will be dispatched to the team immediately upon receipt by the Executive Secretary of the online registration and confirmation of the payment of the registration fee.

10.2. The name of the university or the name or the nationality of the team members shall neither be mentioned to the Bench in the written nor in the oral proceedings, whether directly or indirectly (e.g. wearing of special attire or national robes, referring to special national symbols, or other similar behaviour).



#### 11. Outside Assistance

11.1. During preparation of the case, outside assistance, including that from a faculty member or a coach or similar shall be limited to a general discussion of issues, suggestions as to research resources and linguistic help.

11.2. Outside assistance that would interfere with the final submission of pleading, which must be an effort of the team only, is strictly prohibited and will be severely penalised upon determination by the Executive Secretary.

11.3. During the Oral Round, such penalty may, at the discretion of the Executive Secretary, result in disqualification.

### **V. PROBLEM QUESTION AND TIMELINE**

#### 12. Problem Question

12.1. The OT will draft the Problem Question which will be published on the Competition website.

#### 13. Timeline

13.1. The Competition registration will be open after the Problem Question has been published on the website according to the timeline.

13.2. The OT will issue a timeline that is binding in accordance with these Rules. The timeline will be published on the Competition website and as Annex C to these Rules.

13.3. Teams may submit three clarification questions to the Problem Question within the indicated clarifications deadline. The OT may make amendments to the Problem Question which shall be published on the Competition website.

### **VI. WRITTEN PLEADINGS**

#### 14. Written Pleadings

14.1. Each team shall prepare typewritten pleadings, setting out the arguments of the claimant and the defendant according to the provisions as set out in Annex A.

14.2. Each written pleading shall be accompanied by a summary of the main arguments.

#### 15. Submission

15.1. The teams must send a copy of the written pleadings in an electronic format by e-mail to the Executive Secretary before the announced deadline.



15.2. No team may revise, substitute, add to, delete or in any other manner alter its written pleadings after submission.

#### 16. Assessment

16.1. All written pleadings will be assessed having regard to their content as well as to their form, according to the scoring criteria set out in Annex A.

16.2. All written pleadings shall be assessed independently by at least two competition law scholars and/or practitioners.

16.3. The score achieved shall be kept on the official scoring sheet for written pleadings. These scores are confidential and will only be revealed on the official team's score sheets handed out at the end of the Competition by the Executive Secretary at the request of each team.

16.4. Teams, which do not proceed to the Oral Round, may be informed about their score upon contacting the Executive Secretary, once the teams selected for the Oral Round have been announced.

16.5. During the Oral Round, the average score of the two written pleadings may be used to rank teams with equal score in accordance with Annex A.

### **VII. ORAL ROUND**

#### 17. Team selection and format of the Oral Round

17.1. After the written round, the 12 teams with the highest score qualify for the Oral Round.

17.2. The Oral Round may be hosted by the Dickson Poon School of Law, King's College London, in London, United Kingdom, or alternatively, in an online format, subject to the Covid-19 pandemic developments.

17.3. The format of the Oral Round will be communicated to participating teams as soon as possible, and no later than at the time of the announcement of the top 12 teams.

17.4. Should the Oral Round take place online:

- I. The Oral Round is run on the Microsoft Teams platform;
- II. Team members are required to dial-in using the video links distributed by the OT. For the avoidance of doubt, dialling-in via audio link only is not permitted;
- III. Team members have the option to dial-in together or separately.

#### 18. The Preliminary Round – Group Stage

18.1. The twelve teams are drawn into four groups (A-D) of three teams.



18.2. The three teams in a group plead against each other once.

18.3. Each team has two pleadings – one as claimant and one as defendant.

19. Knock-out stage

19.1. The two highest scoring teams of each group qualify for the quarterfinals.

19.2. The quarterfinals (QF) are as follows:

19.2.1. The first team from each group shall plead against the second team from another group.

19.2.2. As far as practicable each team shall plead the other side than in its last pleading of the preliminary round (i.e. if the team pleaded as claimant, it will plead as defendant in the quarterfinals).

19.2.3. If the two teams of a quarterfinal pleaded as the same side in their last pleading of the preliminary round, then claimant and defendant of that quarterfinal shall be determined by drawing of lots.

19.3. The semi-finals (SF) are as follows:

19.3.1. SF1: The winner of QF1 against the winner of QF3.

19.3.2. SF2: The winner of QF2 against the winner of QF4.

19.3.3. The claimant and defendant in each semi-final will be determined by drawing of lots.

19.4. The final will be between the winner of SF1 and the winner of SF2.

19.4.1. The claimant and defendant will be determined by drawing of lots.

20. Speaking time and Number of Oralists

20.1. Each team shall have 30 minutes to present its arguments, including rebuttal/surrebuttal.

20.2. Each team must have two and only two oralists during each match. Teams can choose the same, or different, oralists for each match.

20.3. Both oralists must participate in their team's oral submissions, dividing the team's speaking time amongst themselves to two more or less equal time slots.

20.4 Each team shall itself allocate the order of speakers and the time to present its arguments and rebuttal/surebuttal.

20.5. A third team member may seat at the team's table at each match as a silent researcher. Participation of the third member in the oral submissions may be penalised by deduction of points under





the discretion of the Executive Secretary if reported by the panel as having a negative impact on the proceedings.

#### 21. Time Keeping

21.1. The Timekeeper shall indicate (signs 5, 1, 0) the last minutes of the time allocated to the speaker and will inform the Bench when the available time has expired. The President of the Bench, taking notice of the Timekeeper's advice, then decides whether additional time will be allocated, and if so, how much. This must be done with a due regard to maintaining a fair competition.

21.2. The Timekeeper shall also be in charge of checking a team's order of arguments, order of oralists and speaking time of each oralist.

#### 22. Exceeding Speaking Time

22.1. The Bench may extend the speaking time in order to allow the speaker to finish his or her argument.

22.2. An extension of speaking time shall in no case exceed five minutes beyond the total time allocated for the presentation.

22.3. Where an extension is granted, the other party shall be granted the same extension of time. Any time not fully used is irrevocably lost and has no influence on the score.

#### 23. Questions from the Bench

23.1. Members of the Bench are invited and encouraged to question the speaker on any point of the argument.

23.2. During the preliminary round, these questions shall mainly focus on the issues of the Problem Question.

23.3. In the quarterfinals, semi-finals and final, questions of a more general nature concerning competition law may be included.

#### 24. Score

24.1. In the preliminary round, a team's total score shall be calculated by adding up all points received by all members in one round.

#### 25. Calculation of Results

25.1. The Executive Secretary is solely responsible for the calculation of the total score achieved by a speaker and by the teams as well as for the publication of the scores.

25.2. The results are binding and cannot be questioned by any party.



25.3. The Executive Secretary will only reveal the final scores to each individual team on an official team's score sheet after the Competition. The scores will not be made public to other participating teams unless the team has accepted this.

## 26. Material/Exhibits

26.1. The speaker may use notes, but he or she is encouraged not to read from a prepared text.

26.2. During the pleadings, the use of any exhibits is not permitted. This does not include the Problem Question, the Rules, written submissions, pleading notes, legal texts and textbooks.

26.3. Permitted material shall be clearly visible at the bar table to allow verification by the Executive Secretary and can be at the speaker's disposal during the hearing.

## 27. Black-list

27.1. In order to prevent unfair advantages as a result of scouting, only the following participants and supporters can be inside the pleading room during the pleadings.

27.2. Coaches and guests of teams are allowed to attend the hearings. It is, however, strictly prohibited to interact with the teams or record the pleadings in any form. Coaches and guests will not discuss the arguments/questions heard in these hearings until the preliminary sessions have ended. Such or any similar behaviour will be presumed as scouting and may be considered by the Executive Secretary as reason for disqualification of the team.

## 28. Taping and Photographing

28.1. Taping and broadcasting of oral arguments is not allowed.

28.2. Photographing and filming during the hearings is not allowed, except by members of the OT.

## **VIII. AWARDS**

### 29. Certificate of Participation

29.1. Every participating team will be issued a Certificate of Participation.

### 30. Best Written Pleadings Award

30.1. The winner of the Best Written Pleadings Award shall be the team having received the highest average score for both the claimant and defendant.





31. Best Advocate Award

31.1. The OT may award a Best Advocate of the Preliminary Round award. The winner of this award shall be the person acting as either claimant or defendant with the highest average individual score in the preliminary round.

31.2. To be considered for this award, a speaker must argue for at least twelve minutes.

32. Winning Team

32.1. The Winning Team shall be the team with the highest score in the final. The Winning Team shall receive an award.



## - Annex A -

### Written Pleadings - Instructions and Criteria

#### 1. General

Every team must hand in two written pleadings, one on behalf of the claimant and one on behalf of the defendant. Each pleading should consist of the following essential parts:

- The content:
  - Table of contents;
  - List of abbreviations;
  - Statement of facts;
  - Argumentation;
  - Summary;
  - List of references (commentaries, textbooks, periodicals, case law).
- The form:
  - Colour of the external cover background is red for the claimant and blue for the defendant;
  - Each written pleading is typewritten on A4 paper sheets, the font is Times New Roman, the type face is 1,5 spaced (interlinear space), 12 pt font size, 3 cm margin top and bottom, 2 cm margin each side; kerning is not allowed;
  - Pages of the argumentation section are numbered concurrently at the bottom of each page;
  - Footnotes are numbered concurrently at the bottom of the page, presented in OSCOLA format, the font is Arial, 10 pt font size;
  - Written pleadings are submitted in the PDF format.
- The page limits:
  - The table of contents, list of abbreviations and list of references shall not exceed ten (10) pages in total;
  - The statement of facts shall not exceed one (1) page;
  - The argumentation section (i.e. identification of the measures at issue and legal pleadings) shall not exceed fifteen (15) pages;
  - The summary shall not exceed two (2) pages.
- The identity of the team beyond the alias assigned upon registration shall not be revealed to the judges before the end of the Competition.



## 2. Scoring Criteria

Each pleading is assessed individually and independently by at least two examiners. The assessment will be with regard to the following scoring instructions:

- Each pleading will be assigned a maximum score of 25 points.
- The scoring results must be kept on official scoring sheets. The scoring criteria are as follows:
  - Maximum of 15 points: correct legal analysis and argumentation, i.e. clarity of argument, complete and correct recognition and weighting of problems, correct application of the relevant rules and legal principles.
  - Maximum of 10 points: presentation and style, i.e. persuasiveness (logic, structure, citations, thoroughness, style, eloquence...).

## 3. Infractions

Infractions of the instructions regarding the written pleadings may result in penalties, that is loss of points and a possible disqualification. Minor infractions of the Rules may be ignored. The following infractions may give rise to one of the following penalties:

- Delayed submission of the written pleading. The date of submission will be the date of uploading of the written pleadings to the website. The deadline for the submission of the written Pleadings can be found on the website. A delayed submission will result in:
  - One hour late = minus 1 point.
  - Any delay after that = minus 5 points.
  - Three days late = compulsory disqualification.
- Exceeding the stipulated length of written pleading. An argument section exceeding stipulated length (15 pages excluding the summary) will result in:
  - One page exceeding = minus 2 points.
  - Two pages exceeding = minus 4 points.
  - Three pages exceeding = compulsory disqualification.
- The summary exceeding stipulated length (2 pages) will result in:
  - Half a page exceeding = minus 2 points.
  - One page exceeding = minus 4 points.
  - One and a half page exceeding = compulsory disqualification.
- Disclosure of identity. If the name of the team members or the university is mentioned anywhere inside the written pleading, this will result in:
  - minus 2 points.
- Non-conformity with other formalities, such as interlinear space, margins, etc. for each infraction:
  - minus 2 points.



## - Annex B -

### Oral Arguments - Instructions and Criteria

#### 1. General

A team's score in each match shall be calculated by adding up all points received by both oralists divided by two.

Teams with equal scores will be ranked according to the following criteria:

- a) overall impression, if the Bench believes that a useful distinction can be made;
- b) total of scores on written pleadings;
- c) the Executive Secretary's discretion.

The decision will be reached by advancing from a) to c) above only so far as there are scores that remain equal.

Each member of the Bench shall act individually and independently of the others. The scoring will be kept on the official scoring sheets.

#### 2. Scoring criteria

- Correct legal analysis and application of relevant law (general knowledge and understanding of competition law and its principles): up to 25 points.
- Presentation and style, persuasiveness (ability to convincingly represent every party that is to argue): up to 15 points.
- Reply and rebuttal/surrebuttal (capacity to rebut the arguments of the opponent in reply and rebuttal/surrebuttal): up to 10 points.

#### 3. Unsportsmanlike conduct

During a pleading, in case of any flagrant violation of the Rules or other behaviour detrimental to the integrity of the proceedings the President of the Bench may report a team or one of its members to the Executive Secretary for disqualification.



## - Annex C -

### The timetable

24 November 2020	– Publication of the problem question
07 December 2020	– Registration opens
18 January 2021	– Deadline for registration
01 February 2021	– Deadline for requesting clarifications
22 February 2021	– Publication of clarifications
09 April 2021	– Deadline for submission of written pleadings
04 May 2021	– Announcement of the top 12 teams
17-19 June 2021	– Oral Round (at King's College London or online, TBC)