

# International Arbitration

**EXPERT EVIDENCE IN THE  
QUANTIFICATION OF LOSSES**



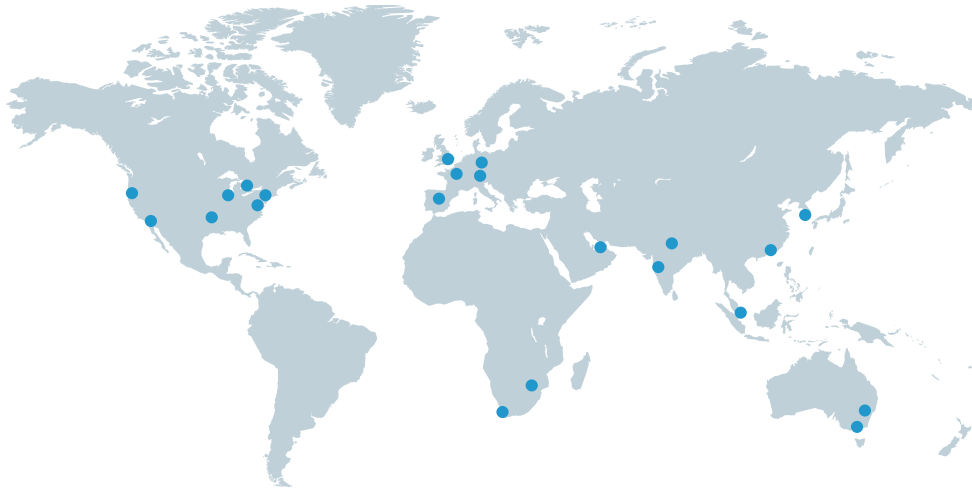
**EXPERTS WITH IMPACT™**

# The leading firm of damages experts

FTI Consulting is the pre-eminent firm in the provision of damages expertise. We focus on excellence in every aspect of the expert engagement.

The demand for our services has enabled us to build the largest international arbitration expert witness practice globally. We have offices in all major arbitration centres; our local knowledge complementing our shared expertise.

Providing expert testimony in commercial and treaty arbitration requires a particular mix of skills, expertise and experience that is difficult to replicate. We explain in the rest of this brochure the foundations of our leading position.



Who's Who Legal  
Arbitration Expert  
Firm of the Year 2021



GAR Expert Witness  
Power Index #1  
Ranking in 2020 and 2021



Chambers  
AND PARTNERS  
Chambers Economic Analyst  
Ranked Band 1 in 2021

• Denotes an FTI Consulting office where an international arbitration practitioner is located.

# Recognised as the foremost global practice

FTI Consulting has received Who's Who Legal's Arbitration Expert Firm of the Year honour every year since it was introduced in 2015.

**51**  
leading experts

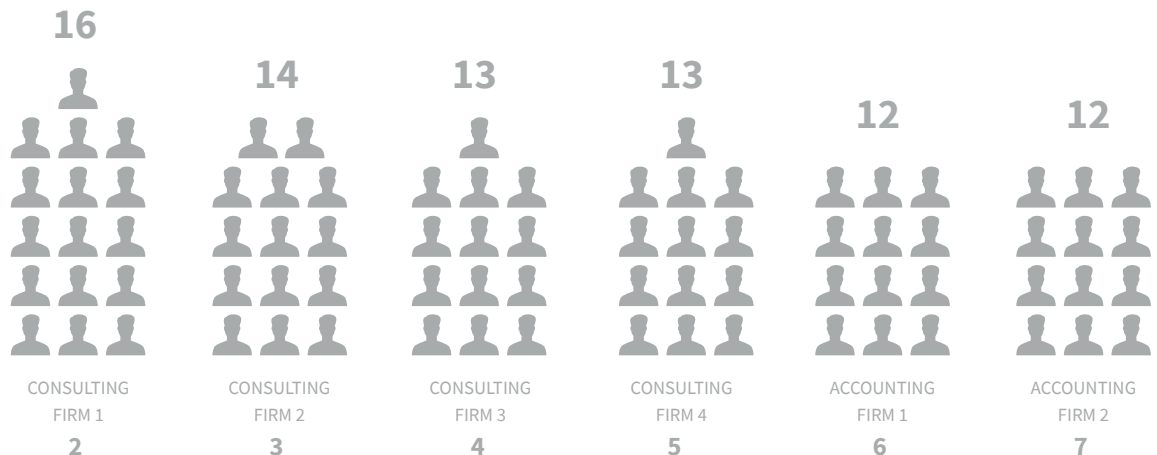


FTI CONSULTING/  
COMPASS LEXICON

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In the 2021 edition of Who's Who Legal's analysis, FTI Consulting has 51 experts recognised, which is **over three times the number of experts** than any of the Big Four accountancy firms listed or any other competing firm.

FTI Consulting's recognition also includes **nine** professionals named as **Global Elite Thought Leaders** in the 2021 survey of arbitrators, counsel and other expert witnesses.



# We have the right Expert for your Dispute

In comparison to other firms, we have by far the largest group of testifying damages experts, meaning we can identify the right expert for the case in hand. That might entail industry experience, work on a similar type of dispute, geographic experience or proximity, or ability to work and/ or deliver in one of several languages.

We work across all industries and have particular expertise in many industries including:

- Energy
  - Mining
  - Construction
  - Power and utilities
  - Telecommunications, media & technology
  - Hospitality and leisure
  - Transportation
  - Healthcare
  - Financial services
- Our experts have over 480 days of combined testifying experience.
  - We are appointed to act as independent or consulting experts on damages, valuation, accounting and finance matters on over 95 new international arbitration cases each year.
  - From 2013 to 2020, our senior experts have submitted more than 2,500 expert reports and have testified more than 630 times.

*“[The FTI Consulting expert]...has a great ability to pick up key issues at the heart of a dispute which they can then translate into clear and easily understood damages calculations”*

# Supported by the right team

The delivery of consistent quality work requires quality people, not just at the top, but throughout the delivery team. Time and again we have seen the difference a good supporting team can make to the success of the overall engagement.

We believe in training from the bottom up and mentoring at all stages. We recruit exceptionally bright and hardworking graduates, and supplement our junior team with high-quality experienced hires with the right skills and attitude. We recruit only around 1% of the 1,000+ graduate applications we receive each year.

We instil early in a career vital disciplines relating to clarity of presentation, understanding the disputes process, the importance of expert independence, report writing and analysis.

Instructing an FTI Consulting expert creates access to the wider FTI Consulting team. We are a collegiate practice: when faced with issues that are novel or complex, we consult with our colleagues. Between us, we have hundreds of years of disputes experience that we can bring to bear to a problem.

*“The FTI Consulting team are bright, thoughtful and hardworking but, perhaps most importantly, it’s a real pleasure working with them – they are superb at de-cluttering complex issues and readily enabling my team and me to do what we need to do efficiently and effectively ”*

- Our International Arbitration team is supported by over 175 professionals.
- We recruit very able graduates and proactively support them to earn professional qualifications (CPA, ABV, CFA, ASA, CBV), and hire experienced accountants (Big 4 firms), economists, MBAs, econometricians, PhDs, former investment analysts and industry specialists.
- The team contains professionals who are fluent in over 30 languages.

# We combine technical excellence with professional delivery

We are masters of our disciplines — finance, valuation, economics, industry topics — and also the application of those disciplines to disputes. We host discussion seminars, publish leading articles and are recognised as thought leaders in our fields.

We understand that the benefits of our technical excellence can only be maximised if accompanied by comparably excellent professional delivery:

- We produce reports that are clear, compelling and easy to follow
- Professional delivery also extends to oral communication and testimony and understanding the dynamics of hearings:
  - Collectively our experts have given oral testimony more than 650 times before a Tribunal or Court
  - We support our emerging experts to develop their skills in mock hearings, to hone their skills and better understand how to support testifying experts
- We make our interactions with our clients as straightforward as possible, and as a result build long-lasting relationships:
  - We set deadlines early and meet them
  - We are responsive to requests
  - We keep our clients regularly informed of our costs

*“One of the best valuation experts in the country [whose] reports are of a high standard, succinct and easy to read and digest”*

# We contribute to the wider arbitration community

Our experts invest time in considering damages issues that are important to the wider international arbitration community. We write and present on damages topics and develop training for arbitration practitioners.

## VALUATION IN INTERNATIONAL ARBITRATION

*First published in Global Arbitration Review*

## TREATY ARBITRATION: UNPACKING THE DISCOUNT RATE

*Originally published in Arbitration World by K&L Gates*

## CONNECTING CAUSE AND EFFECT

*First published in the European Arbitration Review*

## ANALYSING LIQUIDITY: WHEN THE STATE OF MATTER MATTERS TO EXPERT VALUERS IN DAMAGES ASSESSMENTS

*First published in the Middle East and Africa Arbitration Review*

## ASSET-BASED VALUATIONS: VALUATION FLOOR OR FLAWED VALUATION?

*First published in the Global Arbitration Review's  
'The Guide to Damages in International Arbitration'*

## THE USE, AND MISUSE, OF HINDSIGHT IN DAMAGES CALCULATIONS

*First published in Global Arbitration Review*

## WHY EXPERTS DISAGREE

*First published in The European Arbitration Review*

## TAXATION AND CURRENCY ISSUES IN DAMAGES AWARDS

*First published in the Global Arbitration Review's  
'The Guide to Damages in International Arbitration'*

### Training for IA Lawyers

In addition to writing on different arbitration damages topics, we regularly help legal practitioners develop their expertise, by designing and delivering training on a broad range of topics relating to economics, finance, accounting and the appointment of expert witnesses. This includes bespoke advocacy training in the examination of experts. We make our experts available for oral examination in such training sessions, in association with law firms and associated foundations.

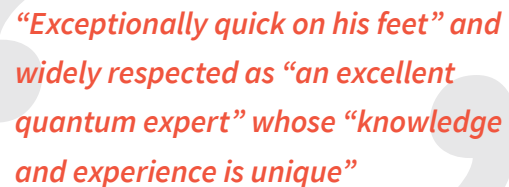
We are the anchor sponsor and an active member of FIAA – the Foundation for International Arbitration Advocacy – an organisation dedicated to providing advocacy training specifically designed for international arbitration.



# We make a difference

There is a school of thought that, when faced with different expert opinions, tribunals “split the difference”. That is not our experience. When presented with clear, compelling and well-supported independent expert evidence we find that tribunals are well-equipped to determine damages issues.

- Persuasive expert evidence starts with the reports submitted by the expert. Good oral testimony is built upon on a high-quality expert report. Put simply, the report matters. Instructing an expert and a team that are steeped in writing experience can make a real difference.
- In addition to our written and oral evidence, we are often engaged early in disputes to consider economic issues associated with a claim. For example, considering the consequences of measuring losses at different dates, the types of loss that might be claimed, the economic evidence required to support a claim or possible overlap between claims. In our experience an early view of such issues can be hugely valuable to clients and counsel.
- Finally, whatever our role, we are always keenly aware of our duty of independence to a tribunal. In our view, partisan evidence is of no use to a tribunal, and ultimately of no use to the client instructing the expert.



*“Exceptionally quick on his feet” and widely respected as “an excellent quantum expert” whose “knowledge and experience is unique”*



# Our impact

Some examples of cases in which our expertise and experience have made a real difference to the outcome.

## TELECOMMUNICATIONS

We represented the respondents in an arbitration relating to a lost opportunity to acquire a majority shareholding in an emerging market telecom operator. The claimant's expert assessed his client's loss at \$3.8 billion. We considered that its loss fell in the range \$90 million to \$170 million. The tribunal agreed with our approach and our valuation analysis and awarded damages of \$133 million.

## SHIPPING

We represented a minority shareholder in a cruise line. We opined that the opposing expert's value of under \$10 a share reflected limited information and not the actual performance of the company. The judge found that the value per share was not \$10 but \$95, and the case settled at an amount close to our valuation.

## CONSUMER ELECTRONICS

We were instructed on a commercial arbitration in the consumer electronics industry. We opined that losses were in the range of €10 million to €20 million and the expert instructed by the claimant quantified losses at €250 million. The tribunal determined losses were less than €20 million.

## ENERGY

We quantified the losses of our client, a gas pipeline operator, arising from the early termination of an agreement, as \$1.4 billion, using a discounted cash flow (DCF) calculation. The opposing experts said losses should not be estimated using DCF and were unsubstantiated. The tribunal awarded \$1.0 billion. The difference largely arose due to a liability cap we had been instructed not to reflect.

## MINING

We were retained by the claimant in a dispute between two parties, who were shareholders in a Central Asian uranium mining joint venture, to assess loss related to shares issued to them at below market value. Our expert concluded that the value of the joint venture was at least \$600 million. By contrast, the opposing expert (a 'Big Four' firm partner) concluded, based on a DCF analysis, that the value was effectively nil. The tribunal found the venture to be worth \$700 million and ordered relief.

## HOSPITALITY

We were instructed by the claimant in a dispute relating to a delayed hotel development, and assessed the fair value of the company developing the hotel under various scenarios. The tribunal ruled that our valuation approach was preferable in respect of all of the areas of difference between the experts, and concluded that the value of the shares as calculated by FTI Consulting represented a "fair and reasonable estimate" of the value of the claimant's shares under each scenario.

# Our wider arbitration offering

FTI Consulting is a leading firm in providing expertise in disputes. In addition to damages analysis, our broader arbitration team supports clients in many areas including the following:

 <p><b>Intellectual property</b></p>	 <p><b>Competition economics and associated damages</b></p>	 <p><b>Construction disputes</b></p>	 <p><b>Asset tracing and recovery</b></p>	 <p><b>Computer forensic analysis</b></p>
 <p><b>Trial services - visual communications</b></p>	 <p><b>Trial services - trial technology</b></p>	 <p><b>Complex data analytics</b></p>	 <p><b>E-discovery and document review</b></p>	 <p><b>Stakeholder communications</b></p>

# About FTI Consulting



Advisor to **96** of the **world's top 100** law firms



Founded in **1982** and **\$3.5 BL N** equity market capitalization\*



We combine unparalleled **expertise** and **industry knowledge** to address critical challenges for clients



With over **6,200** employees and offices in **28 countries** on six continents, our breadth and depth extends across every major social, political, and economic hub **around the globe**



We are a **global advisory firm** that provides multi-disciplinary solutions to **complex challenges** and **opportunities**



**53** of the **Global 100** corporations are clients



Advisor to **8** of the **world's top 10** bank holding companies



**Expertise across a range of industries:** Real estate; energy; power and products; financial institutions & insurance; healthcare; life science; retail & consumer; and telecommunications, media, and technology



Trusted advisers serving clients globally with **diverse expertise** and **exceptional credentials** including accountants, economists, engineers, former CFOs, and strategists

## 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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