

OXFORD JOURNALS - AUTHOR QUERY FORM

Journal Code: jwelb	Article DOI: 10.1093/jwelb/jwn015
Article Number: jwn015	First Author:
Article Title: Book Review	Corresponding Author:

AUTHOR QUERIES – TO BE ANSWERED BY THE CORRESPONDING AUTHOR

Dear Author,

During the preparation of your manuscript for typesetting, the queries listed below have arisen. Please answer these queries by marking the required corrections at the appropriate point in the text.

Electronic file usage

Sometimes we are unable to process the electronic file of your article and/or artwork. If this is the case, we have proceeded by:

- Scanning (parts of) your article Rekeying (parts of) your article

Precopyedited Manuscript

- While processing the precopyedited manuscript some oversights were noted. These have been listed below.

Queries and/or remarks

Location in article	Query/remark	Response
	No queries.	

Thanks for your assistance.

Book Review

Mark Kantor, Valuation for Arbitration: Compensation Standards, Valuation Methods and Expert Evidence, Kluwer Law International, 2008. ISBN 978-90-411-2735-8, 411 pages, \$172.00

When it comes to valuing an energy-related asset or income stream in arbitration, it may first appear that there is no one ‘right answer’, no single ‘magic number’ that instantly and permanently confirms what the company or the asset is worth. During the hearings and cross examinations of expert witnesses, valuation appears to become a matter of judgement. Indeed, how many times have you seen experienced and qualified experts, acting on behalf of the claimant and the respondent in arbitrations about disputes over oil & gas, power or pipeline companies, arriving at different values, usually a very large value in the case of claimant’s expert and a very small value in the case of respondent’s expert? On top of it, you will often realize that these experts, persuasively referring to international standard practice, conduct valuation under the same set of standards or principles and still arrive at different results.

Although many myths surround valuation in arbitration, often making it appear more complex than it is, Mark Kantor demystifies the field. In a few words, the author believes that the valuation of complex energy-related investment or commercial disputes is not any more difficult than any other type of day-to-day business valuation. Indeed, ‘Valuation for Arbitration’, just released by Kluwer, challenges prevailing misconceptions and lays out the tools and processes necessary to harness, manage and execute valuation successfully and efficiently.

As correctly outlined by Kantor, there are many sets of generally accepted standards and valuation methodologies available to the parties in arbitration, thus potentially creating difficulties during the valuation phase. Certainly, arbitrators have very often the difficult task of reconciling the implicit understanding that the expert is being objective with the fact that the science of the expert makes it very difficult to sustain that objectivity. Still, there is a convergence of methods at the international level, which Mark Kantor rightly points at. This is particularly true in the field of economics, finance and accounting.

As a very experienced arbitrator, Kantor is profoundly well versed in the valuation of damage. He knows perfectly well the valuation components that are at the forefront of a wide variety of complex oil & gas disputes. Understanding how they work and how to implement them in arbitration can be seen as complex and challenging but Mark Kantor provides a full analysis of all concepts and tools used in valuation in arbitration.

In his book, Kantor writes that the ‘objective is not to argue for, or against, any particular standard of compensation or valuation methodology. Instead, the objective is to provide practical assistance to tribunals presented with complex business valuations in the quantum phase of a hearing’. Indeed, ‘Valuation for Arbitration’ will help

42 litigators, judges, arbitrators and valuation experts alike answer central questions in
43 damages litigation. Mark Kantor goes beyond the academic literature to provide real-
44 world applications of valuation principles. Procedures for estimating the value of assets
45 are covered extensively and realistically. Controversies in the valuation discipline and
46 in practice are thoroughly analysed in great length. The author lays out the various views
47 on modern valuation models and goes even further by presenting valuation standards in
48 different jurisdictions and adding international comparisons of techniques. For instance,
49 the Discounted Cash Flow Model, the Capital Asset Pricing Model and the Adjusted
50 Present Value Model are thoroughly compared and contrasted throughout the book.

51 Kantor spends the first part of the book describing the basic valuation approaches,
52 including the notion of market value and reviewing the applicable legal standard for
53 compensation. The author argues that fair market value is generally accepted as the basic
54 valuation principle for measuring an injury to an investment, but he also recognizes a
55 number of countervailing or limiting principles to compensation, covering issues such
56 as 'going concern', foreseeability, causation, burden of proof, mitigation and unjust
57 enrichment.

58 The second part of the book provides a detailed discussion of the various valuation
59 models available to arbitrators. Approvingly, Kantor mentions that the Discounted Cash
60 Flow model (DCF) is one of the most well-accepted methods used for business valuation.
61 As such, the author spends a great deal of time providing analysis on how to build a
62 robust DCF valuation, including coverage of the most critical issues: discount rate, free
63 cash flow and terminal values, Weighted Average Cost of Capital (WACC), Capital Asset
64 Pricing Model (CPAM), taxes, exchange rate, interest, etc. More importantly, Kantor
65 recommends that, as a general principle, compensation should be calculated on the basis
66 of internationally-recognized principles of valuation.

67 Interestingly, the book also provides a wealth of legal and jurisprudence information
68 from leading international tribunals and contemporaneous cases from a variety of
69 industries such as oil & gas, pharmaceutical and electric utilities. Discussion on evidence
70 is also provided throughout the text. Fundamental to the valuation methodology is the
71 basic premise that all loss types would be supported by suitable documentation. Kantor
72 clearly shows that shortcomings in evidence will inevitably lead to difficulties in
73 accurately valuing damage. In such cases with significant uncertainties, recourse has to
74 be made to some compromise conventions or valuation techniques in order to achieve
75 measurements.

76 Comprehensive and modern, the book provides a clear understanding of the nuts and
77 bolts of valuation approaches for arbitration related to the oil & gas and energy sectors,
78 including market and non-market valuation, income and asset-based methods. 'Valua-
79 tion for Arbitration' not only shows how counsel and experts involved in arbitration
80 can use business and financial theory but the book also provides the required reference
81 to valuation standards produced by different international bodies.

82 This text filled a very definite need for a modern and comprehensive review of
83 valuation principles in arbitration. The author's discussions and examples are unique

84 due to the depth of detail. Through its intuitive and conversational style, it ties together
85 many of the important ideas in today's valuation.

86 'Valuation for Arbitration' is today one of the most authoritative and comprehensive
87 presentations of valuation theory and practice for arbitration.

88

89 Thierry J. Sénéchal