

‘IF YOUR LEGAL ADVISERS ALSO WORK WITH YOUR COMPETITORS, THIS CAN HAVE ADVANTAGES’

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If the external law firm you use has advised a rival business, you can benefit from the experience they have gained, argues Intrum Spain's Carlos Ruiz Cabrera

Some clients, often understandably, are not keen on their external legal advisers working with their competitors. However, such a scenario can have advantages, as well as disadvantages, argues Carlos Ruiz Cabrera, legal and compliance director at Intrum Spain, part of the Swedish credit management services company.

"It could be that the law firm is advising one of our competitors, and that law firm takes away our know-how and can share it with our rivals, so there can be a conflict of interest," Ruiz Cabrera explains. He adds that this raises the issue of whether a law firm should tell clients if they are advising a direct competitor. "There could even be cases in which a firm is advising the competitor on the same case," he adds. "The law firm may say they have a different team of lawyers working on the same case, and it's a question of believing them."

But in general, law firms are honest with their clients, Ruiz Cabrera says. "They may not reveal the identity of the competitor, but they will tell you that they are working with them, and by telling you this they are complying with lawyers' code of ethics." However, the upside is that one can also benefit from the knowledge the law firm has gained by advising a rival, he says. "That's the advantage of using large law firms, because they have tremendous in-house knowledge."

Famous lawyers

With regard to the issue of whether the reputation of the law firm or the individual lawyer is the most important consideration when selecting external advisers, Ruiz Cabrera says that previously it was the law firm, but today a lawyer's name prevails over the name of the law firm as he or she moves between firms. "A lawyer may become famous for advising on a financing transaction, and that is the lawyer you want to hire, especially when you are dealing with a very high-level case," he explains. Client-lawyer trust is vital, but it is also important to avoid a relationship of personal friendship, as it can cause a conflict of interest, according to Ruiz Cabrera. "When it comes to selecting a law firm, that personal relationship could influence the decision, and the same goes for any relationship between a company and a supplier, in any industry," he says.

According to Ruiz Cabrera, Intrum Spain externalises legal work depending on the type of case – for example, for M&A work, the company uses Uría Menéndez. "But when it's for another kind of operation, we always try to find a law firm that is specialised in the matter," he adds.

Intrum's in-house team in Madrid seeks either a fixed-fee contract – which is done by using a selection process in which the company requests a budget from various law firms and an internal committee selects the firm – or it chooses a law firm based on its experience.

"For example, if it's for an M&A deal, the law firm has to have advised on such matters previously, and it also depends on the type of clients it has advised," Ruiz Cabrera says. "It gives us more confidence if they have advised a company in the same sector," he adds. Ruiz Cabrera also says that the final decision depends on price, given that there are many law firms that can offer know-how.

'Post-closing' services

The ideal price is based on a fixed-fee, but determining what the maximum price will be is often difficult. "The other option is by the hour, but with a significant success fee, which serves as a motivation for the law firm," Ruiz Cabrera says. "We also seek firms that offer post-closing services – many law firms close a case and then forget about it, and it's important to be able to rely on a firm for post-case work since, having worked on it, they have in-depth knowledge of it."

Intrum has a presence in 23 countries and consequently needs legal services in a range of jurisdictions. As a result, Ruiz Cabrera says he seeks out global law firms. "Local firms usually have 'best friends' in other countries, but a 'best friend' does not give you the same service or security as a global firm with a multi-country presence, and so we prefer a global firm, even though the link is local."

Carlos Ruiz Cabrera is legal and compliance director at Intrum Spain