

MANAGING LEGAL SERVICES IN A GLOBAL CONTEXT: CORPORATE COUNSELS' CHALLENGES IN INFLUENCING DECISIONS

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Iberian Lawyer's In-House Club gathered a select group of general counsel in Miami to debate current challenges when developing their functions in a competitive and hyper-regulated environment

This session gathered a select group of general counsel to discuss and learn how to deal with the current challenges they encounter when developing their functions in a competitive and hyper-regulated environment for companies.

Managing teams and costs

The session was organised within the Iberian Lawyer In-House Club annual International Corporate Counsel College and hosted at the University of Miami. On this occasion the session was presented

by Miami-based Jose Astigarraga, founding partner at Astigarraga Davis with more than 30 years of experience representing multinationals in dispute resolution, who examined factors that lawyers face when trying to steer the decision-making process to the desired results.

The participants shared their key concerns, which mostly were linked to managing teams or influencing decisions in companies with a global presence. The wide scope of responsibilities that General Counsel have often requires them to make decisions quickly, with the legal risks that implies. The presentation explained how the process of making a decision, which often relies on mental shortcuts and occurs in the context of the decider's life experiences, can be affected by factors such as cognitive biases and culture. Such factors can have an effect without the decider even being aware they are at work. With senior managers under pressure to make decisions promptly in order to move the business forward, managers must guard against the distortion that such factors can cause.

Compliance and regulation

Compliance and long term implementation of the rules were two of the participants' biggest concerns. Given that compliance and implementation require the participation of and the acceptance by all personnel of a company, the dynamics of group decision-making were also discussed. With studies showing that factors such as peer pressure, seniority and perceived prestige can influence a group decision in the wrong direction, managers must protect against the possible altering effect of such factors. Astigarraga cited ways in which companies can set processes that can ameliorate such effects such as having participants speak in "reverse order" of seniority, which allows the most junior person in the room to share his/her views first; such a protocol reduces the pressure that flows from having the most senior person, with his or her attendant rank and status, weigh in first, causing the rest of the group to be hesitant to go against the senior person's position even though it might be incorrect.

The presentation made clear that decision-making processes are affected by psychological /cognitive and other elements more often than many perceive. Logic and rationality are subject to below-the-radar influences that can lead to wrong outputs. Concepts such as the "the halo effect," in which the value of an idea is imbued with the perceived standing of the person espousing the idea, was one example of how the perceived merits of an idea can be affected by something external to the idea itself. When talking about costs or budgets the impact that "anchoring" can have on the results and perceptions is remarkable, as noted by Dean Patricia White of the University of Miami School of Law which hosted the seminar. The concept of "hindsight bias," whereby the foreseeability of an outcome is perceived as much higher after the occurrence of the outcome than it was before it, was also discussed.

Dispute management in a global market

As managing conflicts and negotiating differences were also key challenges for the participants, Astigarraga cited studies and psychological experiments carried out with judges in courts, which showed how psychological factors such as cognitive biases and physical factors including tiredness and hunger can influence final decisions of even the most sophisticated and experienced decision makers.

Finally, the cross-cultural approach to decision-making within internal teams in companies and with external trading was also analysed. The session introduced some key questions of cross-cultural communication with some clear examples on legal cases and highlighted over all how authority or even verbal assertiveness impacts decisions across cultures often creating confusion particularly when people are in conflict. Selective listening and the danger of pre-assumptions were also identified as a constant reason for many disputes to arise.

The main message was to impress a need for corporate counsel to elevate their vigilance with respect to unseen and undetected factors and influences that can cause a corporate decision-making process to go awry.

[To see the photos of the event please click here](#)