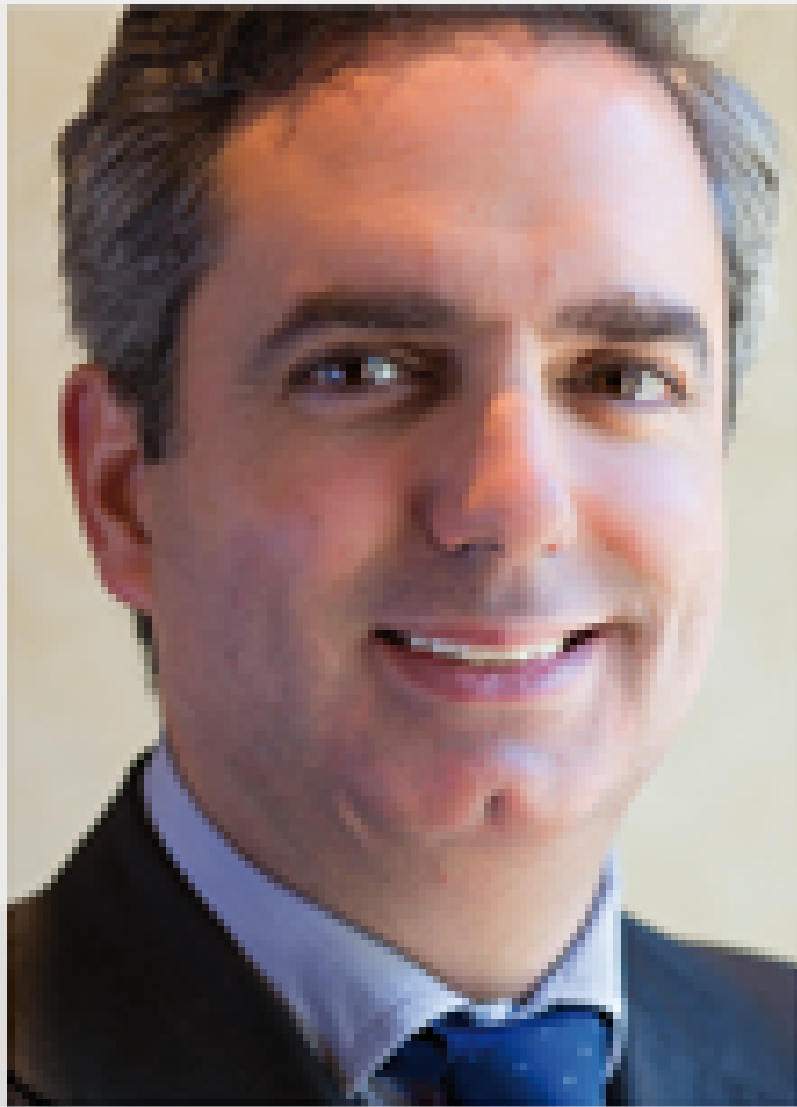


NEW REMUNERATION AND ENVIRONMENTAL LIABILITY REGIMES - LENER

Posted on 21/10/2014



Category: [Energy](#)



The new remuneration regime for cleantech energy resources set forth on Royal Decree 413/2014, – which has granted operators long awaited legal certainty – has brought a great deal of M&A and restructuring opportunities for clients.

Meanwhile, the amendments to the environmental liability regime introduced by Act 11/2014, which simplify the regime and reinforce the adoption of preventive measures, such as the voluntary assessment of environmental risks, have impacted on certain clients with the result that they have redefined their legal strategy with regard to the management of environmental risks.

As a result of these developments, clients are able to benefit from the involvement of lawyers in these matters beyond the mere legal angle.

There are other legal developments which have created opportunities where clients can benefit from the assistance of lawyers with business expertise. For example, the amendments to the Intellectual Property Act, currently under the enactment process, which reinforce liability for the violation of copyright in the digital environment and regulate the role of internet intermediaries, will probably open opportunities for IT lawyers to help clients redefine their business models and risk-prevention policies.

Without doubt, a lawyer with business expertise is able to offer solutions that a client may never have thought about. But, ultimately, the real differentiation will not come from a single lawyer's specialisation but from how a multidisciplinary team dedicated to a sector is shaped and managed and how such a team interacts and approaches a client to offer a solution that really creates value.

Clients consistently say that what they really value is knowledge of their industry. Sector experience ranks high in their criteria for selecting and retaining lawyers. It is commonly said that clients no longer want to spend time teaching their lawyers how their businesses work.

For many years "industry focus" has been offered by legal services firms. The "Big Four" were pioneers in implementing this focus, which was also adopted by law firms at a later stage. Most of the firms' websites have, together with a list of traditional legal practice areas, lists of sector areas in which they claim some further degree of knowledge or involvement.

Perhaps, at the beginning, the focus did not go beyond a mere marketing strategy or a claim on firms' websites rather than actual business knowledge. However, over time, many firms have developed substantial knowledge in certain industries, though generally it has happened along the way, rather than with planning.

Experts say the strong competition among legal services firms has created a situation where, in a significant number of cases, traditional legal advice – and strong legal practices – should be accompanied by a more or less deep understanding of the business. This has led to some firms in the Iberian market abandoning the mere window-dressing policy and taking industry focus seriously as one of the pillars of their strategy while making a concerted effort to really be industry focused in certain areas.

It has been said that more transactional-driven firms that represent multiple clients on multiple deals seem to have more difficulties gaining knowledge of industries, probably because there is less of a necessity, than those more relationship-driven firms that look for long-term relationships with particular clients. But, as firms evolve, industry focus has become helpful and valuable for clients in the M&A field and proof of this is that, in a number of cases, it has been a driver for engaging lawyers to act in transactions.

The hiring of experienced professionals with a specific industry background, such as former in-house lawyers, or the hiring of economists to complement lawyers in certain areas, such as restructuring, has proven to be a successful formula, provided that such professionals meet the firm's quality standards and are able to adapt to the firm's culture.

An industry-oriented approach demands that legal practitioners are constantly updated on legal

developments affecting specific industries. They also must be aware of how such developments may constitute a business advantage for a particular client by helping to improve a process or solve a problem.

As a final remark, deeply industry-focused lawyers may incur two risks that can be avoided by simply being conscious of the lawyer's position. Firstly, sector knowledge has a poor impact if legal skills – and the quality of the legal service – are overlooked. Secondly, it is of vital importance that lawyers do not overact as we should not forget that the client is the protagonist and must always retain the leading role.

Álvaro Sánchez López-Chicheri is a partner at Lener. He can be contacted at alvarochicheri@lener.es