

SELLING THE COMPLIANCE MESSAGE INTERNALLY - MAKRO ESPAÑA

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“ Yes, there will be some adjustments, and for some the adjustments will be really difficult, but frankly, it is always going to be very hard to put lawyers or law firms at the top of the ‘feel sorry for’ list. ”

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With no set division of compliance and legal provision within many businesses, the challenge is to manage an expanding workload

En el grupo Makro, la gestión de sus asuntos legales está ya asentada, sin embargo han sido los aspectos de cumplimiento normativo los que más crecimiento y retos han presentado en los últimos años, afirma Alejandra Banegas, Directora Jurídica y responsable de cumplimiento normativo.

At Makro, the way legal issues are managed may be well-established, but it is in the area of compliance that the in-house legal department has seen the most rapid growth in recent years, says the Head of Legal and Compliance in Spain, Alejandra Banegas.

"As a team, the legal department has worked together for over ten years, so we are very comfortable with how we work. But compliance is a new area of demand. Reflecting adverse events at some other German companies there has been a much greater Group emphasis on clarifying internal processes and external relationships."

Banegas' dual role reflects her oversight of both the legal needs of Makro in Spain and an expanding compliance requirement.

"Compliance is a centralised function within Makro's German headquarters; but in the subsidiaries, responsibility is devolved to the legal teams. It has meant having to adjust how we work and how we encourage the business to be consistent in the way it approaches issues, but it does not mean telling people what to do."

Initially, "compliance" meant implementing codes of conduct, and establishing an internal "hotline" for those with concerns over corporate or individual actions, among others.

"Subsequently, we have undertaken training and awareness programmes, compliance days and established anti-corruption guidelines. Part of the challenge is first identifying the gaps and then understanding how to address them."

The issue has taken on renewed importance with the introduction in Spain of new criminal corporate liability legislation, says Banegas. "In this sense we are perhaps at an advantage in that we already have a strong compliance function in place, and as a business have learnt the lessons of similar legislation elsewhere, but it is never enough. We need to make sure we are as well covered as we possibly can be for the Spanish reality."

To date, Makro has preferred to rely on internal expertise to cover compliance needs. An external law firm was retained in Italy to offer guidance and made hundreds of recommendations, many of which proved impossible to implement, she says.

"We always have to find the balance between what we need to do to stay within the relevant legal

or regulatory needs and to function as a business, because at the end of the day that is why we are here."

Banegas oversees a team of three other senior lawyers and a paralegal but only she has a dual legal-compliance role, she explains. "As a team we tend not to over-specialise; so although individual lawyers may be a reference for a specific type of issue, we are all able to fill in as required."

Banegas tries to keep as much of Makro's legal work in-house, but she does externalise certain issues. In Spain, Gómez-Acebo & Pombo is her preferred law firm, which, she says, has proved to be very responsive.

"We have a preferred list of firms, at the local and Group level, but we are free to choose exceptions. I think that small and big firms have their own role and I take smaller firms for smaller topics and big firms when I need a higher level of expertise."

The structure of the Madrid legal team reflects Makro's wider corporate legal structure, where the company's lead lawyers in Dusseldorf have individual responsibility both for regional and specific business issues. From a legal perspective, Banegas reports to Makro's Managing Director in Spain, but with a dotted line to the Senior European Counsel. For compliance issues, she reports directly to the European Compliance Director.

Banegas is proud that the legal department in Spain is regarded as a core function and that from both a legal and compliance perspective is not seen as a "blocker". This past year saw her lawyers voted the most "Service-Orientated Department" by Makro's own employees.

"Hopefully it shows that by being business-orientated and always ready to find a solution we are doing something right. We want to be perceived as facilitators rather than legal policemen. We want to help people and protect the company. You cannot do that by only ever telling people what they cannot do."

Alejandra Banegas is the Head of Legal and Compliance for Makro España.

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