

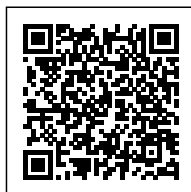
SHARING THE PAIN - THE PRACTICAL IMPACT OF LAW FIRM PANELS

Posted on 23/02/2009



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Iberian lawyers aware of clients' changing economic situations and prepared to adapt accordingly

Los resultados de la encuesta al grupo de expertos de Iberian Lawyer revelan que despachos tanto de España como de Portugal están sintiendo los efectos de la presión económica y de negocio que sufren los departamentos jurídicos de las empresas con las que trabajan, y consideran que esto va a suponer un cambio respecto a la forma en que van a contratar los servicios externos de asesoría. Ya hay empresas que utilizan el formato de una selección de bufetes «panel» como proveedores fijos, algo que se interpreta como una búsqueda evidente de «lealtad» o como un incremento del «valor añadido» por parte de los despachos que contratan.

A survey of Iberian Lawyers' Group of Experts reveals that law firms across Spain and Portugal are

increasingly aware of the economic and business pressures being placed on legal department heads, and understand that this may mean changes in the way they use external law firms.

Research by Iberian Lawyer suggests that General Counsel continue to face increasing pressures in the way they manage their legal department budgets as a result of the wider economic issues affecting their businesses.

Many among the Group of Experts believe that this will inevitably impact on both the types of work that legal departments routinely handle in-house and that which is outsourced to law firms. The pressure on in-house lawyers, they say, is increasingly evident in clients' greater price sensitivity and a renewed emphasis in ensuring the loyalty and "added value" of the law firms they use.

"Current market conditions will probably lead to less funds available in companies' budgets for legal services. That would mean, on the one hand, additional legal matters being dealt with by in-house counsel, and, on the other hand, major pressure on pricing for law firms," says Javier López-Antón, managing partner of DLA Piper in Madrid.

Will Iberian businesses concentrate their legal spend around fewer firms in order to achieve cost efficiency, moving towards the formalisation of law firms 'panels'?

"Whilst cost cutting or at least control is more evident it is too early to identify a pattern of whether the preference will be for fewer law firms or formalised panels. Having said this, the fewer number of law firms instructed the easier it is to control legal spend." Manuel P. Barrocas, Barrocas Sarmiento Neves

"The concentration of legal services among fewer law firms gives a big client a much better negotiating position. According to our experience the formalisation of law firm "panels" is a current practice inside big companies but probably the crisis factor will influence its expansion into medium size companies." Pedro Pais de Almeida, Abreu Advogados

"Competition will be more at the cost level than ever before, having been deprived of routine work, larger firms will be tempted to crash prices to save (or gain) work – law firm panels will not be nice to watch from the perspective of participating law firms." Pedro Cardigos, Cardigos

✖ "This new situation will not mean initially a change in the law firms currently working for a particular client as long as they are able to adjust their applicable rates and, to get those reduced prices, clients will probably offer a higher percentage of participation in the volume of generated legal work. This effect will surely be more apparent in less value-added work, so that available funds may be allocated to major transactions." Javier López-Antón, DLA Piper

"Concentrating the legal advice of a business may in fact optimise the service to be received, allowing the client to obtain greater value added service at a better cost, particularly if the firms chosen have special knowledge of the market and expertise in the sector and are able to provide a personalised service." Lourdes Ayala, Legalia

"There is a notable trend where companies are reorganising their panels of preferred law firms. In the majority of the cases, there is a reduction of the number of law firms that integrate the panels. But, from my perspective, that is not necessarily related to the crisis." José María Alonso, Garrigues

"Many companies already have informal panels. The focus on seeking internal efficiencies combined with less acquisitive strategies will result in their formalisation." Jose M Balañá, Lovells

Who will be the winners and losers if there is a concerted client move towards law

firm 'panels'?

"Portugal's larger law firms have already gained some experience in competitive selection procedures and are better prepared to be able to reply to new challenges or changes required by clients" Rogério Fernandes Ferreira, PLMJ

"Any drive by businesses towards cost-effectiveness, and the concentration of work with more formal selection will favour mid-size and more specialist firms since, in accordance with my experience and at least in Portugal, they are more prepared than the largest law firms to render a better and accurate service at a lower cost." Cesar Bessa Monteiro, ABBC

"Big law firms have strong advantages, the main one being their brands' undisputed reputation and tradition. This is an important driver of clients in a serious downturn, as they'd rather pay more than sacrifice the best possible solutions to their pressing problems." José María Alonso, Garrigues

"Larger structures with high costs will be the ones to suffer more. Medium sized and small firms with a higher value of quality but with tighter costs will be the ones who will be in the mood to offer better prices." Francisco Guijarro, Hammonds

"The most affected law firms will probably be those that exclusively or mainly focus their practice in major deals and projects, as the fees that they charge are not compatible with the day-to-day legal issues and needs of businesses." Gonçalo da Cunha, F Castelo Branco

"Tender processes are very competitive and the size of the firms is not the most important factor, but rather resilience and specialisation can be the key. The size of the client company may however be relevant, in case of corporations whose business is spread across different geographical areas" Ricardo Garrido, Davies Arnold Cooper

The perception that clients are looking to outsource less work and to extend their reach into matters previously routinely handled by external lawyers is a common one.

"In the current economic context, which leads to an obligation to reduce costs, businesses might tend to consider the fees paid to lawyers as an avoidable expense," says Gonçalo da Cunha at F Castelo Branco in Lisbon.

But there is also awareness that the changing economic situation is bringing types of work that present in-house lawyers with new and different challenges. "This is a time of litigation, restructuring, bankruptcy and employment – big and complex issues that often exceed the capacity of inhouse legal departments," notes Alvaro Mendiola litigation partner at Cuatrecasas in Madrid.

"But I do not see any particular move for formalisation of law firm panels. Clients keep looking for the best offer by collecting proposals from two or three firms of reference."

Many others do though see a sentiment among businesses towards the concentration of legal spend around fewer firms, in order to achieve better cost efficiencies, and even the formalisation of law firm "panels".

The credit crunch and global financial crisis may be encouraging such a development but the criteria for the selection of outside legal counsel has already been moving away from the subjective "old friends" connections towards a more objective and cost sensitive basis for some time, believes Nuno Brito Lopes at PLMJ. "Realities such as key performance indicators (KPIs), benchmarking and law firm panels will gradually enter the concern of lawyers."

The concentration of legal work around fewer law firms may make cost control simpler but such an approach may not be suited for all types of issues, others suggest. A more formal selective approach may help to demonstrate clients' loyalties to law firms in exchange for price concessions in what are difficult times for both sides, say some.

"The request often heard and that will be uttered more frequently is "share the pain". Clearly for some clients that have shown their loyalty over the years to external counsel, this is appropriate – especially for those who have demonstrated that they are also willing to "share the joy" in the good times," says Charles Coward at Uría Menéndez.

"Probably, however, for many of the matters that must be outsourced, clients will not be in the best of positions to negotiate or demand that the external counsel work at reduced or discounted rates. Goodwill built up over time by reciprocal loyal behaviour will become more important than ever in these exciting and challenging times that we are blessed or cursed to live," he says.

Winners and losers

As to who the winners and losers may be if companies move towards a more formal approach to law firm selection and retention, lawyers are split whether firms' size may be a help or a hindrance.

The largest law firms are able to offer a broad practice and geographic spread, and may be more willing to discount as clients adopt a "one-stop shop" approach. But mid-size and smaller law firms, say some, are better able to demonstrate specialist skills and with reduced overheads are already able to offer their expertise at a lower cost.

"To the extent that routine work is sent out and decisions are taken to concentrate that work among fewer firms, I am not sure that this necessarily will help the largest law firms," says one Barcelona-based partner. "Law firms are one of the few types of institutions that typically do not produce economies of scale; at least size does not seem to translate into lower costs or lower fees."

Ultimately, success for law firms may therefore be a question of their willingness to adapt to a new business environment, to adjust to financial conditions, and to be able to demonstrate the requisite expertise on what less price sensitive work remains.

"In the end, companies are seeking quality of service, timely answers and reliable teams. Simply put, those law firms with the ability to satisfy their clients' demands, by providing efficient legal services at a reasonable cost, will be the winners in these panels," believes Garrigues' managing partner, José María Alonso.