

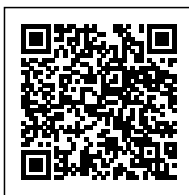
TELEFÓNICA INTERNATIONAL: LAW AS A BUSINESS TOOL

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**For Manuel Álvarez Trongé, Company Secretary and General Counsel of Telefónica International,
“Law is not about the ideas you read in a book, it is about the art of the possible.”**

Manuel Álvarez Trongé se unió a Telefónica – empresa líder en los mercados de los países de habla hispana y portuguesa – en 2002. Manuel afirma que muy pronto se dio cuenta de que el poder de la ley en el ámbito empresarial es saber utilizarla como una herramienta para proporcionar soluciones. En calidad de secretario y abogado general de Telefónica Internacional, Manuel lleva los asuntos legales de América Latina y Estados Unidos, y tiene un papel cada vez más destacado en el resto del mundo. Telefónica se encuentra en una fase de expansión internacional, que recientemente ha incluido operaciones como la adquisición de Cesky Telecom, de Colombia Telecom y de una parte de China Netcom.

An Argentinean lawyer, Manuel Álvarez Trongé experienced a baptism of fire as an in-house lawyer

– with one of Argentina's major petrochemical businesses – during the 1992 economic crisis. It was a time of turmoil for the international business community as the Argentine government passed new laws undermining previous business agreements. But for Manuel, who had studied at Harvard Law School and King's College London, it was an ideal learning environment. After working in private practice he had joined one of the country's leading petrochemical companies before moving on to Telefónica.

"During that period, I came to realise that the power of the law is using it as a business tool to provide solutions," he explains. "As a lawyer in private practice I had been used to thinking 'what is in the mind of a judge', now I was forced to think 'what is best for the business'."

Manuel joined Telefónica in 2002 arriving in Madrid six months ago to start his current role. As General Counsel of Telefónica International, he has responsibility for their legal issues in jurisdictions outside Spain, primarily in Latin America – where the business has 250 lawyers – but also in the USA and around the world.

Like many of Iberia's major businesses, Telefónica is in a stage of international expansion – making five major global acquisitions in the past two years. Manuel has been actively involved in a number of major transactions, including the recent Colombia Telecom acquisition, as well as Bell South in Argentina and the purchase of a stake in China Netcom – a country where he says Telefonica is looking for further potential businesses. He was also partially involved, through his role on Telefónica's strategy committee, in Telefónica Móviles' €25.6 bn acquisition of the UK's O2.

He greatly enjoys the transactional side of the work. "Acquisitions are the most exciting work, especially for the young lawyers. We work long hours but enjoy the team spirit." He found the Colombia Telecom acquisition particularly satisfying because "it was a competitive tender and we won."

Internal structure

Manuel leads a six-lawyer team in Madrid, which is organised into four groups: litigation, regulatory, corporate (including finance, M&A, corporate governance etc) and business, which advises on commercial relations for each of Telefónica's business units.

He works closely with the other General Counsels and the legal teams in each operating country, the composition of which tends to reflect the size of the market. As many of the businesses are public – with varied regulatory requirements around the world – they need to follow the highest international standards.

Manuel believes it is important to define the role of the legal team no matter what the jurisdiction is and for it to be an integral part of the business. "We are trying to use the law as a tool so we can add value to the company," he explains. "That is the huge difference between an internal and an external lawyer, as our business is not to sell legal services. Our business is to sell telephony services and we look to add value from the beginning of the project, so we sit around the table with the engineers and the commercial guys."

This integration with the business means that hard-nosed commercialism is at the forefront of everything the legal team does. Talk like a lawyer in that environment and, according to Manuel, you will not be heard. He instils an imperative in the team that they must speak "not like lawyers, but like businessmen".

Likewise, he tells staff that, in order to be good lawyers, they have to develop a detailed and thorough understanding of the business through its operations. "I explain to our young lawyers, if you understand the business you can be the future General Counsel."

External lawyers

When it comes to instructing external lawyers, the multi-jurisdictional nature of the business has a very strong influence on which firms are chosen. Many of the individual operating companies within the Telefónica Groups are publicly listed in their own countries and often in the US as well. With each country having its own rules and regulations, it makes sense to use a specialist local firm to help out if required.

Manuel feels he is very fortunate with the excellent lawyers he has access to in all of the countries he is dealing with. "We need to use our external lawyers to help us compete – to give us a business advantage. We do use major international as well as domestic law firms although we try as much as possible to use our local in-house lawyers."

He sees advantages in working directly with the best local law firms. "You have to understand that in many of the countries in which we operate we must listen to advice about the local culture and how things work – information that you do not find in a book. There is no need for us to bring Spanish lawyers to Latin America."

The company runs an informal panel of preferred law firms, but the local General Counsels are encouraged to develop their own relationships. He explains that little work is outsourced in Madrid.

The firms he works with all need to understand his requirement for clear and pragmatic advice – private practice lawyers he feels are often more interested in the theory than in providing solutions. They also need to respond to his timescales. The dynamic nature of the business often means he needs an immediate turnaround on an opinion.

"Lawyers sell you trust. You have to build on this trust. I cannot say that one firm is better than another, but I can say that the one that sells me trust is the one I can work with."


Dealing with conflict

Litigation is an important area of his work – in Brazil alone at any one time there are over 150,000 pieces of on-going litigation. But often the key is keeping a matter out of the courts.

As a qualified mediator, and author of two important books on negotiation skills for lawyers, Álvarez Tróngé believes that more focus should be placed on conflict resolution. "The problem is that as lawyers we study law but we do not study conflicts. All lawyers need negotiation skills."

He believes that mediation is working well in Argentina, although there are some questions regarding fees and quality control. "Many cases are solved by mediation before they go to the court. It is an extraordinary tool as, at the end, the solution will come from the parties."

Manuel is also heavily involved in major arbitrations for Telefónica. "It is difficult for a judge to understand the technical aspects of the deal." When Telefónica is in dispute with a government, arbitration also offers the company the benefit of being dealt with in an equal manner.

"I really think that arbitration is a huge opportunity for the business community," he says. Manuel is  an experienced arbitrator with, among others, the American Arbitration Association (AAA) in New York. A speaker at the recent Madrid conference organised by the Club Español de Arbitraje, he is confident that Spain has a key role to play as a centre for resolving Latin American disputes.

At the end of the day, for the General Counsel of Telefónica International, Latin America remains the key challenge. "We are dealing with risk every day. Sometimes governments change the rules of the game and the rule of law. We have to deal with these problems and we have to add value in these types of situations."



