

WILL THE LEGAL SALES CONTINUE?

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The coming year will see pricing continue to be a key battle ground between law firms, predict some. A reduction in transactions, concern over utilisation rates, particularly of junior lawyers, and an increased sophistication in the way General Counsel manage their external legal needs, means that more than ever firms have to differentiate their services to win work.

Este año, la batalla de precios será clave para los despachos. La reducción del número de operaciones y la sofisticación de los abogados internos en la gestión de sus necesidades legales, hacen que los despachos tengan que ser más creativos para diferenciarse. Sin embargo, algunos socios directores temen que las duras negociaciones a la baja de los honorarios, a menudo para mantener a los abogados ocupados, puedan ocasionar un descenso irreversible de los precios.

Managing Partners are concerned however if firms' willingness to reduce fee rates in order to keep lawyers busy is though encouraging a race to the bottom in pricing.

Since the onset of the global financial crisis in 2007 and with the collapse of the construction sector in Spain in 2008, law firms across Iberia have faced demands to offer "more for less". But on top of this is a simple question of supply and demand, say some. There is too little client demand and too many law firms, or at least too many law firms with too many lawyers to keep busy.

Firms have reassessed their own internal efficiencies as revenues became less certain including by reducing their fixed costs. Many may be getting smaller by making quiet redundancies, but such cuts arguably present only partial reductions on the bottom line. A drive to reduce overheads may be ongoing, however the consistent challenge remains to provide clients with the type of services they now require and at the price they apparently demand.

"In the current climate it is a challenge to charge more for our services so we have to look at our own efficiencies, to work harder on our utilisation, focus on our core strengths and more accurately benchmark individual profitability," says Manuel Martin, Managing Partner of Gómez-Acebo & Pombo in Spain. The firm has reported a fall in revenues of 7.7 percent for last year.

The pricing issue is one that cuts across all sections of the market. "There are 'nice' and 'nasty' clients," says the Managing Partner of a smaller firm, off the record. "The nasty ones ask for three quotes for every piece of work, and you know that if you want it you have to meet their lowest expectations. The nice ones at least offer you the work without any bid process, but still expect a significant percentage knocked off the final bill."

But who is to blame? Common also are stories of clients taking a firm's fee proposal and passing it on to competitors. Even as a client's "preferred" firm, they are still being asked to match the rates obtained or risk losing the work.

Value for money

There is no doubt that the past few years have seen a general drive towards lower fees. Falling transactional demand has been coupled with legal departments' desire to seek better value for money, as they face their own budgetary pressures.

But such a change also reflects a more sophisticated approach to managing external legal needs. In-house lawyers are more frequently differentiating between the types of work they externalise, and not merely for the routine or "bet the bank" issues; as well as to whom they choose to do the work.

As one General Counsel says of the leading Madrid firms: "They can be expensive for the standardised work and cheap for the expensive work."

A growing number of Heads of Legal are also now following the international trend to unbundle work into distinct elements handled either in-house or externally, with a larger number assessing the merits of legal process outsourcers (LPO) as an alternative to traditional law firms. Both BBVA and Santander are believed to already be using LPOs and increasingly it will be these types of providers that law firms will have to compete with if they are to cater to clients' high volume and commodity needs, believe many.

General Counsel deny however that they are taking advantage of the current economic pressures and being too aggressive on fees. Many nonetheless state that as technical ability among law firms is increasingly taken as a given, the way firms staff and manage work is taking on greater significance. The billable hour was an early victim of the downturn, and now the ability, even willingness, of law firms to adapt to such an evolution, to consider alternative pricing structures and team structures, and to operate in true "partnership" with clients is more than ever perceived as a

market differentiator. **Market positioning**

Yet many General Counsel report that, for them, the New Year sales are continuing. In the face of increased market pressures and reduced client demand, law firms are increasingly willing to negotiate fees and usually this means downwards.

It is a situation that contrasts sharply with General

Counsels' experience last year, they say, when law firms (in Spain at least) reported consistent demand up until the summer months and were able to price accordingly. It was only in the Autumn of 2011 that many saw a substantial drop in work and looked more at pricing as a means of keeping their teams busy.

Few Managing Partners predict that with the downturn demand for "expertise" work will diminish entirely, but there is less international investor interest, and with an over-supply of firms in the market not all can consistently win top-end work.

The recurring challenge is therefore how to maintain market visibility, quality work and rates. Firms' efforts to win a lead role in the privatisations and IPOs seen across Portugal and Spain over the last year have been as much about maintaining visibility as securing the best fees, say sources close to some firms. The flotations of Banca Cívica and Bankia and the now delayed sale of Spain's airports have filled newspaper columns and helped keep the leading lawyers in the spotlight – 14 firms bid for the privatisation mandate of airports operator AENA, ultimately won by Cuatrecasas Gonçalves Pereira (alongside Mayer Brown).

Likewise in Portugal, the lead adviser roles in the sale of the Government's stake in leading businesses like EdP, Galp and REN certainly help to reinforce firms' positions in the rankings, and keep teams busy, but none expects the Government to pay well.

Yet it seems firms can be too hungry for the work. One was notably disqualified from the AENA bid in Spain for tendering an offer that the Spanish Ministry of Development deemed below that reasonably expected for a professional service.

Decisions

Managing Partners accept that they need to be flexible on fee rates and structures, but they also need to look at the wider strategic picture; to determine how profitable they can be realistically in the current climate, and what level of earnings the Partners are now comfortable taking home.

"When the downturn hit we took the decision that we would rather keep the firm going, having built up its profile and reputation, and on the same scale. But we also acknowledged that this had a price, as Partners we would no longer be earning what we had been prior to the crisis," says one Madrid Managing Partner.

With estimates that the leading firms in Spain and Portugal operate on a profit level of between 30-60 percent, the choice for Managing Partners has been the extent to which they prefer to protect high margins or their leverage. Clients increasingly no longer want to pay for the most junior lawyers, yet it is these that have most often performed the most routine work, and on which firms' profitability has been built.

Managing Partners admit therefore to "rolling over" when pressed for concrete discounts. Some firms have told Iberian Lawyer in private that they are willing to take on work that merely covers their costs in order to keep lawyers busy, and this inevitably means low-balling on price. "Everybody is doing it, so it does not make me a bad person. Let he who is without sin cast the first stone," says one Madrid Managing Partner.

Among those firms for whom being big remains important, some have begun to explore the option

“Law firms that have used time as their basic unit for pricing need to now consider value. They have done well selling clients their time but now they need to offer them solutions.”
Stephen Mayson



of using their own regional offices as an in-house 'low cost' option.

Others prefer nonetheless to protect their margins. The domestic Spanish and Portuguese firms may not be keen to fire lawyers, but the Anglo Saxons have made wide-ranging cuts. In order to maintain profitability, some are also being more selective about both the type of work they do and for whom they now do it.

"If your focus is on top-end work it is not easy to keep an office of 100 lawyers busy, so I cannot see how it is possible for firms in Spain with 600 or 1,000 lawyers. You will inevitably have to compromise on what you do and how much you can charge for it," says the Managing Partner of one UK firm in Madrid.

But size is relative. Some mid-size firms may complain of the pressures being felt from larger firms as they target smaller transactions, but others are prospering as client conflicts bring them into more major deals. "Some firms are finding themselves acting in transactions they wouldn't otherwise be and able to invoice well beyond their normal fee range. It is as if Christmas and their birthday have come at once," adds the same Managing Partner.

Magic formula

Big or small, there is clearly no magic solution to the pricing dilemma. For Kevin Doolan, Head of Client Relations at Eversheds in London, and a frequent adviser on pricing issues, any client conversation that begins with how much of a discount is on offer is already the wrong conversation to have.

Firms' fixed costs do not change depending on the client so there is no sense in pricing this way, he says. Some may be able to manage their costs more flexibly but in the current climate a change of mindset is still required. Being the cheapest firm in the market is not a sustainable strategy.

Stephen Mayson, Professor of Strategy at London's Legal Services Institute, agrees: "Law firms that have used time as their basic unit for pricing now also need to consider value. They must offer their clients 'solutions'."

In order to do so, they must first of all however understand their businesses and the nature of the problems being encountered, he adds. "Those lawyers brave enough to ask, 'what is it worth if we solve this for you?' will likely also be able to charge more."

As 2012 unfolds external lawyers thus need to better understand both their clients' business and legal needs. Easier said than done, for some.

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