

Adding value in a pan-European Vendor Leasing business

Philip Venner gives his view of the in-house lawyer's contribution

In a world where law firms are now becoming recognisably more competitive, to the extent that they are willing to invest hours free of charge on matters before giving quotes, to discount hourly rates and to provide certain services free within a chargeable package, one might wonder whether companies really need an in-house legal department.

However, it is for the same reasons that you might choose not to outsource certain functions such as credit or operations that it is a good idea to retain an in-house legal function. The value-add of the in-house lawyer is that they operate within the business and know its "ins" and "outs" and many of its functions, whether sales, pricing, credit or residual appetite. They are not just focused on the legal and compliance requirements of the business.

So when negotiating with a vendor and drawing up a contractual agreement and a term sheet to qualify the relationship, the in-house lawyer's understanding of the business should enable him or her to know what questions to ask and what priority to give them.

An external lawyer, who is paid by the hour, is not going to push as hard to question the logic or exact relevance of instructions as an in-house lawyer on a fixed income. To avoid time being wasted, the in-house lawyer is likely to point out pretty quickly why there may be challenges. That represents a double saving on external cost and internal management time.

This is particularly the case when looking at foreign jurisdictions. In my experience, many law firms will say that they can help in managing the process but generally they will act as a postbox.

This is where some of the big four accounting firms are slightly ahead of the game. Although they will need to ask for local input they appear to be better at managing the co-ordination of pan-European advice on a vendor



opportunity which requires local advice from several countries with a modest mark up for case management.

With law firms it is, in my experience, much more cost effective to manage the collection of local advice internally and ensure that this is stored in a databank for future reference and cost saving.

Foresight of what the business requires not only has the benefit of ensuring the "i"s are dotted and the "t"s crossed but can sometimes help reduce the number of those "i"s and "t"s actually required, making the process more efficient.

Sometimes, you see a hugely lengthy document which may have been used by someone new to the business or by a partner and is seen as a comfort blanket, possibly due to its length alone. By focusing on what is important and especially the true risks of the deal and drafting for those we can ensure important clauses are not missing and avoid arguing over unnecessary ones.

This enables speed of response which is vital in a service-focused environment. To be able to ask a question and get a response very quickly in person or by phone or e-mail is a critical benefit of using an in-house lawyer.

In this context, even one extra day's delay can be damaging. You see the bottom line is that the in-house lawyer

only has one client, whereas the external law firm has several. If you are not their most important client, the priority given to your urgent issue is inevitably going to be affected.

Speed of response is, as with most support functions, the attribute most taken for granted in this context. Where there is a need for external advice on a particular point the impatience of the deal maker is hugely exacerbated by the extra time taken by the external lawyer.

Experience both of the vendor leasing business and documentary negotiation with vendors is key in successfully negotiating agreements with vendors. The main ingredients of a vendor programme agreement are quite straightforward. The vendor wants service and the lessor wants deals and product support.

Often in negotiations, these important issues get sidelined through people going off on their own hobby-horse. It is down to the in-house lawyer to keep people on track. They will be the ones tasked with ensuring the views of credit, asset management, pricing, finance, operations and sales are all obtained but given only the weight (not too much nor too little) that they deserve.

You have to be assertive not only with your own colleagues but also with the vendor's team and that can often be a delicate exercise in carefully but persistently pursuing why a point is, or is not, important. Often you have to go through several "what if" scenarios to explain why something is immaterial or conversely why the contractual provision you are seeking is important in the context of the particular vendor programme.

And if that does not help to end the day on a high note there are always the compliance matters to deal with: anti-money laundering, data protection, Sarbanes Oxley, etc!

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