



# A Glimpse of Our Future

## LAWYERS, ACCOUNTANTS, AND MANAGEMENT CONSULTANTS?

### EDITOR'S NOTE:

*Accounting firms are setting up corporate law practices outside the USA, as reported recently by the New York Times in a story we reprint here. Given that accountants have set up successful management consulting practices in the U.S. and elsewhere, perhaps the continuing blurring of lines of ownership and professional practice between lawyers, accountants, and consultants should come as little or no surprise. The parties at interest, not the least of whom are likely to be the readers of this journal, include governmental regulators and, of course, clients. While JMC's Editorial Board hasn't adopted a position on the matter, three of our editors here express their own personal takes on these developments. First, though, the New York Times story.*

### EUROPEAN LAWYERS IN BATTLE WITH U.S. ACCOUNTING FIRMS

by Melody Petersen

The world's six largest accounting firms have plunged into the legal business in Europe, leaving many European lawyers fighting mad.

Perhaps the most heated battle between the accounting firms and the law firms is now being waged in Paris, where names like Deloitte et Touche Juridique et Fiscal and KPMG Fidal Peat International now appear on lists of the city's law firms, much to the annoyance of many members of the Paris bar.

French lawyers and American lawyers are planning a summit meeting on "the accounting firm issue" Monday in New York. The Paris lawyers have come with a message for their American colleagues: It is only a matter of time before the Big Six firms snatch up legal work in America, too.

In the United States, the accounting firms would have to go up against legions of American lawyers to change laws that now prevent lawyers and accountants from practicing together. But the Paris lawyers say that barrier may not be as insurmountable as it seems.

John Riggs, a member of both the Paris and New York bars and a partner at White & Case in Paris, said France had similar laws but they had not stopped the accountants.

"They're big," Riggs said of the accounting firms. "They have a lot of oomph."

Outside of the United States, the accounting firms are setting up corporate law practices in many countries by hiring lawyers and merging with whole law firms. KPMG now has 1,100 lawyers in France, making it the country's largest law firm. Arthur Andersen recently merged with one of Spain's top law firms to form Garrigues & Andersen. And Price Waterhouse opened a law office in Moscow last year, which it hopes will soon grow to 100 lawyers.

The Big Six firms are creating one-stop professional firms, where companies can go for their annual audit, tax advice, legal services and consulting on almost any business matter.

"We have been successful because we can meet all of our clients' demands," said Gerard Nicolay, managing partner of Coopers & Lybrand's law firm in France. He said that his firm's revenues grew by 30 percent last year, while the overall market for French legal services grew by just 5 percent. "Obviously, our competition, the traditional law firms, does not like that."

The accounting firms, however, are reluctant to talk about their aspirations in the United States for fear of stirring up opposition from the American bar. "We have no plans to acquire a U.S. law firm," said Matthew Gonring, managing partner of communications at Arthur Andersen, a

firm that has been one of the most aggressive at acquiring European law firms.

But there are enough hints to cause American law firms to squirm. For example, Price Waterhouse now has an alliance with Miller & Chevalier, a law firm in Washington that has a large tax practice.

The two firms refer clients to one another. And, the Big Six firms have been hiring more and more lawyers in the United States. But so far, those lawyers do little more than tax work.

American lawyers, like their European counterparts, are beginning to try to put up some defenses. A committee appointed by the Texas Supreme Court, for instance, is investigating Arthur Andersen and Deloitte & Touche after Texas lawyers contended that the two accounting firms were illegally practicing law. Both firms deny the allegations.

Lawyers argue that accounting firms should not practice law because accountants owe duties to their clients that conflict with the client obligations of lawyers. For instance, while accountants must disclose any serious financial problems that they may discover during the audit of a public company, lawyers must protect their clients and keep client matters confidential. The lawyers also argue that the Big Six are so large that there is a high possibility that the interests of one client would conflict with the interests of another.

"They say we are just trying to protect our turf," said Lawrence Fox, a lawyer at the Philadelphia law firm of Drinker, Biddle & Reath, who moderated a debate on the issue at a conference of the American Bar Association in May. "I argue that we are trying to protect our clients."

In most European countries, to ease some of those complaints, the accounting firms have separated the lawyers from accountants by creating separate law firms that are owned by the law partners.

In the Netherlands, when Arthur Andersen decided to try to put all its professionals under one roof, a Dutch court ruled that it could not. The firm has appealed that decision.

"We would prefer to have one firm with everyone together," said Nick Prentice, Arthur Andersen's managing partner for tax and legal services in Europe. "Having two firms just adds costs so that it is not in the client's best interests."

Prentice said this battle was not really one between accountants and lawyers, but a question of whether lawyers should be allowed to practice with accountants and consultants in a single firm that he described as "multidisciplinary."

"We don't believe in our hearts," he said, "that we are an accounting firm."

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### **Editor Fred Nickols:**

First of all, the accountancies and the consultancies have successfully operated in tandem for many years (not without tensions, as the Arthur Andersen and Andersen Consulting saga of a few years back illustrates). We have also had attorneys who are CPAs, CPAs who hold MBAs, and MBAs who are attorneys and CPAs. "Marriages" between and among the disciplines are not new. What seems to be new—and different—in the European case is the acquisition of law firms by accountancies/consultancies.

Imagine now large numbers of dual-degreed and licensed practitioners. Might this signal the moving of certain aspects of the accounting and management consulting practices under the cloak of client-attorney privilege? If I'm dealing with an attorney who is also a CPA, when is he or she an attorney and when is he or she an accountant? In other words, one likely consequence is confusion regarding which set of professional ethics and standards apply. Clients and practitioners both might be confused. As a consultant, I've always thought that part of my job was to sort out and clarify matters for my clients, not add to their confusion. Clients, then, might just turn away to separate specialists, just to avoid the confusion.

Another thing to keep in mind is that it is the accountancies/consultancies that are doing the acquiring. Is that to be viewed with alarm and trepidation? I don't know and I'm neither attorney nor accountant so I can't speak on that basis, but it seems to me that the accountancies have to see some "leverage" in the move or they wouldn't be making it. Perhaps the leverage seen by the accountancies is nothing more than the ability to hold on to all of their clients' business, be it accounting, legal, or consulting. That said, will clients view referrals as disinterested or as suffering from a conflict of interest? If the latter is the case, then one consequence of the mixing of the three professions could be a dilution of value of all three in those firms where they are practiced. In short, clients might come to distrust all three practice areas in these emerging tri-partite firms. Instead of plying their respective professions, practitioners may be seen as trying to cook up business for their colleagues.

In a nutshell, confusion regarding professional ethics and standards, and a potential dilution of value in all three practice areas are what I see as two possibilities. How probable they are, I cannot say.

### **Editor Mike Gallagher:**

I continue to be surprised at the failure of the big firms to recognize that "one-stop shopping" is kind of like the "hub and spoke" thing is to the airlines: Good for *their* business operations, but of questionable value to their customers. How good is it, really, for a Fortune 500 client—any client for that matter—to be essentially captive to any one service provider, especially in areas as broadly sensitive as accounts, taxes, the law, corporate strategy—I mean, how smart is that, really?

Toward the end of the *New York Times* piece, I note that in most countries, to ease complaints of conflict of interest, accounting firms have separated the

lawyers from accountants by creating separate law firms. On the other hand, a paragraph later, one Andersen partner says all that adds is costs!

Is it possible that there is a glut of lawyers in Europe too—so that firm earnings are down and the partnerships vulnerable to buyouts? Same sort of thing could happen in the United States, based on what the article says about conditions in Europe, legal restraints, or other problems.

What about implications for our various publics?

Solos and small firms: Ho hum.

Large consulting firms: If adding a legal wing to the Big Six firms makes sense, and in our litigious times it may well, then it probably makes sense for the large consulting firms as well.

And for the accounting firms: I feel your pain—all that money and hardly any place to invest it. But I am sure something will turn up.

### Editor Jay Berry:

*The Big Six Cause Jitters and Rage, but Europeans Left Themselves Open*

In the tussle over the right of firms like KPMG, Arthur Andersen, and Coopers & Lybrand to enter the European legal services market, there is a “salad nicoise” of issues. Here is my attempt, rough and quick, to sort some of them out.

1. British and German law is somewhat more contemporary, but in places like France, Italy, Spain, and Greece, the legal system is fragmented and old-fashioned, in the Mom-and-Pop shop tradition of most other services. In Italy, for example, a manager has to deal with lawyers, commercialistas, fiscalistas, notaries and other dignitaries with powers that go far beyond one’s understanding compared, say, to the United States. A big

law firm in Italy will have but twenty to thirty lawyers.

In this age of integration of information and functions, it is contradictory that the modernized treasury function has to cope with an antiquated legal system that hasn’t changed much in hundreds of years. Lawyers in Italy who belong to the ancient old *alberi* (professional societies) have been sleeping, just like the venerable old cabinetmaker who watches a sleek Ikea hypermarket a-building on his doorstep.

2. There is nothing necessarily precedent-setting about buying or setting up a separate law firm. Most European governments will sooner or later wake up and say that accountants and lawyers can’t be under one roof, at least not for now. I think it will be increasingly difficult for Andersen to pull off in other countries what they did in Spain (Garrigues & Andersen). But so what? The mere fact that they can tackle problems in multifunction teams is in clients’ interest.

The problem now is that in many cases the lawyer doesn’t have the slightest clue about the client’s economic or tax problems, so he can’t render a “one stop” service. I myself have been told by a lawyer:

- That’s a tax problem. You’ll have to get the opinion of the commercialista.
- There’s a government ruling on that, I think. Better see what the notario says.

So of course firms like KPMG note the backward environment, and take whatever steps they can to produce a KPMG Fidal Peat International. Small wonder. They know how to pull this off. Remember? Once

upon a time they weren’t in the management consulting business, either! Are they ever now!

3. Personally I think that the courts will ultimately hold out for assurance of avoidance of a conflict of interest. But the Big Six will be able to avoid that on a technicality: having their law firms constituted as separate and independent corporations. Otherwise a lawyer may be defending an analysis that his firm prepared, and the courts will have trouble stomaching that. In the USA the rules are that they can’t “practice together.” But, once they start to serve the same client, it’s hard to say they can’t work together. After all, many do that now already.
4. The new people deliver more, faster, and with a broader understanding of economic/fiscal issues facing the client. With laws being rewritten every day, and the Euro on the near horizon, legal interpretations are needed for accounting problems.
5. But the limiting factor is the level of excellence that accounting firms can and will deliver. As they broaden their scope, they are faced with new difficulties in acquiring the best people and learning new skills. McKinsey and Booz•Allen take the approach of delivering what they do best. Firms that aspire to do a little bit of everything, supermarket-style, take on a new problem of skills, know-how, credibility, quality, and conflict of interest that will embarrass them. Looking at it from their point of view, let’s hope not too often. ■

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#### INDEXED UNDER:

*Law business, accounting firms entry into; Mergers and acquisitions; Europe, accounting firms in*