

The irrelevance of independence

A decade ago, the battle lines were clear – European independent law firms were in a life-and-death fight with Anglo-Saxon global predators. But today, argue **Tony Williams** and **Richard Tromans**, the old stereotypes should be consigned to history as globalisation is the future

Does the term ‘independent law firm’ retain any useful meaning, or is its use now totally counterproductive in a globalising economy?

The term was first coined in Europe in the 1990s to divide those firms that were part of, or aligned to, US or UK law firms from those that remained ‘independent’ of the so-called Anglo-Saxons.

Yet today, many continental European law firms have their own foreign offices and mirror the behaviour of UK and US practices. Indeed, some of the most international law firms in

the world are European, such as France’s Gide Loyrette Nouel and Garrigues and Uría Menéndez from Spain. In addition many Asian, Australian and Canadian law firms are increasingly building international capability or are forging their own international alliances.

Therefore, law firms claiming to be independent risk confusing the market with what appears to be a rather dated term.

The fundamental issue now is what clients will think about how law firms brand and market themselves and how this will affect winning work in an increasingly cross-border market

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for legal services. For example, a client from China may wonder what a firm means when it says it is independent. The Chinese client might assume that a firm protesting that it is very different from the larger, global firms means it doesn’t in fact have the same international credentials. It would be more positive for a firm to say, for example, that it is a globally-minded practice, with strong links to leading firms around the world, with lawyers that work daily on cases involving all major jurisdictions, including deals that involve English and New York law.

Divisive language

How did we get to the point where even in 2011 such divisive language as ‘global’ versus ‘independent’ or ‘Anglo-Saxon’ versus ‘European’ lawyer, still persists? Younger lawyers entering the profession today may wonder how this apparent schism occurred. There are several historical reasons.

The dominant flow of capital and investment from the late 1990s was going from west to east, first from the US to the UK and then from the UK into the rest of Europe, not the other way. This tended to make European firms receivers of referrals, not senders of referrals.

Dependency on US and UK referrals was a major disincentive to continental European law



Old battles: global and independent law firms no longer need to cross swords

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firms building their own English or American legal practice. UK and US law firms were relatively larger than most continental firms – even at that stage in history – and they were more centrally and professionally operated. It would have been almost impossible for these to be taken over by smaller, less focused European firms.

Remuneration systems at that time were very different at many continental European firms, with significant equity held in the hands of founders and senior partners, making the hire of UK or US partners used to considerable remuneration packages and a voice in the firm a major challenge. This improved remuneration system worked the other way too, making it easier for UK and US firms to hire rising stars from European practices who had perhaps not received

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the level of reward they believed they deserved.

These European remuneration systems also deterred continental European firms from engaging in large scale investment abroad as the majority of the cost would be borne by a small number of founding or lead partners.

As these firms were also often smaller than their Anglo-Saxon counterparts, there were no economies of scale to reduce the cost per partner of expansion.

Money, money, money

The irony is that today an increasing number of law firms from all around the world is adopting the same remuneration and international strategies pioneered in the US and UK. In this respect, to market a firm today as an independent means little, other than to be stuck in the battles of the past.

Today an increasing number of practices that are neither US nor UK are expanding abroad and competing for work in overseas jurisdictions with local firms. Examples include: French and Spanish law firms building offices in North Africa; German and Austrian firms offering

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local legal advice in Central and Eastern Europe; Spanish firms building Portuguese practices; Chinese law firms hiring US and UK lawyers and opening offices in Europe; Pan-Nordic law firms forming and then building practices in the Baltic region; Canadian firms growing foreign law capability in the UK and Russia; Australian law firms building offices in South East Asia and considering alliances with Chinese practices.

Despite this impressive development of international practices by non-US-UK firms, many smaller law firms in Europe still believe they cannot operate on a global basis. Yet, many small to mid-size law firms will see their clients expand beyond their borders in increasing numbers. Referral networks are a serious option in

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this case. Networks, if well managed, can become vital to an expanding client base, helping firms to win new work and ensuring network member firms retain a share of their clients' growing legal spend.

One area that remains an issue for some small and medium-sized firms is how to cope with clients' demand for a working knowledge of English and New York law – which remain the international standards for many cross-border deals. Most smaller European firms are not about to start recruiting

English and American partners. Unlike the Chinese law firms, which are very large and have huge resources, for both financial and strategic reasons many European firms cannot cherry pick Anglo-Saxon partners.

Instead, they may need to focus on hiring young lawyers who have passed the bar and/or have work experience in the US and/or UK. These lawyers may demand higher salaries than those with a more domestic outlook, but the future of certain firms could rest on the ability to offer clients, whether large, medium or small, a more credible, international perspective, even if technically the firm is only providing legal advice in one jurisdiction.

Higher salaries will demand greater financial performance from firms – however, this is possible with careful management. It is also a strategy that the elite European law firms have employed for many years, if not decades, and with great success.

Increasing demand

The law firms of Europe – or of any other region, for that matter – have everything to play for and do not need to be defensive in a world that is increasingly demanding more legal services. It is true that certain aspects of international finance and multi-billion dollar merger and acquisition deals are out of reach unless a firm has a global scale or is an elite specialist, but that still leaves an enormous and growing global legal market.

Moreover, a growing number of medium-sized businesses is seeking cross-border advice and may not always wish to go to more costly global firms. That cost imperative creates a potentially huge opportunity for many medium-sized firms. Strategies for tapping this work – from opening overseas offices, to building alliances, to making more of networks – are just as valid to European firms as English or American practices, or Chinese or Brazilian outfits, for that matter.

The fundamental question for all law firms is: how should clients be

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served? If the ambition is to help clients as they expand abroad and to attract inward investors whether from neighbouring countries or from emerging markets, then firms need to form strategies to achieve this.

How the partners in a firm think of themselves and how they present that firm to clients and the outside world is very much part of this. Believing that a firm must protest its domestic independence – when what many clients would rather hear about is an ability to work seamlessly with other foreign law firms – is a losing strategy. Most clients are pragmatic enough not to care whether a firm is UK-based or German-based, or whether it has a dozen offices or just one. What clients want is for their needs to be serviced to the standard they demand and at a price they are willing to pay. Anything a law firm does

that does not contribute to this objective is extraneous and an unwanted distraction.

Out with the old

Therefore, in the name of the future development of law firms in Europe, it's time that the divisive stereotype of 'independent' was dropped. Old assumptions should be left behind as the European profession faces today's practical

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realities. Looking to the future, the focus should be: 'How can my firm be part of globalisation? And how can I service my clients' needs, both here and abroad?'

In the future there won't be global firms and independent firms; there will just be law firms with different levels of international credibility and capability. Adhering to old battle lines from the 1990s won't help European law firms and it certainly won't help their clients.

It is time to move on. No matter what advantages some US and UK firms may have gained in the past, the future for Europe's law firms is yet to be written.

Tony Williams is the principal and Richard Tromans is a consultant at London-based international legal management consultancy, Jomati Consultants