

Legales, says the fast development of new communications and commercial channels means "law firms must be up to date more than ever when it comes to the regulatory advance and take an active part when it comes to the design and application of already existing laws". He adds: "In this sense, professional development and training programmes will be very much in use as to make lawyers capable of undertaking different projects within TMT sector, no matter the business area of law."

Erika Rodriguez, new technologies manager at BDO, says continuous technological evolution has "pushed clients to get away from piecemeal solutions and demand a much more holistic approach to their legal challenges, even across geographies". She adds: "Take the case of emerging markets (mainly Latin-America and Asian-Pacific), which represent good investment opportunities in the TMT sector, and where the need for regulatory and transactional advice now requires a global perspective."

CCA-Ontier partner Filipe Mayer says law firms are not yet totally accomplished in providing TMT legal services. He adds: "The majority of the law firms that are dedicated to these fields, with whom we have contact, have expertise in one or two fields covering TMT, but not all the areas that

of TMT. Depending on, of course, the clients' portfolios of each law firm, for us, we believe this will be the major challenging for the law firms in this market."

Cremades & Calvo-Sotel associate Antonio Jiménez Gil says clients needing TMT services advice no longer want the traditional law firm-client relationship but "outside lawyers who work as team members integrated in each corporate process of the company". Roca Junyent's Anna Viladàs Jené says adapting to client needs makes a large demand on law firms' "human capital and time". She adds: "This means finding new ways of balancing costs in particular taking into consideration the pressure law firms are experiencing when it comes to fee arrangements."

According to Marita Dargallo Nieto, partner at Sol Muntañola Abogados, advising clients that are start-ups, and lack a significant budget for legal advice, can be a big challenge.

However, the constant innovation in the TMT sector presents a significant opportunity for smaller niche law firms in what is an extremely competitive market. More dynamic by nature, such firms are sometimes better able to align themselves with the needs of TMT clients than the larger established players.

Copyright law causing controversy



César Bessa Monteiro

An update to the copyright law in Portugal, which will extend the compensation mechanism for paying authors, singers and performers whose content is copied onto digital devices, has caused controversy with retailers, according to pbbp founding partner César Bessa Monteiro.

The new law, which is currently being debated in parliament, will impose taxes on the sale of digital devices such as smartphones and tablets in the same way that CDs and DVDs are subject to such taxes.

While the proposed law is popular with organisations in Portugal concerned with protecting copyright, the introduction of such legislation has received a less favourable response among the public, according to Bessa Monteiro.

"Portugal is in a bad economic situation and the taxation levels are high – people are worried about increases in taxation and this is yet another," Bessa Monteiro says. "Besides, it may be that people just buy smartphones for calls rather than listening to music."



Ricardo Henriques

Pbbp partner Ricardo Henriques, whose specialisms include intellectual property and new technologies, says the new law has "worried trade associations" who believe that if the new tax pushes up the price of digital devices, Portuguese consumers will increasingly make such purchases in other European jurisdictions, which will have an adverse effect on the revenue of domestic retailers.

One of the main debates is who should be responsible for paying digital royalties to copyright-holders in Portugal. Henriques refers to the EU directive on this issue, which says member states are free to decide on who pays and the amount to be paid. While some European countries have stipulated such payments should be made by the government, and others that no payment is due, Portugal, like other European countries, has opted to make consumers pay the bill.

"Many people criticised the timing of the law because the EU Commission is planning to reconsider the existing legal framework," Henriques says.

Clients struggle to understand data protection rules

Companies want to be compliant but the large amount of rules and regulations make it a difficult process

EU proposals to reform data protection rules are causing anxiety among clients who are struggling to comprehend the legislation, according to Ana Rocha, an associate specialising in data protection at CCA Ontier in Lisbon.

"The challenge is that companies want to be compliant. On the one hand, firms process a lot of personal data and so they want to increase its security but the high amount of obligations and procedures imposed by law makes it difficult to comply and implement," she says.

The proposed new rules aim to increase online privacy and enhance the EU's digital economy as well as create a single law to be applied uniformly across the region. It is anticipated that the new rules will increase e-commerce by boosting consumer confidence while making international trade between member states seamless. The intention is to eliminate the fear of transmitting data as there is uncertainty regarding the level of protection in certain countries.

The new legislation also aims to increase awareness among EU citizens of the importance of data protection and the "right to be forgotten", as the reliance on the use of the internet results in users unwittingly leaving digital "fingerprints".

However, while the new rules will allow for individuals and companies to complain and obtain redress regarding misused data, they will bring a number of new challenges, according to Rocha. "One big challenge is transparency, as people demand and have a right to know what firms are doing with their personal data."

In addition, the legislation is not only something that the telecommunications or banking sectors must be aware of but something that all companies must take into account regardless of the sector in which they operate, Rocha says.

"Firms process increasing amounts of personal data and they want to increase its security and this is part of the support we provide to our clients, to simplify their understanding of the legislation and help them be

compliant." Rocha points to the fact that there are more and more security concerns as cross-border transactions increase and business is becoming globalised.

Another important part of the legislation that people were not aware of but which is becoming increasingly sought after is the right to be forgotten. "This right already existed in Portugal in a more restricted way as a mere right to erasure, but many people were not aware of it. Companies must assess whether or not there is a legitimate reason to demand it which means an evaluation of the specific circumstances of each case is necessary," Rocha says, highlighting the fact that, previously, internet users were blasé about their use of the web, content or not particularly worried to have their names and information available in order to be accessible.

Distorted image

"Now they [internet users] are aware of the disadvantage of that. Now there is the possibility to change their image and presence on the internet," Rocha says.

The other important question that firms ask relates to the level of privacy that they want to implement, she explains. "EU firms are also now doing more and more business with firms outside the EU. It is very important that each country can apply the level of privacy that is tailor-made for them, depending namely on the nature and amount of data they collect, and whether they work with third parties."

Companies want to know what type of security measures need to be implemented and what level of consent they need, according to Rocha. Therefore the design of measures must take place on a case-by-case basis depending on a company's needs. "Law firms are requested to review policies and to consult on project development," she says.

Rocha envisages a growth in demand for legal services regarding online transparency and data protection in the coming years, both within the EU and worldwide, as international business and e-commerce increases.



Ana Rocha