

Treasure chest

The introduction of new EU rules on data protection means it will be boom time for TMT lawyers in the next year

Next year will be a big one for technology, media and telecommunication (TMT) lawyers. The introduction of the European Union's General Data Protection Regulation (GDPR) is widely expected to generate a flurry of instructions for law firms as clients seek to ensure they comply with the new rules. But that's not all; there is also speculation that the GDPR could also lead to consumer groups and trade unions bringing class actions on behalf of customers and employees against organisations that have breached data protection regulations. Meanwhile, artificial intelligence (AI) will also create data protection issues that clients will need lawyers to resolve. Similarly, clients in a range of sectors will also be seeking clarification from their legal advisers as to whether the nature of their business means they are technically classed as a telecoms company and therefore subject to an extra raft of regulations.

Psychological profiling

Artificial intelligence (AI) will generate new opportunities for lawyers to advise on data protection matters, says RCD – Rousaud Costas Duran partner Eduardo Nebot. "Some artificial intelligence projects are developing consumer data based on individuals' psychological profile, adding empathy to AI tools," he says. Nebot adds that clients with "disruptive business models" need advice from lawyers on how to ensure that they are compliant with regulations. New regulations on crowdfunding are another opportunity for lawyers, he says.

Meanwhile, AI as applied in the field of robotics – especially in the consultancy sector – also creates the issue of how to deal with failures in AI and this is also an opportunity for lawyers, says Baker McKenzie partner Raul Rubio. He adds that, with regard to consultancy services, clients often "expect to receive the service in the traditional way and are not always willing to assume risk

[when using the service]".

The widespread deployment of networks of "connected vehicles and machines" is a trend that is generating increased demand for TMT-related legal advice, says DLA Piper partner Diego Ramos. "These deployments have to be conscious of the sophisticated data protection and e-commerce issues attached to them, as well as the positive interaction with other apparently unrelated businesses such as those in the leisure, entertainment and food sectors." Ramos also says there are differences in consumer attitudes towards the use of such data, depending on where the consumers are from. "Typically, American consumers may want their information processed, but European consumers want greater privacy," he explains. Ramos adds that because of the GDPR – which comes into force next year – manufacturers' products must protect privacy "by design and by default".

There are also a number of TMT-related employment issues that clients have to deal with, explains Ramón y Cajal partner Norman Heckh. "For example, with company cars, employers may expect to know what the employee is doing with the car, but this could clash with the employee's expectations regarding privacy," he says. Rubio adds that car manufacturers who monitor the activity of the consumers driving their cars could technically be classed as telecommunications companies [which involves needing to comply with an additional layer of regulations]. This is an issue facing clients in a range of sectors – one partner points out that clients often

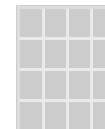
ask their lawyers for clarification on whether their use of technology means they are classed as a "telecoms operator". However, this is not always an easy question to answer, according to Heckh, who says that there are a number of different types of telecoms operators and the issue needs to be "studied in detail".

Alejandro Touriño, managing partner at Ecija, says the GDPR is a big opportunity for law firms as it is something all clients will have to go through. He adds: "Technology is impacting on all industries, particularly sectors such as pharmaceuticals and insurance." Touriño says that, potentially, the GDPR could result in consumer bodies starting class actions against organisations that misuse consumers' data. Other lawyers argue that trade unions could start class actions on behalf of employees that have had their data misused by their employers.

Uriá Menéndez counsel Leticia López-Lapuente says that technology-related issues are increasingly having a significant impact on M&A transactions in that such issues can result in potential deals sometimes being stopped. "For example, there may be software that the selling company wants to retain" she explains.

All areas of the law now have a technological component, says Blanca Escribano, partner at CMS Albiñana & Suárez de Lezo. She adds: "Real estate lawyers, for example, have to know technology, and lawyers also have to know how competition works digitally." López-Lapuente says it is surprising how little universities focus on the





technological aspects of the law. She adds that this can be a disadvantage for future lawyers "since all of them will need to deal with legal issues in digital environments" and that, consequently, the legal profession could perhaps do more to help universities understand its importance. López-Lapuente says that, in future, lawyers will "have to learn programming and how algorithms work". She also says that TMT lawyers are often "working to raise awareness" of TMT issues among other lawyers at their firms.

Falling behind

Some TMT lawyers say clients often only contact them at a very late stage, for example when they have developed a new product and they want to check that it is compliant. Paola Riveros, associate at RCD – Rousaud Costas Duran,

says: "Technology goes faster than the law – the changes happen so fast, you can't regulate them, you have to be aware that there are grey areas of the law and you must be able to cover them appropriately." She adds that for major technology companies, competition issues are a major concern: "Fines are high and tech companies also need to know about competition law." Other lawyers say that while in-house counsel may be aware of TMT-related issues affecting their organisation, unless they have a lot of technological expertise, it can be hard for them to address them. "When it comes to monitoring what is going on, in-house lawyers often need external help," one lawyer says.

The level of TMT-related knowledge within legal teams is increasing, says Heckh. One managing partner says that some in-house teams now have lawyers that

are focused on TMT issues. However, despite this trend, another partner argues that companies can no longer rely on "one in-house lawyer for all their legal needs and the need for external counsel remains". He adds that external lawyers can also "help with benchmarking" in the sense that they have knowledge of wider industry trends.

The GDPR will significantly boost revenue for law firms in the coming year, lawyers say. However, while they expect TMT work to increase, they also believe that competition in the market is fierce and consequently, in the words of one partner: "pricing is an issue". Another partner adds: "Certain SMEs and some big companies are delaying GDPR implementation as they don't think they are as affected as other companies; they want to wait and see how others have started

What do you think will be the biggest trends in the TMT market in the coming year?

"Mobile operators with networks completing their integration so that they are ready to offer the three services (mobile, internet, TV). And, above all, for each of them to be able to differentiate their content offering from the others. It is also a year for watching how the telecommunications sector gains territory from the audiovisual sector (digital TV)." **Roberto Sánchez, counsel, Linklaters**

"Telecoms operators will diversify into other industries through alliances (for example, Telefonica are focusing on media content production). Meanwhile, media businesses must adapt to trends such as the replacement of traditional TV and radio with new internet-based media. All of this should provide scope for lots of joint venture and 'alliance' work (which may trigger related disputes over time)." **Maria José Menendez, Madrid managing partner, Ashurst**

"Artificial intelligence and machine learning algorithms applied to every segment of the value chain." **Blanca Escribano, partner, CMS Albiñana & Suárez de Lezo**

"The integration of new disruptive technologies such as blockchain, artificial intelligence and augmented reality in key aspects of companies' business processes will bring new legal challenges." **Joaquín Muñoz, lawyer, Ontier**

"As we move towards the 'fourth industrial revolution', exponential technologies will dramatically change business models. Such technologies help to multiply the revenues of companies and their value exponentially, instead of the linear growth we are used to. Examples include blockchain, machine learning and artificial intelligence, biotechnology and e-health, cyber security and, the most significant, big data." **Natalia Martos Díaz, counsel, Pérez-Llorca**

"GDPR readiness, increased cybersecurity concerns, increased speed of mobile networks, the Internet of Things (IoT)." **Pedro Vilarinho Pires, head of data protection and TMT (Portugal), Gómez-Acebo & Pombo**

Blockchain and its spread in the TMT market, especially in the fintech sector, although what makes blockchain very appealing to investors and developers is its potential for being a game-changer in other areas (for example, smart contracts). **Rafael García Del Poyo, partner, Osborne Clarke**

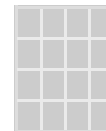
"Fintech and the application of technology to other businesses such as health, automotive and transport." **Carlos Pemán, partner, Eversheds Sutherland Nicea**

"Due to the increase in the use of smart devices and mechanisms to analyse data, three of the biggest trends will be artificial intelligence, the Internet of Things (IoT) and cybersecurity. With regard to artificial intelligence, it could allow companies to automate some of their processes (such as customer support) leading to significant cost savings." **Miguel Geijo, partner, Broseta**

"GDPR assessment projects and M&A/venture capital projects associated with the entrepreneurial buzz experienced in Portugal that is expected to persist for at least a couple of years." **Carina Branco, founding partner, Techlawyers (PBBR in partnership with Techlawyers)**

"Cybersecurity and compliance and effectively controlling the digital security of companies and applying protocols regarding security breaches." **Xavier Casals Matute, senior partner, Casals**

"Big data and smart cities; Internet of Things; portability of data; e-commerce and e-gaming; nanotechnology; 3D printing; drones; wearables; security; mobile payments; cryptocurrencies and blockchain." **Belén Arribas, partner, Miliners Abogados y Asesores Tributarios**



with the work." Meanwhile, some clients are budgeting to implement GDPR in 2018, says one managing partner. Escribano says some clients are delaying the implementation of GDPR because they are "waiting for the tools to become available".

Lawyers also say the legal arms of the 'Big Four' auditors are hiring a



“Typically, American consumers may want their information processed, but European consumers want greater privacy.”
Diego Ramos
DLA Piper

lot of lawyers who specialise in data protection. One partner says: "The 'Big Four' are hiring many lawyers and getting very good clients."

While data protection is the main challenge facing clients, there are also considerable opportunities for law firms in the area of intellectual property, which is developing as technology advances, says Heckh. He adds that there are also opportunities in the online gaming sector.

Portugal: Football rights

The acquisition of football broadcasting rights by telecoms companies has generated a large volume of work for law firms in Portugal, according to MLGTS managing associate Gonçalo Machado Borges. "Access to content, such as the broadcast of sporting events (football in particular) is a key concern for telecoms operators, given their interest in ensuring attractive, varied and competitive pay-tv offers to their subscribers," he adds. "In the last 18 months, we have been representing one of the main telecoms and pay-tv operators in Portugal on the acquisition of TV and new media broadcasting rights from 19 professional football clubs (including SL Benfica and Sporting CP) and in the subsequent negotiation, with the other pay-tv operators in Portugal, of a highly complex rights and costs sharing agreement." Machado Borges adds that MLGTS has also been advising on the modelling and negotiation of subscription and

shareholder agreements in relation to the shareholding structure of Sport TV, which has significantly altered - with Vodafone and MEO (part of the Altice Group) both acquiring a stake, alongside existing shareholders NOS and Olivedesportos.

PLMJ partner Daniel Reis says projects related to the GDPR

represent the biggest opportunity for TMT lawyers in Portugal. He adds that both big and small businesses are requesting advice in relation to "audits, gap analysis, training and general

preparation for the new rules." Reis says that the GDPR is one of the biggest challenges facing clients as they are "running against the clock" as the regulation will come into force in May 2018.

The reshaping of the Portuguese TMT market is likely to generate a steady flow of transactions that will keep law firms busy, says Uría Menéndez-Proença de Carvalho partner Francisco Brito e Abreu. "The acquisition of Media Capital, the owner of TVI, by Altice (announced in July) and Impresa's intention to divest its publishing business in order to focus on its audio-visual and digital businesses, which was made public in August, are very good examples of this trend," he adds. Brito e Abreu continues: "Data protection and privacy issues, as well as regulatory issues relating to matters such as telecom OTT (over-the-top) services, are also expected to continue to contribute to the development of Portuguese law firms' TMT practices."

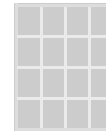
Ricardo Bordalo Junqueiro, partner at Cuatrecasas, says one of the major developments in the TMT market this year was the public consultation and subsequent decision on the regulation of markets for wholesale local access provided at a fixed location (market 3a) and for wholesale central access at a fixed location for mass-market products (market 3b). He adds that the result was that Portuguese communications

regulator Anacom "decided not to regulate Altice's optical fibre network, notwithstanding the opposition from the European Commission and the BEREC [Body of European Regulators of Electronic Communications]."

The GDPR replaces the Data Protection Directive from 1995, and even though the GDPR rules are not completely new, the key difference now is the size of the penalties, according to CCA Ontier partner Filipe Mayer. He adds that, in some cases the fines could be as high as €20m or 4 per cent of the offending company's total worldwide annual turnover, whichever is higher. "This has raised awareness among companies and is, therefore, a huge opportunity for law firms," Mayer says. In addition, the liberalisation of online gambling is another significant opportunity, according to Mayer.

Other potential growth areas for law firms include cryptocurrencies and blockchain, according to Ricardo Rodrigues Lopes, partner at Caiado Guerreiro. He adds: "As such, tech finance may be the biggest opportunity for law firms, as it will require the specific cumulative expertise of TMT, finance and securities lawyers." Rodrigues Lopes continues: "Potential clients will remain internet/software service providers, in particular companies that are involved in big data, or which handle big volumes of data, as well as financial and insurance companies."

Keeping pace with what is a fast-changing industry is the biggest challenge clients in the TMT sector are facing, according to Manuel Esteves de Albuquerque, senior associate at Raposo Bernardo. He adds: "At the same time, new products and services are developed pretty much everywhere, which generate masses of information as well as opportunities that are not easy to follow-up." Esteves de Albuquerque says that "going global" is a huge opportunity for clients, but also a major challenge. "But despite all these challenges TMT companies face, they have huge market opportunities and potential financing partners interested in financing good projects."



Digitalisation of businesses and greater use of the cloud driving demand for TMT-related legal services

Storage of large amounts of sensitive data on the cloud, as well as the greater reliance on third parties to provide services creating complex legal issues

Law firms are seeing an increase in demand for technology, media and telecommunications (TMT) services, as clients across all sectors seek specialised advice. Key issues facing businesses include “digital transformation”, the wider use of the cloud and outsourcing, as well as cybersecurity and data protection. Consequently, the ability to access expert advice in these areas is vital if companies wish to avoid risks.

Sophisticated IT infrastructure and other services are now a key part of any large business, and clients across all sectors from energy to automotive and finance are undergoing the process of digital transformation. This often involves the storage of vast amounts of sensitive data on third-party clouds as well as relying on third parties to provide core services, which gives rise to complex legal issues; and it is vital to consult lawyers who have the relevant experience in this field.

“Companies across diverse sectors are increasingly making use of cloud-computing services, and therefore delegating direct control over their data and key aspects of their businesses,” says Bird & Bird counsel Alexander Benalal. “Data protection, confidentiality and cybersecurity becomes paramount, and it is also vital to have watertight service level agreements, terms and conditions that guarantee appropriate compensations if those service levels are not met, as well as insurance policies,” he adds. In order to achieve this, it is crucial to access specialised lawyers with TMT expertise that are acquainted with the sector, the nature of services being provided as well as the related challenges, says Benalal. “Specialised lawyers need to combine transactional and litigation advice in this field as it provides a more in-depth understanding of the issues that are specific to IT and how they are usually dealt with, or need to be dealt with in courts,” he says.

According to fellow Bird & Bird counsel Paula Fernández-Longoria, major clients are increasingly aware of the complexity of IT-related contracts and disputes, and therefore fully recognise the need to hire specialist TMT lawyers. “While small and medium-sized companies may not be aware of the importance of relying on expert advice for such matters, multinational companies, for example,

are becoming more and more aware of this need and the potential benefits of involving experts.”

As well as offering advice on contractual matters, specialist TMT lawyers are increasingly in demand for dispute resolution matters, according to Bird & Bird counsel Pablo Berenguer. “Traditionally, clients used to entrust their TMT disputes to generalist litigators,” he explains. “However, as cases become more and more complex, they seek the added value brought by TMT experts, who bring in-depth understanding of technical, commercial and legal issues.” Meanwhile, Fernández-Longoria says: “The average corporate or dispute resolution attorney does not have the expertise necessary to advise on complex IT matters.”

Need for discretion

A growing trend is the increased demand for arbitration and mediation, with clients seeking to protect their reputation and avoid confidentiality issues, remarks Berenguer. “Arbitration is becoming more popular than litigation due to, on the one hand, the need for specialised technical knowledge,” he explains. “On the other hand, it is more discreet than litigation.” As well as corporate and dispute resolution issues, the expertise of TMT practitioners is sought for a wide range of matters, from civil responsibility and damages claims to criminal proceedings, especially in relation to cyberattacks.

“As more and more companies are involved in the implementation of complex transformation and outsourcing projects, we’ve seen an increase in demand for IT-related contractual and data protection advice,” says Berenguer. “Data security is another vital concern for clients who store all of their data via third-party cloud services.” Regulatory changes including the General Data Protection Regulation (GDPR) and the e-privacy framework are also increasing the workload for TMT lawyers, adds Fernández-Longoria. “The GDPR and amendment of the e-privacy framework will clearly impact the TMT sector in the coming months,” she remarks.

Law firms, as well as clients, are realising the importance of specialised TMT advice, and this is driving recruitment in this area, adds Fernández-Longoria.



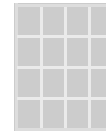
Alexander Benalal



Pablo Berenguer



Paula Fernández-Longoria



Ecija enters Portuguese market with Antas da Cunha merger

Firms with 'shared vision' link-up as Spanish clients grow operations in Portugal, while imminent introduction of General Data Protection Regulation promises significant opportunities



Hugo Ecija

Specialist technology, media and telecommunications law firm Ecija has launched in the Portuguese market via a merger with Lisbon-headquartered firm Antas da Cunha.

Spain-based Ecija has taken the step with a view to establishing itself as an Iberian firm due to the demands of its clients, which are increasingly expanding their businesses in Portugal. Ecija founder and CEO Hugo Ecija says: "The Portuguese market has always been a natural aspiration. Now that we are consolidated in the top ten Spanish law firms, it was also time to start our growth as an Iberian firm, motivated also by the needs of our clients, who are increasingly operating in Portugal."

African markets

Ecija adds that the firm's new Portuguese operation would help it to generate business in African markets. "Our new headquarters in this market also provide access to other Portuguese-speaking countries and the emerging economies of the African continent," he explains. Ecija adds that the merger was a relatively straightforward process. "It has been a relatively simple move due to the shared values and vision of both firms – Antas da Cunha is an innovative and client-oriented firm with great experience and recognition."

Explaining the reasons behind the link-up with Antas da Cunha, Ecija says the Portuguese firm has experienced "phenomenal organic growth" since it was founded by managing partner Fernando Antas da Cunha in 2015. In the last two years, the firm has now reached a total of 40 lawyers, all of whom are now joining Ecija, which will operate in the Portuguese market under the name Antas da Cunha Ecija.

Growing quickly

The merger means Ecija now has 35 partners and more than 180 professionals in offices in Madrid, Barcelona, Valencia, Miami, Santiago de Chile and Lisbon. In other jurisdictions, the firm will operate as the sole Spanish member of the Meritas legal network, which has 7000 lawyers in more than 70 countries around the world.

Fernando Antas da Cunha, managing partner of Antas da Cunha Ecija, says one of the key drivers behind the decision to

merge was the imminent introduction of the General Data Protection Regulation (GDPR). "The firm [Antas da Cunha] has grown very quickly during our first two years and we weren't in the market to merge with an international firm," he explains. "I had always assumed we would remain independent – however, the opportunity to start discussions with Ecija happened organically and we are delighted to bring their expertise in the area of TMT to the Portuguese market."

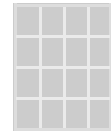
Leading Iberian firm?

Antas da Cunha says that, given GDPR is coming into force next year, there is huge potential for law firms in Portugal. "With GDPR less than one year away and the increasing importance of data privacy in today's world, we strongly believe there is a big opportunity for us to capitalise in Portugal," he remarks. "We are now facing the big challenge of creating a leading Iberian firm – having the trajectory, know-how and market recognition of Ecija in the TMT area will undoubtedly make us a very relevant player in the Portuguese market."

Ecija has established itself as a leading firm in Spain in the areas of information technology, data protection and intellectual property, the firm's founder argues. "We have consolidated as the best firm in these practice areas in Spain and for that reason we believed it necessary to have a firm in the Portuguese market that brings together expertise, market recognition and such an important team of qualified professionals with full dedication to some of the most innovative areas of law," Ecija says. "For example, in 2018 we are facing, from the point of view of data protection, a great challenge in the form of the adaptation of large companies to the new GDPR – for the success of each project, it is essential to apply a consolidated methodology and rely on professionals dedicated exclusively to the matter, which is unthinkable for small law firms."

Cross-selling is fundamental

Fernando Antas da Cunha says the GDPR has the potential to open up new markets for law firms in other areas. "Without doubt the entry into force of the GDPR is a great opportunity for the development in Portugal of less traditional areas of law such as technology or data protection, and



for us it is a great advantage to count on the expertise of Ecija in such innovative projects that require absolute mastery of the subject," he explains. "In this merger, and with the short term goal of becoming a top player in the Portuguese market, cross-selling between the different offices and practice areas is fundamental."

Antas da Cunha adds that Portuguese clients are increasingly demanding legal advice related to their operations in Spain, and vice versa. "During the first months of discussions with Ecija, numerous opportunities opened up that confirmed this need on the part of clients and reaffirmed the idea of combining the expertise and recognition of Ecija to the multidisciplinary service we are offering in Lisbon."

Not easy to find merger partner

Meanwhile, Ecija says that it can be difficult for law firms to find the ideal merger partner. "Before announcing our entry into the Portuguese market, we communicated the news with some of our most important clients with a presence in both countries, and months ago we began to scope projects in Portugal, which were shared with some other potential clients who have already become new clients of the firm," he says. "It is not easy to find law firms with so many similarities in their professional management, corporate culture and customer-focus. We wanted to offer the same multidisciplinary service that our clients find in Spain and in Portugal. Offering innovative solutions and a 'total business approach' are the keys to the value added in our service, and we have also found them in Antas da Cunha."

Antas da Cunha Ecija has eight partners and nearly 40 lawyers in Lisbon, but this is "only the beginning", according to Antas da Cunha. He adds: "We bet on the growth of the firm in the short term and as a step prior to entering new markets and sectors where Ecija is a leading player, including: new technologies, smart cities, blockchain, cryptocurrencies, digital transformation, startups and entrepreneurship, the sharing economy, cybersecurity and new payment methods."

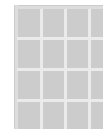
Full-time secondments

Ecija says that his firm's non-hierarchical approach to law firm management differentiates it from some of its rivals. "We ensure visibility for our lawyers, not taking into account the hierarchies as in other traditional firms," he explains. "We are looking for true passionate professionals, with international academic or professional backgrounds and enthusiasm for technology." Keeping up to date with developments in the sector is vital, according to Ecija. "In the TMT sector, it is imperative to be constantly updated, and this occurs naturally if the aforementioned requirements are met – we strongly emphasise that our professionals must get to know in depth the sectors in which they will mostly work." He adds: "For example, in the area of technology, our lawyers do not only manage all the legislation involving the intellectual property of software, but many of them are used to developing software – we combine the projects in such a way that those who participate in them know the client perfectly, and this often includes a full-time secondment with the client."



Fernando Antas da Cunha

**ANTAS
DA CUNHA
ECIJA**



Lawyers need to alert clients about the need for cybersecurity and data protection

Companies digitising their businesses need to adapt their entire client contracting process as well as changing their organisation's internal regulations



Joaquin Muñoz Rodríguez

Technology, media and telecommunications (TMT) lawyers must do more to raise awareness among companies of the need to ensure they have adequate cybersecurity and data protection measures in place, says Joaquin Muñoz Rodríguez, partner at Ontier in Spain.

"Clients are increasingly aware of the challenges they face in protecting their intangibles – trademarks, patents, industrial designs, know-how and industrial secrets – from the moment they are created," Muñoz Rodríguez says. "In the majority cases, this requires developing a protocol for the protection of intangible assets that establishes their protection at each stage from conception."

However, Muñoz Rodríguez says one of the biggest challenges faced by TMT clients relates to companies digitising their processes. "These companies find a form of technology that represents an improvement in their business, but this means adapting the entire contracting

process with their clients, or adapting internal regulations at an organisational level," he explains. "In some of these cases, there is no single legal solution to solve the problem and TMT lawyers have to be creative in order to provide not only a legal solution but also a business-oriented one."

In addition to the growing threat of cyberattacks, which has led companies of every size to review their cyberthreat protection policies, Muñoz Rodríguez has also observed the increasing availability of specialised TMT legal services. "This means that the client demands a higher quality and more accurate service every time." Furthermore, in-house counsel are increasingly becoming experts in the field and consequently are demanding higher quality services. However, many companies are still allocating insufficient resources to cybersecurity and data protection, for example. Muñoz Rodríguez says: "In that sense, TMT lawyers still have to raise awareness."

Portuguese firms' TMT expertise in demand around the world



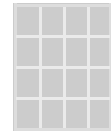
Magda Cocco

Technology, media and telecommunications (TMT) lawyers in Portugal are able to provide an effective range of legal services to foreign clients acting in other jurisdictions, says Magda Cocco, partner at Vieira de Almeida in Lisbon. "It's not very common for a Portuguese law firm to have clients without a global presence," she says. "However, this specific sector is a niche one, and we advise clients in countries where we don't have offices - in fact, recently we were invited by a Washington firm to participate in a project in a remote area of the Pacific; they told us they were amazed there was a firm in Portugal with this kind of TMT knowledge."

Fellow Vieira de Almeida partner Fernando Resina da Silva adds: "We are well positioned as we have been working in TMT since the early nineties advising clients on a daily basis, both on the legal issues associated with their day-to-day operation and management, and in

strategic and highly innovative projects."

Cocco says lawyers have to understand technology in order to provide legal advice to clients in the TMT sector. "It is because of this combination of technical and commercial know-how and in-depth legal expertise in the relevant fields of law that a Portuguese law firm like ours is in demand when it comes to advice in other jurisdictions," says Cocco. Resina da Silva adds: "We understand the sector-specific principles, the rules and their impact, so we essentially need the support of the local lawyers in relation to non-sector-specific legal issues in the countries where we don't have offices." It is vital that technology is incorporated into the way in which law firms serve clients. "Many years ago, we learnt how to integrate technology and all related issues in the way we provide legal services," he says. "It enables us to apply the same principles in different jurisdictions."



GDPR is biggest challenge TMT sector clients face

New regulations enforce tough penalties for breaches of the law with clients facing fines of €20m or 4 per cent of their total worldwide turnover

The imminent implementation of the EU's General Data Protection Regulation (GDPR) - which comes into effect on 25 May 2018 - is one of the biggest challenges clients in the technology, media and telecommunications (TMT) sector currently face.

"This new regulation was made to harmonise all data privacy laws across Europe," says Filipe Mayer, partner and head of TMT and intellectual property at CCA Ontier in Lisbon. "Even though the rules are not totally new and/or derogative of the previous directive, the key difference now is the amount of penalties, that in some cases can be as high as €20m, or up to 4 per cent of the total worldwide annual turnover of the preceding financial year, whichever is higher," he adds. "This raises awareness among companies, and therefore is a huge opportunity for law firms."

The question now is whether clients can meet the challenge. "I would say that, without a doubt, the implementation of GDPR will be the biggest challenge to

be faced by TMT clients," says Mayer. "It will place new obligations on all companies that collect personal data, not only on the technological side but also on the legal side."

These new regulations come at a time of major upheaval for the TMT industry as a whole.

Traumatic evolution

"The media sector is facing a huge, and for some of them, traumatic, evolution," says Mayer. "Traditional types of media such as newspapers and magazines are facing an unprecedented crisis - TV is also facing the competition of internet TV and online content."

Mayer says these trends are becoming increasingly clear and "the option is to convert old and heavy media group structures into much lighter models totally adapted to the digital era." He adds: "In fact, we are already assisting on this transformation in some of the biggest Portuguese media groups."



Filipe Mayer

Innovation in the Portuguese TMT sector attracting investors

The pace of innovation in the technology, media and telecoms (TMT) market is proving to be both an opportunity and a threat to the clients of major Portuguese law firms. On the positive side, Portugal's improving economic climate is increasingly attractive to industry start-ups and investors who are benefiting from what Carina Branco, counsel at the Portuguese law firm PBBR, considers an 'entrepreneurial buzz'. This is not only in the sense of inward investment, it is also providing a decent springboard for local companies expanding abroad.

"As far as the start-ups ecosystem is concerned, major clients include start-up accelerators, venture capital and private equity investors, as well as foreign small and medium-sized companies coming to Portugal," says Branco. "We also note a tendency for Portuguese start-ups wanting to go international and they are seeking the

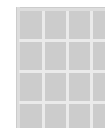
support of law firms in this regard."

However, the scale of the changes to the industry do bring risks, particularly for larger, less adaptable companies. "Major TMT clients are challenged by the fast-evolving nature of agile newcomers, some of them led by highly energised founders," says Branco. "They force well-established businesses to face the risk of obsolescence, while imposing a constant need to rethink business models and marketing tactics."

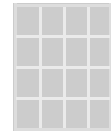
The pressure of innovation is not only faced by clients. Law firms must also keep pace with new technology if they want to maintain a decent foothold in the market. "Law firms continue to face the challenges brought by the trends of innovation, especially in relation to the automation of business and contracts," says Branco. "The increasingly high pressure from clients to bring costs down imposes on law firms a need to continuously monitor sustainability and efficiency."



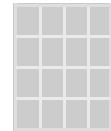
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