Lawyers Weigh Accountants' Desire To Move Into the U.S. Legal Market

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As U.S. accounting firms grab sizable chunks of the European legal market, American lawyers are debating whether to give accountants a toehold in the U.S. legal market.

The American Bar Association and state bar groups around the U.S. are scrutinizing longstanding rules that prohibit non-lawyers from owning law firms or operating joint businesses with lawyers. Critics complain that these rules shield lawyers from healthy competition.

Defenders of the old ways count that giving licensed attorneys an effective monopoly allows the profession to enforce strict ethical standards, such as protecting client confidentiality.

But as this often-theoretical argument grinds on in the U.S., the Big Five accounting titans are avidly acquiring law firms in dozens of cities in Europe, where restrictions on law practice are often less stringent.

In Milan, for example, Ernst & Young LLP's law office has grown to 122 attorneys, up from seven in just the past three years. Amplifon SpA, a large Italian hearing aid distributor, hired E&Y in late 1998 to handle legal work on a series of acquisitions outside of Italy. Govanni Rollier, Amplifon's chief executive, says that he wanted a law firm with branches throughout Europe, which limited the choices to the Big Five and the largest London-based law firms. No U.S. law firm had the desired international presence, Mr. Rollier says. When the company considered a Swiss acquisition, he adds, E&Y was quickly able to advise its client on how many years of back tax liens it might be liable for, as well as the procedures the government might use to collect.

In England, tour operator Airtours PLC four years ago chose Arthur Andersen LLP's law firm in England, which is known as Garretts, to handle foreign acquisitions. Andersen had served as Airtour's auditor and "knew our style and exactly where we were coming from," says the company's general counsel, Greg McMahon.

In January, Garretts collaborated with the Spanish law firm Garrigues & Andersen -- itself the result of a 1997 merger between Andersen and a leading Spanish firm -- to assemble a team of tax and financial consultants and lawyers to advise Airtours on the $65 million (70.1
million euro) acquisition of a Spanish hotel-management company, Hotel Don Pedro SA. To address fears of ethical conflicts, Andersen says it has strict internal rules that prevent lawyers from speaking to auditors about common clients, unless clients approve.

European corporate clients who have used the Big Five’s legal services praise the efficiency and cost savings. Peter Friedli, a Swiss venture capitalist, stopped using a traditional Swiss law firm six years ago and hired KPMG LLP’s "multidisciplinary practice" in Zurich. As a result, he estimates that his company, New Venturetec AG, saved 20%, or $60,000, in legal, tax and audit fees when it went public on the Swiss stock Exchange. The savings came from swifter service, rather than lower rates, says Mr. Friedli.

The major U.S. accounting firms have long employed in-house attorneys who offer advice on taxes and certain other topics, but technically don’t practice law. In contrast, the new hybrid operations in Europe explicitly provide a broad array of legal services, including counseling on such high-end matters as corporate finance and mergers and acquisitions.

Though they acknowledge that most of their European legal clients are still small and medium-sized companies, the Big Five make no secret of their ultimate desire to compete head-to-head with premier U.S. law firms. "We’re developing an international law firm," says Tony Williams, a former partner with the huge London-based law firm Clifford Chance who recently became global managing partner of Arthur Andersen’s legal operation. Worldwide, Andersen now employs more than 3,500 attorneys -- more than any traditional law firm.

Many major American corporations remain skeptical of the idea of hiring their auditors to provide non-tax legal advice or courtroom advocacy. But an increasing number of corporate clients say they want the option of being able to buy both their legal and accounting services under one roof. That pressure could eventually force an end to U.S. bar rules protecting lawyers.

"We don’t think it’s appropriate for lawyers to tell their clients what they don’t want," says Frederick Krebs, president of the American Corporate Counsel Association, a trade group for in-house legal departments.

Senior partners at many top-tier U.S. law firms pooh-pooh the prospect of multidisciplinary practices. "I think they will come in some form, but it will be a very long time before such firms do our kind of work at our level of practice," says Robert Joffe, presiding partner of Cravath, Swaine & Moore in New York.

Many U.S. lawyers worry that multidisciplinary practices will foster conflicts between an auditor’s obligation to report financial irregularities and a lawyer’s duty to maintain client confidences.
But despite such sentiments, the Big Five are successfully recruiting attorneys from major U.S. firms. In November, for example, E&Y attracted two top tax lawyers from King & Spalding, an Atlanta law firm, to open a new Washington, D.C., law firm known as McKee Nelson Ernst & Young. The District of Columbia is the only U.S. jurisdiction that allows lawyers and accountants to share fees. While the accounting firm doesn't own McKee Nelson, the new partnership is backed by an E&Y loan and is seen as a forerunner of things to come.

Ethics concerns, however, have prompted some potential clients to reject the Big Five's legal services. When Hewlett-Packard Co. decided to spin off its measurement business a year ago, PricewaterhouseCoopers, the company's auditor, offered to handle the large European legal portion of the transaction.

D. Craig Nordlund, a former in-house lawyer at Hewlett-Packard who is now general counsel of the spinoff, Agilent Technologies Inc., in Palo Alto, California, says he and other executives considered using the accounting giant, but ultimately rejected it in favor of Freshfields, an elite London law firm. "I don't see how one's auditors can be one's advocates; the advocates need to be independent," says Mr. Nordlund.

Samuel Berger, a PricewaterhouseCoopers partner in New York, says his firm concluded for the same reason that it couldn't do the transaction's legal work, but the accounting firm did end up consulting with Freshfields lawyers on such issues as stock options and pension plans.

Mr. Nordlund is skeptical of accounting firms doing his company's legal work for the separate reason that they lack the experience of long-established law firms. But that will change with time, he acknowledges, and in the future, he says, he may try hiring multidisciplinary practices for legal assignments, as long as they don't do his company's audit work. Law firms, says Mr. Nordlund, "need to wake up."

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