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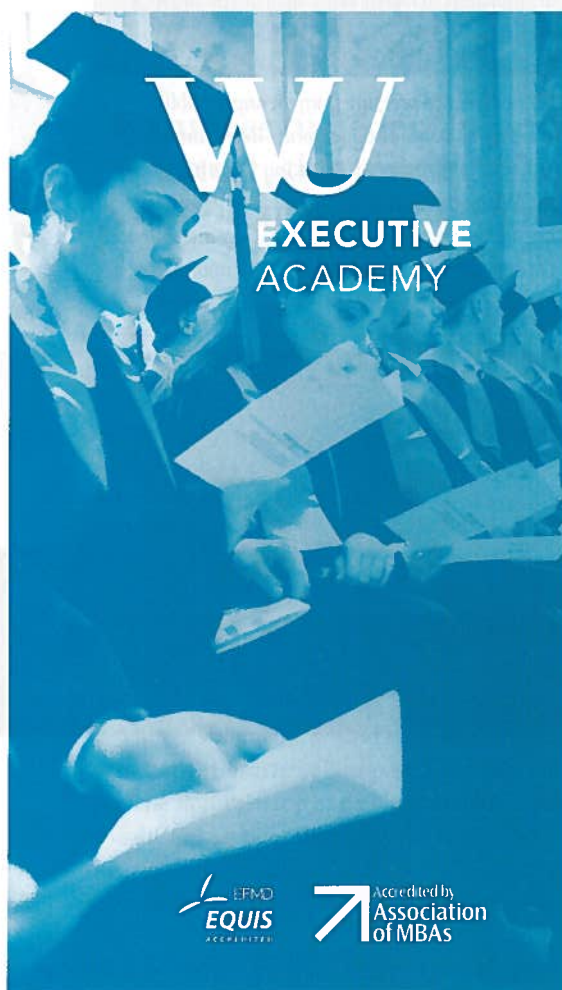
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### RECHTSANWÄLTE

magic word: 'compliance'. "In the past few years, it's not just been the major listed companies, but also numerous medium-sized firms that have been getting to grips with this issue," Martin Eckel, an expert in antitrust law and compliance at ENWC Taylor Wessing, explains. For practices specialising in economic law, all this change has opened up a new field of activity: 'compliance consultancy'. The firm Lansky, Ganzger + partner, for instance, cooperates with PR agency Kobza Integra on compliance-related matters, in an effort to combine legal and communications competence in the field. Working together means the two firms can offer legal analyses, start-up seminars and employee training courses, as well as means of developing and implementing compliance strategies and campaigns. Gerald Ganzger, a partner at the law practice, believes compliance is not just an issue for legal experts, but also one with a communications edge.

Other major law practices are also carrying out risk analyses and then drawing up tailored compliance programmes for the client company in question on the basis of these. This is designed to guarantee that such clients act in line with the law in all fields. Felix Hörlsberger says the following of this aim: "Each and every employee must be completely aware of what he or she is, and is not, allowed to do." In the opinion of legal experts, such a compliance programme can ensure that in the event of possible breaches of rules, it is not the company, or its management, but 'only' the employee affected who is brought to account.

When controversial decisions are taken, the lawyers also advise managers to keep notes: "How a decision has been reached should be documented as precisely as possible, and you should ensure it is possible to take a copy of the documents with you in the event that you leave the company," David Bauer from the practice DLA Piper Weiss-Tessbach believes. This will enable you to prove that a decision was taken not

according to gut instinct, but to the best of your knowledge and belief, and after the legal position had been carefully checked. All of which can be extremely useful in the event of legal proceedings at a later date.

Where commission payments are involved, it should be precisely described why a particular amount was paid to someone. "Traditional intermediary commissions, which are uncontroversial amongst groups such as estate agents, can also be perfectly legal in many other fields, even when the amounts being paid are large. But it needs to be established exactly what service the payment relates to," Felix Hörlsberger says. "It would not be in line with the law," the lawyer continues, "for me to hold out the prospect of a commission to a public servant in an effort to gain authorisation." The situation is not always so clear. Lawyer Martin Eckel mentions invitations to seminars extended to doctors by pharmaceutical companies as an example: "A female doctor from a state-owned hospital in an Arabic country would not consider making such a journey without her husband on hand, for example, but the invitation of this accompanying person could have consequences under criminal law." In such a case, Eckel advises, the company has to weigh up whether it is prepared to take the risk. Another example is the practice of making 'contributions' to speed up customs handling. With sensitive goods such as foodstuffs or medication in particular, the approach seems unavoidable in some countries, to prevent the goods from spoiling, but such an action represents a breach of corruption law.

In such cases, legal experts advise clients to examine their approach carefully, and balance it with the potential economic and criminal consequences. This is also part of our learning to have greater trust in the law enforcement agencies of other states, Klara Jaroš, a partner at Sozietät Schönherr, believes. When one of her practice's clients had similar problems with customs recently, the issue was addressed at a meeting with the manager of the customs authority, who immediately cleaned up the abuses. "Increasingly, the authorities in such countries, which are often viewed critically by us, are putting young, committed employees in management positions, people who have studied abroad and already have very different values from the past," Jaroš says.

It's not just corruption, however, but also antitrust law that produces a large number of borderline cases. While joint warehousing and distribution structures by competitors may produce ecological and economic benefits, for example, they can also risk breaching antitrust law. Something similar applies in the case of joint innovation projects in the technical field. "In such cases, it is important that you deal with questions that could arise in advance, consider exactly what the pros and contra could be, so the risk can be judged better and the danger of fines being imposed significantly reduced by keeping appropriate documentation," Johannes Barbist from Binder Grösswang says.

One thing all the legal experts agree upon, however, is that the trend is an entirely welcome one. "Corruption has actually always been punishable, of course. But I think the fact that awareness of it has grown is a thoroughly good thing," says Felix Hörlsberger of Dorda Brugger Jordis. Clean compliance programmes at major groups in recent years have been forcing change where it has been usual to 'look the other way' to this day – companies are avoiding dubious transactions because the damage to their image is greater than the economic profit to be made from the deal itself. \*

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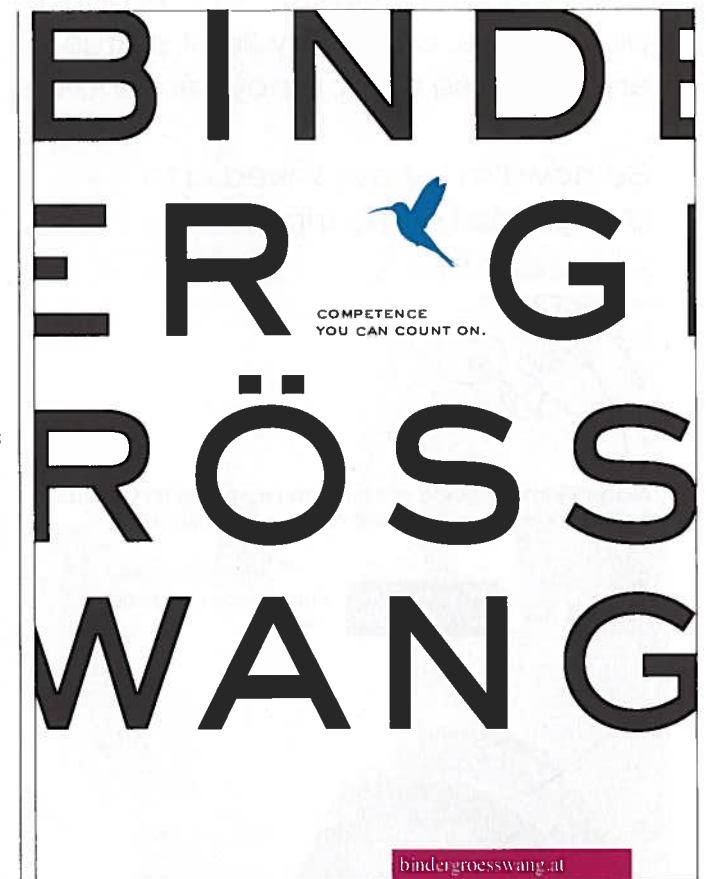
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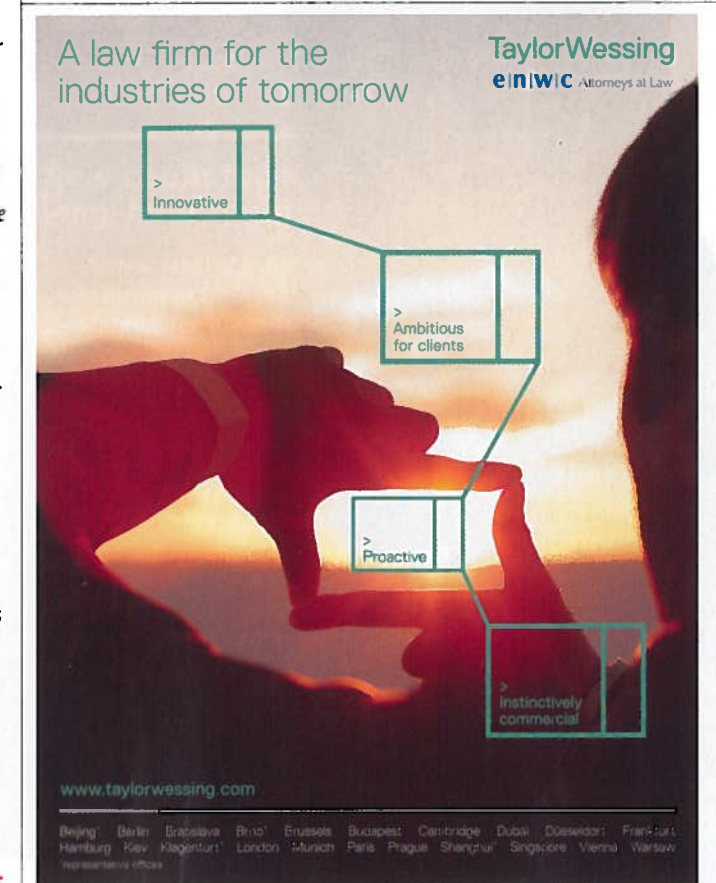
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