

ANTITRUST PROFESSIONAL PUBLICATIONS

NEWSLETTERS & CLIENT ALERTS

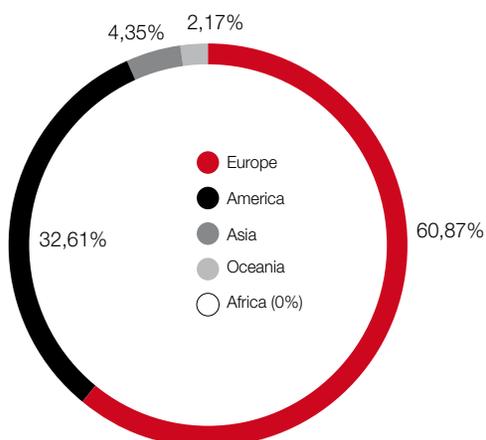
2019
SURVEY
REPORT



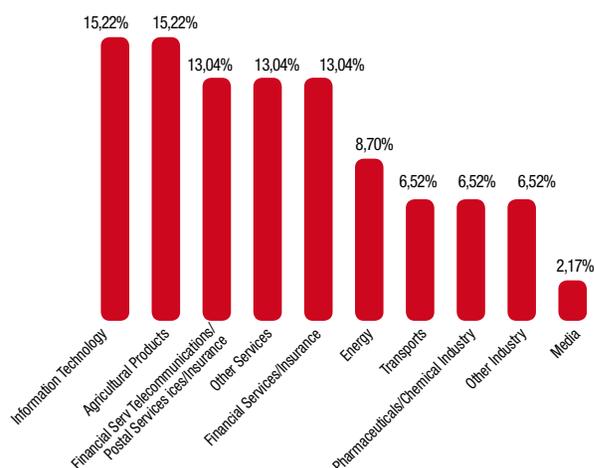
POOL & METHODOLOGY

The Survey was sent from November 28 to December 30, 2018 to 6,000 in-house counsel. The counsel interviewed cover more than 20 industries. Among these counsel, 25% are General Counsel and 75% Antitrust Counsel. Individual answers are kept confidential; only aggregated data are provided herein.

Survey Coverage per Geographical Area



Survey Coverage per Industry



Survey Coverage: Represented Corporations (excerpt)

Aerospace/Defense	Airbus, Boeing, Dassault, EADS, Safran, Snecma, Thales...
Agriculture/Food Products	AB-InBev, Coca-Cola, Bacardi, Kraft, Nestle, Panzani, Pepsico, Saint Louis Sucre...
Automobile	Ford, General Motors, Nissan, PSA, Renault, Toyota, Volkswagen, Volvo...
Energy	American Electric Power, BP, E-On, EDF, Exxon, Framatome, GDF Suez, IFP, Powernext, RTE, Shell, Suez Tractebel, Total...
Financial Services/Insurance	ABN Amro, AGF, American Express, AMF, Axa, Bank of America, Banksys, Banque postale, BNP Paribas, Calyon Bank, Cetelem, CDC, CIC, Cinven, Citigroup, Ciiinvest, Coface, Credit mutuel, Eurazeo, Euronext, Exane, FBF, Fortis, Groupama, ING, Intesa SanPaolo, IXIS, JP Morgan, Lazard, Mastercard, Rothschild, Scor, Société Générale, Swift, Thomas Cook, UBS, Weinberg Capital, Wendel, Winterthur, World Bank...
Entertainment	21 st Century Fox, Clear Channel, Time Warner, Viacom, Walt Disney, Warner Music...
Information Technology	Amazon, Apple, Ericsson, Google, Hewlett-Packard, IBM, Iliad, Intel, LD Com, Microsoft, Nexans, Oracle, Qualcomm, Rim, Samsung, Sony, Spot, Sun Microsystems, Symantec, Uber, Yelp...
Luxury	Burberry, Chanel, Coach, Hermès, Lacoste, L'Oréal, LVMH, PPR...
Media	AFP, Amaury Media, Aspen, Bayard, Canal +, Deezer, e-Bay, Financial Times, Grolier, Hachette, Lagardere, LCI, Lexis Nexis, Mlex, News Corp, Odile Jacob, Prisma Presse, Publicis, Sacem, The Economist, Thomson Reuters, RMC, Sweet & Maxwell, Wolters Kluwer...
Other Industry	Alcoa, Alcan, Arcelor Mital, Areva, Air Liquide, Bic, Cargill, Colas, Cegelec, Danone, Decathlon, Eramet, General Electric, Holcim, Kodak, Lafarge, Lenovo, Lesaffre, Michelin, ONF, Plastic Omnium, Pioneer, Philips, Michelin, Panasonic, Saint Gobain, Sagem, Samsung, Schindler, Schneider Electric, Siemens, Sony Ericsson, Suez, Tetra Pack, Titan, Thomson, Valeo, Vallourec, Vicat, Vinci Construction, Zodiac...
Pharmaceuticals/Chemical Industry	Abbott, Aventis, Arkema, AstraZeneca, Bayer, BASF, Boiron, Colgate, Clarian, DuPont de Nemours, Ecolab, GlaxoSmithKline, IMS, Ipsen, Johnson and Johnson, Monsanto, Novartis, Pfizer, Procter & Gamble, Rhodia, Sanofi, Servier, Solvay, Unilever...
Telecommunication/Postal Services	Alcatel, AT&T, Belgacom, British Telecom, Bouygues Telecom, Cegetel, Chronopost, Emettel, Ericsson, Geopost, La Poste, Neopost, Orange, SFR, Rom Telecom, Sita Aero, TDF, Telecom Italia, T-Mobile, Verizon...
Transports	ADP, Air France, American Airline, British Airways, Chargeurs Interlining, Etihad, Eurotunnel, SNCF, Thalys, Virgin, United Airlines...
Other Services	Altran, ASF, Auchan, Avisa, Bouygues, Brinks, Bwin, Capgemini, Carrefour, Carlson Wagonlit, Club Med, FFF, Fnac, ILEC, Iveco, JC Decaux, Manpower, Mangas Gamin, MEDEF, Metro, KPMG, LPF, Partouche, Presstalis, Price Minister, PMU, Publicis, Saur, Sanef, Sodexho, Sothebys, Telmar, Vedioibis, Veolia, Vivendi, SAP, Sodexho, Suez, Walmart...

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EXECUTIVE SUMMARY

> This Report summarizes the results of the Survey of In-House Counsel about Antitrust Professional Publications designed by Concurrences Review for the 2019 Antitrust Writing Awards.

> The Aim of the Survey is to assess in-house counsel's readership and choices when it comes to antitrust client alerts and related professional publications such as newsletters, briefs, memoranda, etc. released by law firms.

> This Survey was sent from November 28 to December 30, 2018 to 6,000 general counsel and antitrust counsel in the US, Europe, and abroad, covering more than 20 industries.

> **The Survey leads to 5 key findings:**

98%

of in-house counsel link the quality of Antitrust Professional Publications to their opinion of law firms (see p. 10).

45%

of in-house counsel have contacted a given lawyer at least once after reading his/her Antitrust Professional Publication (an increase of 3% from last year). Out of these, 45% have then retained that lawyer (see p.8).

76%

of in-house counsel forward Antitrust Professional Publications to colleagues (see p.7).

The shortcomings of Antitrust Professional Publications most commonly cited are lack of quality and lack of practical orientation (see p.11), while recommendations are to be more practical and business oriented in writing, and to provide links to case decisions (see p.12).

56%

of in-house counsel find Antitrust Professional Publications essential or important for keeping abreast of new developments in the field (see p. 11).

> **The Appendix lists 10 recommendations on format and content expressed by in-house counsel (see pp. 11).**

WHY A SURVEY?

This is the first survey and ranking of Antitrust Professional Publications of its kind, i.e., publications such as client alerts, newsletters, briefs, memoranda, etc., released by law firms. While the number of these publications is constantly increasing, their quality and worth vary greatly. At the same time, clients have limited time to search, browse, and read such publications.

This Survey report is meant to achieve a two-pronged result.

> First, it may serve as a guide for recipients of Antitrust Professional Publications (i.e., for in-house counsel) to make it easier for them to select and read only those publications that are more interesting and relevant to their practice.

> Second, this report also provides feedback for authors of Antitrust Professional Publications (i.e., to law firms) as it includes qualities, shortcomings, and other comments made by in-house counsel on how newsletters and alerts should be written.

The complete results of this Survey are summarized in the following pages.

There are over 100 Antitrust Professional Publications published on a weekly, monthly, or quarterly basis. The Survey limits itself to the 30 important ones viewed on a global scale.

List of Law Firm Publications Reviewed

Allen & Overy	Gibson Dunn	Norton Rose Fulbright
Arnold & Porter	Hausfeld	Proskauer
Ashurst	Herbert Smith Freehills	Shearman & Sterling
Baker McKenzie	Hogan Lovells	Sidley Austin
Cleary Gottlieb Steen & Hamilton	Jones Day	Simmons & Simmons
Clifford Chance	Kirkland & Ellis	Skadden Arps
Covington & Burling	Linklaters	Slaughter & May
Davis Polk	Mayer Brown	Weil Gotshal & Manges
Dechert	McDermott	White & Case
Freshfields	Morrison & Foerster	WilmerHale

CONTACT

If you want to learn more about this Survey Report and the Newsletters Ranking, contact awards@concurrences.com

INTERPRETATION OF RESULTS

The Survey included 26 questions aimed at assessing the in-house counsel's opinion of Antitrust Professional Publications in relation to their features, qualities and defects, and practical usage. The Survey is divided in 2 parts: Part 1 deals with Facts, Part 2 deals with Assessment.

1. FACTS

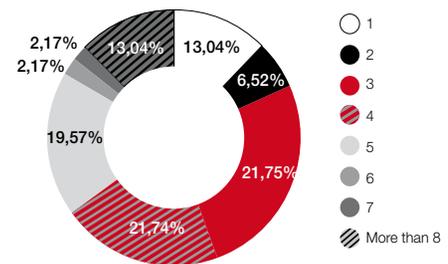
> QUANTITY

The Survey asked how many Antitrust Professional Publications are received by each responding in-house counsel. The overwhelming majority of interviewed in-house counsel (87% of them) receive multiple Antitrust Professional Publications.

> In-house counsel are subject to intense marketing from numerous law firms. 87% get at least two Antitrust Professional Publications, 80% get at least three. Over a third of interviewed in-house counsel (36%) receive more than 5 Antitrust Professional Publications.

> The option of not publishing - or not sending - any type of Antitrust Professional Publications should be carefully assessed by law firms as their clients or prospects will be reached by other firms in any case.

How many different law firm's antitrust-focused publications do you receive?

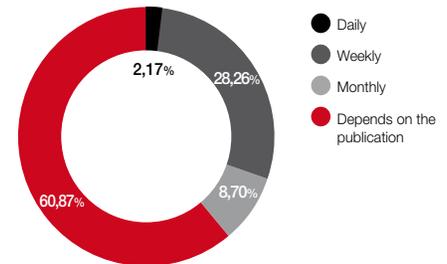


> FREQUENCY

Looking at the frequency with which in-house counsel receive Antitrust Professional Publications, it varies - 60% of all respondents said that how often they receive a publication depends on the publisher, 28% get their publications mostly weekly, 8% get them monthly, and only 2% get them daily.

> Law firms trying to decide how often to publish articles to maximize their in-house readership might want to publish weekly - it seems to be the emerging standard.

How often do you receive these publications?

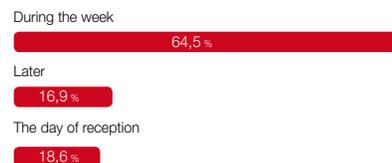


> TIME OF READING

An overwhelming majority of in-house counsel read their Antitrust Professional Publications during the week (67%), or later (17%), while a minority manages to read them the same day (15%). This is line with historical trends - reading during the week has increased by 3% in both 2017, and 2016, while reading on the same day has decreased by 7% since 2016.

> Law firms can expect their Antitrust Professional Publications to be read by in-house counsel within a week or later, which explains further why in-house counsel read a lot more weekly than daily updates

When do you read/browse publications received ?

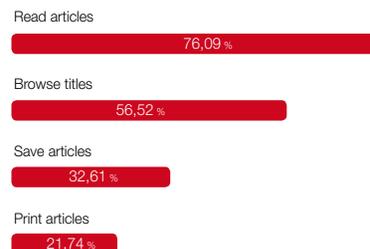


> USAGE: READING VS. SAVING / PRINTING

In-house counsel were asked what they actually do when they receive the Antitrust Professional Publication: 76% read it; when they don't have time, 57% at least browse the titles. 33% save articles, and 22% print them.

> **56% of in-house counsel browse titles when they don't read the articles, so crafting high-quality informative titles is very important.**

What do you generally do with these publications ?

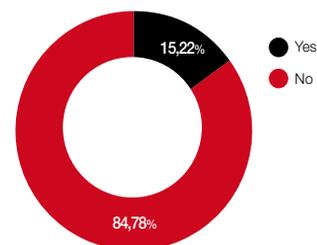


> STAFF SUPPORT

For the first time, this year in-house counsel were asked if they have designated staff support (like a librarian or an intern) to review Antitrust Professional Publications on a regular basis.

> **Only 15% of in-house counsel have staff that helps them review Antitrust Professional Publications. So in 85% of cases, the law firm's writing goes straight to the in-house counsel.**

Is there anyone in your team reviewing these publications on a regular basis (librarian, intern, etc.)?

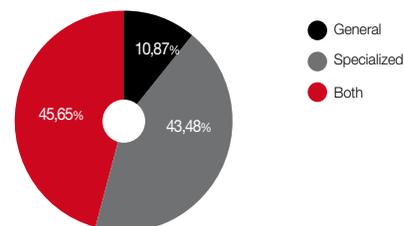


> CATEGORIES: GENERAL VS. SPECIALIZED

As to the type of Antitrust Professional Publications in-house counsel receive, only 11% are general antitrust (i.e., covering various antitrust issues), 43% are specialized (i.e., dealing only with specific issues such as Antitrust & IP or Antitrust in Asia, etc.), which represents a continuing increase 11% up from 2017, and 8% up from 2016. That said, 46% of publications still contain a mix of both general and specialized antitrust content.

> **Most Antitrust Professional Publications increasingly deal with specialized antitrust issues, focusing on particular aspects of antitrust such as private enforcement, Asian antitrust, pharma, IT, etc. Our Survey noted this trend in previous years, and the trend is continuing.**

Are these publications general - i.e., covering various business law issues - or specialized in antitrust issues?



> READING TREND REPORTS

For the first time, this year in-house counsel were also asked if they read trend reports, i.e. reports that try to predict major trends coming next year, whether specifically in antitrust, or in general business.

> **The majority of in-house counsel (57%) read trend reports specific to antitrust. Currently, there are only a few providers of such reports, so this is an area where more law firms could create value for in-house counsel.**

Do you read any trend reports, i.e. reports that try to predict major trends coming next year?

Yes, trend reports for antitrust (e.g. Freshfields Global Antitrust, Allen & Overy Global Cartel Enforcement, etc.).

56,52 %

Yes, trend reports for general business (e.g. by McKinsey), or specific industries (e.g. TMT Tech-Media-Telecom by Deloitte).

41,30 %

No, I don't read any trend reports.

23,91 %

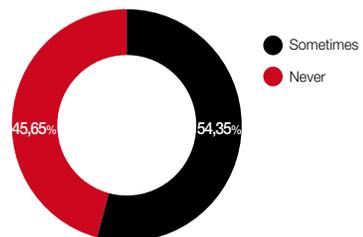
Other : 0%

> BROWSING

When they do not receive Antitrust Professional Publications from a given law firm, 54% of in-house counsel will search for them on the law firm's website, which is a drop from 61% in 2017, while 46% never will see them, which is an increase from 36% in 2017.

> **In-house counsel are browsing law firm's website less than before to find Antitrust Professional Publications - so if law firms want to attract more interest, they have to actively reach out to in-house counsel to be added to the firm's mailing list.**

Do you visit law firm websites in order to browse publications without having actually received them?

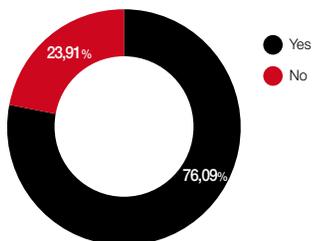


> FORWARDING

When asked whether they forward the Antitrust Professional Publications received, the majority of the in-house counsel (76%) state that they do forward the publications to other colleagues, should the publications be relevant in terms of content and quality.

> **Law firms may very well get new subscribers, and ultimately clients, through the in-house counsel's word-of-mouth, if the highly technical Antitrust Professional Publications are still easy for their subscribers to share with colleagues (e.g. with sharing buttons, simple background paragraph, etc.).**

Do you forward Publications of this sort (antitrust newsletters, client alerts, etc.) to other people?

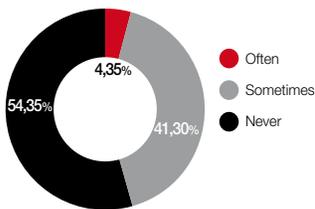


> BUSINESS CONTACT / HIRING

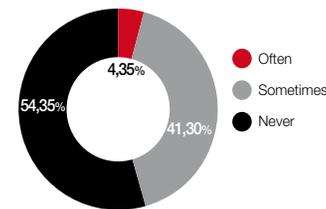
Further to business development, the Survey shows that after reading the Antitrust Professional Publication, 46% of in-house counsel contacted the author(s), and out of those, a further 46% retained the author(s) on a case.

> **This year's Survey showed once again that Antitrust Professional Publications are an indispensable tool for law firms to be retained by in-house counsel.**

Have you ever contacted the author of a publication after reading it?



Have you ever retained such author after reading his/her publication?



> SENDERS: TOP 30 LAW FIRMS

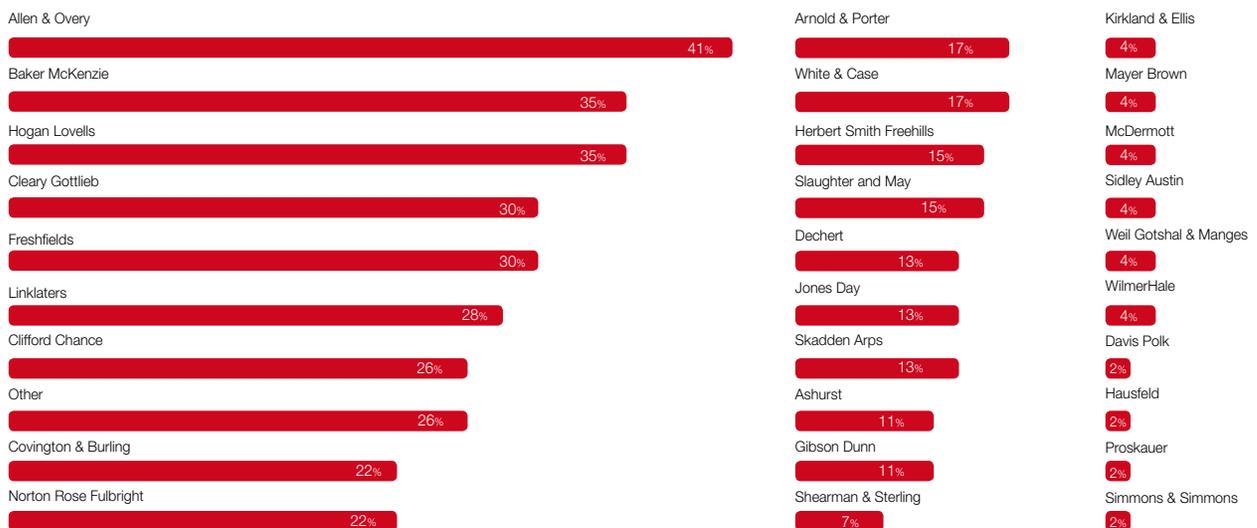
The Survey also looked at the most common Antitrust Professional Publications received in 2018. The chart below lists the 30 most popular ones.

> **Allen & Overy are the firm with the most commonly received Antitrust Professional Publications by respondent in-house counsel (41%) in 2018, moving Baker McKenzie (35%) to second place after two years in the lead.**

> **Firms mentioned by in-house counsel under Other (26%) include: Orrick, Baker Botts, Latham Watkins, Paul Weiss, DLA Piper, Vinson & Elkins, Bird & Bird, Wilkie Farr & Gallagher, etc.**

> **Close behind are Hogan Lovells (35%), Cleary Gottlieb (30%), and Freshfields (30%) rounding up the top 5.**

Do you receive the following antitrust publications? (Choose all that apply)



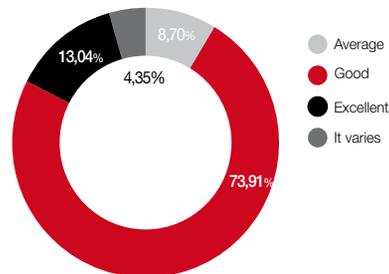
2. ASSESSMENT

> QUALITY

A large majority of in-house counsel (74%) consider the Antitrust Professional Publications they received “good” (up 4% from 2017), 13% say “excellent” (down 4%), 9% say “average” (up 2%), and 4% say “it varies” (down 2%).

> Overall, quality of Antitrust Professional Publications is moving to the middle, with increased “good” and “average” ratings, and decreased “excellent” and “it varies” ratings by in-house counsel. Law firms have an opportunity here to distinguish themselves by doing that additional step to make their writing “excellent”.

How would you rate the publications you receive overall?



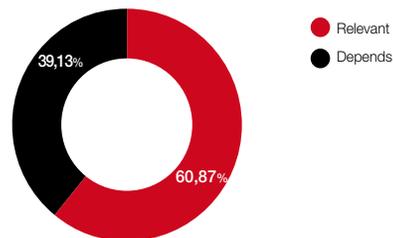
> RELEVANCE

The Survey inquired whether Antitrust Professional Publications were relevant to in-house counsel’s practice. Although a majority of in-house counsel acknowledged that Antitrust Professional Publications were relevant to their practice (60%), nearly 30% claimed that their relevance varies.

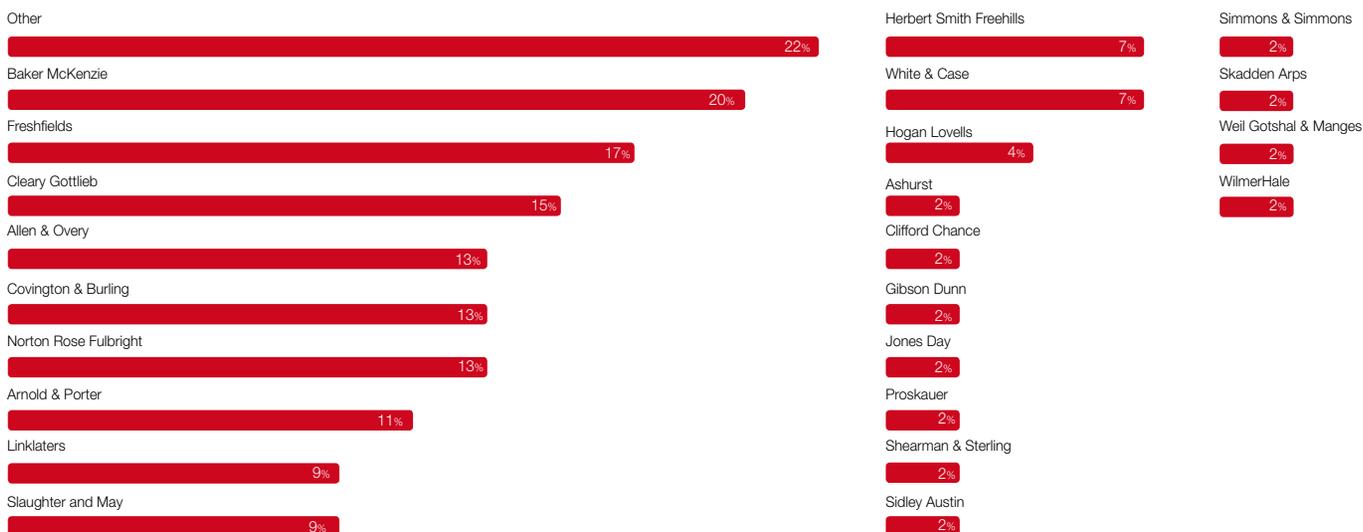
> Although the relevance rate is fairly high, there is substantial room for improvement. An Appendix to this Report provides 10 in-house counsel recommendations on how to improve relevance.

> Data shows that for some law firms there is a strong connection between the readership rate and the relevance rate.

Are the law firm publications you receive relevant to your practice?



Which firm’s publication is the most relevant to your business? (Choose all that apply)

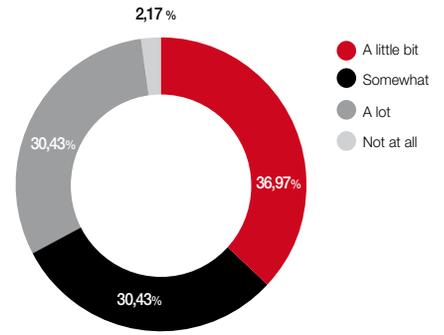


> LAW FIRMS' REPUTATION

Almost all in-house counsel (98%) link the quality of Antitrust Professional Publications to their opinion of law firms. This number is high every year (it was 95% and 87% the last two years respectively).

> According to the vast majority of in-house counsel, the quality and relevance of Antitrust Professional Publications directly affect the opinion they have of the law firms.

Do publications from a given firm contribute to your opinion of that firm?



> BENEFITS

The biggest benefit in-house counsel get from reading Antitrust Professional Publications is general updates on antitrust (74%), followed closely by bringing attention to new issues (67%) and providing insights on risks relevant to counsel's business (63%). Finally, 50% also find them informative for learning about specialized areas, which is up from 38% in 2017, and in line with specialized issues taking more of in-house counsel's reading time as mentioned earlier in this Report.

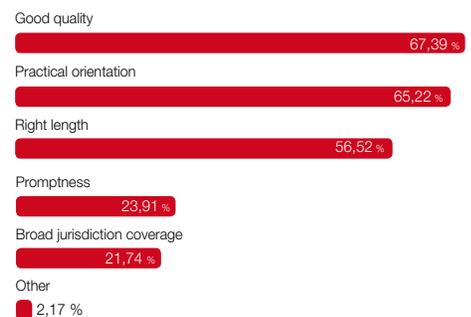
> Most Antitrust Professional Publications provide a healthy mixture of general & specialized updates, and maintain applicability to important business risks.

> In-house counsel say their favorite Antitrust Professional Publication has good quality (67%), practical approach (65%), and the right length (57%).

What benefits do these publications bring you?



What do you find useful in your favorite publication?

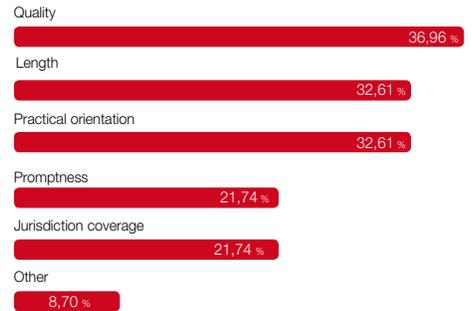


> SHORTCOMINGS

Compared to their favorite Antitrust Professional Publication, In-house counsel listed 3 main shortcomings of the other publications:

- > **Quality (37%), length (33%), and lack of practical orientation (33%) are the main issues of less successful Antitrust Professional Publications.**
- > **Just like last year, a greater variety of jurisdictions covered is expected.**

What are the shortcomings of other publications?

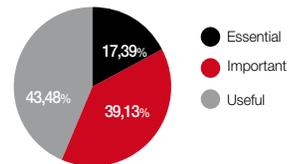


> IMPORTANCE

In-house counsel were asked how important Antitrust Professional Publications are to help keep abreast of new developments.

- > **Over half of in-house counsel consider Antitrust Professional Publications an important source of information about new developments.**

How important are these publications in helping you keep abreast of new developments?

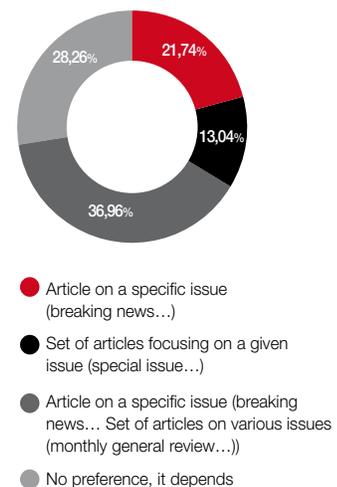


> PREFERENCES

For the first time, this year in-house counsel were asked to directly state their preferences for different possible types of publications. The results are mixed:

- > **In-house counsel show a slight preference towards a set of articles on various issues (37%), and slight preference against a set of articles on one issue (13%), but a lot of them (28%) have no preference.**

What type of publications do you prefer?



> SUGGESTIONS: CONTENT

This year, in-house counsel were given the biggest content issues that they identified in previous years, and asked to rank them in order of importance.

> **Most in-house counsel think the number one content issue is the need for more practical advice (70%). This is followed by need for more in-depth articles (44%), and need to provide link of cases commented (44%).**

> SUGGESTIONS: FOCUS

This year, in-house counsel were also asked to rank the biggest issues with the overall focus of the publications they receive.

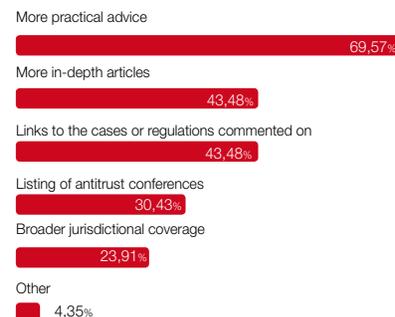
> **Most in-house counsel (65%) think the existing Antitrust Professional Publications have to focus more on implications of current decisions for future cases.**

> SUGGESTIONS: DISSEMINATION

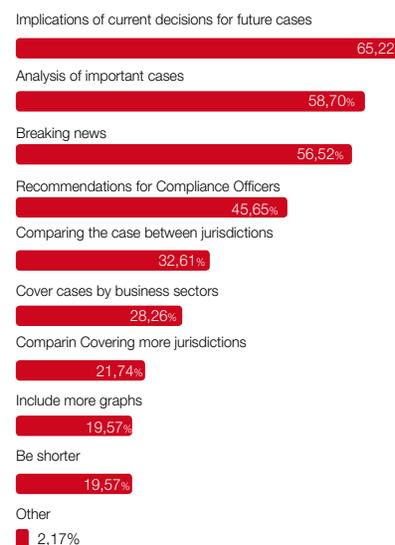
The last new question was what would make it easier for in-house counsel to find new Antitrust Professional Publications.

> **Most in-house counsel (67%) would like to have a database listing all Antitrust Professional Publications by all law firms in a single place. The second best solution would be for law firms to create a clearer path to their publications on their websites (41%).**

What would you like to change in the publications you receive?



Newsletters should focus more on:



What would make it easier for you to find new antitrust law firm publications?





10 RECOMMENDATIONS BY IN-HOUSE COUNSEL

1 —
Be more practical and business oriented: conduct a more substantive analysis of how a case changes the status quo, and give more practical implications for businesses.

2 —
Include business context to breaking news articles, and provide guidance on how to mitigate risks best.

3 —
Cover more jurisdictions; in particular Africa where competition authorities' decisions are hard to find and quite unpredictable.

4 —
Overviews of various jurisdictions in Q&A format are a very handy guide for in-house counsel with international companies.

5 —
Make access to publications easier.

6 —
Provide an abstract at the beginning of longer articles.

7 —
Be more concise and reactive.

8 —
Publish at a higher frequency, preferably weekly rather than monthly.

9 —
Academic reviews are not helpful.

10 —
Avoid just summarizing with no original analysis or key takeaways.

SOME TESTIMONIALS

“ Publish breaking news and development more quickly. For less time sensitive information, more thematic issues and more synthesis and comparisons of trends in cases and enforcement.”

“ My suggestion is to increase the frequency of timely publications and include in-depth analysis and practical legal guidance/implications. Short and high-level may be attractive to some but I find it lacking. Instead of short-changing the analytical content, be sure to include an executive summary which would suffice for those seeking only brief updates.”

“ I would like to receive more aggregated data e.g. summaries on total fines given by Competition Authorities country by country divided for abuses and anticompetitive agreements. Moreover I would like to have more news also on the state aid topic.”

“ I think the law firm publications do a good job. Some are a little superficial for my liking (and some a bit duplicative, so more original insights are welcome).”

Nicolas Charbit
Sonia Ahmad
Editors

Frédéric Jenny

Standing Up for Convergence and Relevance in Antitrust

Liber Amicorum

Volume I

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