

ANTITRUST PROFESSIONAL PUBLICATIONS

NEWSLETTERS & CLIENT ALERTS

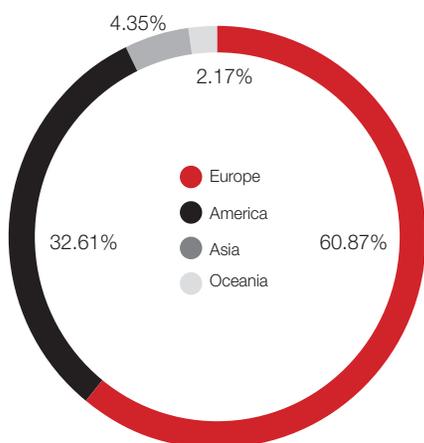
2020
SURVEY
REPORT



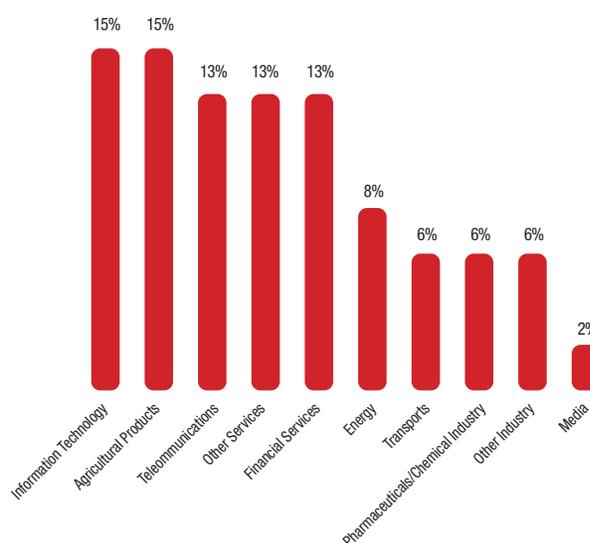
POOL & METHODOLOGY

The Survey was sent to 6,000 general counsel and antitrust counsel in the US, Europe, and abroad, covering more than 20 industries. The counsel interviewed 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, Cinvén, Citigroup, Cinvest, 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, LexisNexis, 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, 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, Vediorbis, Veolia, Vivendi, SAP, Sodexho, Suez, Walmart...

TABLE OF CONTENTS

WHY A SURVEY?	4
INTERPRETATION OF RESULTS	5
1. FACTS	
QUANTITY	5
FREQUENCY	5
TIME OF READING	5
USAGE: READING VS. SAVING / PRINTING	6
STAFF SUPPORT	6
CATEGORIES: GENERAL VS. SPECIALIZED	6
READING TREND REPORTS	7
BROWSING	7
FORWARDING	7
BUSINESS CONTACT / HIRING	8
SENDERS: TOP 30 LAW FIRMS	8
2. ASSESSMENT	
QUALITY	9
RELEVANCE: TOP 30 LAW FIRMS	9
LAW FIRMS' REPUTATION	10
BENEFITS	10
SHORTCOMINGS	11
IMPORTANCE	11
PREFERENCES	11
SUGGESTIONS: CONTENT	12
SUGGESTIONS: FOCUS	12
SUGGESTIONS: DISSEMINATION	12
APPENDIX	
14 RECOMMENDATIONS BY IN-HOUSE COUNSEL	13
SOME TESTIMONIALS	15

EXECUTIVE SUMMARY

> This Report summarizes the results of the Survey of In-House Counsel about Antitrust Professional Publications designed by Concurrences for the 2020 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 out on December of 2019 to 6,000 general counsel and antitrust counsel in the US, Europe, and abroad, covering more than 20 industries.

> **The Survey leads to 6 key findings:**

98%

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

53.6%

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

78%

Of in-house counsel read the articles in antitrust news publications. (see p.6).

62.5%

of in-house counsel has contacted the author(s), after reading their Antitrust Publications at least once. (an increase of 17.5% from last year). 49% have then retained that lawyer (see p.8).

82%

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 (34%) and lack of practical orientation (48%) (see p.11). Recommendations are to be more practical and business oriented in writing, provide links to case decisions (see p.12), provide more analysis on important cases, and provide potential implications of current decisions for future cases.

> **The Appendix lists 14 recommendations on format and content expressed by in-house counsel (see p.13).**

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 31 questions aimed at assessing the in-house counsel' 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

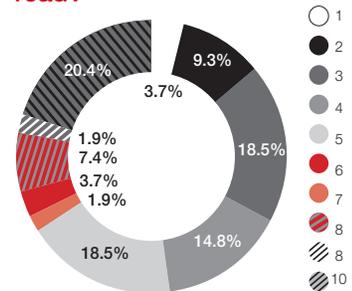
> QUANTITY

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%) receive multiple Antitrust Professional Publications.

> **In-house counsel are subject to intense marketing from numerous law firms; 96.4% get at least two Antitrust Professional Publications and 87.1% get at least three. More than half of interviewed in-house counsel (53.8%) receive 5 or more 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 firms antitrust publications do you read?



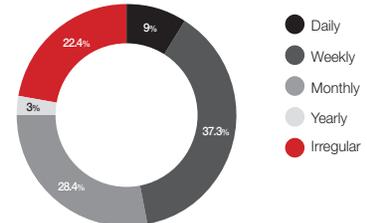
> FREQUENCY

Looking at the frequency with which in-house counsel receive Antitrust Professional Publications, 37.3% receive their publications weekly, 28.4% get their publications monthly, 22.4% receive their publications Irregularly, 9.0% receive their publications daily, and 3.0% receive yearly. For the first time ever, we asked in-house counsel when they preferred to receive their publications. Results showed that more than 75% of in-house counsel wished to receive professional publications on a more consistent basis than they do

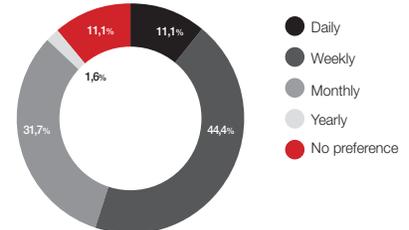
currently; with weekly mailings showing the largest increase in demand by 7.1%. Monthly demand increased by 3.3%, daily increased by 2.1%, while yearly decreased by 1.4% and no preference accounted for only 11.1% of in-house.

> **This year's survey results are consistent with those of 2019 in terms of law firms that often publish articles should begin or continue to publish weekly reports if they want to maximize their in-house readership as demand has increased since 2019.**

How often do you receive these publications?



How often would you ideally like to receive these publications?

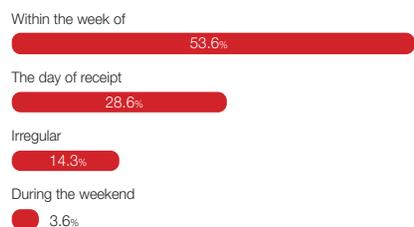


> TIME OF READING

An overwhelming majority of in-house counsel read their Antitrust Professional Publications during the week (53.6%), while 28.6% manage to read them the same day. These results have deviated from prior years as reading during the week has decreased by 13.9% from 2019's results, but reading on the same day has increased by 13.4% from 2019.

> **Law firms can expect their Antitrust Professional Publications to be read by in-house counsel within a week (82.2%).**

When do you read/browse publications received ?

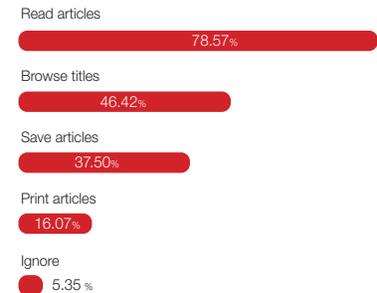


> USAGE: READING VS. SAVING / PRINTING

In-house counsel were asked what they actually do when they receive the Antitrust Professional Publication: 78.57% read it; when they don't have time, 46.42% at least browse the titles. 37.50% save articles, 16.07% print them, and 5.35% ignore them.

> **78.57% of in-house counsel read the articles, 2% higher than last year's results. Title browsing has gone down by 10%, while saving articles has increased by 5%. Crafting high-quality informative titles is still very important in order to obtain reader interest, however it is vital that firms are cognizant of what their readers desire regarding content, as it appears readers are becoming more interested in the substantive value of these publications, more specifically the empirical use of the information.**

What do you generally do with these publications?

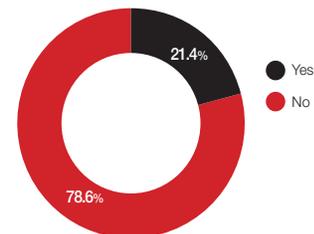


> STAFF SUPPORT

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. An overwhelming majority said no (78.6%). However, this percentage has decreased from last year's 85%, while the percentage of in-house counsel that do have designated staff has increased by 6.4%.

> **Although only 21.4% of in-house have staff designated to review publications, the increase illustrates that in-house counsel are likely receiving more Antitrust Publications than in past years, and these publications are becoming increasingly valued.**

Is there anyone in your team reviewing these publications on a regular basis?

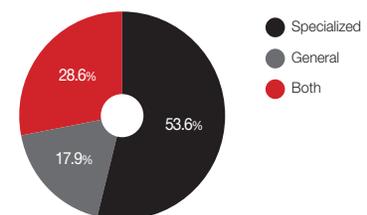


> CATEGORIES: GENERAL VS. SPECIALIZED

As to the type of Antitrust Professional Publications in-house counsel receive, only 17.9% are general antitrust (i.e., covering various antitrust issues), 53.6% are specialized (i.e., dealing only with specific issues such as Antitrust & IP or Antitrust in Asia, etc.), which represents a continuing increase: 10.12% up from 2018, and 11% up from 2017. That said, 28.6% of publications still contain a mix of both general and specialized antitrust content, a 17.05% decline from last year's results.

> **There is still a moderate interest in the variety of antitrust issues, 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

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 (48.21%) read trend reports specific to antitrust, down from 56.52% in 2018, while the percentage of in-house that don't read any trend reports, neither general or specialized has risen by 8.23%.**

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

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

35.71%

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

48.21%

No, I don't read any trend reports.

32.14%

Other

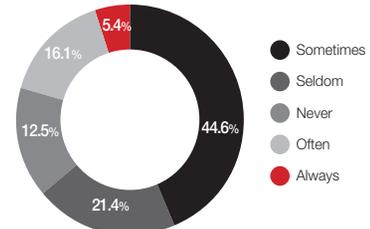
1.78%

> BROWSING

When they do not receive Antitrust Professional Publications from a given law firm, 66% of in-house counsel will search for them on the law firm's website, which is an 11.75% increase from 2018, while 12.5% will never see them, a steep decline from 45.65% in 2018.

> **In-house counsel are browsing law firm's websites more than before to find Antitrust Professional Publications. However, keep in mind, 87.1% of in-house counsel receive at least 3 Antitrust Professional Publications. So, if law firms want to maintain readership, they should actively research what benefits their publications offer that differentiate them from other competitors in order to find their niche in the market.**

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

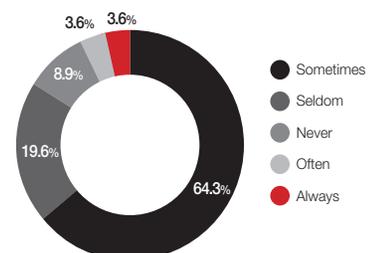


> FORWARDING

When asked whether they forward the Antitrust Professional Publications received, the majority of the in-house counsel (82.2%) stated that they do forward the publications to other colleagues, should the publications be relevant in terms of content. This is a 6.2% increase from last year's results (76%).

> **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 significantly relevant and still easy for their subscribers to share with colleagues (e.g. with sharing buttons, simple background paragraph, etc.).**

How often do you forward publications of this sort (antitrust newsletters, client alerts, etc.) to other people?

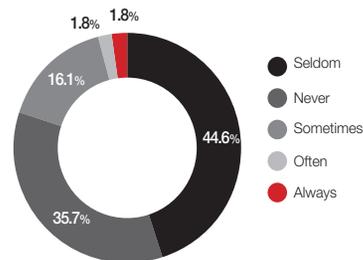


> BUSINESS CONTACT / HIRING

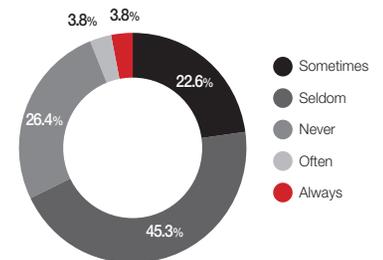
Further to business development, the Survey shows that after reading the Antitrust Professional Publication, 62.5% of in-house counsel contacted the author(s), or are at least willing to contact authors, while those who would never contact authors is at 35.7%, an 18.65% decline from last year's results. In furtherance, this trend also emerges when in-house were asked whether they had retained authors after reading their publications. Results show that 52.8% of in-house have, or are willing to retain authors, an increase from last year's 41%. Those that claimed they never retain authors regarding their publications is down by nearly 10%.

> **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, but just as vital a tool for in-house counsel, as the publications authors provide insight and unique perspectives.**

How often do you contact the author(s) of a publication after reading it?



Have you ever retained such author after reading their publication(s)?



> SENDERS: TOP 30 LAW FIRMS

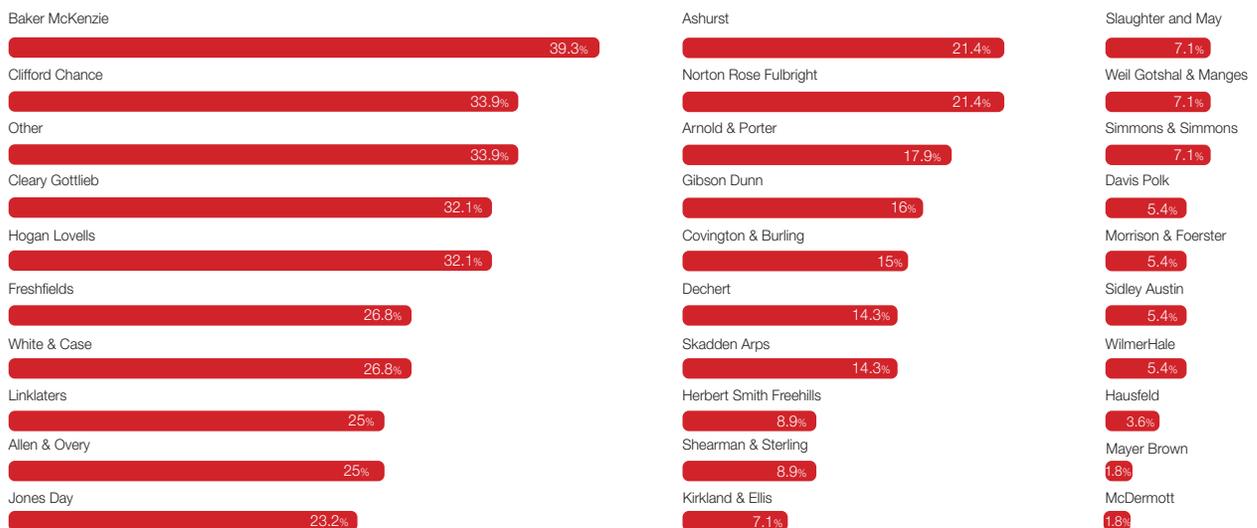
The Survey also looked at the most common Antitrust Professional Publications received in 2019. The chart below lists the 30 most popular ones.

> **Baker McKenzie is the firm with the most commonly received Antitrust Professional Publications by respondent in-house counsel (39.3%) in 2019, moving last year's leader, Allen & Overy to 9th place (25%) after two years in the lead.**

> **Close behind Baker McKenzie are Clifford Chance (33.9%), Cleary Gottlieb (32.1%), and Hogan Lovells (32.1%).**

> **Firms mentioned by in-house counsel under Other (32.1%) include: Orrick, O'Melveny Myers, Latham Watkins, Van Bael & Bellis, Paul Weiss, DLA Piper, Vinson & Elkins, Bird & Bird, Willkie Farr & Gallagher, August-Debouzy, Grall & Associés, Fidal, Simon & Associés, etc..**

Do you read the following antitrust publications?



2. ASSESSMENT

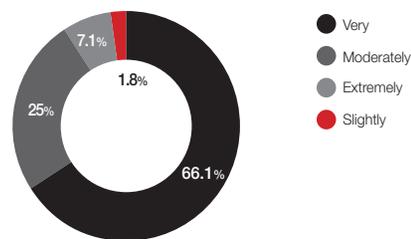
> RELEVANCE

A sweeping majority of in-house counsel (73.2%) acknowledged that Antitrust Professional Publications are relevant to their practice, while 25% claim moderate relevance.

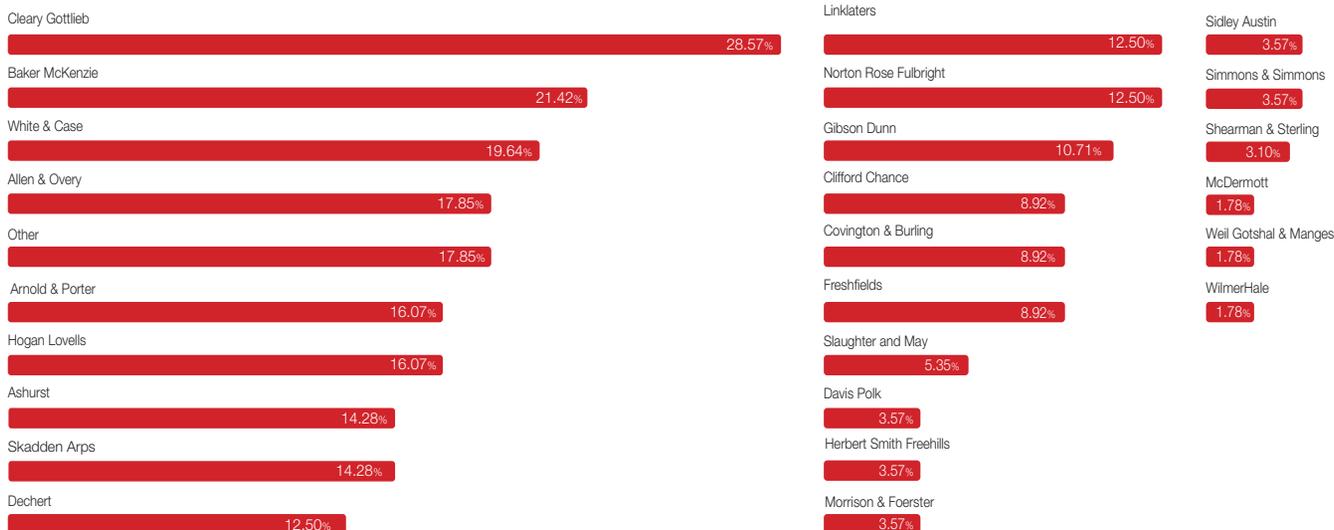
> **Although the relevance rate is high, there is substantial room for improvement. The Appendix to this Report provides 9 in-house counsels' recommendations on how to improve relevance.**

> **Data shows that for some law firms there is a strong connection between the readership rate mentioned earlier in this Report, and the relevance rate shown below for top 30 law firms.**

How relevant to your practice are the law firm publications you receive?



Which firm's publication is the most relevant to your business?

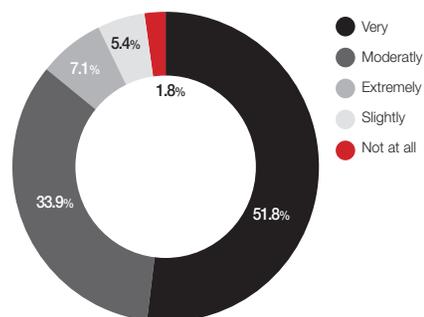


> LAW FIRMS' REPUTATION

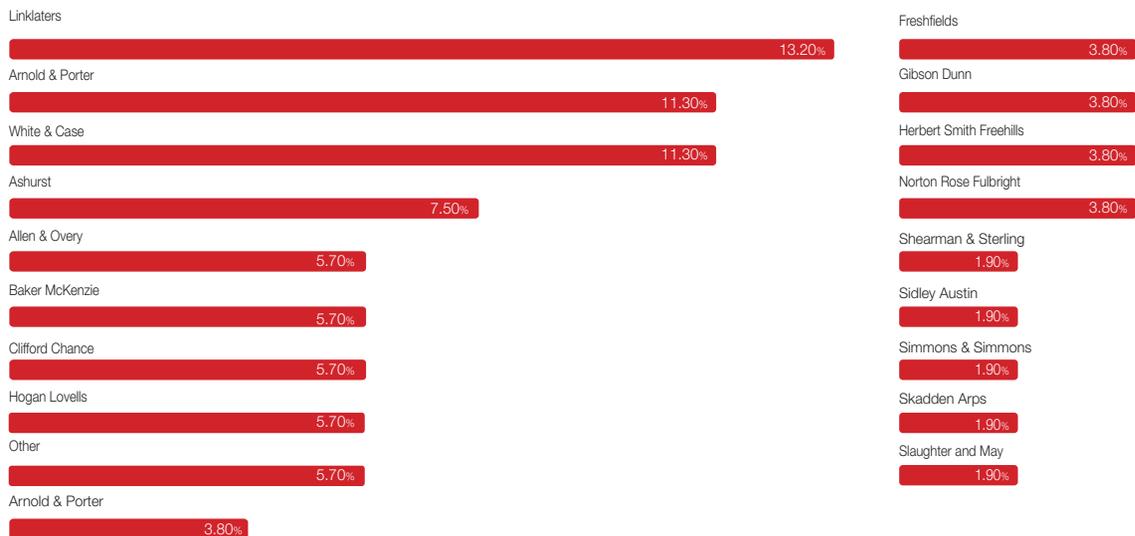
Almost all in-house counsel (98.2%) link the quality of Antitrust Professional Publications to their opinion of law firms. This number is high every year (it was 98% and 95% the last two years respectively).

> **According to almost all 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?



Which firm's publications do you consider the best overall?



> BENEFITS

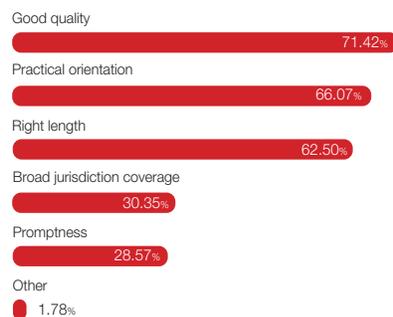
The biggest benefit in-house counsel get from reading Antitrust Professional Publications is bringing attention to new issues (71.42%), followed by providing general updates (66.07%) and providing new insights on risks relevant to counsel's business (58.92%). Finally, 30.35% also find them informative for learning about specialized areas, which is down from 50% in 2018, 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 (71.42%), practical orientation (66.07%), and the right length (62.50%).**

What benefits do these publications bring you?



What do you appreciate in your favorite publication(s)?



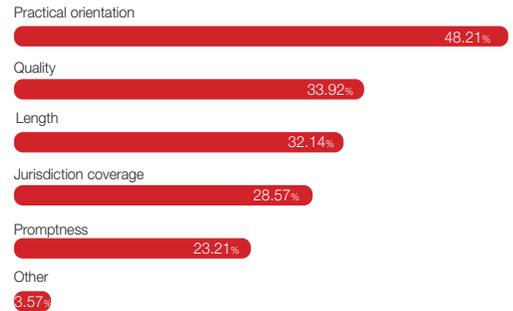
> SHORTCOMINGS

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

> **Quality (33.92%), length (32.14%), and lack of practical orientation (48.21%) are the main issues of less successful Antitrust Professional Publications.**

> **The surge of those that want practical orientation from Antitrust Professional Publications is a vital indicator of what in-house counsel seek to gain from these publications. Essentially in-house counsel want a secondary resource from their Antitrust Professional Publications, more practicability than theory. Thus, Antitrust Publications should focus more on providing recommendations and substantive case commentary if they expect to gain reader interest.**

What are the shortcomings of other publications?

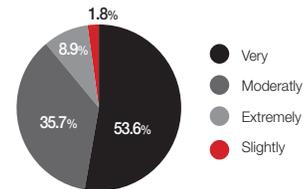


> IMPORTANCE

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

> **Over half of in-house counsel (53.6%) 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?



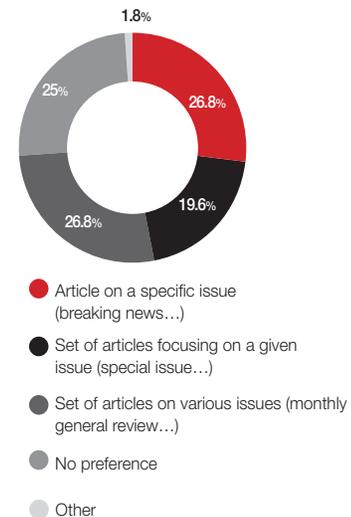
> PREFERENCES

In-house counsel were asked to directly state their preferences for different possible types of publications. Similar to last year, results are mixed and have slightly deviated.

> **Last year, in-house counsel showed a preference towards a set of articles on various issues (37%), a slight preference against a set of articles on one issue (13%), and a lot of them (28%) had no preference.**

This year's results show that in-house counsel have taken more interest across all categories. The preference for articles on various issues has declined by 10.16% while the desire for articles focusing on a given issue rose by nearly 7%. And those who preferred articles on a specific issue is up 5.06%. The percentage of in-house that have no preference, however, hasn't deviated significantly from last year's results (28.26%).

What type of publications do you prefer?



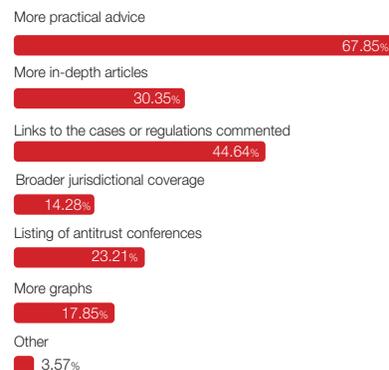
> SUGGESTIONS: CONTENT

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

- > **This year's results are consistent with the top three primary issues of 2018. In-house counsel identified their top three key issues are the desire for more practical advice (69.57%), more in-depth articles (43.48%), and links to cases regulations commented (43.48%).**

> **Antitrust Publications are best known for reporting on general trending business issues, and providing insight on specialized issues. However, these results show that reporting is not enough. In-house counsel want useful in-depth analysis on what to expect from many of these cases, as well as a breakdown of relevant case precedent and the effect of regulations. This demand for more consultative material coincides with the increase of in-house counsel that will contact and retain authors after reading the author's publications.**

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



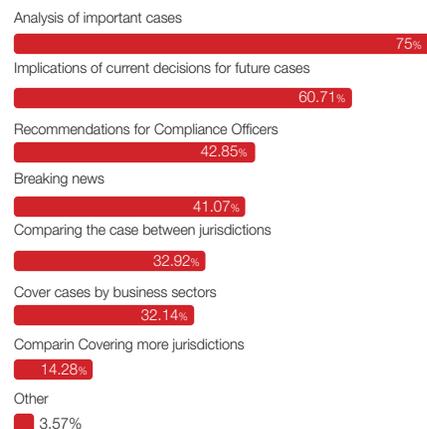
> SUGGESTIONS: FOCUS

In-house counsel were also asked to rank the biggest issues with the overall focus of the publications they receive.

> **Last year most in-house counsel (65%) thought the existing Antitrust Professional Publications have to focus more on implications of current decisions for future cases. This year the implication of current decisions has dropped to second place (60.71%), while analysis of important cases has risen to the number one issue (75%). Rounding out the top three is recommendation for compliance officers (42.85%).**

> **The leading categories this year, case analysis and implication of current decisions for future cases illustrate that in-house counsel desire content that is more practicable in nature.**

Newsletters should focus more on:



> 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 (58.92%) would like a clearer path to antitrust law firm publications on the firm's website. The second best solution would be to have a database listing all Antitrust Professional Publications by all law firms in a single place (48.21%).**

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





14 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 jurisdiction; 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 Focus on areas of key competence.
- 6 Focus less on mergers as they do not take place in in-house practice as often as in law firms practice. In-house lawyers focus on an array of issues in day-to-day practice (eg. horizontal and vertical agreements, concerted practices, etc.)
- 7 Make access to publications easier.
- 8 Provide an abstract at the beginning of longer articles.
- 9 Be more concise and reactive.
- 10 Publish at a higher frequency, preferably weekly rather than monthly.
- 11 Move away slightly from commenting on current cases to providing easy to use toolkits, lists of questions, flowcharts etc.
- 12 Avoid just summarizing with no original analysis or key takeaways.
- 13 Provide follow-up reports on major cases.
- 14 Firms should refrain from publishing repetitive information. Offer content that is not available in other publications.

ANALYSIS

The results of this year's report highlights a trend indicative of the current climate amongst the antitrust community. For instance, the rise in demand for weekly Antitrust reports, the increased percentage of in-house counsel reading articles, the increased contact rate of publication authors by in-house counsel; but most notably, the heightened demand for more substantive material with practical usage, are reasonably attributed to the rise in antitrust litigation spurring from recent scrutiny by the DOJ, FTC, and European Competition Commission against big businesses. An article posted on BloombergLaw.com in December of 2018 foresaw the impending barrage, stating:

“Technology giants’ mushrooming influence on the U.S. economy will dominate antitrust policy-making in 2019. Companies like Amazon.com Inc., Facebook Inc. and Google are eager to portray themselves as mere “platforms” for content and trade conducted by others. But debates over their economic powers and the extent to which they should be held liable through government enforcement and litigation have intensified throughout this year and will continue in courts and Congress in 2019.”

At the rate government agencies were regulating these industry giants throughout 2019 we can expect further results that mimic this report in coming years, as well as ongoing demand for more practical advice, and substantive content.

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).”



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