

# Session 108 – Part 2

## Preventive Efforts to Address and Mitigate Legal Risks

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# 1. Introductory Note

- Effective legal risk mitigation builds on proper risk identification & prioritization, and...
- demands focus on the real major risks (CEOs and CFOs may have a different view regarding legal priorities);
- To preventively identify and mitigate legal risks, the GC needs to thoroughly understand the business (products, markets etc.)
- And, of course, you need adequate resources; if your budget for legal and compliance management does not at the very least amount to ca. 0,25 % of revenue, your company most certainly has a governance issue.

<sup>1</sup> Laurence Simons, Rees Morrison Associates; Europe, Middle East & Africa Law Department Benchmarking Survey 2009. Average total legal spend of 73 respondents is 0,56% of EMEA revenues: median total legal spend is 0,21% of EMEA revenues. Compliance spend is not considered in the figures.

## 2. The Generic Risk Mitigation Tool Set

- Competition Laws                      Internal norms, training modules and business files for critical business lines
- Antibribery Laws/  
FCPA Compliance                      Internal norms, training modules multidisciplinary business partner due diligence process, audits
- Product Safety/  
Compliance                              Legal guidelines, proper documentation, regular technical/legal „deep dives“, action plans
- Litigation (Class and  
Collective Actions)                      Defence organization (people, authority, reporting) and strategy (defend or settle, timing, customer relations, reputation?)

### 3. Schindler Group's Legal Risk Mitigation Tools

- Competition Law  
Group Norm, regular training of up to 50% of all employees worldwide, detailed business files for exposed business lines
- Antibribery Laws  
Group Norms (antibribery, customer intermediaries, invitations/gifts, factory visits etc.), bi-annual training of up to 50% of all employees worldwide, joint business-legal-compliance business partner due diligence, audits
- Product Safety/  
Compliance  
„deep dives“ in case of concerns; legal guidelines on specific technical norms and compliant business conduct
- Litigation  
for major litigation: defence team w/ clear authorities and reporting lines; continuous strategy review process

## 4. Conclusion

- Effective legal risk mitigation is necessarily part of an integral and systematic Legal Risk Management program.
- Adequate resources given, legal risks can effectively be mitigated (the tools are there...).
- To employ the tools, legal counsels must thoroughly understand the business. Ideally, any legal counsel will each year at least spend a week „in the field“ (in order to avoid the “sub prime-ABS-CDS” surprise ...)