



DIRECTORS
ROUNDTABLE

WORLD RECOGNITION of DISTINGUISHED GENERAL COUNSEL

GUEST OF HONOR:

Dr. Claudia Junker

General Counsel, Deutsche Telekom AG

THE SPEAKERS



Dr. Claudia Junker
*General Counsel, Deutsche
Telekom AG*



Dr. Astrid Krueger
Partner, Allen & Overy LLP



Dr. Thomas Gruetzner
Partner, Baker & McKenzie



Dr. Christof Jaeckle
Partner, Hengeler Mueller



Dr. Burkhard Goebel
Partner, Hogan Lovells LLP



Dr. Jens Liese
Partner, Noerr LLP

(The biographies of the speakers are presented at the end of this transcript. Further information about the Directors Roundtable can be found at our Website, directorsroundtable.com.)

TO THE READER

General Counsel are more important than ever in history. Boards of Directors look increasingly to them to enhance financial and business strategy, compliance, and integrity of corporate operations. In recognition of the achievements of our distinguished guest of honor and her colleagues, we presented Dr. Claudia Junker and the Legal Department of Deutsche Telekom with the leading global honor for General Counsel and Law Departments. Deutsche Telekom is a leading global telecommunications company. Dr. Junker's address focused on key issues facing the General Counsel of a major multinational corporation, including diversity in the boardroom. The panelists' additional topics included mergers and acquisitions; intellectual property; legal technology; diversity; regulations; and corporate governance.

The Directors Roundtable is a civic group which organizes the preeminent worldwide programming for Directors and their advisors including General Counsel.

Jack Friedman
Directors Roundtable Chairman



Dr. Claudia Junker
General Counsel



Dr. Claudia Junker has been the General Counsel and head of the legal department of Deutsche Telekom since November, 2010.

Since 2012, Dr. Junker has also taught at Cologne University. She published regularly as a co-author of a commentary on corporate law.

She is also active in the executive committee of the German Federal Association of In-house Lawyers (*Bundesverband der Unternehmensjuristen*), the European General Counsel Association, the Committee for Economy and Law (*Arbeitskreis Wirtschaft und Recht*) and the professional law committee of the German Lawyers' Association.

Before joining Deutsche Telekom, Dr. Junker worked for many years as a lawyer in private practice and specialized in corporate law

(including M&A). During that time, she often worked for Deutsche Telekom. From 2008 until she stepped into her current position she was a partner in an international law firm.

Since 2007, Dr. Junker has also specialized as a lawyer for commercial and corporate law (*Fachanwältin für Handels- und Gesellschaftsrecht*), and since 2007, she has served as a certified compliance officer.

She studied law in Germany, Switzerland (Geneva) and the U.S. She has a Ph.D. from Heidelberg University and an LL.M. from Cornell University.

Deutsche Telekom AG

Deutsche Telekom is one of the world's leading integrated telecommunications companies, with some 165 million mobile customers, 28.5 million fixed-network lines, and 18.5 million broadband lines.

The company provides fixed-network/broadband, mobile communications, Internet, and IPTV products and services for consumers, and information and communication technology (ICT) solutions for business and corporate customers.

Deutsche Telekom is present in more than 50 countries. With a staff of some 218,300

employees throughout the world, the company generated revenue of 73,1 billion Euros in the 2016 financial year, about 66 percent of it outside Germany.

In order to continue the company's success, it is already evolving from a traditional telephone company into an entirely new kind of service company. Our core business, i.e., the operation and sale of networks and connections, remains the basis. But at the same time, the company is proactively committing to business areas that open up new growth opportunities.

KAREN TODD: Good morning and welcome! My name is Karen Todd, and I'm the Executive Director and Chief Operating Officer of the Directors Roundtable. We are very pleased that you're here today.

The Directors Roundtable is a civic group whose mission is to organize the finest programming on a national and global basis for Boards of Directors and their advisors, which include General Counsel. Over the last 26 years, this has resulted in more than 800 programs on six continents. Our chairman, Jack Friedman, started this series after speaking with corporate directors who told him that it was rare for a large corporation to be validated for the good they do. He decided to provide a forum for executives and corporate counsel to talk about their companies, the accomplishments in which they take pride, and how they have overcome the obstacles of running a business in today's changing world.

We honor General Counsel and their Law Departments, so they may share their successful actions and strategies with the Directors Roundtable community, via today's program and the full-color transcript document that will be made available to about 100,000 leaders worldwide. That is why the program today is going to be in English.

Today, it is our pleasure to honor Dr. Claudia Junker and the Legal Department of Deutsche Telekom. Joining Claudia this morning are Distinguished Panelists: Dr. Astrid Krueger with Allen & Overy, Dr. Thomas Gruetzner of Baker & McKenzie, Dr. Christof Jaeckle from Hengeler Mueller, Dr. Burkhard Goebel with Hogan Lovells, and Dr. Jens Liese of Noerr.

In addition to Claudia's work at Deutsche Telekom, she is also a published author and teaches at the University of Cologne. She is active in the European General Counsel Association, the Committee for Economy and Law (Arbeitskreis Wirtschaft und Recht), and the Professional Law Committee of the German Lawyers' Association. She has



studied law in Germany, Switzerland and the U.S., receiving degrees from Heidelberg University and Cornell University.

I have a letter from the Dean of Cornell Law that I would like to share with you.

DR. CLAUDIA JUNKER: What a surprise! [LAUGHTER]

KAREN TODD:

Dear Dr. Junker:

As the Allan R. Tessler Dean of Cornell Law School, I am pleased to extend my congratulations to you upon your recognition by the Directors Roundtable for your work as General Counsel of Deutsche Telekom.

As the leader of a highly-skilled expert staff, you can take special pride in the legal services your team has provided to corporate management and Deutsche Telekom's Board of Directors. Your strategic guidance, professional expertise and critical oversight enable corporate managers to function effectively and ethically, and help to ensure that Deutsche Telekom will continue to prosper in the complex environment of global business.

Your achievement as General Counsel merits our esteem at Cornell Law School. I am proud to celebrate your achievement by this writing, and gratified to regard you as an exemplar

of the spirit of Cornell Law — a lawyer in the best sense, and among the finest our school can call its own. Congratulations.

DR. CLAUDIA JUNKER: Thanks a lot! [APPLAUSE]

KAREN TODD: And now, I'm going to turn it over to our Guest of Honor, Claudia.

DR. CLAUDIA JUNKER: That was very flattering. If he knew me better, he would have found other words, less flattering. [JOKING]

My husband, who is here somewhere [LAUGHTER] he said, "Why do you work on this speech? Why don't you just make a really short one? And that could be, 'They gave the prize to the right people — let's have the drinks!'" [LAUGHTER]

I'm afraid I will use this opportunity to talk a full thirty minutes about the DT Legal Department.

I'm going to do my speech in two parts: half is on general topics I have put under the heading, "Innovations at DT Legal." Half will be about topics that we are currently looking at, and one topic for each department.

Since July, we are sitting in open space. We have pictures here. All of DT Legal knows how it is; all the others can look at the pictures. [SLIDE SHOWING OPEN SPACE OFFICES] You might think — well, not you, who are sitting there, [REFERRING TO THE MANY DT LEGAL COLLEAGUES IN THE AUDIENCE] but all the others might think, how does this work? How do we maintain confidentiality? How do we not disturb each other all day long? I can say, it works. For ages, I would have said, "Lawyers in open space — no way." Yes — people in the audience are nodding. And how does it work? It works. [LAUGHTER] What are my colleagues supposed to say? [LAUGHTER]

Before we moved, I heard from other General Counsel that they have young lawyers and they don't want to sit in a small

office anymore; they are saying, “This is like going to prison every morning.” So we are not going to prison every morning anymore. But we have some rules so that things go smoothly. At first, I was laughed at – lawyers – you need rules, of course. Now, we are envied for the rules. One of the rules is that in our office space, we have a quiet zone, a mixed zone and a conference zone. In the quiet zone, you cannot talk, and you cannot make phone calls, you have to go out to do that. In the mixed zone, you are allowed to have small talks and small calls with a low voice. In the conference zone, you can do whatever you want – maybe you want to dance on the table – no. That is probably not included.

Along with open space came desk sharing. This is tougher. Desk sharing means we have less desks than people. Because, from a facility management point of view, people are on holiday; at a conference (like here); they are in a home office, or wherever they are – but if you have 150 people and 150 desks, from that facility management point of view, a third of them are empty all the time, so we are desk sharing. Do we like that much? The thing is, every morning, you have to unpack everything, and you have to install your laptop, your docking station, your keyboard, your mouse, and all the stuff you need to work with, and every night, you have to pack everything back again and squeeze it into a little storage box. That’s the not so good side about it. But on the other side, I don’t have an office any more which is full of paper – someone is nodding over there – so that’s the advantage. That’s an easy way to be forced to switch to electronic filing. My DT Legal colleagues in the audience are laughing. Do you like it, or do you not like it? Kind of mixed feelings. [LAUGHTER] But it’s not as bad as we feared. It is better.

Let me come to some other things we have done in recent years. Do the people here from DT recognize yourself? We did a rotation at the executive level, meaning these four guys and gals, they switched jobs at



the beginning of 2016, which is a big step, because they liked their former jobs a lot. Nonetheless, we did this – we were the first area in DT who did this, and looking back, I think we all like it. It is a big step, but I can read out some quotes from them that they made on the Intranet vis-a-vis the Communication Department, who is here today, too. For example, Claudia Bobermin was previously the head of one of the Legal Services, and now she’s head of Strategic Litigation. She said, “What makes job rotation fun is the way it sparks your curiosity.” Uli Kühbacher, who was formerly head of one other Legal Services team and is now the head of a different unit of Legal Services, says, “A sensibly implemented job rotation scheme will provide enrichment and rejuvenation, both for the employees doing the rotation and for the whole of Deutsche Telekom.” Winfried Wegmann, who was formerly the head of Stock Company Law, and now he’s head of the Legal Services unit that Uli Kühbacher was the head of before, says, “I think our job rotation experience” – it *was* an experience and an experiment – “in DT Legal is a real success story. The whole department has gained more momentum and creativity as a result of it. However, the backbone of our day-to-day

work is still provided by our colleagues who have built up a solid professional competence in their professional areas.” Uli Zwach was the fourth person on this Four Musketeer slide. He was formerly head of Strategic Litigation; now he is head of Stock Company Law, which is a big step, actually. I think that was probably the biggest step of the four of these. “Job rotation can complement additional pathways to change within our various business departments.”

Why don’t we clap for these brave Four Musketeers? [APPLAUSE]

You are going to wonder what this is about. [SLIDE SHOWN WITH A POOL UNDER PALMTREE]

Yes, this is the garden of our new open space. [LAUGHTER] No, it’s not! This is a concept we are just doing a pilot on, and if this both works and the Works Council agrees, then we will roll it out. I called the concept “Pool Light.” You see the pool is not very deep there. What is the aim of “Pool Light”? It’s close to the aim of rotation: to promote know-how and perspective, and create the possibility to work in different teams on various projects. Not that we haven’t



done that before, but now we are doing it in an institutionalized way. We built clusters of three departments each, and they are, from a specialist point of view, close clusters. Every employee will work twenty percent of his or her time in one of the other two departments. That can be 1.5 hours per day or one day a week or 1.2 months per six months – something like that. There are colleagues participating in the pilot and one of them, without naming names, said, “I really like this, because now I have a boss who is sometimes there.” [LAUGHTER]

We don’t want to leave out the unpleasant things. We had to reduce our head count by more than forty percent since the beginning of 2013. Let me talk about the nicer side of this. The nicer side of this is: We managed to do this. You all worked really hard and every single department reviewed its portfolio of tasks, and they came up with five hundred ideas about how we can be more efficient and reduce the workload. For the law firms: The finance guys are not from another planet, either; so, of course, at the same time, they reduced the budget that we can spend for external legal advice. [LAUGHTER]

Now, you could say, “Okay, we are forty percent less – probably we are giving forty percent less qualified advice or something like that, and all people hate us.” No, they don’t! We have fantastic Tri*M results. That

is for me always the best day of the year when we get those results back. Tri*M is about asking our internal customers about how happy they are, and that was an idea from Dr. Manfred Balz, who was my predecessor and is in the audience today. He set that up, and we have been doing that since then. Now, in the meantime, we are doing it with an agency who does it for various legal departments or companies out there.

The benefit of that is we get a benchmark, not only where we are compared to the previous year, but also benchmarked to where we stand in comparison to other legal departments, and a benchmark on where other departments of DT stand in comparison to us. [SHOWS SLIDE WITH THE TRI*M RESULTS]

This is the mousepad that we currently use; that’s why the picture is a bit blurred. But you can see why this is the best day in the year. For last year, this January, we made 108 points. Other legal departments out there made 74 points on average. You are fantastic, guys! [APPLAUSE]

What comes next? Since we are less people, but the work is getting more and more, we have to do something about this. There are two ways. Most external lawyers would say, the right way is to work 24 hours, seven days a week. Unfortunately, my internal colleagues disapprove of this way. [SMILING] On Friday, I asked them whether they think this is a good option, and they declined – it’s not a good option. So we have to find tools that are able to do the repetitive, boring work for us.

Dr. Christof Jaeckle, who used to be my boss some centuries ago, more or less, still remembers how much I hated to go into data rooms. In the meantime, there is legal tech out there looking for change of control clauses in contracts in the data room and people do not have to do that themselves, anymore. But there’s more than that. I needed someone taking care of it, so I appointed a Chief Legal Tech Officer this

summer, Dr. Peter Schichl – he’s over there. When I’m talking about contract drafting tools, which we just did a pilot on, then he’s talking about artificial intelligence – he’s not even saying “artificial intelligence”; he’s saying “AI.” So, you see, he’s far ahead of me. As a policy for operation, I gave him a booklet on all the rules he has to comply with as a chief legal tech officer, and all the ideas he has to come up with. Now look closely at the next slide, this was in the book. [ALL SIDES OF THE BOOKLET ARE EMPTY]

We have some other functions introduced last year and one was the function of the Customer Simplicity Officer. We had a project run together with Customer Services Department of Telekom Deutschland, and we looked at legal hurdles in customer contact. It turned out that many of the hurdles that allegedly came from us were just fairytales. To prevent this from happening again, we thought we needed some way to look at all these hurdles constantly. And I’m glad that Barbara Bös, who is sitting over there – accepted this job. She is reviewing customer contacts, and she is looking for legal hurdles and for other hurdles, and trying to say whether we need them or not.

Some of you might remember that Ms. Bös and I gave an interview in the JUVE last year. The interview was about diversity, which is a big issue at Deutsche Telekom. Currently, we are fifty-five percent women in the Legal Department, including everybody – professionals, and assistants, and forty-five percent men. But, unfortunately, two executive women retired last year, so at the executive level, we are only twenty-six percent female executives in the Legal Department. But I have so many talented women in the talent pipeline, I am not worrying; we’ll get there again.

For DT, as an entire company, we have the current numbers on this slide, they are the half-year numbers – so you can see them. As all of you know, we have a law on female diversity in Germany since the beginning of 2016. It introduced a thirty percent



quota for supervisory board seats of listed codetermined companies – there are only 106 of them in Germany, but we are one of them – and then, in addition, you have to give yourself a quota for the management board and for the two top management levels below the board. We gave ourselves the quota of thirty percent, and you can see that with the top management, we are almost there – 28.8 percent – we’ll get there.

I still want to cover a couple of different issues, as I announced, one per top department. The first one is Magenta. Magenta is supported by the team of legal brand affairs who are here today. There you are! The color trademark is a thing that was, when introduced, very unusual. We have a color trademark, Magenta, as is quite obvious from this slide of magenta objects, which is protected in the EU and in several other states. It was one of the first color trademarks; now others are trying to have a color trademark, too. There are challenges with this color trademark. In particular, currently magenta and pink tones are very much the fashion. (A woman in the audience is wearing a magenta suit) [LAUGHTER]

I like it! But where did you buy that, can you tell me? I want one, too! [LAUGHTER] Our main advisors for our brand are sitting there.

Another topic I want to touch on, so that you can see what we are covering in the Legal Department, like a trillion other things, but I’m not going to stay here until tomorrow. We are working on “M2M.” M2M means “machine to machine.” The specific example I want to talk about is Connected Car. Probably there are people in this room who drive a BMW or another premium car. Connected Car means networking of vehicles to support various services so that you can e.g. press a button, when you have an accident, it will automatically contact your car manufacturer or your service provider. This is based on mobile connectivity and technical infrastructure services and it asks for innovative minds in that part of DT Legal.

The next topic I want to touch upon is our part of the work in the broadband rollout. We are taking care of the rights of way. This used to be a very old-fashioned part of DT Legal, you would have to look for the lines lying properly in the street, but now this is a big issue. As you all know

from the newspaper, everybody wants to have broadband across the republic. We are building broadband, and others are building broadband, too, like cities and regions. They don’t always stick to the rules, which does not make our life easier. But also, the German state, the federal states and many of the regions have established all sorts of subsidy programs, and we are applying for them. We are investing, per year, €5 billion, which is a lot of money.

Which brings me to a later slide. If you are watching TV by Entertain – how many people are watching TV by Entertain in this room? You’re from DT, right? [LAUGHTER]

I’m not often advertising, but Entertain is a fantastic DT TV product. But the product wouldn’t have a fantastic program if there was nothing to be sent. We need a license for every content we are sending to, so last year, 2016, my colleagues from that department negotiated 215 contracts on licensing in content. Just now, there was a series which won eight Emmys, and we have it exclusively. [LAUGHTER] Now, the advertisement part is over.

Let's talk about more high-speed and fixed lines. Many of you who read newspapers will see that there is a battle out there, because our competitors say it should be fiber only. But if we had fiber everywhere in the republic, this would cost €80 billion. Nobody can pay for that currently. What we are doing is a mixture of fiber and so-called vectoring. You can see on this slide, the fiber goes from the street cabinet to the main distribution frame, so we put fiber there; but from the street cabinet to the house, we have copper infrastructure. We're using vectoring to speed those up, and we can get with that to 100MB per second. Why do our competitors dislike this product? Because, technically, only one provider can do vectoring per street cabinet. We call it the Highlander principle – whoever does it kicks out all the others. And then, so to say fortunately or, looking at the perspective, unfortunately, we won 7,200 out of 7,600 areas to do vectoring. We don't see another way to have faster broadband in a short time.

Where does all the money for building all this infrastructure come from? Some of it comes from the dividend in kind, which we have been doing since 2013. The dividend in kind, then, was a thing that no big company had done in Germany. But with the help of Hengeler Mueller, also sitting on the podium, we managed to do it. In the meantime, others are doing it too – actually, lawyers told me, that they downloaded all the documents that Hengeler Mueller made, to do it themselves. And they are not even ashamed to tell me!

We have very high acceptance quotas. This year, we had forty-nine percent, so almost half of our shareholders, decided that they will take shares instead of cash as a dividend. That's the meaning of "dividend in kind." This year we saved €1.36 billion of cash dividend payments, which we need for investing in the infrastructure. You would think this is a routine thing in the meantime, because we have done it now for five years, but every other year, there is a new thing going

“What is the aim of Pool Light? It's close to the aim of rotation: to promote know-how and perspective, and create the possibility to work in different teams on various projects. Not that we haven't done that before, but now we are doing it in an institutionalized way. We built clusters of three departments each, and they are, from a specialist point of view, close clusters. Every employee will work twenty percent of his or her time in one of the other two departments.”

– Dr. Claudia Junker

on which makes things more difficult. For example, in 2016, during the period for the acceptance, the stock price went down, which made our offer less attractive.

I want to come to criminal law. Hans-Lucas Bauer, are you here? Yes, I saw you. The last Sunday afternoon in November we had a hacker attack on 1.2 million routers. Obviously, we had to react instantly. The DT Cybersecurity team reacted instantly, and my colleagues from Criminal Law reacted instantly, too. They filed a criminal complaint with the Cybercrime Division of the Federal Police Department, and together with their Cybersecurity colleagues, they gave all the necessary information to them. And who would have guessed? In February – only four months later – someone was arrested in London, the hacker. This masked guy, in the slide there. He didn't allow us to use his picture. [LAUGHTER]

He was put on trial in Bonn, and he was sentenced to prison. Well, it was a suspended sentence, so he probably does not have to go. He got one year and eight months, and we discussed intensively whether we thought this was enough or too much or too little. Why did he do it? He was in Nigeria, and he was offered \$10,000 to do it. He said, "I was young and needed the money." [LAUGHTER]

These trolls in the next slide are not so young, and need the money, too! [LAUGHTER]

Patent trolls are a plague. They were already a plague when my predecessor, Dr. Manfred Balz, was still with DT. Right, Manfred? Yes. It hasn't become better. Stephan Altmeyer, I saw you somewhere. There you are. The telecommunication industry is the main victim of the patent trolls. What are they asking for? The German law gives them the right to ask for injunctions, meaning we should stop our network, we should stop selling mobiles, we should stop whatever, on the basis of alleged patent infringements. I still remember that Manfred – I don't think you meant it seriously – said, "Why don't we let them do this, and after three days, we will have a change in the patent law." Nobody has the nerve to do that. Currently, we are fighting several complaints of patent trolls. The good news is, in the last two years, in about 20 of them we got final or non-final decisions of courts saying, "No," to the patent trolls. And we got none the other way around. Now, the car industry is the next victim.

One other issue I want to mention. My colleagues are, of course, working on all kinds of digitization issues. For example, they are working on Industry 4.0 topics. I know that Olaf Vogel explained to me last week that this is not an international term, but we'll have to put something in the script in brackets. (4th industrial revolution referring to the Internet of Things [IoT] and services) What they also work on is – and that is with the Federal Association of In-house Lawyers – they are working on a concept



for a certificate to become a “digital legal counsel.” Olaf introduced the concept to us last week, and we were all so taken away that everybody around me said, “I want to do that class,” me included, I want to do that class. It is five days, and then you are a “Digital Legal Counsel.” For example, you learn programming. That sounds fun.

My last slide is about big money. Axel Lütznert, that’s not your slide, but it’s your topic. [LAUGHTER]

We’re talking about four billion. Four billion, we all agree, is big money. We have provided financing to our major U.S. subsidiary for a spectrum auction. Spectrum is the frequencies that we need for broadcasting mobile services. But we didn’t know whether they would succeed in the spectrum auction or not, so we had to do a future bond, which was a bit difficult; but with the help of our external U.S. financing lawyers, we managed it. Also, our U.S. subsidiary is in Seattle, which is nine hours behind. If you send an email in the morning, they will read it at night. In addition, the documentation was pure U.S. style, and although, of course, our U.S. lawyers had the responsibility to get that right, we had to be able to understand what we were doing there, because we had to approve internally whether we do it or not. They did it

– congratulations! We, DT and the group, saved a lot of interest.

This is it. Thank you! [APPLAUSE]

KAREN TODD: I have one quick question for you. Do you think that the open office and the rotation of the jobs is going to help more of your younger colleagues come up through the ranks?

DR. CLAUDIA JUNKER: That’s a difficult one! Obviously, I see a lot more people every day. Maybe they like it; maybe they dislike it. [LAUGHTER]

Yes, that could well be. The main purpose of open space is that people talk more to each other, and not everybody is sitting in his or her cubicle, shutting the door. “This is my cubicle and you stay out, and this is my cubicle as a specialist and I don’t care about all the rest.” It is supposed to lead to a mind shift, too, so that people are connecting more to each other. Well, we have only done this now for three months. I think it worked out quite nicely – much better than I feared; much better than all of us feared. Yes, I think that could be. Which is good news for the young lawyers in this room.

KAREN TODD: Our next speaker is Astrid Krueger with Allen & Overy.

DR. ASTRID KRUEGER: Thank you very much, Claudia, for this entertaining insight into your legal department.

DR. CLAUDIA JUNKER: I wanted to thank you, really, sincerely, for hosting us. Thank you. [APPLAUSE]

DR. ASTRID KRUEGER: Thank you very much. That is a good keyword for me to also say a very warm welcome to, of course, you, Ms. Junker, to all the colleagues from the Deutsche Telekom Legal Department, and all our other guests. Also, on behalf of all at Allen & Overy, and all my partners and colleagues who are sitting in the room – welcome. We are very happy to host you today.

I am going to focus, in the next ten minutes, on diversity in the business of law, which is also a bit of a tribute to Claudia Junker, because I know that diversity is a topic on her agenda, and since I’m a lawyer in a law firm, I’ve just pulled it a bit to my side.

By the way, when we talk about diversity, the spectrum, of course, goes beyond gender, professional background and experience; it also covers ethnicity, social background, religion and age, as well as sexual orientation and identification, known as “LGBT.”

Why does diversity matter in the business of law? Why would I be thinking about this? There are a couple of points that come to my mind. First of all, the law is a wonderful profession. I can say that in this room, I hope, and I've been wondering whether you'd be laughing or nodding when I say that. [APPLAUSE]

Anyone who has an interest in it, regardless of their gender, sexual orientation, race, ethnicity or socioeconomic background, should, if they have the skills, be able to practice in it at the very highest level. That's a fundamental principle, and personally, I have to say I'm very happy that it applied so that I could be here. But in the end, it's, of course, not only about moral aspiration; it's also about a business need. There are a number of constantly recurring reasons why law firms need to pay attention to diversity, most of which you are likely aware of, so let me just briefly focus on a few of them which I believe are the most important ones.

First, our clients. Large corporations, such as Deutsche Telekom, are working hard to become more diverse. They are increasingly looking to ensure that their panel law firms, like us, match their values and commitments to diversity and are expecting that requirements to demonstrate diversity, which we already see in procurement processes, will increase.

Then second, the best talent pool. Our business is a people's business; we depend on attracting, engaging and retaining the best talents. Talented people are not only of one gender, one sexual orientation, race, ethnicity or social background.

Third, the cultural awareness. As a legal advisor, we not only need to know the law, but we also need to support our clients in making decisions and implementing solutions. We need to have a high degree of cultural awareness, and diversity helps us with that. Individuals from different backgrounds see different things, and I can give you one example from my daily practice as

an M&A lawyer. If you have tough negotiations and people are stuck in a corner, sometimes a different perspective can really pull you out of the corner and prevent horns from staying locked for a long time.

The fourth reason is innovation. That's a topic that's dear to my heart. Diversity in the legal profession plays a very important role with regard to discovering and pursuing new approaches and tactics when working. We can avoid the pitfalls of group think and, in turn, this helps us to enhance the quality of the service we provide to our clients.

This all leads to the fifth point, the positive financial impact of diversity. You will all have heard about studies on this topic, so let me just quote one study made by McKinsey in 2015, which demonstrates that companies with more diverse workforces perform better financially. According to their analysis, there is a correlation between a diverse leadership in terms of gender and ethnicity, and success on the other hand. More diverse companies are better able to win top talent, improve customer orientation, employee satisfaction, and decision making – all of which leads to a virtuous cycle of increasing returns.

Finally, there is the future of legal business. We've heard about the Chief Technology Officer, and we'll hear more about legal tech from one of the colleagues on the panel in a few minutes, so I will only say that legal tech undoubtedly will have a disruptive effect on our business – and we had a discussion on that last night – that it will change everything we do. We might not be replaced by computers, but we might have a different business model. The way law firms are run may begin to change dramatically within the next five to ten years. We will need to have teams of lawyers, and even non-lawyers, that are mentally flexible enough to tackle those challenges. Personally, I am absolutely convinced that diversity will be a key factor in that. The more inhomogeneous a team is, the more the individuals are used to being openminded, and they're trained to look at



different angles of a problem, and we will all benefit from people who can think outside of the box with respect to the challenges that are coming through legal technology.

Now that we know that diversity matters, the question to be asked is: how are we doing, as a profession, with respect to diversity? Law firms, like all other professional service firms, have got a problem with that; we're not good. If you look closely at any of the big law, accountancy and consultancy firms, it's clear that we're all struggling to achieve our stated ambitions on diversity. With respect to Allen & Overy, there are some signs that could make me hopeful. We've just been awarded, for the fifth time, *The Financial Times'* Most Innovative Law Firm in Europe Award. That makes me suspect that there are some people in this firm who think outside of the box. That might be because of a diverse environment, hopefully. Allen & Overy also has just been shortlisted for this year's *Pink News'* Business Equality Award, which celebrates the contribution of business to improving LGBT life. Having made this a global strategic priority, I'm very happy to see that we're making progress there.

But when it comes to gender diversity, unfortunately, the truth is less comfortable. The most obvious failure, and which we can read about in the legal press and elsewhere, is the struggle to increase the proportion

of women in leadership positions. We also have targets on gender diversity – not legally prescribed targets like Deutsche Telekom has, but voluntary targets. For example, at A&O, we have a target to see women make up twenty percent of our partners by 2020. We want thirty percent of our leaders to be women, and forty percent of our talent pipeline. But when we look at the current figures, it's clear that we haven't achieved that yet, and we need to take action. For many years, we've had fifty percent, and currently even sixty percent of our female junior associates here in Germany were female. But at the senior associate level – and I was very interested to see the Deutsche Telekom numbers on that – the proportion of women drops to forty percent; at counsel level, it's a little above twenty-five percent; and at partner level, not even ten percent of my partners are women in Germany. Globally, we're at eighteen percent, so there's some way to go.

That means we're losing a lot of talent between the time we hire them, and they make partner, and that's not good for business. We're taking a couple of initiatives to try to fight that. One of them is a career buddy, which we have for every associate. The career buddy acts as a sponsor or guide for every male and female associate, and should help especially the female associates to voice their career ambitions, and that's hopefully being able to pursue them more easily.

We do compulsory unconscious bias and diversity awareness training. We've got development programs especially for women, including presentation skills and business development training. We have our women-only series, regular events for female clients, with panel discussions with renowned female speakers. One of them was also Claudia Junker in the past. Recently, for the first time, we also had a male speaker. These events are very well-received by our female clients, but they are also intended, of course, to offer our female lawyers a unique opportunity to network. I have to say that they are a lot of fun, because there are always very lively discussions in an



atmosphere which is a little different if there is a room full of almost only women.

Such initiatives shouldn't be underestimated, but there is still no easy fix to the drain of talent that happens. What could we do to turn this around? From exit interviews and recruiting discussions, we know that the factual or alleged incompatibility of workload and family planning is the most common reason for women to leave. Thus, flexible working and part-time arrangements are certainly two elements that are crucial, but also fixed working hours, or at least reliable times for people to leave the office, would be helpful. We all know this is a real challenge in our business, and there are currently very limited areas in which, within a law firm, people may realistically leave at fixed times or not be available.

The question is, however, do we simply fail to see the possibilities because we're following a classical role model too much? The business of law has been, for a long time, a men's business. With regard to gender diversity, we often tend to enable women to survive in that men's business. So maybe instead we should question the value system that is within that men's business. For example, if it doesn't make a difference any more whether a colleague is not available because she is in an important meeting or

he is picking up his children from the day-care center, then we might have taken an important step forward.

In a similar vein, I very much support male associates taking paternity leave. If a prolonged absence is not a career killer for a man, then this may help female lawyers, as well, to have confidence in their career perspective. The confidence is an important factor.

Looking at other jurisdictions, we can see the shift in values is not unrealistic. A good example is our office in the Netherlands. There, we see a completely different approach of the employees and partners towards the importance of family responsibilities. That may be the reason why, in the Netherlands, twenty-five percent of the partners are women.

But even the best attitude *within* a law firm is not the final answer. There's an outside world – our clients. There's no question that clients can expect from their law firm not only the highest quality but also perfect service. Part of that service will always be the availability of your external lawyers.

On the other hand, as I already said, our clients are working hard to become more diverse, and are increasingly looking to ensure that the law firms they work with match their values and commitments to diversity. This brings me to my conclusion, that we all, law firms and clients, should work together and be in a dialogue on the topic of gender diversity, and I'm more than happy to enter into discussions with you, Ms. Junker, the other panelists, and I'm very keen to hear your thoughts. Thank you very much. [APPLAUSE]

KAREN TODD: As an M&A lawyer, what is the biggest obstacle to putting together a diverse deal team?

DR. ASTRID KRUEGER: It is really the organization of responsibilities in our society, in a way. It is, I seem to see, easier

for men to call home and say, “Sorry, I’m not coming home tonight before midnight” than for women. If we can find a way that, on the one hand, we make our business just a little more predictable – it’s a lot of discipline on our side and the side of our clients and all participants – and then, in society, we have a situation where it doesn’t matter whether it’s the father or the mother or the man or the woman who takes care of the children, the household, the parents and all the things that need to be done to uphold your social life. If that is more interchangeable, then I think it will become easier for us to put more diverse teams together.

KAREN TODD: Thank you. Our next speaker is Thomas Gruetzner with Baker & McKenzie.

DR. THOMAS GRUETZNER: Good morning, everybody. I also tried to be diverse this morning and left my tie at home. It seems to be a pretty hard fight for me in the next years to get this through, but, well, it was worth a try. I will keep on trying.

First of all, let me thank you, Directors Roundtable, for giving me the opportunity to attend this event of your organization to honor Claudia and her team. I’m really glad to be here with all of you, and look forward to having a fruitful discussion on topic, which is a legal topic that is still developing, so I’m speaking about legal content. Let’s try to focus for only a few minutes, but that’s an idea which derived out of discussions that I had with prosecutors, with professors of law schools, and also the authorities. I’m really trying to, not lobby this through, but develop this idea further, and you will shortly hear the idea where I’m coming from.

My name is Thomas Gruetzner, and I’m working about 80 percent of my time on internal investigations, and so, not surprisingly, the topic of my speech belongs to this area. Yesterday, Claudia and I touched on that topic, and we were discussing this area, and she said, “It’s nice to have you here,



but it’s always hard to speak about content when speaking with guys like you,” and I said, “That’s something I am getting used to, because the clients keep telling me, ‘It’s nice to speak to you, but I don’t like the content I’m working on with you.’” Therefore, we have to touch this topic today, because I think it will be in the discussion in the next years. We should go back and try to summarize the legal situation for the federal election that happened just recently. I know that the federal legislature is still considering implementing the formal criminal liability of corporate enterprises; that’s one thing that is still on their agenda. The second thing the federal legislature observes are, in parts, the contradicting decisions in connection with dawn raids of corporate enterprises and law firms – a very hot topic these days. I will come to that later and seizing the documents deriving from internal investigation. The third thing the federal legislator is thinking about, is changing criminal laws, employment laws or data protection laws, and adapt them to the current situation because, from the perspective of the legislator, there is room for improvement. They recognize that internal investigations are something that only began just recently – only like ten years or eleven years ago – to become more important for companies, and therefore, they recognize that there needs to be a change in the law, probably, as well.

Especially, they are thinking of implementing the Section 130 of German Administrative Act, or duty to supervise,

into the German Criminal Code. That’s something they are having in mind, just to move it from the German Administrative Offenses Act into the German Criminal Code. Another thing they are thinking to implement at the moment is to protect employees more in connection with internal investigations, and to implement the statutory right to refuse answers in internal investigations, e.g., when one becomes a suspect of certain wrongdoing.

Let’s skip the last part of the three points, and let’s move on with the first things that I just touched, criminal liability of corporate enterprises. Does Germany really need to implement the criminal liability of corporate enterprises? Luckily enough, in the past decades, all related discussions, in particular, seem to have ended when it came to the constitutional argument, everybody knows from their time at the university: *Nulla poena sine culpa* – no liability without fault, no liability without guilt. In the past, this argument could be seen like “end of discussion of this topic.” But do we really need to have the criminal liability of companies? No – I don’t think so. Why? Because we already have it, and the authorities are making use of it.

Needless to say, I am fully aware of the fact that criminal liability of corporate enterprises and the consequences imposed on the basis of the administrative offenses act are not completely the same. I don’t want to sound too pragmatic, especially not when it comes to the federal constitution, but I share the opinion that we already have a criminal liability of corporate enterprises in place, even if we are not able to call this animal by its name.

Our legal system is able to hold directors and officers personally criminally liable. It is able to respond with the forfeiture of goods for improper behavior. Companies can be blacklisted and excluded from public procurement proceedings. Last, but not least, courts can impose significant administrative fines on corporate enterprises.

Does it really matter whether a fine is being imposed as an administrative offense or administrative fine or a criminal fine? I don't think so. Certainly, I'm not the federal legislator, but having also the results of the federal election in mind, I would be surprised if there would be much development in this area.

This may not count for the aforementioned implementation of Section 130 of the Administrative Offenses Act, into the German Criminal Code. I would bet a certain amount of money that this might happen in the next few years.

Let's move on to dawn raids and seizing of documents deriving from internal investigation. I don't know how many of you have observed the developments in this area in the last few years, but especially when someone is looking from outside of Germany and sees how things are developing here, I'm always getting nervous emails from colleagues outside saying, "Don't you have any attorney-client privilege? – Because there was a raid of the law firm who was involved in the Diesel scandal." I've been invited quite often to these kinds of discussions at client conferences in the last years, and I'm always saying, "Yes, I can certainly attend," but it only takes me two minutes to explain the situation in Germany, because we just don't have something similar like an attorney-client privilege for corporate enterprises.

Again, it came to everybody's attention lastly when the law firm who conducted the internal investigation of the Diesel scandal got raided earlier this year. It is just a footnote, and it's quite funny that the decision of the responsible District Court of Munich needs to be seen in the sequence of other decisions of German district courts in similar settings. Why is that? It is basically because it's the last instance to appeal against dawn raids in Germany.

If one now takes a look at the various decisions issued by the District Court of Hamburg, Mannheim and Braunschweig,

“The benefit of [Tri*M] is we get a benchmark, not only where we are compared to the previous year, but also benchmarked to where we stand in comparison to other legal departments, and a benchmark on where other departments of DT stand in comparison to us.”

– Dr. Claudia Junker

[and Munich, because nobody knows the content, yet], the directions vary from “every single document deriving out of an internal investigation can be seized by the public prosecutor at the premises of the company or the respective law firm” from the District Court of Hamburg to the District Court of Braunschweig, “documents that have been prepared to defend the company by in-house and outside counsel are protected and cannot be seized at all.” Those are complete opposites. It needs to be mentioned that the District Court of Munich decided, in the aforementioned Diesel scandal, not to disclose even a redacted version of its decision due to data privacy and other reasons. The District Court of Munich is following its own rules; I can say that because I'm living in Munich.

It seems, though, that the District Court of Munich is rather arguing along the way of the District Court of Hamburg, and anyhow, there is an interim end of the discussion, because the Federal Constitutional Court stopped the analysis of the documents seized by the prosecutors in Munich on an interim basis, and everyone is waiting for its decision on the merits. So, there is, let's say, room for hope.

For obvious reasons, there is no effective corporate defense possible, given that the legal environment is rather unclear. To me, in scenarios where corporate enterprises are, on the one side, obliged to conduct internal investigations to mitigate risks, and are treated by the public prosecutor on the other side as they would be in a setting where criminal liability of enterprises is an accepted tool, it's just not acceptable that an effective corporate defense is hardly possible.

My conclusion, and that's the conclusion of an extended article – I'm happy to send along if anybody is interested in that here – my conclusion, together with Prof. Momsen from Freie University Berlin, is that an appropriate way forward could look as follows – and I'm aware that there is a lot of work to do to reach this – (a) accepting that corporate enterprises are facing a *de facto* criminal liability in Germany. (b) Protect the correspondence between the corporate enterprise and its lawyers defending them or preparing a potential defense, regardless of any status of a potential preliminary investigation conducted by the public prosecutor, because there is some disagreement amongst the district courts, as well. (c) Define the particular correspondence that should be protected. (d) Define the particular work product that should be protected. (e) Include the potential set of sanctions and the criteria of its calculation. And (f) implement the respective credit corporate enterprises could gain by cooperating truthfully and fully in German criminal laws.

This would, from my perspective, most likely limit the increase of capacities within public prosecutors' offices on the one hand, and help corporate enterprises to decide to cooperate and get credit for this cooperation on the other hand. But it would also make the calculation of potential fines foreseeable for them, as well.

Last, but not least, the biggest winner would be the constitutional state. Effective defense would be possible for everybody, and not only for individuals.

Thank you very much. [APPLAUSE]



KAREN TODD: I'm not a lawyer, but in the United States, it's my understanding that if you have a civil action, that typically you would get fined, and if you have a criminal action, then you are facing potential jail time. Is that the same here in Germany?

DR. THOMAS GRUETZNER: Not really, that's the difference in Germany, because we have the German Criminal Code and we have the German Administrative Offenses Act, we don't have criminal liability of corporate enterprises in its most formal way.

KAREN TODD: Right. If somebody violates the Administrative Code, can they go to jail?

DR. THOMAS GRUETZNER: No, you just have to pay.

KAREN TODD: But if someone within a corporation actually had a major, criminal type violation, could they potentially go to jail?

DR. THOMAS GRUETZNER: Yes, sure. If they are violating individually criminal laws, they could go to jail. Even if the management knows of certain wrongdoing and just lets it go, then the management could also be criminally liable.

KAREN TODD: Thank you. Our next speaker is Christof Jaeckle with Hengeler Mueller.

DR. CHRISTOF JAECKLE: Dear Claudia, dear Karen, dear co-panelists, dear colleagues, it's an honor and great pleasure to be here and celebrate Claudia and the entire Deutsche Telekom Legal Department to receive this very prestigious award. There is no other General Counsel and no other legal department in Germany which deserves this award more than Claudia and her team. The quality and commitment of their work is unsurpassed, and I guess I can speak for all of the outside lawyers here in the room when I say that it's always a privilege and pleasure to work with you and your entire team.

It's also great to see Manfred Balz here, the former General Counsel and board member of Deutsche Telekom for Legal and Compliance. He formed the Legal Department from the conversion of DT into a stock corporation, and, most importantly, managed to find the perfect successor, who is sitting here. [LAUGHTER]

My topic today is also a legal one, namely activist shareholders in public takeovers — apologies to all of the M&A lawyers in the room who know all of this already.

During the next ten minutes, I will briefly touch on what activist shareholders are, what their typical targets are, to what extent the entire movement has reached Germany, and what the specific role of the activists is in takeovers in Germany.

Activists and their targets: During the last couple of days, you might have seen in the German press a lot of articles about this topic. The articles were about activists trying, apparently not too successfully, to attack Procter & Gamble, their more successful attack on General Electric, and most recently, yesterday, an attack on Credit Suisse with an aggressive demand to split up the entire group.

Household names of activist shareholders are Carl Icahn, Bill Ackman with its Pershing funds, Daniel Loeb with the Third Point funds, and probably best known in Germany, Paul Singer with the Elliott funds.

Companies that have come under attack worldwide by activist shareholders include the likes of Apple, DuPont, Dow Chemical, Microsoft, General Motors, Yahoo, Procter & Gamble, Morgan Stanley, Nestlé, Airbus, and many others; i.e., you can say, the "Who's Who of the World Economy." As a law firm in the U.S. put it, "no company is too big or too prominent to avoid activist attention."

What are the typical objectives activists are pursuing, and who are they, if you want to categorize them? First of all, they are not the corporate litigators we used to know in the past, who collected a couple of shares and then sued companies in corporate restructurings. They are also not private equity funds making mid-term or long-term investments. They are hedge funds who seek short term profits, acquire minority stakes and typically stay engaged in a company for less than a year. That's at least the average term.

They meanwhile have a lot of firepower. Elliott, for instance, has close to \$40 billion under management; Icahn, more than \$30 billion; Third Point, close to \$20 billion; and Pershing Square roughly \$16 billion. This is about the size of the biggest private equity funds.

Activists typically acquire minority stakes in publicly listed companies, which are big enough to put pressure on the management to take certain steps. Typical steps so requested are paying out super dividends, making share buybacks, making huge divestitures, spinning off assets, splitting up the companies, as just mentioned for Credit Suisse, cost saving, and new board compositions.

The FT [Financial Times] put it nicely: "activist investors are students of finance, not business," so that their focus typically

is on financial engineering, to push up the price relatively quickly rather than long-term operative changes. Since they are typically engaging with minority positions, they need partners, and the most likely ones are the Blackrocks, the State Streets and others, i.e., the huge index funds. What they also need is support from shareholder advisors, like ISS and Glass, Lewis. Sometimes they manage to get such support, sometimes not. It seems as if the Blackrocks of this world tend to be more skeptical vis-à-vis activists more recently than in the past.

How does all of this affect Europe, and especially Germany? Shareholder Activism used to be much more a U.S. phenomenon, but it has reached Europe, and meanwhile also very much Germany. It is, however, not an entirely new phenomenon here, but the relevance has increased recently. Already some time ago the first proposed merger of the London Stock Exchange with the Frankfurt Stock Exchange was basically derailed by TCI, nicely called “Children’s Investment Fund.” Very recently, there were reports that Elliott, for instance, is targeting GEA Group.

The objectives of activist shareholders are similar to those in the U.S., but there is one thing which is pretty peculiar, and I want to spend now a couple of minutes thereon, which is their role in public takeover situations.

There are two peculiarities in the German takeover and corporate law, which help activists to get involved and to exploit certain situations. The first peculiarity is the following: A bidder in a friendly takeover situation typically wants to acquire one hundred percent of the shares. Different from the U.S. or the UK, there is no tool to acquire such 100 percent just by securing the support of, for instance, 75 percent of the target shareholders. You can only get there if you can squeeze out the minorities, which means that you need to have at least 90 percent and, in most of the cases, 95 percent of the relevant shares or votes.

On top, in Germany, you do not really acquire full control over a listed company if you only acquire a simple majority. As you know, there is a strong independence of the boards, and there are rigid capital maintenance provisions, which means that you only control management and get access to the cash sitting in a company if you can implement a so-called “domination agreement.” Conclusion of a domination agreement requires, as you all know, a majority of seventy-five percent of the votes in the shareholders meeting, which means that if you have hedge funds engaged in a takeover battle that you might need seventy-five percent of all votes. As a result, in German takeovers, you have often a minimum acceptance threshold of seventy-five percent.

Now, what does a hedge fund typically do: As an initial step it tries to buy enough shares so that the bidder fails, without its co-operation, to pick up seventy-five percent of the shares so that the bidder is forced to either increase the bid or to lower the threshold.

This is one specific issue in Germany – you need, basically, the seventy-five percent, and if somebody buys enough shares, he can frustrate the transaction or push the price up.

The second issue I want to discuss is probably even more peculiar for the non-Germans, which is that we have different valuation regimes during and after the merger. In a takeover the price is basically fixed by the bidder, provided that there is a minimum price which is linked to the historic stock price and certain prior or parallel share purchases by the bidder.

If you want to have full control over a target company, you need, as previously discussed, a domination agreement or a squeeze-out, etc., which entitles shareholders to a compensation and such post-merger transactions typically follow entirely different valuation rules. The valuation rules are, in a nutshell, something like a discounted cash flow model, i.e., something that is very



much linked to profit forecasts, which is entirely delinked from the offer price in the prior takeover. This opens a huge door for arbitrage: It is, in other words, very attractive to stay in the company, not to tender shares, and then try to get, in the next step, which is the domination agreement, squeeze-out or other post-merger transactions a higher compensation than in the takeover.

Activists typically try to combine the two, i.e., try to push up the price initially paid in the takeover, and then to collect a higher price for shares they have not tendered in the second phase.

I want to illustrate this by three cases. The first one – and apologies for taking this example, but I think it’s a useful one – is the takeover of Kabel Deutschland by Vodafone. The next is the takeover of Celesio by McKesson, and the last one is the takeover of Stada by Bain and Cinven, which is probably best known since it’s a very recent transaction.

Vodafone / Kabel Deutschland: The share price offered by Vodafone was €87. As often, the acceptance threshold was 75 percent. Elliott acquired close to 15 percent of the shares. For practical purposes this meant that the transaction would fail, if Elliott didn’t tender a part of its shares. Elliott then decided, just to tender a portion of



their shares to allow the deal to go through but Elliott kept enough shares – which were not needed for the 75 percent threshold to be reached – to collect a higher compensation as a result of the following domination agreement. As mentioned, the offer price in the takeover was €87, and Elliott requested, then, as compensation for the domination agreement something between €225 and €275. It remains to be seen what the courts finally decide but you see how arbitrage might eventually pay out.

The next case was a bit more complicated: Approximately 50 percent of Celesio was held before the transaction by Haniel. Celesio had also issued a sizeable convertible bond. Elliott bought again shares and, in this case, also convertible bonds. The offer price was thereupon increased slightly. The acceptance threshold was 75 percent, including the shares sold by Haniel to McKesson subject to the offer being successful. Elliott again tendered some shares, but they turned out to be not enough to pass the 75 percent threshold – the assessment what it takes to reach the threshold was more complicated among other due to the convertible bond.

If you miss a minimum acceptance threshold, under German takeover law you are

usually barred from a further bid for one year, but the competent authority can grant an exception which it did in this case. In the next round, the offer was more or less repeated, and Elliott then tendered the right number of shares. It's interesting to see that hedge funds might miss tendering the right amount of shares so that a bid inadvertently collapses.

Again, after the merger there have been the usual disputes on post-merger integration steps and the compensation paid therefore.

The last transaction, which is somewhat comparable to the Celesio/McKesson deal, is Stada. The Stada case is also interesting, as hedge funds were already engaged before a public takeover started. There was a hedge fund called “Active Ownership Capital” which acquired some Stada shares and requested the board composition to be changed. This was partly successful. Thereafter, there was a first attempt of a takeover by the private equity firms Bain and Cinven. The initial offer price was €66 and the initial acceptance threshold 75 percent. Elliott again acquired shares. Now what happened is that the bidders reduced the acceptance threshold to 67.5 percent, realizing that the 75 percent will not be reached. Nevertheless, the first attempt failed. The regulatory authority again allowed a second attempt. In the next round, the two bidders, Bain and Cinven, further reduced the acceptance threshold to 63 percent, and the share price also went up slightly to €66,25. Then the offer was successful, but at a price: If you only pick up 63 percent in lieu of 75 percent the takeover becomes at least potentially more expensive, since the bidder has to eventually pay a potentially higher price in the course of the post-merger integration to a larger group of shareholders. The price which has then been paid was indeed higher, namely €74.

You see there is a lot of gaming back and forth and a lot of arbitrage, and some issues are triggered by specific German corporate and takeover law peculiarities.

Again, many thanks for being here and again, congratulations to the Deutsche Telekom team. [APPLAUSE]

KAREN TODD: Now, I know that activists typically go after the board in the United States, and in the United States, we only have *one* board, but in Germany, you have two.

Does that tend to complicate the situation in terms of what the activists are trying to accomplish?

DR. CHRISTOF JAECKLE: I'm not sure that this changes the situation a lot. If you want to change the management in the company, i.e., the management board you typically first need to change the supervisory board but it's just one step more to take.

KAREN TODD: Okay. What are the biggest challenges that someone faces in terms of handling a German takeover and getting involved in it?

DR. CHRISTOF JAECKLE: The activists are running certain risks, primarily, since there are relatively strict disclosure obligations, as in many countries. You need to disclose if you have acquired three percent of the shares and again if you reach further thresholds. What's also very important is that you need to disclose also financial instruments above a certain threshold, namely five percent. If you acquire, for instance, options or if there are irrevocable offers, or even if you acquire cash settled swaps or other instruments that allow you at least commercially to acquire shares, you need to disclose this above a certain threshold. Besides, we have a market abuse regulation throughout Europe. There have been some investigations by BaFin, which is our regulatory authority, going after activist's funds, since there have been such suspicions of market abuse issues, also with respect to certain short-selling transactions. A big issue is also acting in concert. Activists like to coordinate their behavior, and do it often in a form which is not apparent, but

if you are acting in concert, you have additional disclosure obligations, and in the worst case, you are even obligated to make a mandatory offer.

KAREN TODD: Thank you very much. Our next speaker is Burkhart Goebel with Hogan & Lovells.

DR. BURKHART GOEBEL: Thank you very much, Karen. Good morning, everybody. Congratulations to Claudia Junker for a very, very well-deserved honor. Thank you for allowing us to share the moment and the celebration. And thank you, in particular, for allowing us to share it with your entire team.

As Karen mentioned yesterday at the dinner, not everybody typically has such a large showing of the team. The fact that you have such a large turnout of your team speaks to you, and speaks to the culture of Deutsche Telekom.

We, as your outside counsel, and I guess I should speak for all of us, are grateful that we are able to assist you, to advise you, to work with you. It is good fun – we enjoy it. We are enjoying it because (a) you work as a team internally, and (b) you challenge us. All I learned about the digital space, I learned from you. I learned a little bit by myself, but quite a bit I learned from you, and that is very helpful. Learning alongside, as the company develops into, moves into the digital space, and you're always at the front end, is rewarding for us, as well, to be at your side.

Congratulations to the team, and congratulations to the great job you're doing every day. Let me now turn to IP in the digital space.

As you can see on this slide, it's a sharing economy; but someone owns it. It is true and you can see this at your email footer every day – life is for sharing. That does not mean that people would not claim territories in that shared space.

The shared economy is clearly an owned economy. There are people that consistently



cover certain claims, and put claims out in other territories. You only can share what you bring to the table, and those are your intangible assets.

There are a lot of intangible assets that we talk about when we talk about claims in the digital space. In all these areas, there's exciting legal momentum every day. It's not like it ever stops – there are significant developments: unitary patents coming up; trade secrets Directive to be implemented by 9 June 2018 into German law and all other European Union member states; data mining, very important, in my perspective; building a European Data Economy Report – the synopsis of the Report came out – Deutsche Telekom contributed to it; and digital single market. We just had the Tallinn Summit; eighteen legislative proposals on the table. And even developments in trademark law, where the Directive needs to be implemented by January 2019.

Now, I had a wonderful presentation covering a whole thirty minutes and going into detail on each and every point of those, and then I touched base with Karen yesterday and she told me, "Well, you only have ten minutes." [LAUGHTER] So, I cut it short. But I must express my gratitude to Dr. Jaeckle and Dr. Gruetzner, both of whom

conceded two minutes to me. This shows that your outside counsel also work together as a team!

I will focus on one asset where you are really unique, and it is important to bear this in mind, because it is a singular asset that nobody else has in the entire digital space. This is about branding. Digital means branding. Understanding this is very important, because the more it goes digital, the less there is direct human interaction. As it is, I guess three years down the road, my children will trust Siri more than they trust me. This is devastating, but it's a reality. They will much rather ask her than they will ask their father.

This is branding. People trust a brand. They don't trust the product; they trust the brand. I can give you hundreds of examples how people in the digital space provide *brands* with their most intimate information. They do this because they trust in the brand.

It's important that your brand is at the very forefront of consumer perception, in particular when it comes to a shared space. How do you make sure that your brand is there consistently, every day, everywhere? Because if it's not, the consumer will not talk to DT, he will talk to Siri. And you're out – as simple as that.



The most exciting, in my personal perception, and fascinating branding step done about twenty years ago is this one [shows slide with “Intel inside”]. It was very, very clever. We are now all used to it. But think what happened there, somebody put that little badge, “Intel Inside,” on your laptop that moved a premium commodity, a very valuable thing, that high-performing chip, into an end consumer product. Now you want to buy a laptop that has Intel inside; you did not care beforehand. Consumers learned over time that they wanted to buy a laptop computer with Intel inside and they are prepared to pay a premium. This little thing put billions and billions of dollars into Intel every year. This is how value is created; branding creates value.

This was an invention between the lawyers and the marketing team. The people creating stuff said, “Why don’t we move our brand to the top of the product.” As you will figure out, it doesn’t work on this device [shows mobile phone]. It works on computers; it works on laptops; but it doesn’t work on mobile devices, because there’s not enough space. There’s only one company in the world that has an answer to the space dilemma and it is you guys.

You can do Deutsche Telekom Inside, because you own Magenta as a color. Deutsche Telekom Inside is possible. In all

those circumstances where you have competition about which brand has got to be used on the product, you won’t be able to always put on an oven, Deutsche Telekom, or Powered by DT. Or on the car. I’ll bet with you that BMW does not allow the T logo on the steering wheel, maybe on the side of the car, but not on the steering wheel.

You have plenty of opportunity to actually convey to the consumer that he can enter that car in a pretty relaxed fashion, because the car is actually guided by DT in Germany, because you can put Magenta on that key holder. You can convey to your customers that they can leave the house in a relaxed fashion, because DT’s network is taking care of the bread being baked whilst you are outside.

A very important message, and be proud of it. Be proud of it, because you’re in an absolutely unique position. This is basically, that’s an Anglo-America context [shows slide with corporate colors], but if you look at corporate colors, you see the space that Deutsche Telekom boldly occupied in the early ’90s is basically empty. You cannot do with red what you can do with Magenta. You cannot do with blue what you can do with Magenta. Magenta is unique, and it is the team effort of pretty much all of you involved.

For instance, Axel needs to negotiate the license agreement in transactions, making sure that Magenta has its proper place in whatever combination you negotiate. People need to defend the brand, need to register the brand, roll it out. It is a very complex concept and, I remember Dr. Balz, you wrote your doctoral thesis about patent law or intellectual property. You were skeptical when it comes to monopoly rights. Fair enough. Philosophically, I share the skepticism, but *that* monopoly right is an invaluable asset.

Magenta really works only because you keep that space clear from competition, and that’s what Deutsche Telekom has been doing. You’ve been doing this constantly, not only for the first ten years or fifteen years, but

even right now — these are just developments in the color mark space that happened in Germany alone. I won’t go into the details of all these decisions. You have five Supreme Court decisions over the last three years. You have a decision *completely* to the contrary conceptually from the High Court of England in London in January 2016. You have developments in the EU trademark space, the Regulation and the Directive.

That asset, in a way, is constantly under attack legally, and it’s the team effort that makes it work. It’s the team effort that has maintained that space free, that Magenta is, indeed, a unique brand that can be used in all sorts of digital circumstances, situations, which no competitor of yours in the world has. Vodafone would love it. They would love to put red on the screen of any device to show that it’s powered by Vodafone; it doesn’t work. Orange would love it. They have tried to monopolize the color orange, they failed. It’s not that the others don’t try it; everybody tried it; there’s only one company that succeeded, despite and against several odds. Congratulations to your team and yourself that you achieved that and continue to have it. Well done! [APPLAUSE]

DR. CLAUDIA JUNKER: Can I make a comment? There is this story, and I don’t know whether it’s true or not — maybe Marion Schöberl and Manfred Balz can say whether it’s true. At the time when the Management Board decided on Magenta, the slides were put on wallpaper which was flower-patterned and nobody knew what they were deciding. Is that true? [LAUGHTER]

DR. BURKHART GOEBEL: It’s the bold decision; it’s the decision nobody dared taking. If you look at the corporate color space, everybody went into blue and red. Now, twenty years later, they are stuck with blue and red, and the use that needs to be made in the sharing economy, nobody’s able to do it.

KAREN TODD: How is this going to affect their IP budget, in terms of implementing a color brand?

DR. BURKHART GOEBEL: I would say it's reasonably expensive. [LAUGHTER]

There is a tremendous return on this investment, every euro is money well spent. [LAUGHTER]

Now, of course, over time, a brand gains some strength and it's less expensive today than it was possibly ten years ago; that's number one. Number two, when you enter into uncharted territory – and again, it shows the boldness of the company, where they had to face AT&T in the United States – *that was very expensive!* But if the company had not done that, the whole John Legere thing would not have worked out. As CEO, he needed to be able to walk into that AT&T convention in Las Vegas with a magenta T-shirt and be carried away to prove that he is the real uncarrier. That's the whole story, and that only works if Magenta works, and for that, you needed to invest in the AT&T litigation. Honestly, it is money well spent. [APPLAUSE]

KAREN TODD: Thanks very much. Our next speaker is Jens Liese with Noerr.

DR. JENS LIESE: Thank you very much, Karen, for the invitation. I am very happy to be here, very honored. Congratulations, obviously, to the entire Telekom team for winning this award. It is a great award, and we are really happy to be here.

When deciding about a topic for today's speech, I was asked to discuss technical things, but Claudia also mentioned that she would focus on the change of the environment that the Legal Department is facing, and that is not only a change in the square meters, in the boxes where you have to store your stuff, but it's also a change that has some other effects. I would like to focus on one aspect today, which is the effect that legal tech will have on our daily work environment. In order to do this, I would like to briefly explain the background of what legal tech is in Germany currently, and then to focus on what it does to our profession.

When legal tech arrived a couple of years ago in Germany, we were all rather curious, but thought that this would not have an impact, because all those legal tech products were in English. They weren't able to understand the agreements; and we thought that we would be safe for a while, and there would be no implications. That changed very quickly. Currently, we are using quite a number of legal tech products, and this will also have an impact on the working environment.

We've heard from some advising companies, that the size of law firms will significantly decrease because many of the things that junior associates did in the past are no longer required. We talked about this yesterday evening, that this also has an impact on learning.

First of all, let's see what legal tech is in Germany. I would like to mention three pillars that we have and that we see in the daily business.

First of all are the eDiscovery tools, and these are frequently used in due diligence inquiries and in compliance investigations. Those eDiscovery tools are sorting a lot of data, usually emails, based on certain criteria. Those are pre-designed products that help you to digest a lot of information. Hopefully, by using those tools, your team will be faced with only a few documents that are relevant, and they don't have to read through each and every document.

eDiscovery may also be linked with AI – artificial intelligence – and may be trained. There are programs that can be trained so that they are more accurate than before, and this is all intended to filter data. Law firms are using eDiscovery tools in investigations, compliance investigations, also other investigations. It's also being used in litigation.

The second tool that we have is document automation. You all have databases that you use to draw up agreements, and there is quite a development in the quality of the databases. In the past, you had the database



stored and you had to implement all kinds of data into the agreement so that it fits the use for the agreement. Meanwhile, we have not only those Microsoft Word add-ins, but it's also possible to link the agreements with a finding that you have in the data room. In Germany, this is not yet very advanced, but we see products that are very innovative, where the program tries to decide what part of the agreement will be important, and that is quite a big change from the old databases that we're all used to.

Unlike eDiscovery tools, those document automation programs require quite a lot of input in advance, so that you have good quality data in the program that you can use afterwards. eDiscovery tools are used to sort the data, and with document automation, you are constructing the documents that you require for the specific case based on the input that you have fed into the programs.

Probably the most innovative is the document review software. This document review software is quite often used, for example, in real estate transactions, where you have, for example, a portfolio that you want to purchase. Those programs are capable of reviewing a high quantity of agreements, and they can also graphically display which parts of the agreements are changed. Most often,



they can spell out the average term of the agreement; they can tell you in how many months the tenants will probably leave the premises. It was also possible before to analyze this, but it required tremendous efforts of human time that was spent in collecting all the data that those document review tools are now doing electronically.

The document review, as I said, uses artificial intelligence, so in many cases, you have to train the program to fit the job. In the beginning, you would tell the program which clauses it should look at, and then you have to do this for five or ten agreements, and afterwards, the program starts learning this and asks the user questions. That's something completely new, and it's very interesting for lawyers who are working with those programs.

That's what we are currently seeing as the three main products that are used in legal tech, at least in our M&A environment and in the litigation and compliance departments.

What implications does it have for lawyers? The good thing is, first of all, it has created a completely new quality of lawyer. When developing the software, you need very good input from lawyers, which is demonstrated, for example, with document automation. If you

are automating documents, those are used for many cases. If it contains an error or mistake, you'll have that error or mistake in hundreds of agreements. This is why the quality feedback in the beginning, in the development of the software, is very important. That is something that maybe was not the case, as such, before. Now lawyers are very much involved in setting up companies. Unfortunately, we have some young associates leaving the firm who want to start their own startups because they have some ideas of how this works, and it's really important that the quality is good when the software is prepared.

The second step is also a new field, which is the legal engineer. In many law firms, we are seeing legal engineers. The legal engineers have to have a good overview over the software that is available, because usually, you come with a question to the legal engineer and ask him, "How can you support me in doing this and that?" Then the legal engineer will know two or three software solutions that can be used to fix the issue for the client.

The legal engineer has to have very good overview over the market; he has to have a very good understanding of the technology that can be used and that is used; and they are usually also feeding the programs with

the data that is required. Therefore, the legal engineer has to be both; he has to have good knowledge of the legal framework, but he also needs good understanding of the IT infrastructure, and of the IT solutions that are available.

Those are the first two steps that do not involve the traditional lawyer. Where does the traditional lawyer now come in? A good thing is that we are still needed, but it's on a very different level. In the future, we will probably not focus very much on due diligences and on standard work that has been done in the past. Unfortunately, Claudia yesterday told me that she didn't really like data rooms. I didn't think it was too bad [LAUGHTER], but it probably depends a bit on where the data room was located and when the closing time of the data room was. I didn't think it was too bad to be in Hamburg; their data room closes at six o'clock, so I always liked it. [LAUGHTER] Unfortunately, this all will fall away.

All the data that has to be collected will be done by the machines. The lawyer only comes in to evaluate and cross-check. The difficult part is that if you don't have data room experience, it will be difficult to say whether or not the result of the software is plausible and makes sense. It will require a lot more

training of the young colleagues. On the other hand, the double-check is very important. You have to have somebody who checks the result of the due diligence, for example.

Second of all, when it comes to the document automation, it is also a bit dangerous to just use the document that has been prepared. It is obviously important that you have a lawyer who is very skilled and who thinks out of the box, something what we already heard, to see whether the agreement that the software has prepared for you actually works. For example, if you are doing an asset deal, you have a standard agreement that usually works. But then if it comes to permits that have to be transferred, there may be different priorities. If you have, for example, an energy-intensive company and you have a privilege under the German renewable energy act, that doesn't transfer very simply. The program will not know this. The program will provide you with a very good quality agreement, and with an agreement that works very well from the beginning to the end, so it has been very carefully drafted, and it will be, as such, of a very good craftsmanship. But you will not know whether it actually fits your needs, and this is where the lawyers will come in again to see, does it fit our need, or do we have to amend something? The risk is that we will all be relying too much on the technology, when this may cause quite significant disadvantages.

Overall, I think there will be quite a significant change to our profession as lawyers, based on the legal tech, and I think it's a very good idea that you have the Legal Tech Officer within Deutsche Telekom AG, because there are many legal software programs on the market, and many trends. I think it's also a very interesting time, and it's good to be involved in this.

Thank you very much. [APPLAUSE]

KAREN TODD: My background is engineering and in that field, we know that it's always garbage in, garbage out. [LAUGHTER]



Don't worry about your jobs – the lawyers are still needed, because you have to have quality checks on everything; otherwise, you're never going to get quality out.

What do you see as the future developments in this area?

DR. JENS LIESE: The future development will be that we have acquired a differentiation between the legal jobs that we have. Currently, the traditional idea of German law is that a lawyer is a lawyer, and he can do everything. That is a bit of tradition, so that you have the universal expert who knows everything. We will have a trend to even more specialization faced by legal tech.

KAREN TODD: Thank you very much. I have some questions for Claudia. Since you started working for Deutsche Telekom, what have been the most significant changes in the telecommunications industry, and how has your department changed as a result?

DR. CLAUDIA JUNKER: This is a really big topic. The most significant change was before I started working at DT Legal. We were an incumbent, and now we are a private company, however, many of our services are still regulated. Many things that we

do today haven't been done in earlier times. When did you buy your first mobile and when did you first use mobile data services? None of that was there ten years ago. E.g., an iPhone came to the market just ten years ago. We don't produce it, but it changed the business. I guess my colleagues would agree that every single day we are constantly having new tasks.

KAREN TODD: How has your department changed as a result?

DR. CLAUDIA JUNKER: We all constantly need to adapt to whatever lies ahead. We need to think ahead, and we need to anticipate what we need to qualify for. We can not run behind. The industry is changing rapidly.

KAREN TODD: I want to ask the panelists, in terms of your relationship with Deutsche Telekom, how have these developments affected you in your relationship with them? Who wants to start – Astrid?

DR. ASTRID KRUEGER: This is a difficult question, because changes are so gradual. If I compare now and ten years ago, the interaction, the speed of the exchange, the amount of information, knowledge and basis that is already there when we, as lawyers, start our work, has really changed. It's not something that you see on a day-to-day basis. If you want to nail me down on one word, I think it's probably "turnaround time," because of the new means of communication and the experience that has been building up that goes into every advice that is rendered.

DR. CLAUDIA JUNKER: We think about a dividend in kind, and you have to come up within half a day with a solution, things like that.

KAREN TODD: Christof?

DR. CHRISTOF JAECKLE: I would say that sophistication has even increased, so people starting at a leading law department

as Deutsche Telekom have typically quite significant and valuable experience when they start. The cooperation becomes more and more a real partnership of people who are at the same level, basically, in terms of experience and knowledge. The difference is that, obviously the perspective is different when you are sitting in-house and outside, but I think this will be a trend that's going to continue, the degree of sophistication and experience will further develop.

KAREN TODD: Thank you. Burkhardt?

DR. BURKHART GOEBEL: The efficiency; you have a very focused team working with smaller outside counsel teams – at least what I have seen over the last twelve years – it's not only you guys have gone down forty percent in your head count; we have gone down, too. Fair enough. When things are more focused, there is more efficiency and, of course, more use of technology. That is a better use of resources and leads to a better product at the end. Pretty good!

KAREN TODD: Great! Jens?

DR. JENS LIESE: There's not much I can add. One remark that I had is that I have noticed that meetings are very often telecom meetings, so we have a telephone call on this. In the past, sometimes you met and that wasn't really efficient, flying somewhere for two days and then have a meeting of three or four hours. That is a change. Everything is becoming more virtual. I think there are still bigger steps ahead, so if you are working on documents jointly, I think that has a lot of changes ahead. But we are moving into digitalization.

KAREN TODD: Okay. Yes?

DR. MANFRED BALZ: I have one question concerning the role of in-house and outside lawyers: Will there be more exchange, more revolving doors type situations or fewer? In the U.S., it's very common. I was in a U.S. firm where people came in and out to be General Counsel of

“The color trademark is a thing that was, when introduced, very unusual. We have a color trademark, Magenta, as is quite obvious from this slide of magenta objects, which is protected in the EU and in several other states. It was one of the first color trademarks; now others are trying to have a color trademark, too.”

– Dr. Claudia Junker

significant corporations. I've seen that very rarely; Claudia, of course, was taken from a law firm; I was taken from a law firm, actually, in my day. But I see very few partners of renowned law firms who would want to be a General Counsel in many companies. I remember very much how difficult it was to convince Claudia to come in-house. It was really a job. Actually, I spent, I don't know, how much of my time getting her there. In the end, she did it, and I think she is not unhappy. But will there be more of this revolving door, in, out, between the two subsets of our profession? I have no clever idea about it, but I think we should have more, definitely, than we see. Of course, it has to do with career patterns and lifestyle issues, but I would like to see more of that. I don't think it's growing enough at this moment. Thanks a lot.

KAREN TODD: You're welcome. I want to ask the audience, since a lot of you are corporate counsel, if someone has a specific comment in terms of your relationship with the outside law firms, what kinds of things do you want to see to make that relationship better? Anyone? Claudia?

[AUDIENCE MEMBER]: I'm also with Deutsche Telekom, but not with the Legal Department, “Legal” is only my hobby. I'm a tax guy. **[LAUGHTER]**

I have one question for the presentation of Mr. Gruetzner with respect to internal investigations. And it relates to your question, Ms. Todd, in-house counsel and outside legal counsel – how can they effectively work together?

Coming to your conclusion, Mr. Gruetzner, you had about six conclusions, saying that you would have some client-attorney privilege under certain circumstances. Would you also include in-house counsel with respect to this attorney-client privilege, or was it only meant to be for the outside law firm?

DR. THOMAS GRUETZNER: That was the question Claudia raised yesterday initially when I raised the topic. To me, it would make total sense if one would include an attorney-client privilege for in-house counsel, as well. But as I have said, at the moment, I'm still seeing my suggestions on a long journey of discussions. Just from my own views, my perception is that attorney-client privilege of in-house counsel is at the moment, being considered within government and authorities still different from external counsel. I can disagree with that, but I think that's the perception at the moment. Whereas my suggestions are an extension into a *de facto* scenario where the corporate enterprises need to defend themselves, that's from my perspective just an extension of this situation. One could certainly say that attorney-client privilege should also belong to in-house counsel's land, but my suggestion includes that it cannot make any difference, speaking about the attorney-client privilege, whether the documents are located in a law firm or in a company, because that's just odd to me. When you can say, well, you cannot do it in a law firm, but I can go and get it from the company or from the client.

In a way, this leads to in-house counsel having some kind of privilege, then. But as I said, the District Court of Braunschweig



is saying everything you're preparing internally, regardless of where it's located, should be treated as privileged.

Join me on that journey and support these arguments, and I'm happy to support this argument, as well. As I said, it will be probably a hard time for us; we might see each other quite frequently on that journey!

DR. CLAUDIA JUNKER: As of the 1st of January 2016, we do have partial legal privilege for in-house lawyers who are admitted to the "in-house bar." This does not apply to criminal law cases, but it applies in civil law cases. This can play a role in international litigation: You have an unfair situation when you have litigation that is USA/Germany, because U.S. in-house lawyers have legal privilege. In a discovery, we cannot get documents out of the legal department of the U.S. company, but they could previously get documents out of our legal department. Now everybody who is admitted to the German "in-house bar" has legal privilege in civil procedures. If you ask my colleagues, I think many of them are admitted already.

KAREN TODD: Burkhart, was there something you wanted to add?

DR. BURKHART GOEBEL: With regard to in-house counsel and outside lawyers working together effectively, we need early warning! [LAUGHTER]

It's true – turnaround time has gone down dramatically, and we typically deliver overnight, within two hours, within four hours, whatever it is – early warning is appreciated. So, that is number one. And number two, where projects are cooking. We all want to know what's in the pipeline. The more we are involved overall the easier it will be to deliver.

DR. CLAUDIA JUNKER: Actually, we like early warning too and promote it. [LAUGHTER]

DR. ASTRID KRUEGER: I have one point to add. All of the things we are dealing with have become more complex, because you've got the many different legal areas, and you also have internally the many different stakeholders that feed into a project that becomes a legal problem. What I admire, and what is probably one of the most important capabilities and skills from our perspective, is being able to coordinate all of those different stakeholders, bring them together at one point so that with all the coordinated information and stakes

that are important, we can then do the legal work. That would be one thing that comes to my mind, which is probably a huge challenge, looking at the complexity of things.

DR. CHRISTOF JAECKLE: There is certainly a tension between cost awareness, which is fully appreciated, and quality, which to some extent depends on being fully informed and involved. We appreciate this. It's clear the more you know of a project, the more you are also part of certain internal discussions if M&A talks to tax. The more you understand the project, the better the advice will be. We fully understand that people are looking on their watch and saying, "What can we also do internally?" There will always be a compromise to be made. It's important to understand that if you do not know all aspects of a project, your advice, will always be somewhat limited.

DR. THOMAS GRUETZNER: I will summarize it, regardless of legal tech or not, it's all about communication and no surprises.

KAREN TODD: Jens?

DR. JENS LIESE: I don't think I have anything to add that wasn't already mentioned. It's always good to know the background so that you can maybe think out of the box.



It's very difficult to think out of the box, if you are only asked to prepare an agreement of good craftsmanship. But that isn't intended to be criticism, because in the past, it worked really well, and we were able to somehow structure things differently. It's important to keep this, even with the cost-sensitive environment.

KAREN TODD: How do you coordinate with all of the in-house lawyers from around the planet?

DR. CLAUDIA JUNKER: We have, in particular, a model which we call "relationship partners." That means for every subsidiary with business, we have people at the so-called headquarters that will establish a constant communication channel to them so that we get all the information needed. That works quite well. Then we meet frequently. Knowing people and talking to each other — communication is of utmost importance. I spent, for example, a week in one of our subsidiaries this year, just working with the team. You constantly have to stay in contact.

KAREN TODD: Does that mean that you're on your cell phone twenty-four hours a day?

DR. CLAUDIA JUNKER: No. I also like sleeping. [LAUGHTER]

I have something to add about the cell phone. I have to say this about someone who is here today, Christian Dorenkamp. In July, we negotiated a deal, and we had to get it done in forty-eight hours, or it was off. On the second day, we realized there might be some tax issues in there, and I called Christian. He helped us, and then in the negotiations, at midnight, we had a situation which was not solvable, and it was around tax issues. I called Christian without pre-warning at a quarter past midnight, he picked up his cell phone, and he negotiated with us for the next two hours. That's a great colleague! [APPLAUSE]

KAREN TODD: One of the favorite questions we like to ask of General Counsel is what do you like to do in the five minutes of free time that you have each month?

DR. CLAUDIA JUNKER: I enjoy being with my husband. [LAUGHTER]

KAREN TODD: I'm sure that he appreciates having time to spend with you.

I want to thank our Guest of Honor and Distinguished Panelists for being here today and sharing their wisdom with us. I also want to thank the staff of Allen & Overy for the fantastic job they did. Finally, thank you to the audience, especially to all those from Deutsche Telekom who traveled here from Bonn for this program.



Dr. Astrid Krueger
Partner

Astrid is a Munich-based partner in the corporate/M&A department of Allen & Overy LLP and also serves as managing partner of Allen & Overy Germany. She has almost 20 years of experience and specializes in national and international M&A transactions.

She manages multi-jurisdictional transaction teams throughout all stages of acquisition/disposal processes, including the post-merger integration. Astrid also frequently advises on distressed restructurings as well as in the implementation of tax structurings

and is developing corporate reorganizations. Her client base consists mainly of corporates as well as of private equity investors.

Astrid studied law at Ruprecht-Karls-University of Heidelberg, Germany. She is the author of numerous publications on corporate and transactional topics and a regular speaker at conferences.

Astrid is a German native speaker and is fluent in English.

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Dr. Thomas Gruetzner
Partner

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Innovation

2017 saw the formal launch of our innovation initiative, which has already made some major announcements. Baker McKenzie is the only law firm to partner with the World Economic Forum on their Fourth Industrial Revolution project, which aims to accelerate the deployment of technology and science for positive impact on individuals and the societies, while minimizing their downside risks.

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Dr. Thomas Grütznér is a compliance and dispute resolution partner in the firm's Munich office. He is a seasoned lawyer with more than ten years of experience advising on various areas of law such as white-collar crimes, compliance issues and compliance investigations, litigation and arbitration. He is a visiting lecturer at Leibniz University in Hannover and publishes on a regular basis books and articles on current compliance-related developments and court decisions. Dr. Grütznér is a member of the steering committee of GlobalComplianceNews, a compliance news website with global reach moderated by Baker McKenzie.

Practice Focus

Dr. Grütznér advises and represents companies in post-M&A disputes, construction disputes, compliance-related disputes and compliance issues in general. Over the past years, he has conducted a number of multijurisdictional compliance projects and compliance investigations.

estimate that our use of alternative legal services in Belfast, our e-discovery platforms and our use of legal project management are already bringing in more than \$20 million in annual revenue.

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- Represented several DAX 30 companies in compliance matters.
- Leading several large investigations for DAX 30 companies and communication with national and international authorities.
- Conducting smaller investigations for several DAX or U.S.-based companies. Conducting ongoing internal investigations for more than 20 companies internationally and in Germany in the last 18 months.
- Leading compliance due diligence for a company with global operations and an annual turnover of several billion euros.
- Leading business partner screening of approximately 3,000 agents for a DAX 30 company.
- Leading compliance review of 850 consultancy contracts for a DAX 30 company.
- Analyzing anti-corruption laws in more than 180 countries.
- We supported BHP Billiton on the development of a Forests Bond co-developed in conjunction with the International Finance Corporation, part of the World Bank. The Bond aims to achieve emission reductions through a combination of forest protection and community development activities in East Kenya.
- Victory for Dyson before the European Court of Justice in a case where the court ruled true-to-life testing, where technically possible, must be used to measure the energy performance of vacuum cleaners.
- We advised Yum! Brands, Inc. on the corporate implementation of the \$9.7 billion global restructuring relating to the spin-off of its Chinese restaurant operations.
- An international team of Baker McKenzie lawyers advised digital technology company Konica Minolta on its acquisition of Ambry Genetics Corporation, a leading diagnostic solutions provider for hereditary conditions, for up to \$1 billion.



Dr. Christof Jaeckle

Partner

Christof Jaeckle has a general corporate and M&A practice, with particular experience in private equity. He advises a broad range of German and non-German corporates, private equity and sovereign wealth funds.

Christof Jaeckle has been involved in a wide range of transactions including: the carve out and sale of Deutsche Telekom's broadband cable assets, the carve out of Deutsche Telekom's German mobile infrastructure

assets, the sale of a majority stake in Scout24 by Deutsche Telekom and the sale of Strato by Deutsche Telekom.

Christof Jaeckle is a graduate of the University of Freiburg (Dr. jur.) and also holds an LL.M. from the University of Michigan Law School (LL.M.). He was Co-Managing Partner of Hengeler Mueller from 2004 to 2008.

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Hengeler Mueller

Hengeler Mueller is a leading German law firm with more than 260 lawyers operating across its offices in Berlin, Düsseldorf, Frankfurt, Munich, Brussels, London and Shanghai.

Hengeler Mueller is specialized in high-end legal advice to companies in complex business transactions and provides advice to leading German and international industrial and commercial companies, private equity companies, banks, insurances and other financial service providers. The law firm works for large corporates and for small start-ups applying the same level of commitment to all of its assignments.

Combining the creative expertise of different practice areas and industry sectors, Hengeler Mueller is dedicated to absolute quality of legal advice and the highest standards of service blending its know-how with a critical sense of perspective. Its aim is to deliver practical and efficient legal solutions that are robust and permanent.

Hengeler Mueller is a true, independent partnership of professionals, where caliber is matched by character, entrepreneurial in thinking and handling and international in education, training and practice. Cultivating an in-depth knowledge and expertise in a wide spectrum of business law matters, Hengeler Mueller establishes result-oriented

and cost-effective teams for each transaction – interactively in various fields of practice – tailor-made for its clients' requirements.

Hengeler Mueller supports its globally active clients at every stage with integrated international teams; carefully assembled to deliver what each specific mandate requires (Integrated Team Concept) and makes full use of a distinctive international network, drawn from different legal systems, markets and cultures. Its ties with leading firms throughout the world are exemplary and widely recognized as setting the standard in international legal services.



Dr. Burkhard Goebel
Partner

**Hogan
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Hogan Lovells LLP

Change is happening faster than ever, and to stay ahead, you need to anticipate what's next. Legal challenges come from all directions. We understand and work together with you to solve the toughest legal issues in major industries and commercial centers around the world. Whether you're expanding into new markets, considering capital from new sources, or dealing with increasingly complex regulation or disputes, we can help. Whether change brings opportunity, risk, or disruption, be ready by working with Hogan Lovells.

Straight talking. Understanding and solving the problem before it becomes one. Delivering clear and practical advice that gets your job done. Hogan Lovells offers extensive experience and insights gained from working in some of the world's most complex legal environments and markets for corporations, financial institutions, and

As the firm's Regional Managing Partner for Continental Europe, Burkhard Goebel helps clients navigate the challenging seas of complex cross-border and multiple jurisdiction IP litigation. In his 20 years of experience, he has pleaded or acted as instructing counsel before senior courts in almost every jurisdiction in Europe, handling some of the largest multiple jurisdiction disputes in the history of IP litigation. He constantly draws on the experience and insights gained from these different jurisdictions to make each case a success. He knows how to avoid surprises – he's seen where the pitfalls lie and guides clients around them. Rare among IP litigators, Burkhard has particular expertise in IP-related public international law. Working closely with offices from Spain to Russia adds to his deep understanding of a wide range of legal issues and jurisdictions.

governments. We help you identify and mitigate risk and make the most of opportunities. Our 2,800 lawyers on six continents provide practical legal solutions wherever your work takes you.

A fast-changing and inter-connected world requires fresh thinking combined with proven experience. That's what we provide. Progress starts with ideas. And while imagination helps at every level, our legal solutions are aligned with your business strategy. Our experience in cross-border and emerging economies gives us the market perspective to be your global partner. We believe that when knowledge travels, opportunities arise.

Our team has a wide range of backgrounds. Diversity of backgrounds and experience delivers a broader perspective. Perspectives which ultimately make for more rounded thinking and better answers for you.

Burkhard has represented clients in preliminary rulings before the Court of Justice of the European Union arising from jurisdictions that include Austria, Finland, Germany, and the UK.

Burkhard argued the lead case before the European Court of Human Rights establishing that both trademarks and trademark applications are protected through the property guarantees of the European Convention of Human Rights. He defended intellectual property before the WTO, and has litigated against the enforcement of several multilateral and bilateral treaties.

World Trademark Review (WTR) says that clients call Burkhard "...a phenomenal lawyer, strategist and litigator; he has a great demeanour, and is the most sophisticated lawyer we have ever worked with."

Giving back to communities and society is fundamental to good business. And, it's part of our core. We are advocates of justice, equality, and opportunity. Everyone at Hogan Lovells is asked to volunteer at least 25 hours a year as part of their normal work duties. Around the world, our people are making a difference through pro bono activities, community investment, and social justice.

Diversity and inclusion is at the core of who we are and how we do business. We are a high-performing global team with people from different backgrounds, perspectives and life experiences. We are at our best when we can be ourselves – working together and delivering for our clients.

We embrace inclusivity, educate on differences, and celebrate the unique value of each of our people. Everyone at Hogan Lovells has the opportunity to develop, excel, and lead.



Dr. Jens Liese
Partner

Noerr

Dr. Jens Liese is a partner in Noerr's Corporate Department in Düsseldorf. He advises international groups, financial investors and family companies. M&A projects, in both the national and international context are central to his work. He has particular experience in complex restructurings, especially including mergers and acquisitions. Mr. Liese has extensive deal experience across many industry sectors, including significant depth in telecommunications. He has led major cross-border deals, notable matters include advising:

- trivago on its IPO on NASDAQ – the Noerr team was honoured as “Transatlantic Equity Capital Markets Team of the Year” by American Lawyer and Legal Week
- Deutsche Telekom on the acquisition of 7,700 mobile masts from Telefónica and E-Plus
- Deutsche Telekom on the acquisition of frequencies in the 3.5 GHz range

- Stora Enso on the sale of a special paper factory in Uetersen
- Deutsche Telekom on the acquisition of the GTS Group from a PE consortium
- Shareholders on the sale of trivago to Expedia
- Pfeleiderer on the sale of the Pergo Group to Mohawk
- DAX30 company on the establishment of a facility management joint venture
- Insight Venture Partners on various investments

Mr. Liese has been recognized as a leading expert for both Corporate (since 2014) and Private Equity Law (since 2013) by Best Lawyers in Germany. Legal 500 recommends Jens Liese in its current edition as lawyer for Corporate and M&A. He studied at the universities of Freiburg, Grenoble (France) and Jena. He joined Noerr in 2010 and became a partner in 2013.

Noerr LLP

Noerr stands for excellence and entrepreneurial thinking. With well-versed teams of strong characters, Noerr devises and implements solutions for the most complex and sophisticated legal matters. United by a set of shared values, the firm's 500+ professionals are driven by one goal: the client's success. Listed groups and multinational companies, large and medium-sized family businesses as well as financial institutions and international investors all rely on the firm.

Noerr's advisors make their clients' challenges their own and are always thinking one step ahead. In doing so, they assume

responsibility and are at liberty to make their own decisions. The firm is committed to always going the extra mile for its clients and to resolving complex matters with the perfect mix of experience, excellence and sound judgment.

In complex and dynamic markets new approaches are regularly required – and delivered by experts who bring both the know-how and the necessary passion.

As one of the top European law firms, Noerr is also well established internationally. With offices in eleven countries and a global network of top-ranked “best friends” law firms, Noerr is able to offer its clients

truly cross-border advice. In addition, Noerr is the exclusive member firm in Germany for Lex Mundi, the world's leading network of independent law firms with in-depth experience in 100+ countries worldwide.

Noerr has long had its own offices in all major Central and Eastern European capitals. With around 100 professionals, Noerr is one of the leading law firms in the region.

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