

How to choose Counsel and select Arbitrators?

Boris Kasolowsky – Freshfields Bruckhaus Deringer

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Freshfields Bruckhaus Deringer

Choosing Counsel

“[...] nothing will be more expensive to your company than hiring cheap lawyers, and nothing will be more painful than hiring the wrong ones.”

View of an Entrepreneur in Forbes Magazine, 2013

Choosing Counsel

What are the relevant criteria?

Factors to consider

- Skill, experience and “hunger”
- Team
- Communication between counsel and client
- Human chemistry/long-term relationship

Selecting Arbitrators

Who should be involved?

People involved

- Clients
- Counsels
- Experts
- Funders

Selecting Arbitrators

What are the relevant criteria?

Personal factors

- Experience in the managing of arbitrations
- Language capabilities
- Absence of possible conflicts of interest
- Nationality
- Enhancing legitimacy (eg diversity)

Selecting Arbitrators

What are the relevant criteria?

Availability

- Consider official statements on availability
- Manageable case load, overview of pending cases
- Non-public data providing further information on availability
- Calendar of a candidate, record on awards and timing

Selecting Arbitrators

What are the relevant criteria?

Expertise of the arbitrator

- Experience in relevant law and topic
- Experience in formal and technical aspects of an arbitration
- Experience with complex quantum issues (non-lawyers?)

Selecting Arbitrators

What are the relevant criteria?

Arbitrator interviews / Due Diligence

- Consider candidate's general opinion on pre-appointment interviews
- Firm up prior experience, expertise and availability
- Recommendations of colleagues and peers
- Publications, CV, similar previous appointments

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