

Diversity at Elite Law Firms Is So Bad Clients Are Docking Fees *Bloomberg Business* 5 October 2021

Elite law firms in the U.S. and the U.K., long seen as fusty bastions of mostly white men, are being pushed by some of their biggest customers to change. Facebook, HP, and Novartis are part of a growing number of major global companies that have warned they'll take their work elsewhere or cut fees unless they see more racial and gender diversity in the law firms they hire. It's a serious threat: Facebook Inc. last year spent \$1.6 billion on legal fees, settlements, and fines. "Money can make movements," says Lauren Hauber, a Facebook legal operations manager. "And using buying power to push for change will oftentimes start to move the needle." [...] Corporate law firms have proved particularly slow to shape up, with many structured as partnerships that give relatively few dealmakers decades of influence over how a firm is run. That's an increasing concern for clients, who say diverse legal teams deliver more creative and well-rounded advice.

Although many law firms have made public commitments on racial, gender, and economic diversity, they've got a long way to go. Women make up a little more than a quarter of partners at 10 of the most prestigious firms on either side of the Atlantic. About 10% of partners at U.S. firms are people of color. Racial minorities make up only 8% of U.K.-based partners at elite British firms. "There are enough clients who are focused on this that it will definitely have an impact on balance sheets," says Georgia Dawson, who last year became the first woman to be elected senior partner at the 278-year-old firm Freshfields Bruckhaus Deringer which is part of London's Magic Circle. This year, Linklaters, another Magic Circle firm, picked its first female senior partner since its founding 183 years ago, and 132-year-old rival Slaughter & May chose a woman as managing partner.

The movement was gaining momentum even before last summer's Black Lives Matter protests turbocharged the push for diversity and representation. A big break came in 2019, when 170 companies sent an open letter to law firms criticizing their lack of diversity. That same year about 60 top lawyers at European corporations signed a separate commitment to increase diversity and inclusion across the legal sector. Signees to that pledge have since doubled and include Anglo American, Royal Dutch Shell, Unilever, Vodafone Group, and other deep-pocketed clients. Participants recognized their responsibility to use "the power of our purse as clients to help encourage greater diversity. That isn't so much about threatening the firms to take our business away from them. It's really about working with them to encourage their initiatives to drive diversity."

HP Inc. was one of the first companies to warn it would penalize law firms that flunked certain diversity benchmarks, saying in 2017 it would temporarily withhold a portion of fees from those that didn't have at least one racially diverse attorney either managing or performing 10% of the work. Others have followed suit. Facebook requires that half the lawyers on its external U.S. legal teams are diverse—in terms of race, gender, sexual orientation, or disability status—boosting the mandate from 33% earlier this year, and is considering a policy to withhold fees from law firms if they don't meet targets. Swiss pharmaceutical giant Novartis AG has said it will withhold 15% of fees if firms don't meet its diverse staffing commitment, and telecommunications provider BT Group Plc has promised a seat on its advisory panel to the law office with the best representation.[...]

Below the rank of partner, 50% of the attorneys at top U.S. and U.K. law firms are women. That's even higher in transactional practices such as mergers and acquisitions, where women account for 60% of nonpartner attorneys in the U.K. and 49% in the U.S. Many top U.K. firms have trainee cohorts that are majority female, and they're pushing to attract candidates from racial minorities, too. Almost 40% of summer associates at U.S. firms surveyed last year were people of color, a number four times higher than at the partner level.

"This is a journey that's not finished," says Jennifer Newstead, Facebook's general counsel.