

'OPEN INNOVATION' ACCELERATES SUCCESS, SAY CLIENTS IN HERBERT SMITH FREEHILLS STUDY

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Firm news

'Open' innovation can achieve commercially significant results with greater speed than traditional innovation strategies, say clients interviewed by Herbert Smith Freehills as part of a landmark report published today.

The report, *Open Innovation: collaborate to innovate*, examines how businesses across the world are seeing the significant benefits of open innovation - both through internal processes and via collaboration with external groups. It looks at how businesses and, in particular, legal teams, can adapt to ensure they have the flexibility of process to keep pace with the innovation in their sectors and ensure their products and services are market-leading. This is important; as the report demonstrates, clients regard innovation as critical to secure a 'first to market' position - in order for them to stay ahead of the curve.

To compile this report, Herbert Smith Freehills interviewed and surveyed clients across multiple sectors and geographies about their approaches to and experiences of open innovation. With 72% of clients saying they plan to increase their innovation spend in the next financial year, the firm's report sets out the practical and legal steps for conquering the challenges that can emerge.

Findings from the report reveal that it is now becoming the norm for business to collaborate both internally and externally on innovation projects – often at speed. Clients have said that they have experienced certain challenges moving from more rigid, policy-driven approaches with dedicated research and development teams, to strategies which provide speed and flexibility and involve the whole business. Trust is a key issue, in particular when incorporating external partners into the process, but equally a diversity of contribution is essential for successful innovation as is ensuring that employees buy-in to innovation and the benefits it can bring to their organisations.

The report highlights that clients' very much see the benefits of involving the legal team early on in the open innovation project to promote a better overall outcome and identify any “red lines” at the initial stages.

The report finds that close involvement allows legal to become enablers of innovation, rather than potential obstacles, helping the business to pursue first-mover advantage.

Other significant findings from the report include:

- Intellectual property continues to be a key area, both as a motivator of innovation and a dictator of the structure of collaborations and future ownership and control/use of the outputs of innovation including data.
- Other areas such as regulatory restrictions, competition law and employee incentives are also intimately involved.
- Clients have stressed the importance of getting access to market first; if the collaboration is slow, it loses value. In the race to innovate, first mover advantage is key; missing out on a technological development can freeze a business out of important sections of the market.
- Clients want efficiency rather than perfection, even if it makes the initiative riskier. With that in mind, in-house legal teams have recognised that they need to support their businesses in assessing and understanding risk, rather than being focused on hammering out the intricacies of the perfect deal.
- Companies who report the greatest confidence in these new forms of innovation are those who emphasise communication between innovators and legal teams early and regularly so that all teams are on board with the project.
- Clients say that it is important to integrate the legal function into the innovative areas of the business, so that the in-house legal teams are involved at the start of new projects and could appreciate the commercial needs were most successful.

Herbert Smith Freehills Partner and Head of IP, UK, [Joel Smith](#), who, with Australian IP Partner, [Rebekah Gay](#), led on the report, said:

"By sharing these first-hand insights, which will resonate with many organisations, big and small, we hope to provide a clear route map with which to navigate the dynamic and rapidly evolving innovation landscape."

"More than ever before, intellectual property is core to the value of many businesses. However, the way in which it is used and valued is shifting - it is used to facilitate collaboration through access regimes ranging from licensing to open source platforms, rather than being used to lock others out of the market."

[Download the report](#)