



Forensic services

Assisting general counsel
and legal practitioners

Risk Consulting



As the complexity of business arrangements increases manifold, the role of legal counsels and practitioners has evolved into strategic business managers advising board of directors, audit committees and senior managements in their organisation or their clients, in their pursuit of growth and profits in new geographies and industries. Legal counsels and practitioners have also assumed the role of key stakeholders in investigations or fact-finding endeavors into cases of serious white collar crime and compliance-related issues in their organisation in addition to being involved in corporate disputes and legal cases.

KPMG's Forensic team can help

KPMG Forensic delivers a wide range of advisory services to help prevent and resolve commercial disputes involving assessment of damages, or resolution of accounting, audit and finance related issues, as well as 'expert witness' services. We help in resolving disputes and other forms of disagreements in business arrangements through an orderly process that includes assistance in expert witness testimony, evidence and discovery, and analysis of issues.

We help our clients in dealing with cases involving business interruption claims, intellectual property disputes and joint venture partnership disputes, among other areas, whether in the forum of arbitration, litigation, mediation or other alternative dispute resolution mechanisms. We assist legal counsels and practitioners in the prevention and detection of white collar crime and extend technological support to make case data available in court acceptable formats. We assist counsels and practitioners in conducting integrity due diligence of business stakeholders and similar investigative research. We also evaluate systems and processes for regulatory compliance-related issues.

Quantification of losses/claims

We work to make complex business issues transparent and understandable. We help clients strategise and support their position in commercial disputes. We provide advice and expert opinion on damages or claims, with a robust and credible quantification by using accounting based evidence, in the context of litigation or arbitration. This encompasses both quantification of the profits or consequential losses arising from a variety of business disruptions, such as breach of contract or insured events, and financial liability.

Expert witness

KPMG in India has a wide range of experienced accounting and advisory professionals who provide impartial and independent testimony to assist in the resolution of disputes, whether in litigation, arbitration or mediation. Our 'expert witnesses' are widely recognised as credible on the technical and financial aspects of disputes. Our compelling and easy to understand reporting of issues at hand, opinions and conclusions are supported by reliable, strong and robust oral evidence.

We have provided evidence and have been cross-examined in various forums in India and international platforms. Our expert witnesses have courtroom experience in multiple jurisdictions on commercial arbitration and other legal and regulatory matters. When preparing courtroom testimony, we tap our worldwide resources to assemble a focused team with the right combination of functional and industry skills.

Investigation

Having undertaken some of the largest fraud investigations, we assist legal practitioners in collecting and assessing relevant facts and evidence in an incidence of fraud or misconduct. We also help in the retention and preservation of data that can be presented in the court of law in case there is litigation. Our reports have been cross-examined in court and we have appeared as expert-witness in numerous investigation cases.

Forensic technology

Parties involved in disputes often need to review evidence and may need to make disclosures in the form of documents or data to an investigator, regulator or opponent. We provide rapid response using sophisticated technology tools and dedicated technology centers. Our capabilities can help you reduce risk, cost and manage disputes inclusive of large-scale, complex litigation.

We operate forensic labs across the country that provide technology, process capability and professional support to help clients reduce the costs associated with investigations, compliance and litigation in the areas of evidence and discovery management as well as in the acquisition, analysis and management of large data sets. We also support legal practitioners in Forensic imaging, preservation and analysis of electronic media to support general investigation and litigation matters.

Corporate intelligence

Access to reliable, hard-to find information can be critical for lawyers and clients. KPMG's Corporate Intelligence (CI) team helps clients conduct integrity due diligence by collecting public or non-public information on their target/opponent. Our CI team has access to powerful databases that rapidly assimilate corporate, credit, legal, media and financial information. We provide M&A support for corporate lawyers through integrity due diligence investigations into the background, track record, reputation and probity of their clients' prospective business partners, especially in emerging markets. We also offer risk management advice through enhanced 'Know Your Customer' screening of law firms' prospective clients, enabling compliance with anti-money laundering regulations and reducing the risk to the firm's reputation.

Our CI team is drawn from a wide range of backgrounds including, business research, political risk analysis, forensic accounting, law enforcement and investigative journalism. Supported by the local resources and insight of KPMG's extensive global forensic network, we can help you deal with sensitive assignments across the world.

Anti-bribery and corruption compliance

Compliance with global regulations, such as the United States Foreign Corrupt Practices Act (US FCPA) or the UK Bribery Act, is

challenging in developing countries; especially in countries where corruption is prevalent.

We can evaluate your firm's/your client's compliance programme and help you in concluding the extent of compliance. We also assist legal counsels and practitioners in developing and implementing effective compliance programmes to prevent, detect and respond to issues related to anti bribery and corruption non-compliance. KPMG has successfully investigated various engagements involving bribery/corruption and FCPA issues. We have also helped clients in FCPA monitoring, compliance and due diligence in mergers and acquisitions.

Intellectual property and contract governance

KPMG Forensic can help plug revenue leakages on account of violation of intellectual property rights from counterfeiting, grey market or under reporting. By conducting in-depth investigations, we assist clients in understanding and mapping the illegal supply chain, identifying key players that operate within the supply chain and taking corrective action. Our licensing and royalty reviews help clients monitor licence compliance so that they recover their due fee and do not incur any loss on account of misreporting.



Select credentials

Allegation of rigged bidding process in the real estate sector

KPMG was appointed by a construction and real estate company in India, which faced allegations of an inappropriate award of contract for one of the largest townships in the country. We were asked to provide a professorial accountant's report on the qualifying criteria and eligibility of our client as well as the bidder who was challenging the tendering and bidding process adopted by the state government authorities. Our report has been submitted to the Supreme Court of India.

Claim for telecast rights

Our client, one of the leading sports satellite channels in India, had acquired exclusive television rights for a sports event. Subsequently, simultaneous telecast rights were given to another terrestrial channel. Our client wanted to claim the loss of profits and we assisted in determining the amount of damages. The proceedings of this litigation case were heard by the Supreme Court of India.

Claim for termination of agreement

A leading television production company was awarded the broadcasting rights by the cricket control board of a major test-playing nation for a period of three years. The cricket board terminated this contract after one year and the television company claimed loss of profits. The arbitration was conducted before the Singapore International Arbitration Centre and KPMG acted as an independent expert witness on quantum on behalf of the television company.

Intellectual property infringement

A leading metering technology company in the energy sector engaged KPMG Forensic to provide a professional opinion on future losses due to intellectual property infringement and the breach of contract by its technology strategic alliance partner. We provided a professional accountant report on the quantum of potential future loss claims submission in the Singapore International Arbitration Centre. We also appeared as an 'expert witness' in the arbitration proceedings.

Handling of digital evidence

Our client was a leading real estate and infrastructure development company in India. Employees of the client had been charged with conspiracy to bribe a public official for official favours. Charges had been framed based on digital evidence. KPMG Forensic was engaged to assess the handling of digital evidence presented in the case and evaluate whether the evidence may have been tampered with. In addition, KPMG was expected to appear as 'expert witness' in the court of law to back our findings.

Integrity due diligence

KPMG was appointed by an overseas IT software company, that was planning to acquire a company in India, to conduct an integrity due diligence on the target. We found out that the Indian company and its directors had cases pending against them with the Central Bureau of Investigation, Department of Revenue Intelligence and Marine Preventive Customs, Mumbai. The transaction which was in the final stages was called off on time.

Investigation

KPMG was appointed by one of the leading law firms in the country to assist in investigating one of the largest frauds in the country in one of the leading IT companies having global operations. We helped in securing evidence through electronic discovery management and digital evidence recovery, conducting a detailed investigation and forensic data analytics to gather facts, assessing the true financial position of the company and restating the financial statements. We also helped in dealing with multiple regulators in India and overseas as well as liaison with the legal counsel.

Support in criminal proceedings

A leading business house in India appointed KPMG Forensic to provide assistance in bringing criminal proceedings against the CEO. This was driven by significant amount of losses incurred by one of the group companies as a consequence of an alleged fraud perpetrated by the CEO. We worked closely with the legal team and prepared a report setting out our findings from the investigation, which was submitted to the CBI and other authorities, and provided input to the business house in its civil and criminal proceedings against the CEO.

Anti-bribery and corruption investigation

A leading manufacturer of uninterruptible power supplies appointed KPMG to conduct an investigation into allegations of personal profiteering by its senior management and payouts to government officials. We conducted an investigation into the allegations and obtained evidence to prove certain improprieties. KPMG also conducted field visits to obtain evidence and information for substantiating the findings and liaison with the legal counsel to formulate the way forward for the company.



International credentials

Case 1

KPMG was appointed by an Italian manufacturing company and supplier of manufacturing equipment to an Indian customer and 'respondent'.

The customer, as part of International arbitration proceedings, filed a claim for the loss of revenue due to inappropriate quality of equipment supplied resulting in failure to meet expected output. We were asked to provide an independent accountant report for the review of financial information related to sales figures of the claimant for the period of claim. We also assisted our client in determining the accuracy of the loss of revenue being claimed by the Indian company and conducted an independent inspection of the documents as part of validation of the claim.

Case 2

KPMG was appointed by a Singapore- based sports marketing company.

The customer, as part of International arbitration proceedings, filed a claim for the loss of profit claim against the Cricket Control Board of a major test playing nation for a wrongful termination of the Rights Agreement.

We were asked to appear as 'expert witness' in the arbitration proceeding in the Singapore International Arbitration Center. Our client was awarded the loss of profits nominally less than what was computed by us.

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