Interview with Colin Kavanagh, Partner and Head of Life Sciences, Arthur Cox

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Can you please introduce yourself and Arthur Cox's life science practice to our readers?

I am a partner within the technology and life sciences group at Arthur Cox, and head of our life sciences team. I joined the firm in January of 1999, shortly following qualification. I have been with Arthur Cox for 14 years.

When I first joined the practice, I primarily worked with U.S. FDI companies—and a large portion of that work was for life science companies. I have worked very closely with the life science industries in Ireland ever since.

Arthur Cox has been around since the 1920s, and won its first life science business from Abbott in the 1940s. In the 1970s and 1980s, when U.S. pharma and medical device companies began to set up large-scale manufacturing operations in Ireland to capitalize on what was then a zero-tax rate, Arthur Cox was there. We were one of the first Irish law firms to have a presence in the U.S.—we have been in the market since 1980—and so we are ideally positioned to serve U.S. investors.

Today, my life sciences practice principally consists of corporate work, commercial work, and, more recently, regulatory work. We are involved in a wide range of the industry's activities and operations.

What do you believe makes Ireland attractive as a location for foreign investment?

The first reason that most companies invest in Ireland is the tax structure. However, there are others draws: for instance, we are the only English-speaking country in the euro zone. We have a highly skilled workforce and an excellent third-level education system, so investing companies are able to find quality talent in the market—particularly in areas like engineering. We have a high concentration of people who speak multiple languages, and a variety of nationalities. Ireland is a stable, open economy.

Finally, I must commend the IDA for their work. They have done an excellent job in both attracting companies here and helping them to set up flourishing businesses.

When multinational companies come to Ireland, can they find the same level of lawyer they might find in the U.S. or the UK?

I believe that they can. In fact, at Arthur Cox, many of our people have trained or worked in those larger markets—and the caliber of lawyer one finds in Dublin can equal the caliber one finds in London.

Because the indigenous service providers have got it covered.

We would like to think so. If you look back 20 or 30 years ago, there were no law firms in Ireland that could offer a true international standard. Our economy used to be based on farming and little else! However, a number of firms have since scaled up, and today, we find five or six firms in the market that rival the size of any of the largest practices in France, Germany, or Spain—we lag behind the UK only in terms of scale.

What are the most notable investment trends in Ireland today?

I think one of the most exciting current trends in Ireland is the growing volume of outward investment by Irish companies. Particularly in the med tech sector, the number of businesses that have grown to scale and reached the international stage in recent years is remarkable. Ten or even five years ago, our firm was doing very little work with Irish players in this sector, but today, we feel very excited about their potential.

Big Pharma and big med tech are already in Ireland—and if they’re not, they’re thinking about it, or they have a good reason not to be. Once any life sciences company in the world reaches a particular scale, and their IP reaches a certain level, they will definitely look into locations like Ireland, Switzerland, Singapore, and Puerto Rico. This trend is relatively stable, and so I’m more

excited about the new trend: the growth potential of our med tech companies. There are roughly 250 med tech companies in Ireland, and over half of them are indigenous.

What can you tell our readers about the supporting environment around these indigenous companies? Is Ireland a good location to incubate a new business in the life science sector?

I believe that it is. Firstly, Enterprise Ireland, the state agency looking after local businesses, is an excellent facilitator, mentor, and investor, and has a great international network of contacts.

Secondly, we have a critical mass of large multinationals present in the market, and that presence has the dual benefit of offering experience to any future entrepreneurs who work for these companies, and creating a lucrative local market in of itself for sub-suppliers and service providers. Furthermore, once those sub-suppliers and service providers reach a certain scale, they can become viable candidates for investment, acquisition, or merger.

Enterprise Ireland's Brian O'Neill mentioned that maybe some of these local companies are offering themselves up for sale too early in the game.

We can perhaps attribute that trend to the broader Irish attitude towards start-ups and investment. Some people have asked why Ireland is not more like Israel, where it seems that you are not a 'real entrepreneur' unless you have failed five or six times before your first success. In Ireland, people want to 'get it right the first time'—and even our bankruptcy laws are structured around that notion.

Irish entrepreneurs have tended to think, "I've gotten this company to a certain scale. There is an offer on the table. I'm going to take it." Mark Zuckerberg had the self-assurance to turn down the billion and it takes a certain amount of confidence within yourself and your environment to be able to do that. That confidence will grow over time in Ireland, particularly when entrepreneurs start selling their companies and see those companies re-sold ten years down the line at triple the price.

We should also consider the current flux in the economic environment. I can certainly understand Enterprise Ireland's point of view—they would prefer indigenous companies to grow bigger and bigger, and enter 50 different global markets. However, for people looking to bring security to their families, taking an offer may prove too tempting to give up.

With that said, I want to point out that many of our entrepreneurs are already taking a longer-term view. Judging by the volume of capital investment work that has come into our firm, there seems to be a fair amount of interest in these companies, and several Irish med techs have gone through fairly substantial A-rounds and B-rounds of funding.

How has the sector withstood the recession?

The FDI pharma sector in Ireland was not badly affected by the recession—the recession may have in fact helped, because Ireland's cost base went down. However, Irish companies have definitely been affected, primarily because of the banking crisis. It is very difficult to get credit in Ireland today. A number of early-stage start-ups with great ideas simply have not been able to get off the ground because they were not able to secure the funding to get to market.

And yet, there are a number of venture capital firms and angel investors in the market at the moment, and now that the environment has relatively stabilized, there are more foreign-based investors looking at Ireland. Even though bank lending has not returned to normal, there is a bit more capital circulating the market today.

In general, while our economic indicators are nothing to write home about, we do see some positive trends: unemployment is dropping, the house prices in Dublin are going up, etc. That will help more Irish companies get set up in the life science sector, and, just as importantly, stay up and running—allowing them to reach the scale, returning to Brian O'Neill's point, where they have the confidence to ride out a storm or fund themselves through clinical investigation or whatever stage they need to pass to get to market.

Are you optimistic about economic recovery?

I am. Here at the firm, see signs of increased activity in the country. We are busy, and we are expanding—and if we are busy now, that means that when these projects come to fruition in 12 months' time, there are more goods for consumers to buy, and so the wheels keep turning.

Will Ireland be the best small country to do business by 2016?

Are we not the best small country to do business in already?

Well, according to the Taoiseach's speech at the recent IBEC CEO Conference, it's still an ambition! What do you believe the country needs to do to get there?

To a certain extent, we need to keep doing more of what we're doing. We have a highly favorable tax regime and great structure in the market, and we have to retain those elements. The tax rate is not going to change, and I believe the Troika also realizes that if we adjusted the rate we would not

be able to pay back our debts.

At the same time, if we sit still, other countries will overtake us. We have transformed ourselves tremendously in recent years: in just the 14 years I have been with the firm, Ireland has gone from being primarily an API manufacturer to a global biotechnology hub. We need to continue to evolve, and we can look to countries like the UK and their IP models and R&D tax credits for inspiration.

If you speak to the pharma plant managers, they would say that we need to ensure that the right graduates are coming out of our schools, so when companies look to set up in Ireland, they will have access to people with the qualifications they need. Industry and universities have to partner to ensure that people are learning the right skills. The plant managers are perhaps the best people to turn to in order to examine this question—because if they are getting what they need, then Ireland is a good place to do business.

Science Foundation Ireland's Mark Ferguson mentioned that even in this period of austerity, his budget has remained relatively stable—a clear indication that the government is betting on science and innovation to lead the way forward for this economy. Is that a risky bet?

I believe Ireland has serviced those industries very well, and that we would be crazy not to continue to support them. I wouldn't call it a risky bet. I think that now more than ever, as the world faces a recession, life science companies have to identify where they can go with their scarce resources. The Irish state is sending a clear message to those companies.

What makes Arthur Cox a partner of choice to the pharma and life science industry, and how can you further improve your practice over the next few years?

We have a good deal of expertise and experience, and that's vital. We have a number of people who have worked as internal counsels in the industry, both in Ireland and abroad. We also pride ourselves on having the top picks among graduates every year.

There are five full-time members in our life science team at the moment, but many of the firm's other lawyers will overlap with our work, so I would estimate that there are 30 or 40 people in the firm that are heavily involved in one or another aspect of the industry. We are able to provide the full scope of services that clients in this field need.

I believe we are good value for money. We work extremely hard and we don't like to let our clients down. I believe that that dedication distinguishes the top firms in Ireland from the second tier. We are happy to have the work we do in this environment, and we are fortunate to have the clients we do. We ensure that they get what they need and that is why they trust us. We don't do all the work

for these clients, but when it’s something with a major impact on their business, they call us.

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