The claim

Every board that buys advice takes a second decision hidden inside the first: whose vantage the advice is written from. Two chairs produce documents that look alike. Only one owns the consequence — a P&L that must close, a payroll that must clear, a licence to operate that a regulator can suspend. The observer's chair owns the document: it analyses, benchmarks and recommends, and when the recommendation fails it files a lesson learned. The question is not whether observers are intelligent.

Our position, written into how this firm works, is that decision advice — a recommendation that commits someone else's payroll, balance sheet or licence — is only trustworthy when it is authored from the operating chair, by people who have owned that class of consequence. Analysis can be produced honestly from the observer's chair. Advice cannot, and the two should never travel unlabelled in the same document.

The claim is deliberately narrow. We do not argue that operators are always right; operators fail conspicuously, and the liability record proves it. We argue that the legal architecture, the governance codes and the judgment research all point at the same seat, and that a board can test cheaply which chair its advisers write from.

The evidence

Start with where the law puts the consequence. Under the OHADA Uniform Act on commercial companies — the company law a business in Abidjan, Dakar or Lomé actually lives under — liability for management fault is personal and attaches to the seat.

> EVIDENCE
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> Under the revised OHADA Uniform Act on commercial companies (AUSCGIE, 2014), each company officer is individually liable to third parties for faults committed in the exercise of his or her duties; where several officers participated in the same acts, their liability is joint and several (Articles 161 et seq., individual and company actions).
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> Source: AUSCGIE (revised 2014), OHADA, ohada.org / ohada.com, texts in force as of 2026 · Geography: seventeen OHADA member states, West and Central Africa · Method: uniform act text · SEG-5 · Caveat: the liability described attaches to company officers (dirigeants sociaux), not to external advisers, whose exposure runs through contract and general tort law; application varies with member-state case law.

The governance codes make the same allocation from the other direction: they refuse to let accountability travel with delegation. A board may buy all the advice it likes; the codes return the consequence to the boardroom unopened.

EVIDENCE

King IV provides that members of the governing body remain accountable for responsibilities executed even when delegated; the UK Corporate Governance Code (2024 revision) makes the board accountable for maintaining and declaring the effectiveness of the risk management and internal control framework.

Source: King IV Report on Corporate Governance (IoDSA, 2016); UK Corporate Governance Code, Financial Reporting Council, January 2024 · Geography: South Africa; United Kingdom (listed companies) · Method: code text · SEG-5 · Caveat: comply-or-explain and apply-and-explain regimes; the codes bind boards, not advisers, and neither code names advisory work.

The judgment research explains why the seat matters for the quality of the advice, not merely its fairness. The operating chair is structurally the seat that receives the feedback: the missed payroll, the covenant call, the regulator's letter arrive there and nowhere else. An observer studies such events; the operator has been corrected by them.

EVIDENCE

Kahneman and Klein (2009) conclude that intuitive professional judgment is trustworthy only where the environment offers sufficient regularity and the professional has had prolonged practice with feedback on judgments; subjective confidence is not a reliable indicator of validity.

Source: Kahneman, D. and Klein, G., "Conditions for intuitive expertise: a failure to disagree", American Psychologist 64(6), 515–526, 2009 · Geography: not geography-bound; US-anchored research programmes · Method: peer-reviewed adversarial collaboration; conceptual synthesis, not a new experiment · SEG-4 · Caveat: the paper states conditions, not measurements of advisory industries; it does not mention consultants or corridors, and the mapping from "feedback on judgments" to "operating consequence" is our reading.

Assembled, the three point one way: the law fixes consequence to the seat, the codes forbid it to leave the boardroom, and the research says trustworthy judgment is built by consequence feedback. Our position, graded as such: advice authored from the observer's chair escapes both the liability architecture and the learning loop, so a board should treat it as analysis until the author's owned consequence is shown.

The distinction stops being abstract in our corridor. A European holding board authorising capital, covenants or an exit for an operating company in Abidjan or Dakar is deciding about seats it can name: a managing director whose signature engages the company under OHADA law and whose personal exposure under Article 161 is not theoretical; a payroll cleared in CFA francs under the BCEAO's currency arrangement; a licence held from a francophone regulator. Most of the advice arriving at that board is written a long way from those seats. The observer's question is which structure is optimal; the operating question is which failure this payroll can absorb, and it produces different sections — thresholds rather than scenarios, exit conditions rather than upside cases, the named seat that acts when the assumption breaks.

Evidence cards

CLM-AUSCGIE-DIRECTOR-LIABILITY · SEG-5. Claim: under the revised AUSCGIE (2014), each company officer is individually liable to third parties for faults committed in the exercise of duties, jointly and severally where several participated (Articles 161 et seq.). Context: seventeen OHADA member states, texts in force 2026. Method: uniform act text. Contradictory evidence: liability attaches to officers, not external advisers; member-state case law varies in application. Causal confidence: none claimed — institutional fact. Transferability: entities governed by OHADA company law. Review date: 2026-08-02.

CLM-GOV-CODES-ACCOUNTABILITY · SEG-5. Claim: King IV holds the governing body accountable for delegated responsibilities; the UK Corporate Governance Code (2024) makes the board accountable for the effectiveness of risk and internal controls. Context: South Africa; UK listed companies; code texts as of 2026. Method: code text. Contradictory evidence: comply-or-explain and apply-and-explain regimes admit explained departures; neither code addresses advisers. Causal confidence: none claimed. Transferability: any board operating under a modern governance code. Review date: 2026-08-02.

CLM-KAHNEMAN-KLEIN-CONDITIONS · SEG-4. Claim: intuitive professional judgment is trustworthy only in learnable environments with prolonged practice and feedback on judgments; confidence is not a validity indicator. Context: peer-reviewed adversarial collaboration, American Psychologist, 2009. Method: conceptual synthesis of two research programmes. Contradictory evidence: the paper quantifies no thresholds and studies no advisory industry; our seat-to-feedback mapping is interpretation. Causal confidence: low — conditions stated, not experimentally isolated here. Transferability: professional judgment domains generally. Review date: 2026-08-02.

CLM-FIRM-OPERATING-CHAIR · SEG-2 (firm position). Claim: advice authored from the observer's chair escapes both the liability architecture and the feedback loop, and should be read as analysis until the author's owned consequence is shown. Context: firm operating practice in the WAEMU–euro corridor. Method: interpretation anchored on the three cards above; no outcome dataset is cited. Contradictory evidence: operators carry their own biases — sunk commitment, survivorship, proximity; observer analysis is the correct instrument for many questions. Causal confidence: none claimed. Transferability: bounded to decision advice; does not apply to analysis, benchmarking or description. Review date: 2026-08-02.

The limits

Operators carry documented biases of their own — sunk commitment, survivorship, proximity — and observer analysis remains the correct instrument for many questions. Where this firm has not owned the class of consequence at stake, the claim is graded down and the grade is printed.

Sources and limitations

Sources and limitations. The institutional facts in this note rest on the text of the revised AUSCGIE (2014), the King IV report and the UK Corporate Governance Code 2024, each cited with its caveat; the judgment condition rests on Kahneman and Klein (2009), a peer-reviewed synthesis that quantifies nothing about advisory work. The step from those anchors to the operating-chair rule is the firm's position, graded SEG-2: an interpretation consistent with the cited architecture, not a measured result — we cite no dataset comparing outcomes of operator-authored and observer-authored advice, because we found none meeting our standard. The boundary is explicit: the position covers decision advice only; analysis, benchmarking and description are legitimately produced from the observer's chair, and operators carry documented biases of their own. This note is not valid as legal advice on AUSCGIE liability, nor as a claim that any named class of adviser is negligent.

What to do on Monday

1. The Chair requires every adviser to state in writing what consequence the author has personally owned — P&L, payroll or licence — and when. If the answer is a methodology rather than a seat, reweight the document as analysis.

2. The Company Secretary labels analysis and advice separately in every board paper before it is circulated. The two are checked differently: analysis against sources, advice against the author's owned consequence. A paper that blends them is asking not to be checked.

3. The Audit Committee Chair records in the minutes what the adviser loses if the recommendation fails. Fee structures that survive failure are a reading instruction.

4. The managing director who carries the Article 161 class of liability reads the paper before the board votes. If the consequence-bearing seat has not seen the advice, the board is choosing on that seat's behalf with the observer's eyes.