Through the looking glass – The future of in-house legal teams

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Inherent focus

Identify the Value
Crystallize the Value
Realize the Value

STRATEGIC TACTICAL DELIVERY

→ PROCESS EXCELLENCE
Introduction

What we plan to cover:
1. Context: The Market
2. Understanding Value
3. Focussing on Value
4. Smarter Sourcing
5. Repurposing the Legal Team
6. Best in Class Legal Teams
7. What other Legal Teams are Doing

The market

*Perfect storm* for the global legal market

Margin/Rate Squeeze

Regulatory Burden

Pressure on business to reduce cost

What next?

The estimated cost of regulation compliance for 2013 soars above $1 trillion
EU $309bn
Asia $311bn
US $557bn*

*World Trade Organisation (2013): World Trade Report 2013 Factors shaping the future of world trade*
Wrong focus!

Market fixated on cost, step forward Professor Susskind*

But cost reduction only gets you so far……

* "The Evolution of Legal Service" from The End of Lawyers? by Professor Richard Susskind (OUP 2010)

What is value.....its not about cost saving

*The global legal services market had total revenues of $610.4bn [US] in 2013, representing a compound annual growth rate (CAGR) of 3% between 2009 and 2013.*

1. To bring money in
   - Create/maintain rights to operate
   - Engage new business/territories
   - Create new brands/franchise models
   - Pursue claims

2. To prevent money going out
   - Regulatory/Legislation: Avoid/times/sanctions
   - Contract: Monitor/manage contractual performance
   - Rights: Enforce IP
   - Tort: Defend claims

In-House Counsel Day 2015
There are, in resourcing terms, three categories of legal work:

**Bet the ranch**
- Of material impact to the balance sheet, directly or indirectly
- “Unknown Unknown” – unforeseeable, unpredictable
- HIGH RISK, PEAKY DEMAND
- Buy hourly rate with Tight Budget Control Methodology

**Strategic & technical**
- Supports, enables and/or protects the strategic business plan
- “Known Unknown” – foreseeable, unpredictable
- MEDIUM RISK, UNITARY DEMAND PEAKY BUT CONSTANT AT MACRO LEVEL
- Buy through matter per matter AFAs

**Business as usual**
- Supports, enables or protects the operations of the business
- “Known Known” – foreseeable, predictable
- LOWER RISK, DEMAND CONSTANT
- Buy through fixed price portfolios with unitary rebasing

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**In House/External Blend**

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Matching resource to demand

MAP SOURCES OF DEMAND

MAP RESOURCE REQUIREMENTS AGAINST DEMAND

MAP CURRENT RESOURCES

GAP / OVERLAP ANALYSIS

RECONFIGURE RESOURCES

MAKE v BUY GAP RESOURCING ANALYSIS

BUILD DYNAMIC MODEL

Making it Real

Identify the Value
- Mapping the Work
  - Status quo of legal demand
  - Map resource requirements
  - Make v Buy
- Filter the Demand
- Apply Taxonomy
- Market Intelligence
- Benchmark
- Scope Demand
- RFP
- Select Suppliers
- Against taxonomy and benchmarking

Crystallize the Value
- Engage Suppliers
  - Set out objectives and commercial rationales
  - Explain terms of engagement
- Assess Supplier Capability
  - Bench strength
  - AFA capacity
  - Technology enabled
- Agree Metrics and Commercial Terms
  - MSA and individual matter engagement mechanism

Realize the Value
- Supplier Management
- Productivity tools
- Engagement management tools
- Budget management
- MSA and individual matter engagement tools

Lessons Learned and Demand Management (suppression)
- Post-action analysis
- Build/refresh tools to prevent future issues
- Redress/legal demand models
Best in class legal team

Things rarely go wrong inside legal!

"Legal Risk" becomes real either before legal are aware of the issue or once legal do their bit:

Pre-engagement Legal Risk
- Failure to follow policy
- Breach of Statutory/Regulatory Duty

Post-engagement Legal Risk
- Breach of contract
- Failure to exploit rights

Discussion

Pre-Engagement Legal Risk?

Preventing Risk?

Measurements?

Post-Engagement Legal Risk?

Preventing Risk?

Measurements?
Measuring value

**Soft Measurement – v – Hard Measurement**

**Soft Measurement**
- Statement of outcomes that legal has contributed to.

**Hard Measurement**
- Statement of outcomes that legal has directly delivered.

**Value – two case studies**

**Soft measurement**

The In-House Legal team of an International Bank want to demonstrate the contribution it had made towards business outcomes. Whilst all legal staff reported directly into the Office of the General Counsel, they were physically situated with individual businesses and dispersed geographically. The In-House Legal Team had no bespoke legal management systems (only generic systems for the bank itself) and it was impossible to get visibility of pre or post engagement legal risk outcomes.

Therefore, the team sought to collate (manually) the following data:
- Volume of regulatory matters (investigations, etc), per annum
- Value of contracts written, per annum
- Value of Litigation defended (macro), per annum
- Value of litigation claims made (macro), per annum
- Value of intellectual property registered or renewed, per annum
- Value of other projects contributed to (employment, etc), per annum

**Hard measurement**

Global conglomerate wanted to better understand how they affected, directly, outcomes within the business. Devised a method of mapping the sources of demand; benchmarking the outcomes and then repurposing the legal function to drive outcomes that directly delivered value – ie ensured ‘value in’ happened and that ‘value out’ didn’t happen.

Legal team used e-discovery technology on ‘enterprise’ system to sample outcomes in initial year and then ‘logged’ outcomes manually in subsequent years to demonstrate impact of spend v outcome. Considered but did not implement contract tracker technology as unable to secure capital outlay.
Repurposing the legal team

- Reporting and Monitoring
- Technical Queries
- Case/Matter Management
- Supplier Engagement and Management
- Regulatory Compliance
- Dispute Management
- Rights Management
- Commitment Management
- Authority and Approvals Process
- Strategy & Planning
- Commitment Reporting
- Rights Reporting
- Operational Improvement (Lessons Learned)

Business Insight

Are you aligned to the business in a way that enables the proactive identification and management of legal risk?

Efficiency

Do you have an agenda for internal and external efficiency of internal processes and ensure supplier engagement?

People

Does the balance of internal and external resource meet the needs of your business and develop your people?

Organisation

What are the processes in place to mitigate and what do they mean for the business?

Technology

Can you streamline internally and externally to improve efficiency?

Compliance & Control

What are the appropriate levels of control in place to manage risk whilst not straitjacketing the business?

What are the types of things other legal teams are doing?

- Horizon scanning for relevant legal developments
- Ensuring there is sufficient access to know-how, precedents and existing documents
- Contracts repository with date alerts
- Establishing efficient but robust ways to disseminate guidance (e.g., bribery and corruption training/blogs and mock dawn raids)
- Reviewing and updating fundamental contracts/business methodology
- Implementing and constantly improving policies and procedures
- Talent/career management
- Secondments (real or virtual – “on demand”)
- Legal process outsourcing/Northshoring
Best in class efficiency: Knowledge management

- Knowledge management saves time, supports a consistent service and avoids mistakes
- Internal knowledge management responsibility
  - part/full time
  - lawyer/knowledge manager
- Not PSL, a co-ordinator, gatherer of ideas and focal point
- Network of experts
- Listens to firms’ KM ideas and selects only what will work in GMF’s context - making theory into practicality
- Practical ways to share knowledge in your business
- Drives know-how sharing culture
- Active senior support vital for change

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