



Benchmarks 2005

Altman Weil's 2005 chief legal officer survey asked what, over the next three to five years, is your greatest long term (over the horizon) concern? The top responses in order of frequency were:

1. Compliance

- Governmental emphasis on compliance in public companies, and the huge resources required to accomplish this training on an ongoing basis
- Increase in shareholder suits over compliance/SOX issues
- Increased governmental regulation

2. E-Discovery and Records Management

- Massive document retention and discovery issues (paper and electronic)
- Enterprise-wide information security

3. Resources to Operate the Legal Function

- Managing increasing workload
- Cost of outside counsel
- Retention of employees

4. Liability

- Liability of inhouse counsel combined with increased responsibility
- The failure to recognise the evolving role of inhouse counsel and the increased risk of personal liability because of the involvement in business decisions and the erosion of privilege

Trends in corporate legal...

Tied at the hip: Vision, Strategy and Technology

Most corporate legal departments spend more than half of their budgets on outside counsel, according to a survey of US law departments conducted by PWC. Some spend as much as 90% or better. Surprisingly, in an age of unprecedented ability to capture and analyse business data, many general counsel don't use such resources to evaluate the quantity, quality and distribution of outside work, their largest expense by far. These same systems streamline the processing of legal invoices and automatically check those invoices against legal's outside counsel billing and procedure guidelines, producing incredible savings with no manual investment. Moreover, the detailed data that is delivered inside of a legal invoice makes it potentially the most valuable document within corporate legal departments as it represents the vast majority of the legal budget.

The question which naturally follows is "why do general counsel ignore such obvious opportunities and thus perpetuate their own status-quo?" Answers vary from no time, to no budget, to no resources. In far too many cases however it may simply be a lack of vision and thus failed or missed opportunity. Good leaders cannot always be faulted for a lack of resources, but leaders can never be excused for a lack of vision which is requisite to lead, to drive opportunity, to make change and enable progress. Vision is requisite to sound leadership.

Leaders understand that opportunity is a function of vision, rarely luck; being able to see into the future in order to predict events and outcomes and then creating opportunity based on the vision. In fact, acting on vision and creating opportunity is inherently risky; not always the lawyer's forte. Vision is differentiated from guesswork when it is based on solid information. Fulfilling a vision and succeeding with opportunities is a function of planning, dedication, skill and hard work, all based on facts and no different than preparing for and succeeding at trial. The technology certainly makes a difference in the quantity and quality of information it can deliver (think law books, WestLaw and LexisNexis). *continued on page 2...*



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Tied at the hip

continued from front page... But real opportunities are made successful by the creative, visionary use of the information delivered by technology and not by the technology itself.

This is not an argument that technology doesn't make a difference; the opposite is entirely true. It is an acknowledgement that we buy technology to support thinking and not for its own sake. Even the act of thinking and planning for new technology can have huge benefits and in many ways lay the foundation for the changes that technology enables.

For starters, in the process of selecting, planning and implementing a technology the legal team discovers itself, how it works, what its interdependencies are, where its weaknesses exist, why it is successful in some areas and fails in others. The properly implemented system ties the team together making it easier to communicate, reducing friction and duplication, increasing throughput, decreasing workload and increasing productivity.

Once implemented, technology lengthens and broadens a leader's vision. Legal management gets more visibility into work, work product and spend. The department and its members are more accountable to each other and prepared to be more accountable to corporate management because they now understand themselves, their mission, their work, its costs, their strengths and weaknesses. And the technology, spend management, matter management, document management and e-billing support it all. Once a department understands itself and has systems in place to support and maintain the new structures, only then is it prepared to truly change itself. To this point, it has only been reorganising, preparing to change by putting technology in place to support real strategic thinking, by getting to know itself, and by discovering how to use ↪

↪ the information that the technology and the implementation of that technology have enabled.

The key to all key opportunities for corporate legal departments is information that can only be efficiently developed, supplied and used with legal technologies in place. Otherwise, these tasks fall to human beings employing manual processes which are invariably and inevitably inadequate and or flawed. In any event, the employment of humans to such tasks is always more expensive and more risky than the employment of technology. For those that don't believe that, ask your secretary to compare their efficiency and their error rates, before and after the introduction of the word processor or word processing software. Ask further why carbon copies are a thing of the past.

The strategic value of the information delivered by IT systems cannot be understated. Vision and strategy are nothing more than a plan for the future based on information about the past and present, enhanced by the application of good leadership, skill and experience. The value of inhouse counsel's vision and strategy are directly proportional to the quantity and quality of his or her information. General counsel who continue to depend on manually collected data and ignore the advent of technologies that can help build information and drive strategy risk becoming an anachronism inside of their own companies.

Vision and opportunity can be abstract terms, the point to be made is that opportunity is inextricably tied to a vision and that execution on opportunity in today's world is more a function of information technology than ever before; not only the technology itself, but the physical process of putting these technologies in place. No general counsel at today's high speed companies, part of a high speed and high risk economy, can lose sight of the fact that without vision opportunity is laid bare to good fortune, a situation no good lawyer can tolerate.

Though not the only tool at their disposal, legal technology is most certainly the lowest risk, highest ROI investment a GC can make in order to support their vision, drive new strategy and create and succeed with new opportunity. Before embarking on your own shopping spree, take a look at these tips:

- Knowing what is available. If you are going to champion a system, you must know what is available and have narrowed the field of available options. Do not come into a selection process with a pre-selected option. Keep an open mind. ↪

Tied at the hip *continued from page 2...*

- Bad or rushed planning will kill a project quickly. Take selection, planning and implementation slowly. Do not allow a consultant to do all of the work for you. You must be emotionally vested in the project for it to succeed. Consultants can not create the buy-in of your users and staff. A new IT project is as much an emotional and conceptual journey as it is a technical and problem solving exercise. In planning, be realistic. Do not let ill conceived expectations drive your project, change the expectations. Think first, plan second, shop last.

- Show ROI based on real customer experiences. Have existing clients speak about the value of the systems they implement. Tie benefits of the system directly back to problems faced within the prospective buyer of a new technology. It is highly likely these technologies, when weighed against benefits, pay for themselves very quickly and continue to add to the bottom line over a long period.

- Internal support. A key to getting a project moving is internal support. Define the key individuals who need to support the project. Tailor arguments to address their particular interests/concerns. A generic argument is not enough. Each argument must have a personal payback for the individual in order to gain their support.

- IT will either be driven to dedicate resources by a powerful champion like the general counsel, or they themselves will see the merit. If they already have to support antiquated systems or reporting needs for legal, argue why the new system will make life easier for them. Remember, the selected system must have technical components that do not conflict with existing IT standards. Preferably, the selected system will complement existing standard corporate technology.

- **Jeff Hodge is Director EMEA Business Development at DataCert Europe, email jeff.hodge@datacert.com**

Factoid

According to the US Bureau of Labor Statistics, the median annual income of all lawyers in 2000 was \$88,280 (£47,671) with half of all lawyers making less than that. By comparison, the median annual income for physicians, family and general practitioners in 2000 was \$114,170 (£61,652). Eighty-five percent of partners in corporate law firms earned more than \$200,000 (£108,000) in 1995.

Trends in corporate legal...

PLC's 2005 law firm partnering best practices survey

Among the findings of PLC's latest survey, and it is worth noting that there were no US respondents, all were from Europe or Canada and most were large corporate legal departments...

- The most valuable technologies employed by law firms for clients were secure email, electronic invoicing, time reporting, and online document repositories
- 30% of respondents use departmental administrators and 10% employ billing administrators.
- Legal costs and budgets increased significantly, with the largest increase being the spend on external advisers.
- The median hourly rate per partner for specialist advice increased from \$550 (£300) per hour to \$800 (£430) per hour.
- Only 10% of respondents outsourced work because it was high-risk. Most felt the law department gave better advice.
- 82.2% of inhouse lawyers never or rarely receive discount for early payment*
- 75% of respondents said the value provided by law firms is subjective and cannot be measured, while external fees increased at 45% of respondents.
- 32% of respondents expect outside fees to increase over the next 12 months.

* It is unknown from the survey whether payment delays are generally built into rates or, if they are, why quick pay discounting is not generally used by firms to incentivise clients or demanded by the clients themselves.

Best Practices...

The role of finance: law firm or client ?

The following article is about the role of finance inside of a major global company; either a corporate or a law firm. It is also something of a mystery, at least until the end of the piece, because we aren't going to reveal the author, their organisation or their role until the end. Please read the article with the goal of figuring out if it was written by an accountant from a law firm or a corporate legal department. Resist the temptation to peek until the end and we promise the point made will be worth the wait...

As a chartered accountant approaching the mid-point in my career when I joined a major multinational company. I thought long and hard about what I was about to do. Would joining the legal sector provide me with the variety and challenges I could get and had been used to in general corporate finance? Would I narrow my career options in the future? Four years later have I regretted my choice? Not at all. The role has all of the variety and challenges I sought.

One of the most rewarding and exciting aspects of the role is the opportunity to continually improve the quality of information produced. This has in turn helped to change the way that management, lawyers, and support staff work together which has in turn made us a stronger organisation. Four years ago the information produced was predominantly on a locational basis for our various global units. Things have moved on rapidly since then and we have developed the ability to report on a multi-dimensional basis. Locational reporting is still a key measurement but is now part of a suite that includes analysis by practice area, matter and client (internal and external), among others. But I have not changed things on my own as my company and colleagues have also grown.

The role of finance is difficult to encapsulate in one phrase. Clearly there are various internal and external facing aspects to our role but what most legal managers, partners and general counsel, want, or should want, is sufficient financial and performance information to enable them to manage their part of the business as efficiently and effectively as possible, and to be able to form a view on their group's component value to the business. They want neither too much nor too little information, and gauging where the happy medium lies presents us with one of our biggest challenges. ↪

↪ Over recent years we have worked hard at getting the balance right, and the general consensus seems to be that we manage to do this for most people most of the time. Managing lawyers can now have as much or as little information as they want about financial performance but we have put a lot of effort into encouraging all of our managing lawyers to take a regular, active interest in the performance of their own teams. This now includes regular reviews of the financial aspects of their teams, of performance for individual clients and matters to identify what is going well, what went right and, where things did not go well in order to improve next time.

It is fair to say that most managing lawyers have enthusiastically embraced this process. In the past the only regular contact managers may have had with finance would have been when they were being pestered about the financial aspects of their area of responsibility. Today, managing lawyers are being visited to be told either that a particular client or matter has a good financial profile or to have a constructive discussion on what we can take from a less favourable financial performance. The latter, more often than not, stems from poor communication with the client which is usually rooted in poor information. This might take the form of unrealistic budgets or cost overruns, possibly as a result of a variation in scope after work has commenced that were not adequately discussed or documented. It is clearly in everyone's interest to avoid nasty surprises, so our mantra has been very much that confronting issues early often leads to the avoidance of problems further down the line. Of course this is easier said than done however better communication can only lead to an enhancement in the relationship between clients and lawyers and by providing concise, structured, readily absorbed information to the managing lawyers. I believe we are playing a more active role in improving our bottom line, rather than just measuring it. In this regard, technology plays a key role, for without ↪

The role of finance

continued from page 4... systems to capture and manage the financial aspects of our business we would no doubt be managing less effectively. There is simply too much information, changing too rapidly and with too many inputs to be managed without technology.

I have here only looked at one aspect of what we do in the finance function of the company where I work. In terms of how that differs from what the finance function of other companies does, firms or clients, I am not sure that there are that many differences once you peel back the layers. Both have certain responsibilities imposed by the outside world with the accounting and fiscal authorities being the obvious examples. But there are plenty of other stakeholders and firms and clients have responsibilities around the stewardship of their enterprise's assets, the provision of management information and advice.

The dynamics are different between a corporate and its law firms, but the partners, shareholders and analysts basically perform the same role and will express their views, just as strongly. Certainly, the impact on management is no less dramatic in either instance. In conclusion the role of finance in a well run law firm or company has, in my experience, evolved from that of *counting the beans* to being a fully fledged business partner. This change was well underway long before my time but it has been a privilege to be part of this continual - and ongoing - evolution.

The piece you have just read is a personal view on the role of finance by Mark Carter ACA, Chief Financial Officer for Allen & Overy, London (mark.carter@allenoverly.com) For those who were surprised to discover it was written by a law firm financier rather than a corporate legal COO or controller, congratulations. You have made the leap in thinking that is increasingly demanded by corporate management of their legal divisions: to view corporate legal more like the business that it is.

The business dynamics driving law firms today are in many ways fundamentally no different than those driving corporate legal. Both must show a profit, whether that be in terms of contributions to the bottom line or reduction of risk for their clients. Workgroups or practice areas inside of law firms and corporates must justify their existence. Increasingly, companies and their corporate legal departments are facing decisions about the right mix of inside and outside counsel or whether to fund an in-house department at all. Winners and losers are being decided by the appropriate balance of cost, their ability to measure ↪

↪ their value and that of their firms, and their ability to effectively communicate that value to their clients, the business units. Systems can support but not replace this fundamental shift in perspective; corporate legal as a cost centre or an indispensable part of the business. Finally, if corporate legal does not view itself in this way or is not being viewed by management in these terms – valuable, valued, accountable and worth measuring, one can only ask ‘why not?’

Opinion...

Lifting the veil: dealing with inhouse counsel

As a specialist provider of IT consultancy and software solutions to inhouse legal departments I have met with many general counsel and inhouse lawyers. When it comes to the use of technology within a legal department there are very few people around who have the time and patience to educate the market and create an awareness of the possibilities in technology. Most inhouse counsel still don't know or understand what their options are. While the market is still in this immature and naive state it is very easy for costly mistakes to be made and for customers to be led astray.

It is not uncommon to find that inhouse counsel have gone to their external law firms to find out what technology they are using. Some of those law firms seem to think they are also software vendors and, rather than concentrate on differentiating themselves by the quality of the legal services they provide, will try to lock a client in to a proprietary solution. Their thinking is that if the client becomes reliant upon their technology it makes it very difficult for that client to take their business elsewhere.

Other law firms just pass on the names of the software vendors with which they work. This can lead to more problems ↪

Lifting the veil *continued from page 5...*

than it cures for a number of reasons. Outside of inhouse legal specialists there is a common misconception that a lawyer is a lawyer is a lawyer and what is good for a fee earner in a law firm is going to be good for an inhouse lawyer. There is little or no understanding of the different processes, tasks and responsibilities that these two very different professionals undertake. Most software vendors have very little idea of how inhouse counsel works compared to law firms and they are not interested nor do they have the patience to invest in educating them.

The differences between law firms and legal departments have created a disconnect in the market. For example, the language and definition of 'case management' means something very different to each party. To a law firm this is a system that allows you to build workflows or automate process to handle high volumes of very similar types of matters. To an in-house legal team their work is much more ad-hoc and case management is much more about the management of relationships, both internal and external, and the tracking of budgets and actual costs.

Another point to note is that a software vendor usually only has one solution. They can not offer you an alternative so whether or not their product fits your requirements they will try to sell it to you. In addition, most vendors used to dealing with law firms are not interested in the smaller license numbers involved with inhouse legal and the often much longer sales cycles. Unless you are one of the larger legal departments, these vendors are rarely interested in your business. Like it or not you are too much effort for them with too little reward.

Some enlightened law firms and software vendors now realise this is a very much a specialist and niche market and quite regularly refer their clients to specialists who have the knowledge, experience and patience to work with an inhouse department. Moreover, with the increasing status of corporate legal outside of the US vendors focusing strictly on corporate legal are migrating their products to serve the emerging international market. One can only hope that these trends continue.

There are many different obstacles we face when approaching inhouse counsel about the use of technology. The biggest objection we find is the unwillingness to upset the status quo. This can range from the "we haven't had to have any special software systems to date, why should we need them now?" through to being shy to take the challenge to build a business case and to convince the board to finance a system. Many things contribute to ↪

↪ this lack of momentum towards change not least the deficiency in resources, whether that is budget, IT assistance, or department time; many times a severe lack of all three.

The second obstacle is a lack of knowledge or understanding about options. Raising awareness of the software solutions, the business benefits and return on investment their adoption can provide to corporate legal is a huge challenge outside of the US.

The third issue we encounter is a previous bad experience with a technology solution or provider. This bad perception is as much the IT industry's fault, as well as the negative feelings about some of the technology their law firms have foisted upon them. Why should you have to remember a different password and way of navigating through every different panel firm's extranet system to find the work product you are paying for?

In summary, inhouse lawyers may not be fee earners but they are high-value, expensive resources and are frequently viewed as a large cost centre within the business. Focus is shifting to their accountability within the organisation and managers are looking for ways to capture, measure and communicate their value within the organisation. They need to effectively control their costs, mitigate risk, be more productive and be more knowledgeable about their business. In simple terms, they need to be able to demonstrate clear added value to their internal clients. Without the correct tools at their disposal they can not produce the right level of personal and management information in an effective and timely manner. Their inability to do this severely affects their capability to progress and improve their legal services. The old adage 'How can you manage what you can't measure?'

Roy Russell is a director of the inhouse technology consultancy Ascertus, email roy.russell@ascertus.com