



The Information Imperative for Today's General Counsel

Over the past decade no other executive role within business organizations has evolved to the extent of that of the general counsel (GC). Surging legal and litigation costs coupled with increasing regulatory pressure and an uncertain economy have expanded the GC's responsibilities to be not only an executive advisor, but also a risk manager and a business decision-maker handling large budgets. As a result, gaining greater control over information and processes to drive efficiency and better manage risk is now top of mind for the GC, often dominating the department agenda.

This expanded scope of responsibility notwithstanding, the legal department has also undergone significant cuts over the last few years. In the current economic climate spending on legal staff and technology is not expected to rebound quickly and departments must find new ways to gain efficiencies and lower costs. The cost-cutting measures legal departments are making include outsourcing low-value work to offshore Legal Process Outsourcers (LPOs), bringing more work in-house and becoming more selective about when and how they work with outside counsel.¹ BTI Consulting Group reports that in 2009 spending on outside counsel declined 10.8 percent to \$18.5 million, and is projected to drop another 4.3 percent, to \$17.7 million in 2010.²

In coping with leaner staffing and shrinking budgets, many legal departments are gaining an advantage through the use of web-based technologies. The most successful GCs have acknowledged an imperative to gain greater control over information, drive more efficient processes and manage risk more effectively within their own organizations, as well as when working with external providers. This whitepaper explores that information imperative and makes the case for a web-based document repository as a driver of greater efficiency and collaboration for legal teams.

¹ Robert Half Legal, Future Law Office: Delivering Maximum Value in a Cost-Conscious Legal Era, 2010, 15. Available at: <http://www.roberthallegal.com/FutureLawOfficePDF>

² BTI Consulting Group, Premium Practices Forecast 2010: Survey of Corporate Legal Spending. Available at: http://www.bticonsulting.com/PDFs/BTIPremiumPractices2010_EXEC%20SUMMARY.pdf

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“In-house counsel want a single online system where they can manage all of their legal work directly with all of their outside counsel worldwide, not a maze of different law firm extranets or internal systems that don't connect with outside counsel.”⁴

— Rob Thomas,
Author, 2009 ACC/Serengeti
Managing Outside Counsel Survey

The Evolution of the Legal Team

Today, in-house lawyers have evolved from providers of legal advice to core business advisers and key strategic participants. In fact, legal departments are being invited to brainstorming sessions before new products and services are launched in order to identify, and in many cases quantify, potential risks. This is a significant change from the past when lawyers were only called after the fact to address a problem.

As in-house lawyers become more diverse counselors, they need to advise senior management not only on the legal issues associated with specific initiatives, but the actions necessary to accomplish those tasks. The GCs who can provide a quantifiable response will build trust in an increasingly numbers-driven economic climate.

But as legal departments change their operational models, they find they must also improve their internal processes; find ways to leverage knowledge with fewer resources; gain efficiencies with internal projects; better manage outside suppliers; and improve collaboration with geographically dispersed team members and outside counsel.

Fast and Efficient Access to Information is the Key to Success

While legal departments are reducing their spending by keeping more matters in house, the dilemma for those teams is how much they can manage internally. The disproportionate ratio between increased responsibility and department size makes it paramount that teams have fast and efficient access to critical information. As the hub of vital corporate documents, legal departments have access to terabytes of sensitive and critical documents, including contracts, research, and case histories.

The reuse of templates, reliance on prior history, and a collective approach to business intelligence are the keys to increasing the effectiveness and performance of legal departments. Improved document access and visibility ensures repeatability that enhances efficiency of the in-house team's cost and risk management.

Each time a document is created, it could contain additional details about the reason for that creation and the amount of time necessary to complete it. Monitoring this type of data allows legal teams to evaluate the efficiency and performance of their internal teams, as well as any related external advisors. It enables law department leaders to assign key metrics and better assess the time necessary to commit to a specified task.

Unfortunately, documents are too often scattered among different hard drives, filing cabinets and email folders, making it impossible to easily locate and leverage legal documentation, and often adding unnecessary time and cost to a project.

For example, the discovery phase of major litigation could require 50% of a legal team's budget, particularly where the office is disorganized, and electronic discovery could consume a majority of that budget.³ Poor time management often results in requests for extensions and the quality of work filed under unnecessary time pressure tends to be lower in general.

Given the chief legal counsel is accountable for proactively reporting and managing an ever shrinking budget, and that in-house teams are requiring more frequent status reports from their outside lawyers, it is essential that every dollar spent is used for unique high-value performance, rather than wasted on inefficient tasks. As in-house teams use the majority of their corporate budgets on law firms and service providers, distribution and workflow changes between external lawyers and their internal counterparts are essential.

³ Frank Wu, Skyrocketing Costs and the Impact of E-Discovery, Protiviti Inc., June 2009. Available at: <http://www.protiviti.com/en-US/Insights/POV/Documents/POV-e-discovery-Protiviti.pdf>

⁴ Robert Half Legal, Future..., 18.

Web-based Repositories Support the Information Imperative

The need for efficient and effective information control has driven many GCs to adopt web-based document repositories. According to a 2009 survey by the Association of Corporate Counsel, 51.3% of in-house counsel planned to adopt an Internet-based system to work directly with their outside counsel.⁵

Levering technology to provide legal departments with centralized access to their collective work product, contracts, regulatory filings, financial transactions, audits, and Board of Directors reporting is fundamental to the reinvention of the general counsel. Providing them with material that outside law firms generate, as well as the associated insight they share during the creation process, enables corporate counsel to make better economic decisions on project strategy and work distribution. This is particularly true when lawyers are spread across various locations, in different cities, or throughout the globe.

Web-based repositories allow real-time monitoring by all parties to a transaction, which is a compelling solution to the global challenges of litigation management. Rather than synthesize reports from teams across the country or around the world, in-house legal personnel can review updates in a single destination. They can monitor who is accessing which documents, why they are doing so and the results of such access. They can seamlessly determine the quality of the work without alerting anyone to the review process. With this type of transparency and visibility into the work product of outside counsel and other collaborators, GCs are able to benchmark law firm performance against key metrics, such as efficiency, value and cost-savings.

The Next Generation of Information Management

A fragile economic climate is making risk a much more narrowly focused concern for in-house counsel. With non-lawyers becoming more aware of the compliance and risk-related problems inherent in some of the formerly harmless activities presented by social media and technology in general, e.g., posting documents online, there is a closer connection between the overall mission of the organization and the responsibility of its counsel.

Corporate counsel must now, more than ever, consolidate their information into a unified knowledge resource to address compelling risk management and cost control drivers. Business group leaders are approaching the legal department due to a general appreciation that its members should be involved in key decisions at the outset. And, of course, the value in centralized knowledge management can be seen in global cost savings.

The documents that members of the legal department draft and review are critical to the operation of the company and the relationships that drive its success. Enhanced control of that material can positively impact both. In addition, some web-based repositories provide user- and document-level access controls that offer a level of security needed to safeguard sensitive information, particularly when working with outside parties or exchanging documents with Board of Directors. This is a valuable benefit to GCs who are looked upon to manage and mitigate risk.

There is also a continuing interest in facilitating productivity given that most corporate legal departments are staffed leanly and consistently seek to maximize their resources. The key to achieving that elusive goal is to commoditize processes, protocols and policies. Successful GCs have found new ways to manage information and create uniform actions and material that outside counsel can copy or use as a guide. Implementation of a web-based repository that can act as a searchable, legal database enables lawyers to quickly locate active and historical documents, templates, case histories and research and reuse such material across the legal team.

51.3% of in-house counsel planned to adopt an Internet-based system to work directly with their outside counsel.

⁵ Controlling Outside Counsel Legal Spend Surpasses Compliance Requirements as Top Concern for In-house Counsel. Press release summarizing highlights of the 2009 ACC/Serengeti Managing Outside Counsel Survey, Oct. 19, 2009. Available at: www.acc.com

“Courts continue to hold businesses accountable for how they handle — or mishandle — document preservation and production... Organizations should consider moving from reactive mode by creating effective and defensible processes and systems for controlling records and information. This way, they can manage the risk up front — proactively.”⁶

— Frank Wu,
Managing Director,
Protiviti Inc.

With Internet-based resources, the GC has greater access and information on alternatives for external work that can be done at a lower cost or more quickly. Among other options, legal departments are increasingly turning to the use of LPOs. Given the flattened business landscape an LPO's location could be far from the legal team's headquarters, requiring streamlined tools that integrate with both organizations' workflow. Web-based repositories that support legal collaboration provide a streamlined process for document sharing, team communication and project management.

Web-based Solutions Support Global Teams

With the advent of Software-as-a-Service (SaaS) and other cloud application services, the location of an LPO, outside counsel or other legal collaborator becomes irrelevant. SaaS solutions can be found for most business applications, including customer relationship management, human capital management and collaboration. For many years the M&A and debt capital markets have used web-based repositories through a subscription-based model. Today, such solutions have been tailored to meet the needs of GCs and their legal teams.

The legal department is ultimately servicing the business units and its members are often more effective when they have a window into their world to handle e-discovery or compliance issues. As a result, legal teams need greater access to corporate data in order to better support their business counterparts. The hurdle for in-house counsel is often accepting the comfort level of accessing information stored externally as opposed to on internal corporate servers. But for legal teams charged with processing terabytes or even petabytes of data use of a SaaS-based repository can provide the strongest alternative for improved access, efficiency, security and value.

In-house document management solutions often require the commitment of technology staff and financial resources, both of which are scarce in today's business climate. The process of creating proprietary tools tends to produce untested devices with little history. For standard document management in a business unit, that may be sufficient, but in a legal department that centralizes data and intelligence throughout an entire organization, it is often lacking key functionality.

Implementation of legal extranets can offer greater capability, but requires installation, hardware expenditures, and costly training. Internal information technology support is also necessary to ensure operability. Perhaps most important is that each time an outside user, either local counsel or a consultant, needs to access the data housed within the system, he or she must be permitted to enter the company's secure network. This often provides an unsafe level of exposure to the very risk the legal team is trying to protect the company against.

SaaS providers, particularly those handling business critical information, have a sharper focus on their applications and infrastructure. They go through many more vigorous security checks than is possible in traditional corporate IT departments due to limited resources and time. For these reasons, the security capabilities of security-savvy SaaS providers often exceed those of many enterprises, making SaaS a tremendous value-add for many companies.

At the user level, several SaaS vendors provide password-protected access to data, which resides on an external server. Industry leaders use rights and permissions management, advanced encryption, and dynamic access controls to provide maximum protection. They also use the same tracking tools that make collaboration an essential part of modern legal practice in the corporate counsel community.

There is also an essential redundancy component that is crucial in a geopolitically uncertain climate. Web-based repositories often have location diverse data centers that ensure the survival of data in a way that on-site, corporation-specific servers could not guarantee. Finally, routine audits and SAS-70 Level II certifications make SaaS solutions an effective option for corporate legal teams struggling with more to do and fewer resources with which to do it.

⁶ Robert Half Legal, Future..., 18.

SaaS Solution Nets Real Returns

A SaaS-based document repository is a growing alternative for legal departments. As a turnkey solution, requiring no hardware or software to install, subscription-based services are faster to deploy than internal development or installed software. Such solutions are also completely outsourced, which means all components, from infrastructure maintenance to software updates to user support, are managed by the provider, putting no new demands on internal IT staff.

For GCs tasked with managing a tight budget, costs for a SaaS-based document repository are often lower than those for stand-alone software, and can be charged as recurring overhead expenses rather than as capital expenditures. This helps smooth out cash flow, which translates to a more predictable series of monthly bills for services consumed.

Use of a central, web-based document repository also combats the culture of disparate data that permeates modern business practices resulting from multiple portable devices and inexpensive forms of data storage ranging from thumb drives to CDs. Loss of data on a disconnected group of laptops or at a single facility could have disastrous consequences.

In addition to the tremendous potential of the virtual workflow collaboration, a web-based legal repository can foster the vibrant exchange of ideas between in-house and outside counsel. Targeted law firm thought leadership and regulatory know-how feeds could add substantial value and efficiency. They allow lawyers to build relationships, as well as a knowledge base. And, they give each member of the team an opportunity to both add and receive value from the experience of their fellow team members in a protected domain.

Conclusion

Recognizing the role of a unified strategic repository and that the value of a virtual workspace eliminates time and manual intervention, the legal department is free to manage its collaboration efforts more effectively while lowering costs and risk. While there are choices in terms of functionality and customization, the goal is to select tools that respond to the transformation of the general counsel's office. As in-house legal teams transition from targeted risk advisors to trusted business counselors, they will need to collaborate with their diverse teams in a forum that provides universal access to data, knowledge and experience. That trend will only continue as issues become more complex and the challenges to addressing them grow.



About IntraLinks

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