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New Beginnings

Law Department Management



Pliny the Elder once remarked, “from the end spring new beginnings.” I am excited and humbled to take over this column from Bill Mordan, who wrote it for 10 years. Clearly, I have big shoes to fill.

In the coming months, I will focus on topics relating to in-house practice, which has become one of the most complex, intense, and challenging areas of the corporate world. Today’s legal department must perform at a much higher level than before — and at a lower cost. What was once considered world-class is now the baseline. Anyone working in-house knows what I mean.

Why has this happened? The answer is that a combination of macro-economic forces and disruption within the profession have both raised the stakes and presented opportunities for in-house counsel.

Macro-economic forces

Three macro-economic factors are impacting in-house lawyers: regulatory expansion, globalization, and cost pressures.

Regulatory expansion: Government regulation has increased. In the United States, federal regulations grew from 9,745 to more than 178,277 pages between 1950 and 2015. Other nations have followed similar trajectories. This growth has been accompanied by increased enforcement and harsher penalties.

All of this has imposed a burden on in-house lawyers, who must ensure compliance with a bewildering array of rules that are often inconsistent across — and sometimes even within — markets. At the same time, in-house teams are pressured to preempt regulatory enforcement through robust and comprehensive compliance programs.

Globalization: Globalization has also increased the challenge. Virtually every major legal matter now has cross-border effects. Whether a commercial arrangement, a regulatory investigation, or a contract dispute, problems rarely stay put.

At the individual level, global teams mean that general counsel (GCs) must now lead, unify, and inspire diverse teams of people in very different parts of the world, which requires cultural and emotional intelligence.

Risk convergence: The legal, economic, reputational, and political dimensions of risk are converging. In-house counsel must carefully weigh the non-legal implications of legally appropriate courses of action. The speed and impact of reputational harm in an era of social media are enormous. News on Twitter travels faster than a legal response.

Cost pressures: All of this comes at a time when corporate profits are declining. McKinsey has reported that the global corporate-profit pool, currently valued at approximately 10 percent of global GDP, may shrink to less than eight percent by 2025, undoing in the next decade nearly all of the corporate gains made relative to the world economy over the past 30 years. This means legal departments must likely also do more with less at a time when the range of matters they oversee is increasing.

Disruption in the profession

In addition to external forces, the legal profession is subjected to twin revolutions: the innovation revolution and the professional convergence revolution.

The innovation revolution: Globalization and technology are enabling in-house lawyers to break down and disaggregate their work into ever-smaller pieces, farming each part out to a competing array of efficient providers, who offer offshoring, near-shoring, alternative staffing, legal process outsourcing, and many other solutions.

At the same time, technological advances, including artificial intelligence and networked technologies, are providing powerful tools that transform how we work. These include communications and productivity-enhancing tools, self-help and efficiency-enhancing technologies, and advanced transparency and analytics technologies.

The innovation revolution will have profound implications for how lawyers work, what they work on, and how legal departments source their needs. It will likely be a net positive for in-house lawyers; perhaps less so for outside counsel, as the one-stop shop law firm model leaves them to compete for smaller pieces of a shrinking pie.

To take advantage of these trends, legal departments must efficiently allocate internal workload, deliver services, and procure from external partners.

The professional convergence revolution: Good ideas come about when people with radically different skills connect. That fact has increased the demand for “T-shaped” executives, who combine deep cognitive, analytical, or technical skills with broad multidisciplinary and social ones.

Given their deep legal expertise and role as connectors, in-house lawyers are natural-born T-shaped professionals, and are thus taking on a host of difficult new tasks in addition to legal adviser. Role-overload is an ever-present danger.

At the same time as in-house lawyers are given new roles, they must never forget their primary function as legal guardians. The company's board, its shareholders, and society at large will hold them accountable.

To manage these complexities, the GC must become a mini-chief executive, tackling many of the same issues in the legal department that the CEO must tackle for the corporation. This requires skills not taught in law school, including strategic planning, team-building, leadership and communication, complex budget planning, strategic procurement, government relations, press and interest group interactions, and managing investment and technology projects.

GCs cannot do this alone. To succeed, they need outstanding teams. Unfortunately, crushed as they are with role-overload, cost pressures, recurring litigation, major deals and periodic crises, and facing the many aforementioned challenges, most GCs have little time to figure out how to build great teams.

I explore these and other issues in my forthcoming book, *Building an Outstanding Legal Team: Battle-Tested Strategies from a General Counsel*, which provides a model for building high performing legal teams, including how to assess risk, design winning teams, optimize spend, choose the best partners, and select smart technology, as well as "softer" aspects, such as how to nurture culture, manage a multi-generational workforce, and identify and recruit top talent. It also explores change management and the need to develop a strategic roadmap. You can find out more at: www.globelawandbusiness.com/OLT/. In the coming months, I may cover some of those topics in this column.

Of course, I am always open to suggestions for other topics, so please reach out. I will report back with more news from the frontlines.

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Bjarne P. Tellmann, a former *ACC Docket* columnist, is senior vice president and general counsel of GSK Consumer Healthcare, a US\$12 BN revenue consumer healthcare joint venture between GSK and Pfizer with leading brands that include Sensodyne, parodontax, Polident, Advil, Voltaren, Panadol, Otrivin, Theraflu and Centrum. It is currently intended the JV will demerge and list publicly in 2022.