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How can General Counsel turn barriers into building blocks?

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It is anticipated that the business landscape is ready for growth as we move out of the first quarter of 2021. In addition to the anticipated opportunity, many businesses are considering how to address long-term challenges and achieve sustainability.

In January 2021, EY published a report on a research titled "How do you turn barriers into building blocks?" which was drawn from interviews with more than 2,000 leaders from 17 industries and 22 countries across the globe. The survey focused on law department operations (including talent, data, technology and sourcing), contract creation and corporate secretarial operations supporting legal entity compliance.

The research result extensively captured the transformation of law departments from the perspectives of both General Counsel and other business leaders. Five key priorities for in-house lawyers stood out from the research.

Our firm, LC Lawyers LLP, as a Hong Kong law firm member of the EY global network, is reporting the research in this article.

Priority 1: Transform risk management

CEOs named "risk management" as the area they expected to implement the most change over the next three years. They would like their organizations to take a more data-

driven approach, so that the increased access to data can help them to better identify, quantify and manage risks.

However, General Counsel expressed mixed views.

- Few General Counsel reported being very confident in their law departments' ability to manage complex risks, e.g. new privacy rules, investigations, major legal or regulatory changes, Brexit.
- 69% of the companies reported that their contract creation processes were not standardized.
- 71% did not have their contracts monitored for deviations from standard terms.
- 78% did not systematically track contractual obligations.

The above suggests a clear gap in legal process management and under-use of technology.

Priority 2: Re-evaluate the law department and cost structure

Improving cost-efficiency becomes a sharper focus given the recent economic challenges.

- 53% of the CEOs responded that they anticipated significant cost reduction exercise in the next 12 months, and law departments were part of it.
- 88% of the General Counsel said they were planning to reduce the overall cost of the legal functions over the next three years.
- Average cost savings target was 18% for larger companies and 14% for smaller companies.

If law departments are determined to save costs, they have to make changes in how they operate.

Priority 3: Digitize processes

It is certain that technology will play a very important role in the ongoing transformation of businesses, but this may not be happening in legal departments to the extent required.

- 61% of the CEOs expected to make significant investments into data and technology.
- 59% of the General Counsel believed technology offers substantial potential for cost savings.
- Nonetheless, only 50% of the law departments had made greater use of technology in the past 12 months.
- One third of the legal departments felt they did not have the needed technology.
- 97% of the General Counsel said they faced challenges in securing budget for investments in legal technology.

To persuade the top management to invest in legal technology, the General Counsel needs a convincing investment case, supported by data, that legal technology can increase efficiency, enable sophisticated risk management, and more support the company's strategy.

Priority 4: Enable the business to grow

Although most CEOs did not expect their businesses to expand this year, it is vital that every part of the organization (including legal and procurement departments) strengthens revenue generators.

- However, half of business leaders said inefficiency in the contracting process slowed revenue recognition and resulted in lost business.
- Only 52% of the law departments reported that their work was aligned with the broader business strategy.

There is significant room for the legal and contracting functions to deploy new ways to improve efficiency.

Priority 5: Deliver legal functions in a different way

Many companies benefited from the use of external lawyers, but the fees paid to them consumed a large part of the law departments' budgets. Most General Counsel believed reducing the number of outside legal advisers could save some costs. Nevertheless, such strategy is unlikely to help legal departments' other priorities relating to risk management, digitization and business growth.

Shifting work internally can reduce spending on external lawyers, and also offer more integration with the other business functions. This need was amplified by the increasing

workloads in legal departments which outpaced budgets.

- General Counsel reported that one fifth of the in-house counsel hours was currently spent on low-complexity, repetitive or routine tasks.
- 76% of the law departments found it challenging to manage current workloads.

To optimize legal functions, General Counsel will need to turn to technology and process improvement. Yet, in-house lawyers spent too much time in selecting technology solutions and implement them cross-the-board.

What is next?

Apart from the traditional internal realignment of work and use of external counsel, the other common strategies of delivering legal functions are:

- outsourcing to alternative providers who provide process management and

technology capabilities, while leveraging legal skills

- self-service which allows in-house lawyers to use standardized resources and automated processes to complete their work
- shared service centers which delivers services at lower costs than traditional law firms

Interviews with leaders from law, procurement, commercial contracting and other departments suggest change is already underway in most legal functions. Expanding these initiatives and maximizing their effectiveness will be the primary challenge for General Counsel in 2021 and beyond. Law departments' success in this area will ultimately help them to align with the overall business strategy, transform risk management and enhance growth in their organizations.

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