

The era of value centricity

There are three axioms of downturns: prices will fall, unemployment will rise and business practices will change. Some of these changes will be purely behavioural and cyclical; others will be more structural and systemic. Regardless of the exact mix of changes, one thing we can be certain of is that the legal sector in Australia is in the process of transformation.

Consistent pressure from senior management on in-house budgets has led 'legal costs as a percentage of revenue' to be the most pervasive legal function KPI. However, few CFOs will recognise that, according to General Counsel Roundtable research, over 50% of the increase in legal costs over the last decade can be attributed to increased demand for legal services from the business. The remainder primarily stems from increasing law firm rates.

This 'value gap' (the growing divide between business expectations and the resources legal has to deliver on them) has widened to a chasm as a result of this downturn. Despite the often myopic cost pressure, leading General Counsel (GC) are not focused on the two dimensional question of cost, instead choosing to address the broader objective of value.

Hence, we are calling this post-GFC period "the era of value centricity". This era will be defined by 'Legal's' ability to transform the value generated from (proportionally) declining or static departmental resources.

The bad news is that traditional approaches, such as negotiating lower hourly rates with law firms, will yield diminishing if not inverse marginal returns. The good news is that recent advances in technology, market structure and business practices will provide a platform for unparalleled functional innovation.

The primacy of the core:

Amongst the recent outpouring following Steve Jobs's death one article raised a perceptive insight: it was Jobs' ability to say "no" that made him great. As he said, "I'm actually as proud of the things we haven't done as the things we have done". In 1998 alone he rationalised Apple's product lines from 350 to 10.

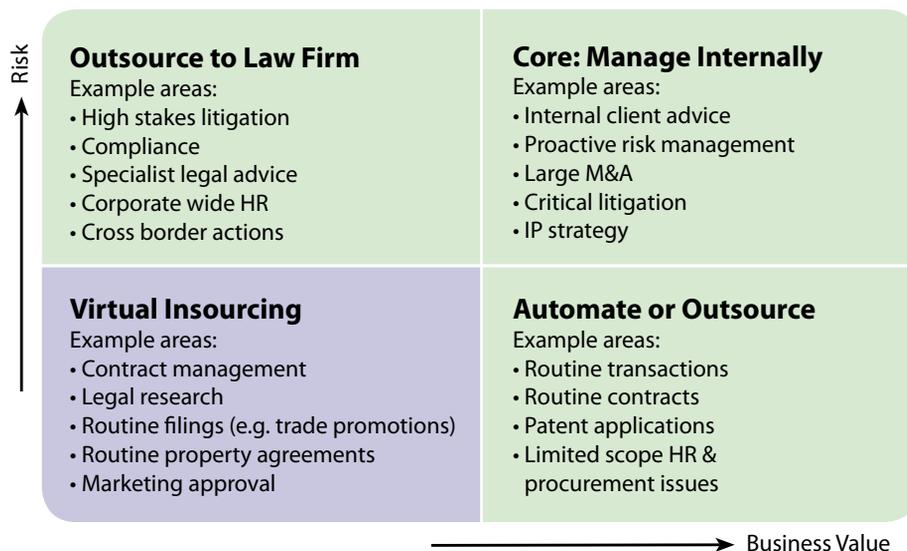
Although most GC will agree that great legal functions, like great businesses, focus on their core competency, few have implemented any rigour around this. In an effort to serve clients their functions often become jack of all trades and dilute their value. In this era GC must refocus on 'the primacy of the core'.

We advise our clients to undertake a simple process:

- Undertake an audit of all legal activities provided;
- After consultation with business partners, prioritise these on a risk/business value matrix (see below);
- Define and communicate which tasks are core (top right quadrant) and develop individual strategies to eliminate non-core activities from legal work-flow.
- Create clear risk/value guardrails for ongoing prioritisation.

As one General Counsel said, "This is not just about making a request 'low priority' for review or giving something 'a quick read', it's about reallocating time to the things that really matter".

Legal Risk/Value Matrix



The rise of 'virtual insourcing':

When we discuss Legal's 'core' with many of our clients the response is often the same, "someone has got to do this [non-core] work . . . we can't afford to send this to law firms". This concern is understandable, particularly if you view the legal sector through the traditional paradigm of the in-house/law firm duopoly.

Many legal functions in other regions have successfully addressed this issue through what we call 'virtual insourcing'.

'Virtual insourcing' is the engagement of lawyers on a flexible basis, who become an 'extension of the desk' to perform lower risk/lower value tasks or help manage workflow spikes. They are dedicated to the function so they are familiar with the business context, but bring the pick-up/put-down benefits of a law firm.

Although this is perhaps the most popular service Plexus provides, we have seen functions use a similar approach through 'alumni lawyers' who may have left the team because of retirement or extended parental leave. The results from virtual insourcing suggest work is performed at under half the cost of a law firm, and more than half the opportunity cost of the in-house team.

Regardless of how you choose to address 'the value gap', the central question for legal departments in this era may not be "how do we do more with less?" instead, "how do we do less with less?" 



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