

Four years ago, Richard Susskind published the first edition of “Tomorrow’s Lawyers: An Introduction to Your Future.” With the rapid changes in the legal profession, tomorrow is now today.

The second edition of “Tomorrow’s Lawyers” focuses more sharply on how artificial intelligence, alternative business structures, low-cost law firm service centers, legal tech startups and evolving in-house roles are changing the way legal services are delivered and how law schools are educating students to meet those changes.

To that end, Corporate Counsel is publishing excerpts from the second edition to spark thought and conversation about the industry’s future among the legal profession’s leaders. We have solicited reactions—positive and negative—to Susskind’s ideas from general counsel, chief legal officers and industry analysts to get their take.



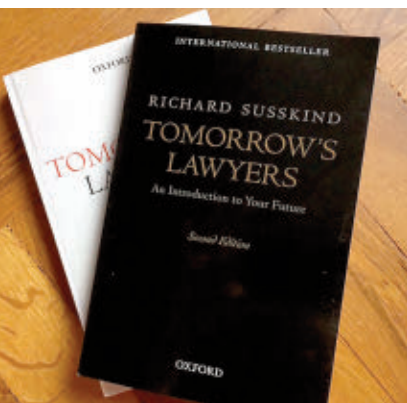
TOMORROW'S LAWYERS

GCs join the discussion led by author Richard Susskind on topics such as the value of legal operations directors, and whether in-house leaders will continue to expect more from firms.

STRATEGY FOR GCs

In practical terms, how are GCs preparing for the future and, in particular, addressing the more-for-less challenge? I cannot answer that question across the board but I have found that four broad strategies are in play, each differing in its scope and ambition. The first strategy has been for GCs to concentrate largely on external law firms and to drive their prices down. This is the preferred method of GCs who pass much of their legal work to external law firms. The second approach, better suited to large in-house departments, has been to focus instead on reshaping the in-house departments. The third has been simultaneously to review internal and external capabilities and seek to streamline both. The fourth tack has been the most ambitious—to start with a blank sheet of paper, to forget the current resources (in-house and outside) and instead to undertake a comprehensive legal needs analysis for the business. Once this analysis has been completed, the task then has been to identify dispassionately how best to resource the full set of needs; drawing not just on conventional lawyers but on the new legal providers too. This final strategy, in my view, is the one that will deliver the most cost-effective and responsive legal services for large businesses in the future and, in due course, will be the preferred approach of all competent in-house functions.

One relatively recent and related development is worth noting—the appointment of chief operating officers or directors of operations in in-house legal departments. These individuals are charged with the task, broadly speaking, of running the department like a business. Many are focused on strategy, alternative sourcing, more effective procurement, and technology, while their GCs are freed to do what they do best—acting as counsel to the generals. The COOs themselves are also collaborating: the best example here is CLOC, the Corporate Legal Operations Consortium, a community of COOs set up in 2014.



ANALYSIS

Richard Susskind has been peering around the legal industry's corners for decades. He has written several books about evolving work models and has offered insight into a potential

future for the legal field—one that includes artificial intelligence tools, online courts and even more commoditization of matters.

In his research, Susskind spotted an increasingly important legal professional—one he calls the “chief operating officer” or the “director of operations.” Working inside in-house legal departments, such a professional ensures a company’s legal function is run like a business by focusing on budgets, technology and efficiency.

Several general counsel and a legal operations professional who spoke to Corporate Counsel agreed with Susskind’s evaluation—having a legal ops director can be crucial to the development of a legal department. And, for the legal ops managers themselves, relying on their individual insight isn’t always enough—many have chosen to share their best practices and ideas, through organizations such as the Corporate Legal Operations Consortium (CLOC).

“It’s definitely true,” said Airbnb Inc. general counsel Rob Chesnut of the importance of in-house ops directors. “I’ve hired a chief operations officer who is focused on metrics, improving efficiency, sourcing and procurement of legal services.”

Lyft Inc. general counsel Kristin Svercek spoke highly of her hire of Frances Pomposo, who she brought in as head of legal operations at the company in late 2016. She said Pomposo’s role is to increase efficiency within the legal department and to ensure the in-house lawyers’ interests are represented across multiple departments, including information technology, security, privacy and procurement.

“We have been able to streamline a number of processes in a very short amount of time, as well as implement a brand-new contract management system that we are very proud of,” Svercek said. “Our department has also been able to make great strides when it comes to simplifying and automating requests to the legal team when possible through the use of our instant eform in [our contract and document management tool] and we plan on continuing to focus on creating more efficiency gains for the team and the company like these.”

For companies such as Lyft and Airbnb—and Facebook Inc. and Uber Technologies Inc.—legal operations directors are a recent addition, with hires made in the last two to three years. But one company was way ahead of the curve, hiring an ops boss for the legal department close to 20 years ago.

“I say—and nobody’s disputed me, but I’d like to know, if that’s the case—that I think I’m the first person hired in this role in all of Silicon Valley,” said Stephanie Corey, the former legal operations director at Hewlett-Packard Co., who was

hired there in 1999. She is now the co-founder of the legal operations provider and consultancy UpLevel Ops.

In the past 18 years, Corey said, legal operations has gone from a behind-the-scenes support role to a front-and-center partnership with general counsel and chief legal officers. She said the success of many sophisticated legal departments depends on that relationship. “The GC is the ‘what,’ and the chief of staff is the ‘how,’” Corey said.

Margo Smith, chief legal officer for Apttus Corp. and former general counsel to Marketo Inc., said she believes “legal operations to be central to the foundation of a world-class legal department.”

Smith added that hiring a full-time legal operations professional is a smart move for companies of multiple sizes—not just for the corporate giants of the world.

“Some people assume that having a dedicated legal operations professional or team is reserved for large organizations, but it is just as critical to have a legal operations leader both in smaller legal departments that are naturally resource-constrained, as well as in emerging legal departments just beginning to take shape within a company,” Smith said.

Some of Silicon Valley’s biggest companies have had legal ops directors for years. Google Inc. has Mary O’Carroll, head of legal operations since 2008. NetApp Inc. has Connie Brenton, chief of staff and director of legal operations, hired in 2010. Yahoo Inc. has Jeffrey Franke, chief of staff to the general counsel and assistant general counsel of global legal operations, hired in 2011. Facebook Inc. has Brian Hupp. Oracle Corp. has Christine Coats. Cisco Systems Inc. has Steve Harmon, and Adobe Systems Inc. has Lisa Konie, a 2004 corporate counsel hire who quickly took on legal operations duties.

Away from their companies, many of these legal ops directors have each other, in the form of CLOC. Brenton, O’Carroll, Franke, Hupp, Coats and Harmon are all members of the group’s executive leadership team.

CLOC, which has rapidly increased its membership, puts on conferences, shares best practices and develops collaborative guidelines for interacting with outside counsel on a range of issues, including billing and e-signatures.

Corey, a co-founder of the organization, said the willingness of other legal ops professionals to work together helped legitimize the industry and its goals. And, by working together, legal ops professionals showed outside vendors there was a real business need for the tools that the ops directors required.

“With technology vendors, any one of us was a little bit influential, but all together, we were incredibly influential,” Corey said. “Tech vendors, instead of saying, ‘Oh, just Stephanie needs this,’ they saw that these 10 big companies are interested in us helping them, and there’s a market for this.”

Corey said that 20 years ago, she couldn’t have imagined the current success of the legal ops industry. “Truthfully, when I started in the role [with HP], it was more like managing the budget, in an operations manager role,” Corey said. “I really thought I would work in a legal department for four or five years, get some experience and move onto something else.”

Now, it’s Corey’s—and many others’—full-time career.

EXPECTING MORE FROM LAW FIRMS

Moving away from risk and knowledge management, how will clients select law firms in the future? It is often assumed that what differentiates one lawyer or law firm from another is their substantive expertise; that clients will gravitate toward lawyers who seem to know more or appear more deeply expert. However, clients often say that there is little to choose between many good lawyers and good law firms, that they are equally and impressively familiar with black-letter law and market practice. What frequently distinguishes law firms, particularly when the work is genuinely bespoke, are the personal relationships that lawyers have with those they advise. (When the work is routine, the interpersonal dimension is of less importance.) To run a successful legal business in the future, it will not be sufficient for lawyers to be in possession of fine legal minds. Tomorrow’s lawyers will need to acquire various softer skills if they are to win new clients and keep them happy. In-house lawyers of the future will not only be more demanding on costs, they will be more discerning about the relationships they choose to cultivate with external firms. This will place pressures on law firms to make the most of face-to-face interactions and use social networking systems to maintain regular contact.

Already clients respond favorably, for example, to law firms that express ongoing, and even passionate, interest in them. They like to feel that the firms to which they pay substantial fees are bearing them in mind and have their interests at heart, even when not working together on a particular job. They appreciate those law firms that have clearly devoted their own time to thinking specifically about them and their business and their industry. Clients like to hear, for instance, about a deal that has been done that may be relevant to them. They appreciate periodic briefings on the trends and developments that may have a direct impact on them. Maintaining this sort of rolling contact does not come naturally to many lawyers and is often trumped by pieces of chargeable work for other clients. This is regrettable because this kind of regular interaction is increasingly vital for the long-term relationships that clients are now deeming important.

A related issue to which young lawyers should be sensitive is the need for law firms to empathize with their clients. GCs often observe that their external law firms do not understand their clients, that they have little insight into the daily dynamics and operations of their clients’ businesses. It is not that the law firms fail, for instance, to read their clients’ annual reports (although some do fall at this hurdle) or that they are ignorant of fundamentals of the sector in which their clients trade. Instead, there is a wider worry: that law firms do not take sufficient time to immerse themselves in their clients’



JASON DOY/ALM

“THE GC IS THE ‘WHAT,’ AND THE CHIEF OF STAFF IS THE ‘HOW.’” —STEPHANIE COREY, CO-FOUNDER OF UPLEVEL OPS

environments and get a feel for what it is actually like to work in their businesses. For example, it has been suggested to me that most firms do not grasp, in any given client, the tolerance and appetite for risk, the amount of administration and bureaucracy, the significance and extent and tone of internal communications, and, vitally, the broader strategic and business context of the deals and disputes on which they advise.

In short, tomorrow’s lawyers will need to be more in tune with tomorrow’s clients. In contrast, when meeting with their clients today, many law firm partners are said to broadcast and pontificate instead of listening to what is actually on the minds of those they are serving. In other words, many law firms lack empathy. They fail to put themselves in their clients’ shoes and see the business from the clients’ perspective. Because they do not pause to listen, firms cannot distinguish between those occasions when a client wants quick, rough-and-ready guidance as opposed to detailed and exhaustive legal analysis.

ANALYSIS

The often-discussed dynamic between in-house legal departments and outside counsel has seen a number of shifts in recent years, such as the growing preference for alternative fee arrangements over the traditional hourly billing model.

Smart firms have adapted to meet the expectations of in-house counsel, but legal departments are only going to demand more in the future, Richard Susskind asserts. It’s not going to be enough for firms to simply provide excellent legal advice. “Tomorrow’s lawyers will need to acquire various softer skills if they are to win new clients and keep them happy,” Susskind writes.

What does this mean? An ongoing and personalized flow of information from firms to in-house counsel to provide information relevant to the company, as well as face-to-face interactions and an intimate knowledge of the client’s business, to name a few of Susskind’s examples. Though these are not necessarily new expectations, in-house attorneys and a legal department consultant agree that over the years, the demands on outside lawyers have only increased. The expectation that law firms will do more for clients has come about at least in part because of the way the in-house counsel role has morphed over the years, said Sterling Miller, general counsel at marketing automation software company Marketo Inc. “If you look at maybe five or 10 years ago, the relationship with outside counsel was much more: You turn something over, you wait for them to give an answer and then kind of act on that,” he said. However, given that in-house attorneys have taken on more responsibility, now the “expectation is that the

in-house counsel isn’t just going to bring something from outside counsel and say: ‘Here’s what we should do.’”

It’s often now more collaborative, with in-house counsel expected to be more involved in the matters outside counsel are working on. And so, naturally, in-house counsel want an outside lawyer who really understands the business when providing advice, Miller said. “Outside counsel become kind of sentinels out there. They look for things out there that might become issues for you and are not charging you for that,” he explained. “Just knowing that there’s someone else out there that’s watching the horizon for you is comforting. And you tend to gravitate toward the outside lawyers who do that.”

While Susskind presents these as future expectations, Sterling added that he and other in-house attorneys he’s spoken with are already expecting more from firms than simply great legal advice. Firms that are attentive to in-house counsel’s needs, even when there’s not necessarily a matter outside counsel is working on, are a “big deal” for in-house counsel, said Jason Winnmill, managing partner at consulting firm Argopoint, which regularly advises legal departments at Fortune 500 companies. It’s more than just firm blogs and newsletters that highlight developments in cases and regulations, Winnmill said. “The more sophisticated approach is the outside lawyer who is working with an in-house lawyer ... and they can say: ‘There’s been these developments in the law coming out of the regulatory agencies and I just want to mention it to you, let me know if you want to chat about it.’”

While Winnmill agrees with most of what Susskind wrote, he doesn’t fully concur with Susskind’s views on the importance of social media. Susskind writes that firms will have to make the most of social networks in order to stay in regular contact with legal departments. For Winnmill, how outside counsel use social media to connect with the client is more of an “emerging” concept “as opposed to [something] they must or they have to do.”

Brennan Torregrossa, vice president and associate general counsel at GlaxoSmithKline, agreed that in-house counsel have and will continue to expect more from firms, which he said can create a challenge for the industry. Firms are asked to give excellent legal service with a more intimate understanding of the client, “while at the same time, meeting client demands to bill for their work in a manner off of the billable hour,” Torregrossa said. He added that there are certainly firms meeting or exceeding increased expectations. He said one firm anticipated GSK’s interest in attorney-client privilege issues around the world and provided a privilege map. Torregrossa applauded the firm for “above and beyond service” and understanding GSK’s needs. ■