

A professional headshot of a middle-aged man with grey hair and a mustache, wearing a dark suit, light blue shirt, and patterned tie. He is looking directly at the camera with a slight smile.

# Getting Traction for Innovation in the Legal Department

By Richard G. Stock, M.A., FCIS, CMC, Partner with Catalyst Consulting

This is the eleventh in a series of articles about how corporate and government law departments can improve their performance and add measurable value to the organizations.

I recently attended the National Conference of the Canadian Corporate Counsel Association. Unsurprisingly, there were several sessions that dealt with some aspect of innovation in legal services. Titles like “Innovation Reality Check: Measuring What is Real and Important to Your Organization”, “Innovation and Efficiency: Tales from the In-House Counsel Trenches”, and “Managing Uncertainty: Tools to Implement Your Innovation Idea”. It is often the case with panels that some presentations are better than others.

Mark Leblanc, the General Counsel of TV Ontario, described the transition of his organization from broadcaster to digital company. While other speakers focused on the technology aspects of innovation, Leblanc was quick to point out that most of the innovation was in processes rather than technology. It becomes important to engage employees in the change and transformation processes. Freidrich Blase, the Executive-in-Residence at Ryerson University’s Legal Innovation Zone, agreed, first by observing that Requests for Proposals for the application of technology to legal services are usually too broad and need to be simpler. Like Leblanc, he believes that processes and the resources to run the technology are prerequisites.

Corporate law departments will wait a long time for their IT departments or their Strategic Sourcing departments to write technology specifications that fit the bill. Yet, there are few lawyers with the skills, let alone the time, to contribute to the acquisition of technologies like matter management systems or artificial intelligence applications that lighten the load of individual lawyers for document analysis and drafting. A few years ago, then Boston-based Casey Flaherty developed a 10-part

technology literacy test for law firms and lawyers. Law departments were then able to compare the scores of their preferred law firms and then decide where to allocate work cost-effectively.

In the spirit of “what gets measured gets done,” I asked one conference participant whether changing the compensation architecture of in-house counsel would focus and accelerate innovation in legal services. As an example, I inquired whether it would be possible to allocate 15 % of earnable compensation to successful innovation. Thinking that innovation meant technology, the response was “certainly not more than 1 % or 2 %.”

Approaching innovation more broadly, in the sense that it could include new processes or increased proficiency in certain skills or in making clients more self-sufficient and less dependent on the law department, then yes – compensation of in-house counsel for successful innovation begins to make sense. No doubt, lawyers do substantively excellent legal work and are under continuous pressure to turn around advice and documents. Yesterday is never soon enough. Hard to innovate with work backlogs and interruptions from all quarters. Better to start with three or four changes that have immediate impact and that do not rely on technology to implement.

As part of regular interviews of in-house counsel, I ask:

- What percentage of your files in a year require 5 or fewer hours, 6 – 25 hours or more than 25 hours to complete?
- Who is allowed to contact the law department? Are there restrictions?
- How many individuals in the company, as opposed to business units, account for

80 % of your work each year?

- Is there a written policy in the company that stipulates “When to Call Your Lawyer”?
- How many hours do you work each week?
- How long is your backlog of work?

After reviewing workflow and workload data with more than 40 law departments in recent years, I have found that senior in-house counsel can spend up to 70 % of their time on matters (read non-complex) that require less than 25 hours, that most law departments have no restrictions on who can call Legal, and no written guidance on when to call and not call, Legal. Our studies reveal that work weeks average 50 hours, especially in smaller law departments, but that the backlog of work that can be achieved without further client or other input averages 3 days.

Imagine if more clients were more self-sufficient, that guidance on when to call Legal was explicit, and that counsel would not spend more than 25 % of their time on matters requiring fewer than 25 hours. There would be more time to innovate, to help clients with business solutions, and to be faced with professional challenges throughout a 30-year career. Innovation in legal services can take many forms and does not have to be complicated.

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#### **About the Author**

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