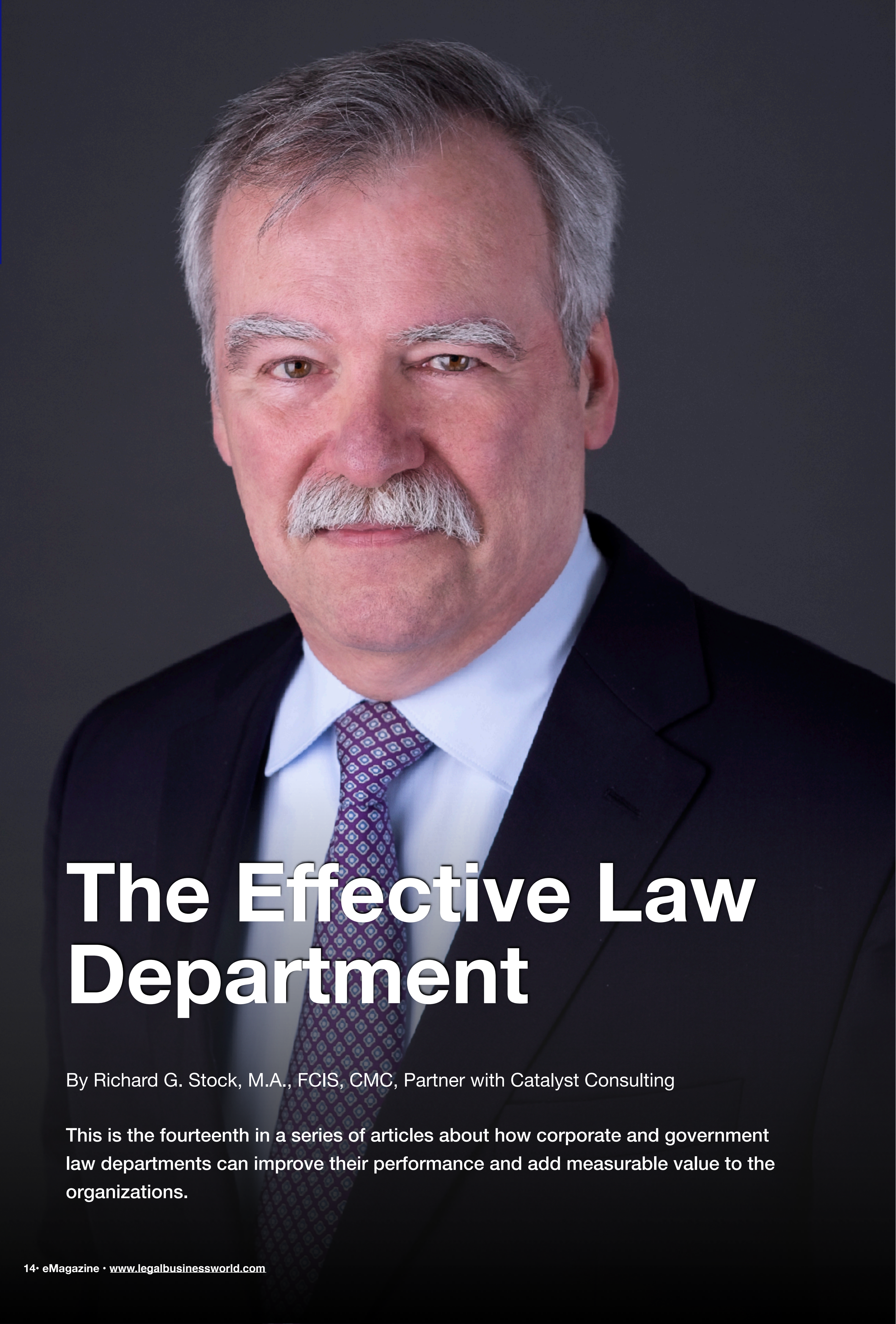

The Effective Law Department

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

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

General Counsel and their Directors of Legal Operations should spend more of their time managing legal services than they do today. Doing so is a pre-requisite for law departments that are more effective and are strategic contributors. Productivity, efficiency and the cost of counsel are important, but invariably trap legal services in a no-win conversation about being "part of the overhead". On the other hand, innovation, delivering results, and being a strategic contributor to the organization are hallmarks of leading law departments. There are six basic ingredients in the recipe for success.

The first is to have a comprehensive business plan in place for the law department. Every department has a mission statement, roles and responsibilities, and an annual budget – the equivalent of a constitution and a budget for a country. Moreover, inhouse counsel typically have specific objectives in their annual personal development plans. However, fewer than 25 % of the law departments develop and maintain comprehensive annual business plans today that connect personal objectives to corporate plans.

The best ones itemize major projects for the year, are based on a forecast of the demand from business units, feature some innovation in legal services delivery, and explain how the costs of internal and external counsel will be managed. Corporate leadership should approve the business plan. Members of the law department should know the details and receive quarterly performance reports against the plan. Balanced scorecard formats are useful templates for law department business plans.

Secondly, leading law departments assemble a reliable forecast of the demand for legal services that is based on corporate and business unit plans. It should detail the type, complexity level, volume (hours) and timing of legal work for one and possibly three years. It should be clear what part of this demand will be met by the law department and by law firms. Legal leadership can then adjust work intake and allocation practices to minimize the usual "you should have called me earlier" complaints about business units. Adaptability and stamina in handling legal work as it comes in the door are not enough to make the law department a strategic business contributor. The demand forecast should be embedded in the law department's business plan.

Over the years, dozens of in-house counsel have explained that they are less stressed by heavy workloads than they are about the lack of control over when the work comes in. Workflow issues are more disruptive and stressful than workloads. Paradoxically, not having enough to do is more stressful than having too much on the table. Still, a good measure of predictability for work takes the improvisation out of the equation for transactions, regulatory matters, and disputes. Law departments need clear guidelines about when business units "should" call legal, when they "may" call legal and when they "need not" call legal. Far too many companies say that anyone in the company can call the legal department Some guidelines and legal resource management plans agreed by business units identify and restrict who can call legal. Our studies reveal that as many as 70 % of the individuals contacting the law department are very occasional consumers of legal services and often poorly prepared to ask for and receive legal services. The business plan should include a program on how to reduce business unit dependency on the law department.

The nature and pace of business changes faster than the static resources of law departments can anticipate and adjust. The organization and resources of a good many departments seem like a collection of solo practitioners or perhaps a captive law firm within the company. Because work intake protocols tend to be weak, one often finds that experienced in-house counsel spend up to 60 % of their time on routine or non-complex work with the average duration of a matter less than 2 hours over several days. This makes it difficult to take on team-based, strategically valuable matters and projects for the company. Few law departments have "junior" lawyers to whom they can delegate. Legal services technology is the new leverage that has begun to make legal assistants, paralegals, and entry-level lawyers redundant in some law departments and law firms. Legal leadership needs to re-think its legal organization and resources. Law firms committed to "getting off the clock" should provide advice to General Counsel and Directors of Legal Operations on how best to do this.

The choice of a company's primary law firms should be reviewed every five years. People, technology and business requirements change. Unsurprisingly, the cost of external counsel is important but still a secondary consideration when retaining a law firm. Expertise, service delivery, knowledge of the industry sector and relationships matter more. Law firms are not early adopters of technology to improve efficiency and service delivery, regardless of the number of innovation awards available. Progressive law departments look for innovation in service delivery and predictable costs of counsel. Companies can go much further in using non-hourly fee arrangements to share risks and rewards and to stimulate innovation and efficiency in the law firm. More than 80 % of legal work is still paid with some variation of an hourly fee. Companies should look for firms that have the capacity to manage supply chains of other law firms and legal service providers on a national and global basis. The savings of time, money and systems are substantial.

Few in-house counsel like metrics. They rarely seem to fit well. However, the right metrics will drive behaviours, priorities and the allocation of resources. Four key performance indicators are sufficient and should be embedded in the law department's business plan. These are strategic impact on the company and its business units, results for the legal team and external counsel, knowledge transfer from legal counsel to business units as one way to reduce dependency on the law department, and cost reduction for internal and external legal services as a ratio of the company's revenues. It is worth adding that innovation is essential for strategic impact, business results, knowledge transfer and cost reduction. In the end, legal leadership is responsible for the law department's business plan, demand forecasting, workflows and workloads, organization and resources, the cost-effective use of external counsel, and performance that matters to the company and the people in it.

About the Author
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