

Adaptable and Resilient Law Departments Add Value

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

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

In October, I had the opportunity to interview six Chief Legal Officers about the current state of their law departments and about the outlook for the next six months. Approximately 70% of non-government law departments in Canada have 5 or fewer lawyers. So, I chose from this cross-section while tapping into six different industries - pipelines, office and business supplies, publishing, food, architectural/engineering design, and a currency foreign exchange company.

My usual categories of inquiry covered workflows and workloads, the relationship of the law department with business units, law department resources, performance, and the relative use of external counsel.

Rob Van Walleggem is Vice-President and General Counsel with Calgary's Trans Mountain, the company now twinning the pipeline from Edmonton to the Pacific coast. Not without controversy, the project should be completed by the end of 2022. The relationships between the law department and the business units are strong. As a member of the company's executive team, as well as its Corporate Secretary, Rob has been going into the office since July. The remainder of the workforce has been at 30 % capacity (Phase 1) and is now moving to Phase 2 – always subject to developments in public health.

Workflows are constant and the legal team has managed well. But Rob remarked that there is a lack of distinction between the office and home when working remotely. It is a challenge to ensure that the amount of work done at home is not excessive. While there has been no need to refer overflow work to external counsel, there is

no reduction in the assignment of the usual matters to firms. Finally, there have been no metrics applied specifically to the law department this year. Instead, health and safety for members of the law department has been a primary focus.

Shari Hosaki is Vice-President, General Counsel and Corporate Secretary with Toronto-based Harper Collins-Harlequin Canada, a publishing house owned by NewsCorp. Her team of lawyers and contract administrators supports transactions for the editorial groups, oversees copyrights and trademarks, and manages libel cases when they arise - Mary Trump's book with another publisher being a case in point.

Shari explained how the COVID-19 environment greatly accelerated the use of technology in the law department, in dealing with both business units and authors and entirely replacing paper and couriers. Legal will continue working from home until the end of October. Like the Trans Mountain team, the law department needs to be more disciplined about managing its work volumes and its practice habits to better ensure everyone's well-being. Reliance on external counsel continues to be selective and specialized.

Harper Collins-Harlequin's publishing business is also changing because of the pandemic. Of note, there are more audio books, e-books, and direct on-line sales. Privacy and data security have also made a call on the company's legal resources.

Joel Levesque is McDonalds Canada's Vice-President and General Counsel. The legal team is collegial and focuses on real estate,

franchising, commercial contracts, advertising, relationships with suppliers, and the full range of human resource issues affecting its almost 10 000 employees in Canada. Joel explained that being part of a global company allows McDonalds Canada to learn from its other markets during the pandemic and customize its 2020 business plan for Canada. It then seemed practical to move to a recovery mode after three months. Business planning for 2021 is now well underway.

Webex and other communication technologies have been used extensively. IT and digital technologies are playing a greater role. It is expected that there will be more work for the law department in the new business model, all the while respecting the principles of safety for employees and clients. External counsel will see more work in certain categories, such as leased sites.

The IBI Group is a Toronto-based global architectural, engineering, planning, design and technology firm focused on the cities of tomorrow. Steven Kresak is General Counsel and Corporate Secretary. There has been an increase in the legal work to support contract negotiations and it is anticipated that the new level of work will continue for the foreseeable future.

Steve explained that the initiatives making up its 2020 business plan were paused from April to July, when business as usual resumed. Relationships with business units around the world have been very positive. The IBI Group plans on being more selective in assigning claims-related work to external counsel. Like many other companies, the pandemic has

created a host of employment law issues. Alice Abbott is Global General Counsel with Associated Foreign Exchange (AFEX), a Toronto-based provider of global payment and risk management solutions for currency drafts, wire transfers and risk management tools – for its corporate clients. Fleetcor is listed on the S&P 500 and recently announced its acquisition of AFEX, a transaction that should close in early 2021.

Alice has one member of her legal team based in Sydney, Australia while the rest are in Toronto. There has been no change in the regular workflow or workloads for the law department but Alice's personal focus has been on the closing the deal with Fleetcor. Managing expectations with business units has been especially demanding, with workdays regularly exceeding 12 hours. Part of this is explained by the need to support clients on five continents and 24 time zones.

As General Counsel of Staples Canada, Terrie-Lynne Devonish's law department has been active 7 days a week. With 10,000 employees across the country, activity since March has extended from how best to open up safely to managing supply chains, special projects, and the development of new business.

Terrie explained that access to remote technologies was already in place across the company, allowing the legal team to easily work from home.

It even made a secondment based in Edmonton for the Toronto-headquartered law department entirely practical. There has not been much change in the amount and type of

use of external counsel.

The six GCs and their legal teams have been resilient and adaptable with an increased focus on getting business done in an unprecedented work environment. It is easier to appreciate the value of each law department, regardless of its size and industry sector.

About the Author

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