Too Little, Too Late?

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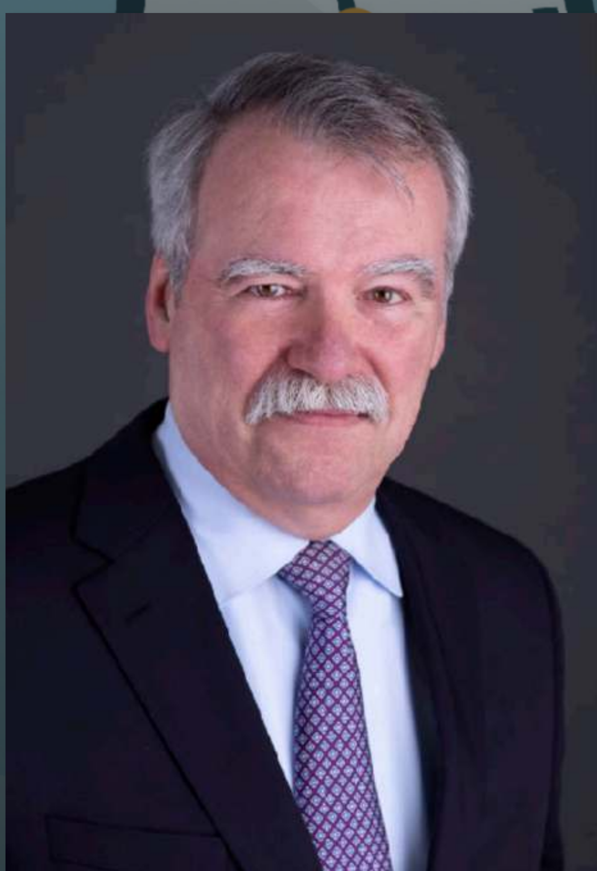
This is the thirty-seventh in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.



A recent deep dive into current practices for legal services delivery, the use of legal project management, multi-jurisdictional coverage, and pricing revealed no surprises. Corporate law departments do not process the information and do not analyze the data they have available to leverage law firm capabilities. As a result, they are unable to define the value proposition for legal services expected of their law firms. Securing financial predictability in the total cost of legal services for the next three years is also out of reach for most companies because the basic analytics are not in place.

One Canadian-headquartered and one UK-headquartered company were seeking detailed analyses of historical patterns for service delivery. They wanted a high-level understanding of what was possible in partnering with their

primary firms. Information from 195 firms was reviewed. Detailed conversations took place with 33 firms in Canada, the US and the UK.

The first observation is that large, decentralized law departments are much less thorough than they should be in coordinating systematic and qualitative evaluations of their primary law firms. There was little evidence of formal performance indicators and evaluation processes. While general counsel do meet their firms at least once per year to discuss files, trends and legal spend, agendas are not available and changes going forward are not well documented. There is rarely a correlation between law firm performance and legal fees. The primary driver in working with law firms is still a relationship with key partners. In effect, these relationships seem to act as a barrier to comprehensive and accelerated innovation in service delivery.

A second observation relates to competence and coverage. Companies preferring to reduce the number of law firm relationships while still securing local counsel for regional and global business requirements are looking to firms that have extensive footprints in key markets. India, China, Brazil come to mind. So do Texas and Louisiana if you are in the energy business. Global firms, such as DLA Piper, Dentons, Norton Rose Fulbright, Freshfields, and Eversheds Sutherland, have invested heavily in building their regional offices and networks of local counsel. Still, law firms are not doing enough to introduce firm-wide standards for service delivery, quality assurance of the legal work, and cost predictability. While a few firms have moved forward boldly on these fronts, they are the exception. The independence of local counsel appears to trump the introduction of global service delivery, technology and pricing standards.

A third point refers to the use of matter plans and budgets. Firms were asked to provide their best examples of matter plans and budgets for both transactional work and litigation. The quality and usefulness of the templates varied enormously. Very few incorporated plans and budgets by phase and task, planning assumptions, a percentage certainty by phase and by task, and the distribution of hours by fee earner for the work to be done. Firms did not describe the extent of use of such techniques to scope work and offer clients predictability on a matter-by-matter basis. It is as if both law departments and law firms are reluctant to embrace such processes. Legal project management and budgets are a pre-requisite to non-hourly fee arrangements. Inside counsel would benefit greatly from formal training in scoping and pricing of legal matters with the use of LPM.

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