


# An Unsustainable Business Model

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

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



Some things do not change. Eight years ago, the Corporate Executive Board reported that one of the most significant challenges facing law departments is to transform the skills and workflows of their legal teams. The implications are profound for both in-house counsel and their clients. Over the last 20 years, corporate counsel have worked hard to communicate their value to the company. In earlier days, this meant establishing a less-expensive version—typically 60% less expensive—of a commercial law firm. There were instances of course when in-house counsel added value to the company with their expertise in regulatory matters and industry-specific knowledge. In most cases, litigation was referred to external counsel and commercial work was in-sourced.



Over the last 10 years, corporate counsel have become more closely tied with their business units, giving them operational support and general advice. Fundamentally, this is a relationship-based business model for the law department, not unlike the law firm business model with its “trusted advisor”. And this, reports CEB, is unsustainable for two reasons. The first is the large number of individuals, typically middle managers, calling on the law department for support. Our studies on law department workflows and workloads analyze the number and frequency of requests for legal services from individual clients. A General Counsel may continue to deal with five to ten corporate executives and board matters. But the rank and file of the law department typically report as many as 50 regular clients each. Of these clients, 80% require less than 60 minutes

of time per week. It is not possible for one lawyer to sustain 50 robust relationships.

This brings us to the second conclusion reached by CEB. Clients want resolution, not a relationship, and they want it retroactively. Interestingly, 75% of clients reported that the law department was too difficult to work with. Satisfaction surveys reveal that clients acknowledge that their lawyers are overworked. However, clients are not sympathetic especially as turnaround times for their regular, non-strategic work continue to erode. Some law departments have resorted to escalation criteria for certain types of work, and have introduced multiple steps and checklists for them to follow, either when making the request for service or before delivering the answer that they want. Clients want turnaround, not escalation.

Escape from the relentless and impatient demand for legal services requires making the bold decision to change law department workflows, skills and resources — a decision which is likely to be resisted by inside counsel because it runs counter to their instincts and experience.

A detailed analysis of law department traffic patterns is the starting point. There are three essential components to this analysis for each lawyer and paralegal as well as for the law department as a whole. The first is an estimate of the types of tasks and activities and the number of hours required for each area of law. Most law departments will need to construct this profile since very few have opted for time-keeping systems. Nevertheless, consultation of closed files, meeting schedules and e-mail activity for a three-month period provides the necessary baseline.

Invariably, the “general” and “advisory” categories will warrant additional review since they can often consume 30% of law department resources.

The next component of the analysis is to determine the complexity and risk for each matter handled by the law department. Few departments have definitions and formal systems in place to track the complexity of each matter. Unsurprisingly, few have protocols and thresholds to define a “matter” or when a file should be opened. This makes later analysis difficult. One can rely on a fast-track substitute for a three-level complexity matrix: 1-5 hours worked for a routine file, 6-25 hours for a regular file, and more than 25 hours for a complex file. Our surveys show

that 65-70% of law department resources are assigned to “non-complex” files.

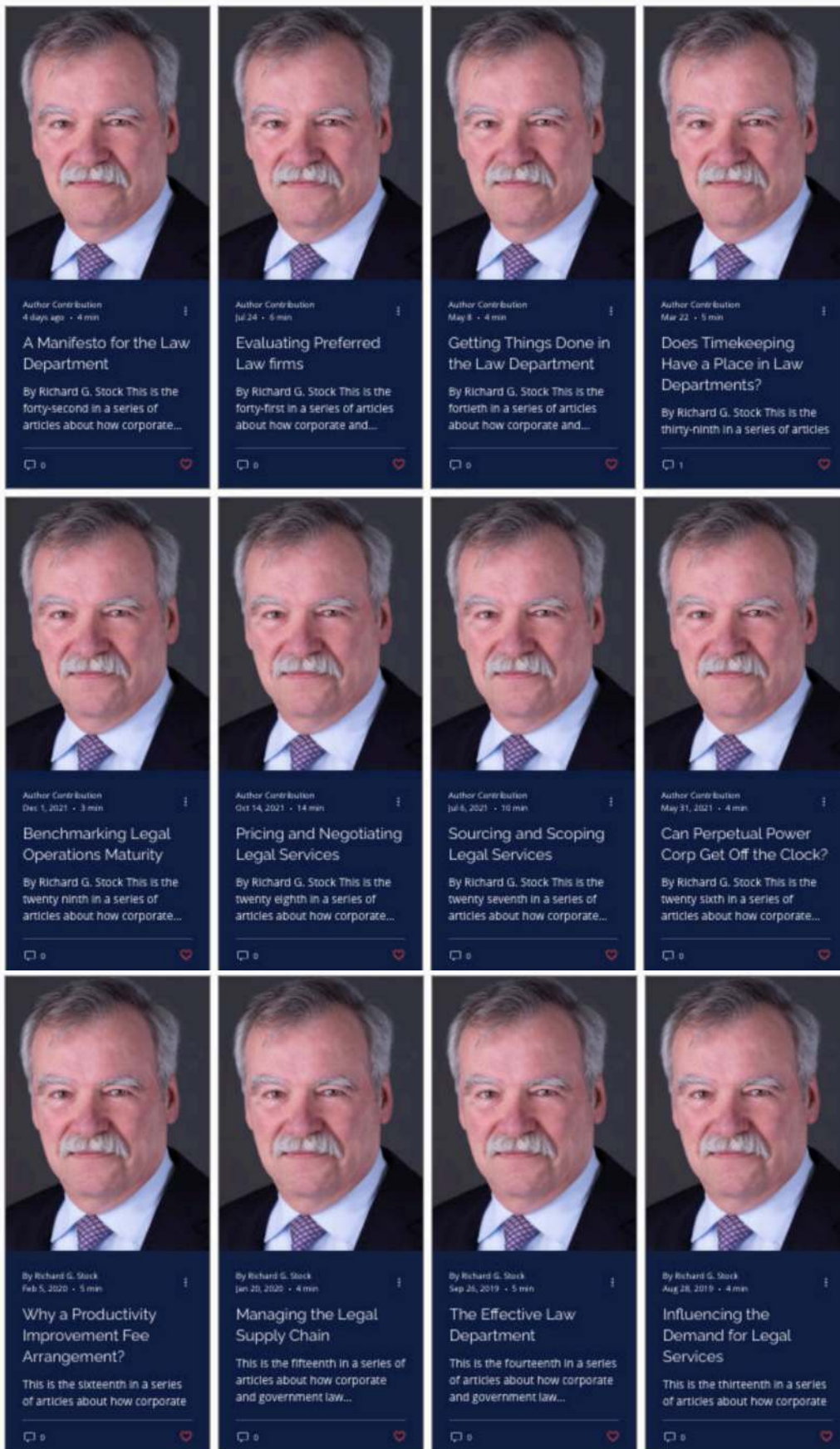
The third component of the analysis of “traffic patterns” requires an understanding of why clients consult the law departments, especially when 75% of middle managers report that the law department is difficult to deal with. Is this because procedures oblige a sign-off from legal on all commercial matters, because managers are insecure and seek endorsement from legal, or because legal cannot resist correcting the English in all business documents? Interviewing 25 middle managers in operations, sales, procurement and projects will uncover the primary drivers to involve legal.

Law department leadership should consider corporate and business unit priorities before they default to maintaining an “open door policy”. Operational support work is quicksand for a law department. A program to shed 50% of this demand by making clients much more self-sufficient is a good starting point. This might buy one year of relief, enough time to introduce client-specific technology, raise the level of lawyer proficiency in workflow design and practice management, and then re-structure law department resources to manage the changes.

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### **About the Author**

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