

Inside Counsel

BUSINESS INSIGHTS FOR LAW DEPARTMENT LEADERS

Managing a global department:

A four-part series in which Oracle Associate General Counsel Suchitra Narayen, QuisLex CEO Ram Vasudevan and consultant Rees Morrison will discuss the opportunities and challenges facing a global legal department.

By **Suchitra Narayen, Ram Vasudevan & Rees Morrison**



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Managing a Global Legal Department: Opportunities and challenges

“Thinking like a lawyer” can mean different things in different countries

The global business arena places unique demands on corporate counsel. Collaborating across multiple time zones can be difficult and inefficient, and supporting business units in different countries, not to mention dealing with suppliers, customers and governments worldwide, can present a host of issues. At the same time, globalization provides opportunities for corporate legal departments because the diversity of knowledge, experience and perspective essential to provide effective legal support in today’s global economy is available within the department. In addition, alternative geographically-distributed legal resources have become increasingly sophisticated, and are available to assist with significant process and technological enhancements. Companies that consciously consider the implications of a global legal practice, successfully manage the potential challenges and leverage the corresponding opportunities place themselves at a distinct competitive advantage.

Opportunities and Challenges Facing a Global Legal Department

The traditional view is that having employees sitting in multiple countries creates obstacles for managers in a global legal department. As a practical matter, although web-conferencing and other technology are available to alleviate some of the issues, otherwise straightforward projects that require collaboration from employees in different locations can be impacted by having to work across different time zones, communicating primarily via email or telephone calls, and lack of familiarity with colleagues.

As most managers of large, multinational legal departments can attest, however, running a global legal department involves more than simply coordinating employees located in different time zones. While doing so certainly creates logistical challenges, the defining characteristic of a global legal department is the diversity not only of the individuals that make up the organization, but also of the internal clients, external suppliers, customers, partners and governments that are likewise distributed across a variety of countries and locations. Finally, for every jurisdiction in which the company operates, the global legal department must take into account laws, regulatory requirements and judicial mechanisms that can vary widely and have an enormous impact on the approach a legal department takes and the methods by which it services its clients. In-house counsel located in the U.S. may be asked to explain the

business operational implications of legal requirements based on an English translation of a German document governed by Swiss law, or to decide if there is a problem with a bilingual document presented for signature where the Chinese or Ukrainian column seems to have three times as much content as the English “translation.” Deal schedules can be impacted by the limited availability of clients, customers and suppliers during the Las Posadas/Novenas Navide celebrations (starting December 16 in Latin America), followed by the Russian Christmas/New Year holidays (early January based on the Georgian calendar) and then Chinese New Year (which lasts for two weeks and typically starts between late January and mid-February).

This diversity should be viewed as an opportunity, not as a challenge to a manager’s ability to effectively run the legal department. By nature, a global legal department’s employees come from different ethnic, cultural and linguistic backgrounds. Even if the communication is primarily in English, the vocabulary used, and its meaning, may differ. This can lead to interesting (at least to lawyers!) debates about the use of “warranty” vs. “guaranty” and the exact scope of a license to “use” a particular technology. Having this understanding within the legal department can help avoid potential communication issues.

One important consideration in the context of legal departments specifically is the fact that attorneys may have been educated and trained in different legal

systems (e.g., common law versus civil law), which can substantially impact their understanding of legal concepts, approach to legal issues and style of drafting. This impact is, unfortunately, often understated or even ignored by managers of global legal departments. As attorneys, we take for granted that our colleagues will “think like attorneys,” but may fail to realize that “thinking like an attorney” can mean very different things in different locations. Recognizing this difference can help managers not only better understand their employees’ approach to legal issues, but also better leverage the diverse legal knowledge and experience within the department to more effectively address legal issues that span multiple jurisdictions.

The global economy is here to stay. Even the legal departments of small companies may be “global” in that their suppliers and/or customers are distributed to some extent across other countries. Successful legal departments will not only accept that reality, but also view it as an opportunity to leverage the skills and knowledge of its in-house counsel, wherever located. In the next installment of this series, we will address how collaboration within a global legal department can help address the challenges discussed above. ■

Managing a Global Legal Department:

Collaborating within a global legal department

How to blend different perspectives without falling into the trap of localization

If you are lucky enough to work in a global legal department, you will have the opportunity to work with people from other countries and tackle complex and novel issues from many parts of the world. However, for the global legal department to be successful, it will be as important to focus on how you work as it is to define what you do.

Organize legal teams across rather than within geographical regions:

While there is an instinctive preference to co-locate legal teams in physical proximity to each other, organizing functional legal teams across geographical regions increases knowledge sharing, and leverages local legal expertise efficiently. Organizing legal teams across regions also facilitates implementation of a “follow the sun” model, to optimize legal support for the company.

Invest in building relationships and trust within the department:

Lawyers, like everyone else, have their own comfort zones and trusted relationships based on physical proximity and a sense of similarity or familiarity. To be successful, a global legal department must foster the same sense of camaraderie and trust across a distributed and diverse organization. Periodic in-person meetings can help build and strengthen internal cohesion and collaboration. However, regional or international legal meetings are expensive and infrequent. Between these in-person meetings, video conferencing, which is readily available at relatively modest prices, can go a long way to personalize and build rapport between legal colleagues. If video conferencing is not readily available, periodic phone calls are preferable to communicating only via email.

Balance centralized consistency and localization:

A point of tension may arise between centralized headquarters-based legal groups who wish to deploy a single consistent global template, program or process, and attorneys elsewhere who press to localize everything to their country-specific requirements, on the basis that their particular country or region is “different” and therefore needs special accommodation. The right answer of course,

lies somewhere in between. It may be critical to meet local product compliance requirements. It may be less important to localize and translate a contract for a 1-2 week equipment loan a few times each year. However, compromise may be difficult to achieve without a pre-existing relationship and trust that allows the attorneys to discuss issues frankly and agree on what is critical and what is a personal preference or “nice to have.”

Deploy common technology platforms and provide equal access to data:

Unless checked, a global legal department can quickly degenerate to isolated local pockets with inconsistent policies, practices and tools. Common policies, technology platforms and access to centralized data not only improve efficiency but also enhance alignment and collaboration across a global legal department.

Be open to new perspectives and approaches:

Many lawyers have practiced only in one country. In some cases, due to licensing restrictions, lawyers have spent their entire careers in a single state in a single country—perhaps practicing in a single area of the law. Rather than assume that your way is the only correct way, accept that wherever you are, and however long you have practiced, there are several hundred jurisdictions where the laws and legal approaches may differ. Indulge your curiosity and take advantage of these opportunities to learn and leverage new approaches, without falling into the quagmire of endless localization.

Working within a global legal department can be an enriching and rewarding experience, provided that the department invests consciously in the relationships, tools and perspectives that foster effective collaboration across a distributed and diverse legal organization. ■

Managing a Global Legal Department: Collaborating Across the Organization

How to communicate with other departments and organizations within your company

The theoretical target for any legal organization is:

Compliance with 100% of all applicable laws, regulations and company policies x 100% of all applicable jurisdictions x 100% of employees.

As we discussed in Part 1 of this series, as companies grow and expand globally, each of these variables increases in size and complexity but the legal department will typically remain a very small organization relative to the overall business. In addition, legal, sales, engineering, finance and other organizations have different perspectives, use different "languages" and possibly inhabit different planets altogether. Add a layer of regional and cultural variation and geographic distance to the mix and the complexity grows exponentially. To be effective, a global legal department must necessarily collaborate with other organizations to facilitate compliance with legal requirements and company policies.

Identify and leverage key business processes and systems:

Although some lawyers perceive processes as starting when someone first contacts the legal department, in reality, any business process, whether related to development, sales or other business activities, starts long before the initial contact with the legal department (e.g., with a sales person pitching a prospective client about new products or services) and ends long afterwards (e.g., with the actual order for products or services under the contract finalized with the assistance of the legal department). Inserting the legal requirements into the existing business process or system allows the legal department to more readily "intersect" with their internal clients and leverage what they are already doing anyway. However, the larger the company, the greater the risk that there are multiple processes and systems, so identifying and integrating legal requirements and processes into each relevant process or system can be a challenge.

Communicate in a "non-lawyerly" way that balances simplicity and clarity:

Even when lawyers think they are writing simple, short, clear instructions, they are faced with the complaint that there are "too many words" for the typical engineer or sales rep. Consider

using charts, diagrams and other "language-neutral" communication tools that internal clients use for their regular business communications. The challenge, of course, is that a chart may result in too simplistic a message that is misunderstood or misapplied by the business organizations, but adding explanations or qualifiers to ensure sufficient clarity will get us back to the "too many words" problem.

Tailor timing, tone and nature of engagement to be most effective:

Recognize that "ASAP" or "urgent" may have a different meaning based upon local culture and priorities and that the strength and directness of a message may have to be tailored so that it is actually heard and accepted by the local audience. For example, a strong anti-corruption message may be expected or even required in countries that rank high on the corruption index but it will be important to avoid being perceived as passing moral judgment on either the local customs or local employees, which could, in many cases, be counter-productive.

Invest in learning something about the other organization/region/country:

An attorney from one region reported that even colleagues in his own legal department did not know in which continent his home country was located.

Today, with access to copious amounts of information available on internal and public websites, there is no excuse for not taking the time to learn something about the local organization with whom you seek to collaborate. It may help you avoid pitfalls and if nothing else, you will be appreciated for making the effort to learn something about them.

Deliver value to and seek sponsorship from other organizations:

Don't assume that a contract or compliance with a legal requirement is the end goal. Delivering "business" value in addition to legal value can facilitate cooperation from other organizations and sponsorship from key business executives. For example, if legal can provide a periodic update about contracts completed to someone tracking win rates or persuade key business executives that it is more profitable and efficient to do things in a legally compliant way by correlating specific investigation costs or claims to adverse margin/profitability/schedule impact, it will be much easier to gain their support.

While working within the legal department of a global company, it is easy to feel like a small "David" facing a very large "Goliath" so consciously leveraging Goliath's resources and weight will be critical to the legal department's effectiveness. ■

Managing a Global Legal Department: Getting help from an LPO

Legal process outsourcing providers can be valuable partners in juggling all the balls in the air

Leveraging Alternative Legal Resource Models: In the first three parts of this series, we discussed internal challenges and opportunities within global legal departments and across broader organizations. In this final installment, we will focus on an external option to assist corporate legal departments deploy efficient and cost-effective legal processes. Legal Process Outsourcing (LPO) providers who take on specific projects or tasks at the direction of an in-house legal department have proven themselves to be valuable partners in designing unique, efficient and cost-effective solutions for corporate legal departments. As the LPO industry has matured, the processes market leaders deploy have become increasingly sophisticated, enabling the in-house legal department and the LPO partner to focus on not only legal process management but also hard data analytics that may offer valuable insights, to facilitate better, more informed decisions that impact both legal and business strategy.

Focus on long-term, sustainable value: You should identify an LPO that is the best fit for your organization. Are your colleagues already using LPO? If they are, how can you benefit from that relationship? If they aren't, how can you identify the right partner for your organization and the right opportunities to use this resource most effectively? Start by talking to your industry peers to learn from their experiences. Do your homework – research the leading LPOs, focusing on the quality of the work, areas of expertise and reputation for consistent delivery as opposed to just the cost of services or the delivery location. A potential LPO partner should have the skill, experience and flexibility to provide the most value while meeting your needs. The LPO should be able to take on tasks that allow the in-house legal department to focus on higher priority/higher value work streams. In effect, a good LPO should become an extension of your legal department. Having a strong process orientation, using sophisticated, state-of-the-art technology and investing in the training and careers of its workforce are key elements to look for in evaluating a potential LPO partner's approach to doing business and its fit with your organization.

A true partnership is a two-way street: Don't look at your LPO provider as a vendor or treat them as a black box. Sure, they have their processes, but you

need to ensure that they are tailored to your organization. Arm them with relevant information about your business and legal requirements so they are better equipped to help you. Take the time to transfer substantive knowledge as well as information about the culture and context of your company to them and provide feedback to ensure that the work streams they handle for you appear both substantively and procedurally as if you are handling them yourself. Discuss the challenges you faced (like the ones discussed in previous parts of this series) and how you overcame them, so that they can proactively address and sidestep them.

Maximize the value of the relationship: Start your relationship with projects that both sides are comfortable handling. As you build trust in the work product you receive, consider assigning more complex projects to really leverage your LPO partner's true capabilities. What may begin with a simple post-merger integration project working with corporate counsel may evolve into end-to-end contracts lifecycle management, the administration of an open-source licensing program, or working hand-in-hand with intellectual property lawyers and engineering teams or helping to design and implement a contracts-related compliance program. Your LPO partner can also draw on their own experience to help you create innovative, unique solutions so consider

joint brainstorming sessions or periodic reviews to help you jointly monitor issues and effectively deal with new challenges. By helping the legal department to support both legal and non-legal functions across regions, your partner can extrapolate best practices that could be adopted globally and identify opportunities to drive uniformity in practices and processes.

Leverage analytical capabilities to provide insights and add value across the organization: As your partner takes on these more complex tasks, they may be able to deliver metrics that support not just requirements within the global legal department but also the needs of the compliance organization, audit committees, sales, procurement, engineering and other stakeholders. By viewing contract management or other tasks as a business solution rather than just a legal process, they can help the legal department provide more comprehensive support to non-legal groups with a constant eye toward building efficiencies. They have a unique viewpoint from which to evaluate your contracting or other practices in real-time, which allows them to provide data analytics on legal and business issues across projects by capturing operational metrics, contract content and other data.

continued

Treat your LPO partner as your “Center of Excellence”: Having one team coordinate among the various stakeholders for a particular workflow vastly reduces risk and eliminates inefficiencies because that team will have the best knowledge of the associated process. This could apply to supporting a serial acquiror in its M&A due diligence efforts, administering a comprehensive contracts management program, or providing

support during a corporate restructuring. A successful multi-shore approach may entail relying primarily on an execution center with permanent employees in India or elsewhere, supplemented by an onshore delivery center that could handle localized requirements that may arise on occasion, such as the need to negotiate in a less-common foreign language that an offshore center might not support.

Once you have successfully identified and navigated the internal challenges you face as a global legal department, take further advantage of globalization’s benefits by identifying an external partner who will leverage people, process and technology to help you become more efficient and effective handling current and future challenges and in seizing the corresponding opportunities. ■

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