

## What are the Priorities of Legal Departments in Belgium?

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We have run an on-line poll to get an answer to that question. In May and June 2008, we asked in-house counsel to select their top three priorities out of a list of ten options. We also submitted the same list of options to attorneys in business law firms, asking them what, in their opinion, are the priorities of in-house counsel. We wanted to discover to what extent do they know what is on top of their clients' minds.

Overall, in-house counsel and attorneys have established the following ranking:

<b>What are the priorities of legal departments in Belgium?</b>	<b>What in- house counsel say</b>		<b>What attorneys think</b>	
Improving internal client service	<b>1</b>	<b>68%</b>	<b>4</b>	<b>36%</b>
Improving leadership, communication and counselling skills of the team	<b>2</b>	<b>40%</b>	<b>7</b>	<b>15%</b>
Improving the image and profile of the legal department within the company	<b>3</b>	<b>34%</b>	<b>5</b>	<b>17%</b>
Organising and structuring the compliance function	<b>4</b>	<b>32%</b>	<b>3</b>	<b>44%</b>
Improving efficiency through information technology	<b>5</b>	<b>27%</b>	<b>9</b>	<b>14%</b>
Finding the right mix between centralisation and decentralisation of the legal department	<b>6</b>	<b>22%</b>	<b>10</b>	<b>12%</b>
Improving efficiency in outsourcing work to law firms	<b>7</b>	<b>20%</b>	<b>2</b>	<b>46%</b>
Reducing costs	<b>8</b>	<b>18%</b>	<b>1</b>	<b>63%</b>
Developing KPIs, metrics and the use of benchmarks	<b>9</b>	<b>16%</b>	<b>8</b>	<b>15%</b>
Recruitment and retention of lawyers and staff	<b>10</b>	<b>12%</b>	<b>6</b>	<b>17%</b>
Other	<b>11</b>	<b>4%</b>	<b>11</b>	<b>0%</b>

Our poll has no scientific ambitions, yet it attracted hundreds of visitors and participants. We believe it allows suggesting general directions. Here is our reading of the results.

## **Strategic partnering with the business**

The top three priorities picked by in-house counsel (improving internal client service, leadership, communication and counselling skills, and the image and profile of the legal department) send a clear message: what matters most to legal departments is their relationship with their internal client. Becoming a more valuable, visible and respected partner for the business, in short becoming a “strategic partner”, is the number one concern, as more than one legal department have put down in writing in their mission statements.

This may be a Galileo-type revolution for some attorneys: the world of in-house counsel is not attorney-centred; it is centred on the internal client. In our poll, attorneys have underestimated the three top priorities of in-house counsel; they rank them respectively in the fourth, seventh, and fifth position. Instead, they – wrongly – believe that the top priorities of in-house counsel are attorney-centric: improving efficiency in outsourcing work to law firms and reducing costs. However, these two issues only make seventh and eighth position in the in-house counsel hot list. The good news is that in-house counsel do not wake up in the morning thinking: “How can I slash my outside counsel budget?” They have other things on their mind.

This gap in perception should, however, be a bit worrying for law firms. Getting it wrong on what is on the top of their clients’ mind is always tricky for professionals who make a living of serving clients.

We can draw three practical recommendations from this result:

- First, attorneys should pay more attention and spend more (non-billable) time questioning and listening to their clients to get the right picture of legal departments’ top issues. Understanding what matters most to your clients is the keystone to effective client relationship management.
- Second, in-house counsel should be more explicit with attorneys about what is going on and what truly matters. If you don’t tell them, how could they know?
- Third, there is a huge potential for better and more innovative services, which will translate in happier clients, stronger relationships, and less pressure on fees. In-house counsel and their attorneys should sit together and find how attorneys can help in-house counsel improve service to their internal client. I that’s the number

one priority for in-house counsel, it should also be for their attorneys. For example, instead of just writing a legal opinion, attorneys should check with outside counsel how he plans to use it and should adapt its format accordingly (a five-slide PowerPoint presentation will be more useful than a 25-page memo if in-house counsel's purpose is to convince senior management).

### **Compliance: a clear but not so clear challenge**

The results of the poll confirm, if there was any doubt, that compliance is on the rise. Organising and structuring the compliance function comes in fourth position in the in-house counsel's ranking, third in the attorneys' ranking. Here at least, both parties seem to be on the same page.

Triggered by the Sarbanes-Oxley legislation in the US, compliance has already landed on the desk of many in-house lawyers and is rapidly becoming an unavoidable issue on which heads of legal departments must have not only a philosophy, but also explicit answers to a wide range of strategic, organisational and practical questions.

So, it is clear that compliance has become a challenge, although in many ways, everything remains unclear about it. How to define "compliance"? Where does it start, and where does it end? What is the role of legal in it? Is it compatible for the same person to both advise and ensure compliance? How should legal relate to other corporate functions with a foot in compliance like enterprise risk management, internal audit, corporate governance or even human resources? To what extent should legal departments take responsibility for compliance by the business?

Unfortunately, we see legal departments throwing resources into compliance procedures and programs before having answered these fundamental questions. The result is often ineffective. Compliance is a clear challenge for legal departments, but the way to tackle it will remain fuzzy until clear answers to the fundamental questions are put on the table.

### **Improving efficiency**

Improving efficiency is scoring well as a priority among in-house counsel. Attorneys who underestimate this (and the poll shows that many do) do it at their own peril.

We believe that the efficiency challenge fully deserves its place among priorities for legal departments. The reason is simple. We call it the Success Dilemma: excellent service will get you into trouble.

Legal departments, compared to other support functions such as finance, IT and HR, most often receive high satisfaction ratings from their internal clients. The focus on client service has produced pragmatic, dedicated, accessible and flexible service. Internal clients have noticed and send more and more work. Quality attracts work. But at some point, high performance comes under pressure. The legal department can't cope with the increasing volume of work, and quality starts to decrease.

It is dangerous for legal departments to focus on service excellence and client satisfaction without developing an environment that can cope with success. Recruiting more lawyers is seldom an option for budget reasons, and there are limits to what outside counsel can do. Information technology and process reengineering are the third option. More and more legal departments are betting on that horse to rescue them from the Success Dilemma.

The gap of perceptions between in-house counsel and attorneys as to the importance of this priority suggests that, here again, smart law firms will seize a big potential for client satisfaction and improved relationships.

### **Organisational matrix nightmares**

If you are a head of legal and struggle on how to organise your department to best fit the (ever changing) organisational matrix of the company, don't worry: you are not alone.

Should lawyers report to the general counsel or to the heads of the business units? Should they be posted in a central competence centre at the headquarters or dispatched to the business units? Should they specialise by legal area, or by line of business, or geographically? What decisions (for example, selection of attorneys) should be kept centrally, and what should be delegated to individuals? These are questions that most general counsel in large companies are facing, and the answers tend to go back and forth. A centralisation wave follows a decentralisation move, and vice-versa. And when, at last, the head of legal has found the right structure, a new corporate reorganisation reshuffles everything.

Does that matter to law firms? Yes. A reorganisation of the legal department may affect the business they get from the headquarters or the local branches of the company. Relocation of in-house counsel may terminate a happy relationship, or create new opportunities. A decision to centralise selection of attorneys may kill a longstanding and fruitful business relationship. The gap in perception of the importance of this issue suggests that the attorneys should pay a bit more attention to an issue that can have a significant impact on them.

### **Fee pressure is 'value pressure' more than 'cost pressure'**

The poll shows that attorneys feel pressure on fees. A large majority of them rank cost reduction as one of legal departments' top three priorities. Interestingly, in-house counsel tell just the opposite: cost reduction is number eight on their list. Legal budgets may be frozen or under increased scrutiny, but there is no indication that legal departments are under a general pressure to slash budgets for outside counsel.

But then, why do attorneys feel such pressure on fees? Our hypothesis is that in-house counsel are not putting pressure on the cost, but on the value. They want more value for the same money. For law firms, it is not about being cheaper, it is about adding more value.

Law firms cannot escape economic logic. It's an economic law that in a competitive market, where several companies offer the same or similar services or products, companies must systematically deliver more for the same prices. What can be produced for 100 € today must and will be produced for 90 € next year. Maintaining high profit margins requires either innovation or improved efficiency. Attorneys who believe they can keep (or even increase) the same rates without innovation or improved efficiency are getting it increasingly wrong and feel the burden of pressure on their fees. Innovation and efficiency: two words pretty unusual in most law firm today cultures. Our bet is that they will be the signature of the success stories in the coming years.

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