THE VALUE OF BEING RECOGNISED AS A TRUSTED BUSINESS ADVISOR

Jon Rowell, Partner at McGrathNicol, explores why it is important for in-house lawyers to demonstrate that they are not just a legal resource but also have a willingness to contribute to the development of business strategy and drive commercially sustainable solutions.

The changing role of an in-house lawyer

The role and status of in-house lawyers has evolved over recent years. Being a lawyer isn’t enough anymore. Businesses are changing at a rapid pace and are seeking to extract broader value and input from senior legal executives who are expected to contribute beyond their existing roles. Although in-house lawyers no longer have to justify their positions, they are increasingly facing situations of having to demonstrate their willingness to move beyond the core legal function of managing governance and compliance.

Many, if not most, in-house legal teams are no longer just expected to provide legal advice in a vacuum. Their role is less about the academics of the law (whereby sound legal knowledge and technical skills are implicit) but a role that is greater aligned with the commercial, strategic and practical needs of the business.

Like all functions within a business, the roles and responsibilities of an in-house legal team should change as a business changes and develops. Lawyers should not be viewed exclusively as being experts in one area of law and should be called on increasingly to assist with strategic and commercial decisions and to fulfil the role of a trusted advisor to the company’s executive management and board.

For example, at any one time, it is not unusual for an in-house legal team to be working alongside external advisors on a proposed acquisition or divestment, providing advice on industrial relations challenges, negotiating contracts of supply and contributing to the financial budget setting process and strategic plans.

Whilst all of these matters require obvious legal input and expertise, they also provide an “out-of-box” opportunity for in-house lawyers to contribute more broadly and provide an often much needed different perspective.

Becoming more integrated

Previous ACLA publications have explored ways in which an in-house legal team can become more integrated into a business. Rowena McNally and Suzanne Greenwood in their article “Managing the In-House Team” highlighted the importance of having a well-rounded knowledge of the organisation, its operations and the matters likely to influence them. Colin Jasper in his article “Value: in the eye of the beholder” emphasised the significance of strong, consistent and open communication, as well as having sound working relationships.

In addition, throughout 2013, I attended, as an observer; one of ACLA’s Value Challenge Think Tanks and watched both senior in-house and external lawyers debate how legal teams could improve the value of legal services. The general consensus was that in-house lawyers were being asked to ‘do more with less’, and are not only being required to undertake much of the legal work that was previously outsourced to external legal advisors, but to be more overtly familiar with the more ‘commercial and financial’ aspects of an organisation not typically expected of an in-house lawyer. It was clear that it was not enough to be technically brilliant or a great relationship-lawyer anymore, but necessary to provide advice and help to implement it with a full perspective of the needs of the business and the commercial drivers which underpin the need for legal support. This means that foresight and strategic thinking are critical and lawyers must have a longer term view of where a business is going and what it needs to achieve its strategic goals.

To me, the Value Challenge Think Tanks highlighted that in-house lawyers are looking to advisors to help them increase their value to an organisation by really understanding its commercial and strategic objectives. One way this can be achieved is by in-house counsel better understanding the commercial and financial drivers of their organisations. Areas of consideration that in-house counsel can address to ‘build a bridge’ between the legal, commercial and financial teams include how to:

- better understand financial statements, how they fit together and how they should, and could be read
- identify and test the strengths and weaknesses of the strategic framework
- ask the right questions when something doesn’t look right
• get to know the ‘language’ and financial ‘jargon’ of the organisation – including the business model and its key commercial and financial drivers.

Speaking the language of your organisation can encourage the executive and operational teams to see your point of view and eventually, leads to attaining influential status as a trusted business advisor.

Shadowing
To truly ‘comprehend a business’, you need to recognise and understand the key drivers for both your internal and external clients. This is not always easy to achieve, particularly in large, complex and diverse organisations. In my experience, one of the most effective ways to gain a more in-depth knowledge of a business and an understanding of its strategy is to shadow its CEO, CFO or senior operational managers, such as those in production, sales, research and development, human resources and business development.

Both legal and accounting firms operate not dissimilar programs for graduates new to their organisations, whereby they are rotated through parts of the organisation to obtain a working knowledge of its different operations before settling in a particular area on a full-time basis. Although such programs have a slightly different purpose and objectives, they do provide an interesting insight into what we expect from people new to our organisations and how we assist them to understand what it is our organisations do. Although similar structured programs for senior legal executives remain relatively rare in Australia, a small number of organisations do provide less structured and needs orientated ‘shadowing’ opportunities, whereby in-house lawyers can organise to ‘shadow’ a range of senior executives to obtain a first-hand insight into their roles and responsibilities. For example, these opportunities can include activities such as:

• attending a range of internal and external meetings with their shadow as an observer
• spending half a day or a day a fortnight with the CEO or CFO
• attending the same training courses with their ‘shadow’
• getting involved in and contributing to the strategy and financial budget setting processes
• meeting with their ‘shadow’ or ‘shadows’ on a scheduled basis to facilitate knowledge transfer.

Clearly, there are practical challenges with implementing a structured and workable ‘shadowing’ program, not the least of which is finding the time to participate effectively. Every organisation is different and there is no ‘one size fits all’ approach. The successes of some of the programs I have seen are mainly due to in-house lawyers proactively organising the opportunity and obtaining the willingness of busy senior executives to take part. The persuasive ability and communication skills of the in-house lawyer are paramount in this respect.

ACLA and McGrathNicol host a series of half-day Commercial and Financial Acumen Workshops for members to provide them with the tools to better understand financial drivers of their organisation. For more information visit the ACLA website.

Footnotes
1 McNally, R. and S Greenwood, S., Managing the In-House Team, ACLA Journal June 2013 pp.18-19
2 Jasper, C. Value in the eye of the beholder, ACLA Journal September 2013, pp.10-13