
The Legal Department: From Business Enabler to Business Creator

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Abstract

“Legal still needs to earn the right to exist.” Those were a senior Capgemini executive’s introductory words in his speech at the 2013 Group Legal Forum. Beyond the provocative tone, this challenge has been an ongoing driver of the Capgemini’s Legal function.

It is increasingly necessary that legal departments demonstrate their value to the company, lest they be seen as a mere cost center and be treated as such. Legal has often times been dubbed the “sales prevention team” by allegedly being too risk-adverse, appearing as a hindrance to the sales executives’ desire of a quick closing or occasionally viewed as a scapegoat for lost bids. It is critical to change this perception so internal clients realize that Legal is not only protecting the company’s interests but also is a “sales and profit enhancing team.”

The modern legal department must reinvent itself and change the rules of the game through innovation, being proactive with its internal and external clients, and demonstrating that it can be a business creator and not merely an enabler.

Bringing business discipline to the legal department has been the ambition of the Capgemini Group’s General Counsel and her teams for the last 19 years, and in November 2015 it led to Capgemini’s legal department receiving four Trophy awards (“*Trophées du Droit*”) at the in-house legal team contest organized by the French magazine “*Directeur Juridique & Financier*”. This annual event rewards professional and innovative legal departments in France, gathering the most important members of the French legal community. These awards, related to transactions, innovation, contract management, and best international legal team, reflect the Capgemini legal department’s accomplishments and the hard work and contributions made by all legal team members over the years in France and abroad.

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1 Develop Internal Conditions for Innovation

Capgemini's legal department seeks to offer the best possible work environment and career opportunities to its team members through a dedicated career-management program not only focused on expertise, but also strongly encouraging creativity and innovation. Innovation originates in people, and a department can only be innovative if its members are individually driven to be creative and rewarded for it. Working for an IT and consulting company such as Capgemini is a strong driver for innovation. However, any legal department, regardless of the industry, should favor an environment conducive to innovation. This is not necessarily a budget issue as constrained budgets can in certain circumstances foster creative ideas.

1.1 The Right Team

International Capgemini's legal department was created in 1998 on the 30th anniversary of the Group, which employed 30,000 persons at the time. Despite being headquartered in France, the Capgemini legal department was never thought of being limited to French lawyers. It was "born with an international DNA" from day 1, recruiting lawyers from different jurisdictions who formed the nucleus of what would later become the Capgemini global legal department with 280 team members, in December 2015.

Diversity Diversity is a foundation for innovation. Beyond its international DNA, a deliberate effort is made within the legal department to bring balance to the team. At the end of 2015, the headquarters' legal department was composed of members from seven nationalities, 50 % non-French. The ambition was to equally cover all national common law and civil law as well as numerous languages. Familiarity with cultural diversity enables fluid and productive interaction with lawyers and business colleagues all around the world.

Gender It is worth noting that in many countries the legal function is largely composed of women lawyers but only some of them reach a General Counsel position. This was never the case within Capgemini. The legal department is divided into five regions plus the headquarters, and there is a perfect gender parity at this managerial level. Although perfect parity was not a specific goal, allowing talented women to take responsibilities in the legal department was always the Group General Counsel's ambition. She is also the founder and lead of "Women@Capgemini," the Group Gender Balance Program. The underlying principle in promotion of lawyers was always to give equal opportunities to all team members, regardless of their gender or ethnicity. In addition, internal promotion is encouraged, and every time an appointment is opened, priority is given to existing talent over external hires. Most General Counsels were appointed internally, hence allowing the promotion of talented women who had grown within the community.

A few years ago, the General Counsel of a small geography moved to another position. It was decided to wait for 2 years to replace him in order to allow a talented but less experienced female lawyer to prepare for the role. During this time, a senior lawyer from another jurisdiction was appointed as interim General Counsel. This was a “win-win” situation, since it gave the interim lawyer a unique opportunity to act as a General Counsel, a role unavailable at the time in his own geography, while the future General Counsel could be trained and promoted.

Backgrounds Legal cannot any longer include exclusively lawyers but must be open to and enriched by new complementary profiles. The Capgemini legal department, which includes a contract management team, is composed of a diversity of profiles, lawyers and non-lawyers with diverse backgrounds (delivery, finance, risk management). This allows the department to provide better analyses while having an in-depth understanding of other functions and their expectations. The legal department itself benefits from the opportunity for its entire team to develop talent. Non-lawyers are being trained on legal matters and lawyers can expand their expertise. It also enhances the possibility for lawyers to evolve outside of legal functions if so motivated.

Mobility In order to foster exchanges between local legal departments and headquarters, a rotation program was created in 2003. Members from local legal departments are seconded for a few weeks or months to the Paris headquarters. This program gives them the opportunity to better understand Capgemini Group’s priorities and policies. It also enables local best practices—brought by the rotation lawyer—to be rolled out through the entire legal community. Allowing local lawyers to gain a corporate perspective is an extremely valuable exposure, while it helps headquarters lawyers to keep a link with the day-to-day local operational constraints and ensure that current processes are well suited. At the end of 2015, almost all local legal departments of Capgemini had sent lawyers in rotation to the headquarters. Beneficiaries’ profile and level of experience are diverse, as not only senior lawyers, are eligible for the program. “Game changers” are highly valued across Capgemini, and the rotation lawyers’ contribution is diverse and valuable. Examples of contributions range from the drafting of a “Legal Department Welcome Kit” suggested by a junior lawyer sharing her experience on the information she would have liked to receive upon joining, to contributions to the legal department strategy, subject matter expertise or methodologies. The rotation program initiated at Group level aims also to be applied between the local legal departments to enhance relationships.

Financial Arbitrage Facing an increasing number of requests for legal support in a Group experiencing a strong internal and external expansion, albeit in a restrictive budgetary environment, Capgemini created the Rightshore[®] economic model. This model allows the legal department to provide in-depth, high-quality legal advice at

limited costs. The Rightshore[®] economic model is a financial arbitrage defining the optimal location of resources in terms of labor costs, in each main type of legal activity adapted to our needs (contracts review, negotiation, trackers, templates, and policies drafting, etc.). Today the four Rightshore[®] locations: Brazil, India, Poland and Guatemala, are a unique opportunity for the headquarters legal department and most local ones to work closely with colleagues from these four countries.

Open Mind Open-mindedness is important in the search for talent, devoid of hierarchical considerations. A well-run organization must allow talent to shine, and leveraging talent globally is particularly meaningful to enhance small teams' performance. It is widely recognized that bringing together different people with various academic backgrounds and level of experience fosters innovation and helps the team to think outside of the box. It is essential as well to recognize successful initiatives taken by an individual and to give due credit for ideas and contributions of each member of the department. This mindset encourages the younger generation to speak up and propose initiatives that more experienced colleagues would not necessarily have thought of; it is the combination of all members that allows the team to push innovative projects.

1.2 Within the Right Organization, with Clear Goals and Priorities

One Team Capgemini's legal department members work together globally as "One Team" solely reporting to five regional General Counsels and ultimately to the Group General Counsel, without any hierarchical link to operational management. In 2009, this organization replaced the dual reporting lines to Group General Counsel and to the local management. It was done to preserve the independence of the legal function while maintaining the proximity of the local legal team to their local internal clients. It has allowed the entire legal team to be driven by common guidelines and a unique impulse. The "One Team" concept recognizes a person's sense of belonging to one team and one's greater commitment if his or her realm moves from local to global. The objective is to give each team member the opportunity to be visible at a global level as no local budget boundaries prevent involvement in global projects. Within Capgemini, General Counsels are requested to invest 70 % of their time on local and 30 % on global matters.

Legal Priorities Each year, the Group General Counsel sets the "Legal Priorities" which are distributed to all members of the legal department. It reflects the main directions given by the Group Chairman and CEO and his team, and sets the main strategic goals and realizations expected from all legal team members. It allows the General Counsels to define the KPIs of their team members. In the 2012 Legal Priorities for example, each team member was directed to discuss suggestions for

innovation or improvement of the legal department with their General Counsel, who was requested to elevate them to the Group General Counsel.

Leader Profiles Since 2011, all lawyers are assessed along common “Leader Profile” criteria defined at the Group level: “Business Pioneer”, focusing on proactively facilitating business initiatives in new markets and geographies, “Profit Shaper”, focusing on risk awareness, and operational excellence turning business into margin, and “People Leader” focusing on leadership characteristics.

When these Leader Profiles were introduced, they did not necessarily appear well suited to the legal function, so the General Counsels worked on making these Leader Profiles a driver for the legal community. Today these Leader Profiles shape the entire legal team’s attitude and focus.

Global Legal Awards The legal department must be driven by motivated members, and all in the team are encouraged to make themselves, their teammates, and their contributions visible. “Legal Awards,” following the Leader Profile categories, were created to reward individuals or teams worldwide for their achievements. The “People Leader” Legal Award for example rewards federating and inspiring members of the legal department who deliver excellence on a global scale.

Candidates for Legal Awards are usually nominated by the General Counsels but may also be referred by colleagues or even other departments. Legal Awards are a chance for small countries or for young lawyers to make themselves visible as they reward initiatives, subject matter expertise, or processes in all domains. In 2014, a local team won a Legal Award in the Business Pioneer category for their program called “Data Protection for Delivery,” which helped delivery teams identify and deal with data protection issues. This program has had an exceptional impact on team spirit with effective and proactive collaboration between several areas of the company not previously in contact in that specific country. The program increased delivery, risk, and commercial teams’ awareness with regard to personal data and helped them to respond effectively to client requirements. It was based on an industrialized process, and now all projects in that country use the same template and follow the same procedures to identify the requirements for the management of personal data, and it will be deployed globally. The creation of the global Legal Awards has accelerated the emergence of a company spirit and generates a healthy emulation within the entire legal community.

1.3 With Powerful Tools and Methodologies

Much efficiency today is derived from appropriate tools, good knowledge management, and processes, all of which are even more relevant in a virtual team environment. Numerous legal initiatives and working groups were created within

Capgemini's legal department to enable the sharing of good practices and to seek opportunities for an ongoing, cost-effective improvement of the legal function. Moreover, volunteers in charge of a legal initiative are offered a great opportunity to develop their leadership skills at the Group level.

Tools The Capgemini legal department uses a number of tools such as an "Electronic Management System", a "SharePoint" or a "Contract Management" solution. The decision to invest in a much-needed global Electronic Management System was made years ago to manage and file according to the same taxonomy, the vast amount of documents and information created or received every day within the legal department worldwide. The decision was to customize one of the readily available document management tools for Capgemini's specific needs. Today, the Electronic Management System is used by the entire legal community, with the persistent goal to improve response time, security, and user experience within the legal department.

As communication and information sharing are critical within a global team, Legal also needed a tool to help local and headquarters' legal departments to better interact with each other. One of the reasons that led to the creation of the Legal function's SharePoint was the desire to allow each department (local and headquarters) to present its team and share its best practices freely. Such showcasing encourages the teams to see what other departments are doing, and to share knowledge. This tool is also the perfect place to promote initiatives such as the "Legal Practice Groups" and "Legal Initiatives" developed within the legal department. SharePoint also gives centralized access to all the data a team member needs, such as policies and guidelines, templates or team member lists and roles.

Legal Technology Group Technology is not necessarily a natural area for lawyers, but a global department is bound to include team members with a passion for technology. Within the Capgemini legal department, it was proposed that a few team members gather in a dedicated work group (the "Legal Tech Group"). The five-member team, led by a local General Counsel, was mandated to regularly monitor all tools used by the department, and to make recommendations on how to keep them best suited to its needs. As Legal Tech Group members have a good understanding of technology as well as of the legal department's needs, they can best evaluate tools capable of improving its efficiency. The legal department owns and has access to significant knowledge and data that could be valuable for other functions and should be made available to them through tool interconnection. As a consequence, the Legal Tech Group is also expected to focus on the legal department's tools interactivity with those of other functions and departments.

Legal Practice Groups Strong expertise is necessary in a global legal department, and knowledge sharing and teamwork must be pushed continually. When budgets are constrained and resources scarce, one must leverage existing expertise and deploy it worldwide. Mapping of resources, capabilities and aspirations is key to

locating and leveraging talent. Within the Capgemini legal department, cross-border networks of experts, the “Legal Practice Groups”, were created in 2011 to offer all members worldwide the opportunity to work together and develop their specific skills and expertise. The first Legal Practice Groups focused on subject matter expertise (Labor law, Intellectual Property, and Data Privacy), specific services lines (Financial Services, Cloud, and Outsourcing) or internal processes (Capgemini Group Contracting Principles). As success rests on the interest and desire to learn, participation to Legal Practice Groups is based on the willingness to join a group of lawyers and non-lawyers specialized in certain domains. Legal Practice Groups are expected to gather people who have an in-depth knowledge of the applicability of their expertise in the business, and to be a laboratory for new ideas. Legal Practice Groups are also used to develop legal training to be made available within the Group.

Legal Practice Groups’ nimbleness helps bridge the resource shortage, as experts may not be available in every geography. Participating in a Legal Practice Group is an excellent opportunity for senior experts to lead the team as Chair or Co-Chair, and for lawyers in small jurisdictions to benefit from a network of specialists outside their own area of expertise and geography. For example, when Capgemini started doing business in a particular geography, it had a limited legal knowledge of the constraints to operate there and no business case for the creation of a dedicated legal department. The creation of a dedicated Legal Practice Group was the occasion to bring together the current and past experience of a number of lawyers who had worked on deals involving such geography, and to develop expertise in a very short time. Not all Legal Practice Groups will last, and some of them can evolve into a specialty, such as the Data Protection Legal Practice Group, which evolved into a network of Data Protection Officers. Innovation stems also from the opening of Legal Practice Groups to experts outside of the legal department when the subject requires Legal to rely on, for example, a specific technical expertise.

These initiatives allow all team members who wish to develop a capability to find the time and place to do so. Thinking outside of the box must be encouraged, and the Capgemini legal department allows its team members to develop ideas that positively contribute to the department, even if these ideas are not necessarily directly linked to their day-to-day assignment.

Webinars In addition to regular global messages, on-boarding sessions, e-learning and local training required for lawyers to maintain their local qualification to the bar, webinars are organized each semester, directed towards the entire legal community. These webinars may focus on legal developments, new processes (legal, financial, human resources, etc.), or initiatives by local teams, and are a unique chance for all 280 members of the team to be together and hear the same message. The format is lively and allows for interactions between the speakers and the participants. Due to time zone differences, two webinars are organized on the same day to facilitate attendance by a maximum of participants; attendance usually is above 80 %.

Legal Forum Every year, the Legal Forum physically gathers for 3 days, all local General Counsels, as well as several of their team members. Legal Forums are a great opportunity to strengthen relationships between the different local Legal teams. Numerous presentations and workshops allow them to share knowledge as well as local innovations or initiatives and increase their legal skills. Moreover, the Legal Forum is an unrivaled occasion to bring team members closer while fostering the spirit of “One Team” within Legal. It is an occasion to ask to Group leaders to present their strategy and expectations for the legal department or to present an innovation or a new service offering.

The right team within the right organization, with clear goals and objectives and powerful methodologies and tools are the first conditions on which Capgemini legal department bases its innovation strategy.

2 Be Proactive and Bring Value to Internal and External Clients

The role of Legal has changed. Times are long gone when the legal department was mostly waiting for internal requests. From being reactive, it has become pro-active and anticipates the needs of its internal and external clients as well as market evolutions. In the fast-evolving IT industry, one needs to anticipate at a very early stage future requirements for legal support.

The legal department interacts with almost all functions, such as sales, delivery, strategy, risk, communication, or human resources on a large variety of topics, and contributes to cohesiveness cross the organization. This central role must be used to create bridges with the other Group functions, and Capgemini’s legal department strives to maintain good communication and relationships with them, while continually seeking how it can bring value.

2.1 Develop Internal and External Communication

Part of leadership at all levels is effective communication. Several channels were put in place to ensure that the legal department is close to the business and that communication is plentiful and fluid.

Global and Local Intranet Pages Legal has a global intranet page while each local department has also its own page on local intranets. The purpose of these pages, regularly updated, is to be the first image of the legal department, presenting its organization as well as its mission statement: *“Whichever country you might be in and whatever your role in Capgemini is, the legal community strives to work with you as true business partner as well as trusted adviser. Our mission is to contribute to the Group’s development by facilitating profitable business through professional,*

responsive and pragmatic legal advice and contract management support to all the Group's activities."

"Fiona Booklet" Leveraging a local initiative from a junior lawyer, a booklet named *"Fiona meets the Legal Department"* has been created with the aim to present the legal department to the sales and delivery communities in an innovative form. The innovation comes from the format, the creation of a cartoon figure, Fiona, the story telling, and from the humorous tone. The booklet tells the story of Fiona, a junior sales or delivery representative recently hired by Capgemini who is regularly confronted with legal issues. It addresses basic questions such as: When is a contract concluded? What are the legal issues in a contract? This local initiative was rapidly turned into a global initiative and the booklet is now available worldwide. This was so successful that another booklet covering data privacy topics was created, *"Fiona meets Data Protection."*

Legal Ease "Legal Ease" are simple one-page articles posted regularly on the Capgemini intranet, with the motto, *"Legal cannot get easier than this!"* Again, it was started as a local initiative and was quickly turned global. Local legal departments are encouraged to create their own Legal Ease covering local matters, and a global Legal Ease is prepared for subjects with a global relevance. Through Legal Ease, global and local legal teams keep the business teams informed about various legal issues, tips, tricks and developments relevant in everyday business. Topics range from signing Non-Disclosure Agreements, to a new law on payment terms, and from open source software to parent company guarantees. These articles are very useful and can be used as pre-drafted answers to business teams. Many legal team members also add a link to the Legal Ease page on their internal signature, increasing the awareness of the initiative.

Global Survey The headquarters legal department launched internal surveys to rate the services it renders and the importance of Legal to the success of Capgemini's business. The surveys are sent to the communities interacting with Legal, rating accessibility, respect of deadlines, legal expertise, understanding of business issues, advice communication and quality of work. Broader questions about the role expected from Legal as well as its contribution to the success of the business are also very valuable as they help determine the position of the legal department within the company. Suggested improvements regarding skills and expertise allow for the anticipation of business needs. These surveys led to specific action plans, which helped develop today's legal department. In the 2008 global survey, almost half of the respondents indicated that a contract management function should be systematically implemented for complex and/or big deals, which contributed to the creation of the contract management function within Legal.

External Communication The legal department of a multinational company has a role to play in the market at many levels, by sharing ideas, writing papers,

contributing to the training of attorneys to be qualified, and networking in the market place. Capgemini's Group General Counsel participates in numerous events. She initiated the reunion of General Counsels of other large multinationals headquartered in France to discuss marketplace issues. This gathering evolved into the Commission of CAC40, a reunion of the General Counsels of the 40 largest companies on the Paris stock exchange, which she co-leads with another multinational company's General Counsel. The initial impetus was her ambition to join forces with other General Counsels of multinationals to lobby on the question of the recognition of the status of in-house counsel in the marketplace, and the lack of "attorney-client privilege" resulting from the Akzo Nobel case law at a time where France's President had commissioned a study on the reform of the legal profession including in-house counsels. More generally, she wanted to reinforce the legal function in corporations and also ensure that Group General Counsels would meet as regularly as CEOs and CFOs do, to allow them to discuss best practices or regulatory changes. Capgemini Group's General Counsel is also a member of the European board of the International Association of Conflict Prevention and Resolution. Capgemini legal department members are strongly encouraged to participate in numerous events, and be speakers at marketplace events on specific themes such as data privacy, intellectual property or contract management matters or at sessions organized by other multinationals. It is important to benchmark and exchange views in the marketplace and to contribute thought leadership on specific topics relevant to one's industry.

2.2 Develop Strong Relationships with Internal Clients

Capgemini's legal department makes it a priority to create strong and meaningful relationships with its internal clients. Each member of the department is individually encouraged to create personal connections and to build trust with his or her internal clients.

"Legal to" Programs The "Legal to" programs are targeted communication channels launched in 2011 by the Capgemini legal department to improve the relations with other functions such as sales and delivery. These programs are dedicated to a function, with a specific focus on its particular needs and expectations. Each "Legal to" program is led by a regional or local General Counsel and a senior stakeholder from the function targeted, and all programs pursue the objective to create strong bonds between both communities. Each program is specific, but all of them focus on relationship improvement, on providing valuable deliverables for both communities, and on anticipating future needs. The legal team's primary interest is to understand how it can improve the level of services provided to each function beyond sharing information, and to increase internal customers' satisfaction.

Legal to Sales The “Legal to Sales” program was initially focused on enhancing Capgemini’s chances to win deals as “One Team” through improved collaboration between Legal and Sales. One important prerequisite was to help each function understand the other’s interests and motivators. This program was the beginning of a greater collaboration between both communities on several common topics such as training (Sales/Legal negotiation workshops) and communication (internal videos showing significant achievements of both communities working together). In 2015, Legal and Sales worked together on a negotiation strategy initiative as well as on governance proposals. The first deliverable was a guide named “Negotiation for Success”, produced by senior members of Legal and Sales communities working closely together to elaborate a unique pathway to success. By creating links and promoting its availability, Legal took a deliberate step toward Sales to be seen as more than a subject matter expert. In turn, regular interaction with the sales community helps Legal understand Sales’ expectations from the legal community and Sales’ priorities.

Legal to Delivery The “Legal to Delivery” program, also launched in 2011, focused mainly on how Legal can help delivery move forward after a contract is signed. Business relationships are governed by contracts, yet often times after a contract is signed, it is not readily accessible to the people who need it, preventing the capture of the full value of agreements. In March 2015, a joint pilot was launched for the preparation of contracts summaries (“Contract Briefings”) for all new contracts signed in selected countries above a certain value threshold.

The success of the “Legal to” programs led to the creation of other programs such as the “Legal to Procurement” program mainly focusing on processes and templates or the “Legal to HR” program which is dedicated to the relationship with the human resources department. The Legal to HR program led in particular to the harmonization of terms and conditions contained in all employment contracts across service lines in the largest geographies. Contents of the “Legal to” programs are also evolving continually, and the next step is to make the programs more bilateral, asking the other functions to increase their contribution to the awareness of the legal community.

Relationship Attorneys Capgemini Group is organized in a number of service lines, so-called Strategic Business Units (SBUs). The Capgemini legal department, like many others, is however, organized by geographies, so a specific role had to be created to facilitate the relationship and interaction of the legal department with the different SBUs, hence the “Relationship Attorney”. The objective is to strengthen the connection between SBUs and Legal (at the headquarters level and in the regions), to enhance intimacy, and ensure the sharing of important information between the SBUs and the legal department. The Relationship Attorney in each SBU is free to pursue these objectives at his or her own discretion but at a minimum he or she must create proximity with the business in the SBU and facilitate the legal team’s integration through bilateral information sharing.

To the extent that the Relationship Attorney has visibility on upcoming deals, part of the role is to promptly inform the General Counsels of the regions involved in such deals. The role might involve some problem solving, e.g., on a global deal where the Relationship Attorney must help to identify which legal team should be assigned. The Relationship Attorney must also refer to the relevant Legal team new matters not yet addressed requiring legal assistance. Being visible is critical, and the Relationship Attorney must represent the legal team at the SBU Kick Offs and at important meetings, either as a participant, a contributor, or presenter. The Relationship Attorney is also required to provide legal information to the SBU CEO and management team when appropriate—for example, about new legal developments or global legal initiatives—and provide strategic and tactical legal advice on issues that may arise during SBU management meetings.

It is important to stress that this networking and coordinating role is in addition to the lawyer's daily work in the SBU. As a member of the regional legal department, he or she must therefore be one of the key lawyers on the SBU's deals and other legal matters. The role is usually suitable for a Deputy General Counsel or Associate General Counsel. The Relationship Attorney is appointed by the Group General Counsel, and the role is expected to evolve over time and with experience. In creating the Relationship Attorneys, the intent was to give a position to a senior member of the legal department at an international level while not creating a sectorial General Counsel position which would have created a confusing double matrix and undermined the position of General Counsels who need to remain the leaders in their respective geographies. Relationship Attorneys rotate periodically, every 2 or 3 years, to diversify assignments and perspectives.

2.3 External Client Satisfaction

Ensuring the legal department's optimal performance for its internal clients is not the only undertaking. Legal in Capgemini is also concerned with external client satisfaction, and part of the department's objectives is to maintain collaborative relations with external clients and accelerating contract closure, critical in contract negotiations.

For new offerings and business models, such as cloud computing contracts, several business stakeholders have acknowledged that internal lawyers may help enhance external clients' understanding of the offering and clarify certain concerns. Legal is valued in the pre-sales phase as part of the expert team facing the client, and it must be involved at an early stage in order to craft the most appropriate contractual set-up.

Part of the post-signature contract management initiative also stems from the desire to manage external clients' expectations, by ensuring that contracts are delivered in conformity with the agreements signed and in close collaboration with the client.

2.4 Conclusion

Constant focus on proactivity and internal and external client satisfaction is crucial for the legal department to be considered as a business enabler.

3 Evolve from Business Enabler to Business Creator

Every legal department should be striving to be more than a business enabler, but to be a business creator in order to make a real difference. Capgemini's Legal interacts with the whole ecosystem, i.e., not only with all internal functions, but also with clients, vendors, and alliances partners. This unique central position allows Legal to have a 360° view, to foresee the needs of the market, and to develop solutions for its internal and external clients in Rightshore® contract management services.

3.1 Contract Compliance and Optimization

The legal department must be aligned with the Group's strategy. When the Capgemini Group communicated its "Industrialization/Intimacy/Innovation" program a few years ago, the Group General Counsel announced that the legal department would contribute to the growth strategy, and this led to the creation of a dedicated service line named "Contract Compliance & Optimization" or, CCO. Together with one of the General Counsels and one of its senior lawyers, Capgemini Group General Counsel initiated, in partnership with Capgemini's "Business Process Outsourcing" (BPO) strategic business unit, a new service and suite of products combining: (1) legal expertise in dealing with contracts; (2) BPO processes, delivery methods and locations; and (3) a forward-thinking approach to handling contract-related tasks, focused not just on labor arbitrage but on real, tangible business outcomes as part of its value proposition.

The idea was to assist all stakeholders with a consistent reading and understanding of contractual terms, to follow and track contracts, and to ensure they are properly amended when the scope of the services evolves. It led to the creation of a contract retention program in which contracts brought to CCO are kept and encoded according to a specific taxonomy that allows searching and data mining.

Although contracts are the basis of every relationship between clients, vendors, or alliance partners, and in spite of their key role in the business chain, they are often one of the least protected assets in a company. Companies routinely allocate significant resources, costing time and money, to negotiate, assess and approve contracts. Unfortunately, despite this massive upfront investment, once the contract is signed, it is too often kept in a closet, not properly leveraged, and not retrieved unless a litigation starts. It was therefore decided to create the CCO service line in order to offer a turnkey solution allowing effective execution and management of contracts, securing maximum financial returns and operational effectiveness.

Visibility Contracts are increasingly complex and in many cases extremely voluminous. Typical IT contracts may contain between 300 and 1000 individual obligations or requirements. Contracts contain clauses, terms, conditions, commitments and milestones that must be tracked and managed over the contract's life to maximize business benefits and minimize associated costs and risks. Without a systematic approach to extracting, monitoring, auctioning and reporting on these obligations, the company faces delivery and reputational risks, as well as the risk of cost overruns. CCO provides key stakeholders with a crystal-clear view of contracts, and a tool for the effective management of large, complex contracts from signature to change orders and renewals. It is not just a reporting system, but a way to categorize and prioritize the contracts' important features and tie them to the drivers of the desired business outcome. It also allows the preparation of reports and recommendations to continually optimize the contract's monitoring and performance.

Control CCO monitors contracts in real time with commitment reminders sent in advance to mitigate the risk of non-compliance. These reminders put parties to the contract on par, minimizes the waste of management time, and enhances the relationship with clients as it support compliance with contractual terms. CCO tracks buy- and sell-side obligations and milestones while leveraging discounts, bonuses and performance credits and earn-backs. This tracking provides for tangible, quantifiable results, e.g., a reduction in contract cycle time, review resources, and cost. CCO also addresses scope evolutions by putting in place a process to systematically initiate and draft contractual amendments (so called "Change Order Management"), including collecting approvals to signing and archiving contracts. It also proactively handles price adjustments, preserving margins, and freeing up resources for other business areas. In addition, the CCO team can respond to ad-hoc queries and prepare contract summaries.

Value Significant profitability can be gained by simply exerting control of existing contracts. Enterprise-wide accessibility allows every employee to minimize contract deficiencies and enhance decision-making capabilities. New opportunities are not missed, and if the possibility of dispute arises, Capgemini can readily have a clear view of its contractual obligations. Greater compliance with contractual terms generates substantial revenue over time, and contracts delivered exactly as negotiated deliver better value. CCO also facilitates the production of powerful data analytics and reports, because once contracts are entered into the contract management tools, it provides useful management tools such as comparisons, effective research and benchmarks. In addition, CCO improves client satisfaction by enhancing compliance with contractual terms and adapting the contract to client's evolving needs or requests.

CCO is led by a multinational team of experts, delivering profitable performance through proactive operational and contractual monitoring. The CCO team is today headed by the senior lawyer who contributed to launch the initiative. All members

of the legal department are encouraged to work closely with the CCO team and to assess the type of work to be externalized to CCO. The services are available in six languages: English, French, German, Spanish, Portuguese, and Dutch. For Capgemini's Legal it was a key initiative leading to the visible creation of value for the Group internally and it also proved that the legal department should be seen as a business creator and not only a cost center.

This service line was so successful internally, that responding to several external clients' demands, Capgemini now offers a dedicated CCO service to help them manage vendors, partners or any issue within the full contract lifecycle.

3.2 Contract Management

Even if Capgemini's legal department focuses on centralizing initiatives to avoid duplications, it recognizes that complementary initiatives can yield outstanding results. Beside the CCO initiative, the Group General Counsel initiated a contract management program "on-site" complementing the CCO program. It mainly started by assisting delivery teams post contract signature and thereafter evolved as a useful program to assist in shaping contracts, analyzing risks, writing schedules, participating in contract negotiations, and accelerating closing. Contract managers are contract specialists, lawyers, and non-lawyers, who have a vast understanding of contract negotiations and performance, and are trained on legal and financial issues, with an understanding of risks.

The program started in a jurisdiction where an internal study was conducted at the end of 2011 to understand the reasons why difficult projects resulted in cash "evaporation". The study discovered that Capgemini was investing heavily in the contract pre-signing phase and, after signature, contracts were gathering dust. It also identified that the delivery team focused its efforts on the performance of services, often without having a systematic and consistent approach in regards the terms and conditions of the contract itself.

As a result, the local legal department proposed an action plan and, in early 2012, the foundation was established of what is today Capgemini's strong area of on-site contract management aimed at maximizing the financial return of contracts. Initiated by the local General Counsel, the deployment started with a single person experienced in complex projects and PMOs directly involved in projects, and financed by the legal department. The idea was to start small, demonstrate real tangible value for internal clients and grow as demand developed. It should be emphasized that this economic model demands that a contract manager be assigned to, and be part of the project team.

The strategy also looked for "quick wins" which helped gain credibility among internal stakeholders who then started financing the use of contract management services. These "quick wins" helped raise projects' profitability through strong management and contract negotiation. As often with process changes, resistance was encountered initially from the delivery teams. However, it was quickly overcome thanks to strong communication, the creation of alliances, and, most

importantly, thanks to quick positive results. Those results included the release of billings and the collection of amounts withheld by the clients, the signature of acceptance certificates by clients, the effective negotiation of change requests and penalties, as well as contract readjustments.

The model proved successful and yielded rapid results. In the first year (2012), the financial benefits amounted to several million euros, fueling the team's growth from 2013 onwards. In addition, the contract management team, having earned the local CFO's trust, started to centralize the process to review, approve, and file the documents presented for bookings in the pilot country. Today contract management is on the business critical path, since no revenue can be booked nor any contract started in that country without the Contract Management's "green light".

This approach leverages CCO capabilities by assigning an onshore contract manager, working on all projects considered complex or particularly risky, side-by-side with the delivery teams, to improve financial performance. CCO teams are systematically in charge of documents and metadata management for all contracts.

The development of contract management was achieved jointly with delivery by focusing on four pillars: finance, scope, evidence, and risk management. It resulted in internal clients' high satisfaction and demand for more support by Contract Management. In 2014, the local contract management team won the "Profit Shaper" Capgemini Legal Award as well as an external award. This model, combining on-site contract management with CCO capabilities, is currently being deployed in most of the Capgemini Group.

3.3 Cybersecurity Offering

Last but not least, Legal should also be ready to help the company to develop new offerings.

One local legal department recently demonstrated its ability to act as a true business enabler to help a local Business Unit build a cybersecurity offering (360° Cybersecurity Strategy). This offering leverages the business unit's technical capabilities, the legal clout of a well-known external law firm and an insurance broker. The role of the internal legal department was decisive in structuring this security offering which offers clients an appropriate and complete cybersecurity incident prevention program. At the project's inception, the business unit stakeholders shared with the local General Counsel the difficulties to market the existing cybersecurity services. Legal helped reposition the offering and combined it with the skills of complementary market players to leverage each partner's potential customer base. The program rests on three legs. The first leg is the technical conditions designed to limit the risks of unauthorized access, data losses or failures of critical IT infrastructure; the second one is the legal and contractual framework applicable to the critical IT infrastructure; and the third is insurance coverage for cybersecurity incidents.

This type of initiative is again possible because the legal department plays a central role in the company and is thus well aware of client, vendor, and alliance

ecosystem, as well as litigation and regulations. This example proves that it is possible for Legal to generate significant opportunities and demonstrate legal departments' value to the business teams.

4 Not a Conclusion, But a Step on an On-Going Journey

Times have changed and the role of General Counsels in Europe has grown, similar to their American counterparts'. The Legal function, faced with the increasing importance of laws and regulations in a globalized world driven by fast-moving technology and innovation, has evolved from a reactive to a pro-active role. It ought to be closely associated with the company's business development and management from the inception, and no longer limited to formalize contracts and agreements. That implies a considerable evolution of the talent in legal departments, with non-lawyers bringing an in-depth expertise in all areas of the company's business. It also opens many opportunities to General Counsels and their teams to embrace additional and complementary roles such as Data Privacy Officer, Risk Manager, Ethics & Compliance Officer, and even Head of Internal Audit, to move from business enabler to business creator roles beyond support functions. Several such occurrences happened in Capgemini, and in particular the former Group General Counsel, co-author of this chapter, became Group Head of Commercial & Contract Management. That global business role was recently created to help win, retain and grow profitable business through commercial negotiation and optimized contract management. Agility and flexibility in contracts becomes a must to adapt to fast evolving client demands, market trends and technology. Reporting directly to the Group Chairman and CEO, it was the natural evolution of the "Contract Compliance & Optimization" service line and the emerging global contract management function. It is not a unique case as two other General Counsels of CAC40 companies have recently accepted managerial roles with P&L responsibility, a trend in line with North America.

One secret of game-changing players, be they individuals, movements or corporations, is to turn upside down what is taken for granted. Viewing corporate Legal as a business driver rather than a grim cost center is one such revolution.

Liquid Legal Context

by Dr. Dierk Schindler, Dr. Roger Strathausen, Kai Jacob

Roux-Chenu and de Rocca-Serra tell an authentic and inspiring story about how Capgemini turned their legal department into a profit center. The step stones are straight forward, and it all starts with creating the prerequisites for innovation. The authors thereby deliver the practice proof point to what Tumaşjan and Welpé have developed based on research: the co-creative enterprise as the foundation for entrepreneurial behavior.

(continued)

It is fascinating to find those individual concepts that often come towards us in isolation—or even diminished to buzzwords—in a direct business context. Diversity (in its many forms), internationality, mobility and breadth of background (non-lawyers!) create the innovative mix to get into a position to succeed. A strong and well developed organization, clear goals and priorities and a clearly defined leader profile are the step stones to success and directly link into what Pauleau, Roquilly and Collard have established as a KPI-framework to develop a performance driven organization. Last but not least, legal technology as the enabler to scale, but also to connect legal to the other parts of the organization.

Another aspect that sticks out from the article is the emphasis on client feedback—internally and even externally. If the company culture is right and the leadership is strong, overcoming the fear of open and honest constructive feedback should be doable—specifically if in return you get direct input as to what works and what does not yet work. Is this not what we typically (have to) do to other departments as we guard the integrity of the business? Why not making feedback a mutual thing?

Von Alemann takes us all the way to a part of the legal industry that often gets overlooked—despite representing a very large part of the business: SME's, i.e. companies that either have a very small or even no legal inhouse function. What does change and opportunity in our industry look like for them?



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She founded and leads Women@Capgemini, the Group Gender Balance program.

A member of the New York and Paris Bars, she co-founded the Commission of the CAC 40 General Counsels, and is a member of the CPR European Executive Board and a board member of *Droit & Croissance*.

In the renowned annual French Legal Trophies, she received three Gold Trophies successively for Group International Legal Team, Transactions and Innovation, and a Silver Trophy for Contract Management.



Elisa de Rocca-Serra is an Assistant General Counsel at Capgemini. She joined Capgemini Headquarters in 2008 and is today responsible for framework agreements with global clients. Specialized in international business law, she has more than 13 years' experience in the Information Technology industry. She started her career working for a software editor before joining the service industry. She is passionate about contributing to the promotion of the Legal function and on how to show the value and contribution that in-house lawyers can bring to their company growth.