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The Rise of the In-house Specialist

Law Department Management



One growing trend I am beginning to see is the rise of the in-house specialist. I'm talking about deep subject matter experts — such as patent, environmental, and antitrust lawyers who may have previously only served companies (at least small and mid-sized ones) as outside counsel. They are now “coming in from the cold,” as more and more general counsel hire them to manage their core legal risks.

[According to one study](#), as many as 67 percent of law firms lost business to in-house legal departments in 2016 because of this trend, while another 24 percent of firms saw this as a potential threat. While law firm lawyers certainly continue to play a critical role, GCs increasingly see the value of installing internal experts as a primary line of defence.

Why is this happening? Why not just continue to leverage outside counsel for specialized expertise? The answer lies in the fact that these specialists are being brought in to manage core legal risks, not peripheral ones. An increasingly large proportion of GCs are reluctant to entirely outsource the management of their core risks. I see three main reasons for this.

The first is that it's better to address your core risks preventatively, rather than reactively. Outside lawyers are great at problem solving. But by the time a problem is present, the damage is already done; the rest is clean up.

To address risks preventatively, you need insiders who can better prevent risks from materialising in the first place through guidance, audits, preventive and remedial measures, policies, education, and influence. An external advisor, by contrast, while very proficient, can't do any of these things with the effectiveness that an internal specialist can.

Second, specialists can be pragmatic. Only insiders with “seats at the table” are able to tailor their

advice to the company's specific circumstances. Good internal specialists will filter and digest external guidance, enabling business partners to benefit from relevant nuggets of wisdom — minus the extraneous and irrelevant bits. That is very difficult for outside lawyers to do because they are likely to be less familiar with the nuances of the issue, the personalities involved, and the broader objectives at stake.

Third, relying on internal specialists will be far more cost-effective than having to rely entirely on external counsel. Internal expertise allows GCs to reduce their primary exposure at substantially lower costs.

In 2016, the average hourly rate of a law firm lawyer in the United States was US\$500, as compared with an average of US\$350 an hour (i.e., 30 percent less) for in-house counsel.* The true cost differential, however, can be much higher, depending on what firms are used and where they are based. [Average associate rates](#) at major New York City firms, for example, can be nearly three times the average rate for partners at law firms in West Virginia. And New York rates keep rising — last year, [a leading Wall Street law firm raised](#) its first-year associate pay to US\$180,000 per annum from US\$160,000, with several large firms quickly following suit.**

* Information provided to the author by Joy Saphla of Morae Legal Corporation on 9 October 2016.

** Martha Neil, "First Year Associate Pay Will be \$180K at Multiple BigLaw Firms Following Cravath's Lead", *ABA Journal*, 8 June 2016.

But the cost efficiencies generated by internal specialists is not limited to lower legal fees. Equally, or perhaps more importantly, are the gains to be made by putting the right resources to work on the right tasks. Excellent outside counsel are certainly an important part of any legal arsenal. However, good internal specialists can save enormous sums via the strategic input they provide, and the value they add in managing what needs to go to outside counsel in the first place.

How many specialists do you need? That depends on the size of your legal team and company and the range of the core legal risks you face. The number of can range from one to dozens, or perhaps more in large companies in highly regulated areas.

However many you need, you will certainly save enormous expense and generate far better outcomes by in-sourcing specialists. The trend is clear, and given the benefits, the number of in-house specialists is likely to keep rising over the next few years.

[Bjarne P. Tellmann](#)



Senior Vice President and General Counsel

GSK Consumer Healthcare

Bjarne P. Tellmann, a former *ACC Docket* columnist, is senior vice president and general counsel of GSK Consumer Healthcare, a US\$12 BN revenue consumer healthcare joint venture between GSK and Pfizer with leading brands that include Sensodyne, parodontax, Polident, Advil, Voltaren, Panadol, Otrivin, Theraflu and Centrum. It is currently intended the JV will demerge and list publicly in 2022.