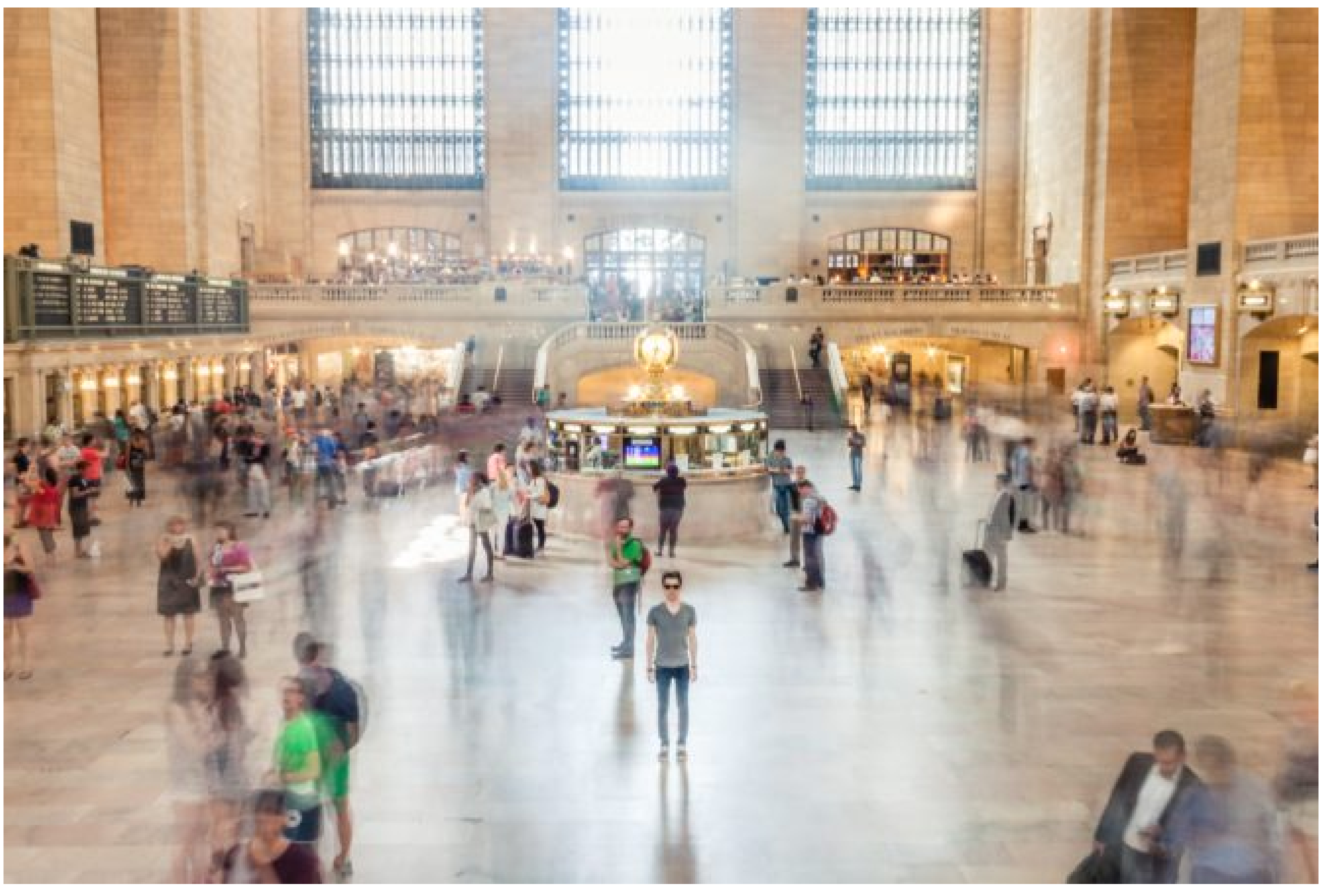
In-House Counsel Panel: The Rapidly Changing Legal Buying Cycle

BY LINDSAY GRIFFITHS ON APRIL 12, 2017



Regular readers of Zen know that one thing I never miss is a good in-house counsel panel. Who can skip the opportunity to listen to the clients of our clients tell us how to do our jobs better and what matters to them at this very moment?

With some heavy hitters on this year's panel at the Legal Marketing Association's Annual Conference, I knew I wouldn't be disappointed. On the panel, we had:

- Connie Brenton, Chairman of the Board for Corporate Legal Operations Consortium (CLOC) and Senior Director of Legal Operations for NetApp, Inc.
- Jeffrey Franke, Chief of Staff to the General Counsel and Senior Director of Global Legal Operations for Yahoo, Inc.
- Steve Harmon, Vice President and Deputy General Counsel, Legal Services at Cisco Systems, Inc.
- George Milionis, General Counsel of Petersen-Dean, Inc.
- Moderator: Richard Caruso, Vice President of Legal Media at ALM LLC

The panelists were charged with considering the rapidly changing legal buying cycle and what law firms and vendors (I prefer the term "service providers" actually) need to do to respond. The description of the program said:

> **Corporations are constantly evaluating the way they do business and how this impacts their bottom line. Expectations of legal service providers are also shifting, along with budgets. During this panel, you will learn from General Counsel and those most closely involved in legal services purchasing decisions how the buying criteria is changing."**

If we're honest, the "shift" in expectations and changing buying criteria isn't news – it's a continuation of the shift that we've seen in the industry since 2008. But there were a few interesting themes that came out of this year's session that you'll want to pay close attention to (opportunities for firms abound), from pricing pressures and staffing to technology considerations.

Firms lock-step rate increases are creating a force in the industry…and not in a good way.

Legal budgets are not growing, so companies are forced to find some way to cut them. If firms continue to push prices up in the industry, companies will continue to get more creative about the ways in which they do this – contract attorneys and using technology to create their own in-house law firms are two things that the panelists mentioned.

Clients are constantly asking themselves, "build or buy?" And more frequently, the answer is "build." Over the next 2-3 years, Brenton believes the industry will reach a tipping point – that's either an opportunity for law firms, or a warning.

Procurement continues to be a growing function

Legal operations teams are not the default in the industry…yet. But corporations are on this path. There are more sophisticated buyers than ever in the marketplace, and the model of law firm partners selling to companies will change as companies become even more sophisticated in procurement. Harmon pointed out that this is an opportunity for firms to develop relationships with companies' legal operations professionals, who serve as "general contractors." Their role will only continue to increase.

About that pitch…

Marketers are always interested in the pitching process, because most often, that's the part we're involved in directly with our firms. But, heads up lawyers, if a client is going out for pitches, it means that their existing firm/lawyer hasn't done the relationship-building work – and it is STILL all about relationships (more on that shortly). If you're delighting your clients with your service, you don't have to worry about delighting them in a pitch – and it still remains less expensive and easier to keep an existing client happy than it does to bring in a new client. That means – you guessed it – another opportunity to build on the relationships you have with your current clients.

But, okay, we know you're still pitching to new clients too – and because relationships DO matter, pitch in person, says Brenton. If you have a legal operations person on your team, bring him or her. Firms are level and in a mature playing field, so relationships matter.

What else makes a pitch successful?

- Start with a series of questions.
- Help the potential client to define the breadth of options that are available to them.
- Remember that pitches are not a conversation about credentials. "Lots of us went to fancy schools."
- Have a project management mindset – "I don't care how you staff matters. It's your kitchen. I just care about the meal I get from it. I focus on the desired outcome."

The fixed fee quagmire

In an industry with increased pricing pressures, there can be the tendency to jump on the "fixed fee" bandwagon. But this isn't every client's dream response either. Why not? Because often clients don't know how much matters should cost. In-house counsel are measured internally by the ***predictability*** of the budgets the address. So successful firms will use data to show them what the matter will cost and secure that predictability.

If you think that your practice can't accommodate clients with that, know that to them, hearing "we don't know; we can't predict" is a red flag that you don't know their business. Data will be the key in overcoming this, but to be successful, firms must understand their own data, and lead with that in pitching.

Breaking down silos

The in-house counsel panelists also emphasized the need for all of us (lawyers, marketers, business development professionals, procurement professionals, technologists, etc.) to become less siloed. We've traditionally stuck close together because all of our roles are difficult – so it's easy to keep our heads down, work hard, and commiserate and collaborate with people who directly and distinctly understand the challenges that we each face daily. But our networks have become too tight and we need to start reaching across, including, and especially, to legal procurement professionals. Brenton suggested that firms and legal marketers connect with CLOC as a start.

Hey there, Technology, hey

Not surprisingly, the panelists spoke about the role technology does and can play. Even at strong technology companies, though, they're still trying to get their hands around their metrics, and finding it challenging, so firms are not alone. And along these lines, one of the panelists noted that firms don't have to be doing all of this perfectly – we're in a rapidly changing landscape in the industry, with technology, alternate service providers, and more. Clients are willing to collaborate with their law firms and give you some leeway as long as you're focused on strong relationships and showing them that you're willing to innovate alongside them to provide them with the best service possible.

So, how can you do that with technology?

It starts with knowing your clients' business, says Brenton, so that you are able to do a joint workflow. But like anything, technology is only a tool. As one panelist said, "it's not about the tennis racket; it's about how you swing." Brenton observed that at CLOC, they're sharing best practices about technology to increase efficiency across legal departments. The legal industry is a profession that is traditionally conservative, so it's important to keep up with each other. Because of this, that means clients will also be able to judge whether their firms are behind or ahead of the curve based on what technology they're using. Franke added that he has an expectation that firms have more sophisticated tools than he does (and that's coming from a technology company).

Important to note is that your clients are looking for technology to be efficiency-driven, and law firms are more profits-per-partner-driven – that doesn't overlap well. The panelists did agree that clients need to be more transparent with their law firms about what they want and need out of technology from their outside counsel but – another opportunity – you can also ask your clients what they need.

Some things that the panelists are using or looking at:

- Business process automation (it's all about efficiency) – tools like ThinkSmart
- Business intelligence tools – like Tableau
- Artificial Intelligence: Not yet using AI to replace judgment (not because they don't WANT to, but because they think lawyers "would revolt"), but they are looking for AI to make it easier to access information. "Acquisition integration is a ripe area."

Two final notes

Two other points came up during the panelists' conversation, and both are worth some consideration.

"There's lots and lots of fat in the system and that's got to be wrung out."

With clients cutting costs and trimming budgets, they are over the marble hallways and expensive real estate. As Harmon said, "We expect to pay for outcomes, not to pay for inputs." The panelists take no issue with law firms being profitable, but they don't want to see their fees being translated into what they see as waste. So as you're negotiating leases and new office space, keep those comments in mind, or at least speak directly with your own client base to get a sense of their expectations.

"Yearly we get rate increase letters. They are impersonal, a hard copy, the language is dictatorial, and they feel arrogant." "Annual rate increase letters seldom come with a phone call."

This was a touchy one, when an audience member asked the panelists to comment on a recent controversial rate increase letter. And this is a common practice for law firms – to send a letter to their clients, explaining the reasoning behind the increase, and the expectations for the future.

BIG mistake says the panelists (and I suspect some other in-house counsel would agree).

There are a couple of issues here, primarily being this one: "Show me how you are 6% better in outcomes and I might agree with your 6% rate increase."

But the larger issue is one of lack of communication. Raising fees is an uncomfortable conversation, absolutely. So a lot of lawyers prefer to let the paperwork do the talking. But you're taking what you imagine to be a strong relationship with your client, and not giving them the benefit of a phone call or face to face meeting to discuss your work, and then the rate increase. A conversation with your client would be an opportunity to get feedback, learn some additional pain points, see how you might be able to be more efficient, while still adopting the increase and explain why it's necessary. Yes, these are difficult conversations. But they are far less difficult than losing the client, or creating a sense of mistrust with them.

To review the opportunities that the panelists identified for all of us:

- Clients are looking to "build versus buy" due to increased budget pressure as law firm costs go up – how can firms become more efficient providers?
- Develop relationships with your clients' procurement professionals.
- Relationship-build with your clients like you're still wooing them.
- When you do pitch, pitch in person, ask questions, lead with data not credentials, have a project management mindset but don't insist on showing how you make the sausage.

- Get serious about understanding your data so that you can offer your clients predictable budgets.
- Break down the silos within your firm and between your firm and the various legal and pricing functions with your clients.
- Collaborate with your clients on technology, be it business process automation, business intelligence, AI, or something else – ensure that efficiency is your driver.
- Remember that clients want to pay for outcomes, not inputs.
- Use rate increases as a conversation starter.