

Innovation is here to stay

Innovation in legal departments: Some thoughts from two recent conferences

By Prof. Bruno Mascello, LL.M.

The legal market is changing and digitalization is accelerating this process. At two recent conferences, general counsel from the UK, Germany and Switzerland explained what they consider innovative. A principle message was that innovation does not exclude legal departments and that internal customers request solutions that are more efficient. All the speakers openly shared their experience with projects they had successfully implemented.

Some ideas

The speakers presented many interesting ideas for innovation in legal departments, such as dealing with moving the legal drafting onto a technology-based platform to avoid lengthy and unproductive contract drafting, improving project management skills, and building a global legal platform to serve in-house counsel with easy-to-access information, tools and templates. The audience also learned that new ideas are sometimes blocked not only by their own team, but — in →



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Germany — by workers' councils and data protection concerns.

Another speaker described how their legal department changed the organizational set up by implementing a holacracy model by means of which the lawyers now organize themselves. It will be interesting to hear how successful they have been in doing so, taking into account that leading a team of lawyers is compared to “herding cats.”

Spoon-feeding of general counsel

Looking at surveys in the UK and the US, it does not come as a surprise that general counsel have high expectations of their law firms. They request lower fees and an increase in both service quality and turnaround time. However, it seems that the “spoon-feeding” of general counsel remains a serious topic; In the UK half of them expect law firms to advise them on which technology to use. Considering how many law firms are willing to change their business model and have themselves already turned to technology to increase efficiency and to improve their services to customers, it seems unrealistic to wait for law firms to help. Law firms are not (yet) eager to meet price- and customer-driven demands. They are not serious about changing their

delivery model to provide greater value to customers since, inter alia, they do not feel enough economic pain and do not consider their delivery model to be broken (Altman Weil, 2018). On the other hand, customers appear to be unable to articulate their needs seriously or clearly. Consequently, there is a “chicken or egg” issue in terms of who needs to change first. But law firms should keep in mind that customers, if they do not like what they receive or how they are treated, can and will switch to other providers. As one speaker explained, he would simply “vote with his feet” and not further consider those law firms that were unwilling to help him in a proactive way.

Offering legal services only may not be enough anymore

I expect alternative legal services providers to play a bigger role in the future and act as catalysts. Law firms — and to some extent legal departments as well — are mono-discipline providers which offer only legal services. However, multi-disciplinary service providers (e.g., the Big Four) follow a different approach: They provide legal services as one brief only — besides auditing, finance, tax and other services; further, they have access to the C-suite, offer an international network and work with a different business model

that enables them to make investments over the years. When they talk about “legal managed services” they offer not only traditional legal advice but also provide process and technology solutions and grant access to human legal resources. Further, they invest in standardizing working processes and document and data management by utilizing their huge data pool. Overall, they are keen to use technology (vide EY Law recently buying Riverview Law and using Kim technology). Therefore, only offering legal advice may still be an option going forward, but no longer be enough for an exclusive USP.

Customer orientation as a silver bullet?

As one speaker stated, in the end it boils down to what a customer and legal department are really interested in, because only this stands a chance of being accepted. The same applies to legal departments. A general counsel said that she could not cope with all that is being offered in the market and that less would be more. With this, we are back to the well-known issue that lawyers tend to think “inside-out” instead of taking a customer-driven view. Accordingly, implementing value-pricing and realizing efficiency gains must not be designed primarily to serve the firm's own profitability goals; instead, lawyers should look

from a customer point of view first, which will consequently lead to a positive result. This is valid not only for law firms but in particular for in-house counsel as well.

Innovation means change

There was overall agreement that innovation means change as well and that human beings are not really good at embracing change, and (to use a common stereotype) that lawyers may be even worse at doing so. How, then, can a legal team be motivated to become more innovative?

One company implemented an incubator in order to think more openly about new ideas. All employees could apply to become part of this team. Surprisingly, although employees were told that this would cause extra work for them, there were many requests from the legal team to join, incidentally across all age levels (thus, this was not just a Generation Y thing!). A different legal department created a think tank and took some lawyers out of their daily work full-time; this team is now free to think openly about processes and how to change the lawyer's mindset, knowing that lawyers are (still) being trained in a conservative way.

Other speakers suggested additional measures to help support changes, such as sharing success stories, talking about mistakes, offering job rotation to learn from each other, changing the tone at the top and providing transparency.

Some good news in the end: innovation means failing!

What the participants appreciated most was the fact that some speakers also shared failures when trying to be innovative. One speaker explained that he wanted to increase efficiency in the legal department by implementing a process requesting internal customers to complete a form before approaching the legal department; actually a good idea in terms of implementing a triage system, which would sort out less serious requests. However, the customers did not appreciate it and consequently this project failed. One reason might

have been that the solution proposed by the legal department was designed with a focus on their own needs, instead of considering their internal customers' needs.

Failure goes straight to the heart of innovation and constitutes an important part of it; it is a fact that not all good ideas can be implemented successfully. Therefore the purpose of innovation is to try and appreciate the few projects that produce a positive outcome and benefit. Innovation is here to stay. There is no doubt that it will take time and extra effort to cope with fundamental changes and to adapt in order to stay relevant to customers. As one speaker underlined by quoting Bob Dylan, there is no real alternative to innovation: "You'd better start swimming, or you'll sink like a stone." <-



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