

# Roundtable Report

**General Counsel  
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## Contents

Welcome .....	3
The emerging relationship with international firms .....	4
Doing more with less .....	5
GC as leader: Managing the team.....	6

## Welcome

Welcome to the inaugural Mahlab Roundtable Report.

Since 1984 we have produced the Mahlab Report, the definitive guide to the employment and legal market trends in Australia and internationally. Now, to provide ongoing useful insights to the industry, we have begun a series of roundtables to facilitate the exchange of ideas about the challenges, concerns and opportunities facing legal professionals.

We will be holding ongoing roundtables with various stakeholders including private practice lawyers, Partners, HR professionals, General Counsel and Company Secretaries.

From August to October 2014 we completed the first series, with General Counsel from some of Australia's largest corporations. More than 50 organisations were represented from industries including energy and resources, manufacturing, financial services, construction and telecommunications. Most are public companies, with many listed in the ASX Top 100 and 200. Roundtables are conducted under Chatham House Rules.

We thank all participants for their enthusiastic and candid involvement.

Please join in the conversation with #MahlabRound, follow @MahlabLegal and connect with us on LinkedIn.

Sincerely,



*Lisa Gazis*



*Kathie Gray*

## The emerging relationship with international firms

### Pressure of the Big Name

General Counsel (GCs) of multi-national companies are reporting pressure from their global head offices to use 'big name' global firms for legal services.

They say that a recognised global brand gives comfort to senior stakeholders in overseas offices because it promises quality consistency, which is especially important for cross-border transactions.

However, GCs say that the Australian market is much smaller than other major legal markets, such as the United Kingdom and the United States, and that an international brand does not guarantee consistency, nor knowledge of, or commitment to, their business.

### More style than substance?

GCs report that the main consideration in selecting a law firm is the availability of the required services and the selection of partners. The general view is that the offering of global law firms does not always meet their needs as these firms are "*essentially corporate transactional firms and do not offer full services*".

It is critical for local partners of global firms to know and trust their counterparts in offshore offices for GCs to benefit from the firm's global footprint. When international firms have worked on cross-border transactions, some GCs reported that the lawyers in offshore offices demonstrated a lack of understanding about their business, which was reflected by an inferior quality of work. Further, local referring partners would often disengage once the work was referred offshore and GCs would be left without any real support.

GCs also warn their peers of conflicts that can arise with international law firm providers. Some spoke of instances where the international offices of global firms have not been aware their business was a key client of the firm and that their work was refused, citing a conflict of interest as the reason, or even in some instances the firm would act against the company.

### Maximising value

GCs have found that the range of fees charged by global and domestic major and mid firms has narrowed. Although hourly rates continue to increase, there is a greater willingness on the part of law firms to be more flexible by discounting fees and entering into creative billing arrangements such as fixed-fees and reducing recovery rates. One GC advised they had been able to secure a reduction in legal fees by as much as 15% at year-end. A few GCs also reported receiving some free legal service from global firms as a goodwill measure. The larger the corporation and the legal spend the more likely GCs were to receive such incentives.

### The high cost of a cheap service

Some GCs have reported that although they have used more cost-effective alternatives to the top-tier and global firms, they found that quotes were overrun, exceeding the original cost estimate from major firms, and that the expertise was lacking.

### Knowledge counts

GCs prefer to use law firms and lawyers with whom they have an existing relationship and who understand their business. In many instances, this is a local law firm. GCs are willing to follow partners with good technical skills and relevant specialisations when they move, even if this is to a smaller firm.

CEOs generally support GCs' decisions to change law firms if they can trust the service quality, if they demonstrate a good understanding of the business, and if they offer competitive pricing.

## Doing more with less

### **Shouldering increased responsibility**

General Counsel (GCs) and their legal teams have never worked so hard, a result of a widening job scope with no rise in headcount. The evolution of the risk and compliance functions is in large part responsible for the increased pressure on GCs.

The GC is responsible for ensuring the legal affairs and legal risk of the company are both managed in a way that is consistent with the organisation's appetite for risk and legislative requirements. The GC is often seen as the best person in the company to oversee these areas, as they often overlap with the legal matters already in their remit. In the instances where a separate risk team still exists, GCs are reporting a blurring of lines that gives GCs de facto responsibility.

### **The compliance burden**

This change is affecting not only traditionally highly regulated sectors, such as financial services, telecommunications and energy and resources. All Australian companies must comply with the plethora of relatively new regulation in anti-money laundering, counter-terrorism, financing, anti-bribery and corruption.

The responsibilities are particularly onerous for GCs of multinational enterprises, who are required to comply with a compliance framework imposed by their offshore parent. This can be an extensive and time-consuming process that often appears culturally and structurally heavy-handed in Australia's relatively low-risk environment.

### **Larger workloads, smaller teams**

GCs in smaller public companies are not safe from these pressures. Although management expects that a small company requires a smaller legal team, they demand the same output as their larger counterparts, especially in compliance.

Where the GC is a member of the executive leadership team (ELT), the weight of their legal and compliance responsibility is even greater. The CEO expects the GC to be across material risk and compliance issues extended to all ELT issues and to be able to advise the executive accordingly.

### **Adding insult to injury**

Further, GCs are experiencing frustration that their value to a company is not as tangible as other areas of the business, such as sales, and can impact how the GC is perceived in the business. It may have ramifications for remuneration and bonuses for the GC and their team as well.

Part of the challenge is educating the client about costs. As one GC commented, "*The business will always understand the language of price*". Showing the client where the legal budget is spent and, in some instances, making them responsible for briefing (and paying!) external lawyers on standard matters brings home just how valuable the internal legal function is. Timesheets are used by some GCs to demonstrate value to the business, as well as to help manage workflow.

### **Ever-widening scope**

An effective legal team can be the victim of their own success. Once their reputation is established, anything that does not fit into a neat box can end up in the legal area. GCs observed that educating the client about what is, and is what is not, a "legal" problem is essential. It can mean "pushing back" on the business where a client is consistently asking the lawyer to step outside of the legal role.

### **More hands on deck**

The quality and speed of the service the business receives from the legal function is heavily influenced by whether that legal team is adequately resourced. Insufficient resourcing may expose the company to unacceptable levels of risk. But many GCs are finding it very difficult to obtain budget allocation to increase headcount to deal with skills deficiencies or to alleviate pressure on an overworked team. Juggling limited resources and calling on favours from friendly law firms are now essential tools in the GC management toolkit.

## GC as leader: Managing the team

### Collaboration

General Counsel (GCs) report that team management, in particular staff motivation and retention, are key challenges among their increasing responsibility and workload.

There was unanimous agreement that a good GC will go into bat for their team, even at the highest level, such as the CEO. They will defend them against unwarranted negative comments or mistreatment.

In one instance, a service level agreement between an internal client and the legal team was drawn up and signed. This set expectations about turnaround time, instructions and results and was highly recommended as a useful strategy with an intransigent client.

An effective leader will also take the time to demonstrate value to the business and engage team members in these activities. In-house training, client roadshows, a brief email attaching an article of interest, forwarding a law firm's newsletter of particular relevance to a client, all serve to reinforce Legal's relevance and value.

### Retention

Where a legal team exists, all GCs attest to the fact that their teams are now more senior overall and flatter in nature. This means that advancement up the pyramid is a thing of the past so keeping the lawyers interested and engaged is key.

One retention strategy suggested during the roundtables was work variety, such as a secondment to another part of the business, an overseas legal posting if available, or a rearrangement of client and work allocation.

An international secondment is an effective retention strategy because it provides the lawyer with the challenge and stimulation of working in a new part of the business overseas. In addition, it provides the overseas operation with a lawyer who has an understanding of the company's business and culture, albeit gained in a different country.

Some international companies expect their senior lawyers to have worked in more than one country/line of business to ensure they have a rounded view of the organisation's operations and develop relationships with key personnel at a global level. GCs who encourage and promote their lawyers to try something new are more likely to retain them for the company as a whole, if not their own team.

### Open dialogue

Having regular, open and honest conversations with staff about their development was widely lauded, especially in an environment where increased remuneration is not an option. The opportunity for increased responsibility, work variety, intellectual challenge and other benefits such as corporate hospitality, paid study opportunities, participation in internal management training courses and the option of unpaid or purchased leave were all suggested. Other ideas included non-financial benefits such as more flexible work hours and the opportunity to work from home.

### A word to the wise

An interesting observation made by many GCs was that, at the end of the day, responsibility for an individual's advancement and job satisfaction rests with that lawyer. A GC can discuss options, make changes to work type, introduce opportunities and encourage their team members. They can train and support, but the lawyer must make their own luck as well.

Their advice to a team member? *"Take responsibility for your own progression. Flag your interest in joining another part of the business if there is limited room for growth or promotion in your current role. A supportive General Counsel will encourage and support your movement despite the loss to the direct team."*



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