



ACC's CLO ThinkTank Series 2006

“MANAGING THE GLOBAL LAW DEPARTMENT”

Hosted by Al Gonzalez, CLO of Tyson Foods, Inc.

**November 3, 2006
10:00 a.m. – 2:00 p.m.
Four Seasons Mid-Town, Atlanta GA**

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Participants' Briefing Materials

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SUMMARY/ OUTLINE OF DISCUSSION TOPICS MANAGING THE GLOBAL LAW DEPARTMENT

The following outline is intended to provide a short overview of some of the issues at the heart of this discussion topic. There may be other issues we've not identified or perspectives on the identified issues that are not adequately represented in the outline: you should feel free to raise these additional thoughts, as you like. *The outline is merely intended as a starting point to help you identify discussion topics and tee up your conversation.*

I. Organizational Structure: What are the structural reporting relationships? What is the impact on the provision of coordinated global legal services of the models you employ (or wish you employed)? (See Tab 1)

- **Global Law Department; centralized structure where everyone ultimately reports to CLO:** Lawyers around the world are all part of a single, unified global law department. All lawyers ultimately report on a solid-line basis to the CLO.
- **Lawyers Embedded within the Business Units; de-centralized legal structure:** Lawyers providing legal services to a given business unit are 'embedded' within the business unit (wherever those lawyers are geographically located), and the lead lawyer for that business unit ultimately reports organizationally to the head of that business unit. Reporting relationships among lead lawyers for various business units may not exist on a formal basis, but instead informal coordination among these lead lawyers occurs.
- **Lawyers report to local business management with possible dotted line to CLO located at company's headquarters:** This structure blends the centralized and de-centralized structures and creates reporting relationships based on geography. Lawyers outside of the headquarter location ultimately report on a solid-line basis to the head of the local geographic business unit (may have regional business lines). In addition, the lead lawyers for each geographic location may report on a dotted-line basis to the CLO located at headquarters.
- **Corporate Center/business-line blend:** Lawyers providing business counseling to business units are considered to be embedded within those business units and ultimately organizationally report on a solid-line basis to the head of the business unit. Lawyers within the 'corporate center'—a group that provides shared legal services across the organization-- organizationally report to the CLO located at the company's headquarters.
- **Law Department as separate business subsidiary of the company:** Is your law department part of the company or a separate administrative services company? If the latter, why are you structured this way? What are the pros and cons?
- **Other law department organizational structures?**
- **Other 'business areas' reporting into you/the law department?** Do other functions report organizationally to you—such as the company's Office of Compliance & Ethics, Government Relations, Privacy Office, Internal Audit, etc.? What challenges do you encounter by having these other functions report into your group? Do lawyers specializing in Tax report to you or to the Controller/Treasurer group? If they report to another group, are they subject to whatever

policies you may have in place for your law department (such as an Sarbox reporting up policies)? How (if at all) do you coordinate with them?

II. **Service Alignment: How are legal services provided?** (See Tabs 1-3)

A. Models for delivering services: (See Tab 1)

- **‘Law Firm’ Model with practice groups:** Under this model, the law department is a unified global law department with all lawyers around the world ultimately reporting into the CLO. Within the law department are various practice groups organized according to substantive practice area (e.g., Intellectual Property, Real Estate, Environmental Health & Safety, Corporate & Securities, International, Labor & Employment, etc.). Business personnel from anywhere around the world may tap into any lawyer within the centralized group and will select a lawyer based on the nature of the question.
- **Law department ‘silos’ set by business line or geography:** Under this model, each major business group or geographic region has its own law department. Each law department may have practice groups or specialists who provide legal services only (or primarily) to that business group or geographic region based on its needs. Some will have IP lawyers and others will have environmental counsel and others will have neither.
- **Business line lawyers plus shared specialists:** This model is a blend: certain lawyers who handle day-to-day business counseling for the business groups are ‘dedicated’ to those groups and provide legal services exclusively (or primarily) to them. In addition, on ‘specialized’ issues (such as IP, EHS, etc.), the business clients may tap into lawyers who are part of shared specialist legal teams based on substantive expertise and provide legal services to many different business groups and geographic regions around the world based on their expertise area. Do clients go first to business lawyers who then refer them directly to the specialist lawyer? Do the business lawyers have lawyer-to-lawyer conversations with their specialist colleagues and then transmit the advice to clients (e.g., business lawyer as the ‘go-between’)?
- **Use of local outside counsel outside of headquarters:** Under this model, outside local counsel are the primary legal service providers in geographic areas outside of the company’s headquarters location. Do you have lawyers retain these outside counsel, or local business people? What criteria do you use in determining to primarily ‘outsource’ legal service delivery for a given location? Is recognition of in-house counsel and attorney-client privilege a consideration? Is volume of work a consideration? Who hires and manages the legal work of outside counsel? Do you require them to follow headquarters’ law department policies?
- **Separate lawyers for parent and subsidiary organizations:** Do lawyers for the parent organization also provide legal services to the subsidiaries? Does this hinge on whether the percentage of the ownership interest in the subsidiary? How do you coordinate (if at all) providing legal services to the subsidiary? What types of mechanisms have you developed in connection with these services?
- **Additional Questions to Consider:** Are there challenges in the consistency of legal advice when the service delivery model is via business or geographic silos or a mix of business line lawyer and shared specialist? Have you encountered situations where lawyers in different business silos have different interpretations of rule or have taken different positions with the same regulatory agency? What mechanisms have you implemented to encourage consistency

and a single, corporate voice? Are there issues with ‘reinventing-the-wheel’? How do you maximize efficiency so that lawyers are not reinventing the wheel?

B. Location of Lawyers: (See Tab 1)

- **Co-located with clients:** Are your lawyers primarily co-located with their clients? What are the advantages of co-locating them? What are the challenges associated with co-location? Do clients tend to ask the lawyer beside them to provide advice on everything rather than going to specialists for specific questions? Do lawyers feel isolated from the law department and pressured to provide answers that clients most want to hear?
- **Lawyers sit together:** If you have a centralized global law department, do your lawyers sit together at headquarters (rather than with the clients)? For locations outside of headquarters, do you have single-lawyer outposts or are your law department locations designed so that at least 2 lawyers are co-located with each other? What are the pros and cons of locating your lawyers together? Are lawyers less likely to be viewed as part of the business team? Is it easier for them to take a hard line with clients on tough issues?

C. Cultural/Jurisdictional Differences (See Tab 2)

- **Encouraging clients to bring issues to lawyers:** How do you encourage clients to bring issues to lawyers in countries that don’t recognize in-house counsel as lawyers or where the value of consulting a lawyer with a problem isn’t as embedded in the business culture or a natural inclination? Is privilege a consideration?
- **Role of lawyer:** Is the lawyer’s role different depending upon where the lawyer is located? In some jurisdictions is the role more of a business role? Do business clients in some countries view the lawyer’s role as primarily reactive (e.g., help us out when we’re in a jam) as opposed to strategic or preventive? How do you educate them on the possibilities?
- **Encouraging lawyers to follow global law department or company-wide standards and policies:** How do you encourage lawyers outside of headquarters to follow global law department and corporate policies when local customs or practices might conflict or suggest a different approach? Do you bring these lawyers to headquarters periodically to help them feel part of the law department? Do you visit them periodically?
- **Lawyers on subsidiary Boards:** Do lead lawyers for subsidiaries ‘sit’ on the Boards of those companies? What are the pros and cons of these roles? What types of legal management and liability issues are associated with these roles?
- **Tracking Different Jurisdictional Requirements:** What practices does your law department implement to help track different jurisdictional requirements? Who is on point for monitoring legal developments in the various countries that your company does business?
- **Conflicts of Laws:** How does your law department handle conflicts of laws issues? What types of practices do you implement to address these conflicts situations? Which ones are most thorny?

D. Corporate Governance & Compliance Support (See Tab 3)

- **Centralized or De-Centralized Approach:** Does your company have unified global standards or are governance and compliance programs and policies adjusted for local differences? What

types of adjustments (if any) have you made within the law department to help ensure consistency or support local adjustments, as applicable?

- **Role of lawyers:** How would you describe the role of the law department in helping to develop and implement these policies? Is the role different in different countries around the world? What are the key challenges you've faced in supporting global implementation efforts? Do lawyers around the world provide supporting certifications on compliance? How do different jurisdictional requirements impact your role as CLO in counseling the company on governance and compliance issues?
- **Listing and Exchange Requirements:** For public companies traded on more than one exchange, how do you track the various exchange requirements? Are there particular aspects of multiple exchange requirements that present the greatest challenges? What approaches have you taken to help harmonize policies, practices and standards to address these differences? What do you consider to be best practices in this area?

III. Law Department Policies—Do they apply around the world? *(See Tab 4)*

- **Types of Policies:** What types of policies have you developed for your law department (e.g., outside counsel guidelines, Professional Conduct Reporting-Up policy, conflicts of interest, ethics and compliance philosophy, how to conduct internal investigations, etc...)? Do these policies apply around the world? What challenges do you face in implementing these policies across borders?
- **Professional Conduct Reporting-Up Policy:** Does your law department have one? Does it apply to all lawyers? Do you require that lawyers provide written certifications regarding the absence of matters to be reported? Are there challenges in implementing such a requirement in different jurisdictions around the world?

IV. Department Management Considerations *(See Tab 5)*

- **Job Titles for Lawyers:** Do you use a uniform system for job titles for lawyers for all lawyers around the world? Do local customs impact the job titles for lawyers in certain countries? What are the advantages or disadvantages of having consistent job titles for lawyers? How did you select the job titles for lawyers? Are job titles linked to compensation opportunities (e.g., are lawyers with a Senior Counsel title and above, the only ones who are eligible for incentive compensation, etc...)?
- **Performance Assessment & Compensation:** Do you use a single performance assessment and compensation system for lawyers around the world? If so, did you need to make any adjustments for local requirements? Are there privacy considerations/constraints that prevent you from being able to evaluate lawyers across jurisdictional lines? What types of practices have you implemented to address any limitations? If your systems are different based on location, how do you manage the different processes?
- **Developmental Assignments:** Do you offer developmental assignments in countries other than a lawyer's native country? What types of issues are associated with planning for and implementing these assignments? What is the typical 'rotation' length? What are the goals? How do you select lawyers for these assignments? Is it an unwritten assumption that lawyers

need to complete an assignment outside of their native country in order to move up within the legal organization?

- **Training:** What types of training do you provide to lawyers around the world? Is the delivery mechanism different depending upon where lawyers sit? Do you find that you're increasingly using webcast technology or web-based training? What are the pros and cons?
- **Mentoring:** Do you have a mentoring program in place? Do lawyers across geographic locations serve as mentors for each other? Is the program formal or informal? Do all lawyers participate or only those who express an interest? Is mentoring most often used at certain points in a lawyer's career path (e.g., initially as they join the law department, further in development as they are nearing time to move up the ladder, etc.)?
- **Conflicts:** Does your company request/require lawyers to sign non-compete agreements? What types of practices do you implement in hiring new lawyers or the exit interview process for lawyers leaving the department relating to managing potential business conflicts issues? What practices or processes do you implement if a lawyer from your department leaves to go work for a competitor or a government regulatory agency?

V. **Outside Counsel Management** *(See Tab 6)*

- **Preferred Counsel; guidelines:** Do you have a global preferred counsel list? Do your law department's outside counsel guidelines apply globally? Have you had to tweak them to address local customs or requirements? How?
- **Hiring and supervision:** Who is on point for hiring outside counsel around the world—does an in-house lawyer have to initiate and manage or may local business leaders hire on their own?
- **Privilege:** Are there differences in your approach for hiring outside counsel based on jurisdictional recognition of privilege and the status of in-house lawyers? What countries and in what ways?
- **Outside of the United States:** What is different about outside counsel management in jurisdictions outside of the US? What are the keys to getting it right in those jurisdictions? Can you supervise outside counsel overseas like you can here?
- **Coordination of counsel:** What types of practices does your law department implement to coordinate use of outside counsel between jurisdictions on a single matter?
- **Conflicts and Waivers:** What practices does your law department implement with regard to tracking outside counsel representation and management of conflict waiver requests? Who has the authority to waive conflicts? Is the authority and are the considerations different depending upon what country the lawyers and law firms are in? Do you ask your outside law firms to describe their conflicts vetting processes to you? What issues present the greatest challenges in this area?

VI. **Using Technology** *(See Tab 7)*

How do you use technology to help 'connect' your global law department? Does everyone use the same technology?

- **Legal Intranet:** Does your law department have a global legal intranet? What types of information do you include within the intranet? Who manages it? What capabilities does it have (e.g., is it primarily a lawyer directory, or does it double as a knowledge management or legal chat or bulletin board)? Is it accessible to lawyers or members of the law department exclusively? Is access password-protected?
- **Knowledge Management:** Do you have a law department knowledge management system? How did you develop it? Does it include resources from around the world?
- **Case/Matter Management:** Do you have a global case management system? If you handle case/matter management differently around the world, what are the main reasons for this approach?
- **E-billing:** Do you use a global e-billing system for outside counsel or outside legal vendors? Are there challenges in using the system globally?
- **Other categories of technology that assist?** How does your law department use technology to help function efficiently on a global basis? Do you use video conferencing/web-casting/common phone or other communication systems?