



205 Building a Global Law Department

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Robert Johnson
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Faculty Biographies

Roy Birnbaum

Roy B. Birnbaum is senior legal director, international law, at Schering-Plough Corporation, Kenilworth, New Jersey. He is responsible for general legal support to all company operations in the Asia Pacific region, excluding Japan.

Prior to joining Schering-Plough, Mr. Birnbaum held similar positions with Pfizer, Inc., Pharmacia Corporation and its predecessors, located in New Jersey, Hong Kong and Michigan. He has also worked as a foreign legal consultant with the law firm of Kim & Chang in Seoul, Korea and began his career in private practice in Washington, D.C.

Mr. Birnbaum is an active member of ACC's International Legal Affairs Committee.

Mr. Birnbaum has a B.A. from Brandeis University and a J.D. from Harvard Law School.

Denise N. Jagger

Denise Jagger is a partner with international law firm Eversheds LLP, located in London. Ms Jagger joined Eversheds to be the "client conscience" - to provide a client perspective on the range and format of legal services being developed by the firm. Ms. Jagger works closely with clients, particularly in-house counsel, understanding their concerns, helping to identify their current and future needs and developing bespoke solutions. She also provides consultancy style services to clients on a wide range of in-house management matters from recruitment to restructuring and establishing efficient in-house practices.

Previously she was company secretary and general counsel at Asda Wal-Mart. She spent her early career as a corporate finance lawyer at Slaughter and May before gaining extensive management experience at board level in both retail and manufacturing sectors. In addition to managing the company secretarial and legal functions, Ms. Jagger has headed up corporate and public affairs, CSR, insurance and risk management, pensions and share schemes. Throughout her career, she has been at the forefront of developing enlightened diversity policies both in industry and in professional service firms.

Ms. Jagger holds a number of non-executive directorships in the retail, financial services, arts and education sectors and is a trustee of LawWorks, which promotes the provision of pro bono legal advice.

Ms. Jagger is a graduate of the University of Warwick and a post-graduate of the University of Nice, France.

Robert Johnson

Robert Johnson is assistant chief attorney for ExxonMobil Production Company, a division of Exxon Mobil Corporation, located in Houston. His responsibilities include providing legal advice to production company clients operating in the United States and West Africa, including Nigeria, Angola, Equatorial Guinea, and Chad.

Mr. Johnson is a former president of ACC's Houston Chapter.

He received his B.S. from The American University and his J.D. from Georgetown University.

Henry C. Pitney

Henry C. Pitney is an assistant general counsel with the Overseas Private Investment Corporation in Washington, DC, where he works on political risk insurance (PRI) matters including PRI claims, structured finance, and private equity fund transactions in emerging market countries in Africa, Asia, and Latin and Central America.

Previously, Mr. Pitney was principal counsel and head of the private sector legal group at the Asian Development Bank in Manila, Philippines. Before that Mr. Pitney was an associate at the law firm of White & Case in New York City.

Mr. Pitney active in ACC's International Legal Affairs Committee and is a member of the bar in the State of New York.

He attended undergraduate at Middlebury College, has an M.A. from University of Michigan, and a J.D. from Columbia University.

Marguerite Sells

Marguerite Sells is vice president and assistant general counsel, Pfizer Inc., in New York City and general counsel of Pfizer's pharmaceutical operation in Japan, Asia, Africa, Middle East, and Latin America. Ms. Sells is a member of the human health leadership team for the region and is also a senior leader in Pfizer's global human health legal team. Her responsibilities include the provision and management of legal resources across the region, general counsel to the leadership team, and providing strategic input on key policy issues and significant global transactions. A key focus in recent years has been the establishment of Pfizer's international legal departments and the ongoing training and development of attorneys in these new teams throughout Japan, Asia, Africa, Middle East, and Latin America. In addition, Ms. Sells manages the International Secondment and Development Program.

Ms. Sells has extensive legal, regulatory, and policy experience gained over many years in the pharmaceutical industry, based in London, Brussels and New York, respectively, in each case with broad international responsibility. Prior to this Ms Sells was in private practice as a commercial attorney in Australia.



Agenda

- Introduction – Roy Birnbaum
- Considerations for Establishing a Local Legal Function – Rob Johnson
- HR Issues – Denise Jagger
- Case Studies in Expatriates and International Rotation Programs – Marguerite Sells
- Internal Communications and Reporting – Henry Pitney
- Organizational Models – Centralized, Decentralized and Hybrid Reporting Structures – All

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Considerations for Establishing a Local Legal Function

Rob Johnson – ExxonMobil Production Company

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Initial Questions and Considerations – Why Establish a Local Law Function?

- What are the key legal risks and can/should they be managed best locally
 - If local law issues don't predominate do you even need a local law team?
 - Local counsel
 - "suitcase" law support/HQ law support
 - Make sure the time is right – if the business is new and clients primarily need help with key contracts or understanding basics of relevant laws/regs it may be too soon to accurately determine if a local in-house function is needed. **DON'T RUSH!**
- What are the benefits of a local office vs. the potential economies of scale and "critical mass" of a regional or HQ office
 - Do you have local litigation or need for contracting/negotiation/advice under local laws?
 - Do you have local employees or agents and do you plan a long-term presence in the country?
 - Do you have capacity in your HQ law function to provide legal support to the local office (consider practical issues such as time zones, language issues, travel logistics)
- Does the volume/nature of the business support the cost of adding lawyers and support staff?
 - Are the clients demonstrating a need for law support (whether or not they are asking for it)?
 - Is the business supportive or do they feel you are "pushing" a lawyer on them?
 - Why does the business feel the way they do? What is the business case for a lawyer?
 - What is the degree of regulation of your business?
 - What are the compliance issues and risks – FCPA? Export control?
 - Is there likely a need for substantial contract drafting/negotiation?
 - Are you in a legal environment that is developing/evolving – is there significant gov't interaction?
- Will establishing a local law function represent a change in your usual approach? If so, anticipate new management challenges and expectations from law department and business management

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More Key Questions

- Get as honest a picture of the workload as possible – it may be more or less than you think
 - Assessing workload will take time and require on-the-ground assessment
 - Compare/assess with other non-U.S. locations or benchmark with other companies
 - When you send a lawyer in-country you may find a lot of work that wasn't getting done before
 - Conversely, you want to avoid sending a lawyer and having her under-utilized
 - How many people are you really going to need? - Don't forget office space/support staff needs!
- Is this a zero sum game – are you going to need to reduce headcount elsewhere to justify new positions?
- Do you plan to use expatriates to initially staff/supplement your in-country law team? If so, do you have candidates for possible expatriate assignment, at least for a reasonable transition/training period for any local hires?
 - Expatriates can be valuable – assist in training new hires and educating on company culture and expectations; often are relied upon to provide key support on administrative work (budgeting, planning) and ensuring HQ expectations are met
 - Successful expatriate candidates require not just strong legal abilities, but also cultural sensitivity, flexibility, ability to function independently

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Understanding local business operations and the legal market and talent pool

- Gain as clear an understanding as possible of local legal/business environment
 - Common vs. civil law
 - English speaking?
 - Degree of education of population
 - Maturity/quality of legal system and courts?
- Are locally licensed, qualified lawyers available?
 - What does it mean to be a licensed “lawyer” in this country?
- What issues exist with use of expatriates?
 - Available/qualified candidates? Language skills and cultural awareness and sensitivity key
 - Work permit/other national law issues?
 - Logistics/support issues associated with expats
 - Costs – salary, benefits, premiums, tax assistance
- Are local law firms available and qualified?
 - Can be good short-term solution to fill gaps and can identify future “go to” firms and in-house candidates, but is expensive
 - Issues on relationship balance with HQ law department vs. local management: who instructs and pays
- Qualified local lawyers are likely the best long term solution in terms of cost control, identifying and understanding local legal issues, developing necessary contacts and relationships, and enhancing diversity of your legal function, but expats can play a key support role, both in short and long term
- Cultural issues and expectations – different approaches on communication style, manner of giving legal advice, general view of lawyers as business partners vs. technical specialists

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Economics and Cost Issues

- Good benchmarking data may be hard to obtain
 - Be aware of local privacy law issues
 - Expectations of local law community may differ from yours regarding pay, benefits, possibility of future assignments outside the country
- Salary/benefits: assume your total compensation cost for a new hire will be 100% of the base salary
 - Benefits burden can be substantial – in some countries, housing and car allowances are generous, as are pension benefits
 - Expats are expensive - “average” expat lawyer will likely cost you more than \$500K per year
 - Expats require support/administration – assistance with visa, housing, schools, taxes and other administration needs add costs; also, long-term expat career management
 - Expats may not be a fast solution – visa issues (work permit vs. business visa)
- Take office space/support staff costs into account
- Be careful about aggressive assumptions on reduction of outside counsel costs; likely to find work that wasn't done before; business case should include “soft” benefits of more effective/timely legal support and general risk reduction

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HR Issues

Denise Jagger – Eversheds LLP



● **Structure**

- Determine location within Europe
- Typical profile of a UK General Counsel
- Typical profile of a GC in another European jurisdiction
- Typical profile of an International/European General Counsel
- Changing nature of the European Union



● Remit and Authority

- Title
- Reporting line
- Remit
- Budget
- Interaction with other internal functions



● Qualifications and Experience

- Qualifications
- EU Directive
- Experience
- Inhouse -v- external experience and reputation



● **How to Recruit**

- Advertising
- Headhunter/search firm
- Interview process



● **Remuneration and Benefits**

- Market data
- Salary
- Benefits
- Lifestyle



● **Bridging the Gap**

- Continuing education and development
- US responsibilities
- US integration



**Case Studies in Expatriates and International
Rotation Programs**

Marguerite Sells - Pfizer, Inc.



- Expatriate Positions – Extremely expensive
 - Use rarely or short term to establish the legal function in a new country or where unavoidable due to geographic scope and time differences



International Rotation Programs - Examples

- Legal Director China – to HQ Legal for 12 months Senior Level Training & Development – Executive preparation in advance of Significant Investment / Growth in China
- Malaysia Legal Director to HQ Legal for 3 months to work on High Visibility Global Transaction
- Senior Level Litigation Attorney from HQ Legal to Thailand for 12 months to establish the Legal Dept./ Train new Country Attorney – Moved back to HQ to Attorney General Outreach position
- HQ Attorney out to Korea for 12 months. Stayed 2 years, transferred to Business. Now Sales Director. Assisted to recruit and train new Legal Director for Korea.
- Latin America Regional Attorney for 3 years – moved to Corporate Affairs (business), then to Japan / Asia Corporate Affairs. May come back to Legal in future
- Country Attorney Australia – moved to Corporate Affairs in Australia
- Country Attorney in Egypt moved to HQ Legal to support AfME region now AfME/ LA Region
- Regulatory Law Attorney moved to Australia for 12 months – then back to HQ as Commercial Attorney
- German Attorney (mid-level in German team) moved to Egypt for 12 months, then back to Germany as Regional Counsel for Central & Eastern Europe
- Country Attorney Mexico – moved to HQ Legal Dual - US / International Liaison Role



Internal Communications and Reporting

Henry Pitney - Overseas Private Investment Corporation



● Communications

- Now that you have taken the plunge to start a new office, how will communications be set up/kept?
- While many think local → central, it may be the reverse.
- Communicate: To what degree are matters delegated to local lawyers? Who clears what, whether litigation initiation or settlement or a financial closing?
 - Setting useful procedures is an iterative process
- Steady development of lawyer to support office
- Regular, direct discussion of projects is still best



● Training

- What material is essential for all new lawyers?
Unique for non-HQ offices?
- Describe in detail what happens at HQ vs local
- What particular local legal matters was new lawyer hired for (regional/local), or is it all business related (rotation, HQ)?
- Any relevant common-civil law differences?
- Any international component on cultural differences?



● Meetings

- Retreats/annual/HQ meetings, regional meetings, other gatherings
- What is your objective? Why essential?
- Can you prepare an agenda that will keep all practice groups engaged for the time allotted?
- Consider small for specific practice groups
- Use clear agendas, enforce brevity
- Tele/video conference lawyers who regularly cannot be present (minimize isolation).



● Reporting

● To whom does a lawyer report?

- To supervising lawyer, internal client or dual report?
- Degree of centralization vs local autonomy
- Business and legal needs determine (more shortly)

● Who wants to know?

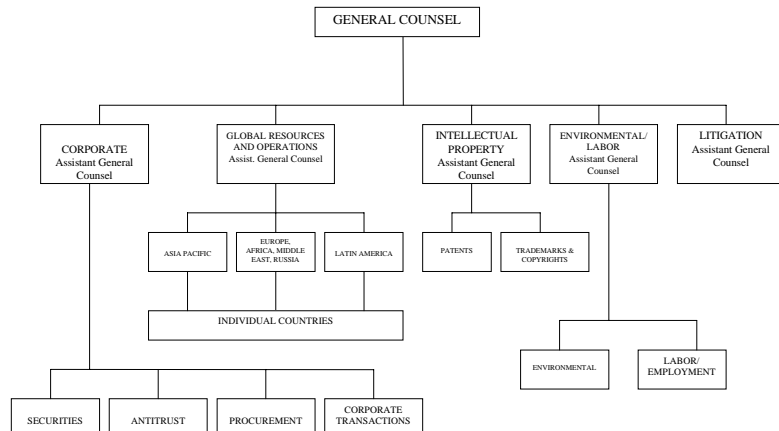
- HQ executive? GC? Regional/supervising counsel?
- Report delivery of legal services, successes, issues, potential liability or compliance etc.
- Report to internal client on matters which will impact the business objectives

● How does a lawyer report?

Organizational Models



Centralized Law Department Model



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Centralized Model- All lawyers "solid line" report to Law Department Management, including those outside HQ

Pros

- All lawyers clearly part of the "legal team" for all purposes (hiring, compensation, career development)
- May enhance consistency of legal advice
- Potential for greater efficiency, workload balance, sharing of best practices
- May enhance professional independence and commitment to the general interest rather than undue alignment with local client interests

Cons

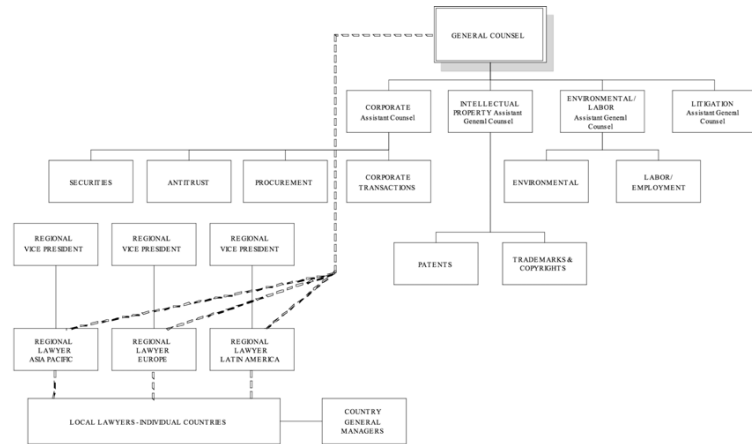
- May lead to insulation from business clients and create/sustain a "law department silo"
- May cause corporate separateness issues if lawyers outside HQ "report to" a HQ-based manager – potential liability and tax issues if HQ is deemed to "control" non-HQ operations
- Depending on degree of centralization/location of lawyers, may not develop needed expertise and familiarity with local law issues and contacts

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Decentralized Law Department Model



Decentralized Model - Lawyers in Regional and Country Operations report to Business Management with dotted line to Law Department

- **Pros**
 - Closeness to business - enhanced understanding of local needs, sensitive to local issues
 - Bespoke commercial solutions
 - Increased responsiveness
 - Proactive and preventative advice
 - Speed of decision making
 - Ownership/acceptance by the business
 - Client satisfaction
 - Part of Senior Management Team
- **Cons**
 - Distant from HQ and policy/strategy formation
 - More difficult to share best practice
 - Potential duplication
 - Potential overlawyering
 - Potential for misunderstanding
 - Time delays, lack of responsiveness
 - No global legal team culture or holistic approach
- **Myths**
 - Too close to business
 - "Going native"
 - Difficult to perform whistleblowing function
 - Loss of independence and objectivity
 - Lack of transparency

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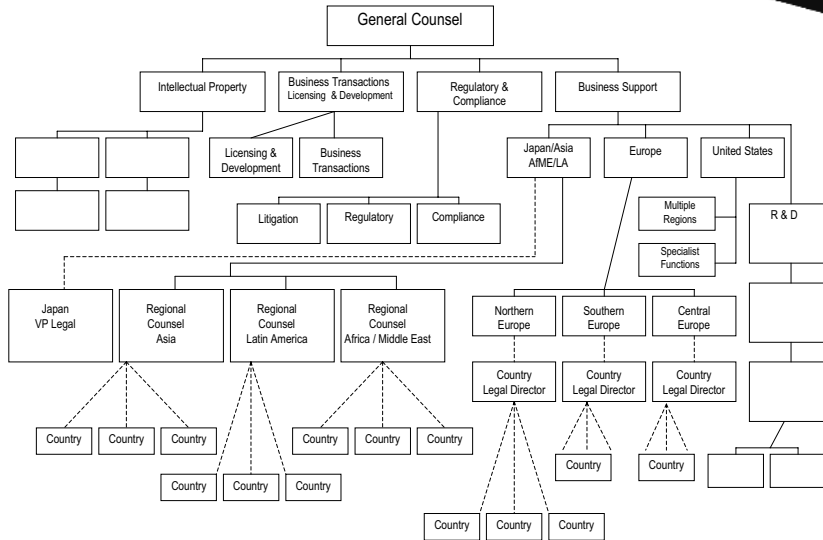
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Hybrid Model



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Hybrid Model– Lawyers in Regional Offices report to Law Department, Country Attorneys report to Business Management for local management /HR Policies, but very strong dotted line / close to Dual Reporting to Legal Division

☛ Key Elements

- Country Attorneys interviewed, recruited and trained by Law Department assisting Country Operation.
- Regional Attorneys coordinate across multi-functional legal and business groups – enhances communication and access to specialist functions in HQ
- Daily / Weekly communication and Formal Monthly Conference calls and Meetings – best practices shared / enhanced Training & Development Facilitates education / roll-out of Corporate and Legal Division policies and procedures
- Global Meetings – 1 Per year. Regional Meetings 3-4 Per Year. Monthly Meetings by Conference Call for full region. Weekly / daily conference calls on Key Issues.
- Attorneys move often between Country and Regional Operations; Country and HQ; Country and HQ Legal Dept; Legal Dept. into the Business and back to legal
- HQ Specialist Functions Interact daily with Regional Attorneys and Country Legal Teams

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Hybrid Model – Pros, Cons and Solutions

- ☛ Pros
 - ☛ Extremely High Customer Satisfaction –Increased headcount / additional resources requested and paid for by Clients
 - ☛ Focus Resources on Key Issues of High Value / Significant Risk – Agreement at Country and HQ Legal Dept. on Key Issues. Aligned Goals & Objectives
 - ☛ Specialist Legal Groups also aligned with Business Attorneys and Key Priorities
 - ☛ High Attorney satisfaction as many secondment, Training & Development and Promotion opportunities
 - ☛ Global Team – people know each other. Very strong Regional Team Culture – interact across Countries and within Region on a daily basis
 - ☛ Efficient and effective communication - Model attracts high quality / experienced Country Attorneys, with management and language skills, sensitive to local and global issues. Many opportunities for growth and development
- ☛ Cons - Highly successful attorneys can become involved in every project. Increases need to set and agree priorities with clients.
- ☛ Solutions
 - ☛ Important to set procedures and policies for high volume work. Convert admin. Positions to paralegals.
 - ☛ Educate clients to use template agreements / forms
 - ☛ Agree thresholds below which the Legal Dept will not be involved – accept the risk and focus resources on Key Issues