



## 205: Help Them Push Their Own Buttons-How to Harness your Legal Team's Core Strengths

**Darren G. Gardner**  
*Partner*  
Minter Ellison

**Pamela Hass**  
*General Counsel & Director*  
Curtin University of Technology

**Ronald F. Pol**  
*Director/General Counsel*  
Team Factors Limited/Simultext Ltd.

## Faculty Biographies

### Darren G. Gardner

Darren Gardner is managing partner of the San Francisco office of Minter Ellison, an Australasian based law firm, one of the largest law firms in the world, and the largest law firm operating in the Asia Pacific region. Mr. Gardner leads the firm's international employment, benefits, and labor law practice. Working with U.S. multinational companies, Mr. Gardner's team provides strategic advice which assists U.S. companies to manage their employment, labor, and benefits issues throughout the Asia Pacific region. He heads an experienced team with a proven track record in handling all types of labor and employment matters, from one-off questions to large-scale multi-jurisdictional projects.

Formerly corporate counsel with Qantas Airways, Mr. Gardner joined Minter Ellison in 1997. He later relocated to the U.S. to assist the firm in establishing its New York office and subsequently set up the firm's operations on the U.S. West Coast.

Author of the "Discrimination in Sport" chapter in *Laws of Australia* and the "Australian Employment Law" chapter in the *International Employment Law Handbook*, Mr. Gardner regularly speaks on employment-related issues at conferences.

Mr. Gardner has a BS and an LLB from the University of New South Wales in Australia.

### Pamela Hass

Pamela Hass occupies the position of general counsel to Curtin University of Technology in Perth, Western Australia, where she is responsible for provision of all legal services to the University, an institution of 35,000 students and 3,500 staff. Advice is provided on areas including litigation, intellectual property, dispute resolution, contract/commercial law, and property law. She has been responsible for major litigation management for the university.

She has worked in a variety of in-house positions including energy and consumer law, as well as in private practice, government, and legal aid.

Ms. Hass is national president of the Australian Corporate Lawyers Association.

She holds a Bachelors degree in Law (with honours), an Arts degree, and a Masters degree in Law. She has also completed the Australian Institute of Company Directors Course.

### Ronald F. Pol

Ronald F. Pol is general counsel of Simultext Ltd, director of Team Factors Ltd., in Wellington, New Zealand.

Formerly corporate counsel with Telecom NZ, Mr. Pol was responsible for a wide range of legal issues and negotiations across New Zealand and Australia. He provided strategic practice management advice to the legal department of Telecom NZ, New Zealand's largest public company,

and consulted on law firm and legal department relationship management, governance/compliance, and motivation of professional service providers. Prior to that, as group litigation counsel, he was responsible for major litigation and dispute management for the Telecom Group. Before working with the Telecom Group he was in private practice with leading commercial law firms in New Zealand and London.

Mr. Pol is immediate past president of the Corporate Lawyers' Association of New Zealand, the representative association for in-house counsel in corporate and government organizations, and serves on the board and governing council of the New Zealand Law Society. He shares experiences with colleagues through articles in a wide range of legal and management publications in New Zealand, Australia, and the U.S., including the *ACC Docket* ("Get More Value from Outside Counsel: Show them the Flipside", Apr 2003, "Increase Legal Department Value: Establish a Goal Focus", Oct 2003, and the "Shoveling Smoke" column). He's the only non-US lawyer appointed to the ABA's Billable Hours Speakers' Bureau, following its comprehensive 2002 report on hourly rate billing.

Mr. Pol received his BCom (Hons) and LLB and from Auckland University.

## ACC's 2004 ANNUAL MEETING

Session 205, 2.30pm - 4pm, Monday 25 October 2004

### Help Them Push Their Own Buttons - How to Harness your Legal Team's Core Strengths

#### Background

This paper is based on qualitative research undertaken with a variety of companies. The research was designed to identify what it takes to help lawyers 'push their own buttons'.

What the research revealed is different organizations each harnessing their legal team's core strengths, but going about it in quite different ways.

The four companies profiled in this paper are:



Nestlé is the world's biggest food and beverage company and has some 253,000 employees with factories or operations in almost every country in the world. Headquartered in Vevey, Switzerland, Nestlé is listed on the Stock Exchanges of SWX Swiss, London and Paris.



BHP Billiton is the world's largest diversified resources company and has approximately 35,000 employees working in more than 100 operations in some 30 countries. It operates as a dual listed company structure comprising BHP Billiton Limited (Australia) and BHP Billiton Plc (UK). BHP Billiton operates as a combined group with global headquarters located in Melbourne, Australia.



Carter Holt Harvey is one of Australasia's leading wood fibre products companies employing some 10,000 people in operations located in New Zealand, Australia and Asia. Headquartered in Auckland, New Zealand, it is a family of 18 businesses, operating on over 130 sites and is listed on both the New Zealand and Australian Stock Exchanges. International Paper (the world's largest forest products company, based in Stamford, Conn., USA) is a 51 per cent shareholder in Carter Holt Harvey.



Vodafone New Zealand is part of one of the world's largest mobile telecommunications companies, Vodafone Group Plc. In New Zealand the company has 1.675 million customers (in a country with a total population of 4 million). Vodafone New Zealand is headquartered in Auckland, New Zealand.

## The Common Complaints

Heads of legal departments often lament the amount of time they spend dealing with people issues: their own people in the legal department, the people in the business; their external lawyers; and the people on the 'other side' of business transactions.

Broad themes include:

- ◆ The value of a collaborative environment (often with individual metrics and some personal competition), versus each lawyer acting like an individual law firm and fighting with each other.
- ◆ Facilitating teamwork, balanced with high quality technical skills and personally-focused professional development.
- ◆ The extent to which performance metrics and bonuses drive lawyers, against expressed anecdotal drivers revolving around professional pride of delivering top-quality service.
- ◆ The difficulty of giving personalised feedback, against huge work pressures, and sometimes in spite of feedback 'systems'.
- ◆ Management (including HR) seemingly more heavily focused on control and administration than function or people management.
- ◆ Motivation issues arising from a culture of seeking external legal advice, stemming from isolated country legal functions with duplication, inconsistent approaches to the same issues; and limited knowledge sharing and networking.
- ◆ Escalating costs and 'lack of control' by the legal department, arising partly from having no systematic worldwide external lawyer management program.
- ◆ Absence of an outward perspective, with multiple legal departments 'doing their own thing', without a sense of being part of a broader collegial team.
- ◆ Downsizing, outsourcing and 'short-termist' cost-cutting affecting the legal department.
- ◆ GC reporting to CFO, Finance or line management functions, affecting not only the company's ability to obtain strategic legal advice, but also the perception of the legal department within the organization as functional technicians rather than strategic advisers.

Addressing these issues can be a time-consuming task. Yet understanding the critical organizational constraints that underpin them is often the key to unlocking the full potential of a legal department to become a true business partner and driver within their organizations.

## The Hottest Button to Push

From the research conducted for this paper it seems that for in-house lawyers one of the most effective ways to 'push their own buttons' is by 'having a seat at the table' when decisions are being made. And while the seat may not be a physical seat it is critical for them to be, and to be seen to be, a key part of the business.

Getting that 'seat at the table' is driven by the legal department's ability to genuinely contribute to the organization's success. This means the performance evaluation for the legal department is based on similar measures to the rest of the business. In the four companies profiled this is most definitely the case.

## The case studies

In each of the profiled case studies the legal department has gained its 'seat at the table'. These case studies seek to provide some insight into how this has been achieved.

---

### *Case study 1: Nestlé – Streamlining*

---

Nestlé is the largest food and beverage company in the world with total sales in 2003 of US\$65 billion. The company is a truly global operator. The legal function mirrored the highly decentralised structure of the business and this created a number of challenges which can essentially be summarised as:

- ◆ Lack of Group perspective caused by 58 different legal departments (and some in single countries).
- ◆ Duplicated efforts, inconsistent approaches and limited knowledge sharing.
- ◆ No systematic approach to management of external lawyers (some 1500 law firms were retained worldwide).
- ◆ Total legal spend increasing at an unacceptable rate.

Combine these factors with the ongoing efficiency improvements the company was realising in its factories and it was critical that the 'white collar workers' adhere to the same level of accountability and performance improvement.

The complexity of addressing these issues and the degree of push-back from the various interests affected by any change cannot be overstated. It was with the Chief Executive Officer's strong support that a global review of the Nestlé Group Legal Function was commenced in 2000. Its recommendations were acted upon and fully implemented by 2003.

Given the scale of the organization, intuitively, this review must rank as one of the largest of its type undertaken on a global scale. The team leading the project (called *Running Shoes*) comprised of Hans Peter Frick, Group General Counsel, Trevor Brown, General Counsel Europe, Fernando Revuelta, General Counsel Nestlé Iberia and Richard Sykes, General Counsel Asia Oceania Africa & Middle East.

The consultative and analytical process involved some:

- ◆ 172 extensive questionnaires being completed by reporting entities
- ◆ visits to 16 markets and the Head Office
- ◆ conducting over 300 personal interviews

The findings revealed a number of common and core activities being performed in each market. It was thought that these could more efficiently be conducted through Competence Centres staffed by experienced and high potential lawyers from different jurisdictions.

This approach would enable the Legal Function to:

- ◆ Bring competence together and serve multiple markets (both those with and without legal departments) through a dedicated team of top professionals in core areas of need (such as M&A, anti-trust and specific commercial work); and
- ◆ Offer greater professional development and career opportunities to high potential employees.

As a result of Running Shoes, Nestlé now has:

- ◆ A small Head Office legal team (of nine full-time equivalents) responsible for the management of the Legal Function on a Group basis with clearly defined function reporting by Heads of Market Legal Departments to Regional General Counsel and to Group General Counsel – this has improved the ability to manage legal costs (internal and external) on a global basis.
- ◆ Competence and Shared Services Centres have been established in Europe for M&A, Commercial and Anti-trust. In North America (USA and Canada) the Shared Services Centre services six different businesses and in Latin America a Competence Centre for Commercial covers the territory from Mexico to Argentina.
- ◆ An External Lawyer Management Policy throughout the world which has resulted in a huge reduction in the number of law firm suppliers, greater leverage of Nestlé's purchasing power and a range of value adding activities which positively enhance the legal training and skills training of Nestlé legal staff as well as valuable content for the organization's knowledge networks.
- ◆ Knowledge Networks in place in a range of areas of key importance to the business (such as capital markets, anti-trust and corporate governance) supported by the Group Legal Intranet as one of a number of mediums for sharing knowledge;
- ◆ Task specific Savings Tracking Tool which enables the Markets to provide quarterly financial reports on internal/external legal spend and calculates efficiencies (using embedded formulae and key ratios).
- ◆ Regular internal client satisfaction audits from which continuous improvement activities are identified and acted upon and which demonstrate legal function definitely has a 'seat at the table' when key decisions are being made.

Today Nestlé has a total of 194 lawyers and has achieved real savings in total legal spending (internal and external) of 15.2 per cent from its total spend in 2000.

---

### *Case study 2: BHP Billiton – Marginalised to Mainstream*

---

John Fast, the Chief Legal Counsel and Head of External Affairs for BHP Billiton was hand picked by the then chief executive of BHP Billiton, Paul Anderson, to join the company as chief legal counsel and a member of the policy committee, the then most senior executive committee in the company. In Fast's own words he joined the company as part of a new management team appointed in the wake of "the gloomy, dark, difficult period in the history of the company." Fast was attracted by the opportunity to be an agent for change. He revolutionised the legal department by going against the current wisdom and bringing the lawyers back from working in the business units to form a central legal department.

Before initiating this move Fast undertook a forensic audit on a variety of transactions. This enabled him to understand what had happened and how and why it happened. Many common themes emerged. Among them it seemed that by embedding the lawyers in the business they had been robbed of their relevance. They lacked independence and had a very restricted ability to be heard, thereby robbing them of their ability to provide more broadly focused advice to the business.

Fast is the first to admit that centralising the legal function is not a solution for every organization but it was the right one for BHP Billiton. The BHP Billiton Group is spread over a large area and has many assets - it needed a legal structure that would provide a level of governance and improve the Group's risk management. One of Fast's objectives was to transform the risk and exposures of the company and make sure it had proper legal systems in place to address these.

As you would expect, these changes were not without their sceptics – but the proof of the success of the model at BHP Billiton has been that the legal function now operates far more efficiently and cost effectively. The lawyers are freed up to work for more than one asset and they are more challenged. The attitude of the internal customers towards Legal has also changed for the better. The 'pulse' of the internal customers is taken on a regular basis and the results confirm that the legal department's function is regarded as valuable and they have a very definite 'seat at the table'.

Today the BHP Billiton Legal Function, External Affairs Function and Company Secretariat are comprised of 122 members, located in 18 separate offices, worldwide.

---

### *Case study 3:- Carter Holt Harvey – Legal Department as Conscience*

---

The old saying '*what doesn't kill you makes you stronger*' is true for the legal function at Carter Holt Harvey which has gone through downsizing, out-sourcing and in-sourcing over the last nine years. Stronger because the organisation now recognises that an in-house team adds greater value to the business (than an external function) because of its deep knowledge of the business and the ability to provide a 'legal conscience' to the business.

The stated mission of the legal department is "To promote and support ethical and lawful business behaviour by Carter Holt Harvey and its employees."

There is a belief in the company that issues should be challenged and that decisions should only be taken after the spectrum of issues and risks have been carefully considered. The legal department's role in asking the questions that really matter around risk and their ability to assist the business focus early on key issues has played a big role in the in-house legal function being regarded as value adding in the business.

The lawyers are located in the business units making them both highly visible and close to the day to day dynamics. The business has responded very favourably to this move. Lawyers are now on all of the various business lead teams and contribute at a strategic level. They provide the legal conscience role and test the commercial people's thinking particularly in the framework of ethical and legal considerations.



To ensure the business is aware of the legal department's performance a Legal Department Annual Report is produced and contains a succinct and factual summary of the legal department's achievements, budgetary performance and details of the next year's goals.

---

#### *Case study 4: Vodafone New Zealand – The Value of Values*

---

Vodafone New Zealand is a part of one of the world's largest mobile telecommunications companies, Vodafone Group Plc. Its values driven ethos began in New Zealand in 1999, migrated to Australia and subsequently to the whole Vodafone Group.

The Group's overarching values are expressed as the four Passions: passion for people, passion for results, passion for customers and passion for the world around us.

While New Zealand shares the passions it has also maintained its own uniquely expressed values of:

- ◆ being zesty, fun and supportive
- ◆ showing business excellence
- ◆ having unleashed minds
- ◆ going for it
- ◆ being simple and clever

Now you might think that translating these values to the legal department might represent a challenge. Not so.

Using a facilitated process which was guided by a Director of Vodafone New Zealand, an absolute champion of the values, the legal department engaged in a series of discussions which resulted in a vision, strategy and plan for realising their goals. At the heart of the legal department's strategy is the recognition that they needed to "get out there, do what they do best and empower others to do the rest." They do this by:

- ◆ their involvement in the business
- ◆ creativity
- ◆ not taking themselves too seriously
- ◆ providing commercial solutions in a legal framework
- ◆ focusing on the activities which are of most value to the organisation

How effectively the legal department is at delivering on this strategy is tested through surveys with internal customers. This useful information complements the very open environment of Vodafone which promotes being open to receive and give feedback.

This legal team not only has that all important 'seat at the table' but also has a lot of fun along the way.

## A Checklist for Change

Head(s) of Legal have *authority* to make it happen.

*Recognition* that the ways of the past are not the ways of the future.

Due diligence to ensure *fact* based analysis determines where change needs to occur.

*Engage* the whole team and key business stakeholders in the process.

Know that you can never over-use *consultation, collaboration* and *communication*.

*Acknowledge* resistance but do not allow it to delay change taking place.

Use surveys and metrics to *reality check* change initiatives are delivering expected outcomes.

*Recognise*, reward and communicate achievements.

*Maintain* momentum.

## Applying what we've learnt

Using the broad base of experience of the speakers the insights from the research will be distilled into practical ideas, checklists and strategies for you to take away from this session. Any further written material will also be available to all session participants and ACC Annual Meeting attendees.

---

With sincere thanks for their participation

---

Nestlé - Hans Peter Frick, Trevor Brown and Richard Sykes, Group General Counsel, General Counsel Europe, General Counsel Asia Oceania Africa & Middle East

BHP Billiton - John Fast, Chief Legal Officer and Head of External Affairs

Carter Holt Harvey - Nicolas Short, General Counsel

Vodafone New Zealand - Richard Browning, Director – Legal & Regulatory

And to Trish Carroll, the former head of marketing at Minter Ellison, the authors not only extend their gratitude and thanks for her assistance but also their admiration for the way she just makes things happen.

---

## Authors

---

Darren Gardner

Partner

Minter Ellison Lawyers

Tel: +1 415 869 6400

Email: darren.gardner@minterellison.com

Ronald F Pol

Immediate Past President

Corporate Lawyers' Association of New Zealand

Tel: +64 4 562 8444

Email: ronald.pol@teamfactors.com

Pamela Hass

President

Australian Corporate Lawyers Association

Tel: + 61 8 9266 2767

Email: p.hass@curtin.edu.au