



Podcast transcript

Reimagining the legal function

Podcast with Nicola Brooks, KPMG in the UK; Andreas Bong, KPMG Law Germany; Philipp Glock, KPMG Law Germany; Eric Gorman, KPMG in the US*.

Musical intro

Announcer:

Hello, and welcome to the 'Future of Legal', the KPMG podcast series for global legal leaders. This series will look at some of the most pressing issues and opportunities facing global legal departments in the modern business world, through interviews with leaders in KPMG Global Legal Services and other areas of business from KPMG and beyond.

In today's episode, we're joined by leaders in KPMG's Global Legal Operations Transformation Services: Nicola Brooks, from KPMG in the UK; Andreas Bong, KPMG Law Germany; Philipp Glock, also at KPMG Law Germany; and Eric Gorman, from KPMG in the US.

We'd like to make a disclaimer at the outset that, throughout this interview, the term 'legal' is often used as a short-form reference to 'the legal function' rather than to the law itself. So, when it is said, for example, 'legal needs to transform,' we are referring to the legal function or department of an organization, and not the system of rules that a particular jurisdiction recognizes as regulating its members.

Ok, let's get started. Welcome Nicola, Andreas, Eric and Philipp and thanks for joining me on the phone today.

Nicola: Hi.

Andreas: Hi.

Eric: Great to be here.

Philipp: Hi, hello.

Announcer:

So, today we're going to be talking about re-imagining the legal function and the conditions in the market that are driving this need for legal functions to transform. But perhaps we can start with a few big picture questions.

How is the legal market changing?

Andreas:

Well I think it's fair that the legal function is currently undergoing a huge transformation. We've been looking at the legal KPIs and the development of legal since 2005 now, so it's more than 15 years. And what we found out is that the lawyers have been constantly increasing in that time. So we see almost a doubling of resources within the legal department, within 15 years.

Total costs, of course, were rising as well. And now what we see is that – you know – in-house lawyers, they're facing new challenges, new regulations every day, they need to act as a business partner and need to come up with proactive advice. So this is the reason why they've been constantly increasing their headcount. Nowadays, I would say also due to COVID-19, no more additional resources for legal are available.

So it's not that you can answer some new arriving questions with hiring new lawyers, the question is how do you improve your services by using better operations and the increased use of technology. And what we see in the market is that other than 10 years ago, today's needs of general counsel, they need well founded knowledge and how to improve legal, they need specialized service provider, and of course, proven tech solutions. Philipp, did I forget anything?

Philipp:

No, obviously not. I just – maybe just one thing to add from my side that seems to be important is that as we've been looking into the use of technology in legal departments for quite some years now, that I would think for – well for many years until one or two years ago, well general counsels in legal departments were looking at those things and yet like a hype that came to what is called legal technology. But now we do really see that legal departments are really using those things, especially the really hands-on technology that helps them on a day-to-day basis, like contract automation and automation of processes. So I would really – I would really say there's been a big step forward in the last, well maybe 18 months when it comes to the use of technology in legal departments, that's just one trend I would like to add.

Announcer:

Eric, what are you seeing in the US?

Eric:

I would augment everything that's just been said with the concept – the notion that lawyers are increasingly being called on to do more and more things. So, the growth in FTEs, the increase in technological capabilities, that's all been driven by the need that corporations see for their lawyers to play a role in more and more decision making.

We see that both in civil law countries as well as in common law jurisdictions. And one market response to that has been the corresponding increase in the number and types of firms that provide legal services.

So – you know – the big four are now providing legal services in many – in many different jurisdictions. We, at KPMG, our firm practices law in 80 different countries, of course, not in certain jurisdictions such as the United States, but in many other places around the world and corporations are increasingly looking to firms like ours, in addition to other firms like the traditional law firms for legal services in certain specific areas and in particular jurisdictions.

And I would also say that there's been a marked increase in focus among in-house legal departments on being efficient and effective in their operations.

It's a really notable increase and it pre-dates COVID, but it's also been accelerated by COVID. And I think legal departments are – as the need increase and the speed of business increases and lots of different – there's a confluence of lots of different trends in the space and pressures on legal departments, they're looking to their colleagues in other departments that have benefited from some of the improved processes in greater rigor around technology and processes and people, and looking for ways that they can improve as well.

Announcer:

Thanks Andreas, Philipp and Eric. So, what are the key business issues legal leaders are facing that are driving this need to transform?

Nicola, perhaps we can start with you?

Nicola:

Well, I don't think we can answer this question without referring to – to COVID-19, and the world as we know it has changed. We've all seen new consumer and business behaviors, and that's forced businesses to reframe or rethink their strategies to maximize the upside and also minimize the downside of COVID-19.

The impact to all of us on a global basis as we've seen in our key clients has been huge. If I use one client as an example, they've had to change all their R&D timelines so whether it be developing a product over several years, they've had to move that to months, so they're looking at six to nine months to take a product to market.

You think about the implications on the legal team around – you know – labeling, all of the regulation, sales and marketing – all the risk processes. The legal team has had to really quickly adjust to the speed of business and deliver far more.

So where we see businesses now looking at transforming their operating models, their legal teams are having to think about – you know – greater reduction on cost, how can they be more

efficient and effective in the way that they deliver their legal services? How can they get more value from their entire legal ecosystem? How can they all pro-actively manage risk? And how can they make data-driven decisions?

Announcer:

Eric, picking up on that point, what are you seeing in terms of the risk climate out there?

Eric:

So, in addition to what Nikola just mentioned about COVID, more generally speaking, risks as we see them to businesses are at or are approaching all-time highs. These risks are arising from a lot of traditional sources like regulation, litigation, competition, IP issues, IP portfolios and assets as well as IP theft, data and privacy concerns, and all those sorts of things.

But in addition to that, there are also now risks coming from maybe more general disruption, disruption of global trade, disruption of the financial markets, of the information ecosystem, and frankly, as well as our political systems.

So, businesses, it's common to say and I think it's right, businesses tend to do better when things are predictable, and frankly, very little seems predictable in the broad environment we're seeing right now. So that puts additional pressure on legal departments.

One particular threat to businesses that legal departments are going to be called upon increasingly to address, I think going forward, are issues of misinformation and disinformation. In other words, active disinformation about what companies are doing, their actions, their intentions, and those sorts of things. And that poses a new challenge and legal departments, they need to be ready.

So, to put it all together, having a really well-functioning legal department and efficient legal operation that's effective and focused on the risks and laser focused on addressing them, that's going to be essential in this environment. It's really the bare minimum.

It's sort of – think of it as sort of table stakes to be able to effectively respond to what's becoming an increasingly chaotic environment that businesses are needing – needing to operate in.

Announcer:

Nicola touched on the impact of COVID-19. Has it made this need to transform more crucial, have you seen it give rise to new business issues?

Philipp:

Picking up on what Nicola just mentioned with what had happened in the last couple of months with COVID-19 I just – I think like kind of – as with a magnifier just – you know – enlarged some general issues that legal departments face on a general basis. I think as in any crisis things had to happen really fast and at a high-quality standard and business and legal as a supporting function actually obviously had to work the same ways.

If you look at a couple of examples from a legal point of view – you know – flexible workforces and with reference to labor law where businesses had to ramp up and ramp down maybe hours of work in different parts of the company. Cash management of companies and – you know – preventing insolvencies or – you know – receiving subsidies, at least in Germany I think in any other country [is] a big issue. All those things that – where businesses had to make fast decision, legal had to support very fast and very efficient and at a high quality.

So I think all these things that had to be addressed in a very short period of time showed that the functioning of the legal departments – you know – had to be, in a sense that you had to really have like speedy reactions, proactive advice and – you know – linking into the business decisions and the business needs very much. And that made it really – those things that I just said I think are more general things that legal departments are facing. But under COVID-19 those things became even more – more visible. So, if you want to support your business in that – in the way I just mentioned you need to have a target operating model that works. You need to have efficient and fast processes in place and technology tools that are – that really work. And I think – also I think that – you know – what also COVID showed us that, and I think we'll pick up on that later, is also that change is not as scary as it might seem to lawyers sometimes.

For example, in our company in Germany we just started with Microsoft Teams during that period, now it's a big part of any project. And if you asked a lawyer half a year ago in our firm, "would you like to use a chat on a corporation tool or would you rather write an email?", most of them would have said I'd rather write an email. So I think those are two things – being more open to change because they had to and also, what I said before, like the magnifier to general issues in legal departments, that's what COVID-19 showed us I think, but I don't know. Nicola, I would think you would have more general remarks on outside of the pandemic-world on that question.

Nicola:

Completely agree with you, Philipp. I think what we're seeing is that COVID has just accelerated some of the change. Because it forced change on all of us. We've all had to work in a completely different way and that's highlighted some gaps. That's highlighted where there are shortcomings or where things are still very, very manual and actually seem to need to be more digital.

So if you start to move from recovery into planning for the new reality, businesses across their entire operating model are looking to transform and legal is very much a part of that. So, going back to Philipp's point, you know legal functions need digitalization to continue to operate. Of course, any basics like remote working but actually properly digitizing to enable the teams to become more agile, to run at speed and scale, to proactively manage risks and create commercial insights and enable organizations to realize cash more quickly.

Announcer:

So what would you say are the biggest challenges legal leaders face in transforming their functions? And what are some of the opportunities? Eric, shall we start with you?

Eric:

To me it all comes down to culture, culture is really key. Having a flexible and open culture within the legal department can really be the difference between success and failure when it comes to a transformation.

You can have the greatest strategy or the greatest plan in the world but if you don't have your people behind you, if you don't have that culture that's open to that change and the buy-in from your people, it ultimately won't work. And that can be a challenge with lawyers, and I say that as a lawyer. I practiced law for over 20 years before joining KPMG. And we have a lot of strengths as lawyers, but openness to change isn't necessarily one of them.

So it's just something that doesn't necessarily come naturally to us. But there are ways to get that buy-in and there are ways to work through change management and to get that – to get that change to take root and really make a difference in partnership with the business.

Nicola, I know you had some thoughts on different challenges and opportunities, as well.

Nicola:

Yeah, just going back to your point I think this culture of innovation and change is really important. For all of our projects we make sure we have a really big change element, 70 percent of all major change initiatives fail, so what we often see in teams when they're going under a legal transformation is that they'll think "I'll just go buy a piece of tech and suddenly everything's going to change, it's going to completely transform the way that we work." In our experience – and all of us on this call will have been through this – know that that's actually not the case. There's a huge risk about not managing the people impact of the change and really taking – taking control of that right from day one on a project. You started with a challenge, now moving through to the solution, is really how you get it right. So, we always ask three questions; What does the business need from legal? How is this best resourced? And how should it be delivered? And as you start to work through those questions that's when you're – you're really looking at the opportunities.

Announcer:

Let's turn our attention to how businesses are responding.

Andreas, as General Counsels rethink their target operating models, are you seeing any common themes emerging in terms of transformation and change?

Andreas:

That's indeed a very good question, because what we – what we see throughout the industries globally is that all general counsels, they know that they need to become more efficient, faster and of course at the same time, more risk-conscious. And looking at the trends of the last decade, we can clearly see that this applies to all of the topics in their target operating model.

They have been strengthening their central governance, they have been – you know – redesigning their sourcing models. So, did they really manage to choose the right sourcing for each topic

that they offer as a service in the legal department, and that they ensure that the legal standard is allocated in an appropriate manner. And of course, this goes along with a really strategic law firm management in the last years, reduction of law firms with clear framework contracts and so forth.

And then of course two other things that are heavily emerging in the last years, which is of course, the digitalization efforts, are they getting the most profit out of technological developments, and what's the best solution for their service offering in their daily business? And last but certainly not least is the question of standardization and performance measurement. I think everybody here agrees that until now, legal has been some kind of – perceived at least – perceived as hardly in-transparent and a little bit – you know – manual, too much manual effort and sometimes even a little bit more expensive than expected.

And of course, the idea is that you cannot move on like that, being legal as a black box. You need to have clear performance standards, KPIs, how do you measure, steer and communicate the performance of the legal department. And I think all those methods are the right way to deal with it, but of course it's not everything.

Announcer:

And who's driving this change within the organization? Is it largely driven by corporate legal teams themselves, or part of broader transformation programs and/or executive teams?

Andreas:

Well, I think it's both. On the one hand side, I would clearly say that it's the sheer, time and cost pressure that general counsels face, that they simply know that they need to improve. So, I think this is also the reason why we see even – you know – big organizations setting up their own in-house legal operations teams, and this is probably the one hand side with how they're trying to respond.

And then what we also see is that legal becomes more and more part of the optimization of the entire central functions in a company. So previously it probably was like that, but legal was always considered as, we are not being part of those central functions that are to be improved and nowadays it's exactly the opposite, I would say. So legal is heavily involved into those re-organization projects and they need to deliver.

Announcer:

Philipp, anything to add?

Philipp:

Yeah I mean just, maybe one thing to add is that what we see in our projects and from experience is that it really makes sense for legal departments' general counsels to pro-actively go into those transformation projects, because if there's – at some point in time there will be a program on the horizon – you know – that transforms many functions of a company. And at that point in time you're too late, you might have – you might have a program that you don't feel fits your needs, but you have to go along with

it because it's just – you know because it's just there and covers maybe tax and other general functions.

So if you really want to – if you really have the feeling that you need to do something and you want to stay in the driver's seat, from our experience – and that's what a lot of general counsels also mirror back to us is, we want to do it on our own and in a way that we feel it's best for us, rather than being part of a huge project where we are – we have to react and are driven by – by things that we can't influence anymore.

Announcer:

The cycle of change is well known to other functions in an organization; IT, HR, Finance – are there aspects of this trend that are unique to legal services? And what are the key objectives the business is looking for when embarking on this transformation journey?

Eric:

When thinking about – kind of how transformation is different for a legal department. I think it's important to think about the ways lawyers are trained and – kind of the culture of law as a profession. Lawyers are – we're trained in precedent. We generally, we're trained to look to the past as a guide, not necessarily to the present or the future. And that can be a strength at times, but it can also be – very candidly, it can be a weakness.

At a minimum, it's a bias that's wired into legal thinking, or much of legal thinking and we need to be conscious of it so we can – by being aware of it, we can leverage it when it's helpful and minimize it when it's not.

I think another challenge that lawyers face and legal departments face in transformation is that we're trained to seek out and identify and avoid risk. There's a risk aversion that's built in, inherent in the profession in some ways. So, we tend to very clearly see negatives and challenges and risks, and we're trained to raise and argue them very effectively.

But again, we need to be conscious so that we don't systematically overvalue risk of change and potential negative outcomes, and then implicitly devalue the opportunities of a thing like a transformation in the way businesses and legal departments operate. While those are challenges, there are also some inherent advantages that lawyers have.

We're trained to reason by analogy in addition to reasoning by precedent. In fact precedential reasoning, is inherently analogous reasoning. But, as we look to successful transformations in other areas of the business, whether it's in the finance organization or the tax function or operations or compliance or any number of different areas within a business that have successfully undergone transformations, we can take those lessons and really effectively apply them within the legal department as well. And there are countless lessons to be learned and advantages to be leveraged from that experience.

Announcer:

And how are you seeing technology play a part in all of this?

Nicola:

Technology plays a huge role. Legal functions need to introduce a seamless digital operating model, but that's not just about fine bits of technologies we talked about earlier, it's about really thinking about what the problem is and then redesigning processes, realigning capabilities and people, really thinking about roles and responsibilities within a process and monitoring performance and achievements against targets.

And yes, technology underpins all of that, but it really does need to start with – you know – what is the problem, what is it that you're trying to change, and looking at it as a project in a whole. Philipp, you've probably got some views on this as well.

Philipp:

I would like to add, if we turn our head kind of also to the – to the side of the suppliers of the legal department. So at one thing you have obviously a need of change within the legal department that Nicola just addressed and – you know – how you can make your processes more efficient using technology, but also – and I think we mentioned before that the whole sourcing issue, that the legal service providers that service legal departments also have to be more – have to use technology more than they do now.

And I think there's two or three things that do enhance those services very much. One is the whole area of legal managed services where legal providers, whether it's traditional legal law firms or alternative service providers, use analytics, use automation, use other technology pieces in order to make their offering more efficient, more cost-efficient, but also faster and more quality driven.

And also, another area is the whole legal managed services – you know – taking certain services like legal monitoring or whatever, but also really sourcing out huge pieces of work when it comes to mass litigation or claims management, things that law firms haven't been looking at for many years, but are now looking more into those areas because they can if they use the right type of technology.

And so, I think that's also a very important angle for – to look at – you know – for legal departments when you look at the use of technology in-house, but also where it comes to external providers. And if you see – look at pitches now, panel pitches, you won't ever see one pitch where the external providers are not being asked what technology are you using, what are you doing to make your service more efficient. So that's just one angle I just wanted to add.

Announcer:

And what technology tools are out there? Are there any in particular that KPMG firms use?

Nicola:

One of the biggest challenges for general counsels is that there are so many technology tools available and most don't know where to start. The last time I did – I think there were over 4,000 different legal tech companies. How on Earth do you start trying to wade through that volume to find actually what is the right tool for you? KPMG does have some of our own tools, but actually our viewpoint is technology agnostic. It's about finding the right tool for what our clients' needs are. And one of the challenges, we talked earlier about – you know – the other functions within an organization in a transformation they have been through, that the technology market is far more consolidated if you take a procurement function, an HR function, or a finance function. And there are far fewer systems to choose from and they can probably get one or two systems that will deliver the majority of what they need. Again, the challenge for legal functions is that the tech market is still very disaggregated. We were working for a client recently and we mapped out the whole legal tech taxonomy of what actually they might need. And there were over 20 different point solutions that they might need.

But we do have a viewpoint in terms of the legal ecosystem that a function needs. And that is some form of intake triage or the legal front door as it is often known as. Some form of matter management, case management, knowledge management, document management, an e-billing system going back to – you know – really getting in control with your spend, automated workflow, contact lifecycle management or contact automation. And there will be some point solutions, for example legal hold or e-discovery. Philipp, what's your view, what have I missed?

Philipp:

Yeah, I would totally agree on that ecosystem. I think one important thing is, and that's a trend I think that's what we're trying to provide our clients with now is that on one hand, you have those different parts of that ecosystem, but there's also problems that you can't at all probably solve with tools.

And you mentioned that there's so many things out there off the shelf, so what we're really trying to do is also using automation tools whether it's low code or even no code things where you really have to dive into a bit more and look at how do I individually solve that problem. And I think that's one of the great things that we have in the world here at KPMG that you can really have a person doing some in-depth technology work to solve an individual problem.

And also what I think that is important and I think we look at that a bit later as well, is that next step to make those tools interact with each other stepping away from the silos, but really trying to solve the problem of APIs and really have a one solution – kind of that will not be one provider brings everything to the table that you need, but you'll always have different things like SAP that are already there. But really, how to manage to make those things talk to each other, and I think those are two more like newer trends that we're trying to solve.

One step further from – you know – the question what’s the best tool for you but also – you know – firstly how can I solve individual things, individual problems. Secondly, yeah, how do those things interact and how do I solve the silo problem, so to speak.

Nicola:

Yes, it’s really – it’s really interesting, isn’t it. It’s about having – having a proper tech roadmap and a technology strategy so you can actually think about what’s our data strategy, what do we want to be able to report on, what systems do we need and then how do they talk to each other. And not just from a legal perspective, but as you said enterprise-wide, what needs to feed into the procurement system, what needs to feed into the HR system.

Philipp:

Yes, absolutely.

Announcer:

To wrap up, any final thoughts or any advice you can leave our listeners with who may be embarking on this transformation journey?

Nicola:

I think my biggest piece of advice, which we’ve touched on a lot on this podcast is treat the transformation as a change program, and really don’t underestimate the change needed, even if you’re just – you know – you see it as buying a piece of technology. It’s not quite as easy just to sort of – you know – put the technology in and expect the change to come.

Andreas, we’ve worked on a couple of big projects and are still working on a couple of big global transformations at the moment, is there anything you want to add on that one?

Andreas:

Yes, I would say just – you know, I would say allow mistakes and take time for the change management, and the actual transformation journey.

Nicola:

Yes, absolutely. And another one I’d say is if this appears in your organization, a lot of other functions have been through at least one if not two, sort of, big transformations. So, speak to the CFOs, speak to their HRD – how have they approached it? What did they find? What worked well for them? What can you learn from them? I think where we sort of put heads of departments together, they found it incredibly powerful, to also have a – you know – a network of peers inside your organization so that you’ve got people to talk to about it.

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Embrace technology, you’re not going to be replaced by a robot lawyer, but the technology isn’t going anywhere – the technology is getting better and better. So rather than resisting it, go for it.

And finally, IT is going to help – it brings fresh perspectives, it brings honest challenge and a robust set approach to change.

Announcer:

Eric?

Eric:

Just two thoughts from me. One is the culture in the legal department is the key to success, and effective change management is the key to culture.

Announcer:

Nicola, Andreas, Eric and Philipp you’ve given our listeners a lot to think about. Thank you for joining me today and thank you for your insights.

Nicola: Thanks very much for listening.

Philipp: Thank you very much.

Eric: Thank you for having me.

Andreas: Thank you.

Announcer:

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Thanks for listening.

Musical exit