

Intra-Group Communications: An Avenue to More Efficient Legal Risk Management

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Abstract

The purpose of this paper is to discuss the possibilities for in-house counsel to help maximize their efficiency and presence by adding emphasis on communication within their company. Essentially the underlying idea is raising awareness and providing employees with tools and information that reduce the need for very basic legal advice. This topic is – in our view – highly underrated by many counsel.

In-house counsel have vast possibilities to increase their presence and ability to add value without being overtly intrusive. This can be done in particular by using a number of various digital tools commonplace in today's corporate world, but also by more traditional means of communication. Getting the job done as a legal function often means supporting corporate personnel on nearly every level of an organization. However, considering the limitations in legal department personnel, prioritizing is often a necessity – this creates a need for other ways of providing support .

After discussing the possibilities an increased focus on communication bring, this paper will outline some best practices in organizational communication in general and examine practical examples of how they can be implemented in ways useful for a legal function. It should prove an interesting read for in-house counsel who are interested in ideas about being more proactive towards their internal clients.

Keywords: organizational communication, legal risk management, legal tech

1. Introduction

Managing legal risk is one core task of a corporate legal department. The purpose of this paper is to discuss the possibilities for in-house counsel to help maximize their efficiency in managing legal risk and optimizing their digital presence by adding emphasis on communication within their company or group of companies, as may be relevant . This paper will provide both advice on how to develop a legal department's approach towards communication, drawing on the practical experience of the authors, as well as more general contemporary best practices and trends in relation to intra-group communications as food for thought.

To start, we invite readers to consider the nature of an in-house lawyer in general. We see it as transcending being a mere specialist in law and legal issues, giving reactive advice when prompted to do so. Instead, a successful in-house counsel is a steward of the company's legal risk – a task that requires undertaking an approach that is first and foremost proactive. Embedded in being proactive is the notion that a company's employees are not permanently and irreversibly legal risks to the company, that they

could instead, perhaps, be managers of such risk. This attitude admittedly can require a hint of optimism, but it is – in our view – essential to have, unless your desire is to have in-house counsel checking each document produced in the company and policing each meeting being held, not entirely unlike the so-called helicopter parents of today.

Intra-group communication is a useful tool to help manage legal risk, and in-house counsels have vast possibilities to increase their presence and ability to add value without being overtly intrusive. Getting the job done as an in-house counsel often means having a need to interact with personnel on nearly every level of an organization, whether for providing legal support to them or to ensure that they have received, understood and complied with various company policies and guidelines. Given that in many companies, if not in all, lawyers are vastly outnumbered by non-lawyers and that the geographical spread of a company's offices or sites is often such that in-house counsels and non-lawyers may never meet in person and, even if they do, the in-house counsel may have to prioritize supporting someone else. These limitations in resourcing and consequential gaps in legal risk management create a need for other ways of providing legal support and sharing needed information, which is where intra-group communications can prove effective. There is a wide variety of both digital tools and more traditional and "offline" means of communicating within an organization. We will highlight a few of the ones that we particularly recommend in the coming pages and will propose how to best cooperate with and engage the company's Communications Department.

2. What is intra-group communication in the 21st century

'We used to be the tail on the dog, but now communication is the organizing principle behind many business decisions'. Richard Edelman, CEO of Edelman, the world's largest independent PR agency.¹

Organizational or corporate communication may be roughly defined as a process by which activities of a society are collected and coordinated to reach the goals of both individuals and collective groups. It is a subfield of a larger discipline of general communication and a component in effective management of practically any workplace environment of today.

The traditional model of communication was based on two ideas: information is a neutral issue and communication is about transferring information from A to B, from sender to recipient. These ideas were based on linear thinking that there are recipients, also known as objects, and actors, also known as subjects. However, working life has since changed drastically as industrialized society has turned into an information-based society. The said change wasn't quick or equal but nevertheless has swept over practically all developed countries and companies. The "Hypodermic Needle Theory", as the traditional model is also called,² is nowadays outdated and has no place really in today's corporate world as we will below further illustrate.

Today, keywords in organizational communications include interaction, mutual appreciation and communication, forming a part of everyone's job and working life. Communication may flow in a variety of ways: through formal channels either downward, horizontally, or upward, whereas communication through informal channels is generally termed as going through the so-called grapevine. Contrary to the traditional *modus operandi*, if employee communication in an organization flows largely top-down, it may be experienced as limiting and somewhat oppressive.

According to the mentioned organizational communications new agenda, communication is not a separate task to be performed by a separate function but rather an inherent and

¹ Public Relations in the recession: Good news. *The Economist*, 14 January 2010.

² *Essentials of Mass Communication Theory*. Arthur Asa, 1995. Londres: SAGE Publications.

interconnected part of what is being done throughout workplaces. This also brings responsibility to individuals: everyone is individually responsible for collecting information as well as adapting and sharing it. Objects have become subjects. This is underscored in situations where no information is available or where it is not given. It may have a fatal consequence for the work environment and thereby for efficiency and, in the end, reputation as well.

A result of these characteristics of contemporary organizational communication is that it is likely to be complex in nature. This is especially so in organizations with a broad geographical range, such as multinational corporations or in organizations with a broad range of products, services or people. Consequently, coordinating communication is often a balancing act between an organizations various divisions and business units while simultaneously bearing in mind different cultures and preferred ways of working. Luckily, communication technologies have, in turn, led to many positive changes in workplaces and have improved and helped communication with, e.g., far away colleagues. These advances shall be discussed further in Chapter 3.

Communication-related technology has also resulted in blurred boundaries between “internal” and “external” communication. Nowadays, it is actually somewhat artificial and misleading to divide communication into internal and external at all. This is to say that messages from an employee to another do not tend to always remain “inside” the originally intended organization or group of employees.

In the end, employees identify with the organization better when they are communicated with. And when employees strongly identify with the organization they work for, they are more satisfied in their work and they will be more cooperative. Instead of thinking reputation management and the related risks, companies should instead think more about possibilities and how to reach them. Contemporary organizations have luckily realized that their employees need to be communicated with. It is not enough, though, since communication is every business unit’s responsibility. In todays world, every professional needs to know how to communicate well or needs to learn how to do so fast.

3. How to improve legal counsel-to-business communication in practice

3.1. *Create enough relevant and understandable content*

It should not take long to realize that each legal function has a plethora of relevant issues to communicate: from binding corporate policies and codes of conduct attempting to avoid breaches of laws or the boundaries of ethical business, all the way to guidelines on, for example, recommended contractual wording helping the company to avoid excessive business risk in its operations. However, it all starts with relevance – what you communicate needs to be relevant in general, but also needs to feel relevant to each particular reader specifically. The latter requires a bit of consideration, in order to correctly direct your communications to the appropriate focus groups.

In addition to policies and guidelines, do remember to provide your internal clients with recommended templates and other tools that cover their most frequent support needs. The former helps you communicate what you want them to understand, but the latter helps them do their own jobs better and faster. Both are critical to provide, but for different reasons.

Further, whatever relevant information you communicate needs to be understandable, it needs to be approachable. A legal function must bear in mind that success in their mission of legal risk management demands that the company’s non-lawyer personnel actually do understand what kind of legal risks are associated with their job, how to avoid them, and when they need to contact an in-house counsel. It cannot be emphasized enough that content needs to be approachable, since legal language tends to be the

opposite; it tends to be very disengaging. An in-house counsel's job is never to merely create content, it is to convey a message.

Try to think outside your lawyer-persona, rather as a person, about the ways in which you personally enjoy (important word) reading and how do you remember things. Using plain language, colors and graphics, such as comic strips or videos – such as Vlogs (video blogs) can drastically improve the amount of information readers understand and remember. If a guideline or policy cannot be modernized, then perhaps its training can be made more effective by creating an interactive eLearning module for staff members to use. We encourage trying to package your risk management message in a truly entertaining way – it is likely to be better remembered and, if done tactfully, will not negatively affect the feel of importance of the content itself. We know from experience that support from the company's Communications Department can be invaluable in contributing ideas, do consider consulting them and be open to their suggestions.

3.2. *Be present in the rights places*

Be aware that the personnel of a larger organization (and even of many smaller ones) inevitably have many differing ways of working and the best ways to reach different types of personnel accordingly differ. It should be understood how a certain personnel group currently finds their information and what their primary sources are: is it their own workspace in the company's intranet, weekly staff meetings, the info board at their production site, the printed personnel magazine etc. Understanding this and communicating your message via such channel will help you maximize the impact of your message.

Your messages will be best received when you utilize existing channels for information to the maximum extent. One should be careful about developing novel locations for information. Reflect on your own professional life: how many places do you have that contain information relevant to you (too many, surely). The above applies to physical meetings, as well: slots for legal matters in pre-agreed internal business gatherings will guarantee a far larger audience than if separate meetings or training sessions were arranged solely for legal matters.

There are exceptions, of course. An example that the authors have personally seen work is creating and publishing an internal legal newsletter: the legal function inevitably follows developments in legislation and legal praxis and is likely to have additional reminders or other information that it would like to communicate within the organization as well. If prepared specifically with its focus group in mind, a newsletter may be interesting enough for it to gain a decent readership and be worthwhile publishing. Further and more conventionally, also the legal function's intranet site may be best suited for certain categories of information.

3.3. *Optimize your presence by using digital communications tools*

There is nothing that tops being physically present, conveying information face-to-face. But given that this not going to be realistically possible in more spread-out organizations, technology is luckily able to complement a legal function's needed presence.

Make the most of digital intranets and worksites. They work fine for sharing documents and can be enhanced by integrating more interactive add-ins, such as Yammer. Microsoft Sharepoint is one commonly used platform for broad intranet and worksite use. Yammer, on the other hand, is a social media platform and network for businesses. It enables fast, dialogic and public conversations within the company.

There are multiple reasons to use Yammer. It is an efficient communication tool in many situations, e.g. in development work, solving problems, thanking co-workers, in crisis situations and in basic communication. One of its key benefits compared to, e.g., email is

transparency: the original message and replies are visible to all persons that have appropriate access to Yammer. It has a potential to save a lot of time and effort.

Let's take an example: the legal function has identified that a certain Code of Conduct provision is not properly adhered to. A message reminding people of the provision via Yammer, including a link to the Code of Conduct, would be an all-around easy way to get the needed message through to many relevant people simultaneously and – here is the added value – be able to discuss any concerns or questions that employees may have. Yammer can enhance a sense of community; it provides a comfortable way to be heard and a way to resolve potential issues before they escalate. Proper business benefits can however only be seen, once the network is fully-grown and the application is actually used. At its best, though, Yammer has the potential to enhance a company's strategic competitiveness through enhanced efficiency in communications.

For more instant messaging, we have two main recommendations: Slack for mobile use and Skype for Business when at your desk. Slack is instant messaging application for business use that enables simple, rapid, transparent mobile phone-based digital chatting. Its core logic revolves around forming groups, all of which group members will see all the messages sent and received within said group. It can be useful, e.g. when communicating with a project team, for spontaneous brainstorming, communicating during negotiations etc. Its private world relative is Whatsapp. In Finland, the tech-startup community currently particularly favors Slack. Skype for Business, on the other hand, is – at least in Scandinavia – a much-used application for both teleconferences (audio & file-sharing video functionalities enabled) as well as for instant messaging. Skype for Business is a legacy application in instant messaging, following in the path of Microsoft's original Messenger application. It can be accessed both on a PC as well as when restricted to your mobile phone.

One minor, but important point to remember is ensuring that the legal function's staff members have their photos added onto the intrasite and to the email program you are using (such as Microsoft Outlook) – you would be surprised by improved impression that the recipient will get from seeing the face of the person from whom the email has come. Making the legal function feel more accessible should help personnel reach out, which – in turn – should enable in-house counsels to provide needed support more often and earlier.

Dialogue is hard, particularly digitally. However we encourage you to try to embrace a culture of discussion, transcending mere handing down information. The tools described above are not a replacement for actual presence, but they do help bridge the gap when being physically present is not an option, whether due to geography or otherwise.

3.4. *Ownership counts*

Designate an in-house counsel to be responsible for the overall functioning of the legal function's communications within your company or group of companies. The reactive day-to-day workload of in-house counsel easily overshadows proactive efforts towards preventive risk management. The General Counsel should thus delegate responsibility to one of the rank-and-file in-house counsels to oversee how well the legal function communicates, remind colleagues about the importance of doing so as well as attempting to develop the ways in which information is communicated and considering the type of content that should be communicated.

A key contributor to the development aspect, in particular, is the Communications Department. Ensure that they have a designated contact person for your legal function and that such person meets the responsible lawyer on a regular basis. They are experts in organizational communication and will surely have some suggestions to consider.

Lawyers are the owners of their own internal communications, but Communications people can significantly help you, so utilize their expertise to the maximum.

4. Takeaways

Each employee of the organization has the potential of being either a risk or a risk manager. Communicating expectations, requirements, and recommended tools and practices in an engaging, entertaining and proactive manner equals effective preventive legal risk management.

Instead of thinking about the risks of communication, we should instead think more about the possibilities involved and how to realize them. In today's world, every professional needs to know how to communicate well or needs to learn how to do so fast. Good communication means a great, functioning work environment and thereby efficiency and reputation, inside and out.

Better understanding and tools will empower employees to better help themselves and will help transform them from risks into managers of risk. If the aforementioned is not yet compelling enough, effectively communicating and engaging in dialogue with your internal clients will likely significantly reduce the amount of routine, low-value legal tasks facing the legal function which will, in turn, allow lawyers to focus on more high-value work. This is likely to be more motivating by in-house counsel, meaning it's good for morale and work satisfaction.

The value proposition we present in this paper is a true win-win, an undervalued, yet obvious way to improve your legal function's effectiveness. We hope this will inspire you to shed the excessive secrecy surrounding the legal function and to put ever more focus on communicating; it will be worth the effort.

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VR Group is a versatile and ecofriendly company with responsible operations offering transport, logistics and infrastructure engineering services. About 8,000 professionals work for the group. VR Group operates primarily in Finland, but it also has operations abroad, especially in Russia and Sweden.