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Worth the Investment

For many initiatives, a focus on the cost involved gets in the way of a good management decision.

By Rees W. Morrison

Should you ever ignore the bottom line? For several management initiatives—including such important ones as achieving diversity, improving knowledge management, developing professionals, and building leadership capabilities—general counsel seem to want to try to prove that the initiatives are worth the money. Nevertheless, there are times when concerns about the bottom line need to wait. In fact, deciding whether to start certain initiatives based solely on return on investment (ROI) is actually poor management.

Of course, emphasizing ROI makes sense in some situations. Some law department initiatives call for the toting up of cost savings and for a comparison of those amounts to the dollars spent. For instance, if a department devotes resources to a project that competitively bids some bundle of work to law firms, it can easily match the costs it incurs to the legal fees it reduces. Spending $100,000 to shave $300,000 a year off projected outside counsel spending, which is a 300 percent return on investment in the first year alone, would make any general counsel proud—and any accountant happy.

In fact, rigorous ROI calculations may fit only a small portion of all the initiatives law departments undertake. One of my projects, for the law department of US West, did exactly that: We estimated the productivity and quality gains from installing a suite of technology applications software. With costs and returns known, ROI calculations make sense.

But there are times when that kind of quantification isn't so important. Such management initiatives as client satisfaction surveys, ADR programs, employee arbitration plans, and preventive law training are important for reasons that go beyond the bottom line.

The Big Picture

"Initiatives," in fact, cover a lot of ground. I see them as law department activities that take place over time with several people contributing to a goal other than the substantive legal work of selling shares, negotiating a contract, or filing pleadings. Scores of initiatives are available to law departments. They vary enormously in scope, investment, complexity, and effect. Not all of them pay off in terms of a rigorously calculated ROI.

True, for any initiative it might be possible to conjure dollars saved based on assumptions: "We will spend $75,000 on our annual lawyers' conference, but if our 11 lawyers learn one idea each that saves 10 hours of work (at roughly $185 an hour), then we will save $20,350—a first-year ROI of almost 30 percent." Or management could justify an employee satisfaction survey by reasoning that "if we identify several improvements from the $40,000 project that improve productivity of our staff only 2 percent, since our total compensation costs are $2 million, we will recoup the cost of the survey and analysis."

A one-time, well-understood, short-term activity like a survey, conference, or annual report of the department allows a plausible degree of matching costs to returns. You can say how much the project cost, and you can state some defensible gains from efficiency or cost reduction.

Much harder to quantify are those activities that extend over a long period of time and have hard-to-predict ripple effects. If a law department, for example, wants to change so that its paralegals report to lawyers instead of to a coordinator, that move can set in motion all kinds of unpredictable effects.

Ultimately, ROI shouldn't be the gatekeeper for all management initiatives. Most thoughtful general counsel believe that promoting sound values—doing what's right—counterbalances ROI as a justification. If a law department with 10 lawyers adds an Asian-American lawyer, can it put a dollar value on its increased diversity? If a law department for a luxury goods company helps its lawyers who deal with counterfeits to share their experiences and knowledge, such as with conference calls, an intranet site, and distributions of material, can accountants show the payback? If a deputy general counsel invests a week in a course on leadership, will the department be able to prove that the expense was worth it? In each case, probably not.

These positive effects spread over time and touch many people and decisions. The repercussions of having diverse viewpoints, increasing knowledge and awareness, and changing leadership behavior can spread widely and for years. Further, we do not keep any metrics on alternative views, practice smarts, or managerial skill, so we can't measure change over time. Finally, far too much goes on in a law department and in its company for someone to look back and say, "That change—shifting to open cubicles—accounted for 56 percent of the decline in turnover in the following three years."

The Values Argument

But the lack of data on dollars delivered hardly means that general counsel should scotch such management efforts. Acting on values and beliefs fosters inclusiveness, different points of view, and equal opportunity. Furthering those values can justify diversity hiring. Several years ago, Merck's general counsel started a diversity program simply because she believed diversity was important. Furthering a set of values also justifies professional development programs. Many other law departments allocate time and money to pro bono, in part because the general counsel endorses its social and moral contribution.

The yellow flag of no-ROI also disappears where there is what might be called "management intuition." The initiative feels right to the seasoned general counsel, deep down inside and maybe without explicit articulation, to launch a program for building teamwork.

Management intuition is more pragmatic than values-based decisions. It's practical, focused more on getting the job done, and it depends on one's past experiences and current situation. An intuitive conviction, such as flattening the reporting hierarchy so there are fewer levels of lawyers in a law department, depends on many factors. Diageo's law department, for example, encourages its lawyers to hone capabilities that complement their legal prowess, such as teamwork skills and self-understanding.

While ROI demands crisp clarity of the numbers at stake, intuition might bring in a manager's sense of, for instance, the willingness of the law department to change. Both values and a manager's experiences can justify launching an initiative; calculating a precise and positive ROI is often irrelevant.

Long-Term Perspective

Changes that touch on culture and tradition take time. These programs demand long-term commitments because it takes months and years for people to change accustomed patterns of behavior. Especially when the dollars-and-cents return plays no role in motivating people or keeping a scorecard, a good manager can use a combination of values and management conviction to keep up the momentum.

Most of these ROI-less initiatives center on people—the expansion and direction of talent. Helping professionals become more productive passes out of the realm of quantification, except at the most macro level. Total legal spending as a percentage of revenue, for example, is a macro metric. Maybe an accountant can look back at an initiative to add many more paralegals and conclude that the total legal spending dropped because of it. At the micro level for many efforts, it is not possible to tie savings to expenditure.

Law departments improve by changing how they operate. Many of those changes, indeed, the most significant and far-reaching ones with the largest multiplier of productivity and quality, cannot be supported only on spreadsheets. Companies, and especially finance departments, want to see that the budget still earns a return. That's a worthwhile goal, but ROI doesn't hold for some vital activities.

The best general counsel cannot rely primarily on return on investment to support innovation. Often they must move forward backed only by values and business judgment.

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