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Episode Title: Corporate law departments did more with less in 2020, new study finds

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Gina Jurva: Hello everyone and welcome back to the show. My name is Gina Jurva, I'm one of your co-hosts here at the Thomson Reuters Institute. So, today we are going to be talking about the 2021 state of the corporate Law Department report. This is a report that Thomson Reuters released on March 11th and some of the findings were quite interesting. You know, the findings that obstacles relating or resulting from the COVID-19 pandemic really uniquely positioned corporate law departments to optimize their value and effectiveness for their organization, but we're really going to walk through that with the author of the report today. A couple of things about the report that I think are of interest, the report presented a contrast really between modern law departments that were able to quickly acclimate to the new environment and traditional law departments that lost time trying to adapt to these changing conditions which were, you know, some would say they were changing by the day, it was especially at the beginning of the pandemic. This was quite a stressful time for everyone. So, in total there were 223 law departments that responded to the survey, including those of 81 companies in the Fortune 100 that responded to the survey that was sent out in June of 2020 and their information was combined with legal tracker benchmarking data and it comprised more than 90 billion in legal spending from more than 1,450 law departments. So, very rich amount of data here for us to explore and I think we'll just end with saying, you know the pandemic stress test the current operations most law departments like we've never seen before, placing pressure on areas such as increased involved workloads, shifting demand for external support, and increased efforts around security and safeguarding. So, the report found these pain points have the potential to act as catalysts for departments to think differently. So, let's talk about that right now. Joining me today is the author of the 2021 state of the corporate law departments report Lisa Hart Shepherd. Lisa is the vice president of research and advisory services and founder of Acritas, now part of Thomson Reuters. Lisa, good to have you back on the show.

Lisa Hart Shepherd: Nice to be here, Gina.

Gina Jurva: Lisa, so tell us about the report, the state of the corporate law department report. What is it and what methodology was used to obtain the results?

Lisa Hart Shepherd: So, this has become an annual report where we're really looking at the kind of issues that general counsel and their law departments have faced over the last 12 months. And then we use a range of different data sources to support the report. And specifically this year we've used our general counsel study or research study that we do throughout the year, and then the second main source of we've used it is the legal department operations survey, which is conducted by the legal tracker team.

Gina Jurva: And is this report global in nature?

Lisa Hart Shepherd: Yes, it is global in nature. We've highlighted where it has drawn on data from specific markets where it's different, but it is a global view of what's happening across the world.

Gina Jurva: OK, so tell us how does this report, you know, if I'm a general counsel reading this report,

how does it help me or if I'm in legal operations or just law departments in general, like, what can I take away from this report?

Lisa Hart Shepherd: Well, this particular report, because of what we've all been through in the last 12 months, does focus quite heavily on how law departments have handled the pandemic. So, as readers will be able to compare your approach to your peers and then thinking about the lessons that everybody's learned, how do you apply that moving forward? Sort of remaining adaptable as this horrendous uncertainty continues. And then the final sort of section really focuses on what are the successful traits of the best practice law departments with proposed a framework that includes everything from metrics, spend benchmarks, how to manage talent, how to utilize technology and working more effectively with external legal services providers.

Gina Jurva: Great, so it's really just - it's this compare your approach that to your peers. I could get this overview that what are those in the industry doing? How did they adapt? Sort of and really - how do you take those learnings and then critique your own department against this framework is kind of what it sounds like.

Lisa Hart Shepherd: Yeah, absolutely.

Gina Jurva: Well, we can't think of 2020, of course, without thinking of the COVID-19 pandemic. So, what did we learn in the survey results about the impact of COVID-19 on law departments?

Lisa Hart Shepherd: Well, the first thing to learn is that the pandemic impacted on corporate law departments in very different ways, depending on the circumstances of their particular business, the industry that they are in, but for most law departments they were facing an increased and evolved workload. And having to reinvent that business operations to varying degree and for some breaking through barriers that were previously just have been red lines insurmountable. So, the dynamic really changed the type of work, much more focused on crisis management. As a result, it shifted their demand for external support instead of the sort of business as usual, that cases and deals often stalled and they were relying on particularly the senior members of the external legal services providers. The partners in law firms, for example, to really help them with that crisis support and draw on the experience that they have. And we also saw that some of the more traditional law departments really struggled to adapt whereas their modern counterparts were much more able because they simply had more flexible working as a normal working style, and they had better technology. They were more easy and ready to convert to working from home. So, those that had run a more traditional department really did struggle just by getting to be able to work physically in the first place. And then the fourth main effect is that safeguarding sort of that risk prevention role that legal department had became a much higher priority, so thinking about the risk that emerged from the pandemic and safeguarding the company, putting in place those dispute prevention measures on top of what they already might have had in place.

Gina Jurva: So, following up on that, there's a section of the report which discusses why some departments came through better than others. What did we learn here in terms of commonality, and I think technology obviously plays a huge part in this, but tell us what we learned?

Lisa Hart Shepherd: Well, there was quite a number that we've featured in the report and one of the key ones, not surprisingly, was how they utilized technology and being able to work effectively and efficiently. And that's not just that having the hardware that's the right software, the right systems, the

right process. There was also a kind of meeting cadence if you like, departments that just did business more naturally, call people in the room, didn't have that structure to their working day, working weeks, and you know suddenly had to put all of that in place, so those that had been more structured around the way that they work there better and this is a checking in regularly with internal business keeping in touch. Again, if that wasn't done in a more formal, structured way, you weren't going to meet people at the water cooler like you had done previously. So, it's really important that that cadence was there so that the risk continued to be identified, particularly business was changing and quite often fundamental ways. Culture, so those that had a sort of nonhierarchical, more innovative culture where team members felt able to contribute ideas, you really needed diverse thinking to solve some of the issues that they were facing. So, that really helped. Enabling the external counsel that they work with, continue to work with them in a virtual way seamlessly. That was that was really important. So, those that had done that before, rather than always having to be in the same meeting room, for example, really fared well. And then there was just sort of that relationship that they had with their external firms. It really was a time where they were benefiting from other clients' experiences, so relying on their lawyers to say, 'Look, we've just seen this happen over here I think this might affect you,' so having those really fruitful proactive relationships with their firms really helped. I guess tracking the regulations, that was important. Doing that again in a proactive way so that they remain compliant and we saw some of the best practice departments, you know, using that risk register that they might already have in place, making sure they were adding all the pandemic-related risks, monitoring and mitigating them. And taking steps to ensure that they really are in the best possible shape as they move through each stage of the pandemic.

Gina Jurva: Sure, and I think, especially when we're thinking about tracking COVID-19 regulations, I mean that was changing so much in across jurisdictions, and I imagine that those corporate law departments that had to work across multinational districts probably had their work cut out for them in that in that sense.

Lisa Hart Shepherd: Absolutely. And for some, you know, even within countries there will be more, like in the US, there'll be multiple difference or state approaches. So, you know, this continues to go on. We know all the rules are changing all the time all around us. So, the bigger the border, the more complex this was to follow.

Gina Jurva: Well, you know, it I think keep it along with that theme of 2020 was really about change and adaptation, you know, another thing you write in the report is that corporate law departments are really in a unique position to drive more fundamental change across the legal industry and beyond, what changes do you see forthcoming in the legal industry as a result of the pandemic?

Lisa Hart Shepherd: Well, I think that the pandemic, well I hope, I should say, the pandemic is going to be a real sort of catalyst for change. You know, the pandemic has shown that new ways of working can be effective and, in some case, much more efficient. So, I hope that we grasp this opportunity and continue the momentum and now not because we're forced to do it because it's the right thing to do we really quite radically change working processes the way we handle legal data, I guess it is, in a more digital way. And also, the fact that we've had to be sort of so agile in this industry and we've had to react and adapt and that that continues. It's in a way this industry is being seen as quite sort of old fashioned and traditional. We've had to adapt this time, and we hope that sort of culture continues on moving forward.

Gina Jurva: Yeah. I think there has been this, I don't know, this stigma about the legal industry. I'm a lawyer myself, so I can say this that it is a stuffy profession, right? And there is resistance to change, and it seems like this as COVID-19 has been, I guess you said, the springboard to seeing change and hopefully attracting diverse talent with new ways of working. I'm hoping we see more of that as well.

Lisa Hart Shepherd: I think so because it's you know, law departments, most people come from law firms, so they can kind of have similar cultures to some of the law firms where this is need for presenteeism, long hours and that doesn't work for everybody. And we know impacts the diversity within the industry, so I really hope that there's a knock on positive effect that we do see more diversity, particularly to get to more senior levels.

Gina Jurva: Absolutely. I would say another certainty I learned from the report is that law departments and multinational companies in general must be ready to handle uncertainty that it really is the normal now. Are law Department is critical in helping companies minimize risks both short and long term, and maximizing performance and if so, how are law departments critical in that step?

Lisa Hart Shepherd: Yeah. They absolutely are critical in a bit, like in the sort of global financial crisis, we saw law departments sort of rise up to be one of the key voices in running the organization. You know this, this has had the same effect with really big corporations have needed that voice to know what's legal, what's safe at times have changed like this, so it's a great opportunity that many law department have stepped up to fill, and in continuing to have that role as a proactive core advisor to the business is really important and will make the best stand out.

Gina Jurva: Sure, especially with the change you know throughout the world. I mean, regardless of the pandemic, there's also, you know, there's Brexit in the EU, that's a big change. We have an administration change in the United States to President Biden, so things are definitely changing and moving and that is the normal and hopefully for the better, but we'll see. I do want to turn to law department culture for a moment. We talked about it briefly before, but just thinking about it more. In the report, you write that the corporate law department is really this guardian of the organization's legal identity, but they can do more than that. They can also play a role in ensuring that the organization acts as what you describe as a good citizen. What do you mean by a 'corporate good citizen'?

Lisa Hart Shepherd: Well, it's got a number of different facets really. And we just talked about diversity. I think that's one of the areas where the leader, in particular of a law department can really help to drive diversity in their own organization, but it goes beyond that. You're looking at the kind of sustainability of the organization in terms of its practices, in terms of its supplier management, supplier choice and also into the local community. You know, volunteer work and just having an impact locally a positive impact in the places where the organization operates is very much something like law department can add a lot of value.

Gina Jurva: And value too. I mean, you mentioned this also about the supply chain like really ensuring you're vetting your suppliers that you're using the ethical practices that those suppliers are using ethical practices that you're not contributing to, you know, labor trafficking and other things if you're involved in that type of manufacturing mark so definitely an important time.

Lisa Hart Shepherd: Yeah, and I guess the other thing where they can use the power at their elbow is the phrase that's often used is to, you know, encourage strongly their law firms to do the same. You know you're in a great position as a leader of a law department, often with a lot of buying power. So, saying

that you want to work with firms who are equally taking that approach, they care about diversity and inclusion in their organization, they want to run a sustainable practice, their helpful in terms of corporate social responsibility in the communities where they work, encouraging them to do that too means, you know, you're just creating a more positive effect, it's a virtuous circle.

Gina Jurva: Well, I think for most law departments, 2020, and most everywhere really, 2020 will be remembered as a year where everything was turned on its head. So, any final words? I mean thoughts, words of wisdom, words of optimism, anything you can leave us with after writing this report and really seeing the results?

Lisa Hart Shepherd: Yeah, I think looking forward to 2021 and beyond is probably time to look at what the department's objectives are, and we're seeing an increasing use of metrics to measure, not just cost and efficiency in those types of metrics, but also the value that the law department is adding, which goes way beyond the cost that it's controlling. So, encouraging law departments really think about that, and how they can show their contribution to the broader organization and just raise that conversation that they have in the value that they add.

Gina Jurva: Lisa Hart Shepherd, thank you so much for joining us. The author of the 2021 State of the Corporate Law Department. I really appreciate your time today.

Lisa Hart Shepherd: Thank you, Gina.

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