



LexMundi Summit Report 2024

Opening Pandora's Box

Early implications of Generative AI for corporate legal management



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Opening Pandora's Box

Early implications of Generative AI for corporate legal management

Executive Summary

- General Counsel are balancing the need to support the roll-out of Generative AI (GenAI) capabilities in the business, while maintaining guardrails of good governance, ethics and compliance to account for emerging areas of legal risk and uncertainty.
- The nascent state of AI regulation makes General Counsel increasingly reliant on local advice and expertise, in order to add rigor to horizon scanning and risk assessments.
- The global launch of GenAI has created numerous cross-border legal frictions, necessitating the update of risk management frameworks.
- Two major areas of impact from the use of GenAI are in connection with M&A and ESG compliance, creating new diligence requirements while improving transparency across value chains.
- GenAI shifts the delivery model both for in-house legal departments and external legal advisors, portending the long-prophesied end of the billable hour.

Foreword

When we consulted General Counsel about topics of greatest interest for Lex Mundi's 2023 Summit in Milan, artificial intelligence was on everyone's mind. Yet, it was difficult to discern the specific questions on which practical guidance was most needed.

We took this lack of clarity as a reflection of both the difficulty to estimate the broader ramifications of new GenAI capabilities as well as the need to compare notes with peers and experts about what constitutes sound legal guidance for management teams and boards in an ill-defined regulatory landscape.

Interest in the 2023 event surpassed expectations as fifty senior in-house counsel representing multinational companies gathered from Europe, Asia and the Americas for an interactive program that covered the broad prospects for business transformation, comparative regulatory analyses across major jurisdictions, and the approaches of pioneering General Counsel from different sectors.

The purpose of this report is to reflect insights shared among corporate counsel and experts who convened at our Lex Mundi Summit in Milan, Italy in October 2023 to discuss the implications of GenAI for the legal advice and guidance that is now required by boards of directors, management teams, regulators and within legal operations. Further to what was shared by the speakers and participants in Milan, we have supplemented the observations from the Summit with additional research and analysis from our ongoing work with General Counsel and legal experts around the world.



Professionals are expected to see a significant productivity increase and a transformation of day to day work.



As definitions are still evolving to fit different technologies, we should clarify what is meant by GenAI, given that AI tools were already commonly in use in corporate legal management prior to November 2022, e.g. machine learning to extract data points from contracts or to review troves of documents in discovery and diligence exercises as well as chatbots based on natural language processing.

What differs now is that large language models (LLMs), such as GPT-4, don't just rely on machine learning and natural language processing but are built on artificial neural networks that mimic human brains and learn from vast quantities of data. The power of LLMs lies in their universal application, rather than focusing on the narrower tasks mentioned above. GenAI goes further by encompassing solutions which create more than novel language-based content including images, audio, and video.

As this report references, knowledge workers stand to feel the greatest impact from GenAI, as it offers unprecedented access to institutional knowledge, which can then be crafted into high quality work product within a matter of minutes. Professionals across most functions – not just lawyers but within finance and accounting, business development, marketing, IT, HR and design engineering – are expected to see a significant productivity increase and a transformation of the day to day work they are needed to carry out. For these reasons, this tech-disruption stands to impact corporate legal services more significantly than any previous one.



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As part of our global General Counsel program, we have already held our first post-Summit, General Counsel Forum on this topic in Munich in November 2023, hosted by our member firm Noerr. Throughout 2024, we will continue to develop these insights during General Counsel roundtables in the Asia Pacific, Americas and EMEA regions. Additionally, we are available to deliver customized workshops for in-house legal teams to support departmental planning.

If you would like to join the next annual Lex Mundi Summit in Milan, Italy, on October 17-18, 2024 or to explore how Lex Mundi's resources and its Equisphere model for cross-border legal advice might support your requirements, please contact [Eric Staal](#).

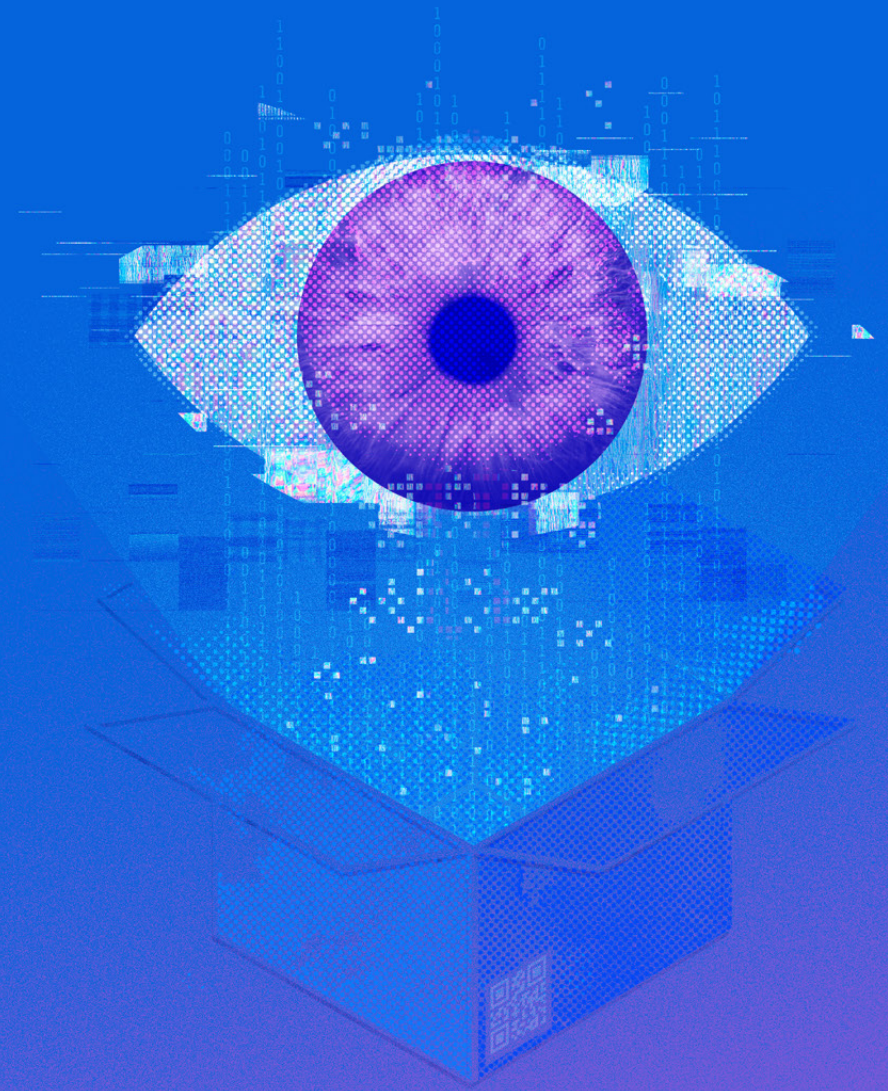


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Introduction





The launch of OpenAI's ChatGPT in November 2022 was followed by dire warnings from industry experts calling for the immediate cessation of AI development until appropriate international controls could be put into place.

According to the Center for Humane Technology (CHT), "half of AI researchers believe there's a 10% or greater chance that humans will go extinct from their inability to control AI." CHT President Tristan Harris points out, "social media was actually humanity's first contact moment between humanity and AI" and "in this first contact with social media, humanity lost." As an indication of the legal uncertainty ahead, he concluded that the drive for social media engagement rewrote the rules of every aspect of our society down to our democratic institutions, "which is why it's now so hard to regulate."¹

Hyperbolic as these alarms may sound, their amplification by AI luminaries and experts has resonated with the efforts of governmental authorities to impose safeguards on research, development, and use. The public release of LLMs marked a milestone that coincided with the Biden administration's trade policy and technology transfer measures, which were geared at blocking China or other competing geopolitical actors from accessing capabilities. These export controls were followed a year later with a lengthy Executive Order in October 2023, which focused on regulating emerging AI technologies and was argued to be among the strongest national control measures at the time.²

1 Center for Humane Technology, "The AI Dilemma", Your Undivided Attention Podcast (24 March 2023) <https://www.humanetech.com/podcast/the-ai-dilemma>

2 Kim Mackrael, "Sweeping Regulation of AI Advances in European Union Deal Agreement is a step toward establishing comprehensive rules governing artificial intelligence", Wall Street Journal (8 December 2023) <https://www.wsj.com/tech/ai/regulation-of-ai-advances-in-european-union-deal-09d18355>



Given Silicon Valley's head start in AI along with its other advantages, these measures had the effect of putting China, along with other countries, in a position of dependence on the United States for their own continued progress.³

In March 2023, the Future of Life Institute issued an open letter signed by prominent AI pioneers that called on governments and AI labs to impose a six month moratorium on developing capabilities beyond ChatGPT-4.⁴ However, the stakes are so high in the competition for AI supremacy that such exhortations have not limited further research and development by major tech companies, start-ups and governments.

Simultaneously, a coalition across business and government, including companies at the fore of AI development, mobilized to address the need for greater controls. Yet the obvious challenge remains that any effort to regulate cannot keep pace with the rapidity of technological advance.

Examples of cross-jurisdictional cooperation toward AI regulation have included the 2019 OECD guidelines, the announcements for new policies and legislation at the G-7 meeting in Hiroshima, Japan in May 2023, and the AI Safety Summit at Bletchley Park in the United Kingdom in November 2023.⁵

Also during 2023, in order to take account for the release of ChatGPT the EU extended negotiations of its planned AI Act to account for LLMs, parts of which regarding general purpose AI, will come into force in 2024, pending full implementation in 2025. In short, the list of regulatory and legislative actions around the world is a moving target, leaving companies with substantial uncertainty as they roll out, implement or adopt new AI capabilities.

Commensurate with the transformational impact of AI on legitimate business activities, relationships and operations are the challenges of AI governance and compliance across jurisdictions.

3 Center for Humane Technology, *"The AI 'Race': China vs. the US with Jeffrey Ding and Karen Hao"*, Your Undivided Attention Podcast (31 August 2023) <https://www.humanetech.com/podcast/the-ai-race-china-vs-the-us-with-jeffrey-ding-and-karen-hao>

4 Future of Life Institute, *"Pause Giant AI Experiments: An Open Letter"*, (22 March 2023) <https://futureoflife.org/open-letter/pause-giant-ai-experiments/>

5 See website, <https://www.aisafetysummit.gov.uk/>

Similar to the way the EU's GDPR became the baseline blueprint for many global companies in the area of data privacy, the EU's AI Act is likely also to be the starting point for AI compliance, allowing smoother integration of AI solutions and helping to navigate the regulatory labyrinth.

The attention that business leaders and government officials are giving to the broad risk posed by AI indeed underscores the title to this report that we have opened Pandora's Box, i.e. we can't be sure what has been unleashed. As one General Counsel pointed out to us, corporate legal heads find themselves in the gap between evolving AI capabilities and the race for competitive advantage on the one hand and the uncertainty of law and regulation on the other.

Among the areas of GenAI risk management and compliance that General Counsel identified as requiring future legal guidance are:

- understanding of local and sectoral AI laws, regulations or standards;
- liability for errors or harm from AI-systems;
- AI-related IP risk management and protection;
- AI-related due diligence for corporate acquisitions or purchases of technology;
- ensuring data protection and cybersecurity when using AI algorithms;
- use of AI as a part of ESG-related value chain transparency for effective product traceability, scope III emissions monitoring, third party relationships and contract management;

- aspects of contracts and licensing agreements when working with AI vendors / partners; and
- implementation of AI tools within legal functions to improve efficiency and manage costs.

The overarching challenge that General Counsel universally seemed to share is to enable the business to keep up with new competitive demands while staying within the lanes of sound ethics, governance, compliance and legal risk management. General Counsel inherently understand that balancing opportunity with risks will likely occupy much of their attention in the coming months and years.

The following sections of this report combine insights discussed in Milan with General Counsel and additional analysis of AI-related: 1) cross-border risk and regulatory friction; 2) M&A and ESG compliance; and 3) legal department operations.

New Cross-Border Frictions: Risk, Regulation and Reputation



2

According to McKinsey's June 2023 analysis *The Economic Potential of Generative AI: The Next Productivity Frontier*, GenAI will add between US\$2.6-4.4 trillion in value in the next years, driven mainly by productivity gains in software engineering, sales and marketing, customer operations and product R&D.

“This estimate would roughly double if we include the impact of embedding generative AI into software that is currently used for other tasks.”











Regarding legal advisory functions among others, McKinsey states “generative AI is likely to have the biggest impact on knowledge work, particularly activities involving decision making and collaboration, which previously had the lowest potential for automation.”⁶

In other words, GenAI differs importantly from other IT-transformations in that its impact is greatest on the activities performed by highly educated and skilled senior managers as opposed to automating routine tasks that don't require skilled labor.

Given the inexorable motives for innovation to add to profits, growth and cost management, what legal risks does GenAI pose for multinational companies? Discussions in Milan highlighted some of the typical legal and compliance risks that companies encounter in the use of AI in business operations. Overleaf are the top ten that surfaced among General Counsel in Milan. For these reasons, the corporate legal world will feel the impact of this tech-disruption more significantly than any previous one.

⁶ McKinsey & Company, “*The Economic Potential of Generative AI: The Next Productivity Frontier*”, (14 June 2023) <https://www.mckinsey.com/capabilities/mckinsey-digital/our-insights/the-economic-potential-of-generative-ai-the-next-productivity-frontier>

Figure 1.
Typical Legal and Compliance Risks

<p>1</p>  <p>Algorithmic discrimination compromising individual legal rights and protections or company policies.</p>	<p>2</p>  <p>IP infringements, potentially en masse, of copyrights and patents, as well as compromises of the company's IP ownership via inadvertent data transfer or use of GenAI for content and innovation.</p>	<p>3</p>  <p>Data privacy violations through uncontrolled disclosure of information.</p>	<p>4</p>  <p>Dissemination of false information.</p>	<p>5</p>  <p>Cybersecurity risks owing to AI-system vulnerabilities.</p>
<p>6</p>  <p>ESG performance dilution, owing to energy consumption or algorithmic misuse.</p>	<p>7</p>  <p>Transparency and explainability demands from regulators and other stakeholders while protecting proprietorship over models.</p>	<p>8</p>  <p>Antitrust and competition exposure resulting from unanticipated market dominance, exclusionary practices, or inadvertent access to competitive information.</p>	<p>9</p>  <p>Product liability related to specific industries, e.g. autonomous vehicles, healthcare, financial services, insurance, etc.</p>	<p>10</p>  <p>Cross-border data transfers in breach of localization laws.</p>

Beyond the strictly legal aspects of the above issues, General Counsel also emphasized the broader reputational implications resulting from breakdowns of codes of ethics, governance protocols and effective management controls and procedures. Whereas legal risks tend to be jurisdiction specific, broader reputational and business risks do not.

The above frictions are not unique to cross-border situations but are simply multiplied by the need to navigate the nascent regulatory environment across jurisdictions where companies operate, invest or trade. Emerging regulatory frameworks for AI vary according to fundamental societal priorities of national security, economic sovereignty and individual rights; and, in the case of non-democratic regimes, they also center on preservation of political power.

As multinational companies continue to harness the power of GenAI, a proactive approach to addressing cross-border risks presupposes staying abreast of evolving local regulation and implementing risk mitigation strategies.

Among Summit participants there was a consensus about the need for what was called a “helicopter view” of experience in different markets, in order to fill in the gray areas of regulation with an understanding of what other companies are doing and how regulators are likely to react. One General Counsel explained, “from a legal perspective, you have to rely on local lawyers to provide you with the correct advice in the jurisdictions where your company has operations; in-house legal counsel don’t have that knowledge.”



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As a practical starting point, companies are already looking to existing legislation which also applies to AI, for example not only laws governing data privacy and cyberbreaches, but rules covering consumer protection, product liability, antitrust and even human rights. Such a review would be best supplemented with input from local advisors on the ground, who can inform the company about pending enforcement activities as well as the disposition of political and administrative authorities.

A further suggestion was to have a risk management framework both to address legal issues and reputational concerns, in order to be prepared to address regulators, courts, journalists and the public. As a part of this framework, clear guidelines for AI-use need to be in place and some General Counsel thought those guidelines should be in the public domain.

There was consensus in Milan that AI governance requires board level leadership to ensure ethics and management controls are rolled out across the company. Some General Counsel expressed the view that boards are better positioned to understand risk exposure than operational teams. However, as a caution, others considered decentralization in the company as an obstacle to implementing a single 'top-down' policy across business divisions. A further caution is that the operational teams are likely best placed to flag risks arising from new technology implementations.

Governance of AI does not necessarily differ from other areas in that boards set a clear direction and the risk guardrails, but everyone must do their part.



Figure 2.
AI Risk Management



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	Basic Risk Management Framework	Basic Approach	Closing Thoughts
<p>To mitigate their regulatory, litigation and reputational risk, organizations that use artificial intelligence should:</p> <ul style="list-style-type: none"> • stay on top of evolving regulatory expectations, litigation and media reports; • implement a risk management framework that takes those developments into account; and • consider testing for algorithmic discrimination even if not legally required. 	<p>A risk management framework should demonstrate that the organization appreciates the concerns associated with AI, takes those concerns seriously and has exercised reasonable care in identifying, managing and mitigating the risk of negative outcomes. It should be an extension of the organization's ERM and compliance programs and typically will include:</p> <ul style="list-style-type: none"> • high level principles; • cross-functional, multi-disciplinary governance committee; • written policies and procedures, including with respect to managing third party vendors; • clear assignment of responsibility and accountability; • training and supervision; • monitoring and corrective action; and • appropriate involvement by senior management and Board. 	<ul style="list-style-type: none"> • Create and maintain inventory of AI systems being used or developed. • Understand the objective of each and how it will be used. • Identify potential risks for each AI system. • For each identified risk, assess the severity of the potential harm and how likely it is to occur. • Identify and implement appropriate safeguards, including humans in the loop. 	<ul style="list-style-type: none"> • Risk management efforts should be proportional to the potential harm and its likelihood of occurring. • Should cover every stage of the AI life cycle. • No one-size-fits-all approach. • Need to reevaluate the framework periodically in light of regulatory developments and evolving practices.



Legal advice on M&A is a particularly sensitive area in which GenAI creates new frictions and pitfalls.



One Summit participant recommended guiding the board by taking a simple “people, process, platform” approach, i.e. prioritizing focus on: the people in the business involved in development and use of AI; processes that can be put in place to train personnel and monitor AI; and the platform and tools to be approved for use throughout the company.

Only a small number of General Counsel reported having guidelines for the use of GenAI in their companies, but, crucially, those that did reported having been involved in their formulation and implementation. In order to adapt to different regulatory and operating environments, Summit participants suggested taking a principle-based approach, focusing on core values such as fairness, transparency, consent, ethical use, explainability and controllability.

Another tactic in this context was to err on the side of the most restrictive laws to ensure compliance with rules in the majority of jurisdictions. For legal teams to support consistent implementation of AI guidelines across business divisions and markets, however, will require having the right team to support evolving business models.

Deep Legal Impact: M&A and ESG

3



M&A Diligence and Compliance

Legal advice on M&A is a particularly sensitive area in which GenAI creates new frictions and pitfalls, whether the target company's value proposition is primarily driven by AI or it simply uses it in its operations such as R&D, customer relations and marketing. Two main aspects of M&A due diligence that are changing as a result of the use of GenAI are with respect to compliance and control of intellectual property.



It's like the Wizard of Oz: you can't see behind the curtain.



Of increasing importance are assessments of data privacy, embedded biases, use of personal data for training purposes, cybersecurity, national security, and product or service liabilities. As the General Counsel involved in a recent technology acquisition explained about the algorithm of an acquisition target, "it is like the Wizard of Oz: you can't see behind the curtain."

He cautioned to be especially vigilant with younger entrepreneurial companies that might have a culture of tolerance for or even have been oblivious to compliance risk in their relentless effort to bring new capabilities to market. The cost of engaging third party experts to interrogate the performance and use of algorithms can represent a high portion of overall transaction fees, which may also be hard to digest in the case of niche deals having lower overall valuations.

An equally challenging concern arises with respect to assessing an intellectual property portfolio to ensure that licenses and rights are solidly in place, as use of GenAI tools can create ambiguities in ownership and result in post-acquisition disputes. One way in which this can arise is in the use of open-source code when creating new content or AI-tools, which may place limitations on ownership and control. Already in year one of ChatGPT copyright infringement lawsuits have proliferated, leading Microsoft in September 2023 to commit to paying the legal costs of customers if they are sued for infringements produced by its own AI tools.⁷

As during any technological shift, lack of regulatory clarity and agreement on valuations creates a greater need for General Counsel to contribute to deal structures and negotiations. As the regulatory environment becomes clearer, expectations should also become clearer regarding due diligence and compliance assessments.

⁷ Miriam Rozen, "Legal experts step up to defend wave of AI lawsuits: writers and artists claim copyright violations", Financial Times (5 December 2023) <https://www.ft.com/content/61008a05-1752-48bc-bf7a-6a4643c0cf27>



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Next to existing AI-tools used in due diligence exercises, GenAI might lend itself to facilitate other legal aspects of M&A processes such as drafting diligence reports or predicting and planning antitrust notifications and merger clearance procedures.

The intersection of GenAI and M&A brings with it a unique set of legal risks whether the target is primarily an AI provider or simply is deploying the tools in business operations. When it comes to new capabilities and regulation, the impact on M&A diligence and integration plans is already being felt.

Where AI meets ESG:

From the Blockchain to the Value Chain

The integration of AI tools into government regulatory enforcement represents a compliance paradigm shift with which companies are needing to contend. Government agencies worldwide are increasingly turning to AI to identify patterns and anomalies for further investigation. By analyzing data and trends, AI systems can predict activities and market participants at higher risk of regulatory breaches.

In our 2019 report, *Big Data and Big Brother*, we noted: “As if the global web of regulatory activism were not enough to deal with already, it is only a matter of time before the AI-enablement of national authorities fortifies that web.”

We predicted that, “analog-era compliance indicia such as leadership commitment, a rigorous code, training and other measures will become mere table stakes” and that, similar to financial institutions, other “companies will need AI systems and capabilities to self-monitor compliance” in order to “keep up with what governments know about the business.”⁸

As AI tools become more available, governmental agencies may also look for companies to use them to self-monitor compliance as a part of good hygiene. General Counsel at the Milan Summit mentioned the example of using AI to review sanctions lists and conduct counterparty diligence, noting that in today’s geopolitical environment “navigating sanctions without AI would be very difficult.”

None of the General Counsel at the Summit said they were aware of their companies using AI tools as part of early warning systems for compliance breaches. Given the prevalence of AI capabilities that are embedded in anti-money laundering and similar applications, it is worth General Counsel having an audit of what the company is using as a part of overall risk assessments.

One area of compliance that stands much to gain from AI capabilities is ESG. In addition to requirements to monitor and reduce carbon emissions, increasingly laws around the world are focusing on corporate disclosures to prevent human trafficking in global supply chains.

As part of the European Union’s Green Deal, the Circular Economy Action Plan and other sustainability measures, beginning in 2026 certain products will require a Digital Product Passport, e.g. consumer electronics, batteries and textiles.

During the summit, blockchain expert Stephan Nilsson of UNISOT shared a unique model for coupling AI to the public blockchain as a means to deliver comprehensive product traceability along a value chain, allowing more robust and reliable ESG compliance while limiting the adverse consequences of excess energy consumption and data control risks. UNISOT’s approach is based on an AI model called federated learning and it has implementations in food and agriculture, textiles, construction, among others.⁹

⁸ Lex Mundi Summit Report, “*Big Data and Big Brother: How General Counsel Cope with Artificial Intelligence in an Era of Economic Nationalism*”, <https://www.lexmundi.com/resources/thought-leadership/big-data-and-big-brother/>

⁹ Pooja Choudhary, “*Global Fintech Interview with Stephan Nilsson, Founder and CEO at UNISOT*”, (November 29, 2023) <http://globalfintechseries.com/blockchain/global-fintech-interview-with-stephan-nilsson-founder-and-ceo-at-unisot/>

Preliminary Impact: Legal Operations and the End of Billable Time?



4



Setting aside the manifold ramifications for legal risk management, GenAI of course stands to transform both the operations of in-house legal departments and external legal advisors. General Counsel at the Summit had clear expectations that corporate legal departments will be less reliant on outside counsel as an extended workbench for basic advice.

Use cases such as preparing first drafts of memos, litigation filings and contracts already deliver efficiencies. Equally, progressive legal departments had been using contract management and other tools to enable internal clients, i.e. business units and management teams, to take on more basic tasks in a controlled, audited, and approved way. GenAI capabilities can substantially enhance these business and cost efficiencies.

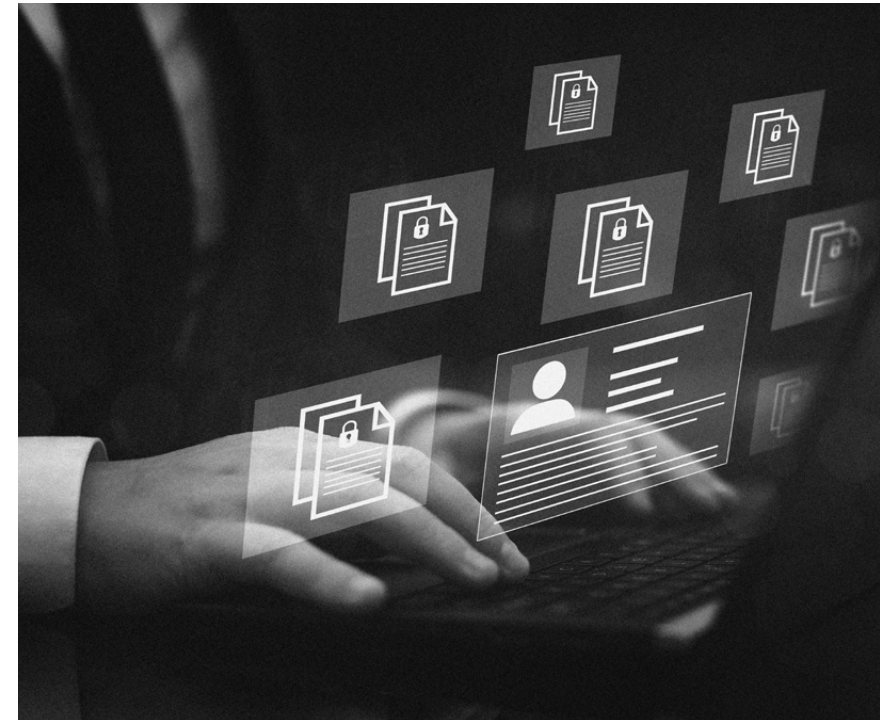
Discussions in Milan suggested that the trend in work being retained in-house is likely to intensify based on the enhanced capabilities that GenAI provides to in-house legal teams.

GenAI is also widely understood as leading to a redefinition of the role of lawyering, including the creation of new roles and opportunities, allowing more time to be spent on strategic and advisory work and less on routine tasks. With this new dynamic come also expectations that the client-lawyer relationship will fundamentally change. For example, knowledge lawyers will be needed to develop and train GenAI systems and to monitor the performance of those systems. Lawyers will also be needed to advise clients on the legal and ethical implications of using GenAI.

Beyond the recognized advantages, Summit participants also noted some pitfalls to incorporating AI into legal operations, such as reducing time spent collaborating with colleagues, accuracy and quality issues and building trusted relationships.

One question was whether clients would agree to the use of confidential data to train a firm's GenAI. For many of the General Counsel, this was considered to be "fair game" assuming there is consent and clients can opt out. Furthermore, it was expected that firms are able to explain how GenAI systems work. Many participants shared that they already require notification when a firm uses GenAI. In terms of dealing with mistakes or inaccuracies from the use of GenAI as a trade-off for greater cost and time savings, General Counsel viewed such risks and liabilities no differently from the legal advice provided by humans in that they would fall under the law firm's insurance cover.

Crucially, clients have expectations for cost-reductions and efficiencies to be passed on, whether that means in-house budgets decreasing or external law firm fee volumes coming under more pressure. Through efficiencies in researching, drafting and leveraging internal precedents and know-how, General Counsel in Milan foresaw legal teams and their advisors being able to work more matters in shorter timeframes. One area that holds promise is for AI tools to help predict the likelihood of encountering legal or compliance issues including shareholder risks, regulatory enforcements, and litigation, among others. In the case of DXC's digital transformation of the legal function, these efficiencies were already true pre-GenAI and now are only enhanced by it (see [appendix](#)).





GenAI may now be the technological step-change that finally makes value-based billing a standard reality.



The dynamic of use of technology and cost pressures poses a natural tension between clients and external counsel: given that GenAI makes mistakes (or hallucinates) significant time is still needed for lawyers to verify accuracy of output. In Milan, participants anticipated that law firms will continue to be valuable for strategic advice, including their institutional memory about the context and reason why transactions were structured in a specific manner or specific decisions and approaches were taken. However, defining the monetary 'value' of advice will be a more complex conversation for General Counsel and outside counsel, with the former pressured to reduce spend and the latter carrying the costs and risks related to GenAI. GenAI makes access to quality legal solutions faster, allowing more effective use of the corpus of a firm's knowledge. Quantifying the 'value' of solutions will be difficult for both client and provider.

How law is practiced resides within the knowledge that each law firm builds up over time. GenAI solutions are trained on publicly available data, but the practice of law is the private data of firms. In the near and medium terms, GenAI will augment how legal services are delivered, ushering in better client-focused solutions, but this shouldn't be confused with displacing the legal industry. On the contrary, locally-specific, private data is the key for valuable client solutions.

For decades commentators and practitioners in the corporate legal sector have prophesied the end of the billable hour, but GenAI may now be the technological step-change that finally makes value-based billing a standard reality.



One Milan participant explained, “I’ll pay for value: something that used to take forty hours now takes two hours, so I need to see the cost savings.”

Although clients and lawyers alike rail against the billable hour model, both rely on the simplicity of it: it is easy to understand and justify, and both sides have professionally grown up with it as a norm.

In the market for external corporate legal advice, GenAI could lead to increased competition as different business models emerge alongside traditional law firms to satisfy the steady growth in demand. In 2022, the global legal services market was estimated to be USD 950 billion and with a projected increase of 4.5% CAGR until 2030.

However, in the future these estimates will need to take greater account of the productivity gains from AI tools including LLMs and GenAI.

Currently, alternative legal service providers (ALSPs) have a share of some USD 20 billion, a small overall percentage of the market but growing at fifteen percent or more in recent years. These advisory services include those offered by tax and accounting firms, independent providers and technology innovators, and the captive alternative models of major law firms.¹⁰ What’s more important than the market share of ALSPs, however, is the way in which innovation is already impacting delivery of services across the spectrum from in-house teams to traditional law firms and new disruptors.

In sum, GenAI enhances the capabilities of in-house teams to handle work previously outsourced while reducing some of the work required of external counsel, suggesting that the consolidation of law firms in major markets may only accelerate. Less time needed may not mean the death of the billable hour in the near term, as experienced lawyers will continue to be needed to review output that previously would have been generated by junior lawyers, while also providing high-level legal guidance to the company. At the same time, an increase in value-based billing would be an effective way to bridge the gap between the client’s need for efficiency and the use of sophisticated GenAI capabilities by external providers.

¹⁰ Thomson Reuters Institute, The Center on Ethics and the Legal Profession at Georgetown Law, The Saïd Business School at the University of Oxford, “Alternative Legal Services Providers 2023 Report”, <https://legal.thomsonreuters.com/en/insights/reports/alternative-legal-services-providers-report-2023>

Conclusions





Similar to Pandora's Box, GenAI holds existential risk but also aspirations for more effective solutions to multivariate challenges including legal risk and compliance.

For corporate counsel, the practical reality of GenAI has been to form a new void of legal certainty across jurisdictions having to do with, *inter alia*, individual rights, data privacy, intellectual property, cybersecurity, antitrust and product liability. Two areas of deep impact for GenAI are being felt in M&A processes and ESG management. Alongside new diligence and compliance requirements, however, there are also new capabilities to provide greater visibility and control over value chains while improving cost performance for both in-house and external legal advice.

For General Counsel the need to put into place the appropriate governance and ethics controls, risk management frameworks, and compliance diligence, goes hand-in-hand with making sure the legal department keeps up with the new demands for efficiency, responsiveness, and cost-improvement that GenAI promises. Far from making life easier, these new tasks will keep General Counsel busier than ever.

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Appendix

Case Study Digitization and GenAI at DXC Legal

Background

DXC Technology was formed when Computer Sciences Corporation (CSC) merged with most of Hewlett Packard Enterprise (HPE) in 2017. The combined company had 130,000 employees and operated across 70 countries.

In addition to integrating the legal departments and supporting new deals, General Counsel Bill Deckelman used the merger to embark on a digital transformation and efficiency program for the combined legal function.



With a fairly consistent overall headcount, from 2017-2022 the legal department achieved an impressive cost reduction of 40% (including a 27% spend reduction for external legal advice) thanks to re-engineering processes, utilizing leading edge technology, upskilling and redeploying staff.

An important part of this journey was DXC Legal's headline-grabbing move to work with UnitedLex and shift some 90% of the in-house team to a newly established captive law firm. The legal operational and technology abilities of the partnership and its economic benefits enabled DXC to embark on a digital transformation of the new, united enterprise legal services function.

The precepts that ensured a high-performing legal team were: 1) there could no silos separating DXC Legal and UnitedLex: to the company, service must be seamless; 2) each of the 500 team members needed to embrace change and practice teamwork through ongoing learning, transparency, inclusion, frequent recognition and continual feedback and improvement; and 3) every team member needed to take ownership, develop leadership behaviors and have diverse opportunities to contribute beyond their 'day job' to the success of the function.

Digitization and Data

The digital transformation, cost-savings and tangible value delivered from DXC Legal's first year focused on implementing technology tools, data gathering and dashboards to both increase the team's productivity and enable it to deliver contracting data of high value to the company.

A central platform used by all DXC Legal members globally enabled streamlined operational workflow as well as frequent communications and opportunities for cross-border collaboration. It also helped centralize data gathering and data hygiene, giving both legal and business functions far greater visibility into the status of contracts, deals in progress and disputes. The dashboards provide a comprehensive view for managing workflow, allocating resources, identifying and managing, risks and tracking capacity (see [Figure 3](#)). The data the legal function provides enables a more integrated working approach with business functions and Legal is valued for providing mission-critical information to inform decision making.

The results that DXC Legal has been able to deliver to the business were beyond the expectations of DXC Technology executive leadership and functions such as Finance, Sales and Delivery – which now view Legal as a critical business partner. Data from DXC Legal has led to cross-functional integration with these functions and others, thanks to enhanced business visibility, consistent delivery of high quality legal support and a sense of pride throughout the legal function.

Importantly, the data-driven approach also guided Deckelman's bold decision to partner with AdvanceLaw and migrate external spend with elite and magic circle law firms to ones that outperform in areas such as cost efficiency, solutions focus, innovation and client service – often as a function of their location. With excellent technology now available on the market for the legal team's continual transformation journey, in 2022 DXC decided to bring over 400 of its team members back into DXC Legal from the outsourced captive firm.

Enter GenAI

With the above advancements in place, DXC Technology's legal team was positioned to be a fast-mover in preparing the business for GenAI and implementation within the legal function. From the start of 2023, legal doubled down on communication, support and programming related to learning about new AI as well as individual well-being, with special projects and learning opportunities involving more than 100 members of the team.

Well-designed training sessions (often delivered by strategic partner law firms) not only equip the DXC Legal team with the latest skills and knowledge, but cultivate internal experts who understand what generative AI is and how it works. Part of the training was to offer team members to participate in Law3: Legal Technology & Innovation course at the *Legal Design School* in Finland, with detailed instruction on advances in digital and generative AI for Legal. 42 DXC Legal team members completed the 12-hour course. Those who complete training share learnings with others and become go-to local champions for support. Additional global training comes through monthly video Town Halls that include mini-briefings and commentary from members of the team at all levels.

Beyond training, the legal team has had a pivotal role in the establishment of DXC Technology's AI Council, ensuring that the journey into GenAI is both groundbreaking and ethical by contributing to decisions for internal and external use. The legal team has crafted guidelines for responsible use of GenAI and set standards for ethical AI adoption. Finally, the legal function operates an AI help desk consisting of 5 lawyers to support the business and contracting services team.

The measures above contribute to the overall culture of innovation in DXC Legal, encouraging the team to adopt emerging technologies, such as AI, machine learning, legal analytics, and automation. This equips the team with credentials to better address complex legal challenges, improve compliance, recruit talent seeking a tech-savvy legal function, speed turn-around time through legal operations advances and provide strategic legal counsel.

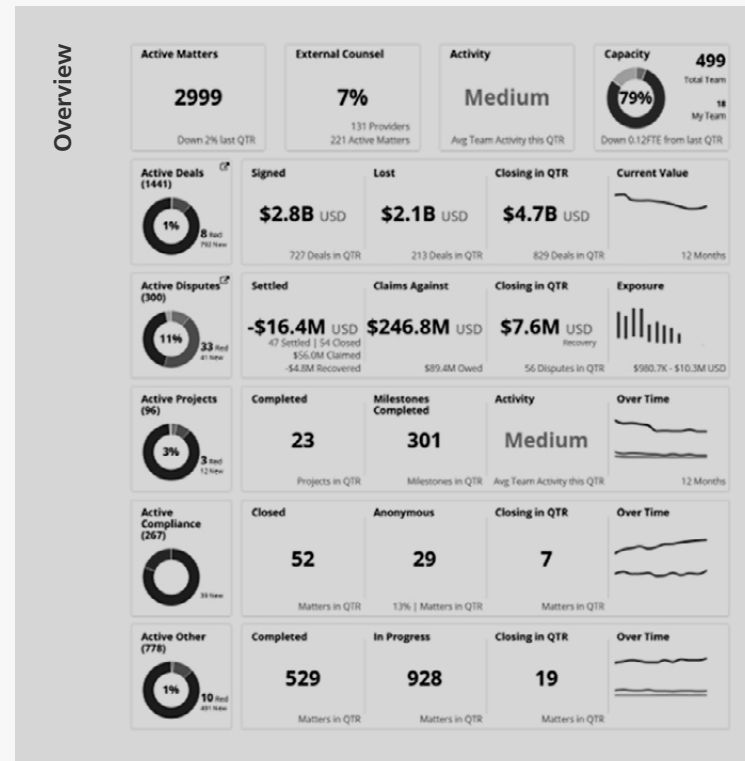
The overriding vision that has guided the response of DXC Legal to GenAI has been not just to adapt to change but to drive it.

Figure 3.
Real Time Dashboards

Team members can drill down to the current status of any deal, account, dispute, project, or other matter. Reports cover real time data on team activity, scoreboards for won/lost, key matters, matter closing timelines, loss reason, risk data.

Overview – Shows: deal reviews, contract risk assessments, region deep dives. Legal data is visible to relevant legal team members and via the business portal to business managers.

Deal Risk Management – an auditable risk management tool with guidance notes and risk allocation for all inherent and mitigated risks.



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