

# CHEAPER SMARTER BETTER

The annual Asian Legal Business In-house Survey sheds light on the biggest trends corporate counsels are seeing, and gives clues as to which way the industry is heading. This year's survey focused on the challenges and disruptions of the way legal work is getting done, by who and by what. With the rise of alternative legal service providers and the growth of legal technology, the clear winners are in-house counsel.

SURVEY BY ALB | TEXT BY JOHN KANG

More than 250 corporate legal professionals took the ALB In-House Survey 2018, our annual exercise in quizzing in-house counsel on some of the biggest trends they are seeing. The responses they provide show that the level of disruption in the legal industry is continuing to pick up pace, and as a result, the landscape will look vastly different in just a few years' time.

One of the most significant trends in the legal industry is that of lawyers leaving law firms to set up non-traditional legal service providers, known as alternative legal service providers (ALSPs). Prominent among these are the so-called NewLaw firms, which provide flexible lawyer services on a contract basis. And fortunately for them, corporate counsel are certainly noticing and recognising their advantages over traditional law firms.

"There are cost efficiencies in that model, of course, because you're not getting billed the same way that you would from a law firm as they are set up as contractors," says Bijoya Roy, a chief counsel at Thomson Reuters. "They also offer a dedicated level of service," she adds. "They're particularly good in times when we're shorthanded, or when we have a large volume of work and need an extra pair of hands."

#### BASIC DATA

##### Which of the following would best describe your position?

Head of Legal .....	20%
Legal Counsel .....	47%
Legal Manager .....	12%
Senior Manager/ Department Head .....	6%
Others .....	15%



##### Which is the primary jurisdiction or jurisdictions your company operates in?

China (Mainland) .....	37%
Hong Kong/Macao/ Taiwan .....	47%
Japan/Korea .....	31%
Southeast Asia .....	83%
India .....	28%
Middle East .....	18%
Australia/ New Zealand .....	34%



##### Which of the following are key performance indicators that you report regularly to your business?

Total legal spend .....	45%
Litigation exposure .....	48%
Litigation win rate .....	21%
Projects successfully closed .....	63%
Average response time of legal department .....	42%
Management of regulatory risks .....	55%
Legal initiatives in support of the business .....	62%
I don't have any KPIs .....	13%

This trend is being driven mainly by both client demand. "There has been a visible need for this kind of service in the market in the past few years, and so a number of entrepreneurial lawyers have decided to band together to meet the demand," she says. "I think the industry realises that while companies may have recovered from the global financial crisis, they still remain under a lot of financial strain. As a result, they will always have headcount pressures, with



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greater demand being placed on turnaround times. I think that's where these lawyers have found the opportunity and are stepping in."

This price advantage that ALSPs, including NewLaw firms, have is crucial. When asked in our survey the main concerns of external counsel, most of our respondents – 77 percent – cited that the "fees are too high or unexplained."

Then again, cost effectiveness is not the only reason by corporations are

seriously considering using NewLaw than Biglaw.

“Typically, the people providing the freelance work today used to specialise in it earlier, so that specialist knowledge is now coming at a cheaper cost and at a greater availability,” says Roy. “The level of expertise that these individuals are bringing is very promising and attractive for corporations.”

Gladys Chun, general counsel of Lazada Group based in Singapore, “definitely” agrees that this is a growing trend, but notes that it is driven more by the new ways of doing things.

“I strongly believe in the mantra: you choose to disrupt or be disrupted,” she says. “The trends have evolved with the deployment of new technologies in business environment (e.g. instant messaging), new ways of delivering legal advice (e.g. AI in e-discovery, e-litigation) and the expectation to execute and deliver efficiently.”

“There is a variety of options as to how companies are consuming legal services nowadays, ranging from working with ALSPs to developing customised solutions, and more often than not, you will find a hybrid model (or what I would refer to in an e-commerce world as omnichannel model) is being adopted for a variety of reasons,” she notes.

“The optimal disruption is achieved when legal tools are developed, fully integrated and deeply connected to each part of the business and every employee can easily use it, regardless of their education level or knowledge of law.”

And this trend has plenty of room to keep going, with most companies currently not using ALSPs or NewLaw. According to our survey, just 27 percent of respondents said they use NewLaw firms, flex lawyers or other ALSPs.

## CHANGING RELATIONSHIP

The growth of ALSPs and NewLaw firms comes at a time when the relationship between companies and traditional law firms is evolving.

“I’m seeing a greater collaboration between in-house counsel and law

## SURVEY RESULTS

**Has the adoption of legal technology by your legal department increased in the past year?**

Yes ..... 47%  
No ..... 53%



**In 2018, do you expect your in-house legal/compliance team will grow?**

It will grow ..... 37%  
It will shrink ..... 47%  
It will remain the same ..... 31%



**What kind of work keeps your department most busy?**

Ethics and compliance issues ..... 65%  
Regulatory or governmental changes ..... 68%  
Information privacy ..... 51%  
Protection of intellectual property .. 37%  
Mergers and acquisitions ..... 39%  
Anti-bribery issues ..... 41%  
Others ..... 48%



**Do you use “NewLaw” firms, flex lawyers or other alternative legal service providers (ALSPs)?**

Yes ..... 28%  
No ..... 72%

firms, who are today coming together to co-developing customised legal solutions which create value for the clients,” says Lazada’s Chun.

“Also, more in-house counsel are in the driver’s seat in navigating the relationship with external law firms. They ensure the legal advice complements the business needs, and that the combined output is relevant and valuable to the business.”

Thomson Reuters’ Roy has also witnessed changes. “I think we’ve



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assumed more control over the relationship and are today demanding more value, more bang for our buck if you will. And traditional law firms have realised that,” she says.

“It’s no surprise – we’ve been talking about value for a good couple of years now – and so they are well aware of that. This has resulted in a heightened level of engagement. We’re demanding it and they’re by-and-large providing it as well, which is why the relationship remains strong in most cases.”

Roy shares that her team has become more robust, doing an increasing amount of the groundwork and participating more in strategy discussions compared to previous years.

"So while earlier we would have been absolutely dependent on external counsel to come up with, for example, litigation strategies, we're actually now stepping in and guiding and shaping a lot of that strategy ourselves, so the partnership has evolved in many ways," she explains.

"There's no clear marker that says: 'This is where our work stops and we hand it over to you and you run with it.' I think we're now really working together to drive that value."

So far, law firms have been adapting well to the changes of this dynamic. Almost all of our survey respondents – 90 percent – said they were satisfied with their external law firm, with 17 percent saying they are extremely satisfied.

To keep clients satisfied, law firms should focus on responsiveness and offer favourable fees or billing policies, two of the most commonly cited reasons – 80 percent and 75 percent, respectively – from our survey respondents regarding what factors would influence their selection if employing new external counsel this year.

## MORE DONE IN-HOUSE

All this disruption to the industry comes at a time when more and more companies are bringing a larger proportion of their work in-house.

"I think that's a global trend," says Roy. "While companies are trying to get value out of every dollar spent on their external counsel, they are also looking to make the most of their in-house counsel."

Roy, who has been working in-house for 15 years, noticed the trend of moving more work in-house shortly after the financial crisis of 2008, which pushed companies to really prioritise cost efficiencies. But the trend has accelerated in the more recent past.

"In those years, the thinking was that there was a lot of cost efficiency to be had

### What are the kinds of non-law firm ALSPs that you use?

<b>Accounting firms such as the Big Four</b> .....	27%
<b>LPOs</b> .....	10%
<b>Flex/contract lawyer services</b> .....	22%
<b>Document creation software/templates</b> ...	7%



### How has the mix of your external vs internal work changed in the past year?

<b>More legal work is done internally</b> .....	47%
<b>More legal work is given to external law firms or other service providers</b> .....	15%
<b>No change since last year</b> .....	38%



### What are your main concerns when it comes to the external counsel you are using?

<b>Fees are too high or unexplained</b> .....	77%
<b>They don't understand our company/industry</b> .....	50%
<b>They are not responsive enough to our concerns</b> .....	40%
<b>They are slow, inefficient, or give bad advice</b> .....	32%
<b>Partners are either not involved or don't provide input</b> .....	25%
<b>The partners/lawyers responsible have changed</b> .....	17%

by creating a robust in-house team, and that trend has really picked up in the last two or three years," notes Roy. "I've seen a lot more focus in growing in-house teams and a lot more focus on really developing talent internally rather than just going to external counsel for everything, which might have previously been done."

Roy is certainly not alone in seeing more focus in growing in-house teams. 45 percent of our survey respondents said they expect their in-house legal/compliance team will grow this year, whereas just 10 percent said they expect their team to shrink.

Additionally Law firms should not underestimate companies' drive for cost efficiency. The main concern most cited by (77 percent) our survey respondents when it comes to their external counsel is that "fees are too high or unexplained". The second highest – which half our respondents also cited – is that external counsel "don't understand our company/industry", which in-house teams obviously do understand.

"The best part of having a robust in-house team is that this is a team that is dedicated to your company and your company alone, and they know the ins and outs of your company," says Roy.

"The intrinsic value and depth of knowledge that in-house counsel bring can never be replicated. I think companies realise the absolute core value of having a team that is dedicated to them and them alone, and not serving a hundred clients a year."

"It is like having a doctor on call," she adds. "Our turnaround times are much quicker and there is a constant engagement with the business. As the in-house counsel will always be conversing with the internal client – if you want to call it that – the level of engagement is at its highest."

But, of course, there will always be some areas of legal work that in-house will always go to their external counsel for.

"We've now established that there are certain areas of work that are probably best done by in-house counsel, but there are also some key areas where we need our external law firm partners," notes Roy.

"I think the more specialised areas like mergers and acquisitions, litigation, even regulatory work and the broader compliance space are areas where we will always look to getting advice from specialists, and those will always be external counsel," she says.

"Although in-house counsel can do a lot of groundwork in those areas, we still need that added layer of in-depth specialised knowledge in those areas, and will always depend on external counsel for that."

"There's still that fine balance between how much in-house can do and how much we need to still depend on external counsel," she adds.

That balance is changing. According to 47 percent of our survey respondents, more legal work is now being shifted internally to the in-house function, whereas just 15 percent said more legal work is given to external law firms or other service providers. Meanwhile, the remaining 38 percent say it will remain the same as it is now.

## RISING TECH

While the legal industry is seeing a new category of players challenging and changing the way legal work is getting done, there is another trend that is disrupting the landscape: technology.

Chun's team at the Alibaba-backed Lazada is currently using a variety of technology: automated file management processes, contract management flow, document creation (similar to smart contracts) for simple, straightforward and standardized contracts such as NDA and execution of contracts via electronic signature.

"These technologies have been adopted in order to optimise efficiency, and they can be easily scaled," she explains. "Most importantly, they allow the team to focus their time on work that adds value, instead of drowning in administrative tasks."

"Most of the tools have been developed in-house for budgetary reasons," she adds. However, we have

### How satisfied are you with the external law firms you are using?

Extremely satisfied ..... 20%  
 Generally satisfied; although there are a few areas for improvement ..... 47%  
 Not satisfied; there are one or more significant areas of concern ..... 15%



### If you were to employ new external counsel in 2018, what factors would influence your selection?

Expertise in your industry ..... 82%  
 Responsiveness ..... 79%  
 Favorable fees/ billing policies ..... 76%  
 Brand name/ Reputation of the law firm or lawyer ..... 40%  
 Personal relationship with the law firm/ lawyer ..... 39%  
 Geographical reach/ office locations ..... 37%  
 Use of the most up-to-date technology ..... 12%



### How do you plan to locate external counsel in 2018?

From list of company-approved external counsel ..... 66%  
 Referrals from other in-house lawyers ..... 56%  
 Referrals from other external counsel ..... 34%  
 Law firm rankings ..... 31%  
 Law firm marketing ... 30%

recently started exploring outsourced solutions, taking into account time to market, system compatibility, security concerns, cost to build in-house and others."

Even though only about half – 47 percent – of our survey respondents saw more legal technology adopted by their legal department in the past year, Chun is confident that technology will continue to be a critical driver and enabler in the near future.



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"Moving forward, I foresee that we will continue to expand the existing technologies to create flexible solutions that offer multiple, integrated functions with convenient and secure access, both for mobile and web-based solutions," she says.

"I hope and dream of deploying more advanced and sophisticated tool, such as digital legal apps which automate or semi-automate rules-based decision-making processes," Chun adds 