



ACC'S CLO ThinkTank Series 2006

“COMPENSATION & CAREER ADVANCEMENT FOR IN-HOUSE LAWYERS”

Hosted by Rick Palmore, CLO of Sara Lee Corporation

**March 17, 2006
10:00 a.m. – 2:00 p.m.
Four Seasons Hotel Chicago- Chicago IL**

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Participants' Briefing Materials

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SUMMARY/ OUTLINE OF DISCUSSION TOPICS
COMPENSATION & CAREER ADVANCEMENT FOR IN-HOUSE LAWYERS

The following outline is intended to provide a short overview of some of the issues at the heart of this discussion topic. There may be other issues we've not identified or perspectives on the identified issues that are not adequately represented in the outline: you should feel free to raise these additional thoughts, as you like. *The outline is merely intended as a starting point to help you identify discussion topics and tee up your conversation.*

A. Major Components of Compensation

1. **Salary:** various models for setting salaries, ranging from the law department's structure as a stand-alone structure with market pricing, to the law department's required use of salary bands or salary grades utilized by the company generally. What model does your law department use? Have you experienced certain trends with regard to salaries during the past 5 years/do you anticipate certain salary trends looking forward 5 years? What impact does the compensation system and earnings expectations established by law firms have on your compensation strategies?
2. **Cash Bonus:** generally performance-based, and models may consider range of performance, including: individual, practice area, law department, business unit served, business division served, and company performance generally (and/or combination of the foregoing). Are bonuses available to all in-house lawyers or limited to lawyers at certain levels? Do cash bonuses generally comprise a larger portion of the total cash compensation for in-house lawyers in more 'senior' or 'experienced' positions?
3. **Long Term Incentives/Stock Option Awards:** What are your law department's trends with regard to stock option awards (NQSO, ISO, Restricted Stock Options) as a component of compensation? What are the criteria/ circumstances in which awards are available? Is the potential recipient pool around the same, smaller or larger than it was 5 years ago? Is this more of a function of changing the eligibility definitions (e.g., the positions entitled to receive options) or changes in individual eligibility (e.g., more or less qualify for merit-based awards)?
4. **Executive Compensation Components:** for CLOs-- are there separate categories and are these available to others within your law department (how is eligibility defined)? How is your salary and compensation package determined? Who is on point for setting and evaluating the CLO compensation package and what role do you play (if any)?
5. **Considerations for Global Law Departments:** Does your global law department employ a "universal" compensation strategy, or are decisions about compensation local to each jurisdiction? Are there certain countries or aspects of having a global law department that present significant challenges or require special attention?

6. **Others? (besides related benefit-type components such as 401(k), retirement plan contributions, pension, vacation, etc..)**

Links to Resources:

(http://acc.com/php/cms/index.php?id=34&action=item&item_id=20051013_8091)

(<http://acc.com/resource/v4810>)

B. Process for Defining Compensation Programs for In-House Lawyers

1. **Data/Research; alignment with legal market:** What types of data does your department review in evaluating and setting compensation for in-house lawyers? Do you subscribe to compensation surveys (e.g., Altman Weil, PricewaterhouseCoopers, Mercer, etc..)? Who is on point for gathering and evaluating the data for your law department? Who is on point for setting compensation for in-house lawyers?

If you benchmark to evaluate ‘market’ price, what types of data points do you compare?

- law departments of similar sized companies
- law departments of companies in the same industry
- law departments in same geographic region
- law firm salaries/compensation for similarly skilled lawyers
- going rates for specific kinds of expertise
- other?

2. **Organizational Approach to Compensation & How Law Department Fits:** Is the law department expected to follow a broader organizational approach to compensation? Are there organizational salary bands, grade-levels, other models? Has every in-house lawyer position been associated with a salary band, grade-level or market price? If so, what was the process for accomplishing this? What is your role as CLO in setting salaries for in-house lawyer positions?
3. **Process for Determining Incentive Compensation (e.g., cash bonus and stock option/grant awards):** What is the process for determining incentive compensation awards? Are there ranges to pull from within designated salary bands or grades? Is the availability of these components linked to job titles or salary bands or grades? Does your law department use individual performance metrics or the performance assessment process as part of the eligibility evaluation criteria?
4. **Program evaluation cycle; adjustments:** How often are salaries and other compensation components for in-house lawyers re-evaluated to determine whether adjustments need to be made? Is the timing consistent with broader organizational compensation evaluations or set and administered by the law department?

5. **How is your lawyers' performance evaluation process linked (or not) to compensation decisions?** How do you evaluate your lawyers' performance, and how does their performance (both good and bad) impact their compensation? Do you send "messages" with compensation? Are your lawyers (and their compensation) connected to any kind of peer or client review included? Is there some element of 360 degree evaluation involved? How do employed lawyers themselves engage in or contribute to your compensation strategy?

Links to Resources:

(<http://acc.com/resource/v5905>)

C. Compensation at the CLO Level; Executive Compensation Considerations

1. **Process for determining CLO Compensation:** What role (if any) do you play in providing information on market compensation for CLOs to your company's compensation administrators in connection with setting your compensation? Is there information that would be useful to you in this process that is not at present readily available in the marketplace?
2. **Executive Compensation Impacts:** Have changes in executive compensation processes impacted compensation at your level? Do you participate in discussions at the Board or executive-level regarding executive compensation? Has your role changed in recent years? For public companies, with regard to the SEC's proposed rules on executive compensation: what do you see as the greatest challenges in this area?
3. **Job Title- CLO or General Counsel:** Some have indicated a distinction in compensation among CLOs and General Counsel, with the CLO title being associated with greater compensation benefits. What are your views on the different titles and their relationship to compensation issues?
4. **What would you most like for your CEO other others who impact your compensation to consider or do differently?**

Links to Resources:

(<http://acc.com/resource/v6712>)

D. Career Advancement

1. **Job Titles:** Are job titles linked to compensation structures (e.g., are incentive compensation components available to only those lawyers within the organization at Senior Counsel or higher level)? Can a lawyer be promoted (and receive compensation rewards) within a given position or does one need to be promoted to a different position (e.g., if your Senior Environmental Lawyer's position has a certain salary grade attached to it, once he/she maxes out in the salary range, does he/she need to move on to receive additional compensation)? Do your senior lawyers (e.g., your direct reports and their

direct reports) have supervisory responsibilities? Is there the opportunity to rise to the level of a direct report to the CLO without having supervisory responsibilities as part of the lawyer's portfolio?

2. **Professional Development Programs:** Does your law department have a professional development program? Is it the same/an adaptation of your company's broader professional development program? Did you develop it internally (e.g., within the law department and/or with help from HR) OR did you receive help from an outside consultant? What are the key components of your law department's professional development program?
3. **Mentoring, Training, and Assuring Success:** What do you do to ensure that those you recruit have all they need to succeed?
4. **Leadership Development:** Does your law department (or company) have a leadership development program that identifies high-performing/potential leaders and provides specialized professional development training/opportunities to these individuals? If it is a company-wide program, what is the process for including lawyers?
5. **Performance Assessment Programs:** Are these separate from or linked to professional development programs? How did you determine the key assessment criteria for in-house lawyers? Do you have individual lawyer metrics and/or law department metrics?
6. **Experience/Rotation Criteria for Legal Leadership Positions:** Are there stated or unstated experience expectations in order to be promoted to the most senior levels of the law department (e.g., are there requirements for serving as a lead lawyer for more than one business unit or division? for global companies: is there an experience criteria requiring lawyers on the leadership track to hold positions in more than one country? etc..)?
7. **Diversity, Pro Bono, Public Service, Volunteer Initiatives:** are there additional considerations that not only impact your career planning and development plans for your hires, but also your department's promotion of public interest and other related priorities that you have set as criteria for recognition for additional achievement? (*See Tab 5*)
8. **Wearing the Business Hat:** Are you seeing lawyers move from the legal to the business side (and maybe back again)? How is this viewed (by leadership within the law department and/or by executives within the company)?
9. **Communicating Expectations & Advancement Opportunities:** How do you communicate performance expectations, compensation programs and advancement opportunities within the law department?
10. **Outplacement:** For law departments with limited career advancement opportunities, have you engaged in efforts to help place high-achieving lawyers in positions on the business side or even outside the company?
11. **Online Recruiting Tools; Career Advancement Resources:** Have you used online recruiting and resource tools? Are you familiar with ACC's In-house Joblinesm feature and have you had success as a participating employer? ACC's In-house Joblinesm enables employers to create an account, post jobs online, have resumes emailed to you, and allows you to browse a database of resumes. Currently, ACC's In-house Joblinesm has almost 800



open corporate counsel positions, 6800 resumes, and includes access to a library of career-related resources.

Links to Resources:

- <http://acc.com/resource/v5986>
- <http://acc.com/resource/index.php?key=6012>
- <http://acc.com/resource/v5898>
- <http://acc.com/php/cms/index.php?id=322>
- <http://acc.com/php/cms/index.php?id=323>
- <http://jobs.acca.com/>
- <http://jobs.acca.com/>

E. Non-cash Compensation/Retention Strategies: For law departments where opportunities for advancement may be limited, are you implementing other practices to help retain in-house lawyers? Some examples of strategies we've heard about from others include:

1. **Flexible and Part-Time Work Arrangements:** may include defined part-time work schedules, telecommuting, or other flexible schedules adjusting hours in the office.
2. **Job Shares:** where two lawyers share responsibilities for providing legal services in a given area of expertise or to a business client group; an example may involve two lawyers, each working less than full-time with an overlapping schedule to help maximize continuity of services.
3. **Professional Development & Management Training Opportunities:** providing high visibility assignments, including lawyers in management or leadership training tracks, offering developmental assignments to gain experience outside of the lawyers' typical experience areas.
4. **Recognition Programs:** might involve spot awards, discretionary "days-off" after completing a large project that involved unusually long hours, law department-wide communications recognizing achievements, etc..
5. **Community Service/Pro Bono/Diversity Programs:** may involve providing lawyers with the opportunity to take an allotted amount of work time to "give back" to others and provide services in these areas.
6. **Job Titles:** some companies that de-link job titles from compensation may have greater flexibility in setting titles for their lawyers.
7. Other ideas?

Links to Resources

- <http://acc.com/resource/v5905>
- <http://acc.com/resource/v6759>

F. Staffing; Use of Non-Lawyer Personnel: Is your law department using strategies that involve having non-lawyer personnel perform tasks that were previously performed by lawyers? How has this impacted job satisfaction at the in-house lawyer level and non-lawyer level? Are there resources that would be helpful to you in this area? Ideas on best practices and experiences?

Note: *In addressing these issues, lawyers should be mindful of the model rules of professional conduct at the federal and state levels prohibiting the unauthorized practice of law (and aiding the unauthorized practice of law) and regarding supervisory responsibilities when ‘true’ legal work is performed by others under the supervision of a lawyer. While not all work that is traditionally performed by lawyers is truly legal work—and thus delegating or re-deploying the work may not be an issue, for process redesigns that involve truly ‘legal’ work, these rules are important. See ABA Model Rules 5.1, 5.3 and 5.4, and 5.5 [Model Rule 5.1 (“Responsibilities of Partners, Managers and Supervisory Lawyers”) mandates the responsibility of those who are senior for the conduct of those who are junior and under their charge. Model Rule 5.3 (“Responsibilities Regarding Non-Lawyer Assistants) suggests that the non-lawyer should be subordinate to the lawyer; the lawyer must have the authority to direct/control the non-lawyer’s actions and the ability to enforce reasonable efforts to ensure that the non-lawyer’s conduct is ‘compatible’ with the professional obligations of the lawyer. Model Rule 5.4 requires professional independence of lawyers, including prohibiting lawyers from affiliating with non-lawyers to provide legal services. Model Rule 5.5 (“Unauthorized Practice of Law”) prohibits the unauthorized practice of law (and aiding the unauthorized practice of law.)]*

Some examples of creative staffing strategies to help improve law department efficiency and career satisfaction and performance include:

1. **Paralegal Utilization:** What types of roles are paralegals performing? How have these roles evolved in recent years? Are there certain areas of practices where your department’s use of paralegals is more prevalent? Has the lawyer/paralegal ratio increased or decreased within your law department during the past 5 to 10 years? Does your law department require paralegals to be certified? Does your law department offer or support paralegal training? Does your law department have policies regarding outside counsel utilization of paralegals? What types of resources for paralegals would be of interest to your law department? Do paralegals report organizationally to lawyers or to a paralegal supervisor? Is there a professional development ladder for paralegals? Do they have direct contact with business clients and/or outside lawyers?
2. **Contracts/Claims Administrators:** Does your law department include these types of positions? What is the organizational reporting relationship for these personnel? Are there certification requirements for these personnel? Is there a professional development ladder for these personnel?
3. **Business Client Roles:** Has your law department/organization implemented practices that involve shifting some work that was previously performed by lawyers to business clients (e.g., having clients take the lead in preparing first drafts of contracts using templates or tools, etc.)? If so, what types of corollary tools or practices do you use to successfully implement these practices and processes? How has technology impacted

the ability to implement practices in this area? Are you implementing practices you'd consider to be best practices?

4. **Lawyer Secondment:** Has your law department participated in any programs to second outside lawyers and bring them into your law department for a defined period of time to enable them to get an inside look at the law department, develop skills, and fill temporary gaps in staffing/handle peak work? Have you sent any of your in-house lawyers to a law firm to gain this type of similar experience? What worked well and what were the key challenges?
5. **Use of Temporary or Contract Personnel:** Does your law department regularly use temporary or contract personnel? What types of arrangements do you have in place? Are there certain practice areas where this is more common? What are your views on the key benefits and challenges of these practices?

Links to Resources

(<http://www.acca.com/resource/v5904>)