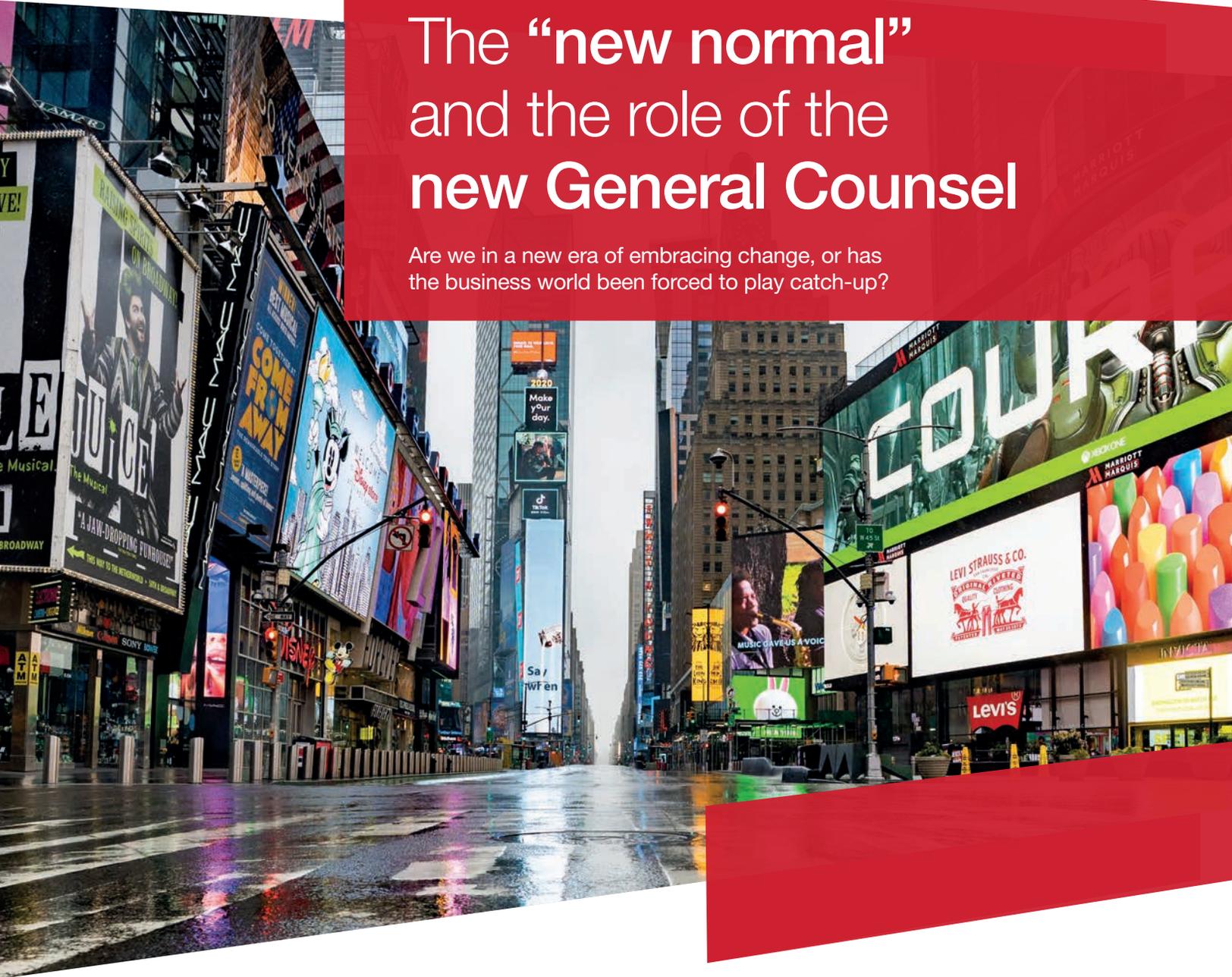


The “new normal” and the role of the new General Counsel

Are we in a new era of embracing change, or has the business world been forced to play catch-up?



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We invited a group of key clients from our New York office to join us for a virtual roundtable discussion on the issues, themes, trends, and critical areas they are seeing in the current market and what the future will look like in the post-COVID-19 world.

This Reed Smith roundtable event was part of a series we have developed and designed to create a platform for senior business leaders, general counsel, and senior management representatives to share experiences, discuss live issues, and explore ideas for the future of legal service delivery.

Given that our virtual and in-person roundtable events are always held under the Chatham House rules, we have kept this report confined to the themes without specific reference to client names. We have organized this report to shine the spotlight on specific “now and next” issues that seemed to emerge during the discussion.

As ever, we are grateful to our clients for sharing their honest thoughts and feedback on the day-to-day challenges they are facing within their businesses. We strive to be a valuable resource to our clients, and we hope to continue the conversation on these issues going forward and to provide business-focused solutions. The current economic climate is uncertain, volatile, and unpredictable; the insights shared by business leaders into current and emerging issues enable us to provide better, pragmatic and commercial support to our clients.

Please note: Throughout this report quotes in *“red italics”* are direct quotes from the session

The new business world - what does “new normal” mean?

Is it an overused term or have businesses been forced to adapt to the new era?

The (new) multifaceted role of General Counsel (GC) - “the GC of tomorrow”

GCs have found an increased need to broaden their roles and delve into a diverse range of issues that have traditionally fallen outside of their remit and responsibilities. The ability to engage with more teams on a cross-functional effort – including with outside and third-party organizations – has not only helped close the knowledge gap but has also eased decision-making.

This wider and multifaceted role has meant that some GCs have had to *“get into the ‘weeds’ on medical-related issues more than they did before”* while others have had to learn about building architecture in discussing modification of floor plans to meet employee safety and social distancing requirements in the *“the return-to-office”* phase. Traditionally, one may have questioned whether this would have been the responsibility of the GC as it would previously have fallen to an operational or administrative function. The “new normal” requires GCs to be more operational and aware of every aspect of the business.

Companies with distribution plants have different challenges – particularly how to keep them running safely as different U.S. states, counties, and local municipalities have varying laws and regulations. This has led to the need to introduce individualized sets of best practices observing workplace safety. A GC working in a business with different plants in

several U.S. states has been required to think broadly, be flexible, and to accept that *“one size does not fit all.”* Such businesses have had to implement best practices that differ per site, even within the same state.

The now and the next

The current pandemic has pushed boundaries for people, businesses, and the environment in which we all live. GCs have not escaped the impact of the pandemic and have pushed the boundaries in which the “GC of tomorrow” needs to work and operate.

The pandemic has demonstrated that the GC of tomorrow needs to:

- Be a lawyer and a business person, and become more operational and “hands-on” and less black-law letter and more black-law application
- Be flexible and multifunctional to benefit both the organization and the individual professional
- Be able to look at the bigger picture and identify best practices in diverse parts of the business



The resiliency of organizations to adapt

The current situation has impacted life, society, and businesses at every cornerstone – particularly banks, which have proven to be flexible through their ability to embrace technology enabling them to continue business with minimal disruption.

The use of e-signatures has become more widespread and accepted than ever before: *“counterparties have been good, accommodating, and cooperative.”* At the beginning of the pandemic, although some companies were able to make a seamless transition or continue **“business as usual,”** there was a scramble in some large organizations to implement or expand their e-signature policy in order to ensure that they were able to execute deals and transactions without interruption.

While there were some issues that initially prevented some transactions from progressing – for example, requiring original documentation for finalization – organizations have demonstrated an ability to be creative and commercial, devising **pragmatic solutions**. For example, some organizations that were traditionally considered to be *“document intensive”* have moved to the use of pdf signatures on all internal forms, which *“has been a real time saver,”* enabling them to finalize and execute deals and otherwise operate as *“business as usual.”* Overall, people and businesses have demonstrated true resilience which has helped organizations and businesses to succeed in this new environment.

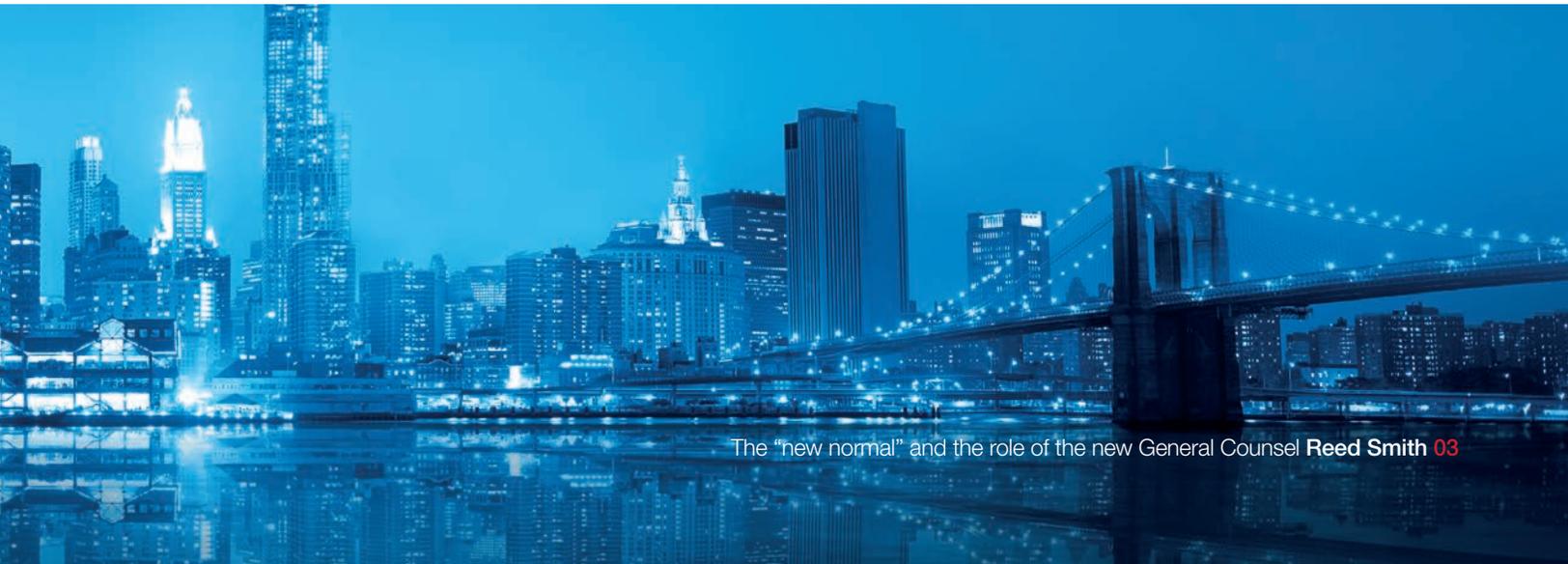
The now and the next

The ability to adapt, to be progressive, and to embrace changes have become key hallmarks for successful businesses; this ability may become essential for the business of today to survive and succeed.

The adoption of e-signature technology into businesses has helped prevent the traditional legal requirement of a physical signature on original documentation from being an obstacle to completing transactions. Notwithstanding centuries of traditional legal requirements, businesses that have demonstrated agility and flexibility and have implemented new e-signature protocols have been able to complete transactions and have not allowed traditional legal requirements – for example, the requirement to sign original documentation – to become obstacles.

The ability of businesses to be flexible will ensure that they can withstand “the now and the next” set of challenges.

Traditional legal etiquette should be observed where possible, but where it means the difference between cessation and survival, businesses should not be afraid to implement change and move away from tradition.





Traditional versus online business operations

The current situation has caused some businesses to go into distress, and for some, it has created new opportunities. Online channels have clearly demonstrated success and appear to be performing more strongly in the current situation.

One trend that has accelerated is the importance of bolstering a brand's online presence and move to e-commerce. *"The brands with the best online channels have seen the most success - if you can't find the product, you can't buy it...!"*

Different consumers have varying degrees of sophistication. Teams have had to work on *"how to continue the conversation"* with the consumer in the new normal and at the same time to continue to build and maintain brand loyalty.

The now and the next

All businesses (big, small, corporate, financial, consumer, and beyond) need to recognize the power of online reach and connectivity and ensure that they are able to connect to different consumers and customers.

Businesses should remain "bullet proof" as they consider how to drive and maintain customer loyalty through educating consumers with different sophistication levels. An "unsophisticated" customer does not mean a customer with a lack of means.

What has the impact of COVID-19 meant for financial institutions?

Banks are pushing to continue to get their name out there during this crisis by posting interviews and by communicating in the public eye in ways that don't require in-person meetings.

COVID-19 is a main driver for banks to extend themselves on the credit continuum more than they expected.

"COVID is a main player with businesses being impacted," and, beyond its enormous challenges, it has also presented unique opportunities for banks to provide financial services and advice to companies that are still healthy and continue to operate in this new normal.

Low interest rates have led to a new breed of borrowers and, by definition, new investors. There is a lot of financial activity in the market. For example, some private equity firms are considering opportunities in new companies that support COVID-19-related efforts, and their investments have resulted in follow-on work for financial institutions.

The now and the next

Banks will look to move money faster, to do more things electronically, and *"there will be bigger focus on doing things faster and performing."* This will emphasize the importance of investing and building up existing infrastructure.

Given that the rise of technology is already shifting the way organizations conduct business, and with financial institutions embracing the new normal, there will be more pressure to complete transactions faster than ever before.



The role and power of effective communication

Proactive communication has become key during the current situation – internally with employees and externally with clients and customers.

Challenges have inevitably arisen with keeping an “open door policy” while working remotely. Businesses are keen to ensure that they maintain their culture and openness to employee dialogue while ensuring a balance between keeping their open door culture and respecting line management pressures: *“In the office, it is easier to counsel and put a stop to ill-advised actions before they are implemented. Now, with working remotely, more time is spent unwinding things.”*

Maintaining professional networks in the “new normal”

Keeping up with professional networks when working in a “normal” office environment was previously taken for granted but has now become more difficult in the absence of in-person meetings. However, those who have adapted to the *“era of remote working”* by better leveraging social media platforms (like LinkedIn) are successfully continuing to develop their professional networks.

Networking in the work/office environment is an important part of professional career development. In the “new normal,” technology platforms like Zoom have become important or – as some may even argue – essential for this purpose. Beyond the view that younger employees will face challenges and will be unable to develop professional networks outside of in-person meetings, some believe that the new generation should not have difficulty developing their networks since they are more comfortable with technology and virtual meetings, which have become an essential part of the “new normal.”

A surprising feature of the “new normal” has been a renewed focus on relating with each other on a human level. *“We’ve built a team comradery that we didn’t have before”* by starting conversations that are focused on personal matters instead of jumping directly into work.

Supervisors need to adapt in the way they provide general oversight to their direct reports in order to keep the human element in the interaction. Connecting with teams via video chat or instituting bi-weekly virtual happy hours is a good way to get teams together. In a virtual environment, there tends to be a trend for more checking-in and “hand-holding”, which can be overlooked in the traditional office setting.

The now and the next

New skills, new ways of working, and a new team ethos are new by-products in the wake of the COVID-19 pandemic. Technology has helped significantly, but it can also present challenges for developing professional networks.

A surprising feature of distant teaming has been the feature of personal check-ins and having more personal conversations before the start of meetings. While distant working has deployed more efficiency, it has also generated a more human environment by more regular check-ins and asking how team members are.

Remote working has been successful, however, the power of in-person communication cannot be underestimated. There is clearly a degree of novelty in the medium of internal communications now, which, over time, may become tiresome.

A key feature of the “now and next” in the development of professional networks is that a successful and agile business needs to balance **the desire to return to the office** with **the desire to continue to work at home** in order to retain and attract new and good talent.

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