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Briefing Paper

RETHINKING ORGANIZATIONAL PROCESSES TO PRODUCE BETTER AGREEMENTS

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Contracts are core to business success. They touch everything and everyone. Whether you are buying or selling something, or you're hiring someone, there's always a contract in the middle.

Contracts are therefore more than just static legal documents; they are a business system and a human process. They are an agreement between people to do something great together. Without agreements, we will have no society, no progress, and no innovation.

In the past 20 years, companies have spent billions of dollars buying software to automate absolutely everything in their company. Everything has been automated but contracting. About 94% of global businesses today still rely on legacy processes, whereby contracts are stored in a filing cabinet and forgotten. Today, we are able to leverage existing technologies such as cloud, online collaboration tools, and e-signature to transform the way businesses manage agreements across their entire organization—from sales, operations, and procurement to legal, HR, and IT. This final frontier of business transformation is a critical one, especially with the backdrop of rapid change across social, economic, political, and legislative forces. By automating the entire agreement process, businesses can directly accelerate growth while reducing time, expense, and risk. In the process, they are empowering brilliant legal minds to become strategic and proactive advisors for their company.

We've sponsored this report by Harvard Business Review Analytic Services to shed some light on the significant benefits this transformation can have on businesses, departments, and people. It highlights the paradigm shift between manually managing contracts and holistically powering agreements, in order to drive business-wide change. Looking into the future, this will enable organizations to create new standards of agreements and become better horizon scanners through powerful data.

There's never been a more important time to transform how businesses manage agreements.



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RETHINKING ORGANIZATIONAL PROCESSES TO PRODUCE BETTER AGREEMENTS

The Los Angeles Philharmonic wanted to fine-tune its contracting process, including getting more staff into the mix. The organization adopted a contract system that has changed its process, cutting through clutter and speeding the routine. “Now just about every department is on board,” says Aly Zacharias, the organization’s staff attorney, and contracts that once took days or weeks to execute, “we sometimes can get done in less than a day. It’s amazing.”

By harnessing advanced cloud technology, contract management platforms are now more versatile, relatively easy to use, and large savers of time and expense for organizations—and a vast improvement over systems designed as recently as five years ago. But advances in technology are only part of the story. Equally important is a rethinking of organizational processes to give a voice to all stakeholders in company agreements, from department heads to sales managers. To reap maximum benefit from today’s platforms, enterprises are increasingly moving to an “agreement ecosystem” model, in recognition of contracts sitting in the middle of buying, selling, and partnering processes.

In short, while contract life cycle management (CLM) systems sought document-level efficiency, the agreement ecosystem model encompasses the flow of people, processes, and documents throughout an organization. Input and feedback on agreements from other departments and even third parties can be linked directly to a single platform accommodating such collaboration—creating an ecosystem that mobilizes and empowers employees across an organization to pitch in on key business initiatives and opportunities.

The gains from this approach have been impressive in their impact on agreements that are being composed, given the ability to simplify and accelerate the exchange of ideas at the heart of any negotiation while enlisting feedback and guidance not just from the legal team but from employees and managers in departments including sales, human resources, procurement, and other operations.

Many of today’s systems are designed to transform the crafting of business agreements into a broadly collaborative, smart, and swift process, with benefits for all concerned.

HIGHLIGHTS

- Advances in contract management systems afford businesses a way to improve decision making, cut costs, and reduce risks.
- Enterprises are embracing an “agreement ecosystem” model in recognition of agreements’ vital role in business culture.



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“The collaboration piece has been one of the historical shortfalls of CLM systems,” says one enterprise software and machine learning executive involved in the CLM space. “Empowering more people to make risk decisions makes it a much better system.”

Agreements are more than static contracts and actually represent a commitment between people. People and organizations make agreements daily—indeed, contracts are as much a result of human processing as of a business system.

But all too often, frictions—such as complexity, inefficiency, and silos—stand in the way of agreements. These frictions carry risk, not just in terms of time and money, but also in terms of lost opportunity. Even the smallest barrier can jeopardize an agreement and, consequently, business success. When it comes to agreements, using technology brings more people and processes into the mix, which is a risk mitigation tool in its own right.

The benefits range in magnitude and type. At the Los Angeles Philharmonic, cross-company coordination has led to tighter oversight, says Zacharias.

For the Global Business Travel Association (GBTA), an Alexandria, Va.-based trade group, there are now analytic tools that give executives and managers real-time, granular snapshots of the group’s far-flung contracting activities.

“We have people all over the world, and having those teams put all their contracts in one place has been quite helpful,” says Gerry Windemiller, the association’s head of global contracts and HR data compliance. “I can actually see how much money is going out per region, and how much money is coming into our main office.”

The Beauty in Transparency

At some companies, such as Rainemakers, a San Francisco public relations shop that began using CLM software a year ago, the benefits have been profound, says the firm’s founder and president, Debra Raine.

“All of our hundreds of contracts are created and negotiated and operated through a single platform,” she says. “The beauty of it is transparency. When I get new customers, immediately we can share a contract. My legal team, my potential customers, myself—we all look in a single place and collaborate on it. Being able to collaborate is huge. Everybody gains. Everything is faster. It’s so easy. And strategically, it really unlocks efficiencies and productivity. There’s an intangible benefit in that it removes the friction of the to-and-fro around pricing and SOWs [statements of work] that can often taint the beginning of a new relationship.”

For the C-suite, the collaborative advantages that contract management platforms—paired with an agreements mindset—produce aren’t mere window dressing. Involving more people with critical knowledge in the drafting of business agreements can lessen the odds a poorly devised provision could surface and bite a company in the wallet, especially because some deals—such as initial public offerings or mergers and acquisitions—can be complex.

The systems “can drive value in commercial operations overall, like the shortening of cycle times and an improvement in win rates,” says Tim Cummins, president of the Ridgefield, Conn.-based International Association for Contract and Commercial

Management (IACCM), a CLM industry trade group. “The value is spread across multiple parts of a business, and it is potentially far more significant than other software tools provide.”

Negotiations Democratized

The digitized contract part of the enterprise software sector needed to change to gain more collaboration involving agreements throughout organizations. A growing acknowledgment of the need for enterprise-wide adoption spawned a new generation of companies focused on speed of deployment, simplicity, and adoption as essentials for creating an agreements mindset.

Today’s platforms afford a broad swath of decision makers and the people in their departments ready access to the latest versions of business agreements in real time, as they are hammered out. Stakeholders in the process—sales managers, procurement officers, and human resources executives, among others—can express comments and concerns in a Microsoft-style note format. They can easily call up and compare previous versions of agreements in the making and read their colleagues’ comments—all viewable in a single queue.

For instance, a sales manager may want to give a longtime customer a 10% volume discount, versus the 5% proposed in an early draft. Or a procurement officer may wish to adjust net terms or delivery time frames. Within limits, senior managers can be allowed to tweak terms and make other red-line edits on their own authority. As a rule, the entire process is overseen by the general counsel’s office, which determines which employees can participate in the dialogue and which are empowered to alter terms, while maintaining final say over the end product.

The widening circle of advice doesn’t stop at a company’s own doors. In another big break with the past, today’s systems make it possible to loop the firms that companies contract with into the conversation as well.

Now, the CLM software executive observes, companies can “get the other party involved in the same collaboration cycle, on the same document, without jumping through hoops,” and this advance has enabled CLM-enabled digital forums to spring up for IPO- and M&A-related work processes.

Vital Tracking

The penalty for breaching terms for big-ticket agreements can run to tens of millions of dollars, so today’s platforms can track thousands of agreements post-signing, reducing searches that once took hours, days, or weeks—if they could be done at all—to seconds. These platforms alert users to existing agreements set to expire soon, while highlighting penalties users may incur if they fail to renew or cancel in time. Most critically, such platforms can detect when users or their counterparties are failing to live up to an agreement’s terms.

Rainemakers’ Debra Raine says those capabilities are vital to her business. “If it takes you a week to find if you’re compliant, you could be out of business,” she asserts. “I need to know that immediately to understand what I can do next.”

New systems also make it easy to frame templates for different agreement types, including confidentiality agreements, licensing agreements, professional services agreements, and statements of work. That



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BEYOND MERELY AUTOMATING AGREEMENT CREATION, TODAY'S CLM SYSTEMS ARE MULTIDIMENSIONAL PLATFORMS THAT FOSTER CROSS-ORGANIZATIONAL COLLABORATION, IMPROVE DECISION MAKING, CUT COSTS, BOOST RETURNS, AND CURB RISK EXPOSURE.

uniformity eliminates the need for legal departments to create every agreement from scratch and has enabled them to move toward empowering other departments. This transition is key to demonstrating that the legal department is an “impact center” and not the cost center handling red tape and compliance that it was traditionally viewed as being.

Still, only about 60% of midsize and large companies have taken the step of shifting from paper contracts to digital, according to the IACCM. Of those, a majority employ CLM software as an online filing cabinet, with just 35% using the systems for purposes other than document storage, the group estimates. Other research suggests the adoption rate is considerably lower. Many CEOs, CFOs, and general counsels remain unconvinced that CLM systems are worth the bother—demonstrating the fallacy of relying on point solutions alone when organization-wide adoption and an agreements mindset are the other two legs of the stool.

The misgivings of those senior executives fly in the face of studies indicating that the latest generation of platforms can slash expenses and improve productivity. Used to full potential, today's CLM systems can yield financial benefits of about 7% of contract value, according to the IACCM's Cummins. He foresees that CLM systems deploying new technology could “soon be delivering

returns equivalent to 10% to 15% of annual revenue for more complex businesses.”

Quiet Revolution

Meanwhile, other changes now afoot in the contract management space could trigger shifts in corporate priorities. Take staffing. The automation of much routine contract work, along with giving employees outside the legal ranks a critical role in producing agreements, could mean companies need fewer lawyers. On the flip side, the time and money saved could free companies to invest more in strategic initiatives that promote growth and drive value. These trends are themselves driving a major reconsideration of the role of legal teams.

“It's a quiet revolution” that hasn't drawn wide attention, says Reena SenGupta, founder of RSG Consulting, a provider of legal research and consulting services. “But it's really exciting.”

A growing number of companies, she says, “are actually realizing the value of getting contracting right.”

Now comes the next step: using efficiency gains from better crafting of agreements to empower people to work together across the enterprise on a wide variety of business agreements.

Today's CLM systems take a big step in that direction. Beyond merely automating agreement creation,

they are multidimensional platforms that foster cross-organizational collaboration, improve decision making, cut costs, boost returns, and curb risk exposure.

“Reducing risk is huge,” says SenGupta. “That's what people tend to miss while automating the contract piece. You may think that if technology is doing it, it's riskier. But it's actually not.”



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