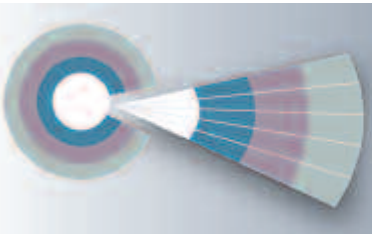


The Gate Opener for the Business

The golden rule is that there are no golden rules.
G.B. Shaw, 1856-1950, Irish critic and poet

Risk comes from not knowing what you're doing.
Warren Buffett, 1930-, American investment entrepreneur

What if a new pharmaceutical product or medical device is developed and trials are completed successfully—a process that usually takes many years and substantial investment—but it does not gain regulatory approval? It will mean a major investment has been squandered. This is why the Regulatory & Legal Affairs function is so important. Other functions within the company can bring a product to the point of regulatory submission, or can support and market it once approval is secured, but it is down to the Regulatory & Legal Affairs team to ensure it can enter and then stay on the market. They have to open the gate to the market—and keep it open.

However, many companies, and especially the marketing functions within those companies, see their regulatory and legal colleagues as traffic cops whose only function is to slow them down, rather than as a route—and the only route—to market access. Often they become aware of the real nature of the regulatory and legal functions only when there is a crisis—when there is a business-critical patent issue, a wave of adverse events, or non-compliant promotional materials or labels, for example. Exchanging information in a crisis is never the best way to operate.

There are three key barriers that need to be overcome to enable the regulatory and legal function to be properly integrated with the rest of the business.

Barrier 1: ***Regulatory & Legal Affairs does not have enough visibility into the rest of the business, and vice versa***

The process of developing and implementing clinical trial protocols, then developing the manufacturing or product sourcing to the required levels of safety and quality, will inevitably involve important legal and regulatory issues prior to a product's launch. Unfortunately, the regulatory and legal team is often kept informed only on a "need to know" basis, especially post-launch. There is an unspoken reluctance to give them full visibility into the business, for fear they will impose constraints on it.

To many functions within the business, Regulatory & Legal Affairs is a mysterious "dark art." Enabling Regulatory & Legal Affairs to see a simple dashboard of business indicators by decision area on a regular basis, and for one of those indicators to reflect legal and regulatory activity so it is visible to other functions, goes a long way to overcome this.

Barrier 2: ***Regulatory compliance and monitoring is viewed as a passive acceptance of rules rather than demonstrating positive value***

Pharmaceutical companies are obliged to comply with a vast number of regulatory rules and to monitor their compliance with those rules on an ongoing basis. However, a static view of that compliance misses the bigger opportunity—to turn the process into something that delivers real value for the business and its customers, both physicians and patients.

The way to do that is often to see through the rules to the market, and how the company's long-term assets (in the form of products) can best be delivered to that market. Early warning that regulatory requirements or patent issues will impact on that delivery, either positively or negatively, is key, and the Regulatory & Legal Affairs team has the specialists to provide that warning.

Don't forget, your competitors have to play by the same rules as you. (If they don't, then your legal team has another important role to play.) This means the regulatory and legal team is there not just to limit your business freedom, but to work with other functions to generate value within the rules. They know the rules of the game better than anyone, and the team needs that if it is to score any goals.

Barrier 3: ***The tension between marketing ambitions and regulatory/legal constraints is not turned into a mechanism for realizing business opportunities***

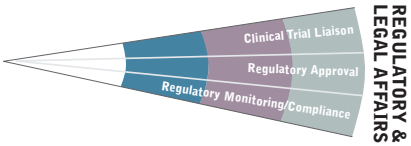
It is usually not the job of Regulatory & Legal Affairs to identify business opportunities. However, it is their job to validate those opportunities and identify the most efficient way of realizing them from a regulatory and legal perspective.

This means there has to be a mechanism for information exchange early in the process of defining those opportunities. It is counter-productive to work on an apparent opportunity for months, only to have it stopped in its tracks at the eleventh hour by a regulatory problem.

Licensing agreements or product line extensions are areas where this tension is thrown into sharp relief. The business has to establish an integrated mechanism to identify, validate, and then realize opportunities in way that is consistent with both the ambitions of the marketing team and the regulatory and legal environment.

Decision areas in Regulatory & Legal Affairs:

- **Clinical Trial Liaison**
- **Regulatory Approval**
- **Regulatory Monitoring/Compliance**



Clinical Trial Liaison

Clinical trial liaison is an upstream decision area for the regulatory and legal affairs function. It concerns both the regulatory and legal issues associated with implementing trials themselves, and the integration of the progress and output of trials with the regulatory submission and approval process.

Clinical trials are often the life's blood of the regulatory process because they provide indispensable evidence to support approval. Anticipating the timing and resource implications of a regulatory submission, which depends on trial data, represents a critical activity of Regulatory & Legal Affairs. Because there is sometimes a disconnect between what is required for regulatory purposes and what the R&D function is focused on, the goal of the clinical trial liaison is to ensure sufficient relevant trial data is available for regulatory approval and that the data is consistent with meeting the regulatory milestones.

Monitoring the approval of trial protocols, reports and extensions, by product and indication, is an important activity. Two specific areas are the enrollment of subjects and the comparator drugs used in the trials, both of which need to be visible to this decision area. A common problem is the number of subjects (for example, in patient subgroups) may be sufficient to demonstrate efficacy from a statistical point of view, but not sufficiently persuasive from a regulatory point of view.

GOALS	METRICS	DIMENSIONS
Completed Relevant Trials (#) Regulatory Milestone Achievement (#, %)	Pre-Clinical Milestones (#) Clinical Trial Protocols Approved (#) Trial Reports Completed (#) Trial Extensions Agreed (#) Enrollment Completion Index Enrollment Completion Date Trial Completion Date Patent Duration	Fiscal Month Year Quarter Month Product Development Milestone Product Line Product Line Project Project/Program Type Project Project Start Date Project Completion Date Project Management Project Team Project Manager Project Member Product comparator(s)

Importantly, the clinical trial liaison area needs to be aware of the patent duration. This might influence the form or timing of the clinical trial program, particularly if there are several different patents applying to the same product. The legal affairs team can offer valuable input into this process.

FUNCTION	DECISION ROLES	PRIMARY WORK	CONTRIBUTORY	STATUS
Regulatory Affairs	Executives	•		
	Managers	•		
	Analysts	•		
Finance	Executives			•
	Analysts		•	
Marketing	Executives			•
	Professionals		•	
Sales	Executives			•
	Professionals		•	
Clinical Trails	Executives			•
	Professionals		•	
Contract Research Organization	Executives			•

Regulatory Approval

Securing regulatory approval is the biggest rate-limiting step in bringing new pharmaceutical products to market—including new formulations such as different dosages or delivery mechanisms, as well as new drugs themselves and new indications for existing drugs. Requests from the regulatory authorities for further data are also often a source of major delays.

This decision area is the most important gate for the regulatory and legal affairs team to open. To do so in a proactive and demonstrable way, they need to capture detailed ongoing data on submissions.

Tackling this decision area is also key to expanding the geographic coverage of drugs already approved in some markets but not in others. Increasingly, regulatory authorities are looking across their national boundaries. Being aware of the impact of approval progress in one market on the regulatory climate in another requires high visibility and regular tracking of submissions and any associated controversies.

GOALS	METRICS	DIMENSIONS
Approved Drugs/ Formulations (#) Geographic Market Entries (#)	Approval Submissions (#) Further Data Requests (%) Successful Submissions (%)	Approval status Region/Territory Therapeutic Indication Fiscal Month Year Quarter Month Product Development Milestone Product Line Product Line Project Project/Program Type Project Project Start Date Project Completion Date Project Management Project Team Project Manager Project Member Product comparator(s)

FUNCTION	DECISION ROLES	PRIMARY WORK	CONTRIBUTORY	STATUS
Regulatory Affairs	Executives	•		
	Managers	•		
	Analysts	•		
Finance	Executives			•
	Professionals		•	
Marketing	Executives			•
	Professionals		•	
Clinical Trials	Executives			•
	Professionals		•	

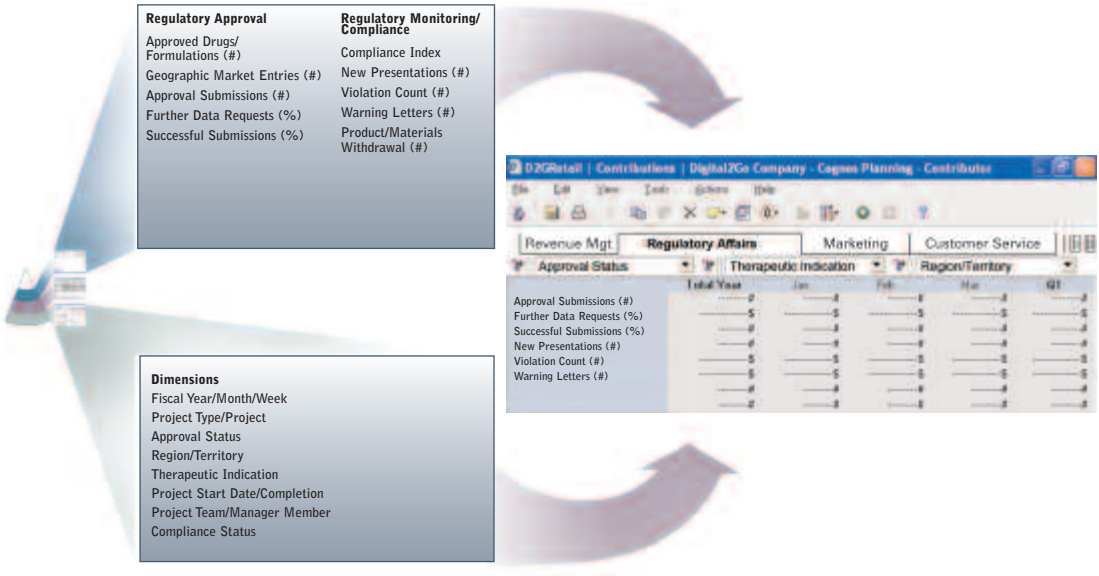
Regulatory Monitoring/Compliance

Once regulatory approval has been secured, this decision area becomes highly important, in order to keep the gate to the market wide open. A key goal here is often to maximize a product franchise by introducing new presentations—and the ease with which these are approved depends on the extent and accuracy of regulatory monitoring.

For the ongoing business, the regulatory and legal affairs team has to ensure compliance of the product manufacturing process, its packaging and promotion to conform with rules such as the Federal Drug Administration's New Drug Application (NDA) rules in the U.S. They also have to ensure the compliance of activities in the research pipeline.

GOALS	METRICS	DIMENSIONS
Compliance Index New Presentations (#)	Violation Count (#) Warning Letters (#) Product/Materials Withdrawal (#)	Compliance Status Product Information/Promotion Material Research Pipeline Region/Territory Fiscal Month Year Quarter Month Product Line Product Line Project

FUNCTION	DECISION ROLES	PRIMARY WORK	CONTRIBUTORY	STATUS
Regulatory Affairs	Executives	•		
	Analysts	•		
	Professionals	•		
Audit	Managers	•		
	Professionals	•		
Clinical Trials	Executives			•
	Professionals		•	
Marketing	Executives			•
	Professionals		•	
Production	Executives			•
	Managers		•	
Sales	Executives			•
	Professionals		•	



The Regulatory Approval and Regulatory Monitoring/Compliance decision areas illustrate how the Regulatory and Legal Afffairs function can monitor its performance, allocate resources and set plans for financial and operational targets and controls.