Savvy Contract Management Can Help You Weather an Economic Crisis

Commercial and Contracts

Law Department Management

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Let's face it: Nothing good (or bad) lasts forever. The longest economic expansion in US history lasted more than 10 years, peaking in February 2020. But the COVID-19-induced recession was the shortest ever recorded, ending after just two months as economic expansion began again in May 2020.

Given this history, we've experienced more than 12 years of mostly booming economic times, as evidenced by these examples, just to name a few:

- Venture capital investment has been on an upward trend since 2006, peaking at US$95.4 billion in the fourth quarter of 2021.
- The US S&P 500 has averaged an annual return of 14.7 percent over the last 10 years.
- As of late 2021, major economic indicators US gross domestic product (GDP), unemployment rate, and average wages) have been collectively improving for years.

These good economic times have made things easier for businesses overall. Money has been cheap to borrow and, as a result, many organizations have had cash on hand to invest back into their operations. And yes, this means buying products and services from other businesses. Typically, those products and services come along with a contract, which is where you come in.

As inflation and interest rates rise, businesses are tightening their belts to prepare for the leaner times they expect are on the way. This can mean anything from terminating business relationships they view as luxuries rather than necessities, to trying to negotiate more favorable contract terms for the products and services they know they *must have* in the coming years.

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Because much of the potential changes relates to (and depends on) the type of contracts in place, your role as GC becomes even more important to your organization’s revenue. You may get pulled into meetings with your CEO, chief financial officer, and others, and thrown questions about the state of your current customers’ contracts and areas of risk. This is where your internal contract management process can make or break your ability to provide timely, accurate, and complete answers.

Assessing potential terminations

Businesses know that when economic conditions harden for their customers, it's going to cause those customers to evaluate their spending on products and services large and small. Most businesses expect a certain percentage of customers will be looking to reduce their spend, if not to terminate their contract entirely. This is where having clear, accurate, and real-time insight into your contracts is a huge advantage.

You’ll probably be asked to report on:

- How many of your customers’ contracts include termination for convenience?
- What’s the notice requirement of those terminations?
- How much of the business’s revenue is at risk if customers with 30-, 60-, or 90-day termination clauses exercised that option right now?

Your leadership needs answers, and many more, and they don’t want to wait until economic conditions reach the point at which customers are *actually* looking to terminate their contracts. With a digital contract management solution in place, you should be able to get answers to these questions quickly — like easily identifying which customers have termination rights, thus making them more susceptible to economic-induced churn.

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Armed with that information, the legal department can advise the broader business to put their focus where it matters most. For example, account executives can prioritize customers with convenience termination and begin relationship-building conversations and activities. Customer success teams can make sure these customers are engaging and realizing the most value from their purchase. Sales teams can even preempt cancellation fears by working to renegotiate these at-risk contracts to ones with longer or more favorable term commitments. Digitally-pulled spreadsheets can provide termination data without manual and tedious hours spent (likely on your part) sorting through contracts and compiling reports of the most vulnerable customers by hand.

Examining renewal cycles and auto-renew contracts

Many companies use subscription-based models for their revenue. In these cases, it becomes critical to understand your current and future renewal cycles. The issue becomes even more important in hard economic times, as some customers may be considering not to renew as a cost-savings measure.

If your business is subscription based, your leadership is going to want to know as quickly as possible how many customers have auto-renewing contracts versus contracts that require new signatures each term. They'll want the schedule of upcoming renewals looks like for the next 30, 60, and 90 days, so they can ramp up sales motions around customer retention. With a digital contract management solution, you can create reports with all this information and more in a matter of minutes. You don't have to tie up internal resources with manual reviews and reporting. Above all, having access to this information at your fingertips allows the team to focus on getting in touch with the right customers at the right time instead of hunting for the information they need to target the most appropriate customers.

Contractual considerations that envelop cost-saving measures

During tough economic times, many businesses turn their focus to retaining their current customers. After all, it costs more to acquire new business than to retain current business, so customer retention is often the best bang for your buck. This is especially true for organizations that know their product or service is one many people won't choose to newly invest in when money is tight. All the more reason to keep your current customers as customers as long as possible.

Logic dictates that a great way to help keep your current customers happy and retained is to not raise prices. But how does a company do that when the price of everything is going up? Companies are inevitably going to be looking for ways to find cost-savings within their own operations as one way of keeping prices stable for customers.

A digital contract management solution can actually help you achieve this goal in three distinct ways:

1. Reduce time (and money) spent managing contracts.

Companies that implement high-tech solutions, and use them to their full advantage, often see an immediate cost-savings by reducing manual labor. At Vertafore, where this author previously worked, we automated the organization and filing of our contracts into a digital contract database that provided the business with self-service access to contracts and key terms. This resulted in an average of 1,100 requests between non-legal users and the contracts database each month. At an estimated time of 10 minutes per request, that equals 275 hours of time back to the legal department, hours that would require two full-time staff resources to support.

2. Improve the employee experience.

When you provide your legal team with tools to accomplish the equivalent of hours of manual effort in minutes, you reduce unnecessary work. This in turn keeps employees happier which can lower employee turnover and save money. Employees who feel they're doing valuable work — not menial tasks — will be more engaged, productive, and ultimately bring more money into the organization.

3. Identify opportunities for cost-savings that don’t run afoul of your contracts.

In an attempt to keep prices stable, companies often look for ways to provide the same level of service for less money. In many cases, this can mean outsourcing services to overseas operations. As counsel, you know that customer contracts often include terms and conditions around what you (as a service provider) are permitted to outsource, particularly as it pertains to offshore resources.

With a digital contract management solution, you can quickly search all contracts and identify those with terms that would require you to (for example) provide notice of changes to the location or type of subcontractors used.

Evaluating US consumer price index limits

The reality is, sometimes cost savings are simply not enough. Many businesses also rely on price increases to keep their operations afloat, pay employees, and invest in their own products and services — among many other necessary functions. This is even more true in times of higher inflation, as the cost of doing business increases and cuts into your bottom line.

With the US consumer price index (CPI) hitting record highs, businesses are looking to understand how this economic measure impacts their ability to raise prices. Your company might have contractual stipulations related to CPI, both in terms of price uplifts tied to it, or limited by it. Businesses will turn to you, their legal department, to understand these contractual rights and obligations.

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If you’re using a digital contract management solution, you’re well-positioned to efficiently gather fact-based advice for your internal business partners using a contract repository that spits out CPI limits.

Must-have features in a contract management solution

Among the capabilities to look for, these are key:

- **Fast execution.** You can’t afford to take years to get your contracts in order. Choose a solution that positions you to know what’s in your contracts sooner than later.
- **Digitization.** Getting all existing agreements digitized provides the immediate benefits of being able to search all of your documents for any keyword term of relevance.
- **Reporting.** Having a data model for your digitized contracts will allow you to understand key terms across all contracts and easily report out on them to the business.

In today’s world, it might sound cliché but it’s true: The only thing certain is uncertainty. Experts often disagree over how severe and lengthy economic downturns may turn out to be. The decisions your company makes relating to your contract management process now can work in your favor tomorrow.

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Foster Sayers is vice president of legal operations for symplr. His career includes 15 years of in-house legal experience that began as a staff attorney for Mainline Information Systems, IBM's largest channel partner in North America, and he most recently was general counsel and chief evangelist for Pramata Corporation and before that legal counsel for private equity-backed Vertafore.

He also has experience as an entrepreneur and inventor, having founded two companies (including his most recent venture, Tactile VR) and is a first-named inventor on three US patents and a Canadian patent. He is published author and speaker on topics such as contracts, cybersecurity, employment practices, ethics, and artificial intelligence.