

Flexible Contracts for NWOWS Implementation: A Good Idea Only at First^{1, 2}

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ABSTRACT

New Ways of Working (NWOWs) bring a fresh look to the methods of work, with the great development of teleworking, co-working in third places and non-fixed offices. Their implementation by companies through a project brings a question about the management of contracts with the different stakeholders of this project. We analyse and compare the traditional approach of negotiating contracts, a new approach based on flexibility, and the possibility to create an informal change. This paper shows that even if the project is about a flexible and innovative product/service implementation, the traditional negotiation of every need and outcomes of contracts with every stakeholder is still an appropriate approach.

Keywords: Adapting contract, Project management, Co-working & teleworking, Big company, Flexible contracts, Third places, Change management

INTRODUCTION

In 2011, a study revealed that between 20 and 35% of employees of Anglo-Saxon companies were working at home, according to Felix Traoré. Teleworking is an increasing practice and is considered as part of the New Ways Of Working (NWOWs). NWOWs especially correspond to a global change in the ways of working, promoting flexibility in terms of time, space and management, autonomy, and nomadism.

This model, used to be mostly attributed to start-ups and small companies may be visible with teleworking, co-working and creation of third places for example. Since about a decade, NWOWs (New Ways Of Working) are being more and more implemented in big companies.

In this context, the promotion of these new practices to employees passes through a project in the company. In big companies, it is usually upon the wish of top management or the Human

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Resources (HR) division, and covers many aspects of the company's life. Indeed, NWOWs may be implemented for example through the authorizing and / or the promotion of teleworking, co-working in third places or even creating a third place within the company's building, and the abandonment of fixed offices for employees within the building. These examples constitute the physical and visible aspects of the NWOWs, to which interest is given in this paper.

A project toward NWOWs implies to reconsider existing contracts, and to establish new ones, especially in terms of Information Technology (IT), HR, Procurement and Facility Management. It is thus considered that Contract Management becomes an important part of the said-project. Unlikely, it mostly appears that each department arranges or adapts existing contracts, or creates new ones, by its side. Contract management should then inquire about the changing or new needs consequential of the establishment of NWOWs and then adapt contracts, or create new ones, in collaboration with departments.

1. Problem definition

To summarize, this research paper aims to analyse and answer the following issues:

- What areas of companies are the most affected by NWOWs?
- What solutions may be used to be able to adapt contracts to the needs, quickly and simply?

METHODOLOGY

To understand what areas of companies are the most affected by NWOWs, we should understand what are NWOWs and their consequences on the Business-As-Usual of big companies. Then, we need to explore three different alternatives possible to manage contracts during a project of implementation of these NWOWs. We will use in this research paper some previous studies, experiences of a Facility Management company, magazines articles and some academic databases such as Scholarvox.

To express if the alternatives are appropriate or not, we develop a multi attribute decision making tool. This will allow to analyse each alternative in terms of the attributes, and so to choose the preferred one.

2. Development of the Alternatives

We will first detail and give examples of NWOWs. Then, we will focus on how to manage contracts of a project of company which wishes to implement them. We will thus be able to develop 3 alternatives or hypothesis about the management of the contracts with the different stakeholders:

- *Negotiation an existing contract*
- *Negotiating the creation of a flexible contract*
- *Making the change informally*

3. Development of the outcomes and cash flows for each alternative

The first alternative to the problematic explained is to follow what we can consider as a “traditional approach”. It may firstly consist in the ***adaptation of an existing contract*** with the supplier of Facility Management, the network or the employee for example. It thus simply implies to establish a contract amendment which answers the new needs. It is discussed between the parties involved and when an agreement is reached, it is signed. The existing contract is then considered with the new amendment.

This alternative may secondly be the breach of the existing contract, and then the creation of a new one. This new contract is discussed between parties and may re-use clauses of the existing contract, remove and create other ones.

The second alternative corresponds to the ***creation of a new type of contract: flexible ones***. They include clauses which involve at least a variable, to answer the changing needs of a company. NWOWs are still evolving and companies may not want to change or adapt the contracts each time they implement a NWOW. Flexibility should not only refer to the legal issue, but especially to a communication mean.

For example, one of the main areas affected by the NWOW is the IT, with the network security. Teleworking and co-working in a third place raise the issue of data safety. The contract with the network supplier must then be adapted or changed to answer this new need for reinforced protection of the company’s information.

NWOWs can also lead to a decrease of the number of equipment used. In that case, a company can decide to renegotiate the contract with the supplier of screens available at each work station. The company can have a flexible contract to rent the appropriate number of screens, according to the needs of the month for example.

The third alternative consists of ***making the change informally***, and so to launch the project to promote and establish NWOWs but to do nothing about contracts. The change would then be informal in terms of legal issues.

4. Selection of criteria

To analyse the 3 alternatives detailed earlier, and to be then able to decide which one appears to be the most appropriate to manage contracts for NWOWs implementation project, we can use a ***multi-attribute decision model based on satisficing requirements*** to eliminate any poor alternative.

The attributes are criteria which appear to be the most effective to understand how appropriate each alternative is. They are:

- The ***cost for the company***: we take into consideration the cost to negotiate, to implement and to use the contract.

- The **risk taken by the company**: we consider the risk in the case the contract does not meet legal requirements, does not ensure fit-for-purpose...
- The **ease of implementation and use**: we question the efforts needed to implement the contract, with change management needed for example, or the adaptability of the stakeholders.
- The **time needed by the company to implement**: we focus on the time efforts needed for the negotiation, the implementation and then the use of the contract. For example, if the contract must be re-negotiated every time new needs appear, this is time-consuming.
- The **fit-for-purpose for the company**: we consider the consistency of the solution with the needs, at the time of signature and after
- The **reusability of the contract**: we question in what measures the contract can be used, in different contexts/situations

We thus obtain this table:

Attribute	Alternative 1: negotiation of an existing contract	Alternative 2: creation of a flexible contract	Alternative 3: informal change
Cost	Good	Fair	Excellent
Risk	Excellent	Fair	Poor
Ease of implementation	Excellent	Fair	Fair
Time	Fair	Fair	Fair
Fit-for-purpose	Excellent	Good	Poor
Reusability	Fair	Excellent	Poor

Figure 1: qualitative analysis

The table is filled in with a color code and qualitative attributes, as follow:

- A green score indicates that the attribute has an excellent or a good impact on the company
- An orange score indicates that the attribute is globally fair
- A red score indicates that the attribute has a poor impact

The minimum acceptable criterion is to have no red-coded attribute for the alternative. So, we eliminate the third alternative, which has 3 red-coded attributes.

FINDINGS

5. Analysis and comparison of the alternatives

We begin our analysis of the alternatives by a brief reminder of what NWOWs are. NWOWs are those methods of working linked with the development of technologies which focus on the flexibility, the teleworking, the wellbeing at work and the modernization of working tools. It was mostly developed and supported by Bijl, Flamend and Lamers between 2011 and 2013. It supposes that the employee can choose to work where, when and how he/she wants. This contributes to a better wellbeing of employees and, thanks to an increased motivation, to the development of organizations.

Major areas affected are the IT, with the power of networks needed, the security of data, the procurement, with the type of tool and equipment needed for the NWOWs, the HR with the working contracts with employees, the facility management with the amount of space and its design. As a consequence, legal area is also concerned with the contract management. We thus look for determining how to manage contracts properly during this type of project and implementation.

The alternative 3 was eliminated, because it has too poor consequences for the company. We now need to determine which alternative, between the first and the second one is the most appropriate.

We so must answer the following question “*What solutions may be used to be able to adapt contracts to the needs, quickly and simply?*”

We can now compare the two remaining alternatives. To recommend the best alternative to manage contracts for the implementation of NWOWs within big companies, we produce a quantitative analysis with the *relative weighted technique*. We use the same attributes as for the previous figure. To be able to perform weighted product model, we convert the color code and qualitative classification into a quantitative analysis. We consider this conversion:

- Excellent = 1
- Good = 0,67
- Fair = 0,33
- Poor = 0 (since we eliminated the alternative 3 because it has attributed categorized as poor, there will not be 0 notation)

We thus obtain this quantitative analysis:

Attribute	Alternative 1: negotiation of an existing contract	Alternative 2: creation of a flexible contract
Cost	0,67	0,33
Risk	1	0,33
Ease of implementation	1	0,33
Time	0,33	0,33
Fit-for-purpose	1	0,67
Reusability	0,33	1
SUM	4,33	2,99

Figure 2: quantitative analysis

From this quantitative table, we can compare the two alternatives in correspondence with what attributes are important to the companies. To better analyse the alternatives and their appropriateness to the NWOWs implementation project, we use a *additive weighting model*. We obtain a table as follows:

Attribute	Step 1	Step 2			Alternative 1: negotiation of an existing contract		Alternative 2: creation of a flexible contract	
	Relative rank	Normalized Weight (A)			(B)	(A) x (B)	(C)	(A) x (C)
Cost	3	3/21	=	0,14	0,67	0,10	0,33	0,05
Risk	4	4/21	=	0,19	1,00	0,19	0,33	0,06
Ease of	5	5/21	=	0,24	1,00	0,24	0,33	0,08
Time	2	2/21	=	0,10	0,33	0,03	0,33	0,03
Fit-for-purpose	1	1/21	=	0,05	1,00	0,05	0,67	0,03
Reusability	6	6/21	=	0,29	0,33	0,09	1,00	0,29
SUM	21		SUM	1	SUM	0,70	SUM	0,54

Figure 3: additive weighting model analysis

6. Selection of the preferred alternative

In the figures 2 and 3, we may observe that the rank of the attributes indicates what is important to companies, and in what ways alternatives are responding to this. From the relative weighted technique shown in figure 2, the alternative 1 is better than the alternative 2. Considering $4,33/2,99 = 1,45$ and $1,45 * 100 = 145 \%$, the first alternative is 145% times better than the second one.

Now, let's take into account that importance of some attributes, and use the figure 3 with the additive weighted technique. This time, considering $0,70/0,54 = 1,30$ and $1,30 * 100 = 130 \%$, we may conclude that the first alternative is still better than the second one, but "only" by 130%.

From both tables, *the first alternative, negotiating an existing or a new contracts using the traditional approach is preferred.*

CONCLUSION

NWOWs are the symbol of the new technology and of the new wish of employees: the ability to work at anytime, anywhere and with any device. We could think that NWOWs require a type of contract management, to allow more flexibility and fast adaptability.

In this paper, we aimed to determine if the implementation project of NWOWs in companies should be aligned with the creation of flexible contracts, or if the traditional should be kept. Our objective statement was to answer these two questions:

- What areas of companies are the most affected by NWOWs?
- What solutions may be used to be able to adapt contracts to the needs, quickly and simply?

Firstly, the areas mainly affected by NWOWs in big companies are Human Resources, Information Technologies, Facility Management and legal. Moreover, the company is taking risks and the project implies the commitment of efforts, time and costs.

Secondly, we developed three alternatives: *negotiating an existing contract*, *creating flexible contracts* and *making informal change*. Using different methods of analysis and comparison, we determined that the first alternative is preferred. The flexible contract management seems to be too vague, costly and time-consuming to be able to assist the project of NWOWs implementation in a company. The first alternative, *negotiation an existing or a new contract* is the best one.

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