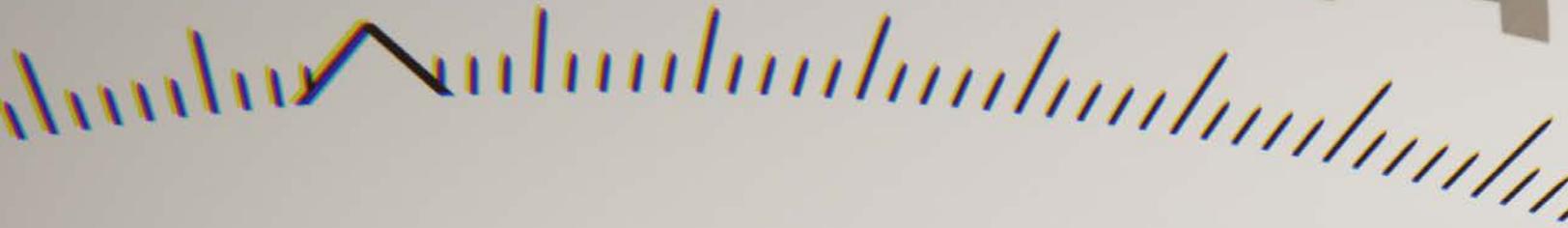


On Leadership

An Interview with
Kenneth C. Frazier,
President and CEO
of Merck & Co., Inc.

By Ann C. Mulé, Veta T. Richardson, and Brent Thomas

-LEA



DERSTHIP

Ken Frazier has had a distinguished career — first in law and then running a multinational corporation. After graduating from Harvard Law School, he was hired as an associate by the Philadelphia firm Drinker Biddle & Reath, where he worked in the litigation department and was later elected a partner. From there, in 1992, Merck & Co., Inc. recruited Frazier to serve as vice president, general counsel and secretary of the Astra Merck Group. In 1994, he assumed leadership of the company's public affairs office, before moving to the role of senior vice president and general counsel in 1999 and overseeing trial strategy for the Vioxx litigation. In 2007, Frazier was tapped to lead Merck's largest division, Global Human Health. He was named president of Merck in 2010, and at the beginning of 2011, he was named CEO and elected to the company's board of directors, where he currently serves as chairman. Frazier also serves as an independent director on the board of ExxonMobil.

Career Development and Leadership

Veta T. Richardson: At ACC, as you know from your time as a member, we focus on in-house counsel, including general counsel. Our service model is based on helping GCs connect with and learn from one another to become better leaders and offer greater value to the corporations they serve.

Given your distinction as one of a handful of former general counsel who now serves as the CEO of a major global corporation — as well as an independent director of one of the world's largest companies — our members would benefit greatly from your views on leadership, career development, and, of course, the role of the general counsel as an invaluable asset and ally to corporate leadership.

To start, let's focus on leadership and career development. We're interested in the people, events, or personal experiences that helped influence your view of what it means to be a leader. Please tell us about some of your early influences.

Ken Frazier: Like a lot of people, my earliest influences were my parents. I grew up in the inner city of Philadelphia. My mother died when I was 12. My father, who was born in South Carolina in the early 1900s and had what passed for a third-grade education, worked as a janitor. After my mother passed, he had to play both roles. There were not a lot of single parents, especially single dads at the time. He had *extremely* high standards. Believe it or not, those standards did not make me very popular with my peers. You could call it a "leadership crucible."

"Ultimately, I realized that what's most important is to be a learner. Many people know a lot about a little, but there are only a few people who know a little about a lot and can see the company broadly. This was critical to the idea of why I eventually became CEO."

Those standards carried over to influence my professional conduct. Like the decision I made early in my tenure as Merck's CEO to continue investing in R&D for the long-term versus focusing on short-term quarterly performance — I took a beating from shareholders, but I was comfortable making that decision.

VTR: After you came to Merck from a law firm, it seems like you were entrusted with a lot of responsibility early on and you rose through the ranks quickly within the law department.

Did it feel that way to you, too? And how did you distinguish yourself in order to be selected for increasing opportunities?

KF: Well, it is important to remember that before I was selected to be general counsel of the company, I worked outside the legal department in public affairs from 1994 to 1999. The job involved everything from communications and public policy to government relations and philanthropy.

There was a lot of uncertainty around my decision to shift my career path away from legal because I had been a litigator.



“You build credibility and distinguish yourself by being an excellent lawyer. That means that you have great judgment, that you’re courageous and willing to take a stand when necessary, that you’re ethical and have integrity. Overall, it means that you truly care about the law more broadly — that you care about what the law stands for.”

In fact, when I was recruited for the public affairs position by Merck’s then-CEO, I tried to convince him that I belonged in the law department. He disagreed and told me if I wanted to remain a litigator I should have stayed at the firm.

I was encouraged to expand my skills and learn another side of the company. Ultimately, I realized that what’s most important is to be a learner. Many people know a lot about a little, but there are only a few people who know a little about a lot and can see the company broadly. This was critical to the idea of why I eventually became CEO.

Back then, it was a chance to be a part of Merck and see the company from a different perspective, and it became a pivotal point in my career.

VTR: What skills or abilities did you call upon and, looking back, feel were most important to being selected to head the biggest division in the company?

What skills helped you transition to that key, non-legal role?

KF: They did not hire me to lead the Human Health division or to serve as CEO because of my legal skills. I was selected because of the breadth of my perspective about Merck and what it takes to lead.

I always felt that I was willing to step into a void, to take a risk despite any uncertainty or unpopularity surrounding that void. I use my values to guide my decisions.

VTR: Do you feel anxiety when you’re taking a risk?

KF: Of course, I feel anxiety, but I never let it stop me. You either step into that void or you don’t.

VTR: The best general counsel — and without question, you

“There are three things I look for in people when considering them for senior management: First, that they have the skills and professional expertise needed by the company; second, they have business acumen; and third, they have excellent leadership skills.”

are counted among the best — build respected reputations (1) with their peers as a strategic, business savvy C-suite executive, (2) with the board of directors as a respected voice, (3) with the members of the law department they lead, and (4) within the wider legal community. What advice do you have for someone in the GC role, perhaps someone who may even be newer to the role, about how to build leadership credibility with these four different audiences? How should she go about it?

KF: You build credibility and distinguish yourself by being an excellent lawyer. That means that you have great judgment, that you’re courageous and willing to take a stand when necessary, that you’re ethical and have integrity.



Overall, it means that you truly care about the law more broadly — that you care about what the law stands for.

Take Bruce Kuhlik [Merck's former GC] and Michael Holston [Merck's current GC] for instance, both of whom are outstanding lawyers. They're "real lawyers" — not just "company lawyers."

Look at their past experience in government and private-sector practice. They have real stature because of what they *did*. They are well known across the

country because of what they *did*.

Here at Merck, I think our GCs are held to a different standard than GCs at other organizations. It speaks volumes that half of the CEOs who were not members of the Merck family previously served as general counsel here and were promoted from within.

They first have the background to demonstrate that they are undeniably first rate. They inspire confidence and trust from their peers. People look up

to them both inside and outside the company.

VTR: What characteristics do you look for when promoting people to senior management?

KF: There are three things I look for in people when considering them for senior management: First, that they have the skills and professional expertise needed by the company; second, they have business acumen; and third, they have excellent leadership skills.

According to recent research conducted by ACC, general counsel at a wide variety of companies do not report directly to the CEO. They also might not regularly attend meetings with other C-level executives or the company's board of directors. From ACC's perspective, a GC not being involved in the decision-making process can be a major misstep on behalf of corporate leadership and the board. Thus, ACC has partnered with the John L. Weinberg Center for Corporate Governance at the University of Delaware to explore the role of the general counsel from a governance perspective.

Ann Mulé: I was surprised to learn that it is not uncommon to see the GC reporting to a chief financial officer or chief administrative officer. Furthermore, the GC may or may not consistently be invited to attend board meetings. Do you have an opinion on this reporting structure?

KF: What do you think that says about the profession?

I think lawyers have become technocrats with narrow roles; they are no longer seen as the advisors, no longer the wise counselors. When people ask "why would you want to have lawyers in the room?" I automatically think: Why would you *not* want to have your lawyers in the room? Business is more global than ever before, and business decision-making is more multi-dimensional and

more multi-disciplinary than ever before. Yet at the same time, young lawyers are being trained to have very narrow areas of expertise and not to think broadly.

The lawyer is trained to be the expert on certain defined topics or rules.



“The GC has always reported directly to the CEO at Merck. The GC should report to the CEO. That access is incredibly important. Without access to the CEO, you aren’t meeting your basic responsibilities as the GC to provide effective counsel. In fact, not having that access and support is especially detrimental to the legal department as a whole. If the CEO isn’t listening to the lawyers, neither will anyone else in the organization. Setting the appropriate tone from the top is essential.”

VTR: Do you think the regulatory environment is contributing to that?

KF: No, I think it’s the way that firms are developing their lawyers now. People don’t look at lawyers the same way they did 50 years ago. You don’t see as much rotational learning.

Frazier’s Reporting Model

AM: Now you are the CEO and you serve as chairman of the board at Merck. As such, you get to make choices regarding the executives who report to you and influence whether the company’s GC gets to attend meetings of the board of directors. Is it important that Merck’s GC have a seat at the chief executive’s table as well as the board table? On a scale of 1-10, with 10 being most — or critically — important, and 1 being not at all important, how would you rate the importance of the general counsel:

AM: Directly reporting to the CEO?
KF: 10

AM: Having a seat at the table when the CEO and the others members of the executive team engage in strategic discussions?
KF: 10

AM: Having regular, direct access to the board of directors?
KF: 10

AM: Having a seat at the table for all board meetings?
KF: 10

AM: Having a seat at the table — either personally or through a senior counsel — in order to enjoy meaningful access to board committee meetings?
KF: 8

They want to cultivate narrow specialties and expertise in order to charge more money for junior lawyers, to justify that cost. Lawyers are thinking too narrowly.

AM: When you were general counsel, did you report directly to the CEO? And if so, how important was that level of access to your ability to meet the responsibilities of your role as the general counsel and grow as a leader yourself?

KF: Yes, I reported directly to the CEO. The GC has always reported directly to the CEO at Merck. The GC *should* report to the CEO. That access is incredibly important. Without access to the CEO, you aren’t meeting your basic responsibilities as the GC to provide effective counsel.

In fact, not having that access and support is especially detrimental to the legal department as a whole.

If the CEO isn’t listening to the lawyers, neither will anyone else in the organization. Setting the appropriate tone from the top is essential. Without the input



of the GC, companies have a tendency to go in the wrong direction. Most people — that is, non-lawyers — don't know when they have a technical legal problem, and if you only show up in the rare — and often obvious — instance when they do realize it, well, it becomes a vicious cycle. Instead, businesses turn to consulting firms and investment bankers, which is *horrifying* because they don't have the same ethical obligation to the company that lawyers have.

"In fact, having a seat at the table is the minimum."

AM: How can a GC go about changing this if she currently does not report to the CEO?

KF: Earn your way into the room. Take responsibility as a professional. The transition from lawyer to businessperson should be seamless. At Merck, I was expected to be a businessperson the whole time. After all, the problems we are solving are rarely purely legal problems. We expect holistic thinkers. The legal profession as a whole is not adjusting to the current reality. Business is increasingly global.

Supply chains are increasingly global. With the rise of the internet, trade and ideas easily go beyond international boundaries. Information is everywhere. Traditional barriers simply don't exist anymore. But I digress. This is all to say that GCs should absolutely report to the CEO. No question.

AM: How about access to the board of directors? As the GC, were you at the table for all board meetings? Were you or a member of your staff present at all board committee meetings?

KF: Absolutely. In fact, having a seat at the table is the minimum. It's really important to have direct access to individual directors. That way, you're able to counsel the board directly. You can reach out to them to discuss issues.

You're not going around the CEO, because the CEO is supportive of you developing these personal relationships with directors.

During the Vioxx issues, for example, I regularly reached out to board members to advise them and keep them informed. There should be constant interaction. With our board

members here, I think their first instinct is to call Mike [Holston] if they have a question. I support that wholeheartedly. After all, it's part of risk management. You need strongly wired connections.

Leadership and Measuring Success

VTR: We would like to conclude our interview by hearing how your role as a leader feels differently when you are the CEO versus a member of the board of directors, and how you measure your success as a leader.

AM: How is leadership different in these roles? Are you drawing upon the same skills, or are there unique skills that are necessary for one role more so than the other?

KF: The two roles are very different. As CEO, it's my job to create an environment where the management team can provide input and give advice.

Ultimately, it's my job to decide and implement, to balance the needs of the different stakeholders, customers, investors, board members, and patients. My job is to meet needs, not demands.



As a director, my role is completely different than my role as CEO. It's not my job to run the company. "Nose in, fingers out" is a good motto.

Regardless, it's important to establish your role in the discussion, to make it clear which hat you're wearing, whether that be as CEO, board chair, or director.

VTR: How will you measure your success as a leader in general — what guides you now that you have the benefit of so much experience and perspective as a leader?

KF: Because of the importance of what we do at Merck as a company, I have two metrics by which to measure success during my time leading Merck:

1. How many people do we help?
2. How much help did we give them?

I want to be able to say that I was a good steward of an organization that serves as a tremendous force for good.

We truly care about our patients. Of course, I'm not naïve about it being a business. But there's a reason I keep a

framed copy of *TIME* magazine from 1952 in my office. George W. Merck is on the cover of that issue. Back then Merck was not a big company. It was a big deal for him to be noticed and to make the cover of *TIME*. And there's a quote from him: "Medicine is for people, not for profits." We embraced that philosophy, and the profits followed. That is our galvanizing ethos.

Take the development of the Ebola vaccine, for example. We didn't do it for the profit. There was no profit. But we had the expertise and the resources to do it, and people were dying. Same thing regarding the drug that is helping to eradicate river blindness, which is caused by a parasite and largely strikes in villages of poorer, developing populations. One of Merck's scientists won the Nobel Prize for finding that cure. I used to think that one of the most important things I had done in my life — aside from my family — was getting an innocent man off death row. And I don't mean to undermine how important that was to him and to his family whatsoever, because our families have gotten to know one another and I have experienced that impact.

But now, as CEO of Merck, the scale is so much greater. There is so much we can do for so many people. Ultimately, that is how I will measure success.

The Association of Corporate Counsel (ACC) is working with the John L. Weinberg Center for Corporate Governance at the University of Delaware to explore the role of the general counsel (GC) from a governance perspective.

Together, we are examining the views of chief executive officers (CEOs) and directors at large multinational companies regarding the importance of GCs regularly participating in meetings with CEOs, other C-level executives and board members — a seat at the table, so to speak. Veta T. Richardson, president and CEO of ACC, and Ann C. Mulé, associate director of the Weinberg Center, previously chief governance and compliance officer, assistant general counsel and corporate secretary of Sunoco, Inc., interviewed Ken Frazier, president and CEO of Merck & Co., Inc., to capture his thoughts on the evolving role of the general counsel, as well as his views on leadership and career development. This is one in a series on model governance practices.

ACC wishes to acknowledge Mary Blatch and Brent Thomas for their editorial contributions.

For additional information, visit www.acc.com/governance.

