inquiries@edge-international.com

THE CULTURAL LENSES THROUGH WHICH WE EXAMINE LAW FIRMS

By Gerry Riskin

Cultural differences define and influence every aspect of law firms' operations, reputations and financial success. Describing a law firm's culture is difficult, even for people who know the organization intimately. When asked to describe a culture, people typically resort to words like "collegial" or "democratic." While terms like this may convey a general sense of a culture, greater definition is necessary to begin to clearly differentiate various law firms' cultures, and use knowledge of those cultures to contribute to the management of the firms.

We have created and evolved a "Law Firm Cultural Assessment," designed to recognize discrete differences among individual law firms and provide a more precise vocabulary to describe what those differences represent. Those differences can be be examined through these four lenses:

- **Collegiality:** *The manner in which people within a law firm deal with each other.*
- **Strategic Focus:** *The degree to which the firm has a clear identity, both to itself and in relation to other firms.*
- **Governance:** *The manner in which the firm deals with its people, and the way that its lawyers and staff deal with the firm.*
- **Values:** *The belief systems that represent the collective aspirations of the members of the firm.*

Details about law firm culture

Each lens examines a number of components, some of which are more complex than others. In fact, the comparative weight of these factors in the make-up of a culture becomes a feature of that culture.

1. **Collegiality**

- **Group collaboration** – the ability and willingness of groups (practice groups, offices, client service teams, etc.) to work together.
- **Individual collaboration** – the ability and willingness of individual lawyers to voluntarily work together on client matters.
- **Egalitarianism** – the willingness of lawyers to support actions of others that are in the best interest of a client or the firm but may not be in the lawyer's own immediate best interests.
- **Social interaction** – the degree to which firm lawyers seek out opportunities to participate together in social situations.
- **Deviation –** the degree to which behaviour in violation of firm mores is accepted.
- **Generationalism** – the degree to which the firm's value systems, approaches and vision differ according to age.

2. **Strategic Focus**

- **Horizon** – the relative importance of short- and long-term implications in decision-making.
- **Ambition** – the importance placed on maintaining and improving the firm's reputation and recognition.
- **Execution** – the importance placed on meeting goals and fulfilling expectations.
- **Vision** – the importance placed on conveying a clear picture of the future.
- **Self-image –** the importance placed on having an accurate and positive perception of the way the firm is viewed by outsiders.
- **Confidence** – the confidence that members of the firm express as an institution in the accuracy of their vision and the correctness of their decisions.

3. **Governance**

- **Decision-making** – the methods employed by the firm in reaching decisions.
- **Structure –** the degree of institutional involvement in the management of individual lawyers' practices.
- **Risk aversion** – the firm's willingness to accept risk in return for appropriate reward.
- **Communications** – the degree to which lawyers are informed about the firm's activities and issues.
- **Expectations** – the degree to which lawyers and staff members have a clear understanding of what the firm expects from them.
- **Motivation** – the firm's ability to influence behaviour.

4. **Values**

- **Work ethic** – the importance placed on how hard lawyers work in terms of time spent and hours produced.
- **Meritocracy** – the degree to which personal performance is rewarded in relation to overall firm performance.
- **Responsibility** – the level of control lawyers have over their client relationships.
- **Client focus** – the balance of the firm's interests compared to client's interests.
- **Continuous improvement** – the importance placed on the growth of lawyers' knowledge and capabilities.
- **Trust** – the degree of confidence by an individual that peers will not take actions adverse to that individual's interests.

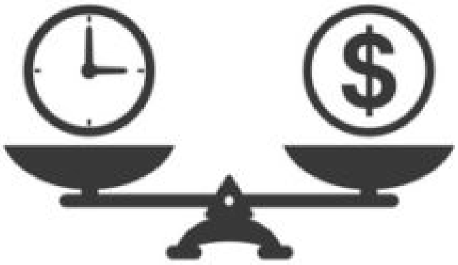
Many firms for whom we do strategic assignments incorporate a cultural assessment into the process. Some firms choose to explore their cultures on a stand-alone basis and follow up that assessment with action plans to fine-tune their cultures.

If you would like to discuss your own firm's culture, write to us at:

culture@edge-international.com

BUSINESS DEVELOPMENT: AN INTRODUCTION TO THE 2-4-8 MODEL, REVENUE GAPS, AND THE RELATIONSHIP BELL CURVE

By Shirley Anne Fortina



The 2-4-8 Model

This model compares revenue against time allocation, helping us to make informed decisions around clients, productivity and sustainability.

Identify each of your clients in descending order by revenue ($) or profit margin (%). Place each client into the grid below, inserting your highest value client at number one and so on. You can continue down to 16 or 32 or 64 should you wish to.

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Now consider the respective relationships in your grid and the amount of time you and your business spends servicing each client – for example:

- Client No. 1 generates 20% of revenue and takes up 5% of time;
- Client No. 7 generates 3% of revenue and takes up 20% of time.

Do we spend enough time with those clients that we should, and too much time with those that we shouldn't?

Now consider the revenue over the past three years. Is the revenue for each client trending up, down, or no change?

Do you have the capability to increase your share of wallet with Client No. 7? If yes, work out a plan. If no, this client may not be financially sustainable in the long term and you need to consider your options.

Revenue Gaps

This approach uses the three-year 2-4-8 analysis to project out future revenues. Use a grid chart to identify gaps in your revenue.

Clients	Jan	Feb	Mar	April
A	x	x		
B	x			
C	x	x		

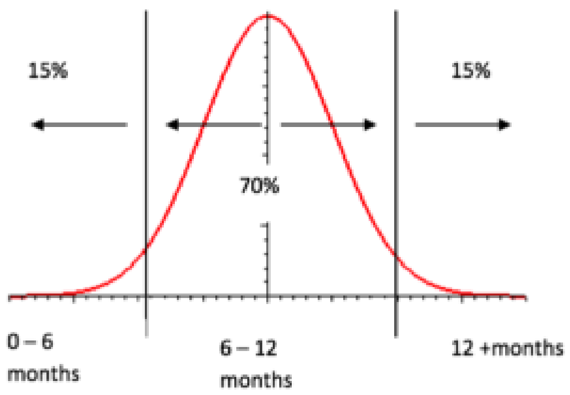
In the example above, March has no projected revenue; therefore, based on the Relationship Bell Curve concept (see below), we should have looked for opportunities to close the gap 6 to 12 months ago!

The Relationship Bell Curve

We live in an environment where everything operates at speed. We want everything and we want it now.

But effective relationships take time to develop, and to build successful, profitable relationships you must embrace **long-term** thinking vs **short-term** thinking!

It takes on average, around 6 to 12 months to develop a relationship (70%). In some instances it may happen a lot quicker (15%) and, in other cases, it may take a lot longer (15%).



Mahatma Ghandi said *"The future depends on what you do in the present".*

Make sure that you are working on your relationships well in advance!

LAWYER-TO-PARTNER GEARING OR LEVERAGE. YES OR NO?

By Sean Larkan

The concept of lawyer-to-partner gearing or leverage – the number of lawyers a firm employs for every partner – continues to go through changes. It is not uncommon to hear partners say things like "*My clients want partners on their jobs*", "*My type of work is too complex for non-partners*", "*I simply don't have the time to manage lawyers; I have legal work to do*", and so on. You're equally as likely to hear partners in some firms speaking out very strongly in favour of gearing. In most jurisdictions it is common to find firms in both camps.

However, over the past ten years or so we have seen a steady decline in average gearing levels in the world's largest legal market, the USA. At one point a few years back, the average gearing amongst AMLAW 200 firms dropped to .6 lawyers on average per partner. In a majority of these firms it appears that non-partner lawyers operate as an available pool of associates: i.e., they are not allocated to a particular partner. We understood the arguments of those law firms to be that due to high starting salaries of associates, it simply was not economically viable for them to gear up. Unfortunately, I believe this development in the US market has had a direct impact on the flow of traditional legal work away from traditional legal service providers to non-law firms. More on this, below.

By contrast, in the Australasian market, it is not uncommon to find average gearing figures of 4 to 6 lawyers per partner. More often than not, lawyers are also allocated to particular partners – albeit not exclusively so. Surveys of clients in these jurisdictions, and general counsel in large organisations in particular, point to a good level of client satisfaction as to the service they are getting from firms. Generally there has not been the move away from using law firms for legal work towards alternative suppliers.

So where does that leave us? There are arguments in favour of and against gearing, depending on the circumstances, the culture of a firm, and local market conditions. On balance, however, I would argue that the benefits of gearing, subject to some prerequisites, far outweigh the negatives. I would even go so far as to say it is a strategic necessity for the large majority of firms, save in absolutely exceptional circumstances.

First, what are some of the arguments against gearing?

- 'C*lients only want partners to do their work';*
- *'Partners do not have time to train juniors';*
- *'There is unyielding fee pressure on partners to meet partner budgets and hence they clutch clients and work to their chests';*
- *'Typical law firm partner styles and attitudes do not encourage the building of a functional team under a partner which will be fed work in an effective manner';*
- *'Due to client work and budget pressures, partners simply do not take enough time to train up their lawyers so that they progress to higher and higher levels of work';*
- *'Partners are loath to introduce their key clients even to junior lawyers with the fear of losing those clients and thereby putting pressure on their ability to meet budgets';*
- *'Partners argue that their particular work is not conducive to having more junior lawyers work on it';*
- *'Given the asking price for associates or lawyers out of top law schools it becomes uneconomic for firms to employ them on a geared basis'.*

Whatever the merits of these arguments, trends to lower gearing have limited the ability of law firms to service the needs of their clients. Take a simple example: picture a firm with a gearing of one lawyer per partner. What this means is that for that partner to service a wide range of client needs, he or she can only offer a support lawyer with one level of expertise, one level of experience, and at one charge-out rate. This limits the range of work that can be done for that client. Clients will be tempted to look elsewhere, even outside the traditional profession.

While it is clear that factors other than gearing have also played a part, clients have moved a large slice of their work (in the USA the shift is understood to be as high as 50%) to non-traditional legal services suppliers; i.e., non-law firms. These alternative suppliers have eagerly taken up this opportunity, supplying service at different experience-points and price-points.

Before considering some of the arguments in favour of gearing it is important to consider some prerequisites for qualitative gearing to work successfully:

- Gearing is not just about numeric ratios. It should be "*qualitative*" – that is, high-calibre lawyers, fully utilised, doing high-quality work for quality clients;
- Whichever way one structures one's firm, it is important to look at this issue from clients' perspective, not the firm's or partners' perspective;
- Partners need to be convinced of the benefits of such structures;
- Clients also need to be educated or coached as to the benefits of using lawyers at different levels of experience and price points to do different parts of their work assignments. Firms which have achieved qualitative gearing have done this well;
- These structures do not function optimally with a pool of lawyers accessed on a random basis by partners as they deem fit. Inevitably, the stars get the best work and late bloomers struggle to succeed, resulting in some under-utilisation and disillusionment, and poor engagement for some lawyers, with obvious impact on employment brands;
- A properly geared structure requires some form of structural and philosophical framework governing the behaviours, thinking and interaction styles of partners vis à vis lawyers allocated to them. To this end we have developed the *Responsible Partner*® program and philosophy which is a proven internal "engine" for these purposes. Even this, to succeed, needs to become part of the firm's DNA;
- No question, running a qualitatively geared firm is an ongoing, challenging exercise, constantly requiring attention, monitoring and tweaking. The rewards however can be immense.

In considering the advantages of a qualitatively geared firm, let us assume a firm with average gearing of, say, three lawyers (junior, mid-level and senior) to one partner.

- Clients of that partner can be offered lawyers to do work assignments at different experience and price points depending on the nature of the task. Provided staff are trained and managed properly and tasks delegated appropriately, and the requisite relationship of trust exists between the client and partner, it becomes less likely such a client will look to alternative suppliers;
- Young lawyers can come through the ranks in such a partner team, learning and progressing as they go, steadily being exposed to more and more complex work and operating on a more independent basis. Their leadership and management skills can be developed under close monitoring by the partner concerned;
- Provided the pre-requisites mentioned above are met, lawyers in such environments are more engaged, which in turn strengthens the firm's employment brand;
- Partners in such structures are generally responsible and accountable for the development of lawyers allocated to them. This requires them to take a personal interest in such matters, which ensures that nothing is left to chance in regard to the development of young lawyers, and no-one "falls through the cracks";
- Within such teams, leadership development and succession management for the team and for the firm starts to happen naturally and organically;
- There are numerous other benefits which flow from such arrangements, but what partners and such firms greatly appreciate is that not only do the strategies benefit clients but financial outcomes are unquestionably positive.

I have worked in, managed, run and worked with numerous firms over the past 30 years which have successfully converted from extremely low gearing levels to highly qualitatively geared structures –with success, including financial. I have no doubt that, properly done, this strategy can lead to significant benefits for a firm, for its clients, for partners and also for lawyers at their different stages of development.

Perhaps it is time to gear up!

THE IMPORTANCE OF DECIDING TO DO IT

By Sam Coupland


Two consulting engagements in the past couple of months illustrate why some firms fly and some firms flounder, particularly in the smaller end of the market.

There were a lot of similarities about the two firms. There were the objective measures such as revenue and number of partners, and you could throw a blanket over each of them in this regard. They were both regional firms operating in buoyant economies where they were the dominant, go-to firm for commercial work in each market. Both were around a two-hour drive from a capital city.

In many of the subjective measures they were similar. The partners liked and respected each other, staff were content with their jobs but not necessarily all with a highly driven work ethic. By all reports clients were happy.

The first firm had been generating reasonable profit for the past seven years. In dollar terms, the returns to the partners had pretty much flat-lined since 2010, but adjusted for inflation the partners were going backward financially. The partners were acutely aware of where they were heading and were all busy paddling to try to correct the course. When we took an objective view of the practice it became evident that any measures implemented to improve profitability were immediately undermined by certain behaviors or expense blowouts. Strategy could best be described as a scramble.

The staffing structure of the firm was out of alignment. Practice groups and individuals had been bolted on without a partner in charge of the group or solicitors having any line of reporting to the firm or management. The firm had disproportionately high ratios of support staff to fee earners. This had arisen for a number of reasons – full-time staff returning as part-timers, fee earners leaving the firm – but it was largely a tail wagging the dog scenario in terms of who had the clout in the firm.

None of these problems had been corrected because the partners were solely focused on staying afloat on a month-by-month basis, which often meant grinding out the fees themselves.

The second firm was a sharp contrast to the first. The strategy session was a little daunting as this firm was one of the most profitable regional practices I have been into. This high level of profitability wasn't just a spike; they had steadily ratcheted up their profits over a 20-year period. Everything they did was gold standard.

Financial success for the second firm was not really a magic formula. What set them apart is that they actually did what they agreed to do. On the revenue side they were totally focused on capturing all their time, even if clients were being billed on an agreed-fee basis. Partners set the tone, with all billing in excess of 6.5 hours per day. Employed fee earners had a hard floor of 5.5 hours per day, with the subtle message that no one progresses by doing the bare minimum.

Leverage in the firm was fairly low, as they wanted to ensure that there was full utilization. Expense management was also a feature, particularly in regard to the support ratios which were the lowest I have seen in a firm with a 'traditional' structure. All fee earners were computer savvy, and the firm had invested a lot of time and money into precedents and workflows to cater for the low-support levels.

I should note that the people in the firm were all happy – they didn't feel like they were being exploited. They were well paid and just got stuck into work when they were there. The amount of weekend work or late nights the lawyers put in was not excessive, but similar to what one would expect of any successful firm.

The tone of the strategic-planning retreat was for the new crop of partners to decide whether they wanted to continue with the culture and direction that had served the firm very well for the past two decades. Given the financial rewards, it was not surprising they did.

A standout for me occurred when, during a break, one of the partners retrieved a strategic-planning report from 1991 – he had found it in a recent office move. It was essentially a blueprint for success and was a list of around 50 agreed actions and behaviors that members of the firm would adopt. The content of the report was as relevant today as it was 26 years ago – the differentiator is that the partners actually did what they said they were going to do. I am sure that over the years there were a few wobbles, but in essence as new partners came through the practice, they bought into this culture and way of practising.

Perhaps members of the two firms will recognize themselves here. I am not being critical of the first firm as it is probably representative of the majority of firms out there. This article is really about the attitude adopted by the second firm which, all things being equal, is in reach of all of us: It is just about deciding to be successful, and sticking to a plan.

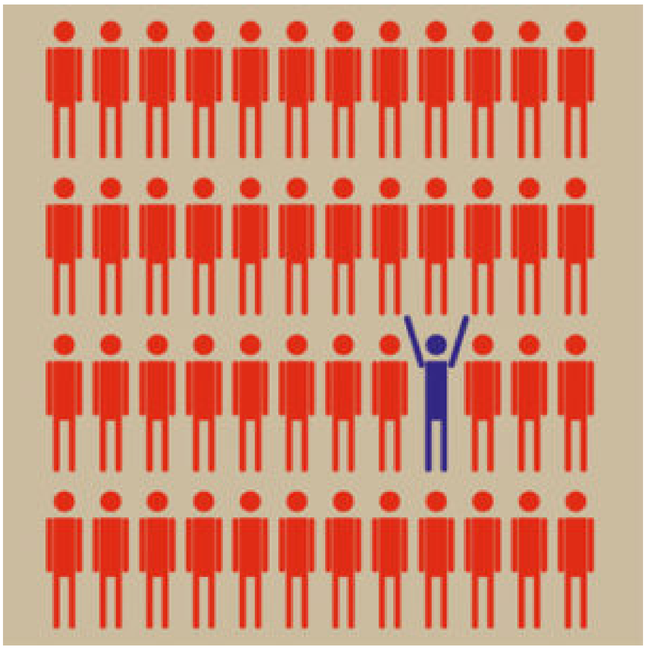
JUNE 19TH, 2017: GERRY RISKIN, NIGERIA BAR ASSOCIATION – SECTION ON BUSINESS LAW CONFERENCE.

By Gerry Riskin

Nigeria Bar Association – Section on Business Law Conference.

LAW FIRM DIFFERENTIATION AND DELIVERING A SIGNATURE CLIENT EXPERIENCE

By Mike White



"We insist on excellence"; "We staff matters leanly"; "We understand your business"; "We always put the client first"; etc. These are just a few of the yawning refrains of law firms trying to appear "different" in the marketplace – we all can agree that marketing pablum is not in short supply! The truth is that law firms aren't very good at understanding (let alone articulating) why they may be very different from their key competitors. And you can't expect clients to be any more enlightened about real areas of differentiation than are the providers themselves. So what we're left with is a marketplace of cynical business consumers who believe their law firms are overcharging for an intangible service they view to be no more than a sophisticated commodity. If law firms really are that different, how can they make themselves “more different” or differentiated vis à vis peer firms, and – more importantly – in the eyes of their clients and prospects?

Let’s step back a minute and look at an example outside of law. McKinsey may be *the* preeminent professional services firm on earth. Despite hiring really accomplished people, their consultants still attribute most of their success to being part of the McKinsey platform and learning “the McKinsey way.” If asked how McKinsey is differentiated in the marketplace, a McKinsey consultant would cite a laundry list of features – “We hire really smart people just like our competitors but we additionally look for five to seven personality traits that we feel help us deliver better consultants to our clients”; or, “All tier I management consultants produce great work product but we feel that our disciplined methodology around putting together a client study is special and produces better insights – we’re a bit dogmatic about our process but we feel clients benefit . . . “; etc. Any McKinsey consultant could point to 10 to 15 other qualities that make the firm and each consultant “special.” *More importantly*, McKinsey’s clients and the market recognize many of these qualities.

Differentiation only matters and is only appreciated if it confers benefit on the client. Differentiation – if we are to embrace it and care about it at all – should be experienced by your clients both directly and indirectly. If your clients are benefiting from the way you deliver your service but it is not perceptible to them (e.g., professional training in the early years that produces a certain kind of lawyer and a certain kind of work product), then your lawyers need to educate clients *and* prospects about these less perceptible differentiating elements.

While the commitment to client-experience innovation does not require a firm to perform open heart surgery on itself, it is very much a multi-faceted and multi-disciplinary mission. Among other things, it involves a lot of discovery, research and development, training, packaging/productization, and implementation that can be pretty unnatural for firms. It’s also a marathon, not a sprint. A firm and its practice groups must evolve incrementally yet persistently over a sustained (i.e., multi-year) period of time. As you think about your own firm’s need to differentiate more meaningfully, keep in mind a few of the following thoughts:

This Is Not a “Branding Exercise”

Real differentiation is not just taglines or slogans; rather, it is reflected in a portfolio of processes, managerial methods, recruitment criteria, technology, cultural sensibilities, training, firm structural features, incentives, and other elements that represent the unique ways in which the firm “does business.” These elements have to be operationalized in appropriate ways across the firm – they have to be real, and they can’t be “vaporware.”

You’re Already Doing It

Some of the most differentiating features of a firm or practice group exist right under your very nose. For example, when a small subgroup within your corporate M&A practice group routinely gets its hands dirty with post-acquisition business-integration issues, that expansive approach to M&A work *is* a unique feature of the M&A group; all M&A lawyers – and the firm as a whole – can benefit from being known for this approach, and delivering a signature client experience. Think of how many other powerful “best practices” already exist within your four walls which could be inventoried, syndicated, and called on to support a signature client experience!

Innovation Needs to Be Part of Your Culture

Differentiated client experiences are “innovative” client experiences. Firms that are serious about delivering a law firm analogue of “the McKinsey Way” to their clients have to be innovative. Legal innovation today is most powerfully presented in the areas of legaltech, process, alignment, and analytics/decision support. Spend some time thinking about these areas as you build out your own firm’s signature client experience.

“Team of Teams” Rather Than a “Flotilla of Rafts”

Process and integration “win” over individual celebritydom and “artistry.” Yes, clients and prospects need to know you are a firm made up of great individual legal artists – if prospects are already talking to you then they have largely concluded this already. However, in order to leapfrog other law firms that prospects might be considering, you need to do a better job of explaining why your artists become turbocharged through their interconnection and integration with the other lawyers who are part of the same firm platform. Your firm should be a “team of teams” rather than a “flotilla of rafts,” and your lawyers should be able to educate prospects about how structural and cultural incidents of such translate into real, objective value to them.

The above highlights represent just a few of the important elements in a thorough client-experience innovation initiative, which by definition has to be holistic. Take the time to understand all the ways in which your firm and its lawyers are special today; take the time to discover additional client-benefiting innovation elements that you are not yet, but could be, supporting. Do all this – and more – and you'll be well on your way to creating a "signature client experience," and as a result, and very different law firm!

THE FADING POWER OF NICHES

By Nick Jarrett-Kerr

It has often been stated that only two broad strategic directions are available to law firms, summed up in the often quoted platitude "Get Big or Go Niche". Over the last few decades, many boutique firms have successfully followed a niche direction by doubling down on particular areas of focus and creating depth in sectors or in specialist practice areas. For three main reasons, however, it is dangerous for any niche or portfolio firm to assume a do-nothing default strategy in which assumptions for the future are predicated on the basis of performance in the past.

Niches become mainstream. The first problem is that as the market for legal services becomes yet more competitive – and sophisticated – a number of previously precious and profitable niche areas have become mainstream areas for larger law firms. In the UK, for instance, over 150 London firms are highly rated by the directories for commercial real estate law. Over the years, areas such as intellectual property, tax and employment/labour law have become part of the standard offering of the majority of mid-size and larger firms.

Niches are transient. The second issue is that niche areas tend over time to be transient in nature. Problems that kept the CEO awake at night a few years back, and upon which he or she needed expert or "guru" advice have now become – at worst – a minor irritant. Changes of law and market obsolescence can also lead to the extinction of a niche area. Whole sectors can be eradicated or fade over time, affecting law firms specializing in various areas of manufacturing, technology, and retail. Threats that worry our clients also recede – we all remember the hype and death of the so-called Y2K threat and the law firm niche that went with it!

Niche areas commoditize. The third issue is the often highlighted danger of increasing commoditization. The problem here for boutique firms is that the previously high barriers to entry inevitably decrease over time, allowing more competitors and empowering more corporations to provide a wider range of services in-house. Commoditization also affects the profit-making business model. Premium pricing strategies run out of steam and staffing needs change from a small number of high-charging gurus to greater systemization.

In the case of the fading power of niche areas, firms can take action in at least three ways – Dominate, Diversify or Ditch.

First, they can continue to exploit the laws of dominance that enable the top few firms in any market to continue to thrive by sheer numerical power, the creation of sub-niches and infrastructure investment. Brand prominence and risk avoidance by the larger clients helps such firms attract and retain the best talent and clients.

The second possibility is for the niche firm to diversify into different areas of law or sectors, thus avoiding the risks of all the eggs remaining in one basket. This is generally easier to do by diversifying into related areas of law or into similar sectors.

The final possibility is to get out. Larger firms with a broad portfolio of niches can get rid of practice groups that are diminishing in profitability and importance. Smaller law firms where the partners are close to retirement can let the firm run its course and then close it down. Making your money and then running is easier said than done in legal services. However, due in part to the high cost of run-off insurance and the cost of staff redundancies; backing into a larger firm by merger can be an alternative, if the larger firm can see a return on investment from a long tail of clients and work coming out of the acquired firm.

Nothing stands still in legal services and no law firm can afford to assume that its competitive position will last forever. The point is that a niche strategy can only give temporary competitive advantage which diminishes over time. It is therefore important to spot trends early and spread the firm's risk.

SOME THOUGHTS ON COST OF PRODUCTION

By Neil Oakes

Not that long ago, law firms were price setters. We decided what profit we wanted, tallied up the expenses, set a chargeable hours budget, and hey presto: we had an hourly rate to charge. And charge it we did. Profits often met or exceeded budget. Want more profit? Easy, whack up the rate, job done.

How times have changed. Insourcing, digital disintermediation, commoditisation of repetitive (hitherto high-margin) work, increased client mobility, a shift away from relationship purchasing to professional procurement, and the re-entry of the global accounting firms in mid- and top-tier markets have swung the pendulum. For some time now, law firms have become price takers in a competitive market.

Profitability ultimately comes down to price, volume and cost of production. Between 1992 and 2007 law firm profitability grew, exponentially. This growth was not achieved through efficiencies or productivity gains, nor was it produced as a result of greater client satisfaction or significantly greater demand. During this time, margins, utilization rates and realization rates remained pretty constant. The lever that took large-firm partner incomes from $400,000 to $1,000,000 plus was price: the fees went up between 5 and 7% each year. This had a significant compounding effect.

I know that not all segments of the legal market experienced this ride but I use it here as an example of the historical importance of price to profitability. Before the 'shoot the billable hour brigade' rush to Twitter, I make the point that this observation relates entirely to quantum, not pricing, methodology. Price as the most important profit lever is a germane historical fact for all major Australasian law firms and their contemporaries in other jurisdictions. This is why a shift from price-setter to price-taker presents as a significant disruptor, probably more so than any 'killer app' that we are likely to see in the foreseeable future.

Price will always be important to maintaining and improving profit but in highly competitive, commoditising markets the management of cost of production has, over the last few years, become the most significant lever.

Managers are embracing strategies like automation, contracted lawyers and legal project management (some better and quicker than others, some through their own initiatives and others client-led). In this article I am not going to present a grab bag of cost-savings measures for managers. Instead I want to reflect on the management of cost of production by all practicing lawyers, to encourage a shift away from the belief that costs are ‘largely what they are and there isn’t much one can do about it’. I have seen firms trade at profit margins below 20% and others with profit margins above 60%. While price accounts for some of the difference, managing cost contributes significantly.

Calculating cost

It has intrigued me for many years how few lawyers understand cost, whether determining the cost of a matter or the cost of producing an hour of chargeable time. Of course many firms have invested in professional financial managers and business intelligence software to do the math behind the scenes, but in firms of all sizes all lawyers should understand cost and what they can do to minimise it without jeopardising the client experience.

I speak here to partners in firms of all shapes and sizes. ‘How much does it cost for you to do what you do?’ ‘What can you do to minimise the cost?’ The answers are pretty straightforward and most relate to structure and productivity.

Consider two distinct practising approaches, one that does not utilise employed-lawyer leverage, and one that does. I have used typical averages from smaller firms (2- to 10-partner firms). In these firms, non-lawyer support per lawyer varies. I have assumed some economy of scale in partner B’s practice because relatively junior lawyers don’t utilise the same amount of ‘support ‘ that partners tend to. Non-salary overhead per person (lawyers and support) also varies slightly from year to year, but it averages 50k (or near enough).

	Partner A	Partner B
Partner salary	200,000	200,000
Number of employed lawyers	0	2
Employed lawyer total salaries	0	180,000
Total direct support salaries	35,000 (say 0.5 FTE)	75,000 (say 1 FTE)
Ave non-salary overhead per person	75,000 (50k x 1.5 FTE)	200,000 (50k x 4FTE)
Total cost	310,000	655,000
Total available chargeable time	1200	1 x 1200 2 x 1000 = 3200
Ave cost per chargeable hour	258	171

The assumed numbers are not the important lesson here, it’s all about the relativities.

Three take-outs. Firstly, leveraged practices are invariably able to produce legal work significantly more cheaply than sole operators. This is particularly the case for non-time-pricing lawyers and those whose fees for a particular service are set by the client. This is primarily why ‘employed lawyers per equity partner’ correlates so strongly to ‘net profit per equity partner’.

Secondly, the bad news. The most immediate lever for reducing cost is available chargeable time, regardless of pricing strategy. As admirable as ‘working smarter not harder’ is served up to be, working harder would seem to have its merits. I know that’s a cheap shot at managerialese, but the fact remains that salaries are usually paid on an annually negotiated basis and non-salary costs vary little with volume, therefore the greater the volume relative to this fixed-cost base, the greater the resulting profit margin. Without the lever of price, productive, chargeable effort becomes integral to profit. In the professions it has been forever thus.

Thirdly, the difficult news. The more junior (and therefore cheaper) **capable** employed lawyers are, the greater the impact of employed-lawyer leverage on cost minimisation. Again, this is most pronounced when clients set fees or the firm determines a fixed price for a service. In a price-taking business, firms that recruit graduate lawyers, train them and retain them for 3 to 5 years are going to be more profitable than firms whose employed lawyers are all highly paid senior lawyers.

Having said all that, lawfirm strategy is a complex beast. Profitability is a small part (although its absence does sharpen the focus in most partnerships). Regardless of the impact on cost of production, the long-term strategist should, in my view, continue to invest in diverse partnerships that accommodate part-time equity partners. We should continue to invest in training and retaining graduate solicitors. Finally we should never stop investing in improving the client experience.

Firms and partners shouldn’t be driven by price and cost but they should understand them. Find out what the client wants, and what they are prepared to pay for it, then manage your costs accordingly through structure and productivity.

CAN LAW-FIRM ASSOCIATES LEARN TO GOVERN?

By David Cruickshank

Many firms have gone beyond the usual training diet of substantive law and ethics to offer management and business-development skills for associates. One of the next challenges is to learn law-firm governance. But is this a topic for associate training, and does it matter?

From our consulting engagements we know that firms of all sizes have significant problems with governance. Some problems are structural – the over-sized executive committee, for example. Other problems stem from an absence of skilled leadership or a clear understanding of a partner's role in governance. Firms that take a long view, as they do with business development, should consider the case for teaching associates to govern this firm, or another, when they become partners.

It's Already Happening

Right now, the closest that most associates come to contributing to governance is during recruitment season. Many sit on a recruitment committee or are part of on-campus interviewing and selection decisions. Associates may also contribute to talent evaluations. They may be formal mentors. However, the gate closes when it comes to decisions on promotion or "managing out."

Associates can make contributions to professional development. I have worked with associate committees in planning in-house training or retreats. This involves a committee that does more than choose the retreat entertainment and menus. They help the professional-development team design the entire retreat. Working with an outside consultant on management-skills training will mean direct contact with that consultant and conversations about content tailored to their needs. They may ask for certain partners to be speakers (not always those that management would choose). In my experience, engagement with an associate planning committee is win-win. The outside expert gets to know a few of them through advance meetings, and you lower the risk of missing the skills they feel are needed.

Another opportune time to learn governance is in training on the firm's finances. The most transparent firms train associates on how the firm makes money, then follow it up with midlevel and senior associate training on the firm's financial statements, profitability and revenue projections. On making partner, there is no "cliff" to leap over in understanding the levers of profitability and how you must contribute to the firm's success.

The Case Against Governance Training

The common arguments against developing "governance competence" are:

- "We only need a few leaders, and they will emerge as natural leaders."
- "Why train associates who will not make partner and will depart."

- “The more they get involved in our governance, the more they will want decision-making power (that should be left to partners and senior staff).”
- “They are too inexperienced to know what to do with the training.”

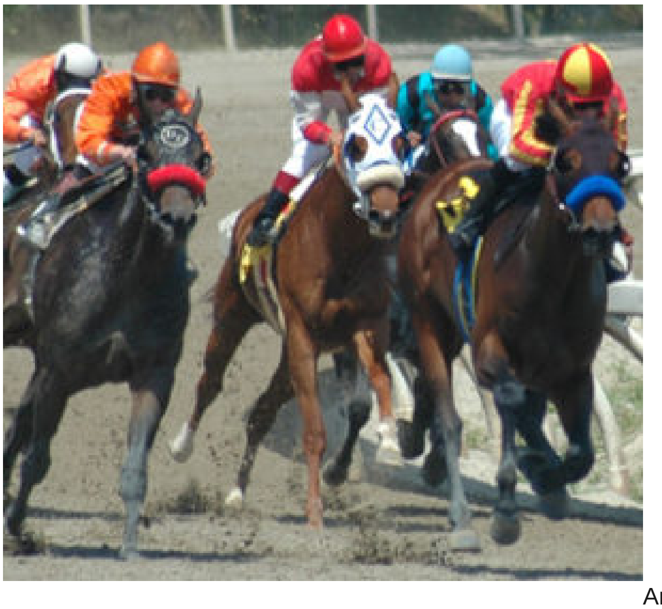
The Long-Term Payoff

The case for greater associate competence in governance begins with decision-making. If associates sit on committees, they should not be window-dressing. Along with partners, they should help with decisions on recruitment, diversity, pro bono, training, advancement and early business development. Down the road, I even envision associates on a finance committee. Once they can contribute to decisions, their incentive for getting training and experience is elevated. As for the “naturally selected few” argument, the response is to increase the pool of future partners leaders by developing the breadth of their governance competence. And if they leave? They will be ambassadors and leaders in client companies, government, public-interest and other firms.

Latham Watkins knows the payoff. It is widely seen as a very well governed firm. They train associates in governance and give them a place to apply the lessons. For years, they have had a firm-wide Associates Committee (about 50 members, a mixture of associates, counsel and partners). That committee makes decisions on training, recruitment priorities, advancement of associates, and even on who should be put up for partner. Latham Watkins has never retreated from the view that trained and informed associates will do the right thing, will make the firm stronger and will create competent future partners.

ONE MEETING YOU MUST HAVE: THE KICK-OFF MEETING

By Aileen Leventon



And they’re off… like thoroughbreds breaking from the gate and barreling down the track in single-minded pursuit of the finish line. Get the best people mobilized, act fast and make sure the client or sponsor knows you’re on it. Does this image capture the typical start of a major matter or new project in which you are involved?

The kick-off meeting is the forum for collaborative planning and the foundation of project management. It also sets the tone for sound stewardship of resources, accountability of team members, and the goals of sound economics and delivery of value. Rapid action and deliberative planning can co-exist.

“But we already planned”

Many matters and projects start with limited information provided by the client or sponsor. On the basis of some information, “known unknowns,” and a reservoir of knowledge from prior experience, it is often possible to develop a preliminary assessment, outline a strategy, identify a team and sketch the timing of key events.

There will also be many unarticulated assumptions and cognitive biases that affect resources, costs, scope and success. As we are increasingly called to account for the value we deliver, is it possible to be casual in how we manage our work? Early unstructured conversations and the free flow of documents are no longer adequate as the typical first shot at a plan.

Establishing the tone for the matter

The kick-off meeting establishes both a plan and a mindset: team members understand *why* they are doing the work or the project, what they are doing and when. They have addressed assumptions and unknowns, committed to transparency and established communication channels. How does this happen?

The business context. Start the kick-off meeting by clarifying the business purpose of the legal work or project and the resources that have been allocated. Quantify it. This gives essential context and establishes that the legal work is not an end unto itself, but an investment in achieving a business outcome. The same applies to projects in which the business case must be explicit in order to assess success.

Stakeholders. A stakeholder is a person who will be integral to or affected by the work process or outcome. “No surprises” is the watchword in project management; it is critical to identify stakeholders early and anticipate their involvement.

Many stakeholders may not be in the room – these are the people whose opinions or behavior could derail the best-laid plans and may include key decision-makers. They may be the people who are most concerned about the project’s impact on revenue, risk, and profitability, the people who must be briefed about status or decisions, the people within the organization who will review, revise or even co-author your work product. They may even be a competitor, vendor, regulator or constituent who has standing to challenge strategy or disrupt your approach. Soliciting information from the team at the kick-off meeting is essential in drawing the stakeholder map and may help in avoiding questions as the matter unfolds.

Scope of work and underlying assumptions. “No surprises” applies to the scope of work as well. Experienced practitioners know how a matter is likely to unfold, where they are making assumptions, and that unknowns could have major implications for strategy and budget. The goal at kick-off is to share that knowledge and discuss the implications of assumptions or information still to surface. Document what is outside the scope of work, either because it is unnecessary, within the sponsor’s risk tolerance or because someone else has been designated to handle these activities. Be explicit. This is the best way to minimize waste and rework.

Timeline. The time line established in the kick-off meeting plots the sequence of activities in the work plan. Sub-groups will use this as a skeleton to form their own work plan and time line. The initial meeting is also the time to clarify roles and responsibilities, and to justify the participation of outside experts. It is important to ensure that schedules are harmonized and there is commitment to the timetable.

Budget and Resource Allocation. The budget can be refined now. This is not a bait and switch – a low-ball initial estimate to get the work that is followed by materially different numbers. The preliminary budget is likely based on incomplete information and may have included caveats and disclaimers. Important aspects of the scope of work, stakeholders and priorities may not have been known. Early assumptions may prove wrong. Facts may have changed. New information may emerge. Material changes may justify change in scope and budget.

Monitoring and managing change At this point, the kick-off meeting has served its purpose. There is a work plan and a time line, identification of project risks, assignment of key roles and responsibilities, as well as budget numbers or resources attached to phases or deliverables. In formal project management parlance, this is the Project Charter and Work Plan. This living plan will evolve and serve as the basis for monitoring and communicating during the course of the matter. Describe how and when that monitoring will occur and change will be communicated. If there is buy-in, it will reduce re-work and the need for more meetings.

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The kick-off meeting concludes. Then and only then, open the gates and unleash the focus, intensity and urgency to get the job done well.