

“And the pump don’t work ‘cos the vandals took the handle’ – *Innovation and Legal Services (Part 1)*



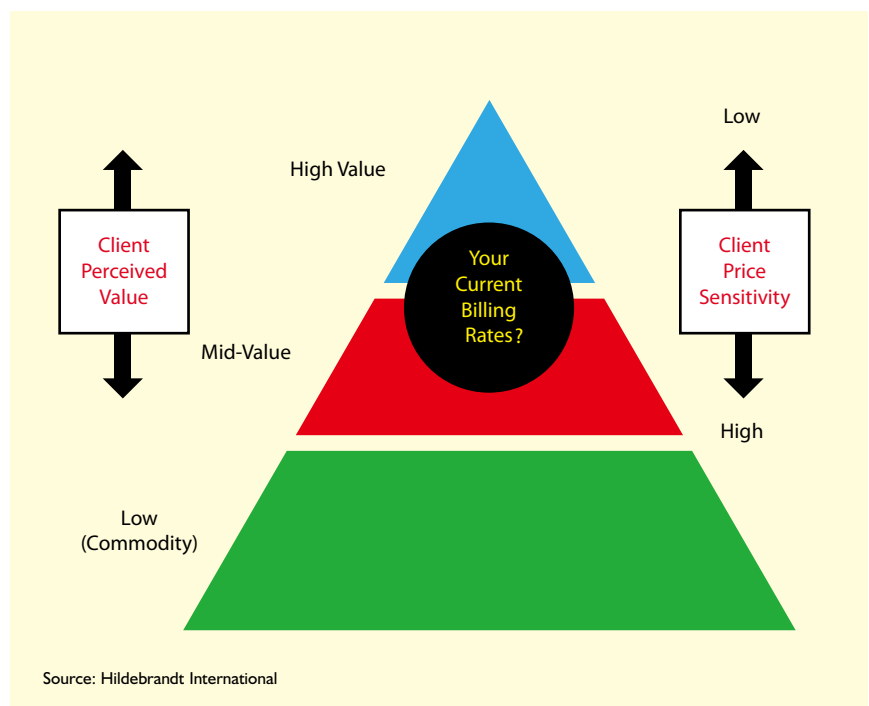
Last month’s column concentrated on one of the two basic functions of the business enterprise as identified by Drucker* – Marketing. Over the next two columns Patrick Dransfield looks at the second – Innovation.

Before tackling Innovation however, I think we need to start with Value. At the heart of the relationship between in-house counsel and external providers lies the thorny issue of fees. ASIAN-MENA COUNSEL’S ‘Representing Corporate Asia & the Middle East’ survey overwhelmingly indicates that ‘Excessive Fees’ are in-house counsels’ overriding concern when dealing with external counsel. Prior to the financial crisis, large international law firms bundled up their services with the same skill and cunning as the Bordeaux Premier Cru wine broker, effectively telling in-house counsel that if they wanted the premium ‘bet the firm’ innovative service at the top end (i.e. the equivalent of a Bordeaux First Growth), then they’d have to accept this service bundled up with what Professor Richard Susskind[†] has identified as ‘the value pyramid’, the work of less experienced associates and paralegals underneath. Secondly, the same charge-out rates for elevated work whose price is ‘beyond market forces’ was also charged for partners providing lower commodity work, such as Employment Contracts, and the like. In the ‘New Age of Austerity’ where in-house counsel need to do ‘more for less’, this is now proving simply unsustainable.

The challenge for the in-house counsel relating to work in the middle tier rests in the choices that comes following an accurate identification of the value of such matters; to handle them in-house?; to outsource to a law firm; or, to a Legal Outsource Provider? In addition, the in-house team is encouraged to analyse the nature of this work – be it non-competitive agreements, for example – and stream-line the process by standardisation and the intelligent use of technology.

Hildebrandt Consulting have provided a useful model by which the in-house department can differentiate between ‘bet the firm’ high value / low commoditised work that requires the very top practitioners and the more mundane and commoditised work which the in-house department should be very price-sensitive about.

The same challenge of fairly pricing value also goes to the lawyer at the top of her game, able to save a company from a hostile takeover,



for example. The lawyer who can bring about an original and innovative approach to a complex M&A; a lawyer who consistently assists in the closing of M&A's, to the long term satisfaction of her client. In short, the lawyer at the top of her game where knowledge of the law and a profound grasp of professional ethics and integrity are embedded in her DNA, and bring to bear that grey-haired experience, clairvoyance and intuitive advice that her clients crave. A way to price this service beyond the billable hour only seem sensible to both sides.

Regarding the in-house counsel's choice of law firm – it has to be a given that the legal provider is utilizing the most up-to-date technical systems and most efficient methods to service your needs. And therein lies the question – is your choice of preferred law firm truly looking out for your best inter-

“is your choice of preferred law firm truly looking out for your best interests, or simply paying lip-service to the new ‘efficiency Zeitgeist?’”

ests, or simply paying lip-service to the new ‘efficiency Zeitgeist?’ If you suspect the latter, then it is your duty to have the courage to challenge, and then to change your legal provider. Firms and lawyers that resist the tide will find that the ‘phone stops ringing as their more ‘switched on’ and more competitive peers (and not necessarily other law firms) have seized the initiative. The legal industry is a *service industry* after all.

An honest conversation based

on cogent analysis of the value of work between the client and the legal provider can provide multiple savings – and more besides. A recent example is the relationship between Tyco and Eversheds. The two entities initiated a global year-long trial (since extended) which included a commitment to reduce legal spend, the implementation of IT infrastructure to back up the service delivery, effective cost management, and a secondment program to help further integrate the two teams.

According to Nick Seddon, Eversheds' Managing Partner in Asia, “the relationship between in-house and external counsel is no longer just about in house teams pushing out the high volume work, but about full service offerings and, ultimately, the effective management of the total legal spend. The global financial crisis has

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*Source: Sharplegal™ Global Elite Brand Index 2009, 2010 and 2011

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changed the landscape for good. The best firms and the best in house teams will be the ones who forge true partnerships, while accepting that there needs to be investment from both sides – in learning, infrastructure, and software systems. Getting this right drives not just best value but also an overall better quality of service.”

But balancing innovation and value provides a profound challenge for the legal profession as a whole. With anecdotal evidence abounding that law firms and barrister chambers in the UK and law firms in North America are simply not hiring the recent crop of

law school graduates, how are the next generation of lawyers going to get the training, the mentorship and the experience of the old guard? This is no easy question to answer – but both in-house and external lawyers need to consider this and find innovative ways to help prevent a ‘lost generation’ of legal graduates.

In the early 1980’s when I began my sixth form at a grammar school in the UK, quite a number of bright young boys and girls left early, believing that their jobs as money tellers in the local banks would provide a secure future. And then came along the ATM

machines, and banks down-sized their work force considerably. In the same way, technological innovation will inevitably lead to fewer lawyers.

So what does the future hold? Well, assuming that the brightest and the best – those dedicated to the law, mindful of its ethical dimension and intuitive of client service – will actually make it through and in time will become at the top of their game. Lawyers that actually want to be lawyers; fancy that?

Patrick Dransfield is the Publishing Director of Pacific Business Press. He has fifteen years of working alongside the legal industry, including eight years of working directly for international firms (Shearman & Sterling and White & Case, respectively) as Marketing Director, Asia-Pacific.

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* Peter F Drucker (1909 – 2005) is considered by many to be the father of modern management; a social commentator and preeminent business philosopher who over a period of sixty years dedicated himself to analyzing issues relating to economics and society.
+ Richard Susskind, *The End of Lawyers? Rethinking the Nature of Legal Services*, Oxford University Press, 2010.

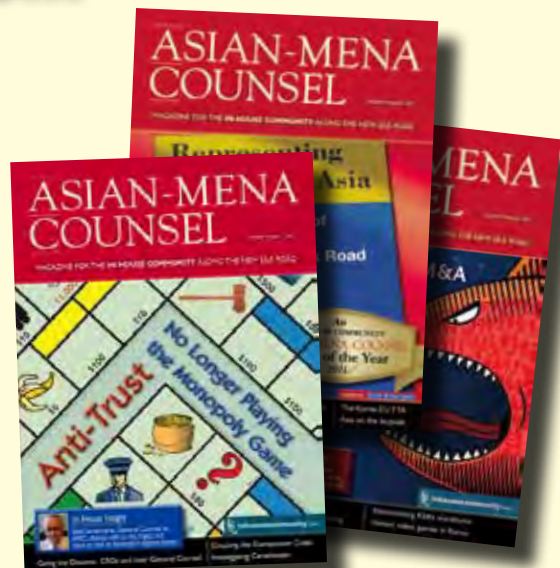


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In next month's issue...

Women in the law: Breaking the glass ceiling

In our Special Report, we hear from several women of mettle from around Asia and the Middle East on issues that have challenged them to push traditional boundaries and go toe to toe with men despite familial demands. Through a prism of steady progression, increasingly enlightened attitudes and greater empathy, women are being viewed as distinct forces to be reckoned with in the legal context. We take a look at the measures taken by firms to create a more supportive environment for working mothers and how women have admirably adapted.



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