



# J'accuse AmLaw 100!

By Patrick Dransfield, Publishing Director, ASIAN-MENA COUNSEL and Co-Director of In-House Community

Visiting Shanghai recently and chatting with an American lawyer friend about baseball, of all things, I was strongly reminded why I have a visceral aversion to most legal publishers' benchmarking of law firms and especially loathe the AmLaw 100.

Being American, my friend is a baseball nut. He talked about how the Japanese national team beat the Americans at the World Baseball Classic in 2009. The Japanese adopted a pattern of striving as a team for the slow accumulation of hits and roundly beat the Americans, who in turn focused their game on the great and glorious individual home run. Being among other things, an anthropologist in background, my understanding of this naturally took a more

comparative cultural view: for Americans, the ability of the individual, immortalized by the home run, takes precedent over everything else. For the Japanese, the concept of samurai warriors created a team ethos that put serving of the group over individual glory.

How is Japanese baseball relevant to the benchmarking of law firms? My friend made the analogy between Japanese baseball, American baseball and the lock-step versus eat-what-you-kill models of compensation – and indeed there is some veracity to that. But his analogy made me think more deeply about the relationship between media accolades and individual behaviour.

As a profession, lawyers are not renowned for their collective altruism. As one London-based headhunter observed during the global financial crisis: “The legal profession is the only one that fires its staff in order to pay themselves more.” To quote my late boss, Chris Brown (the first compiler of a law firm ranking while editor of IFLR): “Every culture gets the media it deserves.” And indeed, with the AmLaw 100, the legal community has precisely the media it currently deserves.

The AmLaw 100 annual profits per partner is typical of the way that the legal publishing empire has chosen to evaluate law firms. As work by such luminaries as Daniel Kahneman and Amos Tversky has proved, how we reward individuals and teams affects greatly how individuals behave. The performance indicator chosen by the American Lawyer out of the choices possible (client satisfaction, for example) is the annual profits per equity partner.

Putting it another way, the single most famous benchmark in the American legal industry is the dollar value equity partners reward themselves each year. Curiously, American Lawyer published its first AmLaw 100 in 1987, the same year as Oliver Stone brought us Gordon Gekko in his movie Wall Street. It is as though Gekko took over the gentlemanly reigns of the profession and declared “forget about all this ethical mumbo jumbo and serving the client crap – it’s what you put in your pocket that is the true measure of a successful attorney. Greed is good!”

A great deal of column inches has been dedicated to how managing partners at various law firms, including most notoriously Steven Davis, then chairman of Dewy LeBouef, have become obsessed with their AmLaw profits per equity partner ranking in the AmLaw 100 list. What has been less discussed is what an appalling measure of success this represents and how the AmLaw 100 itself has unduly influenced the legal profession into patterns of behaviour that are in no way in clients’ best interests.

The American Lawyer editorial piece on the 25<sup>th</sup> anniversary of the AmLaw 100 the editorial team stated: “In the quarter-century since *The American Lawyer* began tracking the nation’s 100 largest law firms, total gross revenue for that cohort has multiplied more than tenfold, from US\$7 billion to US\$71 billion. In nominal terms the average Am Law 100 PPP has more than quadrupled, from US\$324,500 to about US\$1.4 million. Providing fodder to those who see a widening class divide, the average AmLaw 100 partner earned 11.3 times

the average American employee's compensation in 1986, and 23.4 times that benchmark in 2010, the last year for which data is available.”

The “widening class divide” should indeed give everyone pause for thought. In 2016, the Financial Times columnist Michael Skapinker wrote that “Trust in business, finance and anyone who has anything to do either has been low since the 2008 financial crisis and has sunk because of huge pay differences, the Libor scandal and Volkswagen’s cheating on emission tests.” Given that one of the most important functions of a commercial lawyer is to forecast risk, the fact that I can’t think of a single lawyer, either in-house or in private practice, in North America that questioned the financial engineering that led to the global financial crisis indicates to me that the entire legal profession was asleep at the wheel. And

this despite the key role that top AmLaw 100 law firms played in constructing (and rewarding amply themselves in the process) the financial structures that created the collapse in the first place.

Another important question is what kind of legacy the present law firm leadership is this going to leave for the coming generation of young lawyers? The partners in their late 50s and 60s have enjoyed the golden age of earnings and a precious few continue to reign supreme as the big hitting rainmakers in their law firms.

So, senior law firm management dissolves into keeping the ego of a US\$20 million dollar a year billing partner happy at the expense of all other considerations – the home run strategy of running a law firm, as my American friend puts it. And we all saw how well that worked out at Dewey LeBouef!



In other perhaps less obvious ways, the AmLaw 100 scorecard of profits by equity partner has contributed to the lack of relative success in emerging markets experienced by American-based international law firms. Generally, it would seem that American corporates have garnered anaemic returns on their expat investments, according to a Harvard Business Review study. The main reason concluded by J Stewart Black and Hal Gregersen was that many US executives assume that the rules of good business are the same the world over: “Everywhere is Cleveland”, as one particular ex-AmLaw employee once expressed it, without even a hint of irony.

The Asian market has proved especially difficult for international law firms. Part of the reason for this is that charge-out rates for work done in, say Singapore, do not compare with the same grade of lawyer in Manhattan. There are two choices therefore. Either pursue only the highest-level work at the greatest pay grade, or tear up the global billable hour time sheets completely and attempt to price at a lower level in any given market. Whichever way you cut it, profits per equity partner as a measure has not exported well for US law firms as they seek global solutions for their clients and has proved an impediment to mergers between Magic Circle firms and their equivalent in the US.

So, what would prove a better benchmark for law firms to strive for? The importance of client-service lay at the heart of our thinking at the In-House Community when putting together the criteria for the Visionary Legal Provider of the Year. That, and also the importance of reflecting the changing landscape of

legal services, which is no longer the preserve of the legal partnership structure.

General counsel have shared with the In-House Community that the three prevailing challenges they face on a day-to-day basis are: managing costs and evaluating value-added; talent and career management; and; positioning the legal department within the company. By reverse-engineering these key challenges, we set the challenge for legal service providers of any shape or form and from anywhere on the new spectrum of legal services to demonstrate that they can truly stand inside the shoes of their clients and provide them with inspiring service. So, rather than asking firms how much they pay their senior equity partners, we asked them to demonstrate the following:

- budget-orientated project management for a client;
- advice to a client regarding productivity and efficiency; and
- exceeding client expectations (inclusive of client testimonials).

As the Nobel-prize winning work of Kahneman attests, finding constructive incentives for individuals does in turn help society to prosper. It is my sincere wish that the legal community embraces new ways to benchmark their services that emphasizes team effort and sincere client service, including the Visionary Legal Provider suite of awards. It is no exaggeration to say that the future of partner-structured law firms is at stake. After all, there are many new players coming into the field that will align their compensation structures more effectively to client service.

To quote Harvard Business School professor Clayton Christensen: “A disruptive innovation is a technologically simple innovation in the form of a product, service or business model that takes root in a tier of the market that is unattractive to the established leaders in an industry.”

True client service has proved unattractive to the established leaders of the legal industry for too long, in my view – and sadly, the legal media has done nothing until now to assuage it.

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### About the Author

*Patrick Dransfield is Co-Director of In-House Community. Patrick has over 20 years of experience working in the legal industry: firstly as a Publisher and later Asia Managing Di-*

*rector of Euromoney Institutional Investor, and then as Marketing and Business Development Director for Asia for Shearman & Sterling and White & Case respectively. After spending 6 months advising a start-up on-line language learning site for children (Study-cat), Patrick joined Pacific Business Press as Publishing Director and Co-Director of the In-House Community™ in 2008 and continues in those roles. His publishing career began with Haymarket Publishing in 1987.*

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