



Briefing paper: The Legal Market 2011-2013?

In April 2011 Professor Susskind, Law Columnist of The Times newspaper, spoke about the “unprecedented client demand for value” which in his view was going to accelerate the pace of change in the legal market. This briefing paper takes a look at some of the forces which perhaps may shape change. It also overviews some of the things which law firms will face, and have to respond to, if they are going to survive.

Let’s take some of the obvious candidates first. While it is tempting for many firms to believe (or perhaps hope) that the Legal Services Act and the possibility of Alternative Business Structures may not impact them, this view is misguided.

Susskind also said *“We can be absolutely confident... that this multi-billion pound sector will attract external investment... The idea that there’s that much value in the market and that entrepreneurs and capital is going to ignore it is unimaginable.”*

Consumer brands, banks, insurers, in-house teams may all enter the legal market in some way – not always by starting from scratch but by inward investment. Nobody can predict the exact outcome. But the direction of impact is going to be more intense competition.

Alternative Business Structures are not the only driver here, but are just one of the forces which will bring this about.

Commoditisation.

One of the likely outcomes is that, over the medium term, new “brands” as well as some existing firms will intensify efforts to “engineer” the aspects of legal work that do not necessarily require significant legal expertise and judgement. While there may not be an instantaneous “big bang” with all conveyancing work (for example) immediately being lost to “legal factories”, over time, and as processes get worked through effectively, this will happen. Some people have said that clients will be dissatisfied, the delivery will be impersonal, and the outcome will be low quality. While there may be instances of this, it is wishful thinking to expect that all providers will struggle to provide what the market wants.

Some process-driven efforts will fail, probably as a result of an insufficient focus on what is important for the customer and an over focus on pure process and cost to the exclusion of other important factors. However, I predict at least one brand (and probably many) will succeed in creating a low-cost, acceptable solution for volume work to clients. Service staff will all have access to data on the progress of transactions, communication will work, and service will be acceptable. The choice for firms is whether to compete in this market, or accept the impact on their ability to generate other revenue from these client relationships.

Those that don’t do either will fail.

Choice, Trust and Value for Money

Different drivers are at play depending on the type of legal work being considered.

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For low risk, more process driven transactions, where relatively low true technical expertise is required, “volume” providers are likely to win out.

At the other extreme, for work that is mission-critical and impacts the survival or core strategy of a major business, relationships, trust, and perceived technical ability and commercial nous are likely to remain fundamental.

For most work “**value for money**” will be highly relevant. Its importance is not going to go away and the genie is well and truly out of the bottle. This isn’t just about the *level* of fees. More transparent, predictable, and “trackable” fees, as in other professional services, will increasingly be required for the vast majority of legal work. This will create advantage for those that project manage work better than others.

It is equally important to note that “value for money” isn’t also just about money! Those responsible at company level for the sourcing and decision making on legal services are becoming increasingly coherent about what drives value. They also know they need to be able to justify and communicate this value to their colleagues. Each firm must understand what drives this value (for money) in its market place and for its desired client base.

The way that clients choose will change over the medium term.

Many lawyers currently believe that the way users of legal services choose firms will not materially change.

And they might be right, but only in the short term.

For the more “commoditised” or price-sensitive areas of the market, brands will progressively hold more importance, and there will be greater use of comparison websites. The *early* attempts to build comparison sites are just that – currently they don’t have the volume of traffic or feedback that would make them influential in the decision for many people. But they probably will in the next 1-2 years, and something akin to “trip advisor” may emerge for legal services. Anyone that assumes that the homeowner that instructed you on their last move 5 years ago will automatically do so again, is likely to be disappointed.

But what about commercial and corporate work? In the immediate future, current relationships, word of mouth and referrals from trusted advisors will still be hugely important. But we see the use of panels and more formal procurement processes and decision making criteria filtering down from the bigger companies to the mid-sized market. The short term impact of social media may have been over-estimated, but for corporate business the long term impact has probably been underestimated.

While today’s CEOs, FDs and Company Secretaries are not necessarily highly engaged in social media, the majority of those in these positions in 5 years time will be. They will be less naturally “loyal” and more interested in the experiences and views of others via online comment too. While Chambers and Legal 500 are used to some degree today, their model may need to change, as the process is lacking in transparency and in depth of content. Buyers of legal services will want to be able to access more information.

Law firms who want to be able to effectively compete for corporate business will have to respond to this change. Long-term client relationships cannot be taken for granted, and firms are likely to need to

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not only engage with social media but be able to use robust satisfaction metrics. This will increasingly become a necessity to be able to communicate their performance to the outside world.

Investment and Access to capital

In this environment, the ability to access and deploy capital will be key. There will be a need to invest in the law firm's brand (either alone or as part of a network).

The probability is that few smaller law firms will have the financial muscle to effectively compete in some key areas.

These firms will therefore have to make a strategic decision about whether they merge, look for 3rd party investment, or pursue the future as part of a network. The only other alternatives will be to be acquired by a bigger firm, or not to survive.

Firms may have to more deeply consider which of the different models and networks would work best for them, for their clients, and which will create the best financial result.

What does this mean for the skills sets within firms?

Most firms now recognise that technical excellence and legal expertise are not enough to succeed. For most clients, technical expertise is necessary but not sufficient, and the decision to retain or to use a firm for more work also rests on perceived value for money and the quality of the relationship (amongst other things).

In part, this implies a greater need for "soft", client-facing skills and behaviours, and most firms have begun to recognise this. Training efforts have been established by many, but unfortunately their impact is often weakened by lack of follow-up, ineffective direction and lack of measurement of performance. The firms that will enjoy robust health in 2013 will have resolved these issues.

The other changes we have mentioned also mean that firms will need to build or acquire others skills. The drive for value for money, and more transparent and predictable pricing means that firms and fee earners need to improve not only their client management, but also project management skills. This will be accompanied by a clear requirement for more effective financial management and oversight within firms. Maintaining healthy margins will force firms to better manage resources by 2013. The need for greater efficiency and processes which work for the client also mean that IT and programme management skills will become more important.

Of course, regulatory change now means that such skills can be "bought" in, and "non-lawyers" can contribute their capabilities. This still means that firms will have to compete to gain these skills and provide a good "offer" to such staff. It is nonetheless true that the "traditional" fee-earner will need to evolve, and firms will need to develop a range of processes to build and maintain these skills, including effective recruitment, training, measurement and reward.

What does this mean for sustainability of revenue?

All the above mean that the sustainability of a law firm's revenue will come under greater threat than ever before.

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At the same time, it will become more important than ever before. This is as there will be greater investment by new competitors, and investors, in brands and in the technology that means volume work and client service can be delivered profitably but at predictable fees.

The conundrum is that any firm which wants to attract 3rd party investors in order to compete – or indeed to survive - is also going to have to demonstrate that it has, or can generate sustainable revenue, in order to be a compelling investment proposition.

This will require firms to ensure that they up their game in how they manage client relationships and in how they both understand, and deliver the value to clients which is critical to continue to win their business. It also means they will need to better monitor their performance in order to secure their health.

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