

Clients Benefit From Upheaval in Legal Sector



From technology to billing practices, new ways of operating are shaking things up.

*Man's yesterday may ne'er be like his morrow;
Nought may endure but Mutability.*

— Percy Bysshe Shelley, “Mutability”

Shelley wrote those words in 1821, yet they resonate profoundly today. In this 21st century, your business, and your industry, is in a constant state of change. One of your great challenges is to anticipate or even create that change, so that you can be an innovator, not a laggard. Well, believe it or not, change—and corresponding innovation—has come to the legal industry. For good.

For decades, the legal industry experienced little real change. Firms could increase revenues simply by growing with their clients and their markets. Rate increases were tolerated by clients whose own revenues and profitability grew, as well.

That all changed during the Great Recession, beginning in 2008-2009. With the economic cycle in a dramatic freefall, demand for legal services stagnated, then dropped. Lenders were not lending, developers were not developing, and shippers were not shipping. New businesses—and new clients—were not popping up. Even long-established and stable businesses—and solid clients—were facing unprecedented challenges. Rate pressures for legal services pushed downwards, not upwards.

On top of that, technology was becoming better, faster and cheaper. Tasks that once required dozens of lawyers and hundreds of (billable) hours, such as performing due diligence or reviewing millions of pages of documents, could be accomplished much more efficiently with the help of software and algorithms. At the same time, work traditionally performed by law firms was being outsourced to third-party vendors, such as electronic document management firms. Web sites like Legal Zoom even offered “do it yourself” legal documents, which purported to eliminate the need for a lawyer altogether.

Never before had the industry seen such quick movement from growth and stability to stagnation and change. So what's a lawyer to do? Same as you: Change. Innovate. Deliver more effective legal services more efficiently. Devise new revenue models that are more consistent with client value and firm profitability. Anticipate client needs by being immersed in the client's industry, so legal advice is informed not only by the law, but also by an understanding of the business challenges and opportunities which initiate and surround the legal question.

One example: Legal Project Management, which has moved into the mainstream in recent years. Basically, LPM is a methodology that calls for working collaboratively with the client to develop a scope of the work and to plan discrete tasks, then to

deliver those services while constantly communicating, monitoring and adjusting along the way to achieve the desired outcome. Transparency between the client and the legal team is a key ingredient to successful legal project management. This approach lowers costs, improves budget predictability, and maintains quality work, giving the clients better value for the fees.

Law firms are also finding ways to move away from the billable hour. With corporations cutting back on outside legal spending and price competition increasing, alternatives had to be developed. When I entered the practice of law over 25 years ago, there was already talk of doing away with hourly billing; now, it is actually happening as lawyers and clients get more comfortable with new approaches.

Alternative fee arrangements (AFAs) have many forms, including fixed fees on a project-by-project basis, blended rates, or bundled billing. Firms and clients now have the data, and the ability to analyze it, to make cost projections more reliable. Of note, AFAs are twice as likely to be profitable in firms that use them proactively, rather than reactively.

My own firm has undergone a major innovative change. Beginning in 2013, we took a page from the accounting firms' playbook and organized ourselves along industry lines (Health Care, Food and Agribusiness, Financial Services, etc.) rather than traditional practice areas (Bankruptcy, Litigation, etc.)

The thinking is that clients do not have legal needs in a vacuum; they have business challenges and opportunities that often implicate legal concerns. Lawyers can give better advice at a lower cost when they understand the industry trends and competitive pressures that cause the client to have the legal need in the first place.

Shelley was right: Nought may endure but Mutability. Challenging though it may be, those firms which innovate in the face of Mutability will endure, and even thrive. **I**

Many firms have been compelled to behave like their clients, embracing change and innovation to retain clients and add others.

Jeff Simon is the managing partner for the Kansas City office of Husch Blackwell.
P | 816.329.4711
E | jeff.simon@huschblackwell.com