



The Challenge of Efficiency

In the IT industry many companies use Moore's Law, a reference to the density of transistors on integrated circuits doubling every two years, in setting the pace that must be achieved in their research and development. And as commentators have observed this contributes to the Law being self-fulfilling - to remain competitive it is essential to innovate and increase capability at this speed, while simultaneously reducing cost.

Perhaps fortunately, competitive pressures in the legal sector do not require increases in productivity and decreases in cost at quite this pace! However, changing client expectations coupled with new approaches adopted by more enlightened firms are driving the need to improve efficiency. Through a combination of these the 'market price' for many legal services is reducing and so the 'unit cost of production' has to be driven down to protect margins and profitability.

The vast majority of law firms have, of course, begun to introduce approaches to improve efficiency over the last several years. These include:

- Working to detailed budgets and staffing plans which break matters down into specific tasks and directing work to the most cost effective resource available for each specific task
- Introducing improved approaches to project management
- Carefully managing staffing of matters according to detailed cost analyses
- Introducing proactive and early case assessment, which reduces the risk the client will face unforeseen or expensive legal costs down the road
- Breaking down matters into defined tasks and developing robust methods for completing processes utilizing the minimum resources possible
- Implementing innovative approaches for undertaking routine work (e.g. use of non-lawyers, paralegal staffing pools, legal process outsourcing, building dedicated low-cost centers, etc.)
- Leveraging technology to reduce 'touch' and more effectively direct the resources required for completion of tasks (e.g. templates, knowledge management, intranets, electronic status updates, etc.)

These, and similar initiatives are important and have delivered significant benefits – benefits in terms of differentiation and the opportunity to outperform competitors by better meeting client needs, reducing costs and delivering superior client service.

At the same time, it needs to be recognized that in many firms the introduction of such changes has been somewhat piece-meal and tends not to go significantly beyond lawyers processing work in a more efficient and hence cost effective but essentially still traditional manner.

In some markets and sectors improvements of this nature may be sufficient but we believe that for most firms there is a need to go very much further in order to maintain competitiveness.

Moving to the next level of improvements in efficiency raises significant challenges, however, of which three are particularly notable.

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1. Fear of Cannibalization: Improvements in efficiency inevitably raise concerns over reducing chargeable hours and, if the work is also undertaken by lower cost resources, reducing hourly rates too. In practice, this is likely to be the case and clearly the financial consequences do need to be offset – perhaps by some combination of attracting more work and reducing costs. Allowing such concerns, however, to stop or delay the introduction of efficiency gains will make the firm uncompetitive compared to others who are prepared to introduce new approaches. And as has been extensively analyzed, Kodak’s unwillingness to exploit its leading initial position in digital photography for fear of the damage this would have on its sale of film ultimately led to the collapse of the business.

2. Overcoming Conservatism: The innate conservatism and caution of lawyers raises barriers to introducing change. ‘Our current approach works and delivers excellent quality so why change?’ runs the argument. There is an element of validity in this but to some extent this argument is often used as a distraction – camouflaging the true concern. The fact that the more traditional approaches to delivering many legal services can be replaced with more process driven approaches challenges the argument – perhaps put forward by at least some partners in a self-deluding way – that all the work they undertake is highly skilled and requires years of experience and wisdom to undertake. It is often overcoming this hurdle that is the bigger challenge and supporting partners identify roles beyond practicing in what are often relatively routine aspects of law.

3. Building Consistency, Conformity & Concentration: Developing and implementing approaches that improve efficiency requires driving consistency in approach. In a lightly managed profession, characterized by partners as owners, skeptics and free thinkers, conformity can be particularly difficult to achieve. Furthermore, in many small and even mid-size firms there is a wide breadth of differing types of work undertaken with often a relatively limited volume of any particular single one. Introducing processes to improve efficiency requires a concentration of work types. Process efficiency first requires partners to be willing to adopt common approaches, second an investment of time, energy and resources, and third a sufficient volume of a particular types of work. In the less focused firm these circumstances are less likely to be met.

Without question there are many practical challenges in introducing streamlined, common and efficient process to undertaking work - including designing and implementing such approaches, accommodating and changing to the financial implications, managing risk, educating clients, building the volume of work required to justify the investment, etc.

These in our experience, however, are not the most significant challenges.

The most significant challenges are those of leadership - overcoming misunderstandings of what is meant by efficiency, persuasively making the case for change, taking a longer term perspective, supporting partners whose practices will be affected and so on. To overcome internal resistance and bring partners on-board requires law firms to identify the financial and non-financial advantages which will benefit both clients and the partnership. Ultimately, in order for firms to succeed in increasing efficiency, partners must buy into the notion that such approaches offer value to the client and to the firm, and as a result become truly supportive and engaged proponents.

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