

New Business Models for Service Delivery – Lessons from the Bulk Providers in Law Firms **By Nick Jarrett-Kerr**

In the competitive market for professional services, much can be learned from firms working at low margins, who have had to innovate and transform their models for service delivery in order to survive and prosper. This article – first published in 2004 and now significantly updated and revised - examines the lessons which all law firms can learn from the experience of the Bulk Providers.

There is a story doing the rounds about an eminent Heart Surgeon who, every Saturday morning, has twelve surgical teams conducting twelve different heart operations at the same time. The eminent Heart Surgeon goes from one operation to another taking a few minutes in each case to perform the incredibly intricate and specialised procedures for which he is famous. At the end of the morning, twelve grateful heart patients later, he will have earned a significant sum for each operation as a consequence of applying his time and skill where it counts. Even if this story proves to be apocryphal, it illustrates a clear point very well - that, even in the case of the most specialised services, much can be learned from those who are supplying high volume commoditised professional services - the bulk providers. What the Bulk Providers have done is to respond to the pricing challenge and low margins by adapting their business models to face an increasingly commoditising market-place. They have managed this by

- Structuring their firms on a corporate model with minimal equity ownership
- Developing their business so as dramatically to increase the volume of work,
- Standardising the processes so as both to reduce the time involved in each step and to enable delegation to less costly staff
- Clarifying the level and extent of necessary intervention by skilled professionals into each piece of work
- Organising the work into well managed and optimally leveraged teams

As one Senior Partner of a Bulk Provider law firm put it to me “This is not rocket science. In most cases it is just common sense”. Yet, as I go round law firms, I am still struck by the cottage industry atmosphere and general air of disorganisation which still pervades many partnership corridors¹. Partners are still insisting on the freedom to practice law in their own way, with their own styles and formats, and their own tailored precedents. The way clients are dealt with may well vary considerably from one room or work station to another, and junior members of staff are expected to react flexibly to differing working practices and procedures, depending on their supervisor for the time being. As an example, I still frequently elicit widely differing answers within the same firm when asking how long the same standard step takes in a transaction or litigation matter. More worryingly, some partners have no idea of the answer! What is clear is that for the Bulk Providers, the old cottage industry model has completely disappeared in favour of something far more organised, efficient and commercial. It seems to us equally clear that the old inefficient working practices are steadily becoming unsustainable even for firms who pride themselves on being High Value Providers.

The brutal truth is that clients are becoming increasingly prescriptive about what they want their lawyers to do and how much they are prepared to pay them. However prestigious or specialised the service, they are no longer prepared to leave it entirely to the discretion of their law firm how much time the law firm spends on their affairs, especially where the fee is payable on the basis of an hourly rate.

What is interesting is that, in responding to their competitive challenge, the Bulk Provider law firms have been highly innovative, but – even so - have not had entirely to re-invent the service delivery wheel. They have, however, remodelled and reshuffled it aggressively to provide a model which is

¹ I first wrote these words in 2004 and they are still true!

responsive to current needs. What we learn from their experience is that they have managed to achieve enormous efficiency savings and profitability improvements by radically changing – and then standardising – the way they do things. This requires an innovative and visionary approach, from developing the right structures, through the service strategy stage right through the process design stage to the service delivery methodology.

I have held many conversations with leading figures from law firms who are essentially providers of High Volume, Low Margin work. From these conversations and from my own experience, the following six essential features have emerged.

- 1 Creating the right Business Model.** Most Bulk Providers now operate with a very lean ownership/equity structure. I know of some firms with the number of equity owners/partners in single figures and yet employing many hundreds of staff. But it is not just the equity ownership which has changed; the whole manner and mode of working in such firms has altered dramatically. Many law firms have discussed abandoning the concept of partnership as a management structure in favour of an entirely corporate model, but this slightly misses the point. What is vital is not a change of structure but a change in working methodology and partner behaviour to facilitate the efficient and cost-effective delivery of client services. Firms can no longer act as essentially sets of Chambers where individuals are entirely free to get on with practising law in their own way as sole practitioners. Nor, in an environment where speed and flexibility are key, can decision making be channelled laboriously through partners' meetings. Decisions, such as staffing levels, pricing and infrastructure resources, have to be made swiftly and efficiently. Accordingly, management and decision making must be delegated to an efficient management team with the authority to bind the partnership. This is far from easy to achieve. As one Senior Partner told me, "We have lost some partners on the way. Not every partner will be prepared to give up his autonomy in this way; difficult decisions have to be made and if necessary non-compliant partners should be persuaded to move on". A Managing Partner from another firm confirmed this: "In low margin work, every aspect of management is thrown into sharp relief - it is very easy to lose money very quickly unless you actively manage almost on a minute by minute basis".
- 2 Managing Performance.** The challenge for law firms is not just to improve profitability but to manage quality and service efficiency. In the drive for cost savings, it is all too easy to cut corners and to open the firm up to increased complaints and claims. At the end of the day, successful execution boils down to the need to obtain both efficiency and consistency. Methodically applied case management systems can help here. To quote the Managing Partner of one firm with a bulk re-mortgage operation "The biggest benefit of Case Management is the management of risk". But the history of Case Management is littered with examples of firms where implementation has only partly taken place or is deeply flawed. This is usually because partners have chosen to ignore the new systems and carry on doing what they have always done. We have seen two possible change management approaches here. In one case, the approach was consensual: "Getting people to change their ways and use new processes and systems is a major hearts and minds exercise – as it not only needs them to do things differently, but also they have to adapt to the Case Management system doing things for them in a way they are not used to. The key is having Champions to blaze the trail". The alternative approach is more brutal with the introduction of a well enforced and disciplined regime where compliance becomes obligatory - shape up, or ship out.
- 3 Efficient systems and workflow.** It is quite noticeable, in the firms to whom I have spoken, how much emphasis is placed on the management of both time and money. In most cases, fixed fees are involved, and the responsible partner will spend a great deal of time trying to figure out ways to cut an extra few seconds of time out of each stage in a transaction or project. As an example, we were told that in one case a 25 minute process

had now been engineered down to one and a half minutes. The problem (away from the Bulk Providers) is that law firms have become accustomed to regimes which place a huge reliance on measuring inputs (Chargeable Hours recorded) rather than outputs (successful outcomes). This is all well and fine when the client will pay for every hour spent and billed, but is not sustainable in an era when clients increasingly want to know exactly what is achieved with the time spent on their affairs. In addition, in low margin work, pricing and base cost are absolutely key and both have to be watched like hawks.

What is of even greater importance is the management of workflow. One senior partner told me "Managing the numbers is a major issue for us. Too much work coming in and we can't cope. Too little, and we have people sitting idle. You have to have reliable knowledge of the volumes of work being introduced. It takes us, on average, six months to staff up for a doubling of volume from any of our institutional clients." What is more, the processes and procedures have to be constantly revisited and re-engineered so as to adapt to new client requirements and different client preferences, and to ensure continuing cost effectiveness. Most low cost providers therefore find that they are devoting considerable resources and energies to the continual task of trying to find ways of doing more for less in a shorter time.

- 4 Building key referrer and client bases.** Doing large volumes of work for big institutions requires, amongst other things, a sustainable and close relationship to ensure that the service continues to meet changing client and industry requirements. A recent example of this, in the United Kingdom, is the recent introduction in the United Kingdom of demanding new money-laundering regulations.

It is encouraging to see that the more proactive firms seem regularly to be discussing all aspects of their relationships openly and regularly with their clients. An important aspect of this is to agree and refine processes and methodologies, a practice which not only helps to cement relationships but anticipates possible future trends and ambushes as well.

- 5 Recruiting and Training the Right Staff.** One law firm told me that at any one time, they have 35 new members of staff undergoing initial training, aimed to induct non lawyers in the technology, legal process and systems of their business. Another firm finds it so difficult to find, train and retain good people that they are contemplating head-hunting the best lecturer from the local Law School and starting up their own Academy. The challenge is to keep staff interested and motivated in work which can quickly become repetitive and dull, and to provide them with sufficient career development to enable a good level of retention. We were told "How you treat people is key. You need a fixed regime which is tough but flexible and relaxed. A brutal atmosphere, where people have to put their hands up for permission to visit the bathroom, does not work".

- 6 Tracking and Exploiting Emerging Trends.** In the case of most Firms I have looked at, the original route to the provision of bulk services seems to have emerged as a strategy over a period of time, from the intuition of the partners, and from actions taken piece-meal over a period. Often, there has been one enthusiastic and ambitious partner who has become passionate about starting, building and managing the project – what Patrick McKenna has often referred to as a 'monomaniac with a mission'. Early activities and pilot projects then tended to develop and converge over time into some form of consistent pattern, which was then re-enforced and accelerated. But in all cases, what was needed in the first place was a deep understanding of the market-place and its opportunities, the ability to discern trends before they arose, and then the courage and conviction to exploit those trends. This trend-seeking formula of analysis and intuition is equally important during the journey as at the start of it. In law firms, there are many obstacles to any form of planned approach, not least the reluctance of partners to give up some fee-earning time to think about long term objectives. But in the context of service delivery, new and anticipated trends – whether industrial, technological, economic or legislative – need to be filtered and synthesised almost on a daily basis. Different ways of doing things need to be identified and piloted. New technological developments have to be investigated and assessed.

Innovative business models must be unearthed. Industry meetings should be attended. In the successful law firms which we looked at, one feature was absolutely clear. Somebody (in some cases, more than one person) took on the responsibility for achieving all of this.

Understanding different Business Models

Law firms of every type need to understand clearly what sort of business model is appropriate to their needs. The attached table shows some of the generic business models and features which now apply.

	Bulk and 'no frills' providers	Mid-Market	Upper Market
Firm Type	Volume Provider, Corporate Hierarchy	Traditional Partnership – general or portfolio	Star teams in specialist areas and sectors with long geographical reach
Value Proposition	Value for Money	Experienced, specialist, relational	Focused Differentiation, best-in-class expertise
Profitability Levers	High Volume, high utilisation, Use of Leverage and process	Utilisation, mid pricing, Leverage (tight equity), controlled overheads	Pricing, leverage
Pricing	Cheapest	Competitive	Premium
Staffing	Grunt-Heavy, IT Reliant, Partner Light	Staff Mix to Match Financial Targets	Expertise Heavy
Expertise	Systems Reliant	Experience Reliant	Cutting edge Reliant
Marketing Implications	Marketing led (Advertising and Brand Building)	Business Development led (Heavy reliance on Rainmakers)	Reputation led (IBM factor etc)
Brand Building	Heavy Financial Investment	Differentiation and brand edge difficult to establish	Prestige brand giving credibility for high rates
Examples of Firms	Bulk Suppliers	Regional and Local General Practices	Big-Law, Market Rulers, Designer Labels, Local Heroes
Examples of core clients	Consumers Intermediary-led clients, Panels for bulk work Insurance Companies	Leading Local Businesses (SME, OMB) Regional Subsidiaries and outlets of Global Firms Some national businesses Public Sector Bodies Financial Institutions	Global corporations FTSE companies Major Institutions
Examples of core practices	Conveyancing, Probate Debt Collecting Personal Injury Litigation Lightweight commercial	Mid market M&A and Banking IP and mid level Commercial Litigation Commercial Property Employment	Heavy lifting corporate transaction Major Litigation Niche areas
Implementation Issues	Focus on service delivery, systems, pricing Recruiting and training staff at right level Managing Performance Marketing & brand-building Building key referrer base	Recruit leading practitioners Create client/sector teams Develop sector focus Develop geographical reach Manage performance	Work on market positioning/fame Develop/recruit rain-makers Develop ground-breaking solutions and services Build dominance especially signature clients, high profile mandates Develop global reach

What is clear is that the Bulk Providers have introduced successful business models and have then managed them aggressively and commercially. The same degree of focus and dedication (bordering upon obsession) has not been so noticeable in firms which have traditionally (at least until the recession) occupied a comfort zone of steady profits, loyal clients, high prices and inefficient business operations. The brutal truth is that firms of all shapes and sizes should not look down their noses at the Bulk Providers - they can learn a lot from firms at the cutting edge of commoditisation.