



REMAKING LAW FIRMS

WHY & HOW


Today's legal services industry is in a state of change. Clients are choosing providers who meet legal needs and charge for service in new, novel ways. Margins are shrinking. Alternative fee arrangements are on the rise.

To respond to this uncertainty, law firms will have to go beyond cutting costs. They need to look for business models that are better adapted to serve their clients not just today, but well into the future. *Remaking Law Firms* provides a wide range of innovation examples and case studies that illustrate what a remade business model for a law firm might look like.

The following extracts include contributions by Jeremy Szwider, Principal of Bespoke (visit www.remakinglawfirms.com):

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CLIENTS WITH NO IN-HOUSE LEGAL RESOURCES



Small to medium commercial entities currently often do not benefit from the value that an embedded experienced general counsel brings. If legal providers are willing to offer services in ways that are commensurate with the business drivers of such clients, there is a market with a considerable growth potential. Jeremy Szwider of Bespoke, a law firm with headquarters in Australia that provides "out-sourced in-house legal services," comments on clients that do not have in-house legal capabilities:

In our experience, clients with no in-house legal resources are those that are most attracted to our "retainer" model of outsourced in-house counsel. They are businesses of a size and complexity that warrant an in-house counsel resource, but without the head count and perceived inflexibility of an internal resource.

Spend reduction is a factor across the board for businesses large and small. The primary drivers for clients with no or small in-house legal departments tend to be relationship driven—so rather than assessing metrics, they assess responsiveness, timeliness, accessibility, quality, and flexibility. These more qualitative measures are harder to apply metrics to, but they are foremost in my opinion for this type of client.

In response to the question if clients with no or a very small law department are more or less receptive to alternative business model providers and ways of doing things that are not traditional, Jeremy responded:

More receptive—they are generally more adaptable, and more open to different ways of doing things than larger businesses. This is not universally true; there are some extraordinarily innovative big companies with which we work. Turning an oil tanker is a good metaphor for some big businesses though.

Particularly in Australia there has traditionally been a "gap" in those organizations with no in-house lawyers. Of course they have legal requirements, but for a variety of reasons, including budgetary and headcount constraints, they haven't taken the in-house lawyer step. You have a spectrum; there are ones at the start-up phase who are strapped from a budgetary perspective to large companies with big needs for legal resources. We are plugging that gap and providing those organizations with the legal resources they need and making them accessible.

So there is a substantial market segment of companies with no or scant in-house legal resources that is under-served by traditional law firms. This segment offers significant growth opportunities to provide tailored legal and related services with more flexible cost structures.

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WHAT'S IN A (LAW FIRM) BRAND

"Brand" is another word that commands about as many definitions as there are consultants with an interest in the topic. To us, the most crucial element is that effective branding is about the singular promise you make to your clients and to the partners and staff in your firm, as well as the market at large. The "brand mood board" contains at least the following swatches:

- what your firm stands for, internally and externally
- the emotional bonds you have with current as well as prospective clients
- a promise—and also, more importantly, how you deliver on it
- why you can be trusted
- the defined "personality" of what you offer
- a dialogue engaging with stakeholders.

Jeremy Szwider explains the pervasive role of branding in the "virtual" Australian law firm Bespoke:

I am an IP lawyer at heart so I am always pushing branding concepts. You can argue with people about the pros and cons of branding, but I think that in any market, in any age, branding is one of the most important pieces of the puzzle for a successful business or professional services firm. Our models at Bespoke are so unique and proprietary that they lend themselves to having a brand. Further, the firm's relationships and partnerships are so important that they too lend themselves to having a strong branding component. We are very active with our branding presence, with everything about the Bespoke brand. It is not just the visual imagery and the word "Bespoke." It is everything from how we wake up in the morning, how we feel at work, how we communicate, to how we present ourselves to the marketplace. It all needs to flow down to fit in with who our clients are (and who are not our clients). It all needs to fit within the Bespoke mantra, the Bespoke ideology.

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COMPONENTS OF AFAS

The importance of Alternative Fee Arrangements (AFAs) lies in the opportunity to demonstrate how they align law firm and client interests, and how quality, defined as managing and meeting (or even better, exceeding) the clients' expectations, is maintained—particularly with lower prices. All of this is in addition to making the client's legal spend transparent and predictable. In this sense, a capped budget based on an hourly rate, for example, can achieve a risk allocation that is similar to a fixed price at the level of the cap. Similarly, an agreed progressive decrease in rates based on a threshold number of hours spent on a project can align law firm and client interests.

Fixed fees based on matter type, or specific smaller or larger tasks or projects, like, for example, predictable stages of litigation, have the advantage of transparency and compatibility. From the perspective of the client, this includes compatibility across firms. One problem in this respect is still a lack of industry standards, meaning that when a client puts out a request for proposal, the specifications might not be clear enough to result in truly comparable bids by different law firms. There can, therefore, be a need for additional communication with the client to clarify the exact scope. The precise risk allocation with fixed price arrangements depends on the specifics. For example, a set price without fixing the number of service units, be they units of time or specific results to be bought, might turn out to favor the seller, if a high number of units is sold that would possibly lead to a discount if set in advance. As in any business negotiation, risk limitation in the form of guarantees either way will come at a price.

Fixed prices can be combined with arrangements that provide additional incentives to achieve desired outcomes. Jeremy Szwider of Bespoke comments on their pricing approaches:

We provide value-based pricing. We have a product called "D.cubed." We feel that our product is so unique and proprietary that we have given it a brand name. As part of value-based pricing for this D.cubed product, one important aspect is fixed pricing, and we have a heavy focus on fixed pricing. There are other formulas we will look at, such as retainer fees, percentages, uplift fees, or abort fees. We do not offer hourly rates; that is not within our offering. It is all based on value propositions.

We will assess what the task at hand is. A team will go away and assess it and price it accordingly. More often than not, it will be a fixed pricing or a retainer fee model. Sometimes, for a particular transaction we may "have a bit more fun," where we will directly align the price with the upside, such as an uplift or a percentage-type concept based on success. With our pricing models across the board, we look to invest in a future partnership relationship with our clients. We do not act for endless numbers of clients. We selectively chose who is the right client. We hope that most times we get it right, and we may say "No" to prospective clients.

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Jeremy Szwider

Jeremy is a principal and founder of Bespoke, a NewLaw firm. As a pioneer of the NewLaw revolution, Bespoke turns the conventional wisdom of the traditional legal market on its head by combining in-house and private practice principles. The result is high-quality, pragmatic legal solutions with a value-based pricing model. The outsourced business model does away with fixed overheads, bureaucratic large firm processes, and inflexible fee agreements. Instead, Bespoke provides a network of experienced lawyers working with clients with a unique "in-house philosophy" and who are available to provide outsourced in-house counsel services, without watching the clock. Jeremy is a recognized leader in the legal industry and has been instrumental with his entrepreneurial flair in pushing the boundaries of the NewLaw movement.

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