

Real innovation in law firms and alternative law firm models

律師事務所的真實創新及另類營運模式

Robert Sawhney looks at how law firms around the world are breaking down the barriers to innovation

Robert Sawhney論述全球律師事務所如何在破除通往創新的屏障

There has been considerable discussion in the general and legal media regarding the state of law firm business models and the need for innovation in the legal industry. Numerous consultants within the profession – including me – profess the need for law firms to differentiate themselves, but provide little evidence of real life examples. If these writers do give examples, they tend to highlight renowned firms like McKinsey or Goldman Sachs but seem to be at a loss for examples that are more insightful for law firms, particularly smaller ones. Many describe consumer goods examples and claim that these should be transferable to the legal industry, but I have yet to see that really be borne out.

The legal industry has unique characteristics and is subject to unique forces. It is helpful to first look at the barriers to innovation in law firms, as set out by Gillian K Hadfield (*Regulation*, Fall 2008):

1. Heavily regulated markets – association restrictions on who can practice law, when, how, and what services they can offer.
2. Top-down standardisation – exclusive focus on the means to delivering inputs to business ends, rather than the ends themselves, means that legal providers continue to build better drills rather than making better holes, ie solving client problems more effectively.
3. Homogeneity – everyone goes through the same training and same processes, which leads to a small talent pool since being innovative requires out-of-the-box thinking.
4. Scale and scope economies – by defining legal practice as economic inputs that must include a large individual human capital component, professional regulation of legal markets inhibits, for example, the extension into legal markets of the large scale information processing that underlies much of the revolution in the modern economy. Regulation also limits scope benefits due to lack of incentive to develop crossover products and processes.
5. Restrictions on financing – outside investment, sharing of fees as well as advancement limits of non-professionals.

在一般的及法律的媒體中，均曾就律師事務所的營運模式及法律行業對創新之需要等議題進行了廣泛的討論。該專業內的許多顧問—包括筆者在內—涵認為律師事務所確需要與其同業存在差異，卻未能舉出一些真實例子。縱使有一些實例被舉出，也只是趨向以麥肯錫(McKinsey)或高盛(Goldman Sachs)等著名公司作例子，而對於律師事務所而言，尤其是規模較小的，較為具有參考價值的實例則欠奉。其中，許多作者只是以消費品作為例子，並聲稱同樣道理亦可適用於法律行業，但本人認為其可行性仍有待證實。

法律行業具有其本身的特性，並受制於一些具獨特性質的力量。讓我們先看看芝莉安·夏費德(Gillian K Hadfield)(*Regulation*, Fall 2008)如何論及律師事務所在實行創新時所遇到的障礙：

1. 受高度規管的市場 關於誰人可執業、何時、如何，以及可提供之服務等各方面的行業公會限制。
2. 由上至下的標準化模式 將重點完全集中於投入資源以達至業務目標，卻忽略該等目標的本身，顯示法律服務供應者只知「利其器」而非「善其事」（即是更有效地為客戶解決問題）。
3. 人才的單一性 所有執業人士均接受相同的培訓和考核過程，導致法律行業的人才庫規模受到局限，而創意卻需要多角度的思維。
4. 規模及範疇經濟 將法律實務界定為必須包含大量個別人力資本成份的經濟投入，例如，法

Despite these impediments, a number of law firms are nonetheless forging ahead to become innovators. I am going to try to set the record straight by highlighting a number of solid, real-life examples of law firms doing things differently and differentiating themselves.

Value pricing

Some firms have killed the billable hour stone dead and moved to alternative fee methods such as fixed fees. Valorem Law Group in the US and Results Legal in Australia are two examples. Not only do these firms shun hourly billing, they do so by achieving a firm culture that values client-focused and innovative work practices. That is true differentiation. It's valued by clients and it's hard to copy.

Niche marketing

Some law firms have been so obsessed with becoming full-service firms that they have forgotten whether that is indeed what their clients want. Firms that practise in only a few areas but excel at what they do will always be ahead of the competition. For example, in Hong Kong, Gall and Lane is a specialist dispute resolution firm. In the US, Belin law firm has developed an expertise in mixed martial arts law (MMA) and built a blog to discuss all aspects of MMA law. Again, develop a specialist field before your competitors and it can be hard for them to play catch up.

Outside ownership

Although outside ownership in most countries is prohibited, Australia has one of the only firms I know of to be listed on the stock exchange (the UK is planning to allow outside ownership of law firms by 2011). Slater and Gordon has been listed on the ASX since 2007. With a corporate style board and management the firm has been able to



律市場的專業規例，對於作為現代經濟改革的主要基石的大型資訊處理伸展至法律市場造成了抑制。此外，亦由於其導致缺乏開發跨越性產品或程序的動機，該等規例亦因而局限了範疇利益。

5. 融資限制 非專業人員的外部投資、收費分成及晉升局限。

即使面對這些障礙，但仍有多家律師事務所努力發展成為創新先驅。以下我將列舉若干可靠的現實生活例子，顯示律師事務所如何創新，讓自己能與其他同業有所差異。

按值定價

有律師事務所取消按工時收費的做法，轉為採用例如固定費用等另類收費方式。美國的Valorem Law Group及澳洲的Results Legal乃其中兩個例子。它們不僅取消按工時收費的做法，而且成功達至以客為本及工作須具創意的公司文化。此為真正的差異化，為客戶所推崇，亦難以被倣效。

小眾市場營銷

有律師事務所過分著重發展成為全面服務的事務所，而忽略了該等服務是否客戶所需。擅長並專注發展若干範疇的事務所必定較同業優勝。例如，香港的Gall and Lane為專門的爭議解決事務所，而美國的Belin律師事務所則專注發展自己成為「混合武術法」的專家，並建立網誌討論與混合武術法有關的各樣事宜。因此，較同業更早建立專門範疇，便能取得先機。

外部擁有

雖然大部分國家均禁止外部擁有，但澳洲卻擁有我僅知的其中一家於交易所上市的律師事務所（英國計劃於2011年前容許律師事務所的外部擁有）。Slater and Gordon已於2007年開始於澳洲證券交易所上市。該事務所的董事會及管理層皆具企業風格，並建立了獨特的律師事務所文化，在許多案件中採用「不成功，不收費」的政策。於2009年8月12日在澳洲大律師公會期刊發表的一篇文章中，引述美國伊利諾州大學法律教授拉利·來斯頓 (Larry Ribstein)的話稱，外部擁有能在服務客戶方面為律師事務所增加若干選項。該等選項，諸如開設特許經營律師事務所，可透過銷售股份獲取額外資金而得以實現。

凱威制的終結

律師事務所的「若非升職便是離職」制度，以及助理律師的傳統培訓和事業路徑亦備受考驗。寰睿律

create a unique culture for a law firm that works on many cases with a no win, no fee system. In an article published in the ABA Journal on 12 August 2009, University of Illinois Law Professor Larry Ribstein is quoted as saying outside ownership would add a number of options for law firms in serving clients. These options, such as opening franchised law firms, would be created due to the extra liquidity offered by the selling of shares.

End of the Cravath system

The 'up or out' system in law firms is under threat, as is the traditional training and career path for associates. Howrey LLP and other firms such as DLA Piper have been revamping their associate development programmes. For example, according to the WSJ law blog, Howrey associates starting in September will make \$125,000 (comprised of a \$25k up-front bonus and a \$100,000 salary). Second-years will make \$150,000 (comprised of a \$125,000 salary and a \$25,000 bonus at the completion of the project). They will work only one-third of the time during their first year on client-billable work, and will spend the remainder handling *pro bono* work and in a Howrey-built training program. Other tidbits: the firm will bill clients a discounted rate on the first and second years, in the region of \$150 to \$200 an hour. There is also no requirement on billable hours. The firm's chairman believes the system will allow the firm to hold onto its new hires and better prepare them for the future of the legal profession.

What is going on here? In my view, it is simple. Work/life balance is becoming a major issue for associates. Additionally, clients often resent paying high hourly rates for new hires. Another factor is that not all associates will be stars. As Thomas Delong from the Harvard Business School points out in his new book, *When Professionals Have to Lead*, paying attention to 'B' performers who make up most of the firm makes sense since not all staff will want to make the sacrifice often needed to become an equity partner. The idea that not all professionals are motivated by the same needs is powerful. This type of culture can be a strong differentiator as the firm can produce higher quality work and outdo competitors in terms of relationship management. Again, real sustainable advantage here.

Merit-based compensation

Many law firms in the US and even the UK are moving towards merit-based compensation systems. These systems reward partners based on their contribution to the firm individually, as opposed to traditional lock step systems. This kind of approach can create a high performance work culture if the proper metrics and key performance indicators are put in place. Revenue generation should not be the only criteria. Teamwork, mentoring and so on should also be included. A word of caution in Asia: merit-based systems require frank appraisal of underperforming partners, and this is not readily accepted in collectivist Asian cultures. The same can be said for individual pay-related performance.

Alternative business models

Axiom law firm in the US and Advent Lawyers in Australia are two examples of law firms that don't actually do legal work themselves. They hire lawyers who either work remotely or in their clients' offices for a project period. Such firms usually work on a fixed-fee basis, and

師事務所及其他如歐華律師事務所等已變更其助理律師培訓計劃。例如，根據華爾街日報法律網誌所述，於九月上任的寰睿助理律師，其薪酬為\$125,000（包括\$25,000的預付花紅及\$100,000的薪金）。服務期踏入第二年的助理律師，其薪酬為\$150,000（包括\$125,000的薪金及完成項目後發放的\$25,000花紅）。於工作的首年，助理律師只會花三分之一時間於可向客戶收費的工作上，其餘時間將用於處理志願性工作，及參與由寰睿設計的培訓計劃。其他珍聞：倘客戶的案件由首兩年的助理律師來處理，客戶將可獲得折扣，收費由每小時\$150至\$200不等，而且亦沒有關於收費工時的規定。該事務所的主席認為，此制度有助事務所挽留新血，並更好地裝備他們以應付未來在法律專業上的需要。

這表示甚麼？我認為道理很簡單。工作與生活的平衡，正成為助理律師的一個重要議題。而且，客戶通常不願意就新聘律師所提供的服務支付高昂的費率。另一項因素是，並非所有助理律師皆為明日之星。哈佛大學商學院的湯馬士·狄龍(Thomas Delong)在其新書《專業人士何時必須指揮大局》中指出，管理層對事務所內佔絕大多數的「乙類」員工多加留意是合適的，因為並非所有職員均願意作出要成為一位合伙人時，所通常需要作出的犧牲。並非所有的專業人士均受同一種需要所驅動——這是一個強而有力的概念。這種文化是一項強勁的差異性因素，因為可讓該事務所提供更高質素的服務，在關係管理方面超越對手，在同業之間突圍而出。此為另一真正的可持續優勢。

按工作表現來衡量的報酬制度

在美國甚至英國的許多律師事務所開始改用按工作表現來衡量的報酬制度。這制度是根據合伙人個人對事務所作出的貢獻來給予獎賞，有別於傳統的連坐式制度。假如訂立了適當的架構及主要的績效指標，這一制度將可創造一種良好表現工作文化。業績收入不應作為唯一的表現評核準則，團隊合作、輔導新人等欄目也應包含在內。對亞洲地區實行此制度的忠告：按工作表現來衡量的報酬制度，要求對表現未達標的合伙人作出忠實考核，這在奉行集體主義的亞洲文化中未被廣為接受。對於個人方面的與報酬掛勾的表現而言，情況亦然。

另類營運模式

美國的Axiom律師事務所及澳洲的Advent Lawyers乃其中兩家自己並不實際從事法律工作的律師事務所。它們聘請律師以遙距方式，或是於項目期間在客戶的辦事處工作。此等事務所通常以定額方式收費，而由於其經常開支較低，故其收費水平遠較傳統律師事務所為低。它們聲稱乃採用項目管理技術

because of their lower overheads can offer substantially lower rates than traditional law firms. These firms claim to use project planning techniques and knowledge management systems to ensure effective delivery of services to clients. This type of contract work has attracted some very senior lawyers who value the autonomy and freedom and have become somewhat disillusioned with the traditional management systems at law firms. There are also virtual law firms that don't have fixed office space but either work from home or in their clients' offices. These virtual firms use the web to stay in contact and, again, are often senior partners of large law firms who have become tired of traditional practice. Again, if such firms can develop strong management systems for running a team of virtual lawyers, they can offer lower prices to clients that would be hard for other firms to follow.

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並非所有的專業人士均受同一種需要所驅動——這是一個強而有力的概念。

Mixing it up

In a 2006 MIT Sloan Management Review article entitled '12 Different Ways for Companies to Innovate', Mohanbir Sawhney (no relation), Robert Wolcott and Inigo Arroniz develop what they call the 'innovation radar' which depicts the various dimensions of business innovation. The authors highlight the importance of intertwining various forms of innovation to create a sustainable competitive advantage. This radar is based on the firm's offerings, customers, processes and presence. An example of this in the legal field is Exemplar Law Firm in the US. Exemplar offers fixed-fee billing (value-based), 100% service guarantee, cross-functional client teams (as opposed to practice areas); it targets mid-market clients and uses a traditional corporate style of management with a CEO. By mixing innovation in terms of process (cross-functional teams, CEO), offering (fixed fees), and customers (mid-market), the firm is able to create an innovation system that would be hard for other firms to follow because they don't have the appropriate culture. Large firms would find it nearly impossible since they rely so heavily on utilisation and high hourly billing rates, any change for them would require a total redefinition of their business model and *raison d'être*.

Conclusion

Innovation in law firms can happen, and there are some real examples cited above. While there are a number of restrictions imposed by regulatory bodies in Hong Kong regarding the type of initiatives law firms can undertake, there is absolutely nothing in those regulations preventing law firm leaders from changing their mindsets and firm cultures to enhance client value. The examples cited above are not superficial innovations that anyone can copy. These innovations must be integrated into the very fabric of the firm to become successful, and it is such a mindset which will lead your firm to a sustainable competitive advantage.

及知識管理系統，以確保能向客戶提供有效率的服務。這種合約工作吸引一些非常資深的律師，他們嚮往自主和自由，並對傳統的律師事務所管理制度感到厭倦。此外，市場上亦出現並無固定辦事處的虛擬律師事務所，該等事務所的律師會在家中，或是在客戶的辦事處工作。此等虛擬事務所透過互聯網與客戶保持聯繫，通常也是由對傳統執業模式感到厭倦的大型律師事務所高級合伙人所設立。假如該等事務所能建立強健的管理制度以管轄一個虛擬律師團隊，它們便可以收取較為低廉的費用，其他事務所將難以跟隨。

混合模式

2006年，莫哈比·梭尼(Mohanbir Sawhney) (與筆者並無關係)、羅拔·和葛(Robert Woocott)與印尼高·亞朗尼斯(Inigo Arroniz)於《史隆管理評論》(MIT Sloan Management Review)發表的一篇題為《企業創新的12種不同方法》的文章中，提出其「創新雷達」理論，詳述企業創新的各項因素。這些作者強調綜合各種創新模式的重要性，以達致可持續的競爭優勢。該雷達是以事務所服務提供、客戶、程序及規模為依據。在法律界的一個例子，是美國的Exemplar Law Firm。它為客戶提供按價值的定額收費、百份百服務保證、跨功能客戶服務團隊(有別於按執業範疇)；它以中間市場客戶為服務對象，並使用傳統企業管理模式，由行政總裁負責管理。該事務所通過綜合各種創新模式，包括程序(跨功能團隊、行政總裁)、服務提供(定額收費)及客戶(中間市場)，得以建立其他事務所因缺乏合適文化而難以做效的創新制度。大型的律師事務所由於非常倚賴實益及高水平的按時收費率，故任何的更動，將會導致它們需要為其營運模式及存在目的進行重新定位，因此幾乎絕不可能實行該等創新模式。

總結

律師事務所的確能夠做到創新，以上亦列舉了一些實例。儘管香港的監管機構就律師事務所可實行的業務開創類別作出了若干限制，但該等規例絕無阻止律師事務所負責人改變其思維及公司文化以提升客戶價值。以上所舉的例子，並非輕而易舉以致任何人皆可予以仿效。若要取得成功，便必須將創意融入事務所的結構當中，而正正是這種思維，才可以將您的事務所引領至一個享有可持續競爭優勢的境地。

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