Lawyers ALERT

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When opportunity knocks, can your firm afford it?

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Consider one of the following scenarios: Your firm's leadership wants to become the employer of choice for young professionals — and this includes a workplace that appeals to them — calling for significant leasehold improvements.

Your firm would like to bring on new partners while ensuring that their capital investment in the firm does not impose a burden to their financial stability.

There's been a gap in your firm's service lineup, compromising its "one-stop-shop" image.

You've learned of a boutique firm that's for sale, that fits into that gap perfectly — and you want to be sure your bid is competitive.

What do all these scenarios have in common? A need for access to capital. However, many firms would not be in position to deal effectively with developments such as these. This means that they may be outgunned by competing firms that do have an effective capital strategy.

Being effective regarding capital starts with the metrics the firm probably already tracks, such as billable hours, average hourly rate and utilization. However, many firms do not take the next step, which is getting an accurate idea of their financial performance. This includes return on capital employed (ROCE), which measures net profit that is generated against the level of partner funding or capital held in the practice.

A recent legal benchmarking report by Collins Barrow's U.K. colleagues found that ROCE differs dramatically, with the larger firms having significantly better ratios than the smaller firms. The report concludes this is generally because the larger firms can attract partners who are already established and can bring investment capital into the firm, so that the firm does not have to rely just on its own capital.

Greater need for capital

Research by Collins Barrow Toronto has found that today's mid-market law firms need a higher level of capitalization than in the past due to higher operating expenses, or a higher need for capital investments to generate future earnings. As a result, all of the firm's partners need a clear understanding about the need to watch the firm's ROCE as much as they do their own billable hours and understand the nature of capital and need for a solid capitalization strategy.

This is not a smoothly functioning world. Clients default, they pay late, they dispute invoices. Unexpected expenses — like the need for a new IT network — ensue. Opportunities occur as well, such as the chance to move into better offices or make a strategic acquisition to round out the firm's service offering, resulting in moving expenses and leasehold improvement costs. Good capital planning ensures that the financial strength is available to deal with problems and to jump on opportunities, without reducing the firm's ROCE.

Law firms' capital mix includes undistributed earnings, capital contributions, bank borrowings and partner loans and depends on factors such as the collective risk profile of the partners.

Consider your borrowing options

In some cases, the firm can borrow at a more favourable interest rate than the individual partners can, so firm debt may be better than partner capital/loans. Some firms pay interest on partner capital, and others do not.

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Adapt

Adapt your strategy depending on economic climate. Firms are advised to reduce their financial risk in tough economic climates with a more conservative capitalization policy, so that permanent capital — money invested in furniture, computer networks and other hard assets — is funded by long-term sources (long-term bank debt and partner loans). In contrast, working capital — money used to fund operations until fees and disbursements are collected — is funded by a mix of short-term bank borrowings and undistributed earnings.

Skin in the game

Give your partners some. Experience working with law firms has found that one advantage to partner loans is that partners feel more committed to the firm. It is "their" firm, and this means they tend to consider the firm's interests rather than just their own. It keeps in check any risky behaviour that might expose the firm to the threat of financial loss or loss of reputation. It also increases their feeling of investment into the firm's overall objectives — such as doing all they can to support the firm's strategic goals.

Money worries

Don't let money worries stop new partners from joining your firm. One of the financing issues facing law firms involves making sure that the firm has the right leadership in place, in part through making sure that the right people are able to become partners. For many lawyers, becoming a partner is a huge career milestone — it announces that they've "arrived" with regards to professional recognition and acclaim. Unlike some career milestones, "making partner" arrives relatively early in a lawyer's career. It comes at a time when they are just becoming established in their personal life, maybe with hefty mortgage payments, possibly with a young family, too. So, potential partners may be concerned about how to come up with a partner loan.

It's becoming clear that Canadian law firms can succeed better if they continue to adapt to changes in the legal marketplace and have a tight focus for their strategy. Part of success comes from having access to the capital resources to seize opportunities when they come along, and to weather difficult times as well.

Just as individuals and organizations look to law firms for their expertise on resolving legal issues, law firms can benefit from looking to professional expertise to ensure they have a capital strategy that meets their needs and culture. It helps to find external advisers whose advice is based on working with a wide range of law firms, to see what works under which circumstances.

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The cultural lenses through which we examine law firms

Gerry Riskin, B.Com., LL.B., P. Admin, *is a founding partner of Edge International*

Cultural differences define and influence every aspect of law firms' operations, reputations and financial success. Describing a law firm's culture is difficult, even for people who know the organization intimately. When asked to describe a culture, people typically resort to words like "collegial" or "democratic." While terms like this may convey a general sense of a culture, greater definition is necessary to begin to clearly differentiate various law firms' cultures, and to use knowledge of those cultures to contribute to the management of the firms.

We have created and evolved a "Law Firm Cultural Assessment," designed to recognize discreet differences among individual law firms and to provide a more precise vocabulary to describe what those differences represent. Those differences can be examined through these four lenses:

1. **Collegiality** – the manner in which people within a law firm deal with each other.
2. **Strategic focus** – the degree to which the firm has a clear identity, both to itself and in relation to other firms.
3. **Governance** – the manner in which the firm deals with its people, and the way that its lawyers and staff deal with the firm.
4. **Values** – the belief systems that represent the collective aspirations of the members of the firm.

Details of law firm culture

Each lens examines a number of components, some of which are more complex than others. In fact, the comparative weight of these factors in the makeup of a culture becomes a feature of that culture.

1. Collegiality

- **Group collaboration** – the ability and willingness of groups (practice groups, offices, client service teams, etc.) to work together.
- **Individual collaboration** – the ability and willingness of individual lawyers to voluntarily work together on client matters.
- **Egalitarianism** – the willingness of lawyers to support actions of others that are in the best interests of a client or the firm, but may not be in the lawyer's own immediate best interests.
- **Social interaction** – the degree to which firm lawyers seek out opportunities to participate together in social situations.
- **Deviation** – the degree to which behavior in violation of firm mores is accepted.
- **"Generationalism"** – the degree to which the firm's value systems, approaches and vision differ according to age.

2. Strategic focus

- **Horizon** – the relative importance of short- and long-term implications in decision-making.

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- **Ambition** – the importance placed on maintaining and improving the firm's reputation and recognition.
- **Execution** – the importance placed on meeting goals and fulfilling expectations.
- **Vision** – the importance placed on conveying a clear picture of the future.
- **Self-image** – the importance placed on having an accurate and positive perception of the way the firm is viewed by outsiders.
- **Confidence** – the confidence that members of the firm express as an institution in the accuracy of their vision and the correctness of their decisions.

3. Governance

- **Decision-making** – the methods employed by the firm in reaching decisions.
- **Structure** – the degree of institutional involvement in the management of individual lawyers' practices.
- **Risk aversion** – the firm's willingness to accept risk in return for appropriate reward.
- **Communications** – the degree to which lawyers are informed about the firm's activities and issues.
- **Expectations** – the degree to which lawyers and staff members have a clear understanding of what the firm expects from them.
- **Motivation** – the firm's ability to influence behaviour.

4. Values

- **Work ethic** – the importance placed on how hard lawyers work in terms of time spent and hours produced.
- **Meritocracy** – the degree to which personal performance is rewarded in relation to overall firm performance.
- **Responsibility** – the level of control lawyers have over their client relationships.
- **Client focus** – the balance of the firm's interests compared to clients' interests.
- **Continuous improvement** – the importance placed on the growth of lawyers' knowledge and capabilities.
- **Trust** – the degree of confidence by an individual that peers will not take actions adverse to that individual's interests.

Many firms for whom we do strategic assignments incorporate a cultural assessment into the process. Some firms choose to explore their cultures on a stand-alone basis and follow up that assessment with action plans to fine-tune their cultures. Your firm stands to benefit from a fresh look at its culture through these lenses.

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The value of repurposing law firm content

Jennifer Faivre *is Manager of CRM & Administrative Support at Jaffe*

Creating compelling content has the potential to build your brand, drive traffic to your law firm website, and generate new business leads. Any legal marketer who has tried to create a content marketing program knows that creating great content is time-consuming – just one blog post can take hours to write. And you can't stop at one post; content has to be produced consistently and constantly. How can you maximize the ROI on your content efforts?

The answer is to repurpose content strategically.

What Is repurposing?

Repurposing takes content, research and ideas and finds multiple ways to reformat and reuse them. It means stretching your creative and content work to produce unique blog posts, e-books, guides, infographics, guest posts, social media posts and more.

Why repurpose?

Repurposing has multiple benefits. Here are a few to consider.

- **Make the most of your efforts** – Creating content is labor-intensive. Repurposing one piece takes much less time than constantly creating new content. Your best content goes to work for you again and again, without you having to create something new.
- **Reach new audiences** – Content that works for one audience may not work for another. Through repurposing, you can make sure your content resonates with a variety of audiences by creating multiple pieces of content based on the same topic, yet written for the preferences of different demographics or verticals. The more variations you create, the more audiences you will reach, and the greater the chance your content will be shared.
- **Drive website traffic** – Great content can funnel more traffic to your website, strengthen your brand's reputation, and encourage more web visitors to convert to regulars. Links back to your website, and the resulting increased traffic, will help with SEO. Great content on your firm's website also increases the probability that other sites will send traffic to your content.

Note that not everything should be repurposed. Only repurpose content that continues to be of value and relevant over months or even years.

Ways to repurpose

There's more than one way to repurpose your blog content. Give these strategies a try.

- **Republish** – You've written your blog post and it has been posted on your law firm's website. A great way to get more people to see your work is to get it into other websites. Look for opportunities to be a guest writer for law journals or industry publications that focus on your field of experience.
- **Social media** – Take a tiny snippet or a small excerpt from a blog post and turn that into a social media post. The idea is to build awareness for your brand by adding value to your social media profiles. Including an image, whenever possible, will help make your posts stand out.
- **Infographics** – Infographics can make a big splash. They are informative, easy to read, and easy to share. Take the main points from your blog post and use an infographic maker like Canva or Venngage to create the image.

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- **SlideShare** – Attorneys regularly make presentations at conferences, events and seminars, and SlideShare is the perfect place to repurpose those presentation materials. Have you written a blog post? Convert it into a slide deck and upload. With more than 70 million unique visitors a month, SlideShare dominates the content marketing world and is a great way to generate website traffic and create new business leads.
- **White papers** – Expand your blog post into a white paper or e-book that can be downloaded from your law firm's website. The white paper can be used in your email marketing and lead generation efforts as well. These publications enhance your firm's position as a thought leader in the legal profession.
- **Webinars** – Another great way to boost traffic and repurpose content is through webinars. By speaking with an audience directly, you establish a much stronger relationship, which results in the audience becoming advocates for both you and your firm. Record the webinar and you have video and audio clips you can share across multiple channels.
- **Video** – Create a video on the same topic as your blog post and upload it to YouTube or another video-hosting service. A video blog post can make a cold topic seem livelier by providing a more personable and personal approach, conveying the subject matter directly to an audience.

By repurposing your content, you can turn one great piece into numerous others, thereby increasing your content marketing ROI. Don't forget to analyze results by tracking performance. At Jaffe, we track Newsstand article performance over eight weeks to analyze what other channels drive traffic beyond our email marketing.

Jennifer Faivre is Manager of CRM & Administrative Support at Jaffe, a full-service PR and marketing agency for the legal industry. "The value of repurposing law firm content" appeared as a post in the Jaffe blog at jaffepr.com on July 26, 2017. Contact Jennifer at jfaivre@jaffepr.com or by phone at 970-596-0259.

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The revenue-neutral associate

***Jordan Furlong** is a legal market analyst writing at law21.ca.*

Recently, while writing an article about professional development in the law, I posted this question on LinkedIn:

> *Quick survey for those of you who began your careers as law firm associates: How many months and/or years did it take before you felt like a reasonably competent and confident lawyer?*

The answers came rolling in — more than two dozen in a couple of days. The lowest number of years offered was two, the most was ten, but the frequently cited median was five. Only one person said they never felt unready for law practice; everyone else said, essentially, "It took me years to feel like I knew what I was doing."

Yes, small sample size and all that, but I think there's a lot to take from this. One takeaway is solace: if you felt overmatched and out of place during the opening months and years of your legal career, you were far from alone. Another is insight into the lawyer mindset: for all we try to project confidence in ourselves and our abilities, most of us suffered from impostor syndrome for years after our call to the Bar, and I'm sure many of us still do. A third is confirmation that law school really does a terrible job of preparing us to be lawyers.

But what those results also affirmed for me was a strong suspicion I have harboured for years: that expecting new law firm associates to perform billable work is kind of ludicrous.

There's a widely held assumption in law firms that new associates should be billing hundreds of hours within their first months on the job, and many thousands of hours within their first two or three years. At many firms, an associate's failure to meet their first-year billing targets can permanently dim that lawyer's prospects in the eyes of management, and can even result in early termination. Associates learn this quickly, and drive themselves to generate work that can be added to a client bill regardless of its utility. Because most new associates possess low skill levels, their work product tends to be either (a) utterly rote and low-value, (b) riddled with errors, (c) subject to massive editing and/or discounting by partners, or (d) all of the above.

Clients, of course, figured this out years ago. Some of them indirectly advised firms of the problem when they began refusing to pay the billed hours of first- and second-year associates. Those clients without the confidence or leverage to withhold payment on first-year bills pushed for discounts or just gritted their teeth and signed off. But the message they were sending was the same: "Your least experienced people add very little to your value proposition. We don't want to pay for their efforts. You should do something about that."

Firms say they are doing something: investing in professional development, sending their new associates off for business training, and so forth. I'm sure many of these activities pay at least some dividends immediately, and others further down the line. But almost all of these efforts share a fundamental drawback: they treat associate professional development as a part-time endeavour. Taking courses and acquiring skills is something associates do in between their "real work" of serving partners and billing hours. They're expected to generate billable work with 90% of their time while slowly learning how to produce that work in the other 10%. It's like having to earn a living as a cab driver while still enrolled in driver training school.

This drawback, in turn, is founded on a more serious issue: the common belief throughout law firms of all sizes that inexperienced, low-skilled lawyers should be generating revenue within weeks of their arrival in practice. Law firms that push law schools for better "practice preparation" and train their new associates intensively upon arrival are certainly trying to do right by their associates and their clients, but their good efforts nonetheless stem from an

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assumption that new lawyers should be "ready to bill" at the earliest opportunity.

I wonder if that's realistic, and I wonder even more if it's healthy. I don't think a person can switch from being a full-time student (even an articling student) to a full-time fee earner that quickly without experiencing some mental and emotional whiplash. By forcing new lawyers into high-target, fee-earning roles so early in their careers, we're trying to radically accelerate a development process this is meant to take much longer — maybe as long as five or ten years.

My modest suggestion, therefore, — especially modest because I suspect few firms will adopt it — is that law firms consider re-envisioning the role of the new associate, de-emphasizing the importance of billing and emphasizing instead the primacy of training and experience. What I'm suggesting is the revenue-neutral associate.

For at least their first two years in the firm, possibly longer, make the development of skills, knowledge and experience the primary activity and responsibility of new lawyers. Enroll them for months-long training in process improvement, customer service, business management, and new technologies, testing them at regular intervals throughout this period to assess their progress. Send them to client meetings to watch and listen and report back on what they learned*, at no cost to the client.* Take all the piecemeal, intermittent professional development that law firms provide to associates in between their "real work," and make that their real work. Take seriously the process of turning raw prospects into polished professionals, because it's really not a part-time exercise. (I argued almost ten years ago that we should consider the lawyer development process to be seven years of education and practice, not just three years of education).

Can firms bill their associates' efforts during this period? Yes, but only for work that has legitimate value, and only to the extent necessary to help the firm recoup some or most of the lawyer's costs — that is to say, their salary, benefits, and associated support costs. That might come to only a few hundred hours in the first year, several hundred in the second, a thousand or more in the third, although smart firms will be pricing their associate-level work on a non-hourly basis anyway, making it even easier to support this kind of role.

The goal of a revenue-neutral associate program should be that at the end of the designated period — two to four years — the new lawyer has been rigorously and professionally educated, mentored, trained, and skilled to such an extent that he or she can deliver real (if not extraordinary) value to the firm and its clients. In doing so, the lawyer has undertaken enough billable work to help cover his or her training costs for that period. A lawyer developed in this fashion will be equipped to provide much more valuable and expensive services than a typical third- or fourth-year associate who has had to figure things out on the job under tremendous billing pressures, if the associate has even stuck around that long.

Would this approach be workable for a $180,000 first-year associate? No. But then again, the $180,000 associate is a market anomaly based solely on the desire of large law firms to draw the attention of the most attractive law school graduates. The reality is that no $180,000 associate, no matter how smart or hard-working, is worth his or her salary. The billing pressure firms place on these young people to justify their inflated salary damages these assets in their formative years. A revenue-neutral associate would be paid in line with greatly reduced billing expectations and the promise of much higher earning potential after a few years of high-calibre development.

There is precedent for this idea. Back in the late 2000s, firms such as Frost Brown Todd, Ford & Harrison, Drinker Biddle & Reath,

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Strasberger & Price, and the late Howrey LLP all experimented with "apprenticeship models" in which new associates were paid less but received extensive training and mentoring. It was a good idea that arrived ahead of its time. These programs were launched during the post-crisis recession when it was hard to persuade new graduates to turn down high starting salaries in favour of lower-paying "training opportunities." It's a different world now: graduating lawyers understand that they need marketable skills and know-how in order to have sustainable legal careers. Law firms that can offer a path to that future will have a competitive recruitment advantage.

This would, obviously, be a major change in how law firms view and use their associate lawyers. But I also think it's a necessary and inevitable one. For decades, law firms have been getting their clients to pay the training costs of their newest and lowest-skilled workers. No other business has the gall to do this — to send customers bills for all the low-value puttering around by the firm's least useful employees and justify it as "training." It's not training. It is years of immersion in the law firm's least valuable and least interesting activities, subsidized by the client.

But now that train is coming to a halt. You know all about the myriad game-changing substitutes that have entered the legal market over the past decade, technology that can carry out basic legal tasks, outsourced platforms of flex-time lawyers and managed legal services providers, insourcing of work by corporate law departments themselves. These alternatives have arisen precisely because the market is tired of paying law firms inflated rates for low-value work by low-skilled associates.

Clients want a less costly and more effective replacement for the labour of unskilled yet expensive junior associates, and the market has been more than happy to oblige. It is offering equal or better options for "associate work" at a superior price. These options are not going away. If anything, they are gathering momentum and increasing sophistication. The hard truth is that the day of the billable young associate is drawing to a close anyway.

So think about the possibilities of a "revenue-neutral" approach to associate hiring and training, and how it could change the nature of professional development in law firms for the better. Law firms will have to find a solution to their associate-lawyer challenges before too much longer. The sooner this option is considered, the sooner solutions can be tried and a new approach to law firm associate development can be found.

Jordan Furlong is a speaker, author and legal market analyst who forecasts the impact of changing market conditions on lawyers and law firms. He has given dozens of presentations in the U.S., Canada, Europe and Australia to law firms, state bars, courts and legal associations. He is the author of Law is a Buyer's Market: Building a Client-First Law Firm, and he writes regularly about the changing legal market at his website law21.ca.

"The revenue-neutral associate" appeared as a post on the law21.ca blog on September 13, 2017. For an interesting complement, see the May 31, 2017 post, "The problem with value pricing."