

Strategies

THE JOURNAL OF LEGAL MARKETING

THE CHANGING FACE OF THE CLIENT

**PLUS: NAVIGATING THE
IMPACT OF COVID-19**

LEGAL MARKETING ASSOCIATION



THE AUTHORITY FOR LEGAL MARKETING

What Clients Want

10 New Rules of Client Service

**Procurement Across
the Atlantic**

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BY DR. SILVIA HODGES SILVERSTEIN

Earlier this year, legal procurement professionals and members of Buying Legal Council were surveyed to share their top priorities. Dr. Silvia Hodges Silverstein shares a snapshot of what clients are looking for based on these results, with an eye on how their needs will evolve in the wake of the COVID-19 pandemic.

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The 10 New Rules of Client Service

BY JOSETTE WINOGRAD

Business developers are all too familiar with the battle cry of managing partners intent on connecting with clients in a fiercely competitive market. But caught between these demands, conflicting notions of who the client really is and most firms' glacial approach to change, what should be done to truly create a client-centric framework? Here are 10 new rules to follow, based on Josette Winograd's decade of experience listening to clients.



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London Calling: Procurement Across the Atlantic

BY JAMES WILLER

Law firms today are familiar with the modern client mantra: provide legal services with value. But how is value defined when companies are evaluating, selecting and managing legal panels? James Willer shares data from ALM's analysis of 77 preferred provider panels, and breaks down trends that are expected to affect both sides of the Atlantic.

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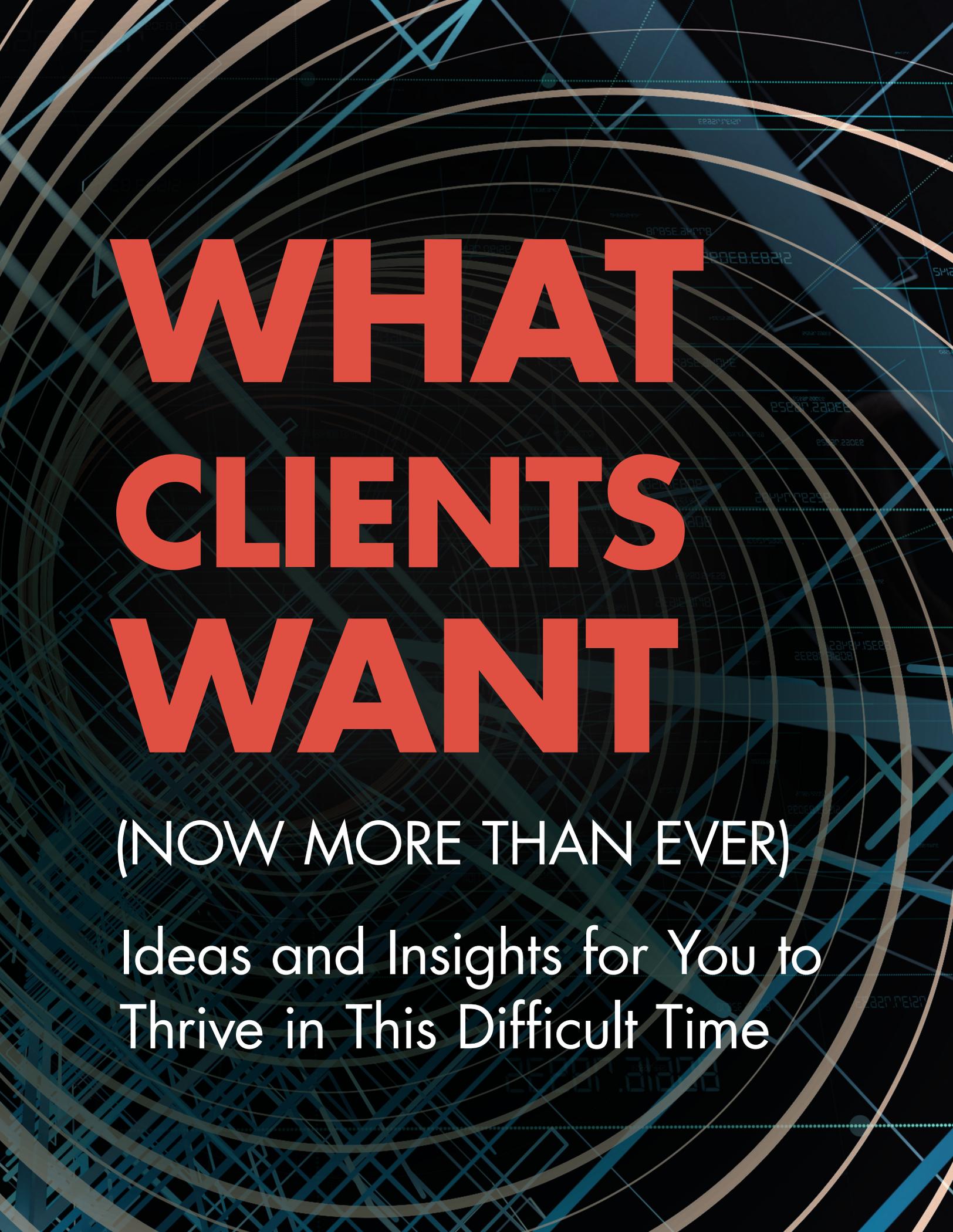
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BODY OF KNOWLEDGE



The content of *Strategies* magazine correlates directly with domains in the LMA Body of Knowledge (BoK). The BoK is a foundational resource that defines core skills necessary for legal marketers to succeed, and the individual domains focus on guiding LMA members through their journeys toward managing a high-functioning marketing organization.

Discover what you can learn from the BoK at www.legalmarketing.org/body-of-knowledge.



WHAT CLIENTS WANT

(NOW MORE THAN EVER)

Ideas and Insights for You to
Thrive in This Difficult Time



DR. SILVIA HODGES SILVERSTEIN



even years ago, *Strategies* magazine gave me and other legal industry professionals the following task: “Please describe an important change you anticipate in legal marketing/business development between now and the year 2020, and why you expect that change to occur.” To be entertaining, I wrote the following “logbook” entry:

Wednesday, April 22, 2020, 7:45 a.m.: You step out of the shower after your morning jog on the beach. You are the chief client officer at Legal Inc. International, the world’s largest provider of legal services. “Congratulations, your company stocks just went up 10%, you should treat yourself with a nice weekend getaway,” you hear your virtual assistant saying via the sound-system. Smiling, you get dressed and head over to the virtual meeting area in your home office to join your colleagues Ivan, Paramjit, Rafiq and Wei-Ting. Funny, you work with them all the time but have only met Paramjit in person at an industry event a few months ago. You are still getting used to seeing them as holograms rather than on the work surface that is as large as your desk. Wei-Ting, your newest team member is beaming: “I just ran the analysis: According to our pitch probability prediction model, we should have a 78% chance of winning the pitch that came in last night.” “What’s their lifetime customer value to us?” you ask. Ivan vigorously types on his screen. It takes less than two seconds before the number — \$750m — pops up on your screen. “And they always pay fast,” adds Rafiq. “Well, you know what to do, run process 901 and assemble the team,” you say, smiling at her. “Let’s make it 100%!”

That “forecast” includes the use of analytics and work based on data and modeling. Today, legal marketers deal with data, tech tools (and Excel) more than before; however, it is not yet a predictive model for many of us. Soon though, the application of artificial intelligence will bring us to a world where customer and client value is a “number,” and probability of winning a bid will be based on history, competition and known capacity.

And of course, now with the COVID-19 pandemic, many of us are working or have worked remotely. This pandemic has interrupted and inconvenienced our lives and sent economies around the world into a recession. Some families have lost loved ones, businesses are struggling and some have been forced to declare bankruptcy.

My guess is that we will be forever changed: From the ways in which we greet each other (will we bow or just wave our hands “hello” in the future?) to whether we can live without sipping our morning coffee at the local coffee shop; from what we see as essential in terms of meetings and travel; to our attitudes toward flexible and remote work.

In legal marketing, this pandemic has drastically shifted our priorities. “Bet-the-company” has developed a new meaning, and our approaches to business development and client service are changing along with it.

Many businesses and industries are struggling to recover. Companies and investors have lost billions of dollars in the stock market. Dividends are being cut. It will take months, if not years, before we reach a new “normal” situation.

Similar to the last recession, the legal industry has been impacted as well. Clients will demand price relief in the form of discounts or flat fees. They will want lawyers to stop working on certain matters altogether, likely taking more work in-house. And they will stop requesting (and paying for) some routine activities that used to keep outside counsel busy.

Until the Great Recession of 2008-09, legal services were largely exempt from the intense cost scrutiny other business units and functions had faced for years. The Great Recession acted as a catalyst and accelerated the process for the adoption of legal procurement, particularly in large

corporations. Among the first to embrace legal procurement were companies in highly regulated industries, such as pharmaceutical, financial services, insurance and energy/utilities. These companies spent hundreds of millions of dollars on legal services. Negative publicity about billing practices, big ticket spending and profit pressure brought pricing professionals and legal project managers into the law firms.

So how do you adjust your approach this time?

Similar to the Great Recession, merger and acquisition (M&A) work has been the first to slow or temporarily dry up. Clients are reallocating resources and pushing investments into the next quarter, even toward the end of the year or into 2021. Instead, we’re seeing a marked increase in litigation and financial restructuring in the next few months. Clients will begin to make requests for discounts or other price cuts, and clients who suffered a real business crisis will ask their firms for rate relief or to revise their payment terms.



Legal Procurement Goals in 2020

Earlier this year (before the outbreak of the COVID-19 pandemic), legal procurement professionals and members of Buying Legal Council, the international trade organization for buyers of legal services and legal tech, were asked about their priorities for 2020 as part of Buying Legal Council's annual Legal Procurement Survey.

#1: (Better) Capture and Analyze Spend Data

Topping the list of priorities was "(Better) Capture and Analyze Spend Data." It advanced from placing third in the 2019 survey and reflects procurement's increasing maturity and advancement. With increasingly accurate spend data available, internal baselining and external benchmarking, procurement wants to continue to apply its data-driven approach to decision making in the legal category.

#2: Reduce Legal Spend

For the third year in a row, "Reduce Legal Spend" was the second most important goal for legal procurement professionals. For clients, the approach to reducing legal

spend continues to become more strategic and sophisticated. Given that we conducted this research shortly before the COVID-19 outbreak and economic downturn, it is extremely likely that the spend reduction goal would now top the "Capturing and Analyzing Spend Data" goal were we to ask the same question again. In fact, a brief informal poll among legal procurement professionals confirms that cutting cost is on everybody's mind and likely to be addressed in the coming weeks and months.

#3: Better Managing Legal Work

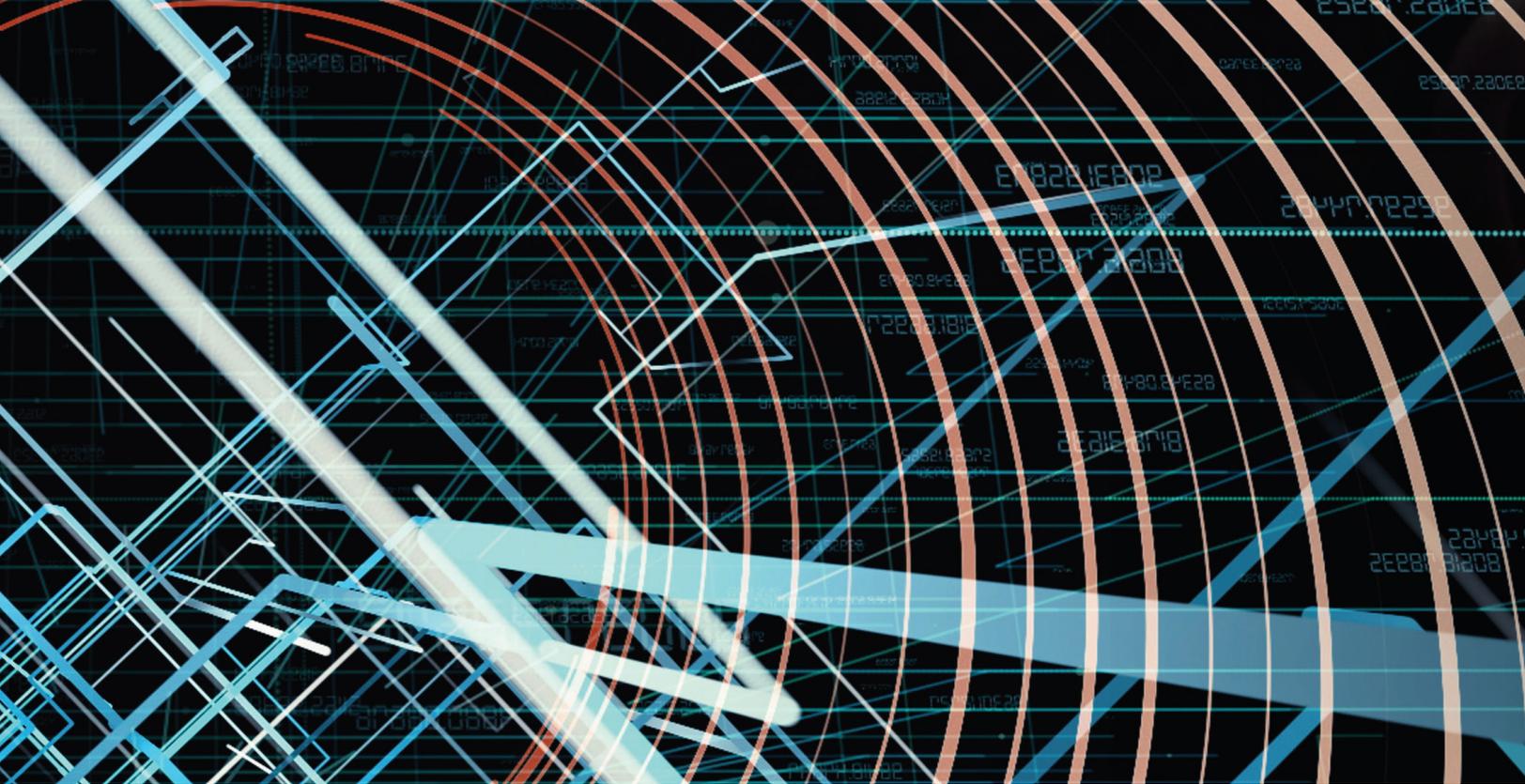
The third most important legal procurement 2020 goal was "Better Managing Legal Work" (former number one in 2019). Clients now routinely pay close attention to how legal work is managed — meaning how their work is scoped, staffed and delivered. They ensure that outside counsel guidelines and agreed-to budgets are adhered to and benchmarks reached. Effectively managing the delivery process offers the biggest lever to drive continuous improvement. Other relevant 2020 client goals include clients "Implementing (More) Formal Strategies and Processes" for buying legal services and

legal tech, and "Managing Supplier Relationships And Reducing the Number of Firms/ Legal Services Providers."

As 2020 continues to unfold, many companies — likely the ones with large(r) legal spend — will go into cost control mode fast. They will redefine what is "bet-the-company" work and think hard about unbundling work. They will decide which tasks can be done by lower-rate firms in less costly locations or can be handled by alternative legal services providers (ALSPs) or by legal process outsourcing providers (LPOs).

The Right Pricing Approaches

Firms can — and must — prepare and respond now. The challenge for legal marketing professionals and pricing managers will be to steer attorneys away from the mentality that continuing to work at any price is better than not working at all. Pricing experts, such as Richard Burcher of the consultancy Validatum, recommend eliminating billable hour targets and centralizing pricing strategies. Because the economic developments will impact different practice areas differently, it makes little sense to



apply the same pricing approach areas across practices. Some, such as transactional property and M&A, will see slowdowns, while others, such as employment, litigation and insolvency/restructuring, will become frantically busy.

Burcher warns that a one-size-fits-all mentality will only hurt firms. He recommends having conversations with clients that you service across different practice areas, explaining your nuanced approach to pricing different practice areas. Be creative and come up with new ways to demonstrate sensitivity and understanding.

Firms should think about ways that reduce legal spend for the client but not at the expense of the firm's profit margin. For instance, consider changing the scope of a matter. Focus on what is really important to the client. Does every stone need to be unturned for this specific matter or can you agree to a model that involves less work? You could also offer early-pay discounts. Staggered discounts for 30 days or 60 days provide savings for clients and give certainty of revenue to your firm. Think also about negotiating fixed fees or volume discounts that are limited to a predefined length of time to limit your exposure. The bottom line:

show clients that you are willing to partner with them during a difficult time.

Legal marketers and pricing professionals are natural business counterparts to procurement on the client side to have these discussions. In large corporations, procurement is now typically tasked with negotiating price for legal services. According to our 2020 survey, many clients prefer certain pricing approaches more than others. The most frequently used pricing models include straight discounts. In fact, 95% of respondents acknowledged using them on a regular basis. It appears that normal hourly rates have become mere sticker prices (or suggestions), paid only by an increasingly smaller group of clients who tend not to ask for discounts. Similarly, fixed fees are very popular and commonly used, particularly for repetitive and clearly defined work. Larger clients also use (and expect) volume discounts from their primary legal services providers (85%).

Less popular but still regularly used pricing models included: blended rates (71%), capped fees (70%) and flat fees (62%). Fewer than half of the respondents in our 2020 Legal Procurement Survey regularly use secondments (48%), subscriptions or retainers (38%), collared fees or risk

collared arrangements (33%), outcome-dependent holdbacks (24%), contingency fee arrangements (23%), bundling arrangements (21%), value-based fees (14%) or portfolio fixed fees (10%).

Interestingly, just because a pricing model is frequently used does not mean clients prefer it. According to the survey, clients have clear preferences when it comes to pricing models. The top three pricing models were: (1) fixed fees, (2) capped fees and (3) volume discounts. When proposing cost cutting approaches to your clients, talk with their procurement team to understand what is most important to them in this moment so you can tailor your offering accordingly.

Clients' Preferred Value Adds

This is an important time to discuss and perhaps reconsider which (free) value-added services (VAS) you can offer. Have a conversation to find out what your clients really value. Money, time and resources are often wasted by not matching VAS with your clients' preferences. According to our 2020 survey, firms most frequently offer the following VAS (in this order):

Think about ways that reduce legal spend for the client but not at the expense of the firm's profit margin. For instance, consider changing the scope of a matter.

1. Secondments
2. Seminars and business-level training
3. Hotline/access to experts for quick questions
4. Conducting pre-matter planning sessions
5. Outside counsel/providers participation on internal calls
6. Use of provider's/firm's meeting rooms
7. Business insight/root cause analysis
8. Use of (innovative) technology
9. Use of project managers

However, compare this list with clients' top three preferred value-adds:

1. Use of (innovative) technology
2. Conducting pre-matter planning sessions
3. Business insight/root cause analysis

Clients clearly are looking for more innovation, particularly in technology and more sophisticated matter management. Clients want to get to the root of existing problems and prevent future problems, not just engage in damage control. Law firms need to be aware of this and act accordingly.

This brings us back to the "prediction" for 2020 quoted at the beginning

of this article. When I originally wrote it, I remember thinking it felt slightly Sci-Fi. Reading it now in my home office during COVID-19 prevention quarantine, some of this prediction no longer sounds that far-fetched. Perhaps the hologram was a bit too inspired by "Star Wars," but the rest of it seems pretty close to our reality. Since the last recession, we have made a jump in terms of technology. Today, it is a Zoom call rather than a hologram. What is also true is that technology will continue to automate, program and systematize the practice of law and the delivery of legal services.

Only time will tell how this ongoing revolution will change your world, your firm's ability to generate fees and your future. As the legal industry evolves, we must translate what we have learned in the meantime to form a competitive advantage, collaborate with clients, listen to their specific needs and

concerns, and develop innovative products and services that will perpetuate prosperity for both clients and the legal industry. ■



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The content in this feature correlates directly with the Business Development and Client Services domains in the LMA Body of Knowledge (BoK). To dive deeper into these subject areas, head to the Business Development BoK domain here: <http://bit.ly/LMABoKBD>, and the Client Services domain here: <http://bit.ly/LMABoKCS>.