

## You gave WHAT away for free?!



Alternatively titled '**Do you actually WANT to make money?!'**

**I'll cut to the chase. It's about time that law firms realise they don't sell their expertise. They don't sell their time. Or their know-how. They sell solutions. And increasingly, those solutions are tech-enabled, resource-agile and lean (see Mark Cohen's ['three legged stool'](#)). The issue might be legal, but the solution combines law, technology, process and project management expertise. THIS is what the law firm of today is selling, but has anyone told the law firm?**

Something happened recently that prompted me to ask myself this question again. I spent a few days with a progressive, growing law firm and during our time together, they showcased a new approach to real estate development work. It uses lean processes and smart technology to reduce the complexity, time and cost involved in reaching key points of agreement.

All was going swimmingly until the partner in charge added his perspective. "The work our team has done here is just excellent" he said, proudly supportive of his colleagues, "and the client absolutely loves the solution we've created". (So far, so good...). **"What they particularly like is the fact that we've done all of this for free.** And we've now decided to deliver it as added value for all our developer clients. I can see it being really attractive to them. So far as I'm aware, no-one offers anything like this, so it'll go a long way to stealing a march on our competitors".

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I held my head in my hands (metaphorically) and sighed. Had I heard right? This firm had developed **a smart, demonstrably valuable and unique solution that it was going to give away for free. FOR FREE?!**

Then it dawned on me. **This partner doesn't see his firm as selling solutions.** To him, technical expertise, process know-how and project management skills are valuable, but they are not what his clients pay for. No, his clients pay for real estate legal expertise. Using this rationale, why not give away a non-core service to boost demand for the (supposed) 'real deal'?

**We have seen this before.** The secondment trend of the 1990's and 2000's is one example. Most law firms receive less income as a direct result of non-panel secondments than they spend in providing those secondments, which are usually given 'at cost of salary' or even for free. Yet secondments provide a huge amount of short-term value to the client. They get a well-trained lawyer, usually with some knowledge of their business, who is ready to slot into their team at a moment's notice and all usually for a lower price than they would pay in total employment costs for a permanent lawyer. Meanwhile, the law firm rarely extracts the benefit it intends, has to deal with the issues created by an absent team member and must foot the opportunity cost of a lawyer being

'Freebie' culture caused by:

...mistaking means of production for value

...discomfort at hourly rates

unavailable to earn money for the firm on other client work. It's a one-sided deal, but it's a one-sided deal of law firm's making.

I believe two things have caused this 'freebie' culture. **First**, as I've just mentioned, mistaking the means of production: legal expertise, for the value

provided: solutions to legal issues. **Second**, discomfort at the level of standard hourly rates and their rationale. Instead of quoting a price that reflects the value delivered at a level the market will bear, most firms still charge on the basis of time, often using high rates that correlate only to the cost of production. Cost of production is not a strong position from which to articulate value, let alone negotiate, so lawyers find themselves throwing-in freebies here and there to ameliorate the situation. But it's okay, they think, because, no matter what they give away, the precious hourly rate remains intact – phew!

But no. Back to the real estate partner. As long as he increases the flow of what *he* recognises as real estate work into his firm, who cares what he gives away to do it? The thing is, he should care. In a world where 'legal services' take a variety of forms and are delivered by a range of providers (for that, read, 'not just law firms'), this partner and others like him will increasingly find themselves charging for something clients aren't buying, priced on a basis they can't stomach, while at the same time, giving the crown jewels away for free.

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