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## European Law Firms Will Become What They Measure

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In the June issue of *Toplegal International*, you will find the list of the Top 50 of largest independent firms in Europe, based on turnover. The *Legal 500 Directory* just released its European chapter. Law firms have dealt with the Q1 M&A league tables and are heating up to prepare Q2. The Anglo-Saxon law firms' results season has just covered us with numbers and percentages. In the past few months we have celebrated awards of all kinds, we have seen firms being listed on the number of new partners they made, on pay hikes and bonuses, on the quality of their websites and even - thank you, *Roll on Friday*, for the rare humorous note - on the quality of biscuits in the meeting rooms.

Increasingly, law firms and lawyers are compared, evaluated, judged, categorised, ranked and balanced. It's the fated consequence and side effect of a rich and opaque market coming to maturity. The Anglo-Saxon culture, generally more fond of rankings and statistics, has been dealing with the phenomenon for quite a while already, but now it is also hitting the rest of Europe at full strength. Metrics, numbers, benchmarks, ratios, targets... will become increasingly important in the management of law firms. On all levels: on firm level, on practice group level, on individual level. Most lawyers are not comfortable with numbers but, unfortunately for them, this trend will not blow over. European law firms better get to terms with it.

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## Learning from Anglo-Saxon firms

The good news is that the European firms can learn from the experience of the Anglo-Saxon firms. The Anglo-Saxon firms have introduced metrics as a management instrument to focus energy, to align behaviour and to gear up operations to new levels. The achievements cannot be denied: both market positions and financial results of Anglo-Saxon firms are impressive, to say the least.

But the signals that the 'metrics-pendulum' has swung to the other side are growing stronger. The obsession of law firms with billable hour targets is coming under severe pressure from several stakeholders such as bar associations, clients, associates and law students. One example: [www.betterlegalprofession.org](http://www.betterlegalprofession.org) , founded in January 2007 by Stanford law school students and widely covered by American media. The website ranks ('let's fight evil with evil') US law firms on features such as billable hour pressure, work/life balance and pro bono work.

Worse even, is probably that other fixation of the Anglo-Saxon legal world: the 'Profit per Equity Partner', commonly known as 'PEP'. The PEP has become the share price of Anglo-Saxon law firms and it is used, by the media but fed by the law firms themselves, as the sole measure of success. A must read, brave FT article on this subject comes from Guy Beringer, former Senior Partner of Allen & Overy. He calls PEP 'a dangerous and undesirable metric' because:

- "it ignores what determines the success or failure of a law firm: its clients and its people, because it's says nothing about the underlying performance of a firm in terms of efficiency and sustainable profitability;
- it is out of touch with a world which increasingly requires a demonstrable level of corporate responsibility" and;
- it is a calculation in which both the numerator and the denominator have become more impressionist than real."

The PEP-mania suffers from the same ills as quarterly earnings reporting of listed companies. To quote Adam Smith Esq.: "the hyping can lead to a variety of antisocial behaviours with toxic unintended consequences." The PEP is a dodgy trap European firms should carefully avoid.

## **“You are what you measure”**

Albert Einstein once said: “Everything that can be counted does not necessarily count; everything that counts cannot necessarily be counted.”

The Anglo-Saxon experience clearly demonstrates the power and danger of using metrics in management. Any decent manager will acknowledge the importance of having figures, benchmarks and metrics to steer business. They are the compass by which to guide the performance of individuals, teams and organisations. They keep everyone headed in the right direction. One of the great advantages of the current transparency boost in the legal market is that it provides law firms with better benchmarks to assess performance.

The problem with figures, also acknowledged by that same manager, is that they tend to attract all the attention and put in the shadow what is not measured. Since metrics are the only means to objectively compare performance and therefore often have an important impact on remuneration, people will focus their behaviour on complying with the metrics, with a tendency to give less priority to what is not measured.

The importance of the choice of metrics and benchmarks used, be it on firm-level or individual level, cannot be underestimated. It will not only have a strong impact on the immediate behaviour of partners, associates and staff. It will ultimately determine the brand, the culture and the values of the firm. In their famous research<sup>1</sup> John Hauser and Gerald Katz convincingly demonstrate that organisations end up being what they measure. For European law firms, who generally are only at the doorstep of metrics management, the title of their paper “You are what you measure!” can be translated into “European law firms will become what they measure”.

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<sup>1</sup> “Metrics: You Are What You Measure!”, 1998, John R. Hauser, MIT Sloan School of Management, Gerald M. Katz, Applied Marketing Science, Inc..

## **Manage or be managed**

We have come to the conclusion that metrics are immensely important, powerful but dangerous and inevitable. Our fear now is that many European firms will make the mistake made by several Anglo-Saxon firms, a mistake very hard to rectify, as is demonstrated by Guy Beringer's article. The danger is that the media, and in media we include magazines, press, directories, league tables, research companies etc., will outpace the European law firms in determining the benchmarks and the metrics.

It is the mission and the legitimate task of the media to inform and make transparent what is not transparent. Just like the managers, they will use benchmarks and metrics to do this, exactly as they are doing in other sectors and as they are already doing in the UK and the US.

Law firms have two options. The first option is to react and follow the metrics imposed upon on them by the media, with the danger to end up in a PEP-like spiral that is very hard to get out of again. The second is to proactively determine their metrics-strategy in alignment with the long-term objectives, values and culture of the firm and to use this as a basis to build a well-balanced, mutually beneficial, relationship with the media.

Since the culture and the specific character of the firm are at stake, we strongly urge European firms to go for the second option and keep control of their metrics system.

## **Defining metrics and benchmarks**

What is a good metrics strategy? Applying Hauser and Katz' definition to law firms: "Metrics empower individuals in the firm, whatever their role and responsibility, to make the decisions and take the actions that they believe are the best decisions and actions to achieve the metrics. If the metrics are chosen carefully, individuals will make the right decisions and take the right actions that enable the firm to achieve its long-term objectives."

This has important consequences on the determination and the implementation of a metrics strategy:

- The metrics strategy starts from clear long-term objectives: What does the firm want to achieve? What is its purpose? How will it make a difference?
- Metrics are the result of a thought-over process that has carefully taken into account undesirable side effects. Lawyers have the motives and capabilities to maximize their own well-being under the metrics system. We hope that those decisions and actions are the decisions and actions that are in the firm's best interests, but, a priori, we cannot be sure. One way to test this is to involve partners and staff in the process. 'Ivory-tower-metrics' are probably the most dangerous ones.
- Long-term objectives are firm-specific, therefore so is the metrics strategy. It doesn't make sense to base the metrics strategy on the metrics used by competitors. The 'me too' approach is dangerous and value destroying. Law firms must be creative in inventing new metrics (but conservative in implementing them). A good way to do this is to focus metrics on the output (e.g. the usage of the knowledge database) in stead of the input (e.g. the number of documents in the knowledge database).
- The primary goal of the metrics strategy is internal to the firm. Figures can only be communicated externally if they also make sense internally. Externally used figures and benchmarks will have internal effects. Firms should therefore avoid launching uncontrolled figures or numbers solely for the sake of marketing purposes. And remember: media will expect figures released once, to be repeated, also in less convenient times.
- The metrics system goes beyond financial metrics. Any long-term objective of a law firm passes through client and staff satisfaction and loyalty. Therefore a metrics strategy ignoring these will be incomplete and ill-fated.

The process is tough and will take time and energy. It's the price to pay to play with the big guys ■

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