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Summary Prepared by Shoosmiths

**From the Presentation by
Professor Richard Susskind on**

THE FUTURE OF PROFESSIONAL SERVICES

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Introduction by Gary Assim

Whether you are a private practice or in-house lawyer I am sure you won't have missed the accelerating impact of technology on the way we work. Added to social media is the pace of change of software able to carry out traditional tasks like sorting through disclosure or carrying out due diligence.

Professor Richard Suskind, a leading legal services commentator who advises major professional firms and national governments, continues to break new ground with his insights on the implications of technology and rapid global economic changes on the profession. His presentation, during the World Services Group conference in London, was thought provoking and, in places, scary yet understandable.

Lawyers have traditionally been good at reacting to changes in the law but changes in technology are an altogether different proposition.

I hope that the summary, over the next few pages, provides a reminder of Professor Suskind's presentation such that it will be useful for future review. A copy of the slides used by Professor Suskind is also available but the summary has been drafted incorporating content from some of the most pertinent slides so that it can be used on its own.

I look forward to debating this further and changing the way we do business together!

Regards,



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Summary Notes

The presentation was broken down into 6 separate areas as follows:-

1. The Future
2. Three Drivers
3. Case Studies
4. Lawyers?
5. New Jobs
6. Shape

1. The Future

The analogy used to start the presentation was the drill vs hole. When new executives of a company making drills were asked “what do our customers want” they all said power, speed, ease of use, flexibility etc. In fact what their customers wanted was a hole! Lawyers fall into the same trap with clients and the question is, “what is the hole in the wall for legal services?”.

Lawyers generally look at this situation as a cliff face with clients at the top and them at the bottom. At the top is the client, with its problems, but instead of providing a fence to manage their client's legal risk, lawyers merely provide an ambulance at the bottom. In the future this will not be enough. Lawyers looking at today's market and how to innovate in today's market are already behind the curve as others will have looked at where the market will be in 5 years time, what clients will need then and be innovating to meet those needs. In other words don't skate to where the puck is, skate to where it is going to be!

This is evidenced by the automation vs innovation dilemma. This is where automation is improving what you currently do with innovation inventing a brand new way of working. The ATM was an example of how banking had reinvented giving the customer what it needed without customers actually saying they wanted to access cash from a wall.

2. Three Drivers

The three drivers for change can be broken down into client's wanting more for less, liberalisation in the market place and the inextricable march of technology.

2.1 More for Less

There are two strategies to consider here. The efficiency strategy which is about cutting costs and the collaboration strategy which is the sharing of costs.

In the former, clients might be happy to pay for senior partner time where that partner provides high level advice but will be unhappy paying for junior lawyers doing routine types of work. There is no longer a market where lawyers can charge by the hour for routine work when client's are more savvy and are under huge pressure to reduce spend whilst having more work to do themselves.

New forms of the collaboration model are being tested with one example being where a number of international banks are looking at forming a central group to review compliance issues rather than each managing it themselves, in order to save on cost and duplications. Lawyers should be collaborating with their clients to find new ways of working with them, and possibly others, as in the bank example.

What most lawyers are doing at the moment is offering a bespoke service where they look for loopholes to argue over in order to get to the Supreme Court instead of packaging these jobs leading to commoditisation and lower costs.

The key going forward will be decomposing the work that lawyers do now and breaking down each type of legal work to its component parts e.g. for litigation it could be split into the following stages:-

- Document Review
- Legal Research
- Project Management
- Litigation Support
- Electronic Disclosure

- Strategy
- Tactics
- Negotiation
- Advocacy

Similarly for corporate work it can be broken down as follows:-

- Due Diligence
- Legal Research
- Transaction Management
- Negotiation
- Template Selection
- Bespoke Drafting
- Document Management
- Legal Advisory
- Risk Assessment

By looking at each type of work to be carried out you can assess which part can be resourced in the most efficient way rather than the law firm managing the whole process. Lawyers need to work out where their strengths are and the real value they can provide to clients. Lawyers should stick to what they are good at and not try to be experts in everything – for example, in litigation, large disclosure exercises can be carried out more expertly and cheaply in India and project management is a completely separate skill set of its own which cannot be mastered by lawyers doing a weekend course in it!

When you actually look at the breakdown of each type of work you can see that other parties can actually do an awful lot allowing you to multisource in one of the following ways:-

1. In-Sourcing
2. De-Lawyering
3. Relocating
4. Off-Shoring
5. Outsourcing
6. Sub-Contracting
7. Co-Sourcing
8. Near-Shoring
9. Leasing
10. Home-Sourcing

11. Open-Sourcing
12. Crown-Sourcing
13. Computerising
14. No-Sourcing

The decision for a client used to be do we do the work in-house or outsource to an external law firm. Now there are lots of providers to outsource to the decision is no longer that simple.

Lawyers look at two ways to do work – either bespoke or commoditise. But there are differing levels rather than these two extremes as follows:-

Bespoke → Standardised → Systemised → Packaged | Commoditised

The levels can be described as follows:-

- **Bespoke** = truly customised and built for the client.
- **Standardised** = Standards put in place such as templates, standard documentation.
- **Systemised** = Workflows and process flows to automate.
- **Packaged** = Packaged solutions.
- **Commoditised** = Fully automated.

2.2 Liberalisation

With the advent of the Legal Services Act in the UK and the ability to create alternative business structures (“ABS”) the risk to current law firms will be from ABS’s set up with external funding and run by non-lawyers with entrepreneurial spirit.

So there will be a massive liberalisation of the legal market with lots of different providers being able to offer the multi-sourcing activities referred to above, run by non-lawyers not hidebound by tradition, short term-ism or the hourly rate. All of which will be a major threat to the current way of providing legal services.

2.3 Technology

Technology is advancing at an incredible rate, in line with Moore’s Law, which states that the ability of computers will double whilst costing less so that by 2020 computers will be as fast as the human brain and by 2050 will have a capacity more than all of humanity put together.

Is this an exaggeration? Eric Schmidt, Google’s Chairman, stated that “every two days now, we create as much information as we did from the dawn of civilisation up until 2003”. There is no finishing line in IT!

Twitter, for example, has a huge following which is growing all of the time. Professor Susskind follows some key people in the legal industry in order to keep up to date. Lawyers need to embrace this and other technologies rather than having what is known as “irrational rejectionism” of them. Video conferencing is another technology which is now so life like it begs the question why you would travel for a one to one meeting rather than use it. It is essentially now providing a human interaction through IT. Talking of which, IBM has been developing artificial intelligence to see if it can take over from humans in certain areas. Recently it created a computer called “Watson” as a prototype to test its research and development in this area. It put Watson on the well known US quiz show “Jeopardy” against the two top human contestants and won. Cloud based systems are also prevalent and will continue to grow in popularity. Essentially the message is ignore the advance of technology at your risk.

So the three drivers for change, more or less, liberalisation and technology generally go through four stages of acceptance when being considered (before acceptance) which are:-

1. This is worthless nonsense.
2. This is an interesting but perverse point of view.
3. This is true but quite unimportant.
4. I have always said so.

3. Case Studies

To put into context some of the commentaries above, the following examples are evidence of the way lawyers are changing the things they do:-

Rio Tinto

There was an agreed outsourcing of low level legal tasks to CPA Global in India on the basis that the arrangement would reduce its annual £60 million legal spend by 20%.

Thames Water

Berwin Leighton Paisner agreed to take the Thames Water legal team into their new “managed legal services division” to free up the general counsel to assist the board in strategic issues. Thames Water effectively outsourced its legal department on a five year fixed price deal saving it millions of pounds.

Pangea 3

An award winning provider of high quality legal outsourcing solutions for litigation, corporate, intellectual property and risk management.

Thomson Reuters

“Engage” is a legal project management software set up by Thomson Reuters, which models how lawyers work enabling them to manage projects and budgets. It provides client’s with transparent, predictable costs while at the same time helping firms deliver work profitably.

Legal Process Outsourcing

Legal work is currently being outsourced to South Africa and New Zealand and more recently near shoring to Northern Ireland by the likes of Allen & Overy and Herbert Smith.

Axiom

A new model law firm that state they are there to help general counsel solve business problems through three ways; In-sourcing (provision of secondees), Outsourcing (the provision of managed functions) and projects (e.g. carrying out large disclosure exercises or due diligence).

CMS Cameron McKenna and Integreon

CMS Cameron McKenna transferred its facilities, finance, HR, learning and development, IT, knowledge & research and procurement to Integreon in a ten year contract in order to address the need for improved efficiency whilst singularly focusing on the need of its clients.

Legal Zoom

A US provider of legal documents online including divorce, wills and simple documents for use by small to medium sized enterprises. In September 2012 confirmed it will link up with Quality Solicitors in the UK to provide the same services but also add documentation relating to home building projects and agreements to take on au pairs/nannies.

eBay

It has millions of traders using its platform with a regular number of disputes which are all settled through its online dispute resolution software; this is a good example of disruptive technology attacking the status quo.

Legal OnRamp

This is a collaboration system for in-house counsel, invited external lawyers, and third party service providers which enables lawyers to connect and share information virtually. It was created by the general counsel for Cisco Systems, Mark Chandler, law firm Orrick, Herrington & Sutcliffe and lawyer Paul Lippe. Allen & Overy has been one of the biggest contributors of information to the site helping to strengthen its position as one of the most innovative law firms.

4. Lawyers?

The way lawyers currently carry out their work is not sustainable if they ignore technology and particularly the disruptive legal technologies such as the online dispute resolution software from eBay, mentioned above. The liberalisation of the legal market place will allow non-lawyer entrants to use the disruptive technologies for their own advantage, taking work away from the traditional law firms and providing clients with cheaper and faster solutions to problems. Examples of current disruptive legal technologies are as follows:-

1. Automated document assembly
2. Relentless connectivity
3. Electronic legal marketplace
4. E-learning
5. Online legal guidance
6. Legal open-sourcing
7. Closed client communities
8. Workflow and project management
9. Embedded legal knowledge
10. Online dispute resolution (ODR)
11. Intelligent legal search
12. Big data
13. AI – based problem solving

So what part of lawyers work could be undertaken differently – more quickly, cheaply, efficiently, or to a higher quality – using alternative methods of working?

5. New Jobs for Lawyers

Lawyers need to consider where they can add value. Those currently going through the legal education system are little prepared for the realities of legal work today let alone in the future. In many law schools, the law is taught as it was in the 1970's that is to be traditional one to one, bespoke, face to face consultative advisers who specialise in individual jurisdictions and charge by the hour. This is with little regard for globalisation, commoditisation, information technology, modern business management, decomposing or alternative sourcing.

Tomorrows lawyers job specifications will be very different and probably along the following lines:-

- The legal knowledge engineer
- The legal technologist
- The legal hybrid
- The legal process analyst
- The legal project manager
- ODR practitioners
- Legal Management Consultants
- The legal risk manager

So what firms should be looking to do is have a more flexible team base with a set of hybrid professionals, able to transcend legal boundaries and motivated to draw on techniques of modern management and information technology.

6. Shape

The traditional law firm is a wide base isosceles triangle. If no action is taken it will become a slimmer version. Currently the top of that triangle will be the bespoke high quality advice and the bottom will be commoditised services. The problem will be those lawyers in law firms caught in the middle.

The final comment from Professor Susskind was:-

“The best way to predict the future is to invent it”.