

THE POWER OF THE PANEL SOLICITOR

The role of the in-house lawyer is changing –
Another take on the value of relationships
(Sep 05)

As a speaker at a recent conference in Sydney I was fortunate to have stayed on and heard a round table discussion 'Managing Key Clients' with Ian Pendleton, head of legal, Perpetual, Susi Curtis, General Counsel, Collex Pty Ltd and John O'Sullivan, General Counsel, Commonwealth Bank. All three offered some insights into the world of the in-house counsel and like others in the group I was privileged to hear just how the relationships with external counsel were managed. To put this into perspective Commonwealth Bank has an in-house legal department comprising over 90 lawyers and probably have the greatest \$value external spend on legal fees in Australia in addition. Prior to O'Sullivan's arrival at the bank, a very large number of firms were instructed. After a comprehensive RFP process two panels were formed, each comprising 5 firms. One group handles all the 'big ticket' instructions and the other all the smaller matters. The basis of the relationship between the bank and panels is strictly commercial (fraternising with law firms is effectively banned) and all instructions awarded on the basis of price. The RFP process has already established qualitative criteria. The results have seen a substantial drop in the \$s spent on external legal services and strong competition between each member of the panel on costs.



Perpetual, whilst much smaller (800 staff, market 'cap' of A\$2.4 Billion) shares many of Commonwealth's values when it comes to managing external relationships. Panel members compete with one another and price is the final determinant.

What this says for the future of law firms' marketing departments is another matter entirely. Law firms spending big Dollars on making qualitative statements about service provision are not going to get a look in with the likes of Commonwealth, who won't be swayed by glitzy brochures, advertisements and the like. It was made perfectly clear by the round table members that they care not one whit for the extensive websites, corporate entertaining, sponsorship of the arts/sport etc.; their requirement is for a combination of value and expertise provided by previously identified team members. When more public companies follow suit and adopt similar professional service provider relationships, as they inevitably will, margins will decline and profits come under more pressure. Add in the full implications of the Legal Profession Act and the picture is not so rosy and will undoubtedly lead to higher staff gearing. Clients are accepting of junior staff handling their work when supervision is sound, expectations are effectively managed and communication is thorough and transparent.

One unforeseen outcome of a more rigorous application of lawyer engagement protocols used by corporate clients is the loss of sponsorship for the arts, sport etc. If clients become focused solely on the cost of services there may be fewer lawyers prepared to spend sponsorship Dollars when no benefit can be derived. Genuine altruism is to be applauded; sponsorship as a substitute for marketing initiatives is not.

It makes Ashley's second law of practice management even more important; **"Lawyers intuitively understand 80% of their profits come from 20% of their clients but cannot be certain which 20%."** This became clear to all at the conference when conducting an experiment to ascertain how profitability was measured and recorded. Virtually no firm present (including a generous sprinkling of the 'Great and the Good') had any idea. It is unlikely to be different on this side of the Tasman, which leaves me asking: why spend money on marketing if the outcomes cannot be measured?