# Definitely Mabey

## The Legal Profession's Impersonation of Milli Vanilli

*Since 2009 law firms have increasingly reminded me of the famous non-singing duo Milli Vanilli. Why you might ask? Well since that time, law firms have paid increasing attention to the degree and permanency of the changes taking place in their profession. This attention has never been more clearly demonstrated than in the* ***Altman Weil 2014 Law Firms in Transition****© report (worth downloading and studying).*

How so you might ask? A serious majority of the over 300 firms responding to Altman Weil's survey agreed that the market had changed permanently and over two thirds predicted that the pace of change will only increase.

Stephen Mabey, CA
Principal & Managing Director

Okay come on, make the point!

Like the song "*Girl You Know It's True*" by Milli Vanilli, enjoyed huge success until the public found out they were lip synching, the profession's attention to the changes is pure lip service. They will go to painful lengths to identify, articulate and even suggest solutions but they can't deliver and clients are beginning to see through the myth of their suggested willingness to embrace change. While respondents to the Altman Weil survey gave themselves a 5 out of 10 rating on their seriousness about making the required changes, legal officers gave them a 3!

Another report which is very much worth a good read is the joint report by Georgetown Law's Center for the Study of the Legal Profession and Peer Monitor® titled the "**2015 Report on the State of the Legal Market**". From my vantage point they summed up the issue of the "do nothing mentality" with the following passage:

> *"Tom Tierney, the former CEO of Bain & Company, once observed that in professional service firms "if your strategy and your compensation system are not aligned, then your* ***compensation system is your strategy*** *(ed. emphasis added)." The old axiom that* ***"you get what you measure" is unfortunately largely true in law firms*** *(ed. emphasis added)." So if we want different results, we need to think very carefully about what we choose to measure — and what we do not",*

I recently spoke with Tom Clay, who I see as a leading legal industry maven, and we shared a mutual disappointment in law firms' failure to execute on the required changes. Interestingly, all those folks who make a living advising law firms must share part of the fault for the creation of this malaise and must be part of the solution.

How might you ask?

No longer is finesse and delicate phrasing appropriate. We need to tell them how "the cow ate the cabbage" succinctly and directly. It may cost you some clients, but if they leave because you delivered the unvarnished truth you are better off to focus your attention on those clients who are serious about changing.

So here goes!

**Cross Selling -** reward it as part of your compensation system and it is not about delegation but reward for work that partners generate for a different practice group / office that they would not otherwise handled as part of their practice. Yes it might present some challenges but how is '*firm mindedness and can't afford to divert attention away from what they get compensated for'* working for you?

**Business Development / Client Succession -** have you not heard of the square peg in a round hole? So why would you think non-differentiating compensation criteria are going to drive the behaviour you want from your 30 something's, 40 something's, 50 something's and 60 something's partners? Why can you not have a criterion that perhaps drives productivity in the early years; mentoring, management and business development in mid years; and client succession and counselling in the later years of partnership?

**Training & Mentoring of Younger Lawyers -** oh yes everyone tracks time differently and so there is no way we can reward this effort! Hey why not ask the folks who are supposed to be the recipient of both for their input on who is doing it and how much time they are spending on doing it. You still need to exercise that which clients feel they pay you for - your judgment - but at least it will be based on fact and not fictional time.

***"...reward for superb demonstration of the firm's values..."***

**Values -** if compensation is the true driver in the firm of behaviour then why not reward for superb demonstration of the firm's values and penalize for those not adhering to the agreed upon values (at least on paper they were agreed to). If you want respectful treatment in your work place, reward it and see what happens.

**Profitability -** heard all the divisive reasons why firms should shy away from looking at profitability at a client level and sadly the core reason for most is an unwillingness to make tough decisions (why would you ever want to stop doing work for a client your firm is losing money on). But simply put, do you divide revenue or profits (net income) and if the latter, why are you rewarding revenue no matter how unlucrative it may be for the firm?

**Alternative Fee Arrangements -** if you only reward individual productivity based upon fee credits or billable hours how are you going to move away from the hourly rates and really embrace alternative fee arrangements like fixed fees? Or is yours the "ostrich strategy" where you ignore the proactive opportunity to strengthen your relationship with clients or perhaps the "hope strategy", where you just hope the clients go away without asking what can you do for them fee wise? So how would you share credit for a fee fixed engagement? If you don't know, shouldn't you?

**Client Service -** process improvement; effective use of technology; client satisfaction; staffing matters with the proper mix of professionals; etc. — does your compensation reward these positive behaviors or are your client driven / client focused / client centric or we do good work pronouncements not applicable when determining compensation â€" the real strategy in many firms? I expect firms should either walk the talk or stop talking the talk because clients' patience for hyperbole from their "trusted advisor" is declining dramatically. How do you stay as a trusted advisor to your clients if the majority of what you are compensated for is based upon the number of units you sell a client not how you service them?

Let there be no doubt the practice of law is a for profit undertaking!

There is a theory called the “service - profit chain” that adapted to law firms goes something like this:

> ***"Let there be no doubt the practice of law is a for profit undertaking!"***

- Profit and growth are stimulated primarily by client loyalty.
- Loyalty is a direct result of client satisfaction.
- Satisfaction is largely influenced by the value of services provided to clients.
- Value is created by satisfied, loyal, and productive lawyers.
- Lawyer satisfaction, in turn, results primarily from high-quality support services and policies that enable lawyers to deliver results to clients.

Ask yourself two questions (and dare to answer them honestly):

1. Does your approach to compensation contemplate client satisfaction?
2. Does your approach to compensation have a positive impact on lawyer satisfaction?

If the answer is “No” to either question you should change your approach to compensation (obviously with real partner buy-in).

One last elephant in the room! In too many firms, the main obstacles to change are the firm's “baby boomers” whose mantra is “just *keep the “status quo for 5 more years and then you can make all the changes you want*”! The sad truth for many firms is they don't have 5 years to make the changes and such a selfish attitude will result in at best, a shell of the legacy they were left!

So make sure you have a balanced representation when dealing with change, including partners whose work life is 25 years, 15 years and 5 years so that the best interest of the firm (and not a small band of partners) is truly and fairly given the appropriate weighting!

**Comments or Questions?**

*January 26, 2015*



Applied Strategies, Inc.
COMMON SENSE APPLIED