

# Definitely Mabey

## Measuring legal department metrics

*For my July column I was initially thinking about a slightly different approach. The idea was to raise with law firms the concept that perhaps law departments have key performance indicators too and they may want to think about how their law firm services law departments in light of them. Obviously it is a starting point of asking law firms: "Do you really talk to your clients and understand their needs and pressures and if you don't then maybe you should, especially in the flat market we all live in today?"*



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While the column will still address some of these KPIs I came across along the way, it will also raise a real potential game changer in the form of TyMetrix Legal Analytics. While currently focused on U.S. law firm billing data, a number of Canadian companies are using TyMetrix's e-billing solution so the same data is being gathered as it builds its client base in Canada.

To perhaps make the game-changing dimensions clearer, TyMetrix Legal Analytics points out on the web site that its "analysis and insights are offered across multiple dimensions including: Industry; Practice Area; Matter Type; Matter Phase, Task & Activity; Matter Duration; Staff Allocation; Timekeeper; Geography; Firm Size; Years of Experience; Hours; Rates; and Fees."

So yes, you can find out everything you need to know about your competitors' rates but also how long they take to do tasks and resulting fees. While helpful in pricing files for existing and prospective clients it is a two-way street for both the competition and your clients!

While clearly not a lawyer, it doesn't appear on the surface to be a thing firms can do anything about as the e-billing solution contract is between their client and TyMetrix. The client normally advises firms they have begun using the e-billing solution and if you want to do their work you must comply.

### Back to the alternative service perspective

According to a recent presentation at the Association of Canadian General Counsel 2014 Spring Conference in Victoria B.C., "nine out of 10 general counsel report at least some metrics to management." The metrics most frequently reported by in-house counsel to the executive team in order of use are:

- variance against year to date budget;
- total legal expenses in ratio to things like sales, number of employees, etc.;
- variance against actual forecast of actual financial liability;
- total legal costs in ratio to things like sales, number of employees, etc.;
- percentage of managers who have taken compliance training;
- number of legal and compliance audits completed;
- legal department employee satisfaction;
- number of substantiated compliance violations;
- client opinion of overall department effectiveness;
- proportion of outside spending on non-hourly fees; and,
- number of compliance failures detected internally.

Like KPIs for law firms, not all KPI make sense for all in-house legal departments. They are driven in part by the size of the department and the nature of the legal matters it handles, including repetitive nature, magnitude, availability of external benchmarks, sophistication of internal data gathering systems, etc.

**... "not all KPI make sense for all in-house legal departments."**

Some of the KPI provided to a small sample of in-house counsel for them to provide feedback on included:

#### 1. Legal Costs:

- **internal legal spend per revenue** - This would be calculated by dividing the cost of the law department – excluding fees paid to external counsel – by revenue so you could benchmark spend per revenue dollar as a percentage (could be in total as well as major line item);
- **external legal costs per revenue** - This would be calculated by dividing the cost of the fees and disbursements paid to external counsel by revenue so you could benchmark spend on external counsel per revenue dollar as a percentage;
- **total legal expense per revenue** - This would be the sum of the percentages in internal and external; and
- **major department expenses as a percentage of total expense** - Each major expense category divided by the total expense – e.g. salaries and benefits for lawyers divided by total department costs.

#### 2. Law Department Staffing KPI:

- **lawyers to revenue** - The ratio of the number of departmental lawyers to the revenue;
- **paralegals to lawyers** - The ratio of paralegals in the department to lawyers; and
- **support staff to legal professionals** - The ratio of support staff in the law department to the combined total of lawyers and paralegals.

#### 3. Workload/Cost:

- **matters per revenue**

- *internal matters handled per revenue* - ratio of number of matters handled internally to the revenue;
- *external matters handled to revenue* - ratio of number of matters handled by external counsel to the revenue;
- **matters handled**
  - *internal matters per lawyer* - the number of matters handled internally divided by the number of lawyers;
  - *external matters supervised per lawyer* - number of matters handled by external counsel divided by the number of lawyers in the law department;
- **cost per matter:**
  - *internal cost of matters handled* - cost of law department, excluding supervisory time spent on matters handled externally, divided by the number of matters handled internally;
  - *external cost of matters handled* - the sum of the fees and disbursements paid to external counsel plus the supervisory costs excluded in the calculation of the internal cost of matters handled, divided by the number of matters handled externally;
- **cost per lawyer:**
  - *cost per hour internal* - divide the total costs of the law department, excluding external fees & disbursements, by the total number of hours that the lawyers in the law department are available to work; and
  - *cost per hour external* - the total cost of the fees and disbursements paid to external counsel by the hours billed for during the year.

#### 4. External Fee Arrangements:

- **billable hours** - The number of matters being handled externally which have been billed on an hourly rate basis divided by the number of matters billed externally;
- **alternative fee arrangements** - The number of matters being handled externally which have not been billed on an hourly rate basis divided by the number of matters billed externally;
- **number of external law firms dealt with** - The number of matters billed by external counsel divided by the number of different law firms billing the company; and
- **overall discounting of fee** - This is the total amount of fees actually billed divided by those same fees at the law firm's standard rates or even agreed upon rates.

While several pointed out that some of the KPIs identified were not applicable to their company's operations they offered some additional ones including:

- lawyers per thousand employees – a reflection in part of complexity and scale of operation;
- matters handled per paralegal (seen to be a growth area in in-house counsel departments); and
- AFAs spend in ratio to total external legal spend.

One common comment was a need for granularity in the types of legal matters handled as a ratio to total number of matters handled so as to have a KPI that tracks the "mix" of files that in-house counsel are handling.

Until next month, servicing of in-house legal departments might be best captured by a Native American proverb that suggests

*"that to understand the man you must first walk a mile in his moccasins."*

### **Comments or Questions?**

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