

# Seven steps to value-added legal services

Hourly rate billing rewards inefficiency. This is so well recognised as to be trite. It does, however, have the advantage of simplicity. It also represents a useful budgeting tool, for companies and their lawyers.

The trick then, at least for the meantime, is not to abandon the hourly rate mechanism, but modify it to more accurately reflect the value of legal services – to actively encourage lawyers to focus on activities that add value to your organisation.

A few years ago, Telecom decided there was a need to improve the service quality provided to one of the largest users of legal services in New Zealand.

Quality improvement, not cost reduction, was the key driver – with the aim of generating more proactive, results-oriented, business-focused advice, and improved service delivery criteria. Almost as an added bonus the move also saved Telecom a substantial amount of money in its first year of implementation.

“Value billing” was one of the methodologies implemented.

It means that in essence, lawyers are paid not simply on the basis of hours worked, but according to criteria that reflects value to the organisation. An appropriate fee might be higher, or lower (and in some cases significantly different) than the “standard” fee. Hours and rates remain important, but are not the determining factor.

Here are seven practical steps for developing and implementing a system designed to encourage an organisation’s external lawyers to deliver a more effective, and valuable, service.

## Step 1: Buy-in

The first step involves demonstrating to lawyers that it’s in their interest to embrace the concept.

Helping lawyers to become more efficient, effective and focused on adding real value to their corporate clients has obvious competitive advantage opportunities.

This may hold true even if value billing

## Ronald F Pol outlines a method of encouraging your lawyers to deliver a more effective, and valuable, service.

reduces an organisation’s total legal spend with any particular firm. If lawyers consistently add such value that they should be rewarded with payment for value which exceeds hours spent, they can utilise “saved” time for other transactions, whether for your organisation or other clients. Ideally, value billing should result in profitability increases for lawyers who add value, even as an individual client’s legal spend might reduce. Truly a win-win possibility.

For lawyers threatened by the concept, it’s relatively simple to demonstrate key advantages.

But it’s just as important to carefully explain the concept to lawyers who view value billing as an opportunity. Lawyers whose view of the value they offer markedly exceeds their client’s view of such value might otherwise too readily embrace the concept, and suffer unexpected consequences when a more objective analysis is applied.

Five intermediate steps support this first stage:

- Ensure you have a clear understanding of objectives – eg service delivery improvements, reduced costs, etc;
- Identify factors that add value to your organisation – eg outcome, importance, availability, staffing balance, etc;
- Commit the objectives and key elements of the system to writing – eg Terms of Engagement setting out mutual expectations and responsibilities, hourly rates, fee arrangements, staffing levels, service delivery criteria, etc;
- Challenge, refine and clarify the proposed model;
- Present the model to your lawyers and invite their input and, ultimately, commitment.

## Step 2: Initial implementation

It is vital that lawyers know the factors

that your organisation values, and that the guiding criteria are consistently applied.

In practical terms, a simple checklist might list key criteria, with a box for each to be assigned grades from 1 (poor) to 5 (excellent), and a “comments” field. Such a checklist provides a useful basis for identifying whether lawyers meet key value and performance criteria for each bill, each transaction, and across a range of transactions.

## Step 3: Simplify the logistics

I used to receive scores of bills from dozens of lawyers throughout the month. The variety of bills might also have been compared with the diversity of plant and animal life in the natural world. Some were fully formed, spectacular in detail – others were barely amoebic.

An appropriate systematic methodology will differ between organisations. It may include reinforcing regular billing (supporting “no surprises” management of legal issues) and a single point of contact. It may involve an agreed date each month to receive draft bills (allowing genuine application of value criteria unconstrained by rigidity that might accompany final bills), and regular meetings to discuss bills and issues affecting value.

## Step 4: Partnering application

Applying the criteria in a subjective, inconsistent or unilateral way is one of the surest ways to get immediate short-term cost savings at the expense of a breakdown in trust and a failure to achieve longer-term quality improvements and cost savings.

I invited firms to complete a simple checklist for significant transactions, and did likewise. I resisted the temptation to require firms to provide their completed checklists in advance. I risked loss of con-

trol, but gained a system in which both client and lawyer had equal say.

In practice, I found that lawyers tended generally to view their value contribution higher than I had. This was hardly surprising. More importantly though, the "shape" of the completed checklist was almost invariably similar, if not identical. This allowed us to identify key areas for improvement. It also ensured immediate commitment to such improvement because the law firm had itself identified these areas. A

positive trend also soon became apparent – there was over time (for most law firms) a noticeable "quality improvement drift".

#### **Step 5: Incorporate into invoice format**

Although deliberately simple, and a useful tool in establishing appropriate criteria and their application, completing checklists generates extra work. The solution was simply to incorporate it directly into the invoice format itself, with relevant value criteria directly recorded.

#### **Step 6: Transparent, task-based value billing**

Law firm bills traditionally contain a simple narrative outlining the range of tasks undertaken in the billing period, followed by the fee.

The lack of transparency in traditional bills may cloud a client's ability to identify (and appropriately reward) value. It may prove difficult to accurately assess the value added. Was discovery overstuffed by partners? Was unnecessary research done? Or was relatively little time spent on a major strategic change that added huge value?

The introduction of greater transparency, requiring firms to identify the main tasks for each billing period, and to identify staffing and relevant value factors for each main task, allows clients and firms more readily to identify where value was added – or not.

#### **Step 7: Front-end load the value**

The greatest benefit of transparent task-based value billing is the active encouragement of value-add behaviour by lawyers.

Any failure to add value becomes transparent, and is therefore discouraged. Equally, work that adds value can more readily be identified, and rewarded. The final step is to more actively identify key objectives and tasks in advance, in conjunction with the lawyers. This channels lawyers' activities into a real value-add path from the start and at each key stage – before work is done (and expense incurred) and reinforces teamwork between lawyer and client.

#### **The results**

Applying value criteria has resulted in an improved quality of service, with a more sustained, consistent delivery of value-add services, and direct correlation to factors which matter to Telecom.

It has proved to be a productive and useful first step in reducing inefficiencies and improving the delivery and service quality of many of Telecom's key legal service providers. **B**

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## Getting the most bang for your buck

### *Is value billing a "silver bullet"?*

No. Its suitability depends on a range of factors, including the relationship between an organisation and its legal service providers. It is only one of a range of available strategies. It may represent a useful first step in getting the most "bang for your buck" from external lawyers.

### *Can value be assessed only at the end of transactions?*

In some cases, it might be easier to do so. But there's real benefit in doing so more regularly. Even if some months represent "standard" work in which "time" approximates value, it's still useful to assess and reinforce continuing value-add behaviour.

### *How necessary is the specific invoice format you have adopted?*

Ideally, not at all. At its simplest level, lawyers need to do just three things: identify what adds value; deliver that value; and demonstrate that they have done so. Transparent task-based value billing is just one method to motivate lawyers to do these things better.

### *How does the system compare with US-style task-based billing?*

It's not intended to be as complex or as expensive as the American UTBMS task-based billing model. It is a first step designed to introduce greater transparency into legal bills within the Australasian context.

### *Has value billing been successful for Telecom?*

Yes. Telecom's external lawyers are more focused on key value and service delivery criteria, including results. In its first year of operation, in the area for which the author had responsibility, it also generated considerable savings.

### *Could it have been more successful?*

Yes. We could have managed the introduction better, and its implementation more consistently. Law firms could also have embraced it in a less reactive way, helping us further improve the process to the benefit of both parties.

### *Any regrets?*

Only that large law firms appear to have adopted the concept merely as an add-on to internal systems still driven by time-costing, rather than a paradigm shift opportunity.

They generally discuss "discounts" or seek "premiums", as an approximation of value, rather than seek actively and directly to assess value to the client. This tends to focus on services performed rather than the value of those services.

Essentially, the possibility has not been embraced by firms as a potential springboard from which to undertake a transformation, and to abandon the comfort blanket of hourly rate billing across the board.

In my opinion, lawyers do themselves a disservice when, irrespective of their marketing efforts, in reality they insist to the world at large that the commodity they sell is their time.

Ultimately, I believe that lawyers will best serve their clients, and develop their business (and profession) by genuinely and actively re-branding themselves as delivering and selling not time, but value to their clients. **B**