

# It's time to get rid of those silly, unnecessary timesheets

John Chisholm | *September 04, 2009*

**THERE is now almost universal condemnation of lawyers charging for their services solely by reference to time. The condemnation is coming from clients, from the judiciary, from the regulators, from legal commentators, from young lawyers -- and even from the partners in law firms themselves.**

Notwithstanding the best efforts by some firms to find a viable alternative to billing by time, I am absolutely convinced firms will make little or no progress while they continue to use timesheets to record, measure, but most of all price their services.

It is the timesheet that is the root cause of our problem.

Timesheets are the crutch or drug of choice for many firms whose partners cannot even begin to comprehend that a firm could exist without the retrospective tracking of every six-minute unit (only fee earners are required to account for their six-minute units -- the non-fee earners not being worthy of this honour).

We conveniently forget that timesheets, introduced to us by our accounting colleagues and adapted from Frederick Taylor's notion of 19th century time and motion studies, were intended to be used by Australian law firms in the 1970s originally as a management tool to track what lawyers were doing each day (apparently we could not ask or observe them).

Their original purpose was to record time, not charge time, yet the simplicity and ease of use of charging by time soon became commonplace once we had educated ourselves and our clients on this alleged masterstroke of business efficiency. Timesheets themselves, and the billion-dollar industry that has been set up to support them, serve little or no purpose in today's modern professional knowledge firm.

For those who argue that timesheets serve the purpose of tracking an individual's productivity or "worth", why then do firms not require everyone in the firm -- the receptionist, the PAs, the accounts staff, HR and all -- to record what they do every six minutes?

The answer is that there are far more efficient and effective ways of judging an individual's value to the firm.

What a ridiculous notion this is in the extreme. We all know the amount of time any lawyer spends on a client's matter may have absolutely no relevance whatsoever to the value provided to, and perceived by, the client!

So why is it that most firms are still using billable hours? In my view, there are three main reasons:

- There is sometimes a difference between what some firms' representatives say publicly and what they say privately.
- Allegedly no one has yet come up with a suitable alternative to the billable hour.
- Notwithstanding the intentions of some firms that genuinely want to explore and implement alternative pricing models, most firms are still mired in the sub-optimal and highly outdated business concept that time is money and it is time that is valued by clients.

In regard to the first point, I would simply ask that one look not so much at what law firms say but at how they behave, to ascertain whether or not they are serious about moving away from the billable hour. Some of the alternatives to the billable hour, such as staged pricing, success fees and even fixed pricing, are used by firms, albeit sparingly, often reluctantly and usually only when demanded by the client or market conditions.

Some firms are awaiting the perfect pricing model. Make no mistake, all pricing systems are flawed but some are far better than others.

The best way to price any service is for there to be agreement on the price upfront. This should be done once the work to be done has been properly scoped before any work has commenced, and the price agreed should be somewhat commensurate with the value of the work to the client as perceived by the client -- not by reference to how long it may take the law firm to undertake the task. I do not believe there is any client of any law firm (or at least a client worth having) that buys time from their lawyer, so why do we as a profession keep selling them time?

Clients buy knowledge, experience, peace of mind, judgment and the like, all of which simply cannot be distilled into units of time.

As my colleague Ron Baker, a world leader in value pricing, says: "Time is quite simply the wrong metric to measure the intellectual capital that lawyers provide to their clients."

Baker is founder of the Vera-Sage Institute in California, a think tank whose sole quest is to bury the billable hour.

I had the privilege of working and touring with him along the east coast of Australia for two weeks recently as he spoke with hundreds of lawyers, law firm administrators, the legal press, commentators, young lawyers, government representatives and clients of law firms.

The message delivered by Ron Baker to each of these stakeholders on both why and how to move to value-based pricing was clear and compelling. More importantly, the overwhelming message delivered to us from most of those we met -- especially the clients -- was "we do want change and we do want certainty of price" and most clients would be prepared to pay a premium for this certainty.

Clients told us they want value and they want their law firms to talk to them about value, and yet most law firms continue to talk about hours and rates.

*John Chisholm is a former lawyer and managing partner. He is principal of John Chisholm Consulting.*