

Pricing Legal Services Master Class

Module 3: Non-Hourly Alternative Fee Arrangements And Negotiating a Fair Price

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Today's Program

- Pricing by Law Firms
- Multi-Year Work Allocation
- Fees for Innovation and Performance
- Two-Step Negotiations

Pricing by Law Firms

“The single most important decision in evaluating a business is pricing power. If you’ve got the power to raise prices without losing business to a competitor, you’ve got a very good business. If you’ve got to have a prayer session before raising the price by 10% then you’ve got a terrible business.”

**Warren Buffett,
Chairman & CEO, Berkshire Hathaway**

Pricing Excellence – Why Bother?

“Countless market-based research reports demonstrate unequivocally that a 5% to 15% increase in turnover is readily achievable using a more sophisticated approach to pricing.”

The logo for Deloitte, featuring the word "Deloitte" in a bold, blue, sans-serif font, followed by a small green dot.The logo for PwC, featuring the letters "pwc" in a bold, black, lowercase sans-serif font. Above the letters is a graphic consisting of several overlapping squares in shades of orange, red, and pink, arranged in a stepped pattern.The logo for KPMG, featuring the letters "KPMG" in a bold, blue, sans-serif font. Above the letters are four blue-outlined squares of equal size, arranged horizontally.

What are the most successful Law
Firms doing with Pricing?

Current Pricing Best Practice: An Integrated Approach



Current Pricing Best Practice

- ✓ An integrated approach
- ✓ Pricing governance
- ✓ Less autonomy
- ✓ Pricing leadership
- ✓ Alignment with wider strategy



The Best Price

Depends on

- Multi-year demand forecasting
 - Not guaranteed
- The fewest number of firms
- Agreement on staffing / delegation patterns for a portfolio of work
- A commitment to rigorous matter budgeting
 - Task and fee earner

Multi-Year Work Allocation

Multi-Year Work Allocation

- Estimate work volumes by category of law and region
- Estimate annual variations if at least 10% for the ISP/RFP Scope of Work

Multi-Year Work Allocation

- Assemble “portfolios” of work with a minimum of 10,000 hours per year, where possible
- 10,000 hours represents ± 5 timekeepers

Multi-Year Work Allocation

- Assuming competence and coverage criteria are met, plan to allocate portfolios of work to the successful firms
- This simulation will suggest the optimal number of panel firms
- Allow hours to transition firms in Year 1

Distribution by Volume	Required Experience and Proposed Team	Year of Call	2020	2021	2022	2020		2021		2022	
			1 000	1 000	1 000	Rates	Fees	Rates	Fees	Rates	Fees
20%	15 and more years of experience										
	1		100.0	66.6	66.6	475 €	47 500 €	475 €	31 635 €	475 €	31 635 €
	2		100.0	66.8	66.6	425 €	42 500 €	425 €	28 390 €	425 €	28 305 €
	3			66.6	66.8		-€	400 €	26 640 €	400 €	26 720 €
	Total		200.0	200.0	200.0		90 000 €		86 665 €		86 660 €
25%	8 - 14 years of experience										
	3		125.0			375 €	46 875 €		-€		-€
	4		125.0	250.0	125.0	350 €	43 750 €	350 €	87 500 €	350 €	43 750 €
	5				125.0		-€		-€	340 €	42 500 €
	Total		250.0	250.0	250.0		90 625 €		87 500 €		86 250 €
20%	4 - 7 years of experience										
	5		66.7	66.7		325 €	21 668 €	325 €	21 668 €		-€
	6		66.7	66.7	100.0	315 €	21 001 €	315 €	21 001 €	315 €	31 500 €
	7		66.7	66.7	100.0	295 €	19 677 €	295 €	19 677 €	295 €	29 500 €
	Total		200.0	200.0	200.0		62 345 €		62 345 €		61 000 €
5%	up to 3 years of experience										
	9		16.7	16.7	16.7	240 €	4 001 €	240 €	4 001 €	240 €	4 001 €
	10		16.7	16.7	16.7	240 €	4 001 €	240 €	4 001 €	240 €	4 001 €
	11		16.7	16.7	16.7	240 €	4 001 €	240 €	4 001 €	240 €	4 001 €
	Total		50.0	50.0	50.0		12 002 €		12 002 €		12 002 €
30%	Paralegals or equivalent										
	13		100.0	100.0	100.0	180 €	18 000 €	240 €	24 000 €	240 €	24 000 €
	14		100.0	100.0	100.0	180 €	18 000 €	240 €	24 000 €	240 €	24 000 €
	15		100.0	100.0	100.0	180 €	18 000 €	240 €	24 000 €	240 €	24 000 €
	Total		300.0	300.0	300.0		54 000 €		72 000 €		72 000 €
TOTAL HOURS:		3 000	1 000	1 000	1 000						
TOTAL FEES:			947 398 €				308 973 €		320 513 €		317 912 €
AVERAGE RATE: (Total fees divided by total hours)		315.79 €					308.96 €		320.50 €		317.91 €

Sample Financial Evaluation Table

United States – 24,650 hours

Law firm	Blended rate	Discounted	3.5-Year cost
Firm 6	\$ 876.79	\$ 876.79	\$ 21 612 900
Firm 1	\$ 690.65	\$ 587.05	\$ 14 470 835
Firm 7	\$ 510.75	\$ 439.24	\$ 10 827 300
Firm 8	\$ 475.32	\$ 432.11	\$ 10 651 463

Blended Rates

Rate

- reflects staffing profile (and/or matter budget)
- includes annual adjustments (if any) for experience
- includes inflation (if any)
- assumes volume discount - up front
- apply it as of 500 hours per year
- blend it across legal specializations

Blended Rates

Productivity pricing

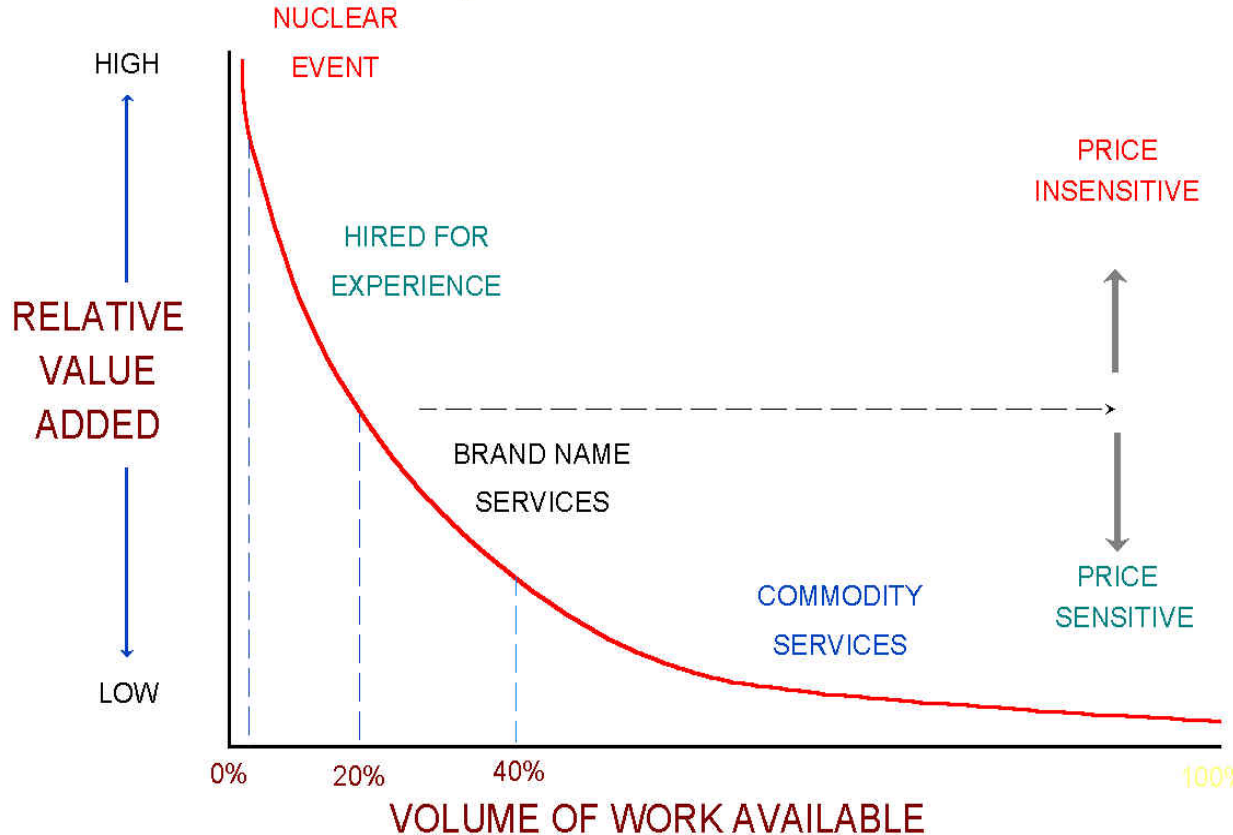
- blended rate \times volume for 12 to 36 months \div same number of months
- no adjustments to monthly payments if annual deviation is 10% or less from demand volumes
- stimulates matter budgeting, project management and work allocation practices
- replaces invoice autopsies with pre-approvals
- saves another 10% of total legal spend

Discounts

Always negotiate the blend before the discount

The Cobb Value Curve

The Competitive Position Profile



Fees for Innovation & Performance

Performance-Based Fees

- Retrospective fee based on value
- Set out success factors in the terms of engagement

Performance-Based Fees

- Designed to share risks and rewards
- Create incentive for early resolution
- Not designed as an efficiency incentive

Fees for Innovation and Performance

Evaluate Innovation Projects on 3 or 4 criteria and scoring

- 2 points for “Exceeds Expectations”
- 1 point for “Meets Expectations”
- 0 points for “Did not Meet Expectations”

Release 100% of the Innovation Fund if the overall result is “Meets Expectations”

Fees for Innovation and Performance

- Double the Innovation Fund payment if the evaluation result is “Exceeds Expectations”
- Law firm thus receives more than 100% of the negotiated fee for exceptional results.

Fees for Innovation and Performance

- Some fee arrangements can be applied for performance
- Four Key Performance Indicators (KPIs)
 - Innovation
 - Results
 - Service
 - Costs

Fixed Fees

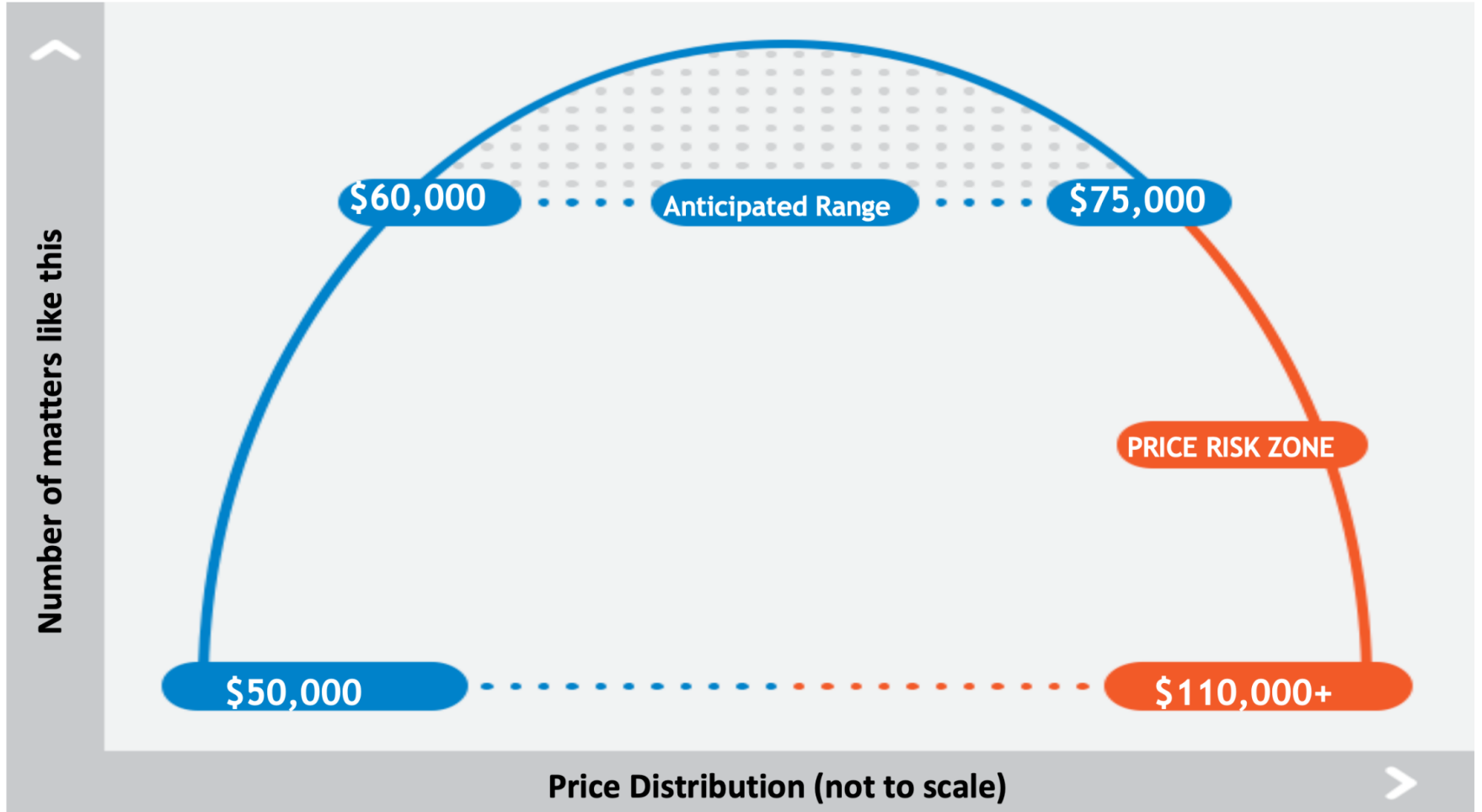
Ian McDougall, EVP and GC
LexisNexis

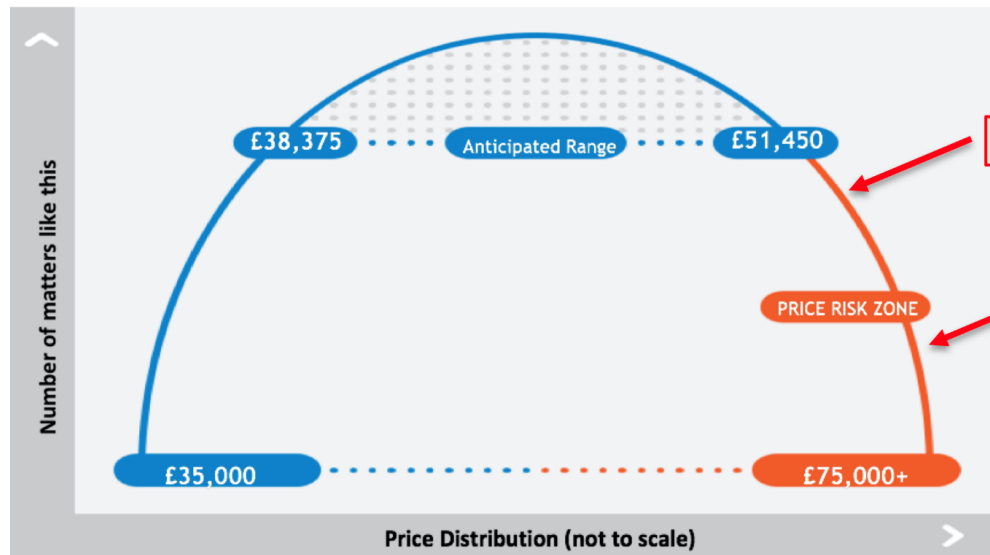


“I have conversations with law firms very often ... and I’m sure they don’t believe me when I say to them that we are after quality and not necessarily the cheapest one,” McDougall said. “We’re after value for money. And one of the biggest elements of that is predictability. Can you give me a predictable cost?”

Fixed Fees

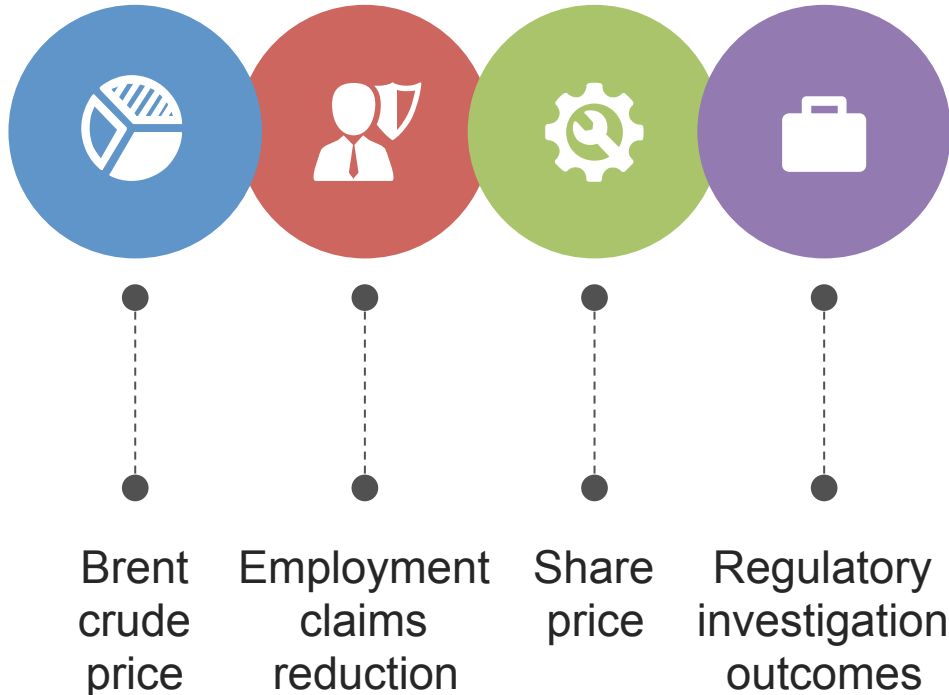
- Huge challenge for firms
- Major shift in cost risk
- Data mining becomes critical
- Planning and project management
- ‘You can’t win every round’





Pricing Methodology	Cost	Advantages/disadvantages for you
Hourly rates with a cap	Estimated at £38,375 to £51,450+. For the reasons set out in the risk profile diagram above, we cannot rule out the possibility of a time-based model exceeding the top end of the range of £51,450. We will however cap our fee at £65,000 which still leaves us exposed to top end risk.	If the mediation is concluded without significant problems, this will prove to have been the cheapest option. You also have the advantage of knowing that your maximum liability in respect of our fee is £65,000. The disadvantage for you is that this maximum liability of £65,000 is £10,000 higher than our fixed fee option.
Fixed Fee	£55,000	The major advantage for you under this option is that your maximum liability in respect of our fee is £55,000. The disadvantage for you is that if our time costs of concluding a mediation are less than £55,000, our fee remains at £55,000.

Price Risk Sharing



Alignment of commercial interests

As a tangible manifestation of true commercial partnering, clients increasingly expect and respond favourably to pricing mechanisms that demonstrate a strong alignment of the firm's and the client's commercial interests.

Abort/Success

- Must be upside for client and firm
- Demonstrates risk sharing
- Abort fee and success fee can be symmetric or asymmetric

Cap and Collar

Objectives are to:

- Share price risk
- Encourage firm to 'get it right'
- Reward the firm for efficiency
- Reward the client for the firms' efficiency
- Punish the firm for poor estimation

A 20% discount is applied in respect of all time that exceeds the top of the collar i.e. \$83,000

The "Collar" – A Target Fee band (no adjustment if the final fee falls within this band i.e. the fee remains \$80,000)

If the final fee is below the Target Fee band, the client and the firm share the benefit (in this case 50/50). So if the billable time comes to \$60,000 i.e. \$20,000 less than the Target Fee, the firm gets 50% of that, i.e. \$60,000 + \$10,000 = \$70,000



Two-Step Negotiations

Two-Step Negotiations

Discuss qualitative issues first; have Legal take the lead.
Identify specific changes needed to the financial proposal:

- Coverage / associates in experience bands
- Annual rate increases – limits
- Staffing ratios
- Discounts required
- End price requested

Two-Step Negotiations

- For the second step, require revised financial proposals within 2 or 3 days.
- The revision can be either by way of revised spreadsheets or a simple cover letter.

Two-Step Negotiations

- Be available for telephone discussions with the Chief Pricing Officer
- Compare prices for all firms
- Discuss with Legal
- Have Legal finalize the panel firms
- Prepare Terms of Engagement

Additional Material

Tab 4: Preferred Staffing Profiles

- Mergers and Acquisitions example

Tab 5: Team and Rate Sheet

- To be completed

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