

The road ahead

It is some consolation for the legal profession that Professor Richard Susskind, the leading commentator, has put a question mark at the end of his forthcoming book, *The End of Lawyers?*. He may not be predicting the end, but he is predicting the end of legal practice as we know it today and have known it for many years.

Susskind gave an insight into his thinking at a recent roundtable debate on 'The brave new world of legal services', hosted by Rapoport's Directory, a recently launched online register of lawyers' professional experience, and chaired by *Gazette* columnist Joshua Rozenberg. Giving the keynote address to start the debate, Susskind said that in his work for law firms, which often ask him to conduct research among their clients, he had observed a shift in emphasis 'towards a really grave concern over the issue of costs' – and while general counsel are also under pressure to deliver more, firms are trying to raise their hourly rates.

He said: 'Here we have a tension that must be resolved. Simply put, clients are going to need more for less. They're going to have to reduce the number of lawyers working within their own organisations; they're going to have to reduce the amount they pay external lawyers. So, far from increasing fees, most law firms are actually going to suffer a bit of a downturn.'

This pressure can only be met through two strategies, he argued

– 'the efficiency strategy' or 'the collaboration strategy'. Susskind explained: 'The efficiency strategy is, I believe, the main strategy over the next five years or so and that's basically "cut the costs"... The more complex and ultimately far-reaching strategy is [the collaboration strategy] and that's more a five-to-ten year view. What you will see... is that clients will come to collaborate and share the cost of legal services in ways that we are only beginning to glimpse at this stage.' He said there are ways of 'recycling legal work' which will bring huge savings to clients but are 'terribly threatening for lawyers'.

Susskind touched on the need to handle routine work in a far more efficient manner, a theme taken up by Stephen Allen, director of consultancy Clarity Legal Services, who said 'there remains among the legal profession a certain disbelief' that so-called Tesco Law is going to happen. But happen it will, and new entrants to the market will view legal services as they do any other product, looking at what goes into it, how much it will sell, how much it will cost and then setting a price.

Allen focused on the need to 'commoditise' work, which to him means giving clients assurances as to cost, rather than a one-price-fits-all model. This involves breaking down workflows and ensuring that each step of a matter is defined and priced. 'Commoditised legal service is coming,' he warned. 'We can lead and we can assure that quality, which we all hold dear as legal professionals as essential to it, or we can sit back and let it happen to us.'

Gordon Wilson, the head of Which? Legal Services, said its recent research indicated that consumers are looking for advice that is accessible – meaning both convenient and understandable – value for money and credible. 'The research suggests that no current provider hits all of those three criteria,' he said. 'The legal profession is widely recognised to have excellent credibility [but] abysmal value for money and accessibility.'

He added that the research showed how consumers' expectations of lawyers are 'extremely low... There is an opportunity for somebody to exceed those expectations.'

That somebody could, of course, be Which?. It already provides around 60,000 pieces of legal advice to subscribers, and Wilson said: 'We've expanded into three additional areas this year and we'll continue to expand to provide services in additional areas that [consumers] are requiring services or advice on. The other thing that we will do is utilise our brand. Increasingly, in the new world the brand that conveys that credibility, that value for money or whatever it is, is going to be incredibly useful and we're in a very fortunate position with that.'

However, Yuri Rapoport, the founder of Rapoport's Directory, said that after 12 years of referring clients to lawyers – through a law broking service he created in Australia – 'I can confidently say that satisfying clients is not linked to high levels of customer care or to geographical proximity or even to competitively priced legal services. The key has always been matching consumers

with lawyers who had the ability to deliver the right results.'

Jeremy Hand is also eyeing up the potential of the legal market. Chairman of the British Private Equity and Venture Capital Association, he is by day managing director of Lyceum Capital, which has already made public its intention to target the legal market.

Despite the ruthless reputation of private equity, he told the roundtable that the reality is about 'building better businesses and that's investing in people, investing in processes [and] investing in content and service. You don't make money as a property developer by knocking the property down, leveraging it up, and somehow selling all the bits of rubble for more than what you acquired [the building for]; you make money as a property developer by developing the assets that you acquire and making something better and bigger'.

With 'frankly mouth-watering margins' being enjoyed in the law despite relatively low levels of customer service, he said: 'We're used to investing in regulated industries – there's nothing special about the law in that regard.' Lawyers often argue that their role in enabling access to justice makes them different from other professions, but Hand said that new technology and better-run firms – potentially achieved through outside capital – would both help in that regard.

The winners from this new world will, he predicted, have scale, provide a 'fantastic service' and enjoy direct access to customers, cutting out the need to pay referral fees.

Louise Restell, once of Which? but now head of public policy at national law firm Russell Jones & Walker, took issue with those who suggest that the Legal Services Act is fixing something that is not broken. 'Research [conducted] at Which? when I was there consistently showed that consumers are not getting the kind of high-quality legal advice that everyone's now saying is at risk from the Legal Services Act,' she said. And if brands such as Tesco, Google or BUPA enter the market, 'it's not in their interest to offer low-quality legal advice... If

people are getting their legal advice from Tesco, frankly I'd be far more confident they're getting a good service than if they went to Bloggs & Bloggs down the high street.'

Buy into legal market

Former top City solicitor Keith Gaines, now dean of Nottingham Law School, told the roundtable that the likes of Tesco would probably look to buy their way into the legal market, rather than set up from scratch. Were he starting out again, Gaines said he would be thinking about renting large premises somewhere off a motorway junction and 'making sure that I didn't set up a law firm that was riddled with the issues about partnership but doing it in a kind of corporate way'.

He said his model would be to offer a limited but 'fantastically good' product range, employing top-notch marketing, technology and accounting staff, and allowing people to work flexibly – all structured differently from the traditional law firm. And then what Tesco would do is watch ten such practices spring up 'and then they'll say, "right, we'll buy the best one in ten years' time".'

Legal public relations specialist Clare Rodway of Kysen PR, who organised the event, contrasted the ability of high-street law firms to meet their clients' needs with that of supermarkets. 'I live in Berkshire and [Tesco] actually sells buckets for young girls to feed their horses with in my branch. They are so attuned to the needs of the people in

Caversham in Berkshire and that's what's scary.'

Rozenberg posed the oft-heard question of whether legal services are different from commodities – can you drive down the cost of legal services without reducing the quality, as Tesco and other big retailers have done with jeans?

Hand gave the analogy of National Britannia, a health and safety consultancy Lyceum bought for £25m a few years ago and later sold for £80m after a major investment in IT allowed it to re-engineer the way retailers such as Marks & Spencer could check food safety

compliance on behalf of suppliers. Traditional consultancies simply could not compete. It is 'exactly that same type of force which is going to come to bear' – and not just on the commoditised end of the legal market, he predicted.

However, size need not be everything. Robert Graham-Campbell, chief executive of Maitland Chambers in London, argued that legal work 'is not really a business that gets huge efficiencies of scale'. He pointed to investment banking, 'where quite a lot of the really good-quality, value-added senior managing directors broke off and set up their boutiques to capture the value-added service that they did without having to build a processing plant underneath them'.

This offered a model for commercial solicitors, he said: 'Let's put a horizontal slice through the big firm and we'll take off the value-added partners into the partnership and the boutique, but we'll move the processing plant to a proverbial sort of chicken factory which can be commoditised with the benefit of external capital.'

It was an analysis that appealed to Susskind. He is working on a model of what he called 'decomposing and multi-sourcing' – you take a piece of work, break it up into its constituent tasks, and then work out the most efficient way of dealing with each chunk. 'If you take a lot of the work that goes on in litigation, typically there'll be some legal research, some project management, some document management, there might be some electronic disclosure work, there'll be some strategy, some tactics and some advocacy, just to pick a few out of the air... There are different organisations which can do each of these constituent tasks better and there's also the argument, of course, that even if the law firm continues to do it, there's no justification for doing it in very expensive property and very expensive places.'

His model would then be to look at a legal matter as an assembly line. 'There'll be someone – it might be the in-house lawyer, it might be someone in a law firm – [who] acts as the kind of impresario as it were,

identifying for the client, "here's the job that needs doing. We think there are eight tasks there. There's two of them we can do, one of them we're subcontracting to a firm in New Zealand, two of them there's an outsourcing company in India, frankly that task over there is absolutely cookie cutting, could be knocked together on a spreadsheet, we'll do that and so forth.'

The upshot of this would be to replace the notion of going to one organisation that will serve the client's legal needs with the idea of one organisation acting more like a main contractor. 'What is a huge challenge for the law firms is whether or not lawyers are actually the main contractors and sub-contractors,' said Susskind. 'Are lawyers the people who do a little bit of legal work or are they the people who are actually running the show?' As Hand added later in the discussion: 'The perception of some lawyers is that they're the only people who can deliver the law effectively and I dispute that.'

Learn lessons

If one theme emerged from the two-and-a-half hour debate, it was that lawyers cannot stand around idly as the brave new world takes shape.

As the man who decided to buy the remnants of Claims Direct to create New Claims Direct, Russell Jones & Walker managing partner Neil Kinsella was well placed to issue a plea to the profession not to 'make the same mistake again' of leaving a vacuum, as it did in personal injury, into which claims management companies flooded. 'The reality is that we run businesses and we've been in a protected environment... I think we're not encouraged to run innovative businesses.' Those who are aware that the profession will not be protected in the future will have a chance. 'Those who don't, won't.'

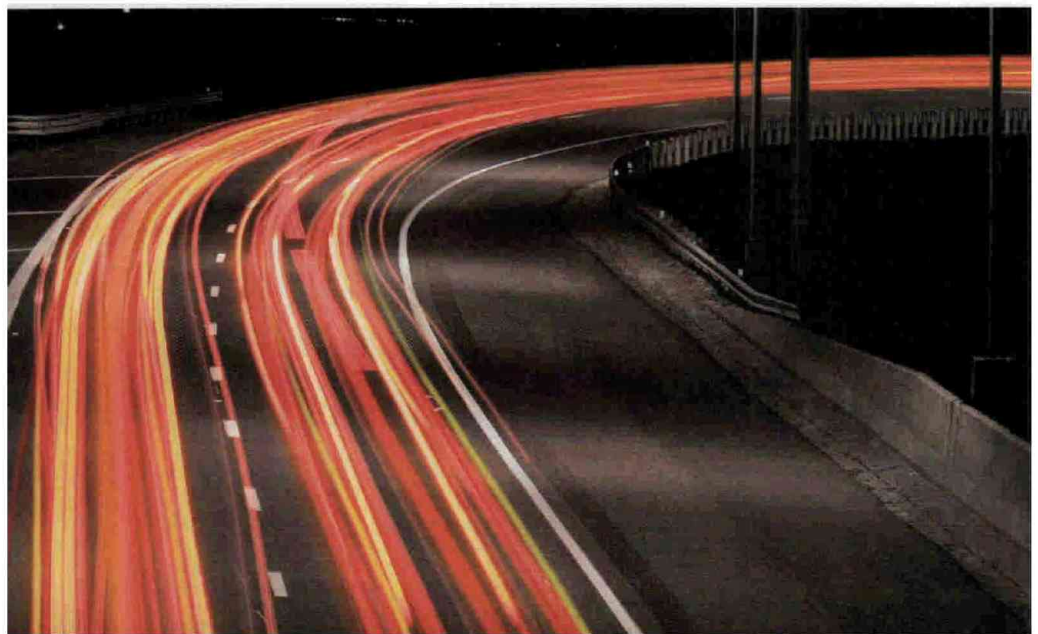
For Susskind, the questions he always poses to the profession are: why is it that people pay lawyers good money? What value is it they're bringing? The best answer he has seen comes from accountants KPMG, whose global mission statement is, he paraphrased, 'we

exist to turn our knowledge into value for the benefit of our clients'.

'I think it's a fantastic way of summarising what all of us as professional advisers seek to do,' Susskind concluded. 'We have knowledge, expertise, inside ideas that clients want to apply in their circumstances. It doesn't say we exist to supply one-to-one consultative advisory service on an hourly billing basis.'

'The thing I want people to think about in the future is in the legal market we have to strive to find even more imaginative and creative and, I suspect, cost-effective ways of transferring our knowledge to our clients in a way they can apply in their circumstances.' ■

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Concentrating on the future of legal services (l-r): Yuri Rapoport, Gordon Wilson, Joshua Rozenberg, and Richard Susskind



Brave new world: Yuri Rapoport, founder of Rapoport's Directory



Shape of things to come: Richard Susskind, keynote speaker