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What you should know about cloud computing

ABA SURVEY BREAKS DOWN THE NUMBERS

According to the American Bar Association's (ABA's) *2019 Legal Technology Survey*, the majority of law firms (58%) have taken the leap into cloud computing. They're drawn in by cloud technologies' 24/7 access, low cost of entry, predictable monthly expenses and robust data backup. But they still have some significant — and legitimate — concerns.

CURRENT LANDSCAPE

Cloud computing generally refers to Web-based software or services. Rather than installing software on their computers or mobile devices, attorneys access the software or services through an Internet browser or mobile app. Their data is processed and stored on remote servers, not local computers and hard drives.

The survey found that attorneys see the cloud as a fast and scalable way to use advanced legal technology tools without a substantial upfront capital investment in hardware, software and support services. Instead, they can take advantage of monthly, per-user subscriptions. Almost half of respondents also view other economic benefits — including eliminating IT, avoiding software management requirements and quick start-up times — as important.

CYBERSECURITY CONCERNS

Only about 30% of respondents cited "better security than I can provide in-office" as a benefit of cloud computing, while 65% of current cloud users identified "confidentiality/security" as their top concern. They also are worried about losing control of data (45%) and losing control over updates (25%). Among attorneys who haven't adopted the cloud, concerns cited include confidentiality/security (50%) and loss of control (36%).

Yet few attorneys seem to be doing much to protect their data. No more than 35% (down from 38% in the 2018 survey) of respondents are taking any one of 13 specified cautionary security measures listed in the survey question. The most used measure is secure socket layers, or SSL, followed by local data backups (27%, down from 36% in 2018), reviewing terms of service (27%, down from 34%) and reviewing ethical decisions on cloud computing (25%, down from 34%).

Only 23% evaluated vendor company history, despite the fact that 94% cited vendor reputation as important when selecting vendors. Four percent negotiated confidentiality agreements in connection with cloud services, and 5% negotiated service legal agreements.

HYBRID AND MULTI-CLOUD COMPUTING ARE HERE

While attorneys have slowly tiptoed into cloud computing, the field has swiftly advanced. For example, there are now several hybrid or multi-cloud computing options that enable firms to customize their experience.

Hybrid computing comprises separate public and private clouds, with data and applications shared between them. The public cloud component provides access to immense storage capabilities on a scalable basis, meaning law firms can increase or reduce depending on their current needs. Firms can use private clouds (hosted on their own servers) to store confidential and sensitive data.

Multi-cloud computing generally refers to using more than one third-party cloud service. It allows a firm to transfer vital workloads and applications to a functioning cloud if another cloud goes down. Moreover, multi-cloud computing facilitates a "cafeteria-style" approach. Firms can pick and choose among providers based on the features required for each application.

As the ABA laments, this behavior makes little sense if attorneys' biggest concerns about cloud computing are security and confidentiality. It also raises questions about their ability to satisfy ethical requirements regarding technology competency.

Few attorneys seem to be doing much to protect their data, and no more than 35% of respondents are taking specified cautionary security measures listed in the survey.

SECURITY STEPS

The good news is that law firms can take several steps to shore up their security and, in turn, their (and their clients') confidence in cloud computing, including:

Conducting a comprehensive risk assessment. Attorneys clearly harbor some fears about their vulnerabilities — but you can't take appropriate measures to reduce vulnerabilities until you have identified them.

Establishing appropriate cloud structures. There's no one-size-fits-all cloud structure. (See "Hybrid and multi-cloud computing are here" above.) You should choose the appropriate structure for your firm's particular needs, with, for example, some types of material receiving heavier security than others.

Managing access. Require multifactor authentication to log in, and grant different levels of access based on actual need. A vendor, for example, should have much more restricted access to confidential materials than attorneys. It's also critical to terminate access when employees depart and vendor relationships terminate.

PROCEED WITH CAUTION

Attorneys need look no further than businesses in other industries for evidence of the benefits of cloud computing. The question, therefore, isn't whether to adopt cloud computing, but *how* to adopt cloud computing. This latest ABA survey makes clear that attorneys have a long way to go to achieve appropriate levels of cybersecurity. •

How focusing on quality can allow you to raise rates

When was the last time your firm raised its rates? Are you afraid to do so, believing it will provide clients with an incentive to shop around for lower-cost legal representation? While raising rates can be a risky proposition in a competitive legal market, clear communications to your clients about your quality of services is a safe bet when raising rates.

WHAT SHOULD YOU CONSIDER?

Many factors can affect your rates. They might include associates' salaries, overhead costs, your local market and your firm's reputation. Most firms use formulas, tying billing rates to salaries and projected billable hours, for example.

If it's been a few years since you've adjusted rates or if your profit margin is shrinking, you may want to think about a rate increase. Remember, smaller increases are easier for clients to swallow. Most won't blink at a 2% to 5% rise, even if you increase rates by that amount several years in a row.

But a higher rate hike can cause even good clients to start comparison shopping, so handle such policy changes with delicacy. Have your firm's managing partner send a letter to all clients providing a detailed explanation for the increase. Then have the billing partners follow up by personally calling clients to address any concerns and questions from them.

WHAT ARE SOME CONCERNS?

The fear of alienating clients tends to outweigh any potential benefits of raising rates for many firms. This is a legitimate concern. Depending on the market and your competitors, you'll probably lose at least a few clients if you raise rates. However, that's not necessarily a bad thing.

Smaller increases are easier for clients to swallow; most won't blink at a 2% to 5% rise, even if you increase rates by that amount several years in a row.

The clients most sensitive to rate increases are likely clients that continually complain about fees, are slow in paying or even require collection efforts. Because these clients demand a disproportionate amount of time and attention, your firm may benefit by showing them the door. Their departure will allow attorneys to spend more hours on those clients that value your services.

When you decide it's time to raise rates, this is a great time to review your client base. You'll want to cater to those clients that you love working with, who pay their bills on time and who listen to your advice. These clients generally don't complain about reasonable fee hikes. On the other end are those that cause most of your malpractice suits, collection problems and headaches. For a more profitable practice, concentrate on expanding the former, trimming the latter from your client list.

ARE YOUR RATES COMPETITIVE?

Before setting new rates, review national and individual metropolitan market billing surveys to get an idea of what other firms are charging. Also

talk to attorney friends at other firms who may be willing to share their rates.

To test the market viability of your new billing rate structure, present it to potential new clients. If they accept your rate structure without question, it may be an indication that you're charging too little. On the other hand, if potential clients balk at your rates, you may have overestimated the market.

After determining that the proposed new rates are competitive, it's time to strategize how to present them to existing clients. Keep in mind that there's nothing wrong with being the market leader, so long as your reputation and the quality of the firm's work product support the premium.

COMMUNICATION IS KEY

Yes, raising rates can be a tough line to walk. Whether your firm is in good financial health or you have a slim profit margin (which doesn't necessarily mean the firm is in bad financial health, just that it needs to be careful), setting the incorrect rate can send the wrong message to current and potential clients. Be sure your clients understand that your quality is what they're paying for. •

What's your firm worth?

UNDERSTANDING LAW FIRM VALUATIONS

Attorneys who routinely retain appraisers to value businesses as part of their practice may believe they know what's involved when their own firms must be appraised. And those who don't regularly work with valuators might think it's simply a matter of a "plug-and-play" mathematical formula.

Both notions, however, are mistaken. Law firm valuations are different from — and sometimes more complicated than — typical business appraisals in some significant ways.

LEGAL VS. OTHER BUSINESSES

When most businesses are sold, appraisers can reasonably assume that they will continue to generate a certain amount of revenue. For closely held professional services firms, though, that's not necessarily the case.

Clients might prove more loyal to specific partners than the firms themselves. If an owner leaves, the clients may follow that attorney or look elsewhere for legal services. Unlike some businesses, firms generally can't enforce noncompete agreements against attorneys who leave a practice. Also, firms can have conflicts of interest that limit their ability to maximize revenues.

Another complication? The sale of law firms is a relatively new phenomenon (and even now the ABA Model Rules of Professional Conduct require satisfaction of certain conditions). Valuators have yet to adopt a common method for valuing firms, and no comprehensive data is widely available.

CIRCUMSTANCES AND METHODS

Because the acquisition of one firm by another often doesn't involve an actual payment, valuations aren't commonly obtained for prospective sales. They're more frequently sought after the death or departure of a partner or when a partner divorces, as well as for purposes of retirement planning, estate planning and life insurance purchases.

In some cases, a firm's partnership agreement will specify the valuation method to be used. But the language of these agreements can be surprisingly imprecise and easily give rise to disagreements.

Several valuation approaches are available, and professional valuators generally use a combination of the following, depending on the firm's unique circumstances:

Rule of thumb. The appraiser takes the sum of average annual revenues and multiplies it by a certain factor. Factors generally can range from 0.5 to 3.0 and above, based on the number of clients, amount of repeat business and transferability of client relationships.

Asset-based. The valuator deducts the firm's liabilities from the sum of all of the firm's assets to calculate a net value. Note that this approach generally is disfavored for law firms because it ignores earnings and cash flows, two major indicators of a firm's financial health.

Discounted cash flow (DCF). A DCF value is based on future revenues, rather than historical performance. The appraiser projects cash flows over a period of time and applies a growth rate to estimate a terminal value at the end of that time period. The cash flows and terminal value are then discounted to their net present value.

Comparable sales. As noted above, data on law firm sales are difficult to find, and an appraiser likely won't be aware of any unique circumstances behind the scenes of a particular sale that would require adjustments. Still, data from sales might prove helpful as a supplement to results produced by other valuation methods.

CHOOSE SMARTLY

Whatever the reason for an appraisal, firms need to exercise the same care in selecting a valuator for their own business as they would for their clients. This means finding a qualified professional with proven experience valuing firms similar to theirs. •

Millennial matters: Understanding your younger attorneys

Millennials — generally defined as people born between 1981 and 1996 — make up the largest segment of today's workforce, as well as the legal industry's. With Baby Boomers increasingly leaving their practices and the overall job market tight, law firms must focus on recruiting and retaining younger attorneys to ensure long-term viability.

The first step is understanding Millennials' preferences, priorities and perceptions. A recent survey of more than 1,200 Millennial attorneys conducted by the Above the Law blog and the legal recruiting firm Major, Lindsey & Africa provides some insight.

MILLENNIAL MOTIVATORS

Like many of their nonattorney peers, Millennial attorneys cite work-life balance as their top priority. Almost 75% would trade part of their compensation for more time off, a flexible work

Gender politics is another area of concern: 45% of women strongly agree that law firm culture is sexist (vs. 14% of men), and 56% strongly agree there's a gender pay gap (vs. 18% of men).

GENERATIONAL DIFFERENCES

Different perceptions about professional development could pose problems, too. Almost 75% of partners agree that the partners at their firm genuinely care about associate development. Only half of associates feel that way.

Like many of their nonattorney peers, Millennial attorneys cite work-life balance as their top priority.

The discrepancy may be due to the fact that, as research shows, Millennials crave development opportunities and greater feedback more than their older co-workers. Law firms, therefore, should provide younger attorneys frequent and specific feedback through evaluations, peer review or one-on-one meetings. They also may need to provide special assignments or challenges earlier on than in the past.

THE FUTURE IS NOW

It's Millennial attorneys who will carry law firms into the future. Keeping them engaged and committed now should rank as a top priority. •

schedule or reduced billable hours. These results align with the sentiments of Millennials in general. A Marketplace-Edison Research poll, for example, found that workers ages 18 to 34 are more likely to rank flexible schedule and remote work opportunities as important in a job than their colleagues age 35 and older.

Law firms, therefore, would be wise to tailor their employee benefits accordingly. This may require a significant overhaul of traditional packages or, for firms with a substantial number of Gen X and Boomers, multiple packages to choose from — something for everyone.

RETENTION RISKS

More than 75% of respondents indicated that they were either open to new job opportunities or actively seeking them. Unhappiness with compensation (29%) and management/firm culture (22%) were the top reasons for looking for new opportunities.

Law firm culture clearly needs some work, in the view of these attorneys. Half of respondents agreed that the firm business model is fundamentally broken, and two-thirds agree that partnership is less desirable than it was a decade ago.

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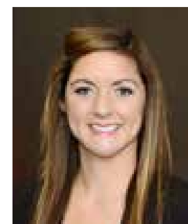

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