

# New Business models for the Legal Services Market

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Linking Empirical Academic thinking with Legal Practice

Internationally and particularly in the Netherlands

By René Orij, April, 2016

A business perspective on legal services differs strongly from a purely legal perspective. Empirical vs. normative. Many lawyers in business are not fully familiar with that perspective on their own work. It is about demand and supply for legal services, or in other words the market for legal services. That market is a rather special market, for example because products are not clearly defined, and the market is not transparent. What we know about the market, is that it is on the move, mainly caused by external pressure. This pressure calls for adjustments related to the way earnings are generated in the profession. The way earnings are generated is the business model. To be able to cope with the external changes, the business models have to be adapted, in other words business model innovation.

In this article I describe what is currently happening in the market – with a focus on the Big Law<sup>1</sup> market- and thereby provide a preview of the legal services business model of the future. First of all, I'd like to describe the turbulence in the market. Secondly I will define the business model; first in general and then for the legal market. Finally I will make an attempt to determine, based on a few examples, which part of the legal business model is in need of innovation and how innovation can be done.

The turbulence in the market can be illustrated through a few examples, such as the emergence of digital developments like in the Netherlands DoeHetZelfNotaris<sup>2</sup>, Firm24<sup>3</sup>, the convenience store or Hema-notary<sup>4</sup> and VraagHugo<sup>5</sup>. Innovation guru Christensen<sup>6</sup> together with his co-authors describes new forms of services, especially legal services. From an American perspective he focuses on the Anglo-Saxon examples from the US, such as Axiom<sup>7</sup>, AdvanceLaw<sup>8</sup> and LeClairRyan with their Discovery Solutions Practice<sup>9</sup> and the British Lawyers on Demand<sup>10</sup>. Christensen et al.'s<sup>11</sup> article published in Harvard Business Review in May 2013 is now already a few years old, but still very relevant in legal practice. The article is about disruption, the most important buzzword in

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<sup>1</sup> Ribstein, L. E. (2010). Death of Big Law, *The. Wis. L. Rev.*, 749.

<sup>2</sup> [www.doehetzelfnotaris.nl](http://www.doehetzelfnotaris.nl)

<sup>3</sup> [www.firm24.nl](http://www.firm24.nl)

<sup>4</sup> <https://notarisservice.hema.nl/>

<sup>5</sup> <https://www.vraaghugo.nl/>

<sup>6</sup> Christensen, C. M., Wang, D., & van Bever, D. (2013). Consulting on the Cusp of Disruption. *Harvard Business Review*, 91 (10), pp. 106-114

<sup>7</sup> <http://www.axiomlaw.com/>

<sup>8</sup> <http://www.advancelaw.com/>

<sup>9</sup> <https://www.leclairryan.com/ediscovery/>

<sup>10</sup> <http://www.lodlaw.com/>

<sup>11</sup> Christensen, C. M., Wang, D., & van Bever, D. (2013). Consulting on the Cusp of Disruption. *Harvard Business Review*, 91(10), pp. 106-114

entrepreneurship and innovation nowadays. But do these examples of innovative legal services lead to real disruption of the market? We don't know yet.

In the legal services, market changes can partly be illustrated by the emergence of niche offices. Niches usually stand for the market niches. Apparently there is a demand for services in a separate niche. If this is actually about full market niches is doubtful, since they coincidentally run parallel to the fields of law, as taught at universities. So, that suggests supply-side niches, where demand is needed. But is there a demand for these specializations? Or are these niche firms simply more efficient than the large firms? Or do niche firms reach their clients better? It's the customers call on what specialty he or she is looking for. Trends in the market for consulting services show that there is a movement going from full to modular advice; in other words from firms with a wide range of services to niche firms.

One of the most transparent items in the market until now has been the hourly rate of lawyers. Although not freely available information, figures on the hourly rates for all kinds of lawyers have been known in the market. Clients can use these data to compare between lawyers. They can compare the hourly rate, but not the price for a particular legal service. The rates have also been seen a way to measure quality, partly because there is no better measurement of quality available.

With many clients, the perception of prices has changed. Prices are going down because of the reduction of costs and because changes in demand. The costs are going down, due to technology, improved working processes and other ways of hiring staff. Price consciousness can lead to a different kind of demand. Demand changes occur in a very particular way – clients value the services of lawyers differently than in the past. Clients more clearly want a solution to a legal problem, instead of buying legal services by the hour. An example of buying different services is the hiring by businesses of temporary lawyers as internal legal counsel, instead of purchasing external legal advice.

For many law firms the number of billable hours are not their main key performance indicator anymore, but rather less hours, higher sales and a customer who keeps coming back. But certain law firms are now beginning to see the deleterious effects of hourly billing. Baker mentions 19 effects<sup>12</sup>. Ranging from the misalignment between demand and supply of legal services, to transferring the risk of the size of the fee to the customer. The latter means: the client pays more if the work is done inefficiently, but with a fixed fee the law firm bears the risk of a possible mismatch between revenues and expenses.

The credit crisis can be mentioned as a cause of market turbulence and also a reason to cut costs. By making greater use of ICT and specifically the internet, companies operate more efficiently. Therefore, opportunities to compete on price are arising. Or the choice to offer products through the internet because of a differentiation strategy: ease and speed are seen as key product features by some customers. Differentiation means that a focus is put on features that customers consider important. Do the legal service providers monitor what their customers need or want? According to Christensen et al<sup>13</sup>. the market for legal services is traditionally not transparent, particularly on the matching of demand and supply with regard to the contents, or in other words, do law firms provide what customers want or need, how customers value legal services?

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<sup>12</sup> Baker, R. J. (2010). Implementing value pricing: A radical business model for professional firms (Vol. 8). John Wiley & Sons. p. 139.

<sup>13</sup> Christensen, C. M., Wang, D., & van Bever, D. (2013). Consulting on the Cusp of Disruption. Harvard Business Review, 91(10), p 109.

Christensen et al.<sup>14</sup> describe that new market entrants are disrupting this market. Disruption is the shaking up of existing markets, mainly because of innovations. Innovations can lead to more efficiency (i.e. lower costs) and more effectiveness (i.e. better service). Existing business models are becoming worthless and there is a need for new ones. Innovation can occur in various ways. A method to cover all types of innovations is to divide innovations in four types - products, processes, positions and paradigms<sup>15</sup> Perhaps the more towards the latter, the more disruptive. The paradigm shift is mainly about the way we think about business on an abstract level, specified as the business model.

Although the phenomenon of a business model has been established for some time now in business discourse, in the Netherlands it remains a vague and broad concept, a many-headed monster. Business models are focused on constructing a value proposition, and creating customer value and many other market-based elements, combined with an revenues and expenses. It also involves the network of stakeholders - from suppliers to customers, competitors and the mix of permanent or temporary employees. In brief, the business model may be defined as a combination of strategy, marketing, profitability and organizational structure. Do lawyers work with concepts such as customer value, value proposition in the legal services market?

More than in most of the other parts of the business world, the market for legal services is about knowledge, or rather the application of knowledge. The legal market is similar to the markets of other service providers, such as accountants and management consultants. But it also differs from these other markets. The legal market is broader than the accountancy market, because it has more subject areas. Differences between those market segments are mainly determined by legal content. Accountancy products are also defined more clearly – an audit of the financials of a company has a limited scope, whereas legal services needed on a very wide range of topics mainly occur when some undefined problem arises.

Legal knowledge is democratized. Because higher education is accessible for the majority of the population, the possession of knowledge, legal knowledge, is available to many people, more people than in the past. Furthermore, all laws and most of the jurisprudence in the Netherlands are freely available online. The access to legal knowledge is not restricted to having a legal education anymore. Computers may be able to solve legal problems all by themselves in the near future, because of the free access to much of the available legal knowledge and increasing computational power.

Susskind et al. describe an expected exponential growth of information technology in professional services<sup>16</sup>. Computers fed with large quantities of data may be able to determine new trends for new demands, or in other words big data analysis may be used to become more effective as a law firm. Technology companies with may be able to create new products and disrupt the market. A market in which clients have a clearer picture of their needs and wants, a market in which lawyers know better about the needs and wants. Computers, or to be more precise, internet related services, is called “tech”. Tech in the market for legal services is “legal tech”.

“Legal tech” can also contain internet-related legal contents, not solely for entrepreneurial purposes. A major theme in de future may be the Blockchain. From a legal perspective, this is a chain of contracts that ties all participants on the internet together . Our lives and businesses will be even more

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<sup>14</sup> Christensen, C. M., Wang, D., & van Bever, D. (2013). Consulting on the Cusp of Disruption. Harvard Business Review, 91(10), pp. 106-114.

<sup>15</sup> Bessant, J. & J. Tidd (2011). Innovation and Entrepreneurship. second edition. John Wiley and Sons Ltd, Chichester, UK.

<sup>16</sup> Susskind, R., & Susskind, D. (2015). The Future of the Professions: How Technology Will Transform the Work of Human Experts. OUP Oxford.

interconnected through the Internet in the future. It may seem an eclectic choice only to mention the Blockchain as relevant legal issue of the world wide web in the future, but it can be seen as an full-fledged direction for our (company law) legal future. An interesting application of Blockchain are smart contracts and Bitcoin. With the increasing importance of the internet, other themes will also become more important, such as cybersecurity, IP and privacy.

The relevance for empirical academia of the above-mentioned issues is mainly the verification of innovation theories. But there is no short-term contemporary scientific relevance to be found in this. All changes in the market are still anecdotal. Disruption in the legal industry was suggested in 2013. Disruption is currently happening, although not overthrowing the status quo. Expectedly, there will be a great relevance for the legal industry in the near future. Some days ago Huffington Post suggested the legal industry is ripe for disruption<sup>17</sup>, and particularly they write “a legal tech revolution is just around the corner“. Real big changes still have to happen. In his recent book “Death of a Law Firm”, Jaap Bosman<sup>18</sup> suggests the end of the current business model for Big Law, but he says not because of internet or computing, but mainly because of strategic choices, organizational issues and an attitude of infallibility<sup>19</sup>.

In Summary, this brief article is about the changing market for legal services and the initiation of the legal business model of the future. But to start with the latter: that model does not exist. What we’ve especially learned from the above is that flexibility is required, so not just one model, but several models. I will sum up a few elements of the business model: customer-oriented; based upon market research, big data, differentiated into low-priced and high-end markets, standardization for the bulk market, matching supply and demand through demand-side niche firms, internet and Blockchain. All of this needs to be supported by technology, legal tech. Non-distinguishing firms have no right to exist in economic terms. Legal tech may be the main distinguishing factor.

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The center is active in the social media as Leiden Law Valley

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<sup>17</sup> [http://www.huffingtonpost.com/monica-zent-/3-reasons-the-legal-indus\\_b\\_9577704.html](http://www.huffingtonpost.com/monica-zent-/3-reasons-the-legal-indus_b_9577704.html)

<sup>18</sup> Bosman, J. (2015). Death of a Law Firm. JBLH, The Hague, the Netherlands.

<sup>19</sup> About the infallibility, see also Cohen, G. T. (2006). Barriers to marketing within professional service firms: A study of the understanding and application of marketing within accountancy and law firms (Doctoral dissertation, Brunel University Brunel Business School PhD Theses).