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# Taking the Step, Burying Six- Minute Units and Embracing Fixed- Price Billing

***Talk to us about the major facts that led your firm to pursue an alternative billing model.***

A long-held belief that the six-minute unit misaligns the interests of the lawyer and the client and exposes the tenuous link between hourly rates and value to the client. Clients are driving this. They are tired of paying lawyers by the hour and want more certainty on their legal spend. They are tired of rubbery estimates that are frequently way under what their final legal spend.

David Vilensky, our managing director, attended a Law Australasia Managing Partners Conference in March 2010 and heard Ron Baker speak on fixed-fee pricing and the firm of the future. Ron Baker is a renowned US professional services consultant and passionate advocate for abandoning billing by time. Although initially sceptical

David returned from the conference and introduced the concept to the other directors. The more the concept was explored the more we realised fixed-fee pricing is the way of the future in the legal profession.

The directors recognised hourly billing encourages and rewards inefficiency. It also provides no incentive to solicitors to achieve results for their clients and does not reward original thinking or novel solutions to complex problems. It takes no account of the value a client is receiving from legal services provided. Furthermore, if one thinks about it carefully, the idea that a firm should be rewarded for how long it takes to do a job is inherently flawed. We realised there had to be a better way to calculate legal fees that was fairer and more certain for clients and focused on providing greater value to clients.

When it comes to our billing and pricing strategy we are striving to provide clients with greater certainty and peace of mind when it comes to their legal fees and to provide fees that more fairly match each case. To focus on outcomes delivered not time spent. We work on the basis that lawyers are knowledge workers and clients engage their services for their intellectual capital, creativity and problem-solving ability, not how many hours they spend on a job.

Once the directors agreed to change to a fixed-fee firm, we brought Ron Baker, the renowned world leader and consultant on fixed-fee pricing, to Perth. We shut the firm down for an entire day and everyone from the managing director to the outside clerk attended a full-day conference with Ron who made the case for change. The directors' view was, to be effective, the change had to be accepted and owned by everyone in the firm – not just the directors. Our time frame was to launch fixed-fee billing within a couple of months from the full-day conference with Ron so that it would start from 1 July 2010. In October 2013, we again shut the firm down for the day, so that the entire firm could again spend the day hearing about fixed-fee pricing from Ron Baker and John Chisholm and further enhance our knowledge.

We initially measured success against time spent until we realised this was de-facto time billing. We realised that success should be measured not in time but by getting a result for the client for an agreed price and the subsequent satisfaction of the client who has agreed the fee in advance of the work being done.

***What structural changes, if any, have been made to the way that the organisation is structured and who reports to whom, as a result?***

The most significant change was the creation of a Pricing Committee whose role is to set a fixed price for each new scope of work. Each fee earner is required to make a presentation to the Pricing Committee about the file they are seeking to be priced, addressing factors including the scope of work to be undertaken, urgency, complexity and so on. Our fee earners from managing director down do not set their own fixed prices – that is the role of the Pricing Committee. The fee earner is then responsible for communicating the fixed price to the client, payment terms and billing milestones. Upon acceptance of the fixed fee by the client, the fee earner commences the work. So the fee is agreed with the client in advance of the work being commenced.

Our credit manager's role has changed in emphasis from chasing delinquent debtors to following up fee earners to see if fixed prices have been accepted and confirming billing milestones.

***What are the main systematic implications of moving away from time-based billing?***

We no longer record time as a mechanism to govern what we bill to the client. We don't focus on billable hours or WIP in our financial figures. Instead we focus on pending and accepted fixed prices. Most of our fee earners no longer even record the time they spend doing their work. We have internal rules and streamlined paperwork which require the fee earner to have all pricing decisions made by the Pricing Committee, including variations to scope of work, fixed price, and so on. This allows a uniform approach to be adopted firm-wide.

Our staff have adapted their thinking from a time-focus to discussing the philosophy of fixed-fee pricing with clients. They have to present their new matters to the Pricing Committee before they can provide a fixed fee to the client as we do not permit our fee earners to set their own prices. Experience has taught us the author always underestimates the value of their own work.

We have completely changed fee earner budgets and the bonus system. Now we set a team budget, on the basis that our firm works together as a team to achieve that budget. Team bonuses are available to be paid to all staff, including to those who would

traditionally miss out on a bonus, such as receptionist, outside clerk, and accounts staff. Culturally, this encourages collaboration between our fee earners and the different practice areas of the firm to add value to the legal services we provide. This promotes the exchange of ideas and prevents our fee earners from feeling they are working in a silo. Fee earners feel more free to bounce ideas off each other without the client being charged extra. We're all pulling in the same direction. The result of this is clients almost universally being happy with the work and the price, no write downs and very few bad debts. We are far more efficient at what we do.

In terms of leadership we have always been strong at BBV, so no major changes in that sense have occurred. It has been more of a process of helping our fee earners to understand that the value of their work has little to do with the amount of time the work takes and more to do with the value they are delivering for the client, the intellectual capital they are bringing to the table and the solving of complex problems that clients really come to lawyers for in the first place. A fixed-fee pricing model requires discipline and strong leadership from the top.

***What are the primary areas of law and specialisations represented within the team? Have you seen any changes?***

BBV is a full-service firm primarily providing advice and representation in commercial and corporate matters, mining and resources, wills and

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estate planning, building and construction, corporate and consumer law, commercial litigation, insurance, and all aspects of family law. It needs to be understood that changing to a fixed-fee business model is a huge project. It is not just a change in pricing but a paradigm shift that has required our firm to consider how it creates value for our clients and how to capture that value.

We have trained everyone in our firm about all facets of fixed fees from scratch and about the difference between providing real value to a client and merely plodding along with a ticking clock as the sole metric. At the time when we started out on this road, we were unaware of any other firms in Australia setting fixed fees across the board. We have had to acquire and learn skills as we found we needed them. We have been constantly tweaking our model and how fixed-fee pricing is done within our firm as we identify weaknesses. We have also learned that some of our non-fee earners are just as good at pricing legal work as our fee earners and we benefit from their input.

BBV has embraced fixed-fee billing as a point of difference in a competitive marketplace and we have found that some clients have migrated to us specifically because of fixed-fee billing. As with all law firms and most businesses, we seek to increase our market but not specifically because of fixed-fee billing, moreover the strong customer service.

We have managed to maintain our profitability using our fixed-fee model. We continue to incur many of the traditional costs of a law firm although our billing is much easier. What must be remembered from a business perspective is that for fixed-fee pricing to be an effective alternative to hourly billing, you should not be going backwards in your expected profit.

#### ***What has been the impact on client services – for example retention, new business and cross-selling opportunities?***

We have had new clients come to BBV simply because they heard we do fixed-fee pricing. They range from small to medium businesses, ASX-listed companies and family law clients, so their legal spend can vary significantly. The important point is not so much the price from the clients' perspective but the certainty and peace of mind they have knowing up-front what their legal costs will be and the value they can see in the price being matched to the services offered.

To our knowledge there have been no new entrants in the market that have genuinely embraced a fixed-fee business model as we have. If there are, good luck to them. Some firms represent themselves as doing fixed-fee pricing but to a large extent this is mainly only if the client requests it and only for certain products and services. Bowen Buchbinder Vilensky is a full-service fixed-fee firm, meaning that every single matter is scoped, priced and the fee agreed with the client and, in most cases, paid in advance of the work being undertaken.



We are upfront with clients from the very first consultation, and tell them about fixed-fee pricing, and how it works. We explain the benefits to them as a valid alternative to hourly billing. Most of them love the concept and congratulate us for offering this alternative billing model.

#### ***Is the pricing model of great importance to your customer?***

From a client perspective, how we get to the price is less important when the price is fixed. The important thing for the client is the value they perceive and receive from the legal services provided, the certainty and peace of mind from knowing from the beginning what something is going to cost and whether in their eyes the fixed price we provide to them is justified.

On top of this we provide a lot of information to clients when we talk to them and we encourage them to read our articles on fixed-fee pricing on our website. We always try to answer any questions or address any concerns the clients may have, so that we are all on the same page.

We have not lost one customer as a result of our change to a fixed-fee model. Where we had existing clients under the hourly billing regime, we have in most cases offered them the alternative of moving across to fixed-fee billing. Most clients embrace it but a small few have opted to continue to be billed under their existing retainer. All new clients are signed up based on the fixed-fee pricing model.

We have engaged in a concerted marketing campaign to highlight the fact that we are different to mainstream legal firms because we don't bill by the hour. Incidentally, this has also been a drawcard to BBV when we have looked to hire new lawyers – most potential recruits are all too eager to abandon clock-watching and focus on the work itself.

We have found both our clients and our staff love it. They are no longer bound to a clock and our firm no longer values a lawyer by the amount of billable hours they can achieve in a day. In our firm the concept of "work in progress" has lost its relevance. As our approach has been to implement a system from scratch without the benefit of being able to copy someone else, it has been a constant learning curve for us.

Would we do it differently with the benefit of hindsight? I don't think so. It has involved a lot of trial and error but we have learned so much in the process.

I would highly commend that people read articles and books published by the likes of Ron Baker (California), John Chisholm (Melbourne) and Richard Burcher (UK), as these guys are the thought leaders on why professional firms (not just lawyers) should adopt fixed-fee pricing instead of hourly billing models and are passionate advocates for the firm of the future model.

There are also a large number of fixed-fee and alternative billing discussion groups that exist in places like LinkedIn, where you can see the pros and cons debated on a regular basis. And, of course, there are a number of highly relevant articles on our own website – [www.bbvlegal.com.au](http://www.bbvlegal.com.au)

We believe the six-minute unit is outmoded, and once something is passé, it's just a question of time before it is phased out across the board in professional service firms worldwide.

As Ron Baker famously said, "If you're afraid of change you're really not going to like irrelevance".

*Since writing this article, Craig Hollett was invited to attend the Verasage Conference in Hawaii in November 2013 to talk about the transition of Bowen Buchbinder Vilensky to a fixed-fee pricing firm.*