



BY HEATHER SUTTIE

# Why Innovation Remains Elusive

Law firms must become receptive to change in order to effect it; here are the hits and misses of good innovation

**INNOVATION HAS BECOME** a buzzword that has lost its meaning. At its core,



innovation is a desire to be new and different. That desire leads to breakthrough thinking and pioneering action. Risk is involved, which means failure is prob-

able, not just possible.

True innovation is difficult to achieve — and it can be elusive.

## THE TALE

*The Emperor's New Clothes*, by Hans Christian Andersen, is a tale about weavers who dupe an emperor into thinking his new clothes are visible to only a certain class of people. When the emperor appears in his “new clothes,” everyone dutifully admires them until a child points out he is naked.

The moral of this story is that not everything we've been led to believe is true — and nor are various claims about legal innovation, which is why innovation isn't only elusive; it can be illusive, too.

## THE REALITY

According to *The Illusion of Innovation at Canadian Law Firms*, a January 2017 study from the Faculty of Management at McGill University, there's a chasm between what partners and associates think is innovative. The study was conducted by McGill University law and MBA student Aly Hájí under the supervision of professor Karl Moore, with mentorship support and guidance from Mike Ross of Juniper, a boutique innovation consultancy.

The numbers tell the story. For example, 84 per cent of partners surveyed agreed

that “Innovation is one of the firm's highest strategic priorities,” while 42 per cent of associates thought so. As for experimenting with new ways of delivering value, 92 per cent of partners agreed that they did so, while only 43 per cent of associates agreed.

The divide was equally wide when the topic turned to money. In response to the statement “Our compensation structure encourages myself and other lawyers to try new things,” 54 per cent of partners agreed, while just 25 per cent of associates did.

As for alternative fee arrangements (AFAs), just 33 per cent of partners said they employ them frequently and 17 per cent never do. For associates, only nine per cent use AFAs frequently, nine per cent use them periodically and 18 per cent had never heard of AFAs. This finding alone should alarm traditional law firms that are losing clients to legal service providers who live and breathe AFAs, and who have chucked the traditional law firm billing structure in order to offer new ways of catering to clients.

The survey received 105 responses from practitioners who had spent at least three years working in a law firm in Canada. Sixty-one per cent of respondents ranged in age from 31 to 55 years old, and so had been working in law firms long enough to have seen changes in the market. But as one respondent now working outside of a conventional law firm observed, “The legal model is at least 25 years out of date. Everyone wants to keep their Benz but I think they will have a big surprise coming their way very shortly.”

## THE SEISMIC SHIFTS

Pressures cause shifts. Sean Bernstein, a 2015 call and corporate lawyer at Osler, Hoskin & Harcourt LLP, was a respondent in the study. He thinks the differences of

opinion between partners and associates may be generational. “The legal industry has moved slowly so older generations may view any changes as monumental. Younger generations may not see change as monumental because they're used to it.”

These shifts are happening more so outside of the conventional law firm setting. For example, there are lawyers who prefer to work full-time from their homes rather than be pressured by law firm politics and office space. Their work-life balance includes more informality and ease of mobility. For client visits, they'll toss their computer into a backpack and take a bike or public transit, if not a car, to get where they need to go.

Patrick Hartford is a 2016 call who says, “Inefficiency drives me crazy.” That frustration led him, with co-founder Ori Barbut, to launch Notice Connect, a website enabling individuals and businesses to publish legal notices online, which has been shown to be more effective and less expensive than publishing them in newspapers. Now an entrepreneur and resident at Ryerson University's Legal Innovation Zone, Hartford believes that once change is adopted, “it becomes a new convention.”

## HAPPILY EVER AFTER?

Whether innovation happens inside or outside a law firm, it must be tangible, meaningful and effective in serving clients every day.

As Bernstein says, “the industry is in good hands with people willing to take a risk.” And with clients holding the buying power, they'll have a big say in determining which innovation fairy tales end happily ever after. ☺

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