

Legal process outsourcing





One of the fastest growing subsectors of the legal services industry, unparalleled annual growth of 26% for LPOs has led to a new trend of stratification. *Pamela Koh* finds out about the latest developments sweeping this sector

Just as outsourcing has changed many other spheres of commerce, legal outsourcing will change the way law is practised,” said NSW’s Chief Justice Spigelman at a recent dinner held for lawyers in Sydney. The fact that the esteemed judge chose LPO as the topic for his speech speaks volumes about its rise to prominence, and not just in Australia but around the world.

It is large London-based international law firms that are perhaps most advanced in their LPO strategies. According to the latest 2010 PriceWaterhouseCooper law firm survey, a quarter of the top UK law firms are turning to legal process outsourcing. This is due to lower revenues driven by downward client pressure on pricing, coupled with a general contraction in the global market for legal services globally. Many firms – in particular those ranked 11-25 in the UK – have turned to offshore legal outsourcing as a solution for profitability preservation.

While UK top 10 firms benefited from scale and reach during those challenging years post-crisis, they had also taken the opportunity to consolidate their business processes into more efficient and productive means. ‘In-house off-shoring’ has started to take flight as a trend amongst the biggest firms. “Looking ahead, it appears the legal sector is

approaching a tipping point. Many of the larger top 10 firms have used the recent economic difficulties to focus on making their businesses more efficient. They have taken innovative approaches to back-office support and how they provide legal services,” says the leader of PwC’s professional partnerships advisory group, Alistair Rose.

Magic Circle firm Clifford Chance is one law firm to start what they term a “captive operational centre” to handle its routine back-office work, offshored in the current LPO capital of the world, India. “As opposed to using LPO in the strictest sense of the word, the firm established a captive offshore operation in Delhi in 2007 that we call ‘the Knowledge Centre’ – to provide support to Clifford Chance’s legal teams on a global basis,” Clifford Chance partner-in-charge of the firm’s LPO operations Mark Ford says. Clifford Chance’s offshore team has now grown to nearly 40 consultants and is currently supporting all of the firm’s practice areas and more than 20 offices around the world.

“I believe we are pioneers in the LPO field for UK firms [in starting our own LPO solution]. By using our Knowledge Centre resource in Delhi to support some of the more routine elements of large transactions and cases, we are able to achieve significant cost savings for clients. Because the operation is wholly-owned by the firm, work handled

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Similarly, in 2000 Baker & McKenzie set up its own “off-shoring facility” in Manila, developing a hybrid approach between outsourcing/offshoring and shared services by hiring a handful of employees in the Philippines to handle typing and editing of dictated copy. This operation – known to the firm as “Global Services Manila” – grew dramatically over the last decade to 460 GSM employees, to provide a broad range of essential services that includes marketing, business development, communications, IT, financial management, knowledge management, event management, HR administration and client/matter intake.

Each year, thousands of client trademark and copyright searches are handled by paralegals in Manila with the firm looking to increase the movement of even greater types of legal work within the firm to offices in lower-cost jurisdictions. “Multinational companies are increasingly raising the outsourcing question in RFPs and competitive pitches, as many have spent years outsourcing and offshoring portions of their own manufacturing and business processes.” Baker & McKenzie’s Greg Walters, global chief operating officer, says.

According to Walters, the firm has worked with clients to steadily increase the offshoring of certain legal processes such as client research, document review for transactions and litigation, knowledge management and IP portfolio management. Additionally, the firm is establishing new approaches to offshoring and outsourcing of various legal processes over the next 6 months, including focusing on certain processes in their litigation, compliance and intellectual property areas.

Senior legal counsel and director of government relations of EBay Asia, Steven Liew, agrees there is a rising tide of in-house teams using offshore centres. “Increasingly, legal work will be offshored, not so much due to the cost saving considerations but more to a need for specialisation and creation of centres of excellence. What you’ll

probably see is that different parts of legal processes will be specialised by different offshore centres and we’d probably see more of this work going to places like India for example, and the Philippines – another likely location,” Liew says.

“We started looking at it 2 years ago. It’s one of those things where we took 2 years to come to where we are now. It was only 6 months ago, in Q2 or Q3 of last year, that we officially launched our offshoring program.” Involved in the launch, named by EBay as “Centres of Excellence (COE) for its legal work, were many stakeholders; least not the lawyers who had to decide how much was to be offshored. “We needed to convince our internal clients that this would not in any way negatively impact the service level that we are going to provide them,” Liew says.

According to him, EBay has offshored contracts with vendors, partners and suppliers on a global as well as on a country level. “I don’t have any qualms about this; as a company, we’ve been offshoring quite a bit of our research and development and also some of our customer support for a long time. The quality of offshore work has been high.” Cost savings have been projected to be significant for EBay, which had allowed the multi-national technology company to reduce the number of in-country lawyers who were previously employed predominantly for the contract management of their respective jurisdictions. “Offshoring has given us the flexibility to look at better ways to redeploy those lawyers, as well as review the ways where we can have our best practices, and have our templates shared across the world,” Liew says.

Those areas that Liew says EBay could potentially consider offshoring in future are some of its litigation and intellectual right management processes. “But I don’t think we’ve quite come to that level yet,” he adds. Currently, EBay’s offshore processes are still under “trial” – which Liew is confident will progress to becoming a permanent fixture in its



Stephen Liew
EBay



legal departments' operations.

"The main stumbling block was trusting someone else not located within your country to work on our contracts. Once you get over the trust issue, you'll understand that in terms of quality it's the same. In fact it'll get better with greater system harmonisation over time," he says.

"The second issue clients [EBay's regional and country management teams] had reservations around involved turnaround time. There isn't any real difference. In fact, we had to convince our clients that eventually we would move towards a benchmark where it's actually quicker that it would previously be." When asked if law firms should be worried that work flows will be redirected to offshore centres, Liew believes the smart law firms should offer their clients similar services with an offshore solution. "It is not necessarily preferable for us to use an offshore centre direct. We might have liked to do offshore via a law firm. The challenge when we first looked at this was that none of the big boys were offering this type of service to their clients. None of the blue-chip law firms from the UK and US pitched this kind of service to us," he says.

"The whole reason behind us having the COE is that it reduces our management time. This is something that all managing partners of law firms should be looking at. If I'm sitting in a Magic Circle firm and looking at my revenue stream, I would say, why don't I sell this? If I know my clients are going to India to do this, why don't we sell it to them, and say we've got our own BPO, run by our own lawyers. So in terms of the quality for work you will still be getting Clifford Chance quality of work, but at a much reduced rate. If you sign this contract with us as your BPO partner, we could potentially have priority with the higher-end, complex work as well," he says.

Like other law firms and companies, EBay Asia picked India over other offshore hubs to locate its services: as a common law jurisdiction, India has a headstart over its competitors. According to a study released by the Association of Corporate Counsel released in September 2010, the

majority of LPO providers are currently located in India. India's LPO industry has been projected to earn US\$640m by 2010, with an annual growth rate of 60% for the 3 years leading to 2008.

However, as some in-house leaders who have used Indian LPO providers have indicated, Indian LPO employees still need rigorous training in order to become familiar with legal and judicial practices in other countries. There are an increasing number of well-regarded providers emerging in geographies outside of India, with hubs growing in Singapore, the Philippines, Sri Lanka, Malaysia, the Caribbean and South Africa. However, one of the major challenges faced by geographies outside India is addressing constraints

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▶ ALB MINI-PROFILE: LPO MANILA DIRECTOR AND SENIOR VICE PRESIDENT AARON GOACH

When asked why he traded life as the general counsel of a US investment bank for a Manila-based LPO, director and senior vice-president of business development Aaron Goach is unequivocal as to his reasons. "I want to drag the legal profession out of the Middle Ages and into the 21st century. Clients simply deserve more choices, better service and fairer pricing," he said. And Goach believes that LPO is the means through which this can be achieved.

To say that the LPO sector has revolutionised the legal services industry is something of a moot point. Not only has it given clients a choice in the procurement of legal services but it has also had a discernable impact in terms of how law firms package, price and deliver their services. All of which has resulted in an industry which in the Philippines and India alone has been estimated to be worth as much as US\$1bn by 2015.

But as far as the industry has progressed there is still more growth to come, and Goach says that this will be driven an expansion in both the types of work the sector handles and the types of clients it works for. "[To now, LPOs have handled] junior associate, paralegal and administrative-level tasks, but as the industry develops we see an evolution "up" the learning curve," he says.

The types of work that Goach's own LPO Manila handles is a case in point. In addition to business such as corporate records (filings, minutes), knowledge services (research, editing, legal translation) the company also handles commercial negotiation and commercial documentation (contracts etc.).

The company was also one of the first Asia-based LPOs to penetrate the in-house legal market; an approach Goach believes others will try to emulate in the years ahead. "We see this as a natural progression, reflected in our own business model," he said. "When you see just how much clients are leaving on the table, you see that the real key to all this is educating the client base ... LPOs will drive a more equitable (market-based) reallocation of these substantial economic rents going forward, and clients and (ultimately) the broader economy will benefit from the efficiencies released in the process," he said.

While India has established itself as the hub of the global LPO industry, Goach believes the Philippines is fast catching up. Cost advantages and extensive experience in the business process outsourcing (BPO) field come to the fore. "The Philippine legal system's unique blend of common law (British), civil law(Spanish) and Islamic law and jurisprudential concepts mean that the Philippine lawyer is especially adaptable to the diverse scenarios presented by the various international "export markets" for LPO services," he said.

"The Philippine market is newer and therefore smaller – but probably not for long. The Philippines now ranks first in the English-language call centre industry, and we intend to make it first in LPO too."



Aaron Goach, LPO Manila

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Quislex

with regard to scalability, a challenge that India overcomes with the plethora of talent available.

Charge-out rates of US\$30 per hour (or annual salaries of US\$6000) for an Indian professional makes competing for its crown an uphill battle. Indian LPO provider Quislex employs over 400 legal graduates in Hyderabad, in two review centres, with plans to launch a third centre in India within the next 2 months and a fourth centre in the US by April. “At this point, India has been the biggest attraction for most companies: it is common law based and a significant talent pool is available where new graduates and people who have graduated in the last 8 years are in this market. I don’t think we, or any of our peers are straining to find talent for expansion in India,” says Quislex.

CEO Ram Vasudevan argues that though cost is a factor in the legal space, it is ultimately immaterial if work quality falls short of in-house standards. It’s not a primary driver for growth in the LPO industry.

The company hires from the major law schools in India, with some employees legally trained in the UK and the US, and Vasudevan says one of the biggest attractions for Indian lawyers to choose LPO work over private practice was exposure to the types of work that would otherwise take several years to see in a traditional set-up. In his predictions for the industry, Vasudevan expects a fair amount of consolidation. Two months ago, Pangea3 – a competitor LPO that launched 6 months after Quislex in 2003 – was acquired by Thomson Reuters. “That heralded the entry of a much bigger player in the market,” he says. “Looking into the next 12-24 months, I certainly see larger players entering this space – especially those who are established in other areas of the legal industry and see LPO as a high-growth area complimentary to its various businesses.”

Currently Vasudevan sees three work streams: litigation support, document review and contract management work. Nevertheless, he predicts more will follow suit in the coming years. “I believe there will be growing broad-stream applications of processes that will see matters we handle take a global

tilt, so that LPO will start playing an integral part in the legal framework as a form of status quo. In saying that, I also see some major law firms perhaps opening up their own centres to start handling their work.”

In August 2006, the New York State Bar Association tackled the topic of LPO’s rise in the legal industry with an endorsement. In 2008, the American Bar Association did the same and gave its blessings. LPOs operating in the US hailed the ABA’s ethics committee support as a major step forward. The Ethics Opinion 08-451 announced by the ABA in 2008 states that sending legal work overseas is ethically permissible, as long as the lawyer doing the outsourcing takes steps to ensure the protection of client confidences and preservation of attorney-client privilege. In addition, it states that attorneys should check to make sure that foreign lawyers are suitably trained and competent and that bills for outsourced work be reasonable.

Vasudevan says the advisory helps set industry standards for newcomers as well as reassure potential clients who are still wary of outsourcing legal work. “In the last 7 years we have built up several proprietary practices, several of which are protected as intellectual property. That helps with maintaining quality and there are sufficient guidelines released across all Bar Council opinions to aid the industry. We are a SixSigma compliance company and we also have certified quality management systems, as well as certified security certified systems.”

Development of the LPO market is not a fad that law firms can easily dismiss going forward, as all signs point to its continued growth and entrenchment in the way legal services will be conducted. Law firms and practitioners need to consider this and weave a viable solution into their business models, or risk getting left behind. As Chief Justice Spigelman rightly pointed out in his recent dinner speech, international trade in legal services is not a one-way street. Corporations and individuals who purchase legal services are increasingly subject to cost pressures and will look elsewhere in the region for a better deal. **ALB**

