

# 20 points to reflect on

## What is the next normal in the legal market and here to stay after Covid-19?

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A few months ago, I foresaw 10 trends in the legal market, not expecting it would already be time to assess whether Covid-19 had caused me to change these predictions (see, e.g., Deutscher Anwalt-Spiegel, Ausgabe 1, 08/01/2020 and 09/01/2019; Business Law Magazine of 27/02/2020 and 01/03/2018; HSG-Blog of 06/02/2020).

Today, we are all witnesses to a worldwide experiment triggered by a virus which in the end will have contributed much more to (digital) transformation in the legal market than any other development, CEO or digitalization and innovation officer before. Will there be a hysteresis after the hysteria, will this cause sustainable changes and shifts with different expectations and preferences of customers and employees, or is it just a temporary nuisance to be overcome like a runny nose or cough?

Without any doubt, Covid-19 is relevant to the legal market and its developments. It has not only caused a health crisis and had social and political effects, but will very likely turn into a financial crisis as well. The latter directly impacts the legal market and the various legal service providers. Some of the relevant points to reflect on are the following:

1. Companies focus on cost-cutting exercises: Working on the bottom-line is the most effective short-term measure to help stem immediate bleeding. It will be applied across the board to all business units and functions without any exceptions. Legal departments need to show that they are good corporate citizens, effective

budget managers and contributors to the success and survival of their companies.

2. Revenue of law firms is lost forever: The real economy has been hit dramatically, and along with it the service sector. Considering that a country like Switzerland generates three quarters of its added value in the services sector, this certainly also impacts law firms and legal service providers. Legal services are considered to be services and not goods, i.e. whatever is not consumed at the time will not be additionally consumed later. Exceptions may certainly apply (e.g., last wills, divorces); however, some of the litigations are already settled or may not be possible anymore, and any Covid-19-related new ones will not compensate for the loss.
3. Loss of customers: Small and medium-sized law firms depend on SME customers. Many of the small enterprises may not survive the time during the crisis or the subsequent recession and may not spend their liquidity on legal services. Depending on how long the crisis lasts, big companies may shut their doors as well.
4. Law firms disappear: Law firms are no better than cottage industries: as cash-based organisations they do not own any assets, they have not accumulated any financial reserves to carry them through stormy times, and their stock in mandates lasts for a few weeks only. The pipeline dries up quickly, and this may force some law firms to close. Big Law may profit in the short term since in VUCA times, CEOs may “rush to brands” – this as a precaution in case they are blamed for having

made the wrong decisions during the crisis. Strong brands are more likely to survive since they sell additional value (call it “insurance protection”).

5. Layoffs and salary pressure: If revenue is lost, cost control will become key. Law firm partner income will be reduced, or partners will be requested to inject capital to preserve liquidity, while salary cuts for associates and a reduced size of workforces through furlough or layoffs are also to be expected, with timely billing and cash collection becoming more important.
6. Review of business model and strategy: This is the moment where business models and strategies need to show their durability, and if they fail, to be reviewed and changed.
7. Push for digitalization: The entire world has gone online: customers, providers, universities and even courts. Technology is being used more often and in a much better way. Some companies and law firms have been taken by surprise and discovered that they are not ready for remote work, use no VPN connections and have no business continuity plans. Virtual meetings and exchanges will become normal – remember those horrible conference calls with dozens of participants They have suddenly disappeared with the advent of video call apps!
8. Push for legal tech: Because of the extent to which technology has helped us through this crisis, it may be embraced more readily in the future and not be perceived as a threat any more. Legal Tech companies



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have gained a convincing additional USP for their sales pitches, and customers are more willing to combine human capital and technology.

9. Acceptance of new work: With the push to online, new working models like remote work, flexitime and

coworking have proved to function even without strict in-office face time. Unless an organization relies on paper, it will be difficult for employers to deny their employees the opportunity of working from home at least some of the time. The working environment and leadership style need to adapt as well. Finally, this

opens up opportunities to recruit from less expensive regions or to allow part-time work, in particular for lawyers over 50 or parents.

10. Consulting online is accepted: Online consulting services will become much more acceptable and not be felt to be unfamiliar anymore.

### Based on this, what are some consequences for the legal market?

11. Increase of insourcing and pressure to resource: To avoid layoffs in the legal department, outsourcing costs (e.g. law firms) will be reduced to the greatest extent possible. Tasks will be reassessed with regard to whether they should still be done by the legal department or by law firms, or whether new suppliers could do them more efficiently. Multi-sourcing concepts will be established to reduce cluster risks and increase risk diversification. Preferred providers will be willing and able to deliver more than “just” legal know-how (e.g., interdisciplinarity, international network, technology and process expertise, customer-centric business model).
12. Accelerated price negotiations: Service providers will be asked to reduce their costs and to provide free aid packages to show that they are serious about caring for their customers.
13. Communication by leaders is key: In a crisis you can show and prove that you are a real leader. You will be capable, for better or worse. Be present and show

that you are a thoughtful and effective communicator, that you can stay calm and rational, and that you can communicate clearly and honestly. Be sympathetic and empathetic.

14. Customer focus is essential: Today, you can also demonstrate real interest in caring for customers and their survival, which means switching from an inside-out to an outside-in view. The customer comes first, and lawyers should not act like ambulance-chasers if they believe in long-lasting acquisition efforts and sustainable relationships.

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15. Employee focus is vital: How you handle the situation will have a lasting effect on current employees and also be acknowledged in the future recruitment market. Do you lay employees off quickly or are you considered to be a trusted employer who engages in a reasonable activity level, including fostering the training and education of associates?
16. Procurement department gets appreciated: The expert in cost-cutting exercises is no doubt the procurement department. Their role will become much more important and listened to, even in legal departments with a defensive attitude.

17. Crisis as a selection tool: A crisis operates like an acid test. In times of great urgency, it is about doing the right thing and providing plug-in legal solutions for serious business challenges. A crisis also forges reputations both good and bad, and the outcome will have a lasting impact. Lawyers can demonstrate they are risk and crisis managers who can be relied on and who help to carry the burden of uncertainty. Customers are much more sensitive in critical times and communication becomes a real differentiator. The much-trumpeted trust relationship is at stake and law firms run the risk that unsatisfied customers will “vote with their feet” and switch to a competitor. Depending on how lawyers act and behave, they will have the opportunity to win new customers or they risk losing existing ones, forever.
18. “Make” has proven to be stronger: Today, legal departments are forced to do more on their own (less outsourcing), to take more risks (no second-guessing) and to show they can do the work more quickly and for less money (efficiency gains). This effect will remain and not bounce back, as we already noticed after the financial crisis of 2008.
19. New legal challenges: In the short term there might be a shift from transaction business (besides clarifying clauses around MAC, force majeure and termination) to insolvency and restructuring. In the long term, the questioning of globalization and specialization, the critical assessment of remote supply chains and the move of production closer to the end user, the dependencies of cluster risks and the related vulnerability of

customers, may all lead to new legal questions to be solved by the lawyers. This will offer new opportunities for the legal market.

20. Time for innovation: One can of course first wait and see and then simply react. However, the present day is also an opportunity and a time to optimize and innovate, and to position oneself as a first mover in the market. A crisis has the potential to accelerate changes (e.g., standards ready for download, click accept agreements, online resolution procedures, access to justice, changing court procedures). And it may change behaviour patterns and break down long-lasting silos as well.

In a nutshell, change and the adoption of technology have been accelerated and proved to be fit for purpose. Since everyone was forced to cope with the new situation at once and since there were no real options to choose from or time to wait, it had to function and it required rapid learning, flexibility and agility. The way lawyers work and interact with their customers and how we use technology have already changed and will continue to change – as will the mindset, too. A lot of routine and familiarity have gone, much of it for good, making way for something new. Post-corona, we will not return to the previous equilibrium. ←



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