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# KMS ProfitPower Tips for Lawyers™



Issue 31... **August 2007**

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## Robservations

Welcome to the August 2007 edition of  
“KMS ProfitPower Tips for Lawyers”...  
Issue 31

I trust that you enjoy the read, and find it both thought-provoking and useful to you in practice. Please feel free to e-mail me any feedback by clicking this link...  
[Editor@lawfirmprofit.com](mailto:Editor@lawfirmprofit.com)

For most readers you're now well into a new financial year, and my thoughts as I write this are poised between assessment of the performance of firms and individuals for the 2007 year, and assisting with formulating KMS WorkPlans™ for individual lawyers, clerks, paralegals, legal executives and support staff across Australasia for 2007-8.

Hundreds of practices are still struggling with issues of finding suitable staff and getting them truly productive, and I deal with some issues around file volumes, file velocity and productivity in the feature article this issue.

While the small practices of practitioners in their fifties and older are being rapidly absorbed into other successful practices, it is heartening to note that new firms are being started regularly by keen focussed younger lawyers, refreshing the Profession and helping to create a healthy competitive environment. Too few firms in a marketplace can make the survivors a bit “stale” if they are not very careful.

While too many lawyers continue to complain about shrinking work, too much competition and lower fees, the reality is that many firms are sensibly servicing their

### Covered in This Issue...

- **Robservations Editorial.....1**
- **Velocity & Volume feature.....2**
- **Common Watch-outs etc.....3**
- **More ProfitPower™ Tips .....4**

client base and referrer base, building new work and new clients and charging sensibly...perfectly good fees.

In fact gross under-charging by lawyers lacking confidence in the value they deliver continues to be a major problem in the Profession. I am observing a rapid closing of the gap in charge rates between partners and employed lawyers in many firms, a situation which does not reflect the reality of the value an experienced person can add to many client matters.

Failing to increase an hourly rate properly (for example shaving \$10 of it) simply to avoid a threshold at \$300, \$350, \$400 or whatever can make a very significant difference to profit, increasing relative to the number of fee-earners in the firm.

The benefits gained are mainly illusory, and not being seen as a market leader may in fact cost some of the most lucrative work potentially available. For a client to have confidence in a lawyer they need to be able to perceive that the lawyer has an appropriate level of self-confidence.

Contrary to what the doomsayers love to believe, there is plenty of work around. As I took my seminar “caravan” around the first part of this year to Sydney, Melbourne, Brisbane, Auckland and Perth...with the KMS ProfitPower™ series...attendees agreed heartily, after some discussion of the various opportunities, and how to go about things, that there was plenty of scope to increase work and at proper fees.

The level of competition must never be over-estimated. In any market the difference between the sheer number of apparent potential competitors and those who are effective is huge.

Partly because of limited law school training, and partly because of a long history of no advertising, the ability of most lawyers to market effectively is not high. Most of the people you may perceive as competitors are in fact asleep at the wheel...no danger to you. The greatest danger to most lawyers growing their practices quickly is their lack of determination that it can and must be done, and a lack of willingness to formulate a clear plan and follow it through.

Outside influences are seldom as important to success as the enemy within.

Clients are out there right now waiting for assistance in building and protecting their wealth, and making a success of their lives in the face of all that modern society has to throw at them.

A small percentage of law firms understand this reality, and will this year again be getting out into the marketplace with helpful information and assistance and reaping the rewards...substantially better incomes, growing practices with flexibility and width in

The Editor, Rob Knowsley, is a lawyer, admitted 33 years, who practiced successfully with firms of all sizes – city, suburbs and country...in Australia and New Zealand. As KMS Senior Consultant, his insights are further based on the experience of nineteen years of consultancy assignments, and telephone/e-mail support, for lawyers...in all areas of practice management and profit building. Many practices have quickly reaped the monetary benefits and enjoyed the feeling of being in more control of their business through his practical help...as multiple referees attest.

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Here's to great year in 2007-8 for all readers...stimulating, challenging, satisfying and rewarding on all levels...

**VELOCITY and VOLUME FEATURE****The importance of the right balance...**

File velocity has the capacity to be incredibly boring for almost everyone... maybe that's why it's not looked at carefully enough by most people in small medium practices.

Two quotes from Henry Ford to set the tone... and encourage deeper thinking about file velocity and its impact on profit.

***"Thinking is the hardest work there is, which is probably the reason so few engage in it".***

***"Anyone who stops learning is old, whether at twenty or eighty. Anyone who keeps learning stays young. The greatest thing in life is to keep your mind young".***

Ford was also scathing of mismanaged businesses...often pointing out that business owners had a duty to run their businesses profitably in the interests of everyone involved.

In this piece I will examine the critical importance to your profit of getting the right balance between having good work volume and having good work velocity...and give some practical examples I've seen to illustrate the issues.

**◆ WHAT IS FILE VELOCITY?**

Pretty simple stuff apparently...according to the Oxford Dictionary!

*"File"...loose papers kept in a folder or box...but in the electronic age we know better...*

*"Velocity"...speed...especially of inanimate things.*

**"File velocity"... I guess on one level we can simply describe it as the speed at which a file moves from client's instructions to the completion of the file.**

The biggest issue to watch here is that in terms of the financial health of the business "completion" means when the

firm is paid... how soon it gets its cash back with whatever its profit margin is...

The issue has the same types of ramifications for the degree to which your working capital is tied up, whether the work is a matter that can be billed at stages or can only be billed on completion.

**◆ WHY IS IT CRITICAL TO THE OVERALL FINANCIAL HEALTH OF A BUSINESS?**

We know Henry Ford was famous for his quotes. One of his most apt, relative to our discussion of file velocity, was his comment that if any particular Model T Ford wasn't sold within a certain number of days of it having come off the production line there was no point in the company having built it! The various costs, including the cost of working capital, chewed through the returns inexorably back then just as they do today. The smaller the margins the faster potentially the losses are made!

**◆ THE BUSINESS CYCLE...**

In every business there is some cash to start out with, borrowed from the shareholders/owners/bank... or all of these... infrastructure is set up, expenses are incurred, business is conducted, sales are made, services are performed, fees are rendered and Debtors are collected...the cash goes around...hopefully coming back with a suitable profit component attached... an importantly, early enough that the benefits of doing it at all haven't been lost or eroded to insignificant levels.

In a law firm some of the cash collected is re-invested in normal trading, some is repaid to borrowers to reduce loans, and some goes to the partners as profit if there is any left over.

N.B. Partners get their share last... not first... whether notional salaries or drawings on account are paid progressively through the year or not.

Businesses are (whether the owners really know it or not), operating to an immutable financial law or formula.

The really important factors are the amount of capital invested, the daily cost of doing business, the time it takes to deliver a service, to then charge for it, and the time it takes to collect your money.

**Capital invested, plus a profit margin, less daily cost** of doing business, times

**turnover time** (velocity), multiplied by **number of times** per year you do it... equals **Profit**.

Most people assume that if you can get your margins up you will improve profit, and the flipside is that they feel that profits are hard to come by if prices are low and margins are tight.

Almost weekly I observe partners in law firms bemoaning the fact that the Raw Work in Progress recorded against a file was less than they could, or had agree to, charge for the work.

In reality, turnover time (file velocity) is a far more important issue.

We get the service given faster, get bills out faster and collections in a little faster...file velocity is up.

This means that our existing resources can fit in a few more matters in a given period.

The number of times work turns over in a year **(the number of times the cash goes round the cycle)** is extremely important...much more important than margin alone.

All the 20 years I've been consulting I've recognised the importance of balancing quality with speed...and it's behind my insistence on services like Conveyancing being time-recorded...to help to determine both file velocity and the numbers of matters processed by teams and individuals, productivity, given the largely fixed costs involved.

The most dangerous trap you can fall into in pricing any service of the nature of Conveyancing is to say that because we charge say, \$1135, that's all we'll get, and it doesn't matter how much time is spent on it, or how much time we record, so we won't keep records.

Certainly the client may not pay any more than \$1135, but the speed and efficiency with which we can get the service delivered, and obtain the fee, has a huge bearing on how many times we can do a conveyance in a year for the relatively fixed costs, and therefore a big bearing on what the profit is for the firm as a whole... not on the individual transaction.

Just like the supermarket, every little bit adds up...a one cent margin on a product doesn't sound much, but if each little bit of shelf space is making hundreds of cents per week

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due to high turnover (velocity)...it can affect profit results dramatically.

In any fixed price high volume work it might take 100 matters to break even...one more to make \$1000 profit and another one to double that profit. How many we fit in in a year can, and does, make a huge difference to your profit.

Sometimes the fact that I may visit multiple practices in a day can dramatically highlight differences in the ways firms and individuals are doing things. I vividly recall one day encountering a full-time paralegal who considered herself busy managing a whopping 12 active domestic conveyances.

Later in the day the juxtaposition to a lady in a similar position with 90 such matters was hard to ignore, and of course I felt obliged to contact the Managing Partner of the morning's firm with a few pointed suggestions about exactly where between those two extreme file loads the right volume was.

Close observation has shown me that when people have too small a volume of work they tend to over-serve it...inadvertently or not hardly matters...and the apparent value of Work in Progress gets pushed up accordingly. The value is only apparent because of course the extra often cannot be billed or if it is there are stresses created naturally around collection and maintaining clients!

In another firm I recall observing an apparently focussed young lawyer run up around \$600,000 in Raw WIP in a year on a big volume of PI files without getting a single one to settlement or hearing! Volume of files being "managed" was apparently excellent, but file velocity was shocking.

Working capital was being sunk into wages of lawyer and support, and share of operating overheads, with no reasonable prospect of any cash flowing back to the firm anytime soon because efforts were being spread over too great a file load to allow decent velocity in any of them.

The individual young lawyer is not to blame. It is the role of the immediate supervisor to determine reasonable time frames for various steps in the processes and monitor closely that these are being met on all files, or file load must be reduced.

I've already looked briefly at how productivity levels affect velocity. In the example above productivity was fine...just spread across too much file volume.

With the increasing prevalence of genuine job-sharing it is amazing to see the often huge productivity differences between individual lawyers of roughly the same experience working on the same files. Reviewing the KMSFeedBack Reports™ of job-sharers early each month really throws the spotlight on each team member in direct comparison to each other...same office, same support staff, same clients, same files, same supervision and mentoring...sometimes wildly different outcomes on productivity and effectiveness.

Sitting at the computer each month and looking at detailed results for hundreds of lawyers may be challenging to say the least, but it has its reward partly in the exceptionally high degree of insight it allows into factors which affect performance, especially as you come to know the individual lawyers more.

This very high level of insight into law firm productivity issues is what stands apart experienced consultants from many academically-oriented writers and commentators on the profession, who appear from their suggestions and conclusions to never ever have had to actually manage an individual to improve their performance in real life!

So to reiterate...the right balance between volume and velocity really does matter!

#### ◆ WAYS TO INCREASE FILE VELOCITY

We have limited space here...but think hard about issues such as personal organisation, systems generally, precedents, checklists, Computerised systems, adherence to timelines, diary and bring up methods, delegation etc.

#### ◆ CHARGING BY THE HOUR OR BY THE SERVICE?

I want to leave you with a thought for the future involving velocity on matters where you charge by the time involved... by no means original, but important.

If you charge by the hour only... even if your rates are high, how can you increase your profit simply by getting something

completed earlier?

The charge remains the number of hours you took, multiplied by your rate... irrespective of the time-frame over which the service was delivered.

If, with your help, a client can see a particular value in something, and you can charge a fixed fee (remembering always that fixed fee and low fee are not synonymous)... every time you find ways to get the job done faster, more easily etc...for the same fee... you increase your turnover factor and dramatically improve the profitability of the business.

You may even be able to play around with your margins to reduce price (heaven forbid I hear some say!) for the service, to help the client appreciate the value even more and increase volume using the spare capacity generated by improved file velocity.

Final Henry Ford quote...

**"Money is the root of all evil... unless used for good purpose".**

#### Value Billing... A practitioner angle on the value of writing your client a letter...

Garry Barnsley is a lawyer in a NSW country town who crusades for his fellow lawyers to value their work and advice, and to learn to charge better for it.

In Issue 30 I excerpted some thoughts of his about the value of writing a letter to back up your advice...often long precedent letters...and it generated a huge amount of interest. Copies of the article which was heavily requested by readers are still available by clicking here to generate an e-mail to me... [barnsley2@lawfirmprofit.com](mailto:barnsley2@lawfirmprofit.com)

#### Tips on factors affecting law firm success...

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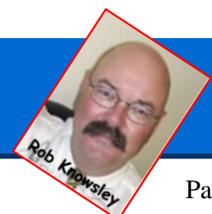
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#### Common "Watch-Outs" in Practice Management...

Many errors made in firms ten years ago are being repeated each month in 2007...causing much angst for partners and employees... not to say consultants!! I will try to deal with one or two each issue as a quick "heads-up".

Keen to see a pet practice management topic of yours addressed in a future issue of ProfitPower Tips?

Feel free to click this link and e-mail Me [your suggestion...](mailto:your_suggestion@lawfirmprofit.com)



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**TIP #1...** Another simple one to watch out for is falling into the trap of thinking that you can usefully improve a lawyer's productivity via a bonus scheme.

Almost universally they don't work, waste a phenomenal amount of firm resources, and often are seriously counter-productive.

Ironically if you have the right people they will of course do a real day's work for a decent day's pay if properly guided and kept busy...but if you don't have the right people a bonus scheme will not assist you. Concentrate on schemes to get and keep the right people not on a bonus scheme.

The challenge remains out there to firms who believe they have a tried and tested bonus scheme that really works well on all levels to contact me and tell me about it. Thirty-three years and waiting!

**TIP #2...** Two really big mistakes law firms make when addressing their budget...

♦ They spend at least 85% of their energies and resources on the Expenses side of the budget where there is in my long experience almost zero profit improvement to be found!

A complete waste of time.

♦ They look at last year's revenues as a starting point for working out potential revenues this year...rather than looking at what their true potential is this year given their investment and resources. Simply put...last year's sad and appalling performance, or unusual stunning performance, could never be the correct starting point for this year's budget. Yet so many intelligent people do their budget by looking at last year's result and adding a percentage they are comfortable with... usually 10% or less. This is building in a potential dramatic shortfall against potential profit even before the year has started...and the number of firms which then go on to achieve this meagre target is quite high.

### Future KMS SuperProfit™ Seminars...

This series in the first half of 2007 was hugely successful, and we are now looking at other locations and repeats...we have many in our database who have asked to be notified when we will be doing the seminars again in major centres, and also plenty who have asked if we will go to large regional centres.

Having a strong indication of levels of interest speeds up our programming so to register interest or to get a copy of the contents lists for the two seminars in the series, please click here to automatically generate an email to us... [seminarinterest@lawfirmprofit.com](mailto:seminarinterest@lawfirmprofit.com)

### An easy KMS ProfitPower Tip...

Clients want their professional advisers to be positive and confident. Better to be positive and confident and not get the job, than to be diffident, self-effacing and under-charging on a job you win. Everything will be wrong...including the client. Being busy with the wrong clients and low or no-profit work is not better than having no work.

Part of a lawyer's role in building a business is to build it with the right types of clients... and that is something we do have control over.

**A KMS "salute" to what appear to be falling standards of education...** overheard perhaps at a recent Admission ceremony? "Eight years ago when I begun this course I couldn't even spell lawyer... now I are one!"

**ProfitPower™ Tip...** guard your hard-won database jealously...

When governments introduce legislation to limit Spam my observation is that lawyers too quickly rush to contact everyone on their database... to in effect give them an opportunity to be taken off!

Universally this type of legislation has provisions about "consent"...actual, deemed, inferred etc... which adequately cover what most law firms had been doing prior to the new legislation.

In most circumstances it is more than adequate to keep doing exactly what you were doing, with a prominent and functional "unsubscribe" facility for people to use if they choose to.

I would not draw their attention to the new legislation and risk reducing your database unnecessarily. If you carefully target the information and invitations you send out it is highly likely that the vast majority of people you communicated to before will continue happily to receive your communications in the future.

The bottom line... this type of legislation is targeted at persistent genuine spammers... send people genuinely useful information to assist them to succeed in their business and

private lives and you will not go to jail!!

### KMSProfitPower™ Tip on performance monitoring...

It should go without saying that in comparing a team member to a target, and comparing their achievement to those of others with the same targets, you need to be very aware of days worked in the period under question.

Recently I was reviewing the Raw WIP created by an individual to his WIP creation goal for the full 2007 financial year based on his KMSWorkPlan™. The result looked very high in dollar terms compared to his peers in the same team in that firm, yet the FeedBack Report™ calculation of his productivity merely looked healthy. (Some managers I know will have a wry smile at knowing that "merely healthy" in this case means he hit his target... as experience and the statistics show that in the majority of law firms people do not actually achieve even modest targets!!)

It was evident from the Feedback Report™ however that this lawyer had worked not the usual 231 business days but 246... failing to take 15 days of the 20 days Annual Leave allocated. In discussion a further factor became apparent for the 2007-8 WorkPlan... he intended to ask for and would in all likelihood be given extended leave in 2007-8 that would eliminate the accrued Annual Leave he had built up.

Again... it should be obvious but it's often missed... his 2006-7 performance wasn't superhuman "over-achievement"...he'd just moved the goal-posts a bit for both financial years by taking only 5 days Annual Leave in that year.

Point of interest... his KMSWorkPlan™ is a daily average of 2 hours Firm Time and therefore 7 hours Client Time remains to be used from the 45 hours a week agreed to be invested for his remuneration package.

At his charge rate of \$285 the extra 15 days he worked represented Raw WIP (before write-ups or write-downs) of \$29,925... a very good proportion of what he'd normally be expected to produce in a month.