



# Taking Control

Northern/Southern California  
Chicago, Illinois  
March 2010

## Events Summary



EVERSHEDS



**John Wallbillich**

**Lexvista LLC**



# Quick Facts

## Taking Control

*Practical tools for challenging times*

- Organized by Eversheds LLP and local Association of Corporate Counsel chapters
- in-house counsel and expert speakers
- Follow-on to Fall 2008 events
- Looking ahead to new challenges



## Setting the stage

**“We took a look at the need for change facing the legal industry in September, 2008. We wanted to revisit five themes that emerged then, and also look ahead for forward-thinking in-house counsel and their outside firms.”**

**— Martin Hopkins,  
*Eversheds LLP***



# 2008 Revisited



- Organized by Eversheds LLP and the Association of Corporate Counsel chapters
- Over 140 in-house counsel in attendance
- panel discussions and audience participation
- Five key themes emerged



# Major themes in 2008...

Five themes were identified as to how legal services must change. Economic pressures were seen as one important driver:

- A new pricing model must emerge; it requires in-house leadership.
- There's a growing buyers' market in legal services.
- Globalization challenges even the largest companies.
- Collaboration is necessary, but it requires planning and flexibility
- Innovation is best in small bites



## Taking a closer look

**“How did each of these five trends play out over the last 18 months? Which ones are still valid? What can they tell us about new trends and needed tools in the legal industry?”**

— Martin Hopkins,  
*Eversheds LLP*



**Theme #1: A new pricing model requires in-house leadership**



# Key observations since 2008

**>>In-house counsel are still very concerned about costs, but over 50% still think the billable hour will dominate over the next 10 years.**

**The speakers noted:**

- **Most in-house lawyers started practicing under the billable hour regime (“Generation H”)**
- **Therefore this is ingrained in their training and experience (how do you allocate risk/reward?)**
- **Law firms rarely take the initiative on alternative billing arrangements; but you can find them**
- **In-house leadership will still be the driver**
- **It’s better to start on one project and expand, than through endless, complex RFPs**



## **Theme #2: There's a growing buyers' market in legal services**



# Key observations since 2008

**>>Although there are some signs of an economic rebound, 80% of the attendees see a “buyer’s market” for at least three years, and 50% think there is a long-term shift.**

**The speakers noted:**

- **Excess capacity in many firms will slow rate increases**
- **Most work can be performed well (better?) by another firm; more is being done in-house**
- **It is sometimes easier to gain more flexibility from a new firm rather than an incumbent**
- **Some concerns that economic recovery may slow momentum for change**



## **Theme #3: Globalization challenges even the biggest companies**



# Key observations since 2008

**>>Globalization is still a challenge, and there is now a competition component as well as the inherent complexity of managing legal worldwide. 30% attending see it as the most transformative challenge.**

**The speakers noted:**

- **The right global firm can offer management help as well as legal services**
- **It is hard for smaller legal departments to find different firms in multiple jurisdictions**
- **Companies based outside of the U.S. can have an inherent advantage due to lower legal costs in their home country**



## **Theme #4: Collaboration requires planning and flexibility**



# Key observations since 2008

**>>Collaboration is important but new challenges are present because of the time and cost demands facing in-house counsel.**

**The speakers noted:**

- **Some law firms do not work well with other firms**
- **Others resist “unbundling” and working with some tech vendors and process outsourcers**
- **Collaboration doesn’t require a single method or platform**
- **Some non-competitive legal work can be sourced and shared among in-house counsel**



## **Theme #5: Innovation is best in small bites**



# Key observations since 2008

**>>Innovation is key, but is often hard to find the time to do or to start. Those that have made this a priority are seeking benefits, both in cost and quality.**

**The speakers noted:**

- **It can be hard to pick the right area to start; smaller departments favor “small bites”**
- **Companies that have pursued a larger-project “big gulp” approach feel they have more leverage with their law firms**
- **Staying connected with other companies (such as through the ACC) is important; “not invented here” is an impediment to progress**



# What do the surveys show?

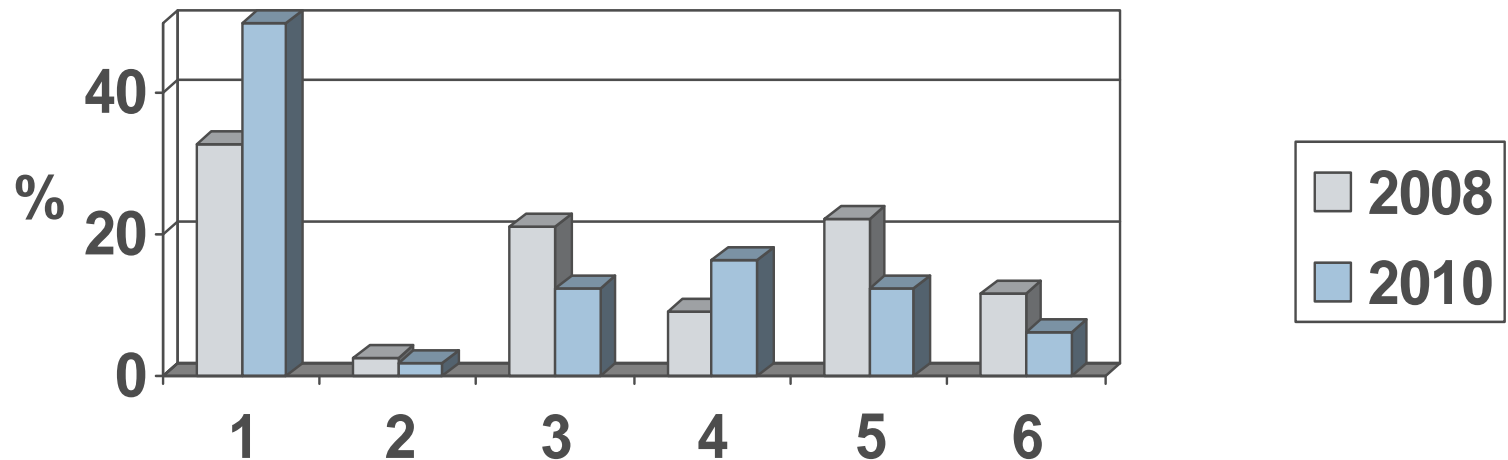
**“How has the in-house/outside services balance changed since 2008?”**



# Single biggest impact...

What single factor has the biggest impact on your company's legal function right now?

1. The economic downturn
2. The involvement of procurement/purchasing function
3. The pace/scope of global growth in your business
4. Recent corporate crisis or regulatory issues we had
5. Rising costs of outside counsel
6. None of these

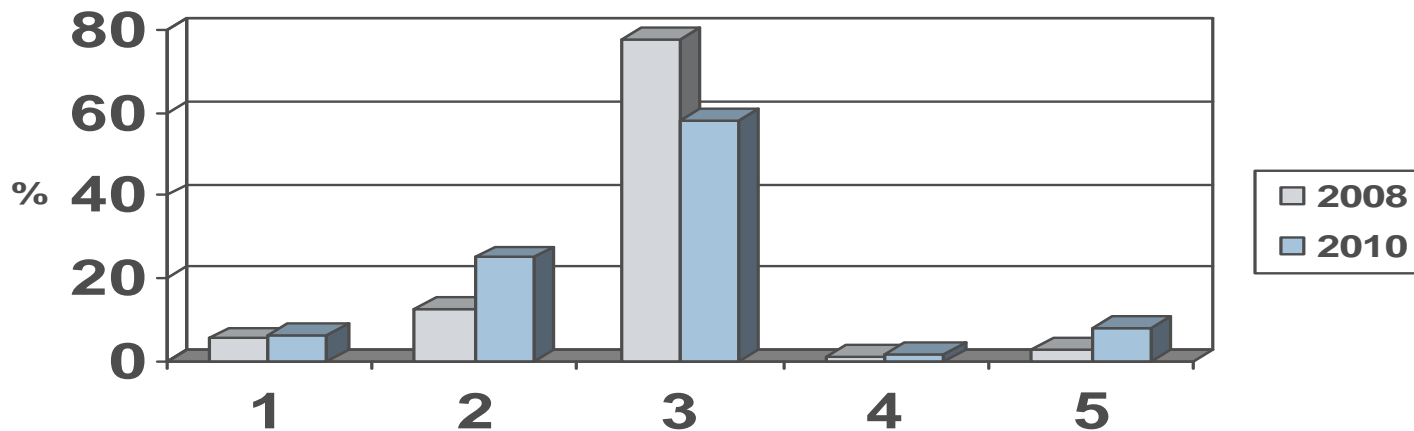




# The fate of the billable hour...

The billable hour will disappear as the predominant charging model during the next 10 years:

1. Yes, because it's a preposterous measure of "value"
2. Yes, because it sets up an inherent conflict between the law firm's and the client's best interests
3. No, because its simply too ingrained
4. No, because law firms would be tempted to overcharge
5. We already use "alternative billing" for the majority of our work

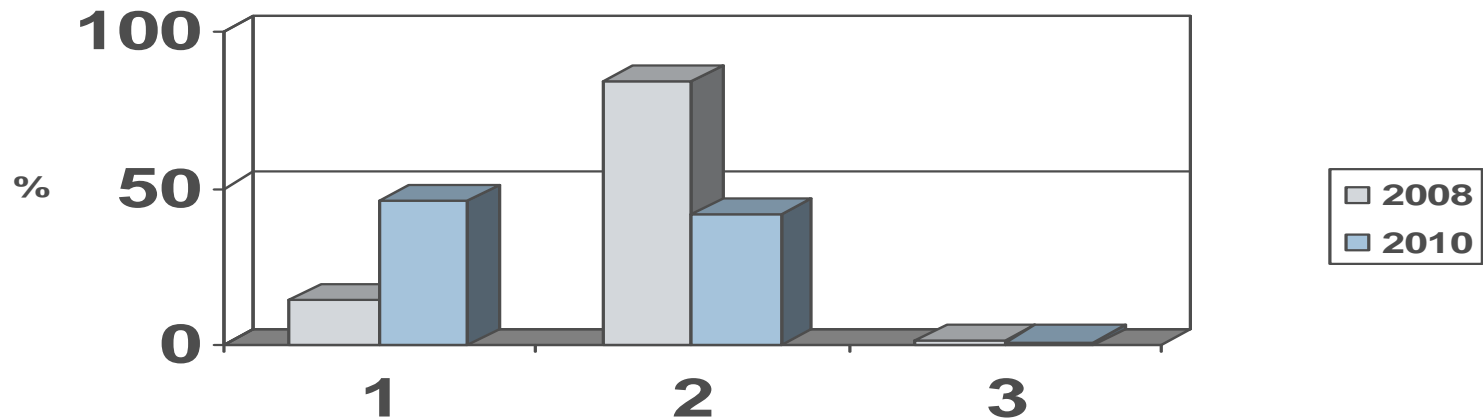




# Law firm innovation...

Do your law firms regularly suggest/propose new, innovative ways to bill?

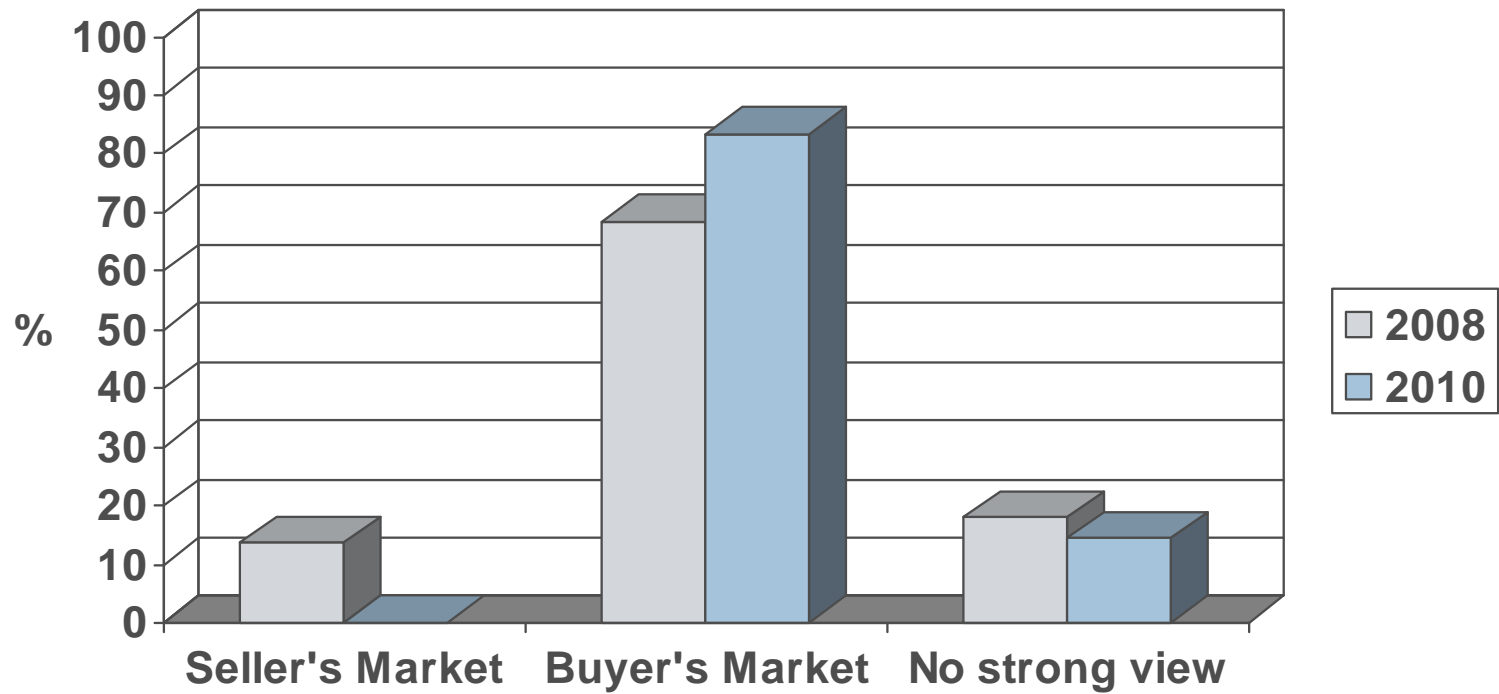
1. Yes
2. No
3. It doesn't matter, I like the billable hour





# Buyers' or sellers' market...

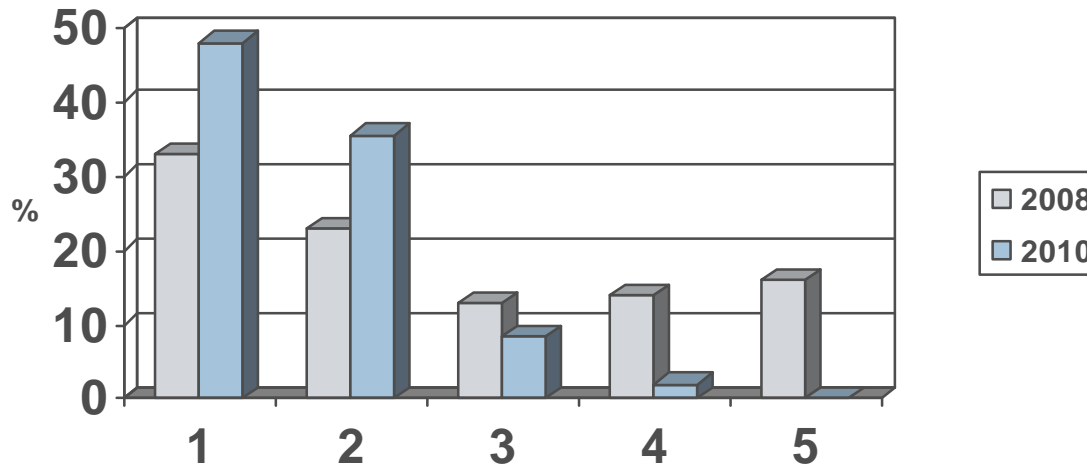
Do you think that this is a sellers' or a buyers' market for external legal services?





# The demanding client...

In house teams should be more demanding of their external law firm providers.



Strongly agree

>>>>

Strongly disagree



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# What's ahead for in-house counsel?

**“What specific trends for 2010 will lower costs without sacrificing quality?”**



# Trends that will matter

Five trends will continue through any economic recovery:

- **The Budget Big 3**
- **Relentless Global Competition**
- **The Rise & Realities of Project Management**
- **In-House Counsel Need to Change, Too**
- **Time Still Matters in the Post-Billable Hour World**



# **Trend #1: The Budget Big 3**



# The Budget Big Three

Cost control starts with budgets. This is how client companies keep score internally.

The speakers noted:

- **#1: Transparency – have to describe components clearly (process improvement)**
- **#2: Detail – Costs are what matter; detail drives savings**
- **#3: Unbundling – Law firms have to be open new methods and resources**
- **GCs live in a world of budgets; overruns are bad, surprises even worse. CEOs/CFOs are watching GCs and expect consistent improvement**



# The buyers' market reality check...

**“It’s a buyers’ market in legal services. The CEOs and CFOs know it, too. We are under pressure to negotiate hard with our law firms, and to do it quickly.”**

**— Lucy Helm,  
*Starbucks Coffee***



## **Trend #2: Global Means Competition**



# Global Competition

**Most U.S.-based companies compete globally. Many foreign competitors have a built-in cost advantage.**

**The speakers noted:**

- **Some law firms think clients operate in a vacuum**
- **Legal cost savings fall right to the bottom line**
- **Legal services will be priced for many clients on a worldwide basis**
- **This is not linked to the economic downturn; if anything, these pressures will accelerate as markets improve**



**It's a tough world out there...**

**“We compete globally; the costs of our law firms have to be competitive as well.”**

**— Douglas Hagerman,  
*Rockwell Automation***



## **Trend #3: The Rise & Realities of Project Management**



# Project Management

**Most clients grow their businesses as a bundle of projects. Law firms need to understand this and become more outcome-oriented.**

**The speakers noted:**

- **Projects require teamwork and collaboration**
- **Budgets are also an essential part of a successful project**
- **Companies train and reward on teamwork; law firms must do the same**
- **Projects have to be defined in terms of a business outcome and not just as a series of legal problems**



# Everyone is part of a team...

**“We are all accountable, we all report to someone.”**

— Robert Ghoorah,  
*Ning*



## **Trend #4: In-House Counsel Need to Change, Too**



# In-House Counsel & Change

Legal progress is not just the responsibility of law firms. To be truly collaborative, in-house counsel must learn how to be better clients.

The speakers noted:

- In-house counsel sometimes over-lawyer things that could be done more simply
- They also can be unclear on objectives or slow on responses; these impact cost
- Too many RFPs can yield too few new approaches to matters
- Law firms should talk about what is working well with other clients; this is a clear form of value



# Change starts from within...

**“You should ask firms what you, the client, can do better. You have to be open to change yourself.”**

**— Graham Allan,  
*Cisco***



## **Trend #5: Time Still Matters In Post-Billable Hour World**



# Time Still Matters

More work than ever is being brought in-house. New resources lag in this area. Even well-intended initiatives have to be balanced with getting work out the door every day.

The speakers noted:

- Between meetings and email, in-house counsel have trouble getting to basic work
- Collaboration tools have to be value-add, and not time-sink
- Law firm attorneys that communicate well (but not too much) will separate from the pack
- This is one reason why change is sometimes slow, it is not just law firm recalcitrance



# Time is a component of value...

**“The CEO and CFO do not want us merely managing outside counsel; they want us doing higher-value things.”**

**— Krista Ebbens,  
*Brady Corporation***



# So what can I do today?

**>>Taking Control: Ten Rules  
and Tools for Action**



# First Up: Five Rules

## Guidelines for special pricing arrangements (SPAs) and driving value:

- 1. All SPAs should involve incentives (not all necessarily financial).
- 2. Competition is part of the DNA in all good lawyers, incentives help.
- 3. Don't over-lawyer the term of SPAs or shift all risk to outside counsel.
- 4. Lawyers want to practice law, not monitor SPAs or micro-manage outside counsel.
- 5. The first budget for any SPA or legal project can always be improved.



# Next: Five Tools

**Assess the change-readiness of a law firm; test what it does without being asked...**

- **1. Bring forward cost control ideas?**
- **2. Meet with you regularly with detailed cost information (from you and other clients)?**
- **3. Ask you after major projects how they did (3rd party survey gets bonus points).**
- **4. Tell you what other important clients are doing to work better (extra points if they set up meeting).**
- **5. Show that they understand your business in ways beyond what they learn on your dime.**



# Concluding Thought



# There are many fish in the ocean

**“If a firm won’t change, change firms.”**

— Anonymous



# Staying in touch

## Taking Control

*Practical tools for challenging times*

- Questions or comments to:

[MartinHopkins@eversheds.com](mailto:MartinHopkins@eversheds.com)



# This summary prepared by:



**John Wallbillich**

**Title: CEO, Lexvista LLC**

**Previously: 12-year energy company general counsel**

**Web: [www.lexvista.com](http://www.lexvista.com)**

**Blog: [www.wiredgc.com](http://www.wiredgc.com)**

**Email: [lexvista@gmail.com](mailto:lexvista@gmail.com)**

**Phone: 1.800.427.1257**

**lexvista**

**wiredGC**