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# World Masters – Colin Jasper, principal of Positive Pricing: "The easiest thing to do is to compete on price, but as soon as we do that we focus less and less on the creation of value."

**In a recent World Masters of Law Firm Management webinar, Positive Pricing principal Colin Jasper answered the big questions for firms struggling to get their pricing right. In this edited summary of the session, he provides tips for leadership teams and partners to follow.**

**Why is pricing so important for law firms?**
There is a current issue in the legal market whereby pricing is actually the predominant thing that damages the client experience. Most of the complaints that law societies get about lawyers are pricing related. So, rather than pricing enhancing the client experience, it's damaging it. The aim for firms should be to win work at higher prices while boosting client satisfaction and improving the client experience.

**What impact is the COVID-19 downturn having on businesses and firms at the moment?**
Some business are going worse, but some are performing even better, depending on the smart use of technology, virtual teams and other factors. Those elements have been fast-tracked as a result of the pandemic. At the same time, there is pressure on clients' costs. We are seeing many clients transferring that pressure back to law firms and saying 'we need you to help us, we need you to take some of the financial hit'. So, what are the implications? With the major client re-shift that is occurring, we shouldn't necessarily treat all clients the same. Our goal should absolutely be to help all of our clients, but there is also an element of doing what's right for our business. Good pricing outcomes should be fair to the client and the firm. We don't want to be investing significantly in clients who won't be able to pay the bills. It's not to say that we won't work for them, but we may require money in trust, or to be able do things differently. On the positive side, there may be clients who have significant growth opportunities and there is an opportunity for us to rethink the way we are serving them.

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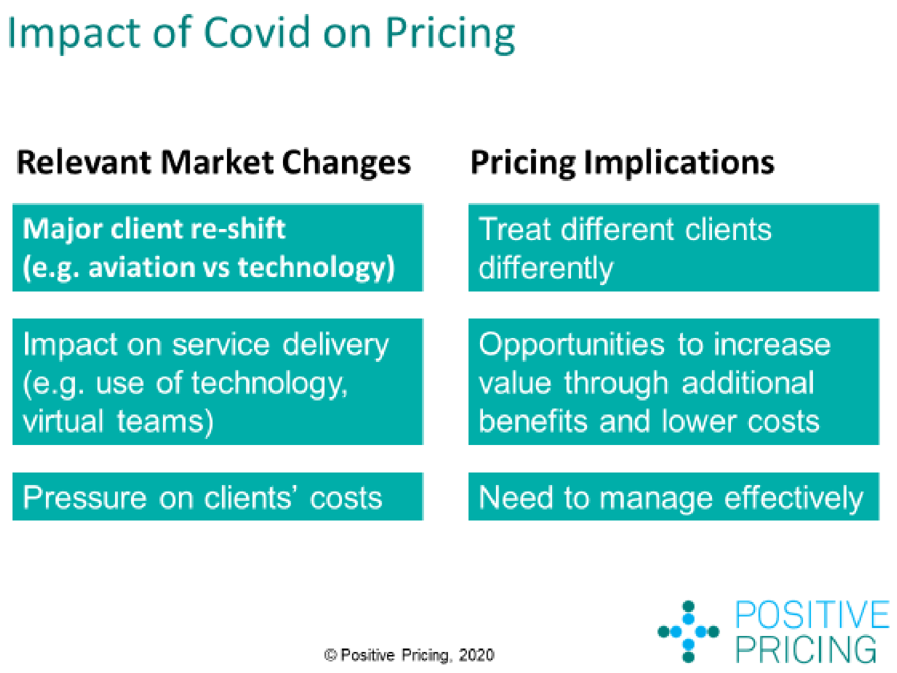


**How can firms start to deliver better outcomes to clients?**
As an example, the geography of where people are based has become far less relevant in the aftermath of the pandemic. If the best lawyer is based in Brisbane, they can easily serve clients in Melbourne. If the best lawyer is based in Toronto, our ability to gain access to them and use them locally is now much more pronounced. That can help the client and the firm. We need to think through not only how we keep our costs down, but how can we use these technologies that have thrived during the pandemic to increase the benefits to our clients.

**Can you give us an example of pricing in practice, good or bad?**
One of my clients is based in Upstate New York. They thought they were doing a good job until one client relationship partner at the firm received a letter via email from a key client which basically said, 'Our business is struggling, we're under enormous pressure, we need to reduce our costs and, as a result, we need you to reduce your rates by 10 per cent.' The letter went on to ask for confirmation that the request would be actioned by the first day of the next month, or alternatively to let the client know that the firm could not comply, in which case the client would make alternative arrangements.

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**What happened next?**
The client relationship partner's response to that letter was to print it out and write on the top of it, 'Please action and send this off to the billing department.' In other words, let's just reduce our rate by 10 per cent. Fortunately, the firm picked up on it and questioned the decision and that turned into a short training program for partners on how to deal with such issues. A key part of how to deal with those responses is to think about two things: How do you want to be viewed by your client once this stressful period has passed? What do you want them to remember about the way you handled this situation? The easiest thing to do is just say 'yes' to a rate reduction. The problem is that it doesn't help strengthen the relationship with the client.

**How can it be handled?**
One option is to be subservient to the client – "You tell us what to do and we'll do it. You tell us how much we should charge you." Let's be clear, we should never allow our clients to dictate our prices. There's a need to bring clients along in that process, but we have to control our prices. The problem with just being compliant is that the client is probably left wondering, 'Should I have asked for 15 per cent or 20 per cent off the rates. What more can I ask for now because that just seemed too easy."

We don't want to be dismissive either – to offer the client no support and make them feel that the firm doesn't value the relationship. So, what we are trying to do is to get partners to engage with clients – make it clear that they want to help, they want to find a solution that works for both parties, they want to continue servicing the client with empathy and care. Once we get into that engagement phase, we can start to find solutions that potentially work for both sides. For example, let clients know that we may not be able to reduce our rates, but we have all of these ideas for how we can reduce the costs of serving you. Some of it may be around the way you're briefing us. Some of it may be to do with matter intake. There's a whole range of things potentially that we can do to take 10 per cent of costs out of the system without reducing our rates. Ultimately, we want to continue to serve you, but we don't want to prioritise other clients above you because we get paid more from them.

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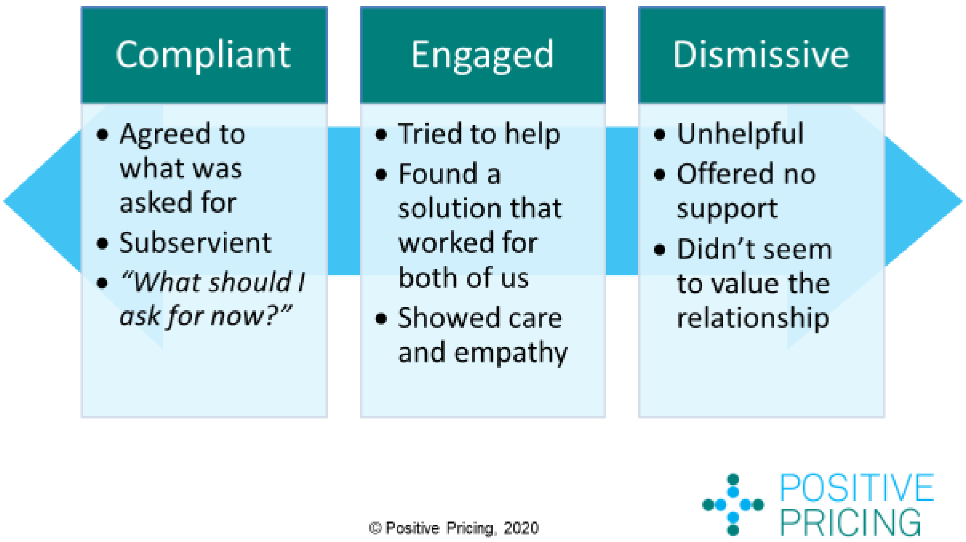
## Pandemic Postmortem




**How does the discussion start?**
A lot of this comes back to basic negotiation. You never want this to be a one-issue negotiation – it should never be just about rates because that creates a win-lose scenario. You need to bring in other things. Let's change the way we work. Let's have a bonus for hitting certain achievements. Some firms have negotiated a discount, but it is time-bound. So, the discount offer is for three months, but then it is revisited. Make it clear, for example, that it's purely a pandemic discount, not a permanent discount. Some other firms have actually negotiated rate increases, but the rises have been grandfathered for a period of time. They say "our rates are going up, but because of the situation you're in we're not going to put them up immediately". Some firms have put their rates up and told clients who have not been negatively affected by the pandemic that they are not applying the rises to all clients because some of them are bleeding. In order to support those clients, the firm is asking the strong clients to accept the rate increases. They're pleading for the greater good. There are always options.

**Can you tell us about the impact on firms of broader industry changes?**
There are four key elements here – integrated offerings through factors such as technology and resourcing; transfer of risk from the client; productisation; and global competition. With integrated offerings, if you go back 10 to 15 years law firms largely were selling expertise by the hour. Increasingly, though, firms are seeing themselves as providing legal solutions that integrate legal expertise, and that may be by the hour or by some other means, along with other resources, be they things such as technology, specialist legal project managers or low-

cost service centres. The emphasis is much more on the best legal solution and how to create that solution efficiently, rather than simply saying we are experts who advise by the hour.

In terms of risk transfer, that is being done through pricing and third parties. One of the fastest-growing areas in the legal sector is litigation financing or legal financing, and that's a specific method of clients transferring the risk away from themselves to other players. Law firms have the opportunity to take on some of that risk, but other players are also coming in. There are limitations about what can be done from a pricing perspective, but there are also significant opportunities that law firms are not necessarily embracing in that space. We have also been observing productisation, or packaged solutions. This directly flows to some degree from integrated offerings because as you move towards more integrated offerings then hourly rates as a pricing mechanism become less and less valid if a key part of the solution is technology. If it has been automated then we need to rethink it and we start to move into product pricing and fixed pricing.

The final area is global competition. If I'm going to be working with someone virtually, does it really matter if they're based in my town or state or my country, or does it just matter as to whether they have the ability to do the work that needs to be done. That creates all sorts of challenges. For example, if you are competing against a global firm that now has an ability to access global expertise and integrate that global expertise into project teams, you can look at that as a challenge. But it also creates opportunities if we're able to access resources that we can integrate into our teams from anywhere in the world, be that through best-friend relationships or other means.

**Is there a firm that stands out in terms of integrated offerings?**
Allen & Overy do it really well. From a resourcing perspective, the firm tells clients that not only can they get quality Allen & Overy lawyers to provide expertise, but they also have Peerpoint (a contract lawyer division), a flexible lawyer service, and a Project Management Office which they integrate into major legal projects to help ensure quality and ensure cost control and management around estimates. The firm's Legal Services Centre does a lot of the high-volume work in a low-cost environment based, for instance, out of Dublin. Then, in the technology space, they have things like aosphere (premium subscription-only legal products), Fuse (a learning lab) and Legal Technology (automated delivery of services and data). What they are saying is: "We provide legal solutions and once we understand your legal problem we will work out which of these elements are needed to help deliver the most cost-effective and desirable option. I'm not suggesting that all law firms need to go down this track, but it's worth examining.

**What is the hardest aspect for firms to get right?**
Pricing is the easy part, and stakeholder engagement around pricing is the toughest part. The starting point for clients is that they only want to pay for legal expertise. They are happy for a firm to put a Legal Project Manager on the job, but they don't want to pay them. They only want to pay lawyers. The firm's pricing experts then have to explain to clients that this is not in their interests because if the work is not done by a Legal Project Manager it will be done by a Senior Associate who is more expensive and less experienced. Clients may also say they don't want to pay for technology; that is should be the firm's cost and investment. That's fine, but why then would the firm invest in technology. The client is discouraging the firm from finding more cost-effective ways to serve them. Internally, partners often regard such offerings as overheads as well. For example, they may say we'll give the client aosphere for free because they're a big client and they don't want to pay for a subscription service. Well, that totally devalues the product in the market. So, there's a need to educate partners about pricing strategies."

**Can you give us some examples of firms that are enhancing profitability through innovation?**
Vorys, a law firm based out of Columbus, Ohio, had been doing a lot of work for online retailers around enforcement of online sales pricing. They started to think that there was a better way to do it and used third parties to develop web bots that could search the internet for their clients' products and check that pricing was appropriate. So, they were suddenly doing the identification of cases and the enforcement, while they also added data analytics and reporting services for their clients. If matters needed to be escalated they would go to court and Vorys would handle that as well. As a result, they are now the primary firm providing these services to online retailers in the United States because they built a complete solution. It's a fantastic example for law firm leaders – do we view ourselves as just lawyers, or do we view ourselves in a broader context of helping clients with their problems?

Another award-winning example is how US firm Perkins Coie transformed their engagement with 7-11 on new matter intake. They found that so much of the cost of supporting the client was because of poor briefs – the lawyers didn't get the information they needed and they had to then spend so much time on the phone to get it. So Perkins Coie reengineered the process using some smart artificial intelligence technology enabling the client to answer a whole series of questions on new matters. So, the brief, when it got to Perkins Coie, was now comprehensive and this fast-tracked the ability of the lawyers to do their work.
7-11 support the increased effort at their end, in order to reduce external legal costs. In the US, they were generating about 1000 subpoenas a year that would previously go to a high-charging partner. Now, about 90 per cent of those subpoenas are dealt with without lawyers touching them because it's automated. The legal costs have come down to about a

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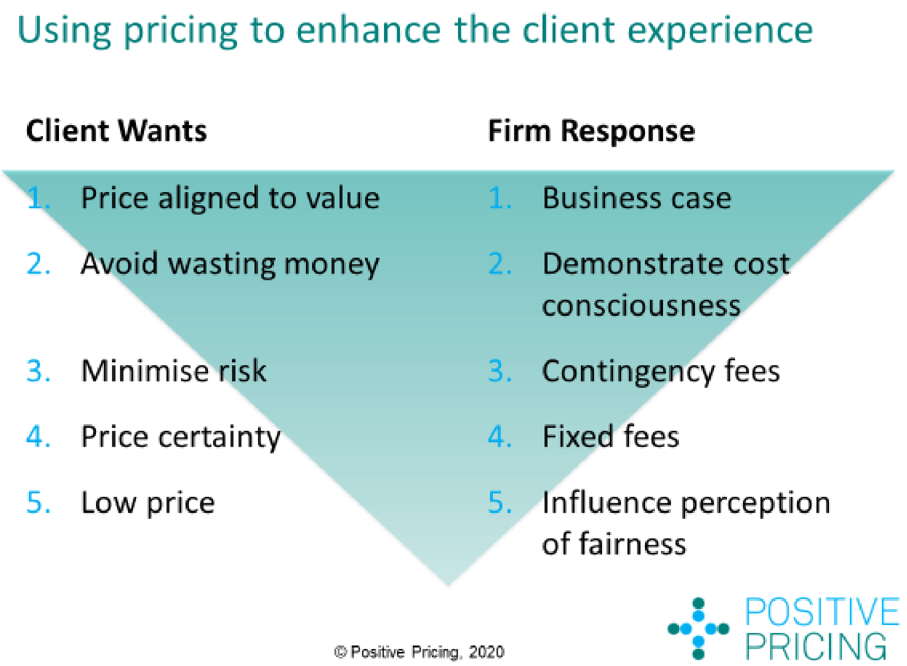
10th, but Perkins Coie owns the systems and 7-11 pays the firm for it. Such cases show there are lots of opportunities to change the way we think and work with clients.

**How can firms use pricing to enhance the client experience?**
I'm passionate about this because pricing is becoming more important to the way we compete. Research from Gartner shows that 89 per cent of businesses today expect to compete mostly on client experience, versus only 36 per cent four years ago. If clients like the way we are serving and helping them and find it valuable, then price ain't going to get in the way. They will stay loyal and this will ration out other firms, too, so we can get a larger share of the wallet.

**What are some of the chief concerns about pricing for clients?**
I regularly hear some of the following comments from clients of law firms:

- "They won't tell me what it will cost"
- "The price is so high – are they giving me their best price?"
- "I've got a really tight budget – can't they be more efficient?"
- "There is always scope creep."

Pricing often feels unfair for the client and it puts enormous pressure on the law firm-client relationship. On the graphic below, I explain the key desires for clients and how firms can respond.

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I put 'low price' fifth on the criteria of importance to clients because other factors are far more significant. For example, 'certainty' – if you tell clients how much it will cost up front, they may be willing to pay more.

If you 'minimise risk' for clients through contingency fees or success fees, for example, it helps them understand that their law firm has got skin in the game. With 'avoid wasting money', firms should help the clients understand that you have empathy for the fact that they want to keep costs down. Finally, with 'price aligned to value' the key is to ensure clients feel that the amount of money they are spending is appropriate and proportional – and that what they are paying is worth it. Clients are either going to see you as an expense to be minimised, or see you as an investment to be optimised. For lawyers, it's their responsibility to help them understand pricing and how it helps them. For example, think about 'holdbacks'. You explain the rates and pricing to a client, but tell them there is a 10 per cent holdback. When they get the invoice they don't pay that 10 per cent until the matter is completed and they are satisfied. It means the firm is backing itself and the client is reducing their risk.

**What else can firms do to improve pricing outcomes?**
I think a lot of this starts with a mindset. Often, people's starting point is that legal services are commodities and if we've got that mindset then we are going to behave like a commodity. I don't accept that at all because ultimately legal services are about people and relationships. So the mindset should be that:

- Legal services are not commodities – the experience of, relationship with, and service from any provider is unique
- If we understand the value we add to a client, we can communicate this value
- If we can communicate the value we add to a client, we can confidently justify our fee.

There's a disconnect in some lawyers' minds. They say they know they're not a commodity, but then they want to compete on price. The easiest thing to do is to compete on price, but as soon as we do that we focus less and less on the creation of value, and that's where our primary focus should be. Once we move beyond that's it about our conversations with the client – engaging in conversations to build relationships and strengthen relationships. Pricing is a key mechanism for doing that.

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**Do you have any final thoughts?**
Beware of discounting policies. It's common for some firms to say if you are a big client we'll give you a bigger discount. And if you complain more we'll give you a bigger discount still. That's not logical. Discounts should be based on the impact that they have on demand.

**For more information, contact Colin Jasper at colin.jasper@positivepricing.com or visit www.positivepricing.com.**