

ACC Value Challenge

BRIEFING PACKAGE

It's All About Value

ACC has hosted meetings throughout the U.S. and worldwide involving in-house and law firm leaders. The theme that continually emerges is that it's all about value.

For the past two decades, there has been an unrelenting drive by companies and their suppliers to reduce costs while increasing quality and value in their products and services. The only outlier seemed to be the law firms.

Here's a stunning fact: According to a 2009 issue of the California Bar Journal, a survey by the Corporate Executive Board found that "while non-law firm costs increased by 20 percent over the past 10 years, large law firms' prices jumped almost 75 percent in the same period." These numbers confirm the disconnect most of us have been feeling.

With the economic meltdown, law firms are now facing additional pressures: loss of clients and business, reduced access to bank lines of credit, a need to downsize and better manage overhead, and at the same time, keeping as many people employed as possible.

Believing that solutions must come from a true dialog and a willingness to change things on both sides, the ACC Value Challenge is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability. Our task is to help shift the discussion to a focus on value and to find solutions that work for all sides.

One Client, One Practice at a Time

In the end, change will come as a result of individual discussions between corporate counsel, law firms and other service providers. Each company is different, and each firm, practice group and lawyer is different. There is no "one-size-fits-all" solution here.

One thing has become clear from our discussions, however: This is the time for change, and if everyone stays focused on value, we believe the rest will fall into place.

November 2011

Included in this Briefing Package are:

- A Project Summary -- backgrounder outlining the ACC Value Challenge
- “Meet. Talk. Act.” -- how clients and firms can get started
- Covenant with Counsel -- basic principles for discussion

**Check ACC’s website for additional resources, plus listings of upcoming events:
acc.com/valuechallenge.**

Contact ACC Staff if you have questions or would like to share ideas:

- **Catherine J. Moynihan**, *Director of Project Development*
(202.293.4103, ext. 398; moynihan@acc.com)

The ACC
VALUE
Challenge

November 2011

ACC VALUE CHALLENGE PROJECT SUMMARY

By Michael Roster

ACC Value Challenge Steering Committee Co-Chair

Even before the economic meltdown, corporate counsel had started pushing back more than ever on rising legal costs and voicing their frustrations: *“Costs keep rising, but with no noticeable improvement in efficiencies and outcomes . . . The system is broken. . . Better alignment is needed between cost and value.”*

Recognizing the need to find real solutions, not just talk, ACC has undertaken the ACC Value Challenge. Here’s a summary of where we are and concepts that hopefully will be of use to you:

1. “Meet. Talk. Act.”

We think one of the best ways to make meaningful and long lasting breakthroughs is simple:

- Schedule a bag lunch with your three best clients, law firms, practice groups or individual lawyers;
- Talk openly about what changes can enhance the value of what both outside and inside counsel do, and in the process, listen carefully to the other side’s interests, concerns and goals; and then
- Pick a couple of the ideas and try them out.

Some possible approaches: fixed prices for tasks or specific matters; giving a firm a portfolio of work, such as a major Silicon Valley company has done by giving one law firm all of its litigation worldwide; bidding a portfolio of work and then working with the successful firm to bring the costs down further while letting the firm retain the benefits; having law firm lawyers work on-site at the company; and many others.

See what works and what doesn’t. And then try scaling up the concepts that work well, in your own area and possibly other areas of your company or firm.

2. Covenant with Counsel

We’ve developed a one-page Covenant between clients and outside counsel to focus on value. The document is meant as a starting point for discussion, with firms and companies free to tailor it to their particular needs.

Take a look at the draft and use it as a starting point for what might work best for you, your law firms and your clients.

3. ACC Value Champions

ACC Value Champions are law department and law firm leaders who have made great strides in improving the value of legal spending by implementing pricing and other management practices advocated as part of the ACC Value Challenge.

This initiative emanated from the success stories and collaborations ACC has heard about and allows ACC to publicly recognize individuals in departments and law firms who are not only making a difference for their organizations through creativity and value-based legal management skills, but are also affecting change within the legal industry.

November 2011

As the ACC Value Challenge hits its stride, ACC is focusing on “actions” and tangible results by way of:

1. **Metrics** – Because “what gets measured gets done,” ACC invites law department leaders to adopt aggressive targets to continue to reduce spending, improve predictability of spending, and achieve better legal outcomes.
2. **Celebrating ACC Value Champions** – the leaders in law departments, and in the firms with which they work, who have implemented value initiatives to achieve outstanding results against these key metrics.

ACC Value Champions receive public recognition for their innovation and success. They receive an engraved, crystal "trophy," media exposure, profiling in ACC's member publication, *ACC Docket*, and the opportunity to present their value initiatives as part of an ACC educational program.

Joint applications (client/law firm) and law department specific applications are accepted. All in-house counsel are welcomed to self-nominate, or submit a joint nomination with their outside counsel. Membership in or sponsorship of ACC is not required

For more information, and to submit a nomination, please visit acc.com/valuechampions.

5. Toolkit, Budgeting Model & Success Stories

There are many ways to improve value in the firm-client relationship. The ACC Value Challenge focuses on providing resources and training - for law firms as well as law departments - on these key value levers:

- Aligning Relationships
- Value-based Fee Structures - i.e. not based on the "billable hour"
- Staffing and Training Practices
- Budgeting
- Project Management
- Process Improvement
- Use of Technology
- Data Management
- Knowledge Management
- Change Management

Also available on the web site is a budgeting model that a major consulting group developed for ACC. The model, along with an easy-to-read User's Manual, is available at: acc.com/valuechallenge under “The Basics.” The model is an Excel spreadsheet and allows users to input different numbers, billing rates, salaries, etc. for associates, partners and other time keepers; to test various staffing approaches; and to immediately see the results of different configurations. An interesting example worth noting:

We reduced the incoming class of associates for a typical large firm by half, and we reduced the attrition rate to what it had been a decade ago. While it may seem counterintuitive, firm profits actually increased nearly 30%. In addition, this approach would almost certainly allow for better training and mentoring of associates, a happier work environment for associates and partners alike, greater continuity in staffing and a far more valuable work product from the client's perspective.

ACC publicizes success stories on our ACC Value Challenge webpages, in *ACC Docket*, in the ACC blog, at our Annual Meeting and elsewhere. If you have some success stories to share, please contact us at accvaluechallenge@acc.com.

November 2011

6. Metrics that Matter

We believe the focus over the past decade on profits per partner is masking the inefficiencies of law firms and works against the interests of both the firms and clients. PPP is largely a manipulation of a fraction, resulting in de-equitizing partners, increasing the leverage of associates to partners, making fewer associates partner, and relying almost exclusively on rate increases as a way to increase revenues, with little or no incentive to improve efficiencies and outcomes.

All of this works against the interests of corporate clients, who would be better served with less turnover, greater training and mentoring, leaner staffing of matters, rewarding so-called servicing partners who actually answer client questions with little wasted effort, and most important, rewarding efficiencies and outcomes.

One of the things you can do is establish metrics that matter to your law department and/or clients, and make sure you start thinking about how they impact the legal services you are responsible for. Consider setting aggressive targets in three key areas: reducing spending, improving predictability of spending, and achieving better legal outcomes.

7. Workshops - Legal Service Management

ACC holds two “Legal Service Management” workshops annually. These workshops consist of two days of intensive instruction and business school style case analysis designed to help you hone skills to:

- Choose value-based fee structures for different matters, parts of matters, or portfolios of work;
- Disaggregate matter processes to determine what pieces can be improved and optimal staffing for each piece of the process; and
- Deploy project and change management techniques to maximize success.

ACC’s Legal Service Management workshops are specifically designed for senior corporate and law firm counsel who have begun to implement value-based fee structures and want to build skills to more effectively drive value in client/firm relationships. Learn more at acc.com/legal servicemanagement.

8. Summary

The ACC Value Challenge is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability.

Changes are also needed from inside counsel:

- Consider going back to long-term, trusted relationships and thereby maximize continuity and expertise from the firms;
- Let junior associates do front line work again, especially if the firms adjust the costs of these lawyers to reflect the value of their contributions; and
- Work together to find mutually useful solutions.

The project is guided by a steering committee of current and former corporate law department heads. ACC’s Value Challenge Steering Committee listing can be found at: acc.com/valuechallenge/about/steering-committee.cfm.

November 2011

It's all about value

Law firms and law departments need to figure out how to measure and drive value. In-house counsel and law firm leaders have talked about innovation and alternative fees for a long time; it's time for the ACC Value Challenge to help us all put our money where our mouths are.

- *For firms*, this may mean fixed fees for projects or stages, structuring relationships to reward result outcomes and efficiencies, leaner staffing or alternative sourcing, better mentoring and training, a focus on process and outcomes (rather than a continued focus on lawyers just performing tasks), and more attention to client goals and results.
- *For in-house lawyers*, this may mean rewarding firms with longer-term, trusted relationships, giving firms greater continuity of work and getting out of micro-management (so long as there is trust that costs are related to value), managing their own functions and personnel to enhance firm performance, and communicating better on expectations and budgeting up-front.

ACC Value Challenge Steering Committee:

Elisa Garcia, Co-Chair

*Executive Vice President & General Counsel,
Office Depot, Inc.*

Michael Roster, Co-Chair

*2001 Chairman, ACC Board; former General Counsel,
Golden West Financial and Stanford University; former
Managing Partner of Morrison & Foerster, Los Angeles*

Jeff Carr

*Vice President, General Counsel & Secretary,
FMC Technologies, Inc.*

Bruce Goldberg

*Managing Counsel - Law & Administration,
The Allstate Corporation*

Ken Grady

*ACC Board Member; General Counsel and Secretary,
Wolverine World Wide, Inc.*

Bob Harchut

*Vice President & Associate General Counsel
GlaxoSmithKline*

Emily Jelich

*Vice President & Assistant General Counsel,
Royal Bank of Canada*

Eileen Kett

*Senior Vice President & General Counsel,
Club Med*

Roberta Lang

*General Counsel & Global Vice President of
Legal Affairs,
Whole Foods Markets Inc.*

Bill Mordan

*Senior Vice President & General Counsel,
Reckitt Benckiser*

John Page

*Vice President, General Counsel & Secretary,
Golden State Foods*

Ellen Rosenthal

*Chief Counsel, Pfizer Legal Alliance,
Pfizer Inc.*

Erika Rottenberg

*Vice President, General Counsel & Secretary
LinkedIn*

Laura Stein

*2008 Chairman, ACC Board; Senior Vice President &
General Counsel, The Clorox Company*

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1025 Connecticut Avenue, NW, Suite 200
 Washington, DC 20036-5425
 tel 202.293.4103
 fax 202.293.4701
 www.acc.com

ACC Value Challenge “Meet. Talk. Act.”

Corporate clients and law firms interested in ACC’s Value Challenge are asking how to get started. We suggest three simple steps: “Meet. Talk. Act.”

Step 1: Meet

The easiest way to start is for in-house counsel to pick their three best law firms or practice groups and for outside counsel to do the same with their three best clients. Arrange a two-hour bag lunch with a single question for discussion:

Question: Working together, how do we improve the value of legal services?

This is the same question that was discussed at a number of regional sessions prior to launching the ACC Value Challenge. The first hour typically was spent getting participants to realize that everything was open for discussion, on both sides. Once the ice was broken, the breakthroughs were dramatic.

Step 2: Talk

Among the issues that came up in the regional meetings and which might be considered in your discussions:

1. How can we reestablish trust and improve our relationship, on both sides?
2. How can we assure an adequate flow of work so that outside lawyers understand the client better and can be more efficient in what they do?
3. How can we get junior lawyers better trained, priced at more reasonable levels, practicing law more on the front line, and less likely to leave?
4. How can we better budget and manage costs and staffing?
5. How can we better institutionalize the relationship?
6. How can we evaluate progress and performance?
7. How can we create a culture of continuous improvement, on both sides?

Step 3: Act

At the end of the meeting, agree to try out some of the ideas, even if on a small scale, and to meet regularly to assess these efforts.

Over time, you can see what works and what doesn’t. You hopefully will find some approaches that achieve the following or similar results – and by the way, they really are not mutually exclusive:

1. Improve the value of legal services.
2. Decrease costs.
3. Keep the client out of trouble.
4. Maintain firm profitability.
5. Develop approaches that can be scaled up and attempted in other areas.
6. Improve training and career satisfaction, on both sides, and reduce attrition.



1025 Connecticut Avenue, NW, Suite 200
 Washington, DC 20036-5425
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 fax 202.293.4701
 www.acc.com

ACC Value Challenge Covenant with Counsel

THE FOLLOWING ARE FACTORS THAT MIGHT BE CONSIDERED IN STRUCTURING RELATIONSHIPS. FEEL FREE TO ADD, MODIFY OR DELETE AS YOU WISH, OR SIMPLY USE AS A STARTING POINT FOR YOUR OWN THINKING

As a client, we will:

- Define our objectives in the engagement and advise you if they change
- Pay your bills promptly
- Use value-based terms to reward success and efficiency
- Understand that budgets may need to be revised for unforeseen events
- Understand our relationship is built on mutual trust; unless we tell you otherwise, we don't need or want a "no stones unturned" approach
- Evaluate your performance fairly and regularly
- Conduct "after-action" reviews at the end of each matter to help continuously improve performance
- Designate one lawyer to serve as our relationship manager
- Be flexible and accommodating in dealing with potential conflict of interest issues that may arise
- Provide training opportunities for your associates by discussing creative arrangements up front
- Assist your firm to better collaborate with other lawyers and law firms
- Recommend your firm to other companies and potential clients
- Seek arrangements with our other service suppliers to lower our costs
- Help nurture an enduring relationship with the firm, not just individual lawyers
- Support our own as well as your pro bono and diversity activities
- Ensure our legal team "walks this talk"

As outside counsel, our firm will:

- Learn your business and strategic objectives and apply that understanding to your matters
- Give honest feedback on whether your objectives in a matter are realistic and attainable
- Use the most appropriate staffing and tell you if we don't have the needed expertise
- Designate one lawyer to serve as our relationship manager, whose time will not be billed for this role
- Proactively offer value-based alternative fee structures
- Provide budgets and estimates for specific engagements upfront and advise you immediately if there may be any material changes
- Understand that we are responsible for our budgets and estimates and that our experience forms a basis for accuracy
- Seek to reduce our costs creatively and constantly, and share those savings with you
- Understand that you seek neither elegance, new law, nor perfection unless these provide value consistent with your company's objectives
- Train our associates efficiently and effectively without imposing additional and unwarranted costs on you
- Never "reinvent the wheel;" we will look first to past work product and encourage efficiency and continuous improvement
- Not ask for blanket conflict waivers and discuss with you any client or issue conflicts
- Use technology to our mutual benefit, including billing
- Meet deadlines and keep in touch
- Continue our commitment to pro bono and diversity activities.
- Work hard to retain and reward personnel that embrace these concepts, and ensure every member working on your project walks this talk.

FOR COMPANY BY:

FOR LAW FIRM BY: