

Money makes the firm go 'round

Finding the right partner compensation system can be the key to helping a law firm reach its strategic objectives.

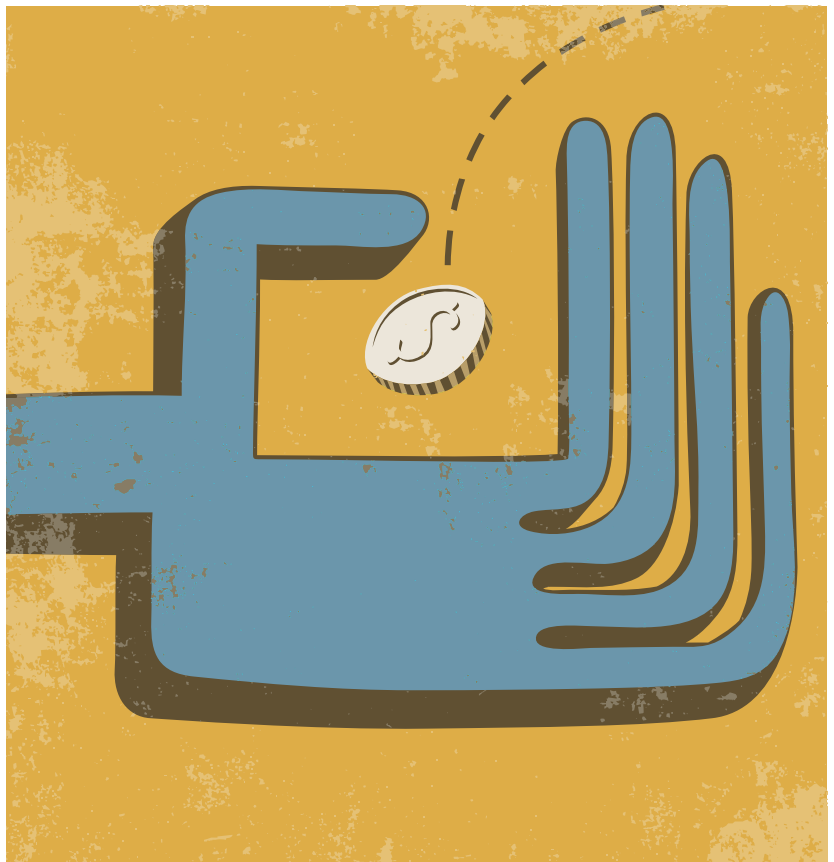
By Carol Neshevich

When it comes to a law firm's partner compensation system, there's no "one-size-fits-all" solution. Each firm's compensation model should reflect its core values, culture and strategies, and those will certainly differ depending on the individual firm. But overall, Canadian law firms are increasingly turning to less quantifiable elements such as mentoring, teamwork and marketing when determining an appropriate partner compensation model.

"It seems to be a combination of the subjective and objective that most firms want these days," says Michael Anderson, consultant with Richmond, B.C.-based Innovative Consulting Ltd. "They want some flexibility to reward — or in some cases punish — partners for effort. They don't want to just live by the numbers." Going solely by the numbers in an eat-what-you-kill system doesn't offer incentive for partners to do any of that important but non-billable work such as sitting on committees, mentoring juniors or promoting the firm's image to the outside world. "In a lot of firms, if you work really hard and put in 2,000 billable hours, you will make more money than somebody who bills 1,400 hours but also supervises and manages 2,000 hours of associate time," says Karen MacKay, founder of Phoenix Legal, Inc., a Toronto-based legal consultant group.

At the same time, a lockstep system — in which partners get an ever-increasing share of the profits with prescribed annual increases based on seniority, without reward for individual effort — often won't provide the personal incentives that drive partners to work hard. Same goes for an equal partnership system, in which all partners get an equal share of the profits (or equal within groups). Competitiveness can indeed be an important motivator: as Innovative Consulting's Anderson jokes, "Most partners aren't really that concerned about what they make, in terms of a dollar amount; they're just concerned about getting a dollar more than the guy in the next office."

So for these reasons, a combination objective-subjective partner compensation system can be a good solution for many Canadian firms. There have been a number of



studies indicating that using at least some subjective criteria in partner compensation systems correlates with higher overall profitability, stresses Colin Cameron, president of Vancouver-based Profits for Partners, Management Consulting Inc.

Exactly which criteria to reward, and how heavily, depends on the firm's goals. For example, if partners aren't generating enough new clientele, the partner compensation model could place a heavy weighting on marketing and attracting new business. Or if a number of partners are close to retirement, it might be wise to heavily reward mentoring associates in order to ensure a strong future for the firm. "Partner compensation is such an integral part of a firm and its strategic plan," says Cameron. "If you don't have the right compensation system to fit your strategic plan, you simply will not achieve that strategic plan."

Measuring performance

It takes a fine balance.

So your firm has decided it needs a new partner compensation system, and you've sat down and defined the firm's core values and strategic goals. What's the next step? Determining exactly which behaviours you want to reward, and figuring out how to measure or evaluate them. According to U.K.-based consultant Nick Jarrett-Kerr of Edge International, the combinations of performance metrics could be endless. "I've done some work on this, and so far I've uncovered something like 300 possible metrics," he says, noting that there is a lot of work being done on figuring out ways to make the so-called "softer" areas — such as mentoring and team-building — more measurable these days. Finding the correct balance of qualitative and quantitative elements can be tricky, and it's helpful to make the more qualitative criteria at least somewhat measurable so partners don't feel they're being arbitrarily rewarded or punished for no clear reason. Here are a few performance metrics that many firms commonly use:

OBJECTIVE, MORE QUANTITATIVE ELEMENTS:

Billable hours: A straightforward and traditional measurement of how much time a partner is putting into client work.

Realization rate: The percentage of billable hours actually collected as revenue from the clients. This is a good measurement to use for firms having trouble collecting their full fees, or firms that need to improve efficiency.

Seniority: More seniority means more money. This is the key factor in lockstep systems.

Origination: The amount of new business brought into the firm by a partner.

Firm ownership: Offering compensatory reward for the risks involved in having some financial ownership of the firm.

Leverage: Levering down work that can be done by more junior people. If higher-paid partners are spending time on work that associates could be doing, the firm won't be as efficient and profitable as possible.

MORE QUALITATIVE OR "SOFTER" ELEMENTS:

Associate training and mentorship: Rewarding those who train and mentor associates. This is especially important for firms with many partners close to retirement.

Presenting a good public image: Doing charity work, attending high-profile events, sitting on industry boards can promote the firm's image in the public eye and can attract new business.

Professional expertise: A lawyer who is a known specialist or go-to person in an area of law may bring in more work for the firm.

Management tasks: An effectively managed firm runs more smoothly. If partners are not being compensated for firm management tasks, nobody will put effort into these areas.

Client relationship management: How well a partner takes care of and treats clients. This helps with the firm's reputation, which in turn helps bring in business.

Marketing: Actively promoting the firm in an attempt to drum up more work.

Team development: Working together and leading teams, rather than competing against fellow partners.

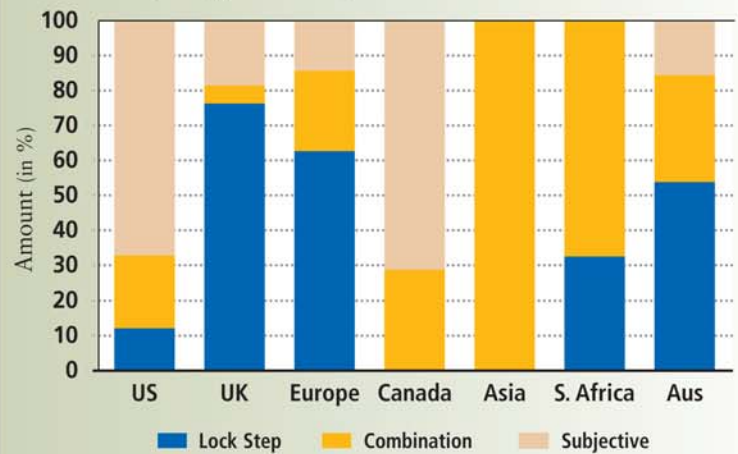
Recruiting: Making specific efforts to recruit talented young associates to help strengthen the firm's future.

— Carol Neshevich

Toward a harmonized compensation model?

Traditionally, the U.K., Europe and Australia have favoured the lockstep system of compensation, while Canada and the U.S. have used more performance-related models. In a 2009 global survey by consultants Nick Jarrett-Kerr and Ed Wesemann, both currently with Edge International, research showed approximately 70 per cent of U.S. and Canadian firms based their compensation on what the consultants called "subjective criteria," which they defined as the overall contribution of the partner being taken into consideration to determine compensation (incorporating both quantitative and qualitative performance). Meanwhile, in the U.K., Europe and Australia, between 50 and 70 per cent of firms base partner compensation on a predetermined, seniority-driven lockstep schedule.

Graph: Type of compensation



Graph courtesy of Nick Jarrett-Kerr and Ed Wesemann, Edge International

That said, Jarrett-Kerr notes that many firms in those traditional lockstep countries have been steadily introducing more subjective elements into their systems to create a "combination" system, in which the seniority-based pay scales are still in place, but with new measures incorporated to also reward partner efforts and behaviours. (See graph) Indeed, among European firms there has been a steady decline of strictly lockstep systems, gradually being replaced by either completely merit-based pay systems or a combination of lockstep with pay-for-performance.

So it seems that in an era when global mergers are becoming increasingly common, law firms around the world are coming closer to sharing similar partner compensation systems. "There has been much more of a harmonization of compensation methodologies throughout the world over the last few years," says the U.K.-based Jarrett-Kerr.

79%

The percentage of lawyers, according to a May 2011 survey done by Robert Half Legal, who said their firms or corporate legal departments were planning to award pay raises and/or bonuses to associates this year. The poll included responses from more than 150 lawyers at law firms and corporations across Canada.

Paying the associates

Compensation for associates is often based on a progressive salary system. According to Colin Cameron, president of Vancouver-based Profits for Partners, Management Consulting Inc., most large firms will start associates with a base salary and increase it by a certain amount annually for the first four years or so. "But then when you get to the fourth year of call," he says, "it gets more interesting." At this point associates are considered "trained," and many forward-thinking firms begin preparing them for eventual partnership. "You start to think, well, maybe we should start to bring in elements of partner compensation into the associate system to prepare associates for what will be expected of them when they become partners," he explains. "So as a result of that, you'll start to see the potential for some subjective bonuses as well as objective bonuses." When offering bonuses for associates, Cameron recommends clearly defining and communicating the criteria for those bonuses: "Associates of today really like to hear what the goalposts are. They want to know what, exactly, they have to do to get that bonus."

A smoother transition to a new system

When a firm decides to introduce a new compensation system, it's important to do it right. You don't want to blindside or upset partners who are used to doing things "the old way." Here are a few tips for introducing a new compensation system without creating too many waves:

1. Involve all partners before even beginning the process of redesigning partner compensation. Allow everyone to express their thoughts, ideas and worries from the start.
2. While you aren't going to make everyone 100 per cent happy, do your best to incorporate as many partners' ideas as possible. Unanimity isn't realistic, but if everyone feels their thoughts have been listened to, it goes a long way toward gaining acceptance of a new system.
3. Make sure the changes are transparent and clear, so partners know exactly what they have to do to reach a desired level of compensation. The fairer the system is perceived to be, the happier the partners will be. Karen MacKay, founder of Phoenix Legal, Inc., recommends taking last year's numbers and running them through the new system, just to give partners a general idea of what the previous year's performance would have meant for them under the new compensation model.

If you don't oppose the omnibus crime bill, who will?

In just a few weeks, the way justice is done in Canada could change dramatically – unless you raise your voice.

That's because the Conservatives are fast-tracking an omnibus crime bill (Bill C-10) that is expensive, ineffective and fails to take into account the root causes of crime like addiction and mental health.

Here's the case we're taking to Canadians.

First, there's no telling how much this bill will cost. The Parliamentary Budget Officer pegged the cost of just ONE of the Harper government's earlier crime bills, the Truth in Sentencing Act, at \$13 billion. The government is hiding the unaffordable price tag of this omnibus bill, but it is clear that the many proposed mandatory minimum sentences will financially overburden the cash-strapped provinces and taxpayers.

Second, this bill will clog the court and prison systems. The bill's policies are fundamentally flawed, as demonstrated by the U.S. experience with eliminating judicial discretion in sentencing. In California, the courts have ordered the release of tens of thousands of inmates because of inhumane and unconstitutional crowding in prisons.

Third, and perhaps most tragically, it fails aboriginals, youth and the mentally ill. Bill C-10 will worsen serious fairness and human rights problems in our justice system, including the incarceration of too many Aboriginals, youth, and mentally ill people. It also fails to boost support services for victims of crime.

Liberals are doing what we can in the House of Commons. But our opposition can carry far more weight if you, as a member of the legal profession, join with us in the fight for effective, evidence-based criminal justice policies.

Help us oppose this bill. Please visit lpc.ca/getsmartoncrime



Bob Rae


Liberal