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## **A brief overview of the development of legal markets since 2007/2008<sup>1</sup>**

### **I. The Golden Age<sup>2</sup>**

Until 2007/08, life in legal markets was easy. Strong growth of economies and the availability of easy funding worldwide led to significant merger activities. Commercial law firms enjoyed strong growth, benefitting from a surplus in demand, a severe lack of sophistication in analysing and buying legal services, and the absence of new and/or innovative legal service providers. The traditional business model of small firms, building on a cost plus margin system, helped small firms grow their profitability significantly without the need of proper internal management or efficient service delivery. Many market observers have described this as the “golden age” of the legal industry.

Analysing the strategic positioning of commercial law firms in 2007/2008 showed - according to a McKinsey analysis - five groups of firms with different growth strategies:

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<sup>1</sup> The purpose of this paper is to trigger a discussion on certain issues described herein. Its purpose is not to provide a complete analysis on the development of legal markets.

<sup>2</sup> This paper deals only with development of commercial law firms of some size as reliable data for other segments of legal markets are not available/do not exist. Data used in this paper stem from AmLaw 100/200, Legal Week TOP100, The Lawyer TOP50, Juve TOP50.

by a 20% increase of non-law firm costs in the same period.

With the economic meltdown, the scene has changed dramatically. Business activity and demand for legal services collapsed sharply, immediately changing the balance of power between law firms and clients: The excess in demand has transformed into a supply surplus, nearly overnight. This has been described as a *"total reset"*. Now, law firms are under immense pressure as they are *"facing losses of clients and business, reduced access to bank lines of credit, a need to downsize and better manage overhead, and ... keeping as many people employed as possible"* (ACC Value Challenge).

This situation has not changed since. Growth in demand pre 2008 was at a healthy 3.9%. Since then growth in demand was negative or flat. This raises the question how law firms can grow or at least maintain their market share (and their profitability). Most commercial law firms, not familiar with professional management, are struggling to cope with challengers in this market. While many firms seem to have realized that the golden age is over, their growth strategies show a certain sympathy with the old world order. Although authors like Susskind and MacEwen clearly analyze and describe what should and should not be done, law firms tend to stick to traditional growth strategies which have worked in the old days. Only a handful of firms realize what *"total reset"* means and look afresh to their current business model and alternative growth opportunities.

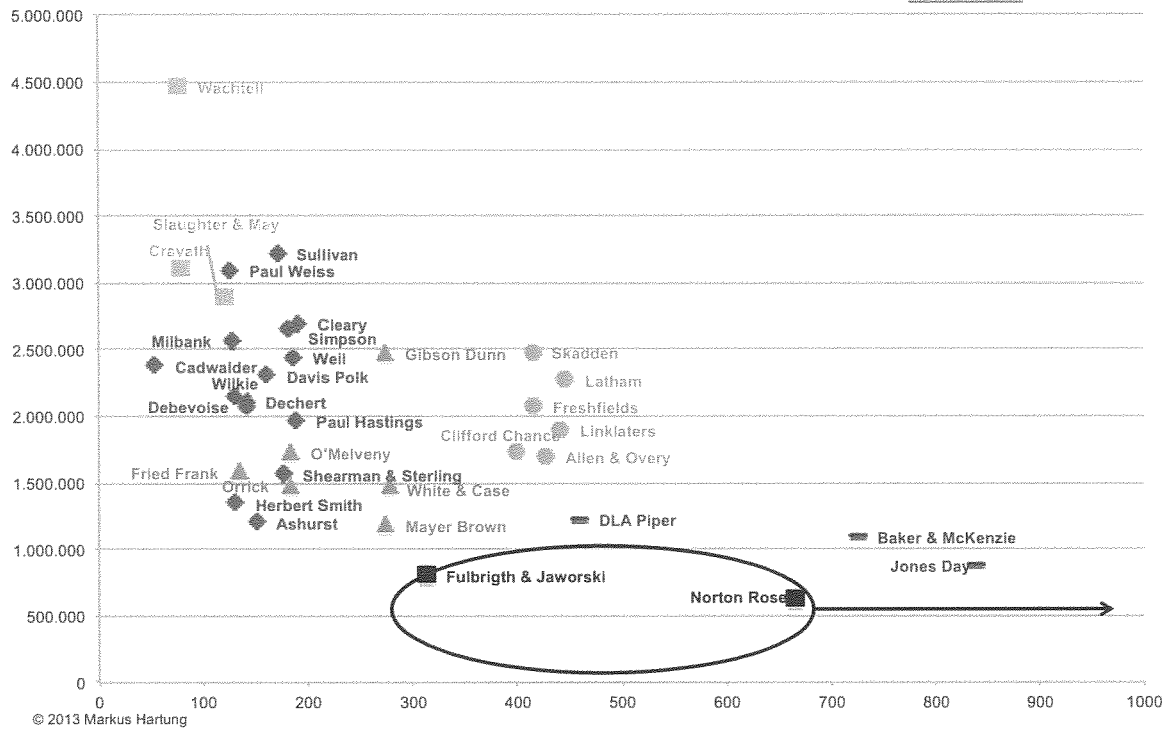
### **III. The legal landscape in 2012**

The situation today, compared with 2007, has insofar changed as the ancient order is fading away while a new order cannot yet be identified. Looking at how firms have developed since 2007, the picture is as follows<sup>3</sup>:

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<sup>3</sup> To maintain a comparable scale, the x-axis was limited up to 550 partners. Therefore Baker & McKenzie and Jones Day are no longer on this graph as these two firms have increased their headcount significantly, beyond 550 partners

### Strategic positioning of Norton Rose and Fulbright



Law firms in Groups A, B, and C would traditionally assume that these aggressive growth strategies will not interfere with their “premium work” strategy. We seriously doubt that this is right: Firms in Groups A, B, and C will probably cannibalize themselves, and it should be clear that while there is an elite market for the Wachtells and Cravath’s of this world, not every firm looking in this direction has the potential to cope with challenges in these segments. Firms like Norton Rose Fulbright, Jones Day pp. look for market share rather than premium hourly rates. Clients could feel tempted to seriously consider these firms with global coverage as interesting alternatives to the more expensive firms in the Groups A to D.

#### V. Implications for the Bar

Having described markets for commercial law firms listed in the AmLaw-, Legal Week-, The Lawyer- and other rankings one has to bear in mind that this is a rather small segment of the market. Whether developments in these market segments can be regarded as precedents for

reminds a bit of the stance of "*whatever happens in the world out there may happen, but not in my front yard*"). We are not criticising this but would just question whether one can get to grips with globalisation by just focusing on one's home turf.

Having said that, there are a number of topics Bars worldwide have to deal with:

1. The growth strategies of firms like Hogan Lovells, Dentons, Squire Sanders, King & Wood Mallesons, DLA Piper, Baker & McKenzie, Norton Rose Fulbright all follow the same structural pattern: These firms are not traditional partnerships but adopt so called "swiss verein"-structures: A verein allows participating members to join forces yet retain their existing forms. So, while each member firm can practice under a common brand name, they remain distinct legal entities and are not financially integrated. Although the model does not provide for "real" profit sharing, the mechanics of sharing costs in these holding structures could be regarded as profit sharing mechanisms.
2. Similar to "swiss verein"-structures, many international law firms appear to be traditional partnerships but are in reality holding structures, with a, say, strong US-office and many independent country firms connected via service- or license agreements but operating under a common brand.
3. Legal Process Outsourcing: LPO provider are gaining significant market share and belong from a clients perspective to the "normal" roster of legal service providers companies are instructing on a regular basis. While lawyers (and in the UK: law firms) are regulated, LPO providers are not regulated although they play an integral part of the provision of legal services. Though not working with employed lawyers these providers operate like lawyers. Is that an acceptable situation for the medium to long term?
4. Access to justice: Given the availability of free legal knowhow via internet and the advent of online-providers of legal services, sole practitioners, small and medium law firms come under significant pressure. No one can rule out that legal markets will look completely different in, say, 5 to 7 years. Will these types of law firms still exist then? Changes incl. disruptive changes happen in every industry. But will that have a

- Susskind, R. (2010): The End of Lawyers? Rethinking the Nature of Legal Services.
- Kowalski, M. (2012): Avoiding Extinction: Reimagining Legal Services for the 21st Century
- Johnson, Chris (2013): Vereins: The new structure for global firms (The American Lawyer, 7 March 2013)

## VII. Speaker Biography

Markus Hartung is a lawyer and mediator. He is director of the Bucerius Center on the Legal Profession (CLP) at Bucerius Law School, Hamburg. He has a broad experience in managing law firms: In 1999, he was elected as Managing Partner of Oppenhoff & Rädler. During his tenure, he oversaw the merger with Linklaters and served as the Managing Partner of Linklaters in Germany from 2001-2008 and as member of the Global Executive Committee of Linklaters.

At the CLP, he is responsible for the conception of educational and continuing education programs for legal professionals. His expertise in the framework of the CLP lies in market development and trends, management and strategic leadership as well as corporate governance of law firms. He is a Chair of the Committee on Professional Regulation of the German Bar Association (DAV).

As a lawyer he focuses on conflict management (litigation, arbitration, alternative dispute resolution), regulatory and professional indemnity issues. In addition, he advises law firms in strategy and management questions and coaches partners in management functions.

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