



Insider Corporate Legal is Legal Technology Insider's regular supplement looking at the benefits of technology and business best practices within general counsel and corporate legal departments.

Maximising the benefits of matter management and e-billing – part 2

by Jonathan P Bellis

This is the second in a three-part series of articles about matter management and e-billing (MM&EB) systems. The first article provided definitions and reviewed the evolution and current status of these systems. This article presents numerous ideas for maximising the effectiveness of MM&EB systems from a tactical perspective. The next article will present ideas from a strategic perspective.

Why do technology projects fail?

Based on twenty years of consulting experience with law departments on technology planning, selection and implementation projects, we have identified the following principal reasons why technology projects fail. This list excludes situations, common in the 1980s and 1990s, in which a vendor promised a solution or a new release that simply did not work, or did not deliver the promised features and functionality.

- Lack of commitment by the general counsel or legal function leaders
- Inadequate participation, understanding and buy-in among users
- Unclear vision and goals
- Technology viewed as an end in itself, insufficiently integrated with business goals and processes
- Insufficient funding and resources to implement and maintain the system
- Inadequate technical support from the organisation, vendor and/or other outside resources ➔

- Failure to define metrics and monitor results
- Poor project planning and management
- Unrealistic view of what it takes to succeed

Unfortunately, it only takes a few of these reasons to undermine the success of a technology initiative. Part of the planning process should explicitly address each of these risks and identify ways to remove or mitigate them.

Implementation, adoption and use

The starting point in considering tactical ideas for maximising the effectiveness of these systems is at the outset of a new MM&EB systems project.

Define leadership vision & commitment to the system

Clear top-level leadership and support for the project must be established and communicated within the law department. However more than enthusiasm is required. It is important for the general counsel or legal function leaders to define and articulate a vision that includes stretch targets that they expect to achieve. New systems and technologies should not simply 'pave the cowpaths' of the past. Rather, they provide the opportunity to rethink how work is performed in fundamental ways. Examples might include automating work processes that were previously manual; turning paper-intensive activities into purely electronic ones; and delivering certain legal services to clients through electronic means.

...continued on page 2 ➔

Also in this issue...

- Bryan King's e-billing checklist for inhouse legal departments ...p.3
- European e-billing seminars ...p.3
- Latest research findings ...p.6

⇒ *continued from front page...*

Establish clear linkage of technology to business objectives & processes

The MM&EB systems must be clearly linked to important business objectives and processes in the law department. The relationship of the law department's technology project to the broader business environment, strategy and goals of the organisation must be emphasised. In any event, the corporate IT organisation will likely require documentation of this, if not a more rigorous business case or return on investment analysis. Beyond that, it is important to stay focused on the broader business objectives and benefits of the new system. Moreover, law department systems and technologies should operate compatibly within the surrounding business environment.

Define goals & focus on end results

It is essential to set clear goals for the MM&EB project that focus on desired end results. One of the hardest management tasks in the law department world is to define meaningful metrics. This is also true with respect to technology investments. In both cases 'perfect' is the enemy of the good. Even if not perfect, it is worthwhile to define the goals of the technology programme in measurable terms, and to monitor actual benefits and improvements in quantifiable terms where possible.

However powerful qualitative arguments can also be presented as part of a business case for a new technology investment. These arguments often address such areas as risk management, litigation prevention, strengthening the protection of company assets, and the quality and speed of legal services to support commercial transactions.

At a narrower level, it is also important to define the end results expected of individual systems in specific terms. The desired 'outputs' of the new system should be defined at the outset of the project, and progress towards achieving that goal should be monitored. For example, ⇒

⇒ legal function leadership should provide clear guidance on the key management information and reports that they expect from a new matter management or electronic billing system.

Examine & improve underlying processes

New MM&EB systems should be linked to the improvement of underlying work processes. Despite all of the emphasis on reengineering, Six Sigma, transformation and other process-oriented methodologies within large companies over the past decade, most law departments do not pay sufficient attention to the process analysis and improvement side of technology projects.

Law department leaders should undertake thorough process review and redesign as part of technology change. User training should be tailored to the new work processes. Conducting process analysis and improvement increases the likely success and benefit of a new IT initiative. It also can help identify opportunities to break down silos and increase co-operation across different groups and units (eg practice areas) within a legal function.

In some cases, the new technology itself represents a fundamental change to an existing process, and therefore requires this sort of analysis. Electronic billing is a good example. But in other cases, we've seen too many law departments spend significant resources implementing a new system to match the one it is replacing, such as in the area of matter management and reporting. Finally, change management planning must be incorporated into implementation and ongoing improvement initiatives.

Focus on user needs & perspectives

Successful MM&EB projects must keep the user perspective at the forefront of the systems lifecycle. Too often end users are disengaged from the entire technology planning, selection and implementation project, and then are expected to become enthusiastic users. Here are some suggestions:

- Ensure adequate user participation in all aspects of the project.
- Define and communicate the technology project in concrete terms that are relevant to individual users, not just the organisation as a whole.
- Devote significant resources to user training.
- Promote enthusiasm and positive views about the initiative through formal and informal means.

Include a change management & communications plan

The key issues in technology projects are often not technical or technological in nature. Rather, they involve organisation and ...concluded on page 3 ⇒

E-billing – a checklist for clients

by Bryan King

While there is now a general level of knowledge in the legal marketplace about e-billing there still seems to be a lack of detailed information and expertise when it comes to the exact steps required by both the client and the law firm to make e-billing a success.

On the surface e-billing, from a client's perspective, may seem straight-forward but we believe that many inhouse legal departments are not aware of the issues that may arise if an e-billing initiative is not resourced or project managed correctly from the start. There are also a number of best practices that client organisations need to be aware of and apply in order to maximise the opportunities that can come from e-billing.

In our experience clients have some work to do to prepare for e-billing, even before they can approach their law firm panel regarding an e-billing project – either directly or through one of the e-billing intermediaries. Some of the key questions that clients need to be able to answer are given below and the intermediaries should be encouraging the inhouse teams to think about these pre-requisites, however in many instances they are not doing so.

What is the scope of the e-billing initiative?

Many e-billing implementations are phased, typically beginning with a client's and law firm's US offices and then widening to include the UK and followed by the rest of the EU and then globally. It is vital that the exact scope is agreed upon at the beginning of each phase, as this will have a major impact on the complexity and ultimate success of the e-billing project. This 'scope agreement' should include which client entities and offices are to be e-billed, which law firm offices/jurisdictions are to be included and which types of matters are to be e-billed. For example, do we include own account and third party bills, split bills or fixed fee bills?

Which law firms are to be involved?

Law firms have very different levels of experience in implementing e-billing solutions. If too many firms are involved in the early phases of a project then it is harder to co-ordinate activities and may lengthen the overall process. Additionally, not all firms have the same level of billings. A client may have to prioritise which firms are justified in being asked to render bills electronically. E-billing implementations can be phased and there is no reason why law firms ...*continued on page 4* ➔

European e-billing best practice seminars

Gather with your peers to discover the latest best practices in electronic invoicing, legal spend management and intellectual property. DataCert's series of educational seminars begin in Frankfurt on 16 April and include sessions in Zurich (23 April) and Munich (24 April). Guest speakers include thought leaders from some of the world's leading law departments including Aon, GE and Microsoft. The sessions generally last 90 minutes and include discussion on the e-billing/legal spend management lifecycle, case studies and trends.

- To register for a seminar or for more information, please contact Kimberly Van Der Wende at +44 07983443377 or seminars@datacert.com

Take the survey, share the benchmarks

DataCert and *InsideCounsel* magazine have teamed up to uncover the latest trends in budgeting, legal spend and matter management. Visit here www.zoomerang.com/recipient/survey.zgi?p=WEB227F8A3GRPR to take the short survey. The results will be published in *InsideCounsel's* April issue.

MM&EB systems

➔ *continued from page 2...*

(most challenging of all) people, their behaviours, attitudes and culture as well as informal and formal ways of working and relating in the organisation. An overall change management program that recognises the interplay of all of these considerations is a key ingredient to the success of these projects. ...*To be concluded in the next issue*

- Jonathan P Bellis is the Vice President and Co-Chair of Law Department Consulting, Hildebrandt International. He can be reached at jpbellis@Hildebrandt.com

E-billing checklist

⇒ *continued from page 3...* should not be brought on board in stages.

Which LEDES format is to be used?

While in the US the LEDES 1998B format is used for the vast majority of e-bills. The situation in the UK and rest of the EU is less clear-cut. Because of the demands of VAT accounting, multi-currency and the different statutory/regulatory requirements in these jurisdictions, law firms will be asked to provide e-bills in either LEDES 1998B-International or LEDES 2000 format as well as develop the capability for supporting the new LEDES XML 2 format. Unfortunately, not all the intermediaries are able or happy to support all the different LEDES standards.

The LEDES specification should also contain any client specific billing rules. For example, does the client want to restrict the amount to be charged for photocopying or limit certain types of expenses that can be billed? This information needs to be documented and included in the LEDES specification as early as possible.

Are UTBMS codes required and are they the standard sets or client specific?

The standard UTBMS phase/task codes are widely used in the US and generally US lawyers are comfortable with using them to break down a matter into its different phases and record time. Phase and task codes are used to describe the stages of a matter (eg fact gathering/due diligence or completion/closing etc), while the more commonly used activity codes describe what is being done (eg drafting, attending client meeting etc) On a typical e-bill a fee-earner 'time line' will record the time spent on a given combination of phase/task and activity codes.

In the UK the use of phase/task codes by fee-earners is rare (except for some litigation matters) and this is particularly the case with transactional lawyers. However, as law firms and clients ⇒

⇒ move to new billing models, it will mean that phase and task codes are used more frequently. For example, if the agreed charging model is for fixed fees to be charged for certain stages of a matter and time-based billing for others, then it is imperative that both the client and the law firm are able to recognise when work is being done at a given matter stage or phase.

A final complication in this area is that some clients want to use their own phase and task codes if they do not feel that the standard codes reflect how their work is categorised. This is something that the firm and client should discuss but it can be a further issue for the law firm's billing team to address.

Fee-earner details and internal mapping.

One of the major justifications for e-billing is that in-house counsel can compare billing levels and fee-earner activity across their law firm panel. Because of this, there is a need to agree with all law firms that fee-earners (timekeepers) are classified in the same way – otherwise it makes accurate comparison impossible. There is also a need to agree on the charge-out rates to be held in any e-billing system as again there is a need to compare 'like with like' across the various firms.

For example, are bills based on discounted or standard rates? Which currency is used? How and when is any conversion calculated? Most e-billing intermediaries also require having fee-earner details uploaded into their systems before bills can be submitted. These details must be kept up to date, especially when rates change or lawyers change their status. This can lead to timing issues, as law firms may not always update their rates or other details at the same time.

Client internal processes.

Clients need to ensure that their own internal processes and systems are capable of maximising the benefits that can accrue from e-billing. This may mean changes to the client's accounts payable system to enable electronic acceptance of e-bills once they have been approved for payment. The client's invoice processes should be capable of meeting the requirements that a move to e-billing brings. This may mean changes to a client's existing procedures for budgetary approval and matter opening and the processes for the authorisation and payment of law firm invoices.

More law firms are requesting the ability to see the status of their e-invoices during the approval process. If the client is prepared to allow this, then this ability is available from some intermediary e-billing systems. ...**concluded page 5** ⇒

⇒ **Matter identification and reconciliation.**

In order for inhouse counsel to be able to fully analyse their external legal spend they must be able to identify which law firm invoices refer to the various legal projects that their firms are working on. This requires that all external invoices have a reference number that is meaningful to both the client and the law firm.

When a law firm is instructed on a new matter the inhouse lawyer must be able to provide a reference that can be input into the law firm's matter management system and thus be fed back to the client at the time of billing. Also at the initial stage of an e-billing implementation a matter reconciliation exercise has to be undertaken by the law firm and client to identify and match the backlog of all open matters and to enable the client identification numbers to be added to the law firm's matter records. There are some key items of information that both the client and law firm will have in their systems that will assist in this exercise.

Once this matter reconciliation exercise has been done, the client and law firm must have processes in place for these client matter details to be passed to the law firm and recorded in the law firm's systems for all new work. The client or law firm must not underestimate the amount of resources and time that this exercise can take.

Final thoughts

Many law firms now have a prerequisite checklist that they pass to the client and intermediary at the start of an e-billing initiative. This list will cover the types of questions raised here. There are also some specific questions that the intermediary will need to answer such as:

- What templates are available to support the uploading of client-specific data? Some intermediaries provide an Excel spreadsheet template to assist the law firm and client in the fee-earner extract/upload and the matter reconciliation exercises. This can be useful in enforcing standards for data definitions, mandatory fields and acceptable values.
- What testing and training access is available to an intermediary site? Law firms often require access to a non-production version of an intermediary's e-billing system for uploading dummy bills to test e-billing formats and for training new members of staff, without the danger of affecting the live e-billing system.
- Are there any contractual issues to be agreed upon between the law firm and the intermediary? Clients should have their own contractual relationship with the ⇒

⇒ intermediary, governing such areas as costs, system availability and information security. It is also likely that the law firms will want a formal agreement with the intermediary covering similar areas. Law firms will need to understand the different charging models for their services and how the charges apply. The rule should be that if there is a financial relationship between the law firm and the intermediary then there should be a formal contract in place.

- Both law firms and clients should understand what level of information security the intermediary system offers. The intermediaries have different approaches to how they maintain the security and integrity of their customers' data. The client's and the law firm's own IT security specialists must be happy with the process given the sensitive nature of the information being passed in the e-bill.
- Are there any UK/EU data protection law issues? Given that law firms will be supplying personal information about their lawyers and as the intermediaries are all based in the US, we need to ensure that they are at least signed up to the US 'Safe Harbor' data protection framework.

While these issues are not the direct responsibility of the client, the in-house team should certainly have an interest in ensuring these questions are addressed as they can impact the timescale and success of the overall e-billing project.

- *Bryan King has held senior IT roles at Linklaters, Lovells and Clifford Chance, including responsibility for the firm's e-billing projects since 2004. He now works as a consultant and can be contacted at bryan10king@btinternet.com*

News round-up

UK law firms face tighter markets

UK law firms may be forced to tighten their belts this year. A survey by Smith & Williamson has found that law firms anticipate less revenue and more competition in 2008. The survey, which polled roughly 90 of the UK's top 130 law firms, found that the current economic atmosphere is fueling law firms' grim outlook. Half of the respondents stated that the weak economy would have an impact in 2008 revenue generation. This marks a steep increase since 2006 when only 17% shared the same outlook.

According to Giles Murphy, head of assurance and business services at Smith & Williamson, "Many practices are grappling with increasing costs as they have had to ramp up salaries to get the people they need while also dealing with rising property costs. At the same time, income levels are flattening. Those parts of a practice relying on M&As and transaction work look most vulnerable."

An increasing trend toward global expansion in 2008 for law firm practices will result in more competition. More firms are setting up international services (77% compared to 2006's 74%), reflecting the assertion by 66% that the European market will present more opportunities in 2008. Even so, the concern amongst lawyers is that they'll have to work that much harder to land and keep business. Thirty percent said that they anticipate a more competitive environment, while only 10% did in 2006. The US will continue to play a large part in this competitive landscape. Sixty percent of the respondents believe that US law firms will continue their encroachment into the UK, mainly through the merger and acquisition of UK firms. To view the complete results of the survey visit www.smith.williamson.co.uk

About ICL's Sponsor

Insider Corporate Legal is sponsored by DataCert Inc, the largest and fastest growing supplier of legal and IP spend and matter management solutions. Corporate counsel rely on DataCert's products and services to manage legal activities and provide transparency into outside legal spend. With 57 *Fortune Global 500* clients and customer connections in 115 countries, DataCert processes in excess of \$9 billion of electronic billing data on an annualised basis. Visit DataCert at www.datacerteurope.com for more information.

Insider Corporate Legal

Insider Corporate Legal (ICL) is published by Legal Technology Insider and read by corporate legal departments across the UK and Continental Europe. For all editorial and subscription enquiries contact Legal Technology Insider, Oak Lodge, Darrow Green Road, Denton, Harleston, Norfolk IP20 0AY, United Kingdom

Publisher & Editor: Charles Christian

Tel: +44 (0)1986 788666

Fax: +44(0)1986 788808

Email: news@legaltechnology.com

The next issue of Insider Corporate Legal will be published on 19th June 2008.

If you would like to receive this newsletter electronically, please sign up online at www.datacert.com/ICL

For access to a wide range of free legal technology resources, including an archive of previous issues of Insider Corporate Legal, visit the Insider website. www.legaltechnology.com

You can now also keep up with breaking legal IT news via the Orange Rag blog. www.theorangerag.com

ISSN 1752-3184 © Insider Corporate Legal 2008

All rights reserved. Published by Legal Technology Insider Ltd. No part of this publication may be reproduced without consent. While every effort is made to ensure the accuracy of information, no guarantee is expressed or implied and the Publisher does not accept liability for any loss or damage that may arise from errors or omissions. Please note that website addresses can change. All brand names and trademarks are acknowledged. **Privacy policy:** we do not sell or disclose the names, addresses or contact details of our subscribers to anyone... ever!