LAW.COM INTERNATIONAL

jomati consultants LLP

The Associate Pay Wars: A Question of Market Forces vs Morality

By Tony Williams
02 July 2021

Former Clifford Chance managing partner Tony Williams argues that hikes in junior lawyer salaries is exacerbating mental health issues within law firms.

The news that newly qualified lawyers in the U.S. are to receive starting salaries of $200,000 (with some firms now offering $205,000) plus bonuses has caused excitement in the legal community. It may be the inevitable impact of free market forces but it does raise a range of issues that the sector needs to consider.

First, the market forces. 2020 was a record year in revenue and profitability terms for many leading U.S. firms. Profit per partner rose to $3m, $4m, $5m and more with some partners receiving multiples of these average figures. Revenue per lawyer is significantly in excess of $1m.

Working from home as a result of the pandemic, rather than reducing productivity, appears to have increased it. Stock markets are at record highs and corporate activity has exploded. Ultra-low interest rates, plentiful money supply and governments issuing “helicopter” money has got the party going full swing. The Federal Reserve is aware of the challenges this creates but has signalled that interest rates will not rise until 2023.

With so much highly paid work available to law firms and the supply of good quality lawyers relatively limited it could be argued that significantly higher salaries are just a result of the market working efficiently.

But markets do not operate in a vacuum and there are other issues that this raises. Over the past year or so there has been considerable coverage of the mental health issues faced by lawyers.

These issues have been exacerbated by working from home. The insecurity of the pandemic, the loss of a boundary between work and home, the lack of effective interaction with colleagues, the weakening of mentor/pastoral relationships and the inability to socialise due to venues being closed or travel restrictions imposed have all had an impact.

Rising salaries, and the rise in the number of firms paying additional bonuses throughout the year, in this context appear to be a tacit acknowledgement of these pressures but a hope to persuade the lawyers to accept them in return for a higher salary.

For some this may be an acceptable deal. For others it may be one they will accept for a time (to pay off their student debt or get a deposit on an apartment) and that time may get extended if they get used to the money. However, for a significant cohort, such a proposition will be unacceptable and they will not seek to join the leading firms or leave as soon as they can.

But is throwing money at this issue anything but a short term fix?

Practising law at a major firm has always been demanding and necessitated compromises in terms of social and family life. If the current pressures are sustained it is likely that a smaller pool of talented lawyers will accept these compromises and the impact on their wellbeing.

Of course, if that is the case, lawyers will remain in demand and salaries will rise even further! But associates need to be careful what they wish for.

When the current boom ends, and end it will, what level of commitment will firms show to such lawyers especially when their partners have come to believe that the earnings they have received in recent years are a true indication of their professional worth?

This issue is not just about associates. The clients currently appear too focused on getting their deals done to quibble about the cost. But this is primarily a U.S. issue. General counsel elsewhere in the world appear to be much more cost focused.

Will such salaries cause some clients to re-examine the work they outsource, how it is done and who it is outsourced to? It also needs to be remembered that there are other people in law firms not as financially secure as the associates.

Many support staff, including secretaries, were furloughed and subsequently laid off. There has always been an “upstairs downstairs” mentality in law firms, between the lawyers and that awful term “non-fee earners”. Will this differential treatment make matters worse?

Finally, there is a wider societal context. The COVID-19 pandemic has caused a major disruption to the world. Tens of millions have been infected and millions have died. Businesses have failed, staff furloughed and lost their jobs.

After an initial wobble in March and April last year, the legal sector has performed stronger than ever. We should be pleased we have performed so well but humbled by the pain and sacrifice of others.

Admittedly some law firms have sought to give back to those who have been hit by the pandemic. But the impression given by current law firm profitability and associate salaries is that Gordon Gekko is alive and well and working in a major law firm.

He is so 1980s. Surely we can be better than that.

Tony Williams is a principal and founding member of Jomati Consultants. Prior to this he was the former worldwide managing partner of both Clifford Chance and Andersen Legal. Williams is also a visiting professor at the University of Law and a non-executive board member of the Solicitors Regulation Authority.

Available Online: https://www.law.com/international-edition/2021/07/02/the-associate-pay-wars-a-question-of-market-forces-vs-morality/