PRACTICE MANAGEMENT 執業管理

The Big 4 and The Law

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In recent years the Big 4 accounting firms (Deloitte, EY, KPMG and PwC) have made a renewed push into the legal sector. Asia Pacific appears to be a particular focus of their activity. This article considers their motivation for entering the legal market, their likely approach and areas of focus, the moves that they have made so far (especially in Asia Pacific), the potential impediments to growth and the likelihood of succeeding or otherwise in the legal area.

Some may feel a sense of déjà vu in that the Big 4 made similar moves in the late 1990s but unwound most of their legal offering following the collapse of Arthur Andersen in the wake of the Enron scandal and the passage of the Sarbanes-Oxley legislation in the US. Their retreat was primarily for regulatory reasons. It should be remembered that in 2001 Andersen Legal was the ninth largest global law firm by revenue. This time they seem to have more resolve and, as this article explains, are seeking to build a more integrated model.

Why Legal

The legal sector is attractive to the Big 4 for a number of reasons:

- The global external (i.e. law firm) market is huge. Various estimates quantify the global market at between US$650bn and US$750bn. Of course, this covers every participant from the largest international law firms to a sole practitioner and relates to a vast array of clients and practice areas.
- The global legal market is remarkably unconsolidated. Even the largest law firm by revenue (in 2017 Kirkland & Ellis with revenues of US$3.165bn) has less than a 0.5% share of the global legal market. In comparison the Big 4 dominate the audit market for major listed companies and their consulting arms are significant global practices.
- The Big 4 see law as adjacent and complimentary to many of their areas of work so believe that, in conjunction with their other services, it can be used to develop and promote "products" and "solutions" that can effectively be sold to their clients.
- Law despite a relatively low gearing model, by Big 4 standards, is remarkably profitable and they see opportunities to enhance their profitability by adding a legal component to their business.
- They view lawyers as relatively reactive and lacking business focus and believe that they can generate profitable legal work not just from relatively high-end work but also from relatively routine process type work.
- They are active adopters of new technology. Indeed, each of the Big 4 spend more on technology and training than the revenue of the largest law firms. They believe that client facing technology will help in the development of client solutions which deliver a price competitive product to the client and good profit margins for them.
- The Big 4 have deep and sophisticated relationships with major clients with multiple points of contact at a senior level. This gives them scope to offer their services at an earlier stage and directly to the end user compared to work routed via the general counsel.
- The Big 4 are big. Indeed, the revenue of the three largest exceeds the aggregate revenue of the top 100 global law firms.

Global Revenue of the Big 4 in 2017/18

Firm	Financial Advisory ($B)	Risk Advisory ($B)	Tax & Legal ($B)	Audit & Assurance ($B)	Consulting ($B)	Total ($B)
KPMG*	-	10.2 (+4.5%)	5.8 (+4.9%)	10.4 (+2.7%)	-	26.4
EY	3.622 (+13.9%)	9.621 (+13.0%)	8.995 (+7.8%)	12.534 (+5.0%)	-	34.772
Deloitte	3.6 (+8.0%)	5.0 (+12.0%)	7.9 (+8.7%)	10.2 (+7.7%)	16.5 (+15.7%)	43.2
PwC	-	13.8 (+10%)	10.4 (+8%)	17.1 (+4%)	-	41.3

* *FY2016/17*

But, many of their markets are increasingly mature. Their dominance of major corporate audit work limits growth. Indeed, it is possible that emerging regulatory pressures will require the Big 4 to reduce the percentage of audit work that they do for major corporates. Furthermore, compulsory audit rotation and restrictions on non-audit work may limit growth in this area. Tax has generally grown well but is usually the smallest of audit, consulting (however described) and tax. As legal is usually part of the tax practice, growth of legal gives the tax practice further opportunities profitably to grow and thereby maintain its relative power and influence compared to audit and consulting.

What is the Offering?

To a large extent the offering of the Big 4 is evolving. What is clear that insofar as is possible they want the legal practice to be integrated in their entire firm and to provide business solutions to the clients. This also helps to differentiate their offering from that of traditional law firms and potentially provides different sales channels into the client organisation whether via the CEO, CFO, COO or Director of HR. This approach has the additional advantage of reducing reliance on the general counsel who may be resistant to their offering or prefer to use a traditional law firm.

In countries such as England and Wales, the Big 4 have been granted alternative business structure (ABS) licences which enables the legal function to be embedded within the main business. However, in other jurisdictions, including Hong Kong, it will be necessary for the lawyers to operate as an "independent" law firm. They will seek to mitigate such restrictions by developing a multi-disciplinary team approach, but such arrangements will need to be structured and operated carefully to ensure compliance with local bar rules.

From their websites and other materials, it appears that their current focus is broadly on mid-market activity including immigration, corporate transactions, corporate restructuring, due diligence and regulatory advice and compliance issues. A key focus is in relation to integrated products and these include risk management and risk audits, tax structuring and related corporate reorganisations (and related arrangements including transfer pricing, IP licensing and management services agreements), HR advisory services including immigration, employment terms, remuneration structures, benefits packages and share incentives and regulatory compliance and training issues including money laundering, sanctions compliance and anti-bribery procedures.

This is not to suggest that they will not wish to develop their legal services into higher value and higher corporate visibility products as their legal capability increases and is seen to work effectively with other parts of the business. In the short term the focus has been on recruiting and developing their legal capability. Some of these lawyers will bring existing clients and contacts with them. However, this is unlikely to be their core focus. The lawyers' key target will be the other partners in their offices and across the firm so that the lawyers can access the firm's existing client base. As the confidence of the other partners in the lawyers increases their introduction opportunities can be expected to grow. A further stage of development will be working with other partners in the firm to develop client focused products and solutions to be offered to the clients of the firm. As a result, the short to medium term priority of the lawyers will be to develop relationships with and win the confidence of the firm's other partners initially to provide client introductions and also to jointly develop client products.

One area they will be cautious about is litigation given the potential conflicts of interest that the conduct of litigation may present. They may offer ancillary services such as forensic accounting, which they already provide, and assistance on discovery or other process elements. PwC does claim on its website to undertake the conduct of litigation, but this is the exception. They will undertake tax related litigation and may also have a major role in regulatory investigations and compliance issues.

All four have expressed the intention to develop a legal offering with global revenues of at least US$1bn by the early 2020s. While this may seem ambitious they do appear in many markets to be achieving annual compound revenue growth of over 20% and as the breadth and depth of their direct offering and integrated offering develops it should be possible to achieve similar levels of growth for the foreseeable future. Those who are doubtful should consider the growth of their consulting businesses over the last 15 years or so given that EY and KPMG sold off their original consulting businesses in the early 2000s after the passage of the Sarbanes Oxley legislation in the US.

What have they done

To date, the focus of the Big 4 has been the organic growth of the legal capability supplemented by some key well regarded lawyers. Generally, they want lawyers who will be a good cultural fit in their organisation and may avoid high maintenance stars on the basis that their own brand and contacts already give them high level access to a wide range of clients. So far, they have not sought to undertake large scale law firm mergers preferring to focus on smaller firms, teams and individuals in specific centres. It is quite possible that they will attempt larger, even multijurisdictional, mergers in due course once the legal concept is more accepted within their clients and their offering is gaining greater traction with their clients.

Earlier this year Deloitte registered a foreign law practice in Singapore run by Rashed Idrees who joined Deloitte from DFDL in 2017. EY in Singapore also formed a new association with former Dentons Rodyk & Davidson senior partner Evelyn Ang and PwC launched a Singapore firm with former WongPartnership partner Rachel Eng and former Norton Rose Fulbright partner Natalie Breen, a former Ashurst Singapore managing partner Keith McGuire and Taylor Vinters Asia Head Henry Goodwin. Also, earlier this year in Hong Kong, PwC launched a new independent law firm Tiang & Co led by David Tiang formerly of KWM Beijing with Gigi Wood a former O'Melveny & Myers Hong Kong capital markets partner and former O'Melveny counsel Joyce Tung. As mentioned earlier, Hong Kong does not currently permit multi-disciplinary practices so any law firms will need to be independently owned and managed but can work closely with the Big 4.

The Big 4 have also been very active in Australia with PwC hiring Tony O'Malley and Tim Blue in 2014, both senior partners at KWM, and KPMG hired Stuart Fuller former CEO of KWM in 2017 as just three examples of the type of senior hires that they have targeted in Australia.

Outside Asia Pacific in the US, in September, PwC launched a law firm in Washington DC, ILC Legal, although initially it will not offer US law advice. In June Deloitte acquired the eight non-US offices of US immigration firm Berry Appleman & Leden and also entered into an alliance with the US firm and in October PwC entered into an alliance with the leading global immigration firm Fragomen. In addition, in the UK, in August, EY acquired Riverview Law an alternative legal services provider.

The Big 4 have continued to make targeted lateral hires in the UK and to a lesser extent across Continental Europe where generally their legal offering is more mature.

These examples of lateral hires, establishing new offices and acquiring or associating with existing firms is a clear declaration of intent both as to their ambition to build up their legal capability and of their determination to do so.

So, what might Impede them?

- ***Conflicts.*** Lawyers in many jurisdictions are subject to more stringent conflict rules than the Big 4 are used to. This may limit their ability to act for some of the clients of the accounting firm. Especially where the law firms become an integral part of the firm rather than an "associated" independent law firm, these conflict issues could be even more problematic.
- ***Regulation.*** In most countries law firms can only be owned and controlled by qualified lawyers. The necessity for separation will present certain challenges when trying to offer bundled services or solutions. Work arounds are likely to be possible but may be complex to devise and problematic to administer in the working environment.
- ***Audit.*** The domination of the Big 4 on major corporate audits is concerning regulators and politicians in many countries especially when combined with the perceived conflicts that they have in their various client roles. At the least it is likely that further restrictions will be placed on the amount or value of non-audit services that can be provided to audit clients. More radical reforms cannot be ruled out in the medium term. This, combined with auditor rotation could limit the range of clients the lawyers can act for.
- ***Culture.*** The Big 4 are big, global and managed businesses often driven by clear business metrics. They have multiple layers of management. In some cases, their international structure is based largely on country fiefdoms rather than global direction. Conversely, lawyers although generally driven, tend to be more anarchistic, dismissive of bureaucracy and questioning of management. Some lawyers will be frustrated by the Big 4's way of operating and not necessarily "play well" with their colleagues to devise and deliver integrated products.
- ***General Counsel Resistance.*** Many general counsel will wish to control the relationship with their external advisors and find the Big 4's multiple relationships in the organisation challenging. They may also question the quality and cost of their legal product. As mentioned above, as the Big 4's legal function does not initially wish to compete head on with established law firms, they may not consider it an issue if they can provide integrated products (including legal) to other parts of the business thereby avoiding the general counsel and a competitive pitch with the organisation's existing law firms.

Conclusions

It does appear that the Big 4 are now taking their legal offering seriously. They have developed in Europe and Asia Pacific and have shown a willingness to acquire or affiliate with other legal service providers (including law firms and alternative legal services providers). They have a strategic wish to develop the legal offering often as an integrated offering with other parts of their business.

They are major investors in IT and training which will enable them to provide cost effective solutions and is also likely to be attractive to young and dynamic lawyers frustrated by what is perceived by some to be a conservative and complacent legal establishment.

In the short to medium term they will continue to build out their platforms and develop their offering. They are unlikely in this period to directly compete head to head with leading law firms but instead choose their battlegrounds in less high profile but potentially valuable areas of work where they can prove the value of their proposition to their clients.

They face many challenges and will make some mistakes. Accordingly, although it would be wrong to overstate their short and medium term impact it would be equally wrong to underestimate their impact over the next, say, 10 years. Based on the growth of their consulting divisions it is not inconceivable that one of them, by 2030, will have achieved global legal revenues of up to US$5bn.

Of course, if the Big 4 ever decide or are forced to spin off or ring fence their major corporate audit work this will increase the urgency of developing new business lines and law will almost certainly be one of these.

The message is clear. The Big 4 appear determined to develop their legal offering. It may take longer and be more difficult than they think but they have the size, contacts and investment capability to be successful if they have the patience to do so. Law firms need to be alert to their development and their offerings and be prepared to compete with them rather than surrender areas of work that the Big 4 target. ■

四大會計師事務所的法律業務

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近年，四大會計師事務所(德勤、安永、畢馬威和羅兵咸永道)重新進入法律界，而亞太區似乎是他們的重點地區。本文探討他們進入法律市場的動機、可能的途徑和重點領域、迄今所作的舉措(特別是在亞太區)、增長的潛在障礙以及在法律界取得成功的可能性。

有些人可能會感到似曾相識，因為四大在90年代後期曾作過類似的行動，但在安達信會計師事務所因涉及安然醜聞倒閉，以及美國通過《薩班斯-奧克斯利法案》後，撤回了大部分法律服務。他們的撤出主要是出於監管原因。在2001年，安達信律師行是按收入計算全球第九大律師行。今次，四大似乎更有決心，尋求建立更加完整的模型。

為何選擇法律業務？

由於以下幾個原因，法律界對四大具有吸引力：

- 全球外部(即律師行)市場巨大。估計全球市場價值在6500億至7500億美元之間。當然，這涵蓋所有從業者，從最大型的國際律師行，以至獨立從業者，涉及廣泛的客戶和執業領域。
- 全球法律市場非常分散。即使收入最高的律師行(2017年Kirkland &