



Law firms – Challenges and Opportunities posed by Globalisation

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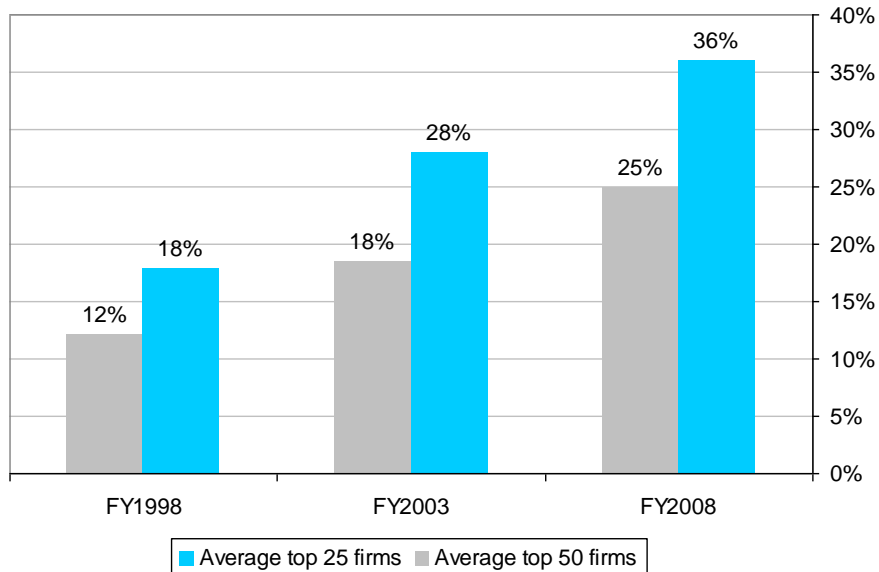
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Discussion points

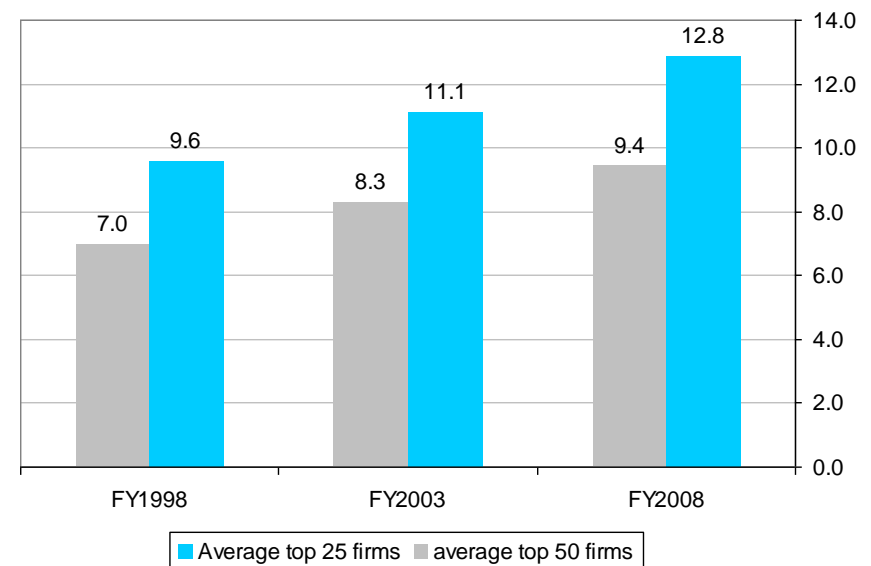
- Snapshot of globalisation of legal practices
- What are the key forces for globalisation
- The impact of the GFC on globalisation
- The significance of continuing market liberalisation
- Positioning of the Australian legal profession in a global market

Law firm globalisation

Average percentage of lawyers outside home country



Average number of countries in which firms have offices



The percentage of lawyers outside home country has doubled in the last decade

The average number of countries in which firms have offices has grown by a third in the last decade

Snapshot of globalisation of legal practices

- Pace of globalisation has increased dramatically in the 2000s as financial markets and private equity & hedge funds dramatically increased leveraged cross border M&A transactions
- Global and international firms saw revenue grow rates over a 5 year period up to 2008 of 12-15% pa which funded aggressive expansion either by merger or establishment of greenfields offices
- Most defining attribute has been the emergence of a transatlantic elite growing out of the push by large UK (magic and silver circle) firms initially into Europe and subsequently the US and then emerging markets (China, Russia & Brazil)
- US firms were initially slow to follow but subsequently pushed into Europe and the UK in response to movement of financial flows away from New York to London in response to Sarbanes Oxley and other regulatory constraints
- Major constraint on further growth (pre GFC) was resources and constraints on market entry (eg India and, until recently, Singapore)
- Brand recognition on a global basis became a critical business imperative to differentiate firms and to attract work from global corporates
- In the last few years globalisation has spread to Australia with the association of Phillips Fox with DLA , the merger of Norton Rose and Deacons and most recently the entry of Allen and Overy into the market.

Major trends driving globalisation



These “**mega trends**” have been driving:

- change in focus on strategy, client relationships and people
- emerging new models for law firms

Possible future for global law firms

- Different global economic forces will change positioning for growth eg. lower economic growth in core markets in UK / Europe and US and higher economic growth in Asia and the Middle East over the medium to long term
- A greater focus on Asia and the Middle East, and the allocation of greater resources to those markets
- GFC will force changes to the structure of global law firms
 - ⇒ continue to focus on brand differentiation;
 - ⇒ re-shape practice areas to reflect the change in the markets and the pricing of certain products (e.g. reduce reliance on financial services for some law firms);
 - ⇒ greater need to achieve a more balanced “footprint” around key markets and key clients – UK / Europe; Americas; Asia; Middle East.
- Continuing role of “international” laws (English law for general transactions / US law for capital markets) for certainty in international commercial and securities transactions
- Need for service providers to have:
 - ⇒ a genuine global capability in key markets and key practice areas (such as corporate, finance, capital markets and property); and
 - ⇒ credibility to execute transactions under the accepted international laws.

Possible future for regional firms

- Growing importance in the economic and political role played by China and India
- Growing importance of Asia and the Middle East in global capital markets and trade flows (both as the exporter and importer of capital)
Emergence of regional clients as global market leaders in key industries
- Great emphasis on key practice areas, markets and clients in Asia and the Middle East
- Although some strong local firms in key regional markets eg China, Korea, Malaysia and Singapore, there has been little inclination for non Asian firms to merge with them
- Cultural, language and market access issues provide incentive for a combination of strong local firms

The significance of continuing market liberalisation

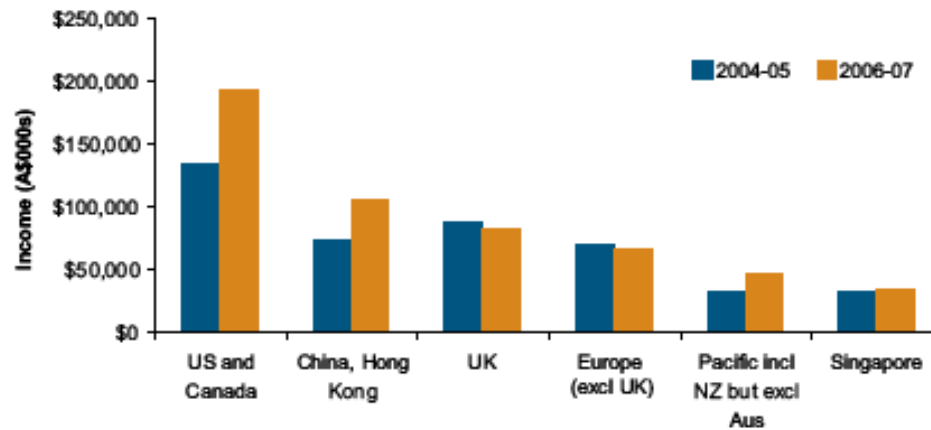
- Key future markets are China and India – both have restricted market access for international law firms
- Many countries, particularly Australia have fully liberalised their markets but have not seen reciprocal access eg Malaysian and Chinese firms have offices in Australia
- A key plank of servicing clients globally is the ability to access markets in a way which allows legal practices to provide clients with services of the same quality and experience

Principles for legal market access (ILSAC)

- ⇒ formal recognition of **right to practice home-country law; international law** and if qualified, **third country law** without imposition of additional or different practice limitations by the host country
- ⇒ formal recognition of **right to establish commercial presence** without additional or different limitations
- ⇒ formal recognition of the **right to enter into commercial association** including partnership with international or local law firms and lawyers
- ⇒ **right to practice local law** on the basis of objectively and transparent review of knowledge, ability and professional fitness
- ⇒ formal recognition of the **right to employ local lawyers**
- ⇒ formal recognition of the **right to prepare and appear in international commercial arbitration**

The growth in Australia's export of legal services

**Chart 1: Total Export and Cross Border Trade in Services:
Top six geographic markets**



Export activities of the Australian legal profession

- Australian legal market mature and growth prospects constrained for commercial legal practices
- Australian corporates have increasingly looked outside Australia to grow and this has driven Australian firms to try to follow their clients
- Australian law firms have significant presence in the Asia pacific region both directly through branch offices and indirectly through alliances
- However in Australia's largest legal services export market – USA & Canada – no firms have a direct presence
- Total legal services exports increased in 2007-08 by 23.4% to \$343 million (compared to 11.1% for total services exports) from 2006-07
- Australia's legal services activity in Asia has grown twice as fast compared to activity in the rest of the world over the last few years driven largely by M&A transactions
- Fly in / Fly out is still the most preferred mode of export service delivery as few firms have been prepared to make the investments required for permanent establishments in the same way as the global firms have

Positioning of the Australian legal profession

- Internationalisation pursued at a profession wide level through 2 primary bodies – Law Council of Australia (LCA) and International Legal Services Advisory Committee (ILSAC)
- Other associations and groups pursue various specialist initiatives eg ACLA as well as individual firms or groups of firms in association
- In addition legal services are starting to be recognised as a relevant service in free trade negotiations being pursued by the Australian government
- Export of Australian legal education through the Australian law schools

Positioning of the Australian legal profession

- LCA's international strategy primary focus:
 - ⇒ Improve access to foreign markets for Australian lawyers
 - ⇒ Develop institutional linkages for the Law Council
 - ⇒ Promote and uphold the rule of law
 - ⇒ Support developing bars and law associations
 - ⇒ Promote Australia as a hub for international arbitration
 - ⇒ Participate in policy formulation by Government
 - ⇒ Work with Law Council constituent bodies to implement the International Strategy

Positioning of the Australian legal profession

- ILSAC – 8 themes for promoting global engagement of Australia’s legal sector
 - ⇒ pursue market access globally
 - ⇒ intensify engagement with India
 - ⇒ build stronger links with China
 - ⇒ promote Australia’s expertise in commercial dispute resolution
 - ⇒ increase demand for Australian legal education and research
 - ⇒ enhance legal cooperation
 - ⇒ develop Australia’s export capacity
 - ⇒ showcase Australia’s expertise

Conclusions

- Up until the GFC responding to the global market drivers was a key strategic consideration for all major commercial legal practices
- The GFC has undoubtedly slowed the race but has also accelerated some of the trends driving globalisation
- For Australian law firms the increasing significance of the Asian region provides both opportunities and significant challenges to compete with the transatlantic firms
- In addition to issues around scale of investment a major issue for Australian firms is both their capacity to practice English and US law
- Market access, particularly in Asia remains an important issue.