



# KMS ProfitPower Tips<sup>TM</sup> for Lawyers



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## Featuring:

♠ ProfitPower<sup>TM</sup> Traps for the Unwary

♠ ProfitPower<sup>TM</sup> Reality Check

♠ Firm Merger Trap

## Robservations

Welcome to the December 2004 edition of "KMS ProfitPower Tips For Lawyers".

For most Australian lawyers, in most areas of work, the last few months leading up to the Election varied from "flat" to downright appalling in terms of new instructions...

There are some notable exceptions, but my analysis is that in the majority of those exceptions the better flow of new work is the result of consistent business development activity over a good period, producing results at a time when others were struggling...

Almost universally business development does not produce significant immediate results...the exception is some types of effective advertising...which reminds us all that the activity needs to be consistent and long term.

Like most relationships, things are better when you work at it well for the long haul. I use six months as a rule of thumb...that's six months after you start to do it consistently and well before you see the results you were hoping for.

This means that having all those involved clear on what tasks they need to be carrying out, and actually doing them consistently, is essential to

having everyone occupied at least to their WorkPlans<sup>TM</sup> all of the time.

This will ensure that the firm is truly operating in the zone where real commercial profits are created...the last 20% of each day, week, month and year.

Until you reach your true break-even point each day...after allowing for partners notional salaries, a decent return on invested capital, and some partner superannuation, you won't generate any real profit at all unless people are still working on Client Billable work.

Where the breakeven point is of course differs from firm to firm, but from long experience I can say that it is a lot deeper into the day than most lawyers realise.

This means that for practical purposes people have to be busy on the right things for more of the average day than most appreciate.

To have allowed Business Development activity to have dropped off, six months or so earlier, so there is not enough work to keep most of your fee-producers busy to their WorkPlans<sup>TM</sup> at least, means that you are in danger of running the whole operation simply to earn yourself a base salary or worse.

In the meantime, unless you get it really wrong, the only people who benefit fully are your other stakeholders.

Suppliers and staff get paid 100% of what they were promised...but those who take all the risk and shoulder most of the worries get as little as 0% of the profit they should have been able to generate with the available resources they have invested in.

Business Development is critical to survival, but we all should be shooting for optimal results...not mere "survival".

It follows that Business Development planning and implementation must be geared to achieving very clear new work goals...goals which are based on optimal performance of WorkPlans<sup>TM</sup>... not some percentage improvement on a prior period plucked out of the air and agreed to because it seems achievable.

With too many lawyers, and not only the "old dogs", unwilling to even acknowledge that Business Development skills must become part of their bag of new tricks...many firms are going to continue to struggle on without reaching the "ProfitPower Zone".

Here's to every success in ensuring yours is not one of them...

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The Editor, Rob Knowsley, is a lawyer, admitted nearly 30 years, and has practised successfully with firms of all sizes - city and country. As KMS Senior Consultant, his insights are based on the experience of sixteen years of consultancy assignments, and telephone support in all areas of practice management and profit building. Many practices have quickly reaped the monetary benefits and enjoyed the feeling of being in more control of their businesses through his practical help.



## ProfitPower™ Marketing Confidence Tips

**Tip #1...** We have a quick reminder list of practical business development tips for lawyers...it is always being added to and will eventually be a developing resource on our website.

In the meantime if you'd like a free copy just e-mail us at [lawfirmbizdev@lawfirmprofit.com](mailto:lawfirmbizdev@lawfirmprofit.com) and we'll return a copy to you promptly...

The bottom line...we like to practice what we preach about Business Development.

**Tip #2...** There are lots of sensible, helpful things you can do in e-marketing without offending recipients or the regulators by spamming...

Sending relevant, helpful material gleaned from your experiences at the coalface is something that is appreciated by your target audience if you have selected them carefully...

The comments you get back using e-mail are more immediate and extensive than what you get with mailings...and you can monitor resulting traffic to the relevant parts of your website very accurately...

You can also do small test runs to see what response you get before settling on a final form of e-mail and offer to the larger audience.

When people respond to your privacy policy and ask to be taken off your mailing list that is a bonus for you...as your target audience is becoming more selected for your next offering.

When people e-mail and ask to be added to your mailing list, do it, thank them and send them something else to show you are interested and wanting to be helpful. Most people do

not go that easy extra mile and miss opportunity after opportunity.

People who ask to be added to your address book have usually been forwarded your material by someone else who thought they would appreciate it...don't ignore the clear signals that are there for you in the actions of both the original recipient and the new addressee.

## Critical Success Factors...

We have a document we prepared recently briefly explaining over 35 things we've seen small-medium law firms doing (and not doing) that have contributed to their success...if you'd like a copy sent to you please just e-mail us at [successfactors@lawfirmprofit.com](mailto:successfactors@lawfirmprofit.com) and we'll e-mail you a complimentary copy.

## ProfitPower™ Personal Productivity Tip...

Don't wait forever for an opportunity to arise for you to work at home uninterrupted...Plan it and make it happen!

Everyone who regularly plans and takes an opportunity to work somewhere away from normal routine appreciates the special benefits this delivers. They're too great to risk them not being a regular feature of your working life.

### Tips...

Get up early, and go all day...

Attack tasks you never actually get to in the office because other types of tasks always appear more pressing. They often aren't... and will still be there the next day anyway and you'll also be reinvigorated and more productive on your return to the office.

Too many interruptions at home? An Accountant's boardroom or a quiet office at a client firm can work just as well. (You can kill multiple birds by taking the opportunity of a "How's Things" visit later in the afternoon... after you've achieved everything you needed to earlier).

Just make sure that while you can be contacted in a true emergency you are basically shut off from all normal day-to-day disrupting factors.

You'll also be surprised how creative you become in this situation...finding solutions for all sorts of things that have seemed difficult issues for some time. The opportunity to focus is a wonderful thing.

An unfocussed leader is not much good to anyone...take a break from "managing by being there" and leave them all to it for a change...so you can address different issues.

So, why not grab your diary now and pop in one day a fortnight for the next twelve months... to work creatively and highly productively outside the office.

## ProfitPower™ Technology Tip...

How often have you sent or received an e-mail without the intended attachment? It's a frustrating waste of time.

As you get involved in the text of the e-mail it's too easy to feel glad it's done and click "Send" as the final step...with nothing attached!

We've all done it and all had time wasted asking a sender if they intended there to be an attachment.

Train yourself to do the attachments first whenever that's practical...just get into the habit.



## ProfitPower™ Traps For The Unwary...

We still observe many lawyer/managers discussing the ramifications of data without understanding even the most basic issues around the data itself...

**Trap #1...**Comparing billings of fee-earners against each other without considering timing issues and whether their pool of unbilled Work in Progress is rising or falling...

Often the level of billing in a given month is affected greatly by an ability to finally bill an old matter...and can have very little relationship to present productivity...yet every week we still see lawyer/managers comparing fee-earners based on billings for a single period...

Yes it's important to consider WIP production and Realisation Rates but here's another potential trap...

**Trap#2...**It's always best when looking at a fee-earner's WIP production for a period to have access to two other pieces of information at least...the number of days they worked in the period, and their WorkPlan™ goal for the same period.

Don't compare fee-earners to each other when the underlying goals and input may be very different.

Far better to compare the performance of an individual to his or her own goals for the period when taking into account days actually worked.

It is a basic trap to even compare people on similar WorkPlans™ who have had very different leave in a given period...and it can send misleading signals and lead to unfair criticism...

The bottom line...always check the key elements behind data when making important comparisons...especially

when you are planning to give someone feedback or carry out a remuneration review.

## The Real ProfitPower™... an instructive tale...

Recently there has been in New South Wales a re-kindling of the "Billable Hours Debate".

Much of what is said is unfortunately said by Judges...who from their comments, in the main seem either never to have practised in a real business or conveniently forgotten that they did.

There's lots of talk about...

How terrible it is to charge by the hour...

How awful it is that young lawyers are expected to not only work a reasonable day...but also record it and charge a proper amount of it to clients...

The potential for over-charging, without any evidence that that is happening, or any acknowledgement of the powerful market forces which are actually causing most Australian lawyers to undercharge.

I recently met a young businessman who owns a business manufacturing plastic products. He has quite a small plant, but millions of dollars tied up in sophisticated machinery.

We got to chatting about how he was getting a proper return on the expensive machinery, and he pointed out that as long as he could produce something with a small profit margin during the latter part of the third shift healthy profits were assured, because overheads had long since been covered.

His solution...his own line of around 200,000 brightly coloured plastic combs annually, in interesting shapes, with a profit margin of just a dollar each.

The bottom line...around \$200,000 extra profit annually from a very simple exercise.

So where's this leading?

Lawyers are supposedly pretty bright people, yet even those with management experience are still trying in many cases to make reasonable profits using their key resources in a production system which has them guaranteed to cease production not long after the break even point has been reached.

Wages, Rent, Insurance, Equipment leases and other overheads are paid for 24hrs/7days/52weeks...but many practices think they can make a decent dollar utilising the key staff resources for just 5 or 6 billable hours on about 230 days a year.

Worse still, some lawyers actually complain that they have an "undesirable lifestyle" if they are expected to work on Clients files for seven hours a day, and record what they do so their labour can be assessed as one of the many factors in preparing a proper bill for a client.

After write-downs at billing time and write-offs of Debtors, many lawyers are recovering not much more than 4 hours of the five days they expect to work.

It's not surprising that so many practices do not make true profits at all.

So how do we get the available resources better occupied and move into, or further into, the Profit Zone?

First and foremost ensure that all employees know what the non-negotiables are for your firm in terms of what is a reasonable day and how to record it. Do this on an individual



basis...adjusting for skill sets, work types, part-timers, and valued contributions to the firm in training, management of the knowledge base, focussed business development etc.

Then make sure they have enough to do...on average every day...99% of people hate not having enough to do... it's a huge source of dissatisfaction... ironically far greater than having too much to do!

If you can close the gap just an hour a day per fee-earner, at say \$265 collected, that's over \$60,000 worth of plastic combs per fee-earner straight onto the bottom line...and you can crunch the numbers for your own firm to see what that would mean per partner annually.

If your systems are not properly set up to plan your use of your human resources, and ensure they have enough work, you will have little chance of even getting a proper return on your investments during the first shift...let alone the second or third!

If proper planning exposes that your people do not have enough to do that's good too...because you can make some decisions based on the knowledge...and get cracking with the remedies.

The good news is that there are still plenty of potential clients out there who are not getting all their legal needs met...so identifying needs and communicating useful relevant solutions will in due course lift your work volumes.

## ProfitPower™ Reality Check...

You feel you personally bill good fees every year...but how do you go on these tests?

1. Do you fairly allocate a share of fees billed to clients to all who worked on every matter?

2. Do you accept a responsibility to treat write-downs and write-ups as a team issue?
3. Have you considered what the total capacity of the team is and whether the team as a whole is getting there?
4. Are you implementing a plan to grow the team and create succession options for you and the clients?
5. Are you operating as a real leader...working hard at enabling the team to operate without you?

## Firm Merger Trap...How Not To Inherit Poor Claims History...

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In 2001 he wrote an interesting article...**Risk Management: Taking in a new partner?**

Law Society Journal (NSW, Australia), June 2001, page 42.

One point he made in the article is of particular relevance in the light of the way Professional Indemnity premiums are calculated in NSW.

He said...

Obtain the 'claims history' of the partner's former firm from LawCover (which will be supplied in confidence only to the solicitor or firm the subject of the claims history);

This is particularly important because when a firm acquires another firm, takes on a majority of its files, or a majority of principals or legal staff, then the prior practice and the acquiring practice are considered to be merged for insurance purposes.

Premiums and claims history will be combined, both of which can have a very significant impact on your premium loading or rights to discounts in the new firm.

PI Insurance is expensive and is now calculated in NSW on practice turnover. Some firms have had huge premium increases in the last few years as the method of calculating premiums has gone from being largely based on partner numbers, to fee-earner numbers, to being turnover based.

If you turn over a few million and acquire a practice turning over a few hundred thousand, you do not want a nasty surprise when your premiums are next calculated, with a premium loading for the whole turnover of the new firm calculated on the prior firms poor record of claims.

It could take you a full five years good claims record to recover your former rating.

Be careful...make the enquiries...talk to LawCover...and if necessary make an adjustment to financial arrangements with the vendors!

## Management And Personal Organisation Tips YOU WILL NOT HEAR From Us At KMS...

**Tip#1...**Pay your professional staff one-third of what they generate in fees.

**Tip#2...**Around 5.5 hours is all you can expect the average lawyer to bill for an 8 hour day...

**Tip#3...**The best way to build a practice is to do a good job on the work you've got...