



GILBERT  
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# THE FUTURE OF THE PRACTICE OF LAW

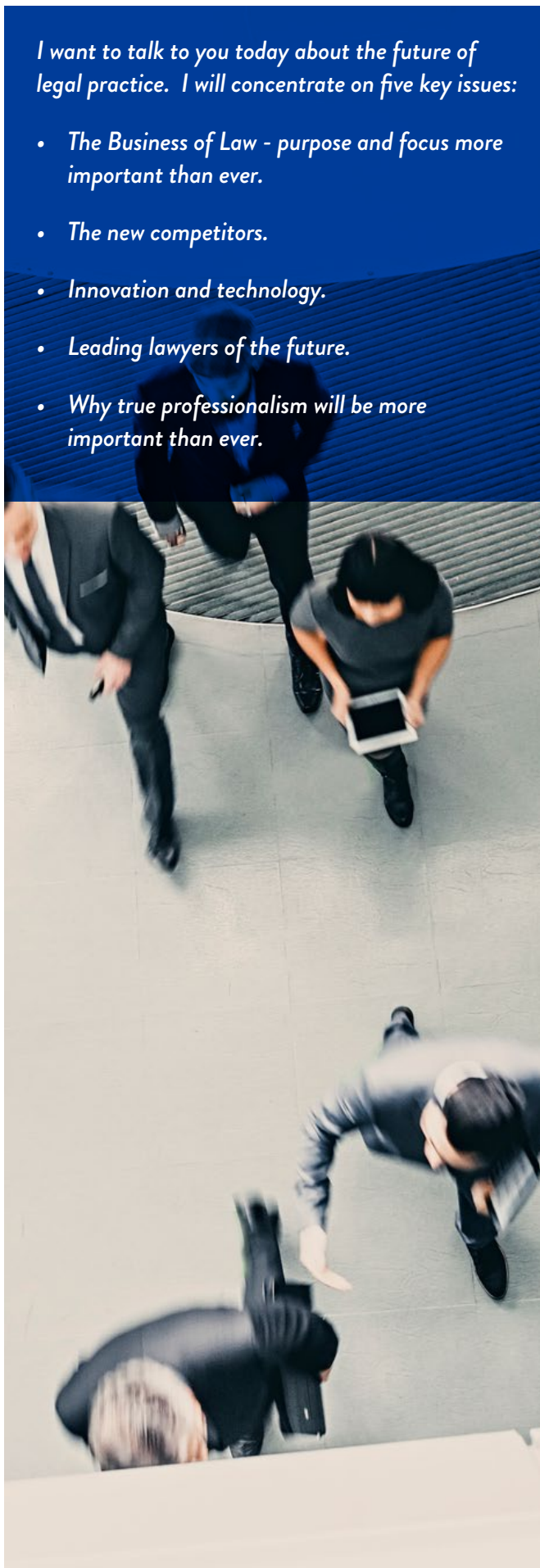
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[GTLAW.COM.AU](http://GTLAW.COM.AU)



*I want to talk to you today about the future of legal practice. I will concentrate on five key issues:*

- *The Business of Law - purpose and focus more important than ever.*
- *The new competitors.*
- *Innovation and technology.*
- *Leading lawyers of the future.*
- *Why true professionalism will be more important than ever.*

## 1 THE BUSINESS OF LAW - PURPOSE AND FOCUS MORE IMPORTANT THAN EVER

I suppose it is true of many moments in history to say that the world faces significant change, upheaval and disruption. It is certainly true today.

Digital technology, artificial intelligence and robotics will profoundly change our lives. Political and social changes are similarly profound. The international order built up over the last 50-60 years is unravelling. Globalisation is no longer regarded by many as good for humanity and free trade is threatened. National and international leadership seems not up to the task of dealing with the challenges that confront our world. Business, governments, institutions and the professions are no longer trusted as they once were.

Perhaps the most powerful new phenomenon is the democratisation of knowledge and information. Young people in particular are now seized with means of participation and personal agency never previously imagined. Individuals are no longer singularly defined units with limited power and opportunity. Individuals now have the power to create personalised content and participate in ideas and movements in the time that it takes to turn on their mobile phones. People the world over can now come together and organise themselves without the old constraints of geography and time.

All of these settings or conditions will have an impact on our profession.

The practice of law is itself facing considerable change. We are no longer the only people with relevant knowledge and expertise.

With respect to some key challenges, I would say that the more things change, the more they remain the same – even though somewhat reshaped.

The key challenge for our law firms will remain as it has been for most of my 40 years of professional life. That is, focus and discipline. Basic business principles which apply to all businesses.

Lawyers and law firms need to be clear about their purpose. Clear about what they stand for, the part of the market they want to focus on, the areas of practice they choose and the clients they want to act for. Purpose and focus must answer the question of how a law firm will differentiate itself from the pack. Another way of putting it is to say that law firms must have clarity and vision around their purpose and

strategy. The market is changing quite dramatically and, in the noisy and busy, competitive ecosystem we work in, purpose and focus are more important than ever. Once the questions of purpose and vision are answered there is then the essential requirement of discipline and effectiveness in design and implementation.

Of course these are challenges for leaders of law firms but not only them, for all practising lawyers. You must be able to answer the question of why it is that a client might choose you or your law firm from the ever increasing choices available to consumers of legal services. If you cannot answer that question with conviction, then I think you are in a spot of trouble and, as I suggest, this challenge will only become more critical.

And what's more, our clients want us to demonstrate these characteristics as do our staff. I discuss the changing expectations of our workforce shortly. The point I want to make here is that in the highly connected workplace of the future, talented people will have more mobility and influence than at any other time in the history of our profession. They will expect more than we have traditionally given and their ties to our firms may not be at all strong. The clearer we can be about where we are going, what it is that we aim to achieve and what's in it for them, the stronger will be their ties and loyalty to our firms.

I referred a moment ago to the ecosystem of legal services. What might generally be described as legal services are no longer exclusively provided by lawyers like me who have taken the traditional route or pathway to a legal qualification. People trained in disciplines other than law are increasingly trespassing into our domain and that will only continue. The bright red line identifying who is a qualified lawyer under the old school rules and who is not, is fast fading.

The monopoly we enjoyed for a couple of centuries is coming to an end. In the age of information freely available online, consumers can and will increasingly obtain their own legal advice and knowledge online from publicly available sources such as Google.

What I want you to think about is a world where legal information and legal services are available from a vast and complex eco-system. In this world, the need for outstanding excellence, to be clear about what you stand for and to deliver client services accordingly, will become of the most critical importance. Failing to meet this challenge at a fairly high level will see lawyers and law firms disappear into irrelevance in the dark recesses of this eco-system.

Finally, let me also note that efficiency and profitability will remain as important as ever. The most profitable firms will be the firms that can attract and retain the best talent in the market. They will be the firms capable of making the investments required for future success and sustainability. These are the firms that will be the stand-outs of the future. At this point I should add that recent US data shows that, while the top 100 firms have done rather well in the last few years, there are a handful of truly outstanding leaders pulling away from the rest. That trend will only continue in all markets, including in Australia.

And in this, as in most things, leadership during this change will be critical.

## 2 COMPETITION AND NEW COMPETITORS

Competition is only going to get tougher.

We face a world where not all law firms, as they are today, will survive. Not all law firms will be able to withstand competition from new players, cost pressures, the war for talent and the demands of a technology driven world. My view is that markets generally will not, in the longer term, support the number of law firms that exist today in the traditional mode of the partnership model as we know it. Furthermore, many firms throughout the world may well be overly large, employing too many lawyers.

The days when we looked around our market and could identify our traditional law firm competitors as the only organisations likely to compete with us for clients and work are gone. The first significant and enduring competitive force has been the advent of General Counsel and large, capable in-house legal teams. And the market for legal services now includes the 'new law' providers offering legal solutions via technology platforms. We at Gilbert + Tobin have invested in one of them, LegalVision, a law firm innovating with process and technology, [www.legalvision.com.au](http://www.legalvision.com.au).

Something entirely new is that capital, in the form of technology, is now figuring as a crucial factor of production in the delivery of legal services. Investment capital is being attracted to opportunities to attack the returns currently accruing to labour – this emerging and burgeoning lawtech sector is here to stay, with an exciting array of start-ups looking to do things differently. These new providers will not be selling their expertise but selling solutions to client problems that we have not been capable of solving. Clients are increasingly looking for scalable, efficient, cost effective

and measurable solutions which new law can provide and provide profitably. This is quite different from the traditional law firm partnership leverage model based on billable hours and high hourly rates. And these new law providers are attracting capital, some several hundred million US in 2018.

And what's more, we are no longer as essential as we think we are. We can no longer assume that our success is about our long established brand. We can no longer take for granted that our trusted reputations and our trusted relationships are all we need to prosper. And don't think that professional services, at least in some form, won't be provided by the FANGs or FANG look-a-likes. By FANGS, I refer to the global behemoths of Facebook, Amazon, Netflix and Google who have changed forever many other industries.

Then, of course, there are the big 4 accounting firms. Firms like PwC believe that they will be among the top 20 international providers of legal services in just a few years. They are growing rapidly in Australia, especially PwC.

Many of these new law providers will target what we've come to think of as the commoditised end of the market. That is to say, the kind of work that can be done by almost any lawyer. Most law firms, to lesser and greater extents, operate in this part of the market. Their capacity to compete with new law providers, which will provide faster and cheaper solutions, will most certainly be very challenging.

Many law firms in the world aim to avoid commoditised work by specialising in the work that is complex and demanding. I mean by that, work that is bespoke and of a 'bet the farm' nature and where price is not the client's largest concern. The only problem here is that the number of firms, nationally and internationally, building their practices at this pointy end of the market is large and there is, to my mind, no doubt that supply will exceed demand. Accordingly, to succeed sustainably in this part of the market, law firms have to be very, very, good with excellence and innovation at their centre. This, of itself, may not be enough. Even bespoke, 'bet the farm' work is comprised of aspects that are routine and process-driven and may be better delivered through technology or other, lower-cost providers. In addition, the path of disruption in all industries is for new players to move up from more commoditised to higher value services. No firm or individual lawyer should ever be complacent that their current position at the complex end of the market makes them immune from the changes I've discussed.

### 3 THE IMPORTANCE OF TECHNOLOGY AND INNOVATION

So far as innovation and technology are concerned, we only have to look at what is happening in business locally and globally.

Putting aside the transformational impact on our world of the FANGS and such like, ordinary established businesses are changing and adapting. Businesses that are proactively embracing the new technologies, either through acquisition of online businesses or developing alternative online platform models based on their core competencies, are performing well and will thrive.

Artificial intelligence and automation are creating new business models and fine tuning existing businesses. These new technologies may have been over-hyped initially, but have now gone through the 'disillusionment cycle' and businesses that have persevered with initiatives in these areas are seeing significant efficiency and financial benefits.

Innovation is only increasing in importance. Those businesses that are successful are using the new technologies to create business model transformation and backing it with substantial investment.

This is just the start.

The obvious point I want to make here is that law firms have no choice but to keep up with the market and, for those that do, the impact of technology on the practice of law will be radical. Machine learning, blockchain, artificial intelligence and robotics will change the way we work. Just how quickly this radical change will occur is unclear. Some say artificial intelligence that will completely replace a person is only 5 to 10 years away. PwC predicts that 50-70% of their services will be automated over that time.

Law firms throughout the world are more than just a little concerned about how and when they should approach this technological change and innovation.

On the one hand, no law firm wants to be the next "Kodak, Nokia or BlackBerry" and fail to respond in good time to a fundamental shift in the use of technology in the delivery of our services. On the other hand, some technology development may take years for the full impact to make its mark.

Law firms need to strike the balance between complacency and over-excitement. Some say law firms are better to "sit somewhat on the sidelines" until the direction and

timeframe of a market shifts become clear. Personally, that is not an approach attractive to me. There is too much happening and the delay approach carries material risk of being left behind.

In the meantime and without rushing headlong into this space, there are a number of changes we must engage with. By way of example, law firms are recruiting heads of innovation, hiring digital experts, analysing their processes, deploying limited legal artificial intelligence solutions, launching chatbots, investing in new law start-ups and participating in legal hackathons. My own view is that law firms have no choice but to foster growing enthusiasm for innovation in general and technology-enabled innovation in particular.

All of that being as it undoubtedly is, we should not look at innovation too narrowly.

Often the concept of innovation is thought to be limited to the clever applications of technology. A big mistake. To be innovative is to do no more than to think about what we do and then to think about how we can make change for the better and then implement change itself. While technology is a significant driver and enabler of innovation we should think of innovation more broadly.

We should bring an innovative mindset to all we do. Whether it is innovation in the legal solutions we create for our clients, innovation in our own processes and systems, innovation in recruitment, innovation in developing our people, innovation in brand awareness - the list goes on.

There may be no technology or no new technology involved at all. An imaginative and risk taking approach is a minute by minute requirement. It must be viscerally evident everywhere in our firms and it is essential for setting our firms up for the radical future I have referred to.

#### 4 WHAT WILL LEADING LAW FIRMS AND LAWYERS OF THE FUTURE LOOK LIKE?

Just as the market environment is changing, so is the talent pool. The skills and competencies we expect from our people are changing and will change a lot more.

First, the day of the pure technical lawyer is over. That is not to say we don't need lawyers with strong technical expertise. To the contrary. The successful lawyer of the future must have high levels of technical excellence, very strong legal problem solving and analysis skills, the ability to frame options, make decisions and the like.

As I have tried to make clear, the lawyer of the future will have no choice but to embrace technology. We may not need to be computer scientists, but we will need to know how technology works, understand its potential and know how to use it well.

But that will only keep you at par. To differentiate, lawyers and law firms will need to be able to do more than the technology can do. To take all of the legal and technological data, interpret it and then recommend a course of action will continue to require empathy, human understanding and strong communication skills. Soft skills that are daily becoming more important.

The very successful lawyers of the future will be well-rounded, thoughtful, socially and politically informed people. People who know what's going on in the market and in the world. People who deeply understand their clients' challenges within the broader societal, regulatory and political context. People who embrace, understand and are connected to the modern world.

Increasingly, clients will look for advisers for their acute market, political and social insights. Businesses large and small are grappling with those challenges and they will increasingly look to lawyers with these broader and deeper capacities. In short, people of wisdom.

And to use that now famous buzzword, our firms will need to be agile and highly adaptable. In an environment of such rapid change there is no alternative but to be continuously growing, learning and adapting. Successful lawyers of the future will probably be people whose first instinct is to think outside the box and who constantly challenge traditional thinking. Very importantly, these people will want a different kind of professional contract with their firms. No longer is the divide between law firm partners, employed lawyers and other staff as it once was. These people know only too well their importance to the success of our firms. They want openness, they want transparency, they want autonomy and they want to be empowered.

Most, if not all of these wants, have been unavailable in the traditional law firm environment. The world where law firm partners maintain a helicopter presence in the working lives of their staff is over and is no longer acceptable. The question should not be "why should we tell our staff that?". Rather it should be "why shouldn't we tell our staff that?". This is not easy for partners who have taken a traditionally conservative approach to people management, legal services and legal risks. How to manage and lead our law

firms in what is being referred to as this “New Power” environment is going to require a significant change in mindset and culture.

I should also add that many of the successful client service professionals in law firms of the future will not be lawyers at all. Law firms will be hiring people with more diverse skills and training than has traditionally been the case. These will include project managers, engineers, scientists, data analysts, social and digital entrepreneurs as well as lawyers and law graduates. The world’s leading consultants, such as McKinsey, Bain and BCG, are doing just that today.

The big 4 are doing the same.

## 5 WHY IS IT THAT TRUE PROFESSIONALISM STILL MATTERS?

The first part of my talk today was about the business of law and the importance of thinking about law firms through a business lens. Nothing I am now going to say is a departure from that view.

That said, we are first and foremost professionals with the obligation and duties of professionals.

As society becomes progressively disrupted, our role in society should become more important than ever. As income and wealth gaps within our communities widen and as technology breaks down barriers, people who feel that they do not benefit from these changes are becoming alienated and disaffected.

In much of the world today trust has dissipated. The rise of fake news and the proliferation of social media have made information, accurate and inaccurate, both immediately accessible and convincing. All this has compounded the growing distrust of government, business, the media and those such as lawyers who are an integral part of this societal makeup. Business especially big business and everyone associated with it are on the nose. None more so than bankers. One outcome that we have seen in the U.K., Australia and elsewhere is an encouragement to populist governments to further regulate business and interfere with markets.

As I say, politicians are struggling with these growing divisions. In the process, our society is somewhat reduced and with negative consequences to stability and the rule of law.

And lawyers are not free from criticism either. In many quarters we are seen to be the handmaidens of big business.

While what to do about this is not immediately clear, we must remember that traditionally we lawyers have in some sense had the role of public official. We have to stand up for the best that is civil society, we have to stand up to bad government policy and we have to continue to defend those without access to our systems of justice.

If we lawyers are to have any chance of defending our standing as true professionals protected and recognised by status and privilege, then we have to be outstanding corporate citizens and be seen to support our communities. We have to be people who grab hold of, cherish and strengthen the very best of our professional standards, legacies and ethics. And we should do this, not just out of self-interest, but because it is the right thing to do.

We need to remember that our role as professionals is more than just serving the interests of our clients. We have overarching obligations to the rule of law and to the inputs of what it means to live in a just society. Historically the legal profession has been a guardian of trust in society, trust in the way markets operate, trust in the rule of law, trust in the protection of freedoms and civil liberties and trust that, with our fiduciary obligations to clients, we will subjugate our own interests to those of others. Of course, many would say that we have failed to live up to those ideals.

We have to remind ourselves that we are not separate from society but a key part of it impacting our staff, our clients, policy and politics. We have some of the smartest people with incredible expertise at our fingertips and knowledge built up over centuries. We are perfectly positioned to contribute to solving the many challenges which the world will face in the decades ahead and to rebuild trust in the rule of law and the institutions that form the bedrock of our societies.

If we can play these bigger roles then our staff will be engaged with us, as will be our clients and the broader community. It is my strong view, these attributes are key to the maintenance of our status and standing as independent professionals. And so we must do much better.



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