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# The Rise of Super- Elite Law Firms: Towards Global Strategies

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## The Rise of Super- Elite Law Firms: Towards Global Strategies

### SUMMARY

*This paper reviews the pressures towards globalisation reshaping the corporate law sector. It uses Yip's [1996] framework of global industry drivers. The dominant view has been that the globalisation potential of the legal industry is low since there are few global legal products and many regulatory differences between markets. However, within the corporate law sector, strong regulatory differences between countries are outweighed by the combined impact of market, competitive and cost drivers. Our evidence shows that the balance of industry drivers is towards there being benefits to the pursuit of global strategies within this sector. In practice, a small number of very large corporate law firms are implementing global strategies in pursuit of specific sources of future competitive advantage. Thus a small 'super-elite' of globalising firms is emerging.*

Key words: corporate law firms; globalisation; global strategies

## The Rise of Super- Elite Law Firms: Towards Global Strategies

Many managers are asking if they are in a global industry and whether their business should have a global strategy. The better questions to ask are: how global is their industry and how global should their business strategy be? [Yip, 1996: 1]

### INTRODUCTION

In the 1980s international law firms had international offices, but not an international strategy and certainly not a coordinated global strategy. Whereas internationalisation implies a presence in non-domestic markets with no integration necessary, a global strategy 'takes an integrated approach across countries...' [Yip, 1996: 10]. This distinction between international and global is significant. Corporate law firms have experienced rapid globalisation relatively recently [Brock et al, 2006; Morgan & Quack, 2005]. While large law firms had been international for decades, the shift from an international law firm to becoming a global law firm is more recent [Trubeck et al, 1994; Chang, Chuang & Jan, 1998; Beaverstock, Smith & Taylor, 1999 & 2000].

In order to understand the globalisation potential for the corporate legal sector, we use the interpretive framework of global industry drivers [Yip, 1994 & 1996]. "There are many different types of industry globalisation drivers: market, cost, governmental and competitive. Furthermore, in any given industry some individual conditions ... may favour the use of global strategy and other conditions may not. Thus industries will have globalisation potential on multiple criteria." [Yip, 1994: 530]. This framework therefore indicates the potential for an industry to become global, depending upon the balance of factors within these four industry-level drivers. Yip [1994] describes this as a 'contingency' approach to global strategy.

This paper argues the following set of connections: global industry drivers impel competitive change in that industry which, in turn, triggers the need for new strategies. This enables us to address Yip's questions: how global is the corporate legal sector and how global should the business strategies of law firms be? If the globalisation potential of this industry is shown to be low, then a strategy of internationalisation with a series of multi-local national offices in a variety of countries would best

suit; an integrated global strategy would be unnecessary and law firms attempting to operate a global strategy would be competitively disadvantaged within their sector. Should corporate law firms pursue global strategies? This is the issue this paper seeks to explore.

## WHAT IS A GLOBAL LAW FIRM?

In law journals [e.g. Aronson, 2007; Thomas, Schwab & Hansen, 2001] the commonest way of defining a global law firm is by numbers of offices overseas. However, from a strategic perspective, that simply defines the firm as international i.e. operating from offices in a variety of different countries. Obviously having a presence in a number of different countries is a necessary but not a sufficient condition for globalisation. Becoming a global law firm is about attempting to coordinate intra-firm activities in an integrated way. If effectively implemented, this enables a globalising law firm to develop a consistent approach to cross-border service delivery, such that both clients and professionals experience a seamless process in all countries and offices. It is this strategic and operational attempt to achieve such cross-border consistency that makes it a global firm attempting to implement a global strategy. Segal-Horn & Dean [2008] call this process achieving 'effortless experience'. They argue that the implementation of global strategies by corporate law firms therefore relates to internal firm processes and not to legal products.

## INDUSTRY CONTEXT

It is easy to underestimate the difficulties of expanding internationally. As recently as the 1990s the very concept of Anglo-Saxon firms opening abroad was alien to many in other legal jurisdictions. For example, the French bar rules on foreign firms setting up were fiendishly complicated and most law firms operated under strict rules of no advertising whatsoever [The Lawyer, 2007]. Within the legal services industry only very large law firms (i.e. corporate law firms) are pursuing global strategies by means of national and cross-border mergers and acquisitions (M&A) [Morgan & Quack, 2005] and extensive international diversification [Brock et al, 2006]. Industry consolidation and concentration is creating much larger international firms that are expanding, by acquisition and international network-building, into new markets. Even when some new markets such as India remain closed, 'many British and American law firms have set up "virtual" Indian practices based in London, Dubai, Hong Kong or Singapore, or forged "best friends" alliances with leading domestic

firms to refer work in and out of India' [The Economist, 2008]. Another growing industry trend is towards the off-shoring and outsourcing of support services [Angel, 2007]. For example, the world's biggest law firm (by turnover) UK-based Clifford Chance achieved savings in business costs in 2004-2005 of £40million, including savings by outsourcing document production to India [Legal Business, 2005: 47].

As Aronson points out, there is 'no universally accepted data on law firm mergers' [Aronson, 2007: 14]. However, these trends are endorsed in many different industry commentaries such as Hildebrandt International [[www.hildebrandt.com](http://www.hildebrandt.com)] which tracks all US law firm mergers involving more than five lawyers and Smith & Williamson's [2005, 2008] Annual Surveys of Law Firm trends in the UK. Industry concentration in the UK is illustrated by the proportion of total revenue (29%) earned by the four largest firms from the top 100 [The Lawyer.com, 2005], and Morgan & Quack [2006] point to industry convergence. Data on expansion into new markets is most usually presented via number of lawyers (or offices) based outside the home country. For example, the largest four UK law firms have between 45% and 65% of their lawyers based abroad [Aronson, 2007: 39]. Previous studies provide evidence that senior managers within such law firms perceived continued international expansion as a defensible and advantageous strategy for corporate law firms [Spar, 1997; Silver, 2000; Segal-Horn & Dean, 2007]. Illustrative evidence of the potential advantage of an international growth by acquisition strategy may be seen from the newly-merged DLA Piper Rudnick. Immediately post mega-merger in mid-2005 it acquired a group of 77 lawyers from Ernst & Young's Russia practice, which instantly gave it the largest law office in Moscow. By mid-2006 it had become the world's second largest law firm by number of lawyers with 3100 lawyers in 22 countries. (For this and other illustrative firm data see 'Twenty Years of The Lawyer', 1987-2007, [The Lawyer.com, 2007]).

The two dominant global law firm clusters are headquartered and parented in the USA and the UK. These are the two largest legal jurisdictions and legal markets in the current world market [Brock et al, 2006: 476-7 and 480ff.]. Indeed within The Am Law 'Global 100' list of top global law firms, the highest non-US/UK entry ranks 73<sup>rd</sup> and is Canadian [The American Lawyer on the Web, 2007]. As Aronson [2007] points out: 'Despite American firms dominating the Global 100 generally, the

English 'Big Four' firms (i.e. Clifford Chance, Linklaters, Allen & Overy, and Freshfields) occupy four of the top six positions by revenue and English firms occupy five of the top seven spots by number of lawyers' [Aronson, 2007: 37 footnote]. English law and United States law form the basis of much international law and the UK and US corporate law firms dominate the current provision of multi-local legal services, often using local lawyers skilled in local legal systems in local-for-local provision. This current US/UK international dominance derives largely from similar core business advantages e.g. widespread use of English language and English language legal documentation, expertise in financial markets, expertise in sophisticated financial and M&A transactions, and importance of global clients.

'Elite' law firms are defined by Aronson [2007: 25] as: 'firms that provide general legal services to large corporations (i.e. are not 'boutique' firms) and use specialised skills to handle, large complex matters on a national scale for these clients'. The 'first-tier' law firms are a small group within the elite firms that have established reputations for expertise in important areas such as M&A, commercial litigation and capital markets. Okamoto [1995] discussed segmentation among law firms based on reputation. He labelled the top 50 US firms as the high reputation group. This roughly corresponds to Aronson's 'elite' group. More significantly, Okamoto discussed the existence of a 'super-elite' of four or five firms. This mirrors Aronson's concept of first-tier firms within the elite group. Okamoto's 'super-elite' label best describes the group from which our interview firms are taken.

Since the deregulation of US and UK financial markets in the 1980s [Shapiro, 1993; Flood, 1995; Ramcharran, 1999], many professional service firms (PSFs) have been undergoing internal changes. With the increase in scale and cross-border scope of the super-elite firms, their traditional professional partnership structure has come under great pressure. Larger firms have changed from decision-making by partners within a hierarchical professional partnership structure towards becoming multinational service businesses [Greenwood & Hinings, 1993; Greenwood & Empson, 2003; Pinnington & Morris, 2003]. Most have now adopted the Limited Liability Partnership (LLP) structure as part of a set of changes in structure, ownership and governance. New types of IPSF organisation more suited to the complexity of cross-border operations and service delivery have

developed. This restructuring occurring within large globalising law firms is captured by Brock's [2006] conceptual analysis. He identifies a third type of PSF organisation which he calls the Global Professional Network (GPN) which, as the name implies, describes PSFs pursuing global strategies.

Our research explores the factors driving these dramatic changes.

## LITERATURE REVIEW

This paper focuses on the evidence for industry-level drivers of globalisation in order to explain the pursuit of global strategies by corporate law firms. We organise our literature not in terms of disciplines but in terms of an explanatory approach to the topic.

Therefore the discussion considers supply-side and demand-side factors affecting the globalisation of PSFs and law firms through research in the following domains: international and global strategy; the internationalisation of PSFs; and law firm research. The implications for the feasibility of the rise of globalising law firms are then considered.

### *Supply-Side Issues*

Much of the international and global strategy literature concerns aspects of globalisation and in particular the industry characteristics (e.g. potential economies of scale or economies of scope) that determine the shift from international to global industry structure [Porter, 1986; Yip, 1996 & 2005]. In the last twenty years service industries have become concentrated, international and capital-intensive rather than fragmented, local and labour-intensive [McLaughlin & Fitzsimmons, 1996; Nachum, 1998 & 1999; Grosse, 2000; Aharoni & Nachum, 2000; Løwendahl et al, 2001; Reihlen & Apel, 2007]. World market leaders have been created in most service sectors including professional services such as law, accountancy and surveying [Løwendahl, 2000; Brock et al, 1999]. Many sectors resemble oligopolies, albeit with a long 'tail' of smaller firms as local providers in most markets [Segal-Horn, 2005]. This implies a development pathway from local/national industries with little international presence to high proportions of international business with the emergence of a few industry-dominant firms [Morgan & Quack, 2005]. On the supply side, pressure has arisen from high costs, professional staff recruitment and retention problems, pressure on fees, and the



changing nature of competition [Aharoni & Nachum, 2000; Hitt et al, 2006]. This mirrors the changing industry characteristics of the corporate legal sector.

As industries became less geographically concentrated, the need for greater coordination across geographically dispersed activities becomes more important as well as more possible, due to modern technologies. As Porter [1986: 56] commented: 'Today's game of global strategy seems increasingly to be a game of coordination...Successful international competitors in the future will be those who can seek out competitive advantages from global configuration/coordination anywhere in the value chain, and overcome the organisational barriers to exploiting them'. Such coordination is achievable through ever more sophisticated information and communication technologies. They provide an additional source of potential advantage to firms able to develop systems and capabilities for cross-border coordination. Susskind [1996 & 2008] argues that technology will have a decisive impact on the methods of providing legal services and that elements of lawyers' work could be undertaken differently - more quickly, cheaply, efficiently, or to a higher quality using alternative methods of working such as less costly back-office lawyers supported by technology or standard processes.

One of the most common reasons for firms to expand outside their national markets and begin to become international is the saturation of their domestic market. For law firms this argument has taken more particular forms. Supply-side explanations for the rapid growth of corporate law firms include Gilson & Mnookin [1985] who argue that law firm growth allows an expanded business portfolio to ensure the best use of skills and expertise (human capital) that the firm has accumulated. They also make a further argument for growth that sees size of firm as a market signal and a proxy for firm reputation. Such 'reputational signalling' is intended to attract not only clients but best new entrant lawyers as associates, as well as lateral hire partners. Similarly, in a large-scale study making international comparisons, Aronson (2007) provides merger data from the following five countries: US, UK, Germany, Australia and Japan. He uses the merger data to illustrate the acceleration of law firm growth (including international growth) through mergers, from the mid-1990s onwards. Since firm quality is hard to measure, law firms compete largely on the basis of reputation, for which size is a proxy. Industry consolidation and changing market conditions

have intensified law firm competition. Many law firms engage in defensive mergers due to the fear of losing existing clients. He sees international mergers as about reputational competition between first-tier firms and their reputational signalling to clients in the market. By contrast, Galanter & Palay [1990] explain the growth of large law firms as a necessary condition for providing promotion-to-partner opportunities within an ever-expanding firm. In other words it is a mechanism for retention of the best professional staff. More recently this issue has been exacerbated by the use of fully-qualified lawyers as back-office legal support staff who work on research and on development of legal documents and by the growth of non-equity partners (i.e. salaried only) who have no entitlement to partnership reward based on equity holdings [Denney, 2003].

### *Demand-Side Issues*

In most service industries, including professional services, the initial push for global strategies has been demand-led. Many global clients require professional services to be provided in all the countries in which they already have a presence [Brock et al, 2006]. For example, Løwendahl [2000] describes two common types of global clients as follows: those with centralized decisions and/or activities; and those who demand consistent services at multiple sites. PSFs in accounting, financial services, advertising and management consultancy have begun to reorganise themselves to provide services on this basis [Daniels et al, 1989; Terpstra & Yu, 1998; Kipping, 2002; Freeman et al, 2007]. As major clients have reorganised across borders they have exerted influence for similar structural and organisational changes in their service providers. Corporate law firms, both following their clients and as a defensive move against competitor firms poaching their international clients through offering superior 'one-stop' service availability, are developing global strategies for increasingly globalised clients.

However, Thomas, Schwab & Hansen [2001] argue that the most significant demand-side factor for law firm growth and global strategies is the size and complexity of client projects dealt with by the super-elite firms and that such mega-projects are the key to understanding explosive law firm growth. The firm needs to be large enough both to attract, and to carry out, very large cross-border projects. However, there is an alternative strategy for carrying out such mega-projects as practiced by Slaughter & May, the only super-elite UK firm to remain non-global and instead pursue an

international strategy. They practice a 'best friends' approach to meeting client mega-project needs, by means of a system of alliance network partners with whom they work.

Smith & Williamson [2005:2] shed some light on the preference for expansion by the 'best friends' approach for US law firms expanding within Europe via the UK, which acts as a bridgehead to Europe. 63% of respondents thought the most likely approach was for US firms to set up branches in the UK. Only 17% expected a 'best friends' approach. By 2007, 90% of participants expect to see the level of merger activity increase [Smith & Williamson, 2008:3].

### *Global Strategy Feasibility*

Therefore, the globalisation of the marketplace for professional services is a combination of supply and demand factors. Angel [2007: 200] captures the extent of the changes: 'There is a tendency to underestimate what the UK-headquartered firms achieved over a mere five-year period, driven by the restrictions of their domestic market and the globalisation of their clients.'

Having explored the supply and demand factors that provide insight into the changing industry structure of the corporate legal sector, the next stage is to consider their impact on the firms within that sector. All firm strategies (competitive, corporate or collaborative) are about how firms respond to their understanding of industry and market conditions. We need therefore to move from industry context to decision-making by the firm. Bartlett & Ghoshal's [1989: 218] 'integration-responsiveness' grid enables us to do that. It is about the relationship between the structure of an industry and the suitability and feasibility of strategies of firms within that industry and is based upon the tension between global integration and need for local responsiveness in a particular local market [Prahalad & Doz, 1987; Bartlett & Ghoshal, 1989; Bartlett et al, 2004]. The point is that for a purely local industry there are no benefits available to firms from global integration. However, as industry characteristics change towards including more global elements (such as more global clients requiring cross-border delivery of services or economies of scale derived from global procurement) the benefits to firms from global integration increase. Therefore as an industry or sector acquires more global characteristics, the firms within such sectors acquire stronger incentives to pursue global strategies from which they perceive potential benefit.

How global industry drivers should map onto the 'integration-responsiveness' grid is that a high need for local (market) responsiveness translates into a low need for (firm-level) global strategies and global integration within the firm. If the dominance of factors from the industry is towards 'local responsiveness', as is the case for products within the legal sector, then normally this should predict a low need for globally integrated strategies for law firms. Since legal jurisdictions remain so different there is a high requirement for national responsiveness in legal services. Why therefore are the super-elite legal firms investing in global strategies? [Shapiro, 1993; Flood, 1995; Silver, 2000; Brock et al, 2006; Angel, 2007].

## RESEARCH QUESTION

The literature supports the existence of industry globalisation drivers in the super-elite corporate legal sector. However, currently the literature does not identify them. Identifying the relative significance of these industry globalisation drivers would provide an explanation of the rise of the global law firm and why the majority of the super-elite firms are becoming global law firms and are implementing global strategies and also why the other firms have not.

Our research question therefore is simple: what are the industry globalisation drivers affecting the corporate legal sector?

## METHOD

### *Data Collection*

This study uses qualitative case-based research which is commonly the approach taken in empirical studies of globalisation in the service industries [Greenwood et al, 1999]. Since research on the globalisation of law firms from a strategic management perspective [e.g. Brock et al, 2006; Hitt et al, 2006] is limited, we regarded an exploratory approach as the most promising. Our research design was not hypothesis-testing and the results are not statistically significant. We sought rich data. The most appropriate method to achieve this was in-depth personal interviews [Jones, 1985]. Our interest was in discovering from the perspective of the industry participants what macro-environmental, industry and market changes had occurred in the last ten years (the time period most respondents regarded as relevant). From these responses we inferred current industry

characteristics. We then explored the impact of these industry characteristics on the firm strategy, structure and organisation.

Although one interview was carried out with a US lawyer at a US law firm operating in London as part of contextual triangulation of issues, the data used in this paper are solely from UK firms. We have sought to control for UK / US differences by focusing on UK firms. This controls for the different historic practices between UK and US firms, such as different remuneration policies: 'lockstep' (i.e. seniority-related in the UK) versus 'eat-what-you-kill' (i.e. based on value of fee income in the US). Our approach is supported by Brock et al's findings [2006] of different patterns and different prospects between UK and US law firms in their international expansion. The data relate to the top tier of the UK legal PSF industry, namely super-large international corporate law firms which we have called the super-elite, all of which have numerous international offices. Their clients are themselves large corporate organisations such as international banks or multinational corporations that require global service delivery of professional services. Purposive sampling of firms was used in firm selection. The firms constitute 30% of the relevant strategic group recognised by the industry as 'first-tier' [Aronson, 2007] or 'super-elite' [Okamoto, 1995]. Specifically, our data are drawn from three super-elite UK law firms out of the top 10 of the Legal 500 [Legal500.com] which ranks UK law firms by partner numbers, profit-per-equity-partner (PEP) and gross revenue. In the three firms, in 2007, each firm had in excess of 500 partners and one had in excess of 600 partners; the percentage of fee earners outside the UK is between 60% to 67% for all three firms; profit per equity partner (PEP) ranges from £714,000 per year to £1,152,000 per year; and the three firms had offices in twenty to twenty-four countries each. On the basis of these firm characteristics, the legal sector itself defines these as global firms.

Pilot interviews were used to clarify potential interview questions. Snowball sampling was used in the selection of interviewees. The three firms questioned provided enough interviews (twenty five) until the interviews generated no further new relevant information. Within each firm we had access to a spread of interviewees from the managing partner, at least one senior partner, partners, associates and non-legal professionals (e.g. Directors of HR, leader of Strategy team, etc.). Junior associates were under-represented. Our interviews focused on those in each firm with

responsibilities for developing and implementing strategy. However, in addition, for triangulation purposes we also interviewed non-UK partners of UK firms (German, Swedish and Spanish), as well as clients (who were themselves legal professionals) in order to verify data given by other interviewees and fill gaps. In-depth semi-structured interviews [Yin, 2003; Lee, 1999] were conducted jointly by both authors: a minimum of seven interviews in each firm. The interviews were guided by a short series of topic questions identified from the experience of other PSFs, a survey of articles in the financial and trade press (e.g. *The Lawyer*, *Legal Week*, *Legal Business*), and the literature on professional service firms and the internationalisation/globalisation of service industries. The questions we asked were open-ended. We gave no prior definitions of terms but recorded meanings as stated by respondents. Some lawyers had a view of global as meaning geographic global coverage but all senior members of interviewed firms made a clear distinction between international and global. A phrase often used by respondents was: 'let me tell you what I understand this to mean...'

All interview data are treated as confidential and anonymised. All interviews were recorded and transcribed. Each interview lasted between two and two and a half hours, generating over 1000 pages of transcript in total. Content analysis [Krippendorff 1980] of the interview transcripts was carried out initially to identify themes and then responses were sorted, colour-coded and tagged by theme. Content analysis was conducted independently by both authors. The authors then compared their independent analyses. Inter-rater reliability was above 90%. Inter-researcher differences were resolved through discussion and reference back to the transcriptions as suggested by Miles and Huberman [1994]. Rating the significance and relative importance of each of the individual sub-themes of each driver and of the four drivers themselves are based upon the statements of the interviewees.

To test internal validity we used 'moderation' in the form of feedback from other firm respondents. This took the form of internal seminars given by the researchers followed by roundtable discussions on the preliminary analysis. Company websites, documents and accounts in the public domain were also reviewed. External validation of our interpretation of data was derived from wider industry sources including articles and commentary in the legal trade press and available industry statistics.

Finally, a range of academic and industry experts were consulted at American and English bar association conferences and specialist academic workshops.

### *Application of Yip's Interpretive Framework to the Data*

The data are deliberately not presented in a table, as is more usual for qualitative research. Instead, we have organised the themes that emerged from our transcripts into individual topic points using Yip's [1996: 12] basic 'Industry Globalisation Potential' framework. This framework explains industry globalisation potential i.e., the potential to benefit from the pursuit of global strategies in terms of four sets of globalisation drivers: market, competitive, cost and government/regulatory. The framework is relevant at the stage of international development within an industry when differences between national markets, product or service design or customer groups start to diminish.

Globalisation (i.e. integration of strategies and operations across national boundaries) then becomes relevant. The four drivers are derived from the business, competitive and macro-environments which means that they are exogenous to the firm and not controllable by the firm. All firms can do is understand them and build appropriate strategies for responding to them. Yip [1996] makes it clear that there is a distinction between 'industry globalisation drivers' which are 'externally determined by industry conditions or by the economics of the business, and 'global strategy levers' which are choices available to managers. 'Taken together, the four sets of drivers incorporate all the industry conditions that affect the potential for globalisation' [Yip, 1996: 12] and understanding them enables managers to judge whether the industry conditions exist for firms within that industry to benefit from pursuing and implementing global strategies. The comparative strength of the drivers will determine the appropriateness of different firm strategies along a spectrum of global to local.

We briefly define each of the four drivers. Market drivers include: common customer needs and global customers, customer behaviour and style of marketing, which in legal services is based upon reputation. Competitive drivers include: the rise of new competitors, development of new markets and general behaviour of competitor firms, and competitors' use of global strategies. Cost drivers include: push for economies of scale, accelerating technological innovation, changing costs of international division of labour and other elements of the industry value chain and cost structure of doing business. Government/regulatory drivers include: rules set by national governments,

regulation or liberalisation of terms of trade and shifts between closed and open economies creating potential new markets.

Every industry has a globalisation potential determined by these sets of drivers. This framework has been widely accepted as a means of analysing the globalisation potential of an industry at a given point in time [Johansson & Yip, 1994; Greenwood et al, 1999]. From the perspective of managers, if such an analysis shows a preponderance of inhibiting factors then they should question the appropriateness of a global strategy in that industry at that time. We return to the quotation at the start of this paper: ‘how global is their industry and how global should their business strategy be?’ [Yip, 1996: 1]. In response, this paper organises the business, competitive and macro-environmental factors affecting, and identified by, the corporate law sector into an explanation of the sector’s globalisation potential using Yip’s four dimensions. This enables us to explain why, despite the continued high requirement for specific national legal products for specific national markets (jurisdictions), this super-elite class of firms are investing in global strategies.

## FINDINGS AND IMPLICATIONS

*[Comments in italics below are direct quotations from the interview transcripts which are included to give some indication of the nature of the primary data.]*

### *Nature of Findings*

We focus here at the industry level rather than the firm level of data and analysis. From our data we identify the global drivers within the corporate legal sector. Figure 1 captures and summarises the interview firms’ perceptions of the external environmental pressures impacting on their sector. It represents a systemic view of the range of forces operating across Yip’s four dimensions: market drivers, cost drivers, competitive drivers and government/regulatory drivers. Figure 1 illustrates why globalisation strategies may be a suitable response to these pressures.

INSERT FIGURE 1 HERE

Global Industry Drivers affecting the Corporate (“Elite”) Legal Sector



Each of the four dimensions contains its relevant set of topic points from the data. To each topic point we attach a descriptor of 'E' (enabler) or 'I' (inhibitor) indicating whether it acts positively or negatively on the potential for globalisation (and hence global strategies) within this sector. It may be useful to note that the most powerful 'Inhibitors' are within the government/regulatory driver, whilst the overwhelming proportion of 'Enablers' for globalisation are within the competitive and market drivers. From a strategic viewpoint, in the design of their strategies firms are most likely to focus on strategies for avoiding or counteracting 'Inhibitors' and for exploiting 'Enablers'. We now discuss each of the drivers in turn and evaluate its impact on the globalisation potential of the sector.

### *Market Drivers*

Our data identify five market drivers: two relating to the client and three relating to the nature of client work. Regarding the client, there is a growth both in the number of international clients and also in the proportion of work that this represents within the firm's portfolio. Secondly, there is a step change in client expectations concerning service levels. There are many things that clients expect to see that represent common customer needs across jurisdictions, including 24/7 availability, and rapid professional response and turnaround of work.

*We've got clients who expect something done by seven in the morning and therefore that means people have to work overnight to do it...We have quite a lot of evening secretaries working till midnight...then documents will be sent to New York so they're back for eight o'clock in the morning our time, ...technology is 24/7, it has to be...We have catering available twenty-four hours a day; security is here because people may turn up at any time to decide they need to start work.*

*There's a lot of shift work...which nobody really thought about twenty years ago.*

Firms are perceived to require considerable expertise in the management of cross-border deals and management capability in managing very large projects, such as the availability of professionals with skills and experience for international teams, complex problem-solving and coordination across multiple locations. Clients increasingly select professional advisors on this basis.

*...the client says "I want a consistent service around the globe. And if I've got to deal with seventeen different countries and seventeen different law firms, that's a problem; so I'll deal with one law firm and its then their problem to find [and manage] the sixteen others".*

Regarding the nature of client work, the volume of cross-border transactions and the size and complexity of international projects are all increasing.

*...acting for a German bank lending money to a Belgian company where the assets securing the loan were in Sweden.*

All predictions were that this growth would continue. Even relatively small clients are generating more cross-border transactions.

*I find it almost impossible now to find a file for a client that does not cross a border; and that's either because of the subject matter or because of the parties involved.*

The data suggests that the needs of clients around the world are increasingly similar e.g. a focus on the quality of the service delivery. Thus the emergence of a global client should be seen in terms of cross-border service levels and not just cross-border projects.

The four market drivers discussed so far are all characterised as 'Enablers' acting positively on the potential for globalisation. However, the fifth market driver is an 'Inhibitor', acting negatively on globalisation potential. That is because in addition to being able to meet the international needs of clients, law firms are nevertheless still expected to be able to satisfy the needs of their local clients in each jurisdiction. Most firms therefore also employ local lawyers with local knowledge to work both on local jurisdictional aspects of cross-border projects and also local matters for local clients. Nevertheless the proportion of local-only clients with local-only matters is declining within the client base of these super-elite firms.

*The most domestic of transactions is probably dealing with real estate. It's a piece of land in that country. But today it's likely to be that we are acting for a company owning it that's actually resident in another country from where the piece of land is, and selling it to a resident of another country, and it being financed by a bank from another country and investors. And suddenly you find you've got six different legal systems you've got to cover.*

The relative proportion, and the absolute volume, of cross-border work, plus the range and complexity of projects are all increasing and expected to continue to increase in both volume and value. In addition, client assumptions about service levels such as speed, expertise and project management across borders are now all taken-for-granted. These firms now have a range of clients with similar requirements who are themselves already global firms and that have common customer needs and who purchase on a global rather than local basis. The evidence therefore suggests that the market drivers are strong 'Enablers' in the drive towards globalisation for this sector.

The 'Inhibitor' of a continued requirement for a degree of national response is not a powerful inhibitor for this specific group of law firms. Purely domestic clients have few reasons to pay for their services and are a declining proportion of their client base.

### *Competitive Drivers*

There are many different types of competitive drivers operating. Our data identify eight competitive drivers: four drivers concern the changing competitive structure of the industry; the other four drivers concern the competition between firms for resources and clients. Regarding the competitive structure of the industry, we see concentration levels of firms increasing i.e. fewer, larger firms. This is fuelled by a second factor, the occurrence of a high level of merger activity in the sector, both in domestic markets to create larger domestic firms and also cross-border as the large firms acquire each other to increase the capacity of their networks, their numbers of staff and their access to markets. Interviewees also expressed concern about the build-up of skills in China, Japan, India and Australia which would gradually start to assume a greater proportion of the market.

All lawyers commented on the increase in the intensity of competition for clients. Such practices as 'beauty parades' in bidding for client work, even with long-established clients, have become the norm. 'Beauty parades' are the practice of clients using panel reviews to choose a law firm for large projects. A small number of firms are invited to participate. It is similar to established film stars being required to audition for a part. This is indicative of the shift of power from PSF to client and also of the degree of competitive pressure between a few firms bidding for lucrative international project work.

*So that's really quite different to what you were seeing five or six year ago, when it was all about, we've got a deal we want to do, are you the best firm to do it? Show us why you're*

*legally competent and your people are highly skilled and have special expertise in this area. Now it's much more about, you can fight for a place in one of three or four firms on our global panel, what are you going to give us in return? We want a good deal, we want extra-value services, and we want to be able to stop doing certain things.*

Regarding the competition between firms for resources and clients, there are four aspects to this: pressure on fees; pressure on remuneration; pressure on recruitment and retention of professional staff; and pressure to demonstrate cross-border capabilities. Changes in the competitive structure of the industry are also driving the competition for resources and clients. The impact of US firms entering the European markets has been felt in the 'Americanisation' of non-US firms in terms of billing, management structures, how profits were shared within the organisation, on working methods, and on the standards of service that clients expect e.g. rapid response times and 24/7 professional availability. A particular competitive pressure arising from the growth in the entry of US law firms into the UK and European jurisdictions has been on remuneration, recruitment and retention.

*We have seen it mostly in terms of salaries, in terms of firms having the ability to get hold of the best candidate because the American firms have come in and doubled the salaries in an attempt to entice away the best candidate, which has resulted in the UK firms having to put up their salaries.*

Interviewees commented on the difficulties of retaining staff and expectations of high staff turnover. This has led to an increase in lateral hires at both associate and partner level but also to further problems of retention and motivation.

*It's not unusual for our London associates turnover to be 25% a year. That is not unusual; all big firms will suffer from that. But we supplement it by laterally hiring qualified staff from other firms...We recruit at partner level laterally; that's very much cherry-picking an individual.*

Possession of cross-border capability has become much more important to clients in choosing their legal services provider. Incumbent law firms have experienced competitive pressure to develop cross-border capabilities as a defensive move to protect existing markets against new entrants i.e. to prevent other law firms who already have international capability from acquiring their client base.

*We were under pressure to support our clients in their efforts in Europe or run the risk of losing them because if we couldn't support them then they would find someone else to act for them who would then have an opportunity to support them in the UK and we would lose our client base.*

*We decided we had to have a credible European capability.... it was a defensive move to prevent firms in the UK who did have that capability getting hold of our clients when they wanted to do work in Europe.*

It may be noted from Figure 1 that all the eight competitive drivers are 'Enablers'. The evidence therefore suggests that the competitive drivers push strongly towards potential for globalisation for this sector. All the competitive pressures are pushing hard to encourage these firms to create some competitive space outside their crowded domestic markets in response to stronger, larger competitors in both their domestic and international markets. The large amount of merger activity is largely driven by the need to build a strong market position to defend existing business against competitors and to build a resource-base to service international projects.

### *Cost Drivers*

Our data identify four cost drivers: economies of scale; outsourcing and off-shoring; costs of integration; costs of market development. The first two are strong 'Enablers'; the third has either 'Enabler' or 'Inhibitor' qualities depending upon existing levels of investment; the fourth is an 'Inhibitor'. The cost drivers are largely driven by the market and competitive drivers. For example, meeting client expectations (market driver) concerning international project management capability (competitive driver) has cost implications, which must be absorbed by the firm because pressure on fees is harsh, meaning that clients do not want to pay the bill for capability investments through higher fees.

Cost benefits from scale economies are derived from many areas. Merger activity to build larger cross-border firms feeds into the ability to benefit increasingly from economies of scale.

*We have global business planning, global budgeting, global reporting and then going more onto the operational side that backs up the strategy we are moving to centralisation of back-office functions, global procurement ...*

*In terms of global procurement we can do global air travel, we can do global systems, global telephones. Wherever we can get a global deal with a global provider, we'll take a global view, because we've got purchasing power.*

Outsourcing and off-shoring are used increasingly as a means of managing costs at competitive levels e.g. in key production areas such as document production which is now commonly sourced offshore. Off-shoring is used more commonly than outsourcing because it enables quality control to be retained within the firm.

*Partly in reaction to clients' insistence that we are seen to be efficient in terms of what we do, ...we also have invested in 24/7 operation, ...ten years ago we would have 100 to 150 secretaries working through the night on document production. We now have a system where we rotate around the globe...we use the same resource in New York to help produce documents for London, then we go round the sun until it finishes up in Asia. And we've started to locate some document production in India...We can do that because we have a global scale of document production, we've got requirements from all over the world.*

The third cost driver relates to investment in the internal integration and coordination within firms to effectively carry out cross-border activity. These investments (such as integrated HRM, IT, knowledge management (KM) or finance systems) are expensive. 'Best friends' international strategies requiring little integration are much cheaper. Currently there is industry data that shows that law firms which are not globalising but are meeting international client needs via partnership agreements with firms in other national jurisdictions, earn higher returns of profit per partner (PPP). This is one indicator of the costs of investing in global integration. Heavy investments in integration constitute sunk costs. These costs of integration are such that firms then are seeking to derive greater economies of scale and scope from this integration which is, in turn, increasing globalisation potential. They also may provide a basis for enhanced responsiveness to requirements of global client and capabilities for further globalisation. Such costs are therefore a globalisation 'Enabler'.

For those firms within the sector who have not made such investments, the scale of the investment now required acts as an 'Inhibitor' on globalisation potential.

The final cost driver is an 'Inhibitor'. Due to competitive pressure, firms must invest in the development of new markets, for example in Eastern Europe, Asia and the Middle East. These are long-term investments based on assumptions about how and where the market for corporate legal services is likely to develop. Many such investments will yield low or negative returns for some time.

*China is a prime example. We've been investing in China for God knows how many years and one day it will become crucially important to us and we'll make money there; but it takes a long, long time.*

Firms have little choice about making these investments since market and competitive drivers require them. Smaller offices will never match the fee levels of larger offices in richer markets; nevertheless a presence within them is necessary to deliver complex projects.

*You've got to balance up your drive for globalisation with the fact that it'll be very hard to generate returns in Warsaw that are going to match what you can make in London.*

The four cost drivers are a mix of 'Enablers' and 'Inhibitors'. The dominance of market drivers and competitive drivers combines with the two 'Enablers' (economies of scale; outsourcing and off-shoring) to outweigh the two cost 'Inhibitors' (the ability to make the necessary investments in integration; the high costs but low yield from new market development). Cost drivers are hence a secondary level contributor to the globalisation potential of the sector. Inhibitors will have greater weight for smaller firms.

### ***Government / Regulatory Drivers***

Our data identify three government / regulatory drivers: institutional effects; conflict clearance; issues of robustness and risk. The first two are 'Inhibitors'; the third is an 'Enabler'. Institutional effects arise from two sources. First, there are differences in law and legal systems country by country (e.g. property law in each separate legal jurisdiction). Second, there are differences in countries' rules governing legal practice (e.g. recognition of foreign legal qualifications); such

blockages to global legal operations include market entry restrictions in particular countries and restrictive jurisdictional limitations placed upon non-local practitioners by governments.

*Regulation is a barrier, not a driver. [Although] we've been able to develop...in an environment of relaxing regulation...there are still areas where we would like to be, where we are unable to practise...We're in China, but we're only allowed to practise international law, we can't practise local Chinese law...We can't practise locally in India.*

The next regulatory 'Inhibitor' is potential conflicts of interest between clients. This is an increasing risk for global law firms, especially in large cross-border projects involving several MNC clients. There is a legal requirement to ensure there are no conflicts of interest in the law firm acting for any given client in any given country. The complexity of achieving conflict clearance reduces globalisation potential. However, an internally integrated international law firm can complete conflict resolution procedures within a few hours, regardless of the number of countries involved. Those firms using a 'best friends' alliance network take longer.

*Twenty years ago the general counsel gets the problem. He then has to ring up his first choice in each jurisdiction, establish the problem with them, get them to check their conflicts, come back, and then be instructed...First it takes him five days, and secondly he has to make twenty-five phone calls, and deal with twenty-five conflicts issues... Within two hours of that call, we can clear conflicts because of our systems, and we can establish a global team. You have no idea how powerful that is to the client.*

The final driver concerns the management of risk for clients and relates to the robustness (i.e. strictness; stringency; security of legal cover) of the legal requirements in any given jurisdiction. Searching for robustness for international clients encourages firms to look comparatively across legal systems. This acts as a potential globalisation driver. Corporate law firms operating in several national legal jurisdictions have to achieve a secure legal outcome for global clients across all those different jurisdictions. They achieve this by means of applying the most robust legal framework from amongst those involved. For example, if the US requirement has the toughest standard in a given case, even though it may be tougher than required by many other individual jurisdictions, then that is the standard that will be applied. Therefore 'robustness' in this context means that the legal



agreement reached will survive cross-border scrutiny and avoid ambiguous interpretation in differing countries.

The government / regulatory drivers are the strongest barrier to potential globalisation of the corporate legal sector. Surmounting these barriers is about managing institutional, legal and jurisdictional differences between countries or regions. Although the 'Inhibitors' appear much stronger than the 'Enablers' in this set of drivers, nevertheless learning to get around these regulatory and governmental 'Inhibitors' to globalisation may result in greater skill at dealing with robustness, jurisdictional and conflict issues on behalf of MNC clients.

*... there's no such thing as global regulation of law, so we have to marry ...the restrictions of every local regulator to make a global law firm work...it means we are seeing the same issues that the globalising businesses who are our clients are seeing. We're coping with the same complexity in our business that they are.*

### *Evaluation of Significance and Strengths of Drivers*

To return to our research question: what are the industry globalisation drivers affecting the corporate legal sector? From our analysis of the findings in Figure 1, the market drivers and competitive drivers are dominant. Combined with the two 'Enabler' cost drivers (economies of scale; outsourcing and off-shoring), these market and competitive drivers outweigh the two cost 'Inhibitors' (the ability to make the necessary investments in integration; the high costs but low revenue from new market development). Cost 'Inhibitors' and the regulatory drivers which are actually restrictions on practice and on access to some markets, do not outweigh the combined strength of the market, competitive and cost 'Enablers'. All 'Inhibitors' will have greater weight for smaller firms but the corporate legal sector comprises only very large firms.

Since the power of the jurisdictional (i.e. government/regulatory) driver is so strong, the evidence from the industry drivers ought to point to a 'national/local' industry. However, the market, competitive and two of the four cost drivers have combined to create significant changes in the industry characteristics of the legal service industry and in the corporate legal sector in particular. These outweigh the impact of the government/regulatory driver for corporate law firms. That

explains both the reasons for the global strategies, and also why they are being pursued despite the significance of regulatory differences i.e. despite the gap between national laws and cross-border activity. Indeed, corporate law firms have both global and local strategies since they have to address both global and local clients; both global integration and local responsiveness. Firms have developed strategies which allow them to overcome local regulations on who can practice where.

## DISCUSSION: STRATEGIC IMPLICATIONS

From our analysis of the drivers we have concluded that this is an industry with high globalisation potential and that a rationale exists for the current pursuit of global strategies within the specific sector of corporate law firms. The Figure 1 industry 'drivers' have major implications for the strategies of these firms. We return to Yip's [1996] questions posed in the quotation at the start of this paper: how global is this industry and how global should the business strategies of law firms be? The first of Yip's questions echoes our research question: what are the industry globalisation drivers affecting the corporate legal sector? Our evidence to answer this question has been presented in Figure 1 and in the discussion of findings. His second question echoes the question arising from our literature review: why are the super-elite legal firms investing in global strategies? This second question addresses the implications that the industry drivers have for firm strategy.

In our literature review we discussed the 'integration-responsiveness' grid. Combined with the industry drivers framework, the 'integration-responsiveness' grid connects analysis of the (changing) characteristics of the industry, to decisions made about strategy by the firms within that industry. The pursuit of global strategies by firms in an industry in which local responsiveness for products remains high appears a strange strategic choice. Logic would suggest a 'national' industry structure with little need for global firms or global strategies. Where global activity is required for large projects, then 'best friends' strategies would be an effective approach since it is possible to achieve global reach through a 'best friends' network. It leaves the pursuit of global strategies by the remaining super-elite firms as the story that needs to be explained. That is the question this paper answers: why are the super-elite legal firms investing in global strategies? Our conclusion is that it is about long-term competitive advantage. The globalising firms are making a specific bet on the nature of the development pathway of the industry and therefore on what will matter in this

industry in the near future. Yip [1994, 1996 & 2005] has argued that globalizing industry drivers may move in either direction, becoming weaker or stronger over time. In the corporate legal sector, the most important bet that the super-elite firms are making by developing their global strategies is that the weight of the market, competitive and cost drivers in this sector will continue to strengthen. If so, global strategy makes sense for the super elite. It is about potential first-mover advantage. As Yip [1994: 537] says "Industry competitors can themselves affect some globalisation drivers. The competitors that stimulate these changes typically reap the major benefits." Super-elite law firms are carving out a separate strategy niche moving towards global strategy. That niche is certainly not for all firms; it is only for a very few.

## CONCLUSIONS

Within the legal sector there are few global legal products and many regulatory differences between national legal jurisdictions (national markets). This has led to a view that the globalisation of law firms is inappropriate and that the globalisation potential of this industry is limited. However, in this paper we have discussed a set of powerful determinants of global industry structure and explained why global strategies make sense for the super-elite firms, despite the regulatory differences and lack of global legal products. Whilst it is certainly the case that the regulatory differences between countries, although weakening to a degree, remain influential, the combined impact of the market, competitive and cost drivers is considerably stronger. In practice, a small number of very large corporate law firms are implementing global strategies in pursuit of specific long-term sources of competitive advantage constructed around new barriers to entry. Thus a small 'super-elite' of globalising firms is emerging.

Although the investment in global strategies may create genuine barriers to entry to the other law firms in tiers lower down than the super-elite firms, nevertheless the real barrier to entry may be from the nature of the industry characteristics themselves which will continue to act as a natural barrier to globalisation for all but a very few firms. It is likely that the corporate legal sector is a natural oligopoly in which there will only ever be a few firms for which a global strategy is appropriate.

END

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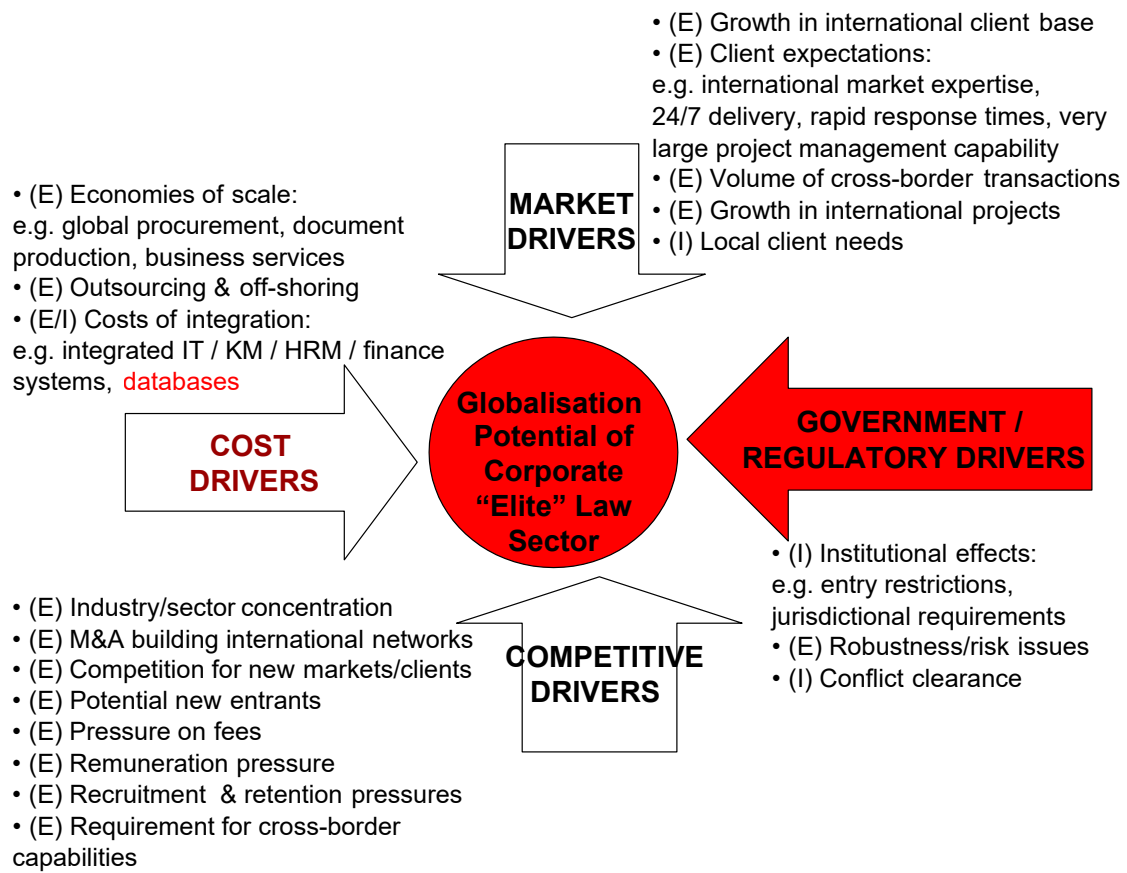
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Figure 1 Global Industry Drivers affecting the Corporate (“Elite”) Legal Sector



Key:

E – Globalisation enabler

I – Globalisation inhibitor

Developed from Yip’s original idea of industry drivers: Yip, 1996