

GOING GREEN - WHY THE ENVIRONMENT MATTERS TO LAWYERS

Maite Mascaró

**Associate, Corporate and Business Law Department
JAUSAS**

David Scott

Luper Neidenthal & Logan

Sustainable business practices are evolving – indeed, many argue they have already involved - from a mere trend to a completely new paradigm.

A full spectrum of industries – including energy, technology, building and construction, foods, pharmaceuticals, industrial and consumer products, textile, and chemicals – are implementing fundamental changes in the way they do business. Even the banking and insurance industries are mobilising – a recent report by the Ceres investor coalition analysed climate change governance practices at 40 of the world’s banks and showed that major players in the insurance industry are rushing to unveil “green” products.

All of this begs the question: how will lawyers get involved?

There can be no debating that lawyers have the capacity to make a difference by adopting more sustainable business practices. An informal survey conducted by Washington DC-based Arnold & Porter of various United States law firms found that copier/printer paper use ranged from about 20,000 to 100,000 sheets per lawyer during 2006. That corresponds to about 10-50 sheets per work hour (assuming 2,000 work hours per year). The high end of this range amounts to a half-tonne of paper use per lawyer per year.

The lifecycle of a tonne of paper, from production to recycling, results in the generation of about nine tonnes of carbon dioxide-equivalent greenhouse gas emissions. According to statistics from the American Bar Association and the law office of the US government’s Environmental Protection Agency, disposal in a landfill causes an extra two tonnes of such emissions per year.

One lawyer organization undertook a study of this problem to help answer the question of what lawyers can do to increase efficiency, decrease waste, and become more sustainable. The result of this one-year project by the Leadership Institute of the international affiliation of law firms known as Meritas is a compilation called the Green Guide.

Shrinking footprints

The *Meritas Green Guide*, provides an outline of the steps that law firms and in-house legal departments can follow to lessen the size of their carbon footprint. It is divided into three levels. Firms achieving the first category are known as “sustainability advocates”. Achieving the second level earns the designation of “sustainability partner”, and those who reach the third and highest level are deemed “sustainability leaders”.

One of the struggles in developing guidelines is creating standards that are rigorous enough to be meaningful, but not so onerous that an average firm will not bother to try. So the first level of the *Meritas Green Guide* is designed primarily to help raise awareness at law firms. Firms seeking to achieve the first level might take steps such as encouraging public transport for workers (a bit more of a challenge in the US, where workers typically drive SUVs and minivans instead of getting the bus or train); developing a recycling programme or policy; switching to environmentally friendly cleaning products; and conducting energy audits to find ways to reduce consumption. Simply bringing sustainability into the consciousness of lawyers and staff is an achievement in itself and, ideally, firms that start taking these steps will see results that encourage them to strive for the next level.

At the second level, law firms will have begun implementing sustainability and efficiency measures, such as investing in Energy Star (the international standard for efficiency) equipment and pledging to cut resource consumption by specific percentages. Dedicating pro bono services to an environmental or sustainability organization is also included in this level.

The third level is more comprehensive and includes steps such as certifying the firm’s office space to various environmental standards – such as the Building Research Establishment’s Environmental Assessment Method (BREEAM) in the UK, the *Haute Qualité Environnementale* (HQE) in France or the Leadership in Energy and Environmental Design (LEED) in the US – sponsoring a not-for-profit organisation to become carbon-neutral by purchasing carbon offsets, and allocating additional pro bono hours.

The time and effort devoted to creating the *Meritas Green Guide* was certainly not billable and caused many lawyers to ask why sustainability matters at all to their legal practice. One reason is fairly simple – it matters to clients. It is difficult to find any meaningful business newspaper, periodical, or other publication that does not contain a reference to a company or industry related to sustainability issues.

Triple bottom line

Another reason why sustainability matters to lawyers is essentially a function of the so-called triple bottom line – people, planet, profits. People (and/or businesses) want their lawyers to understand them and/or their business, and logic dictates that a law firm that has experienced the challenges associated with becoming more sustainable will be better positioned to understand the similar challenges that its clients may face.

The planet needs all the help it can get these days and, no matter what one's political or personal beliefs are, there is no question that we have a finite amount of natural resources and that we are using many of them at an unsustainable rate.

That said, no matter how worthwhile the goal of sustainability may be, law firms are still businesses whose goal is to be profitable. Merit firms that have implemented some of the Green Guide suggestions have realised that sustainability and profitability are not incompatible – indeed, the opposite is true. More efficient practices save money. Additionally, many firms have found that unique and/or innovative practices generate media attention and publicity. Perhaps most importantly, like-minded clients (and potential clients) have gravitated towards firms that share their values.

On the subject of sustainability as a means of business development, law firms that use pro-sustainability practices for marketing purposes should be mindful to avoid engaging in what has become known as “greenwashing.” A paper published by TerraChoice Environmental Marketing identified the “six sins of greenwashing”, which it defines as misleading consumers over the environmental practices of a company or the environmental benefits of a product or service. The six sins are: the hidden trade-off, no proof, vagueness, irrelevance, fibbing, and “the lesser of two evils”.

The paper was based on surveys of more than 1,000 consumer products bearing some 1,700 environmental claims. The increasing popularity of “green marketing” gives consumers a great opportunity to make choices based on sustainability, if that is an important consideration for them. But it also exposes consumers to the risk of being tricked by false and/or misleading claims. Law firms, which make their living based on the principles of trustworthiness and diligence, should be particularly aware of these issues. In fact, some governments have already begun working to develop regulations or standards related to green advertising.

Regulating promises

What has happened in the past few years to make sustainability issues to become so pervasive as to warrant governmental regulation of “green promises”? There has been a confluence of global circumstances that are too complicated to be summarised here. However, Atlanta-based Avastone Consulting recently issued a report called “Mindsets in Action”, which is designed to explore the “influence of patterns of the mind, which shape our capacity to understand the world and allow us to take effective action in support of it”.

During 2006, Avastone studied 10 corporations with diverse revenues (ranging from US\$1 billion to more than US\$100 billion annually) that had shown an orientation towards sustainability in various industries. The stated purpose of the Avastone report is to be a “catalyst for conversation, exploration and experimentation,” with the goal of helping to create a “sustainable future for people, organizations, and our one planet”.

Avastone concludes that, for whatever reason, there has been a collective “expansion of consciousness” that has profoundly impacted “interior mindset development.” The report defines the term “mindsets” as “interior patterns of mind, or frames of reference, from which individuals see sustainability and its importance”. It goes on to discuss various factors that will dictate the success of future sustainability efforts and focuses on “mindsets as a core underlying force for accelerating sustainability gains”.

Avastone concludes that leadership mindsets are the reason why sustainability is on the radar today and the leadership is the most crucial factor in continued sustainability gains. Successful leaders in the sustainability arena will be those who attend to both “translation” (framing sustainability in terms that others understand and triggering effective action) and “transformation” (expanding perspectives through understanding the role of one person, company, and/or industry in a broader, more complex context). Recognising the inherent tension between the “business of business is business” school and the philosophy of corporate social responsibility, Avastone posits that global circumstances may have placed us on the threshold of an entirely “new paradigm for living”, and that businesses will either adapt this or be left behind.

Learning about the deep-seated psychological, economic and social perspectives that have caused businesses to adopt a pro-sustainability mindset leads back to the question of why sustainability is now starting to matter to lawyers.

With the Internet age facilitating unprecedented communication and sharing of knowledge, we have a greater understanding of how human activities impact the planet and an ever-increasing recognition of how global forces shape our nations’ economies. Although we don’t have to look any further than a local grocers’ shop

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petrol garage to know that there is only so much oil, food, land and water to go around, it seems only recently that we have been willing and/or able to make significant changes based on that knowledge. The question of whether we are willing to change, and how much, is going to be dictated by the evolution of our mindsets.

Law firms are no different from any other industry that has untapped potential to become more sustainable. If adopting more efficient practices (such as those enumerated in the *Meritas Green Guide*) result in cost savings, lead to potential business development, and reduce the carbon footprints of law firm, then why would those practices not be the foundation for a paradigm shift in the way law firms do business?.