

ChatGPT's rise means billable hours will 'inevitably decline'

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The time-based billing model has come under significant scrutiny in recent years, and now, with the emergence of technologies like ChatGPT, billables are at further risk.

The rise of ChatGPT, and no doubt similar platforms in the near future, are set to change — perhaps incrementally, but ultimately maybe radically — how legal services are performed.

A [noisy debate](#) has emerged over such artificial intelligence (AI). On the one hand, platforms like ChatGPT are a ["useful resource" for boutique firms](#) and BigLaw firms alike and will [require a focus on key skills](#) and a [rethink on legal education](#), even if the new tech [can't replace lawyers entirely](#) (at least [not yet](#)).

However, there are certainly fears that AI's rise could mean the [beginning of the end of lawyers](#) — even if it should be [used cautiously in courts](#) and [demands new workplace policies](#), and in spite of the fact that ChatGPT can be used to [cheat on law school exams](#) and is, in the eyes of some, ["no different to Wikipedia"](#).

To read Lawyers Weekly's full series of ChatGPT stories, click [here](#).

Amid the bounty of professional considerations is how the emergence of this technology impacts upon the billing practices of legal services providers, if at all.

In recent years, many arguments have been levelled against the retention of time-based billing, including that it [works against women](#) and, at least for some, is [a practice that should not be wished upon anyone](#).

However, time-based billing [remains an important option](#) for legal practices, and — as [Gilbert + Tobin](#) managing partner Danny Gilbert told Lawyers Weekly four years ago — [allows clients to retain more control over matters](#). Indeed, [partners in law firms are billing more](#) in the post-pandemic world, as recent research shows.

Now, the conversation around billing practices is likely to be reprised, given how AI's capacity to take on various legal functions changes the nature of a lawyer's daily workload and, therefore, their capacity and efficiency.

For these senior lawyers at BigLaw and boutique firms alike, ChatGPT's rise could spell the downfall of the billable hour.

A period of transition

In conversation with Lawyers Weekly, Gilbert + Tobin partner and chief operating officer Sam Nickless said that the legal services marketplace is "in a transition", from a labour to a labour-plus-capital model.

"As the technology develops further, this trend will accelerate, and capital will become a more important component of the service delivered," he said.

"It makes no sense to price a service delivered by technology according to time, so other pricing approaches will be more relevant."

It does not necessarily mean, Mr Nickless mused, that the billable hour will disappear or that it isn't the right way to price some services.

But, he submitted, "economics means that the extent of its dominance will inevitably decline".

Calculating value

[Lander & Rogers](#) TMT partner Lisa Fitzgerald agreed, saying that AI platforms like ChatGPT will "accelerate the inevitable trend" towards value-based pricing for legal services.

This is good for clients, she stressed, as it gives certainty as to legal fees and is also better for lawyers, with the potential to improve wellbeing and ensure the best people are performing the work rather than being priced out of it.

"Legal services that can be delivered more efficiently, with greater certainty and enhanced job satisfaction is exactly what AI can support and is something for the legal profession to be excited about. Like the pandemic and the flexible working model it necessitated, AI is going to force change in the legal services sector at a pace never seen before," she outlined.

"Exactly how 'value' is calculated will vary from firm to firm, but it is likely to take into account the client's legal budget, the law firm's operating costs (including the cost of using AI platforms, other subscription services, its own verification and amendment process undertaken by lawyers) and the ultimate accountability lawyers have for their advice."

"The faster turnaround times taken to prepare advice using AI will also likely be attributed a value. Given many clients are prepared to pay premium pricing for expedited advice and others are prepared to pay standard or lower pricing if a matter is not time-sensitive, reasons already exist to re-envision charging models, but many law firms have been slow to respond," Ms Fitzgerald continued.

AI platforms will "turn the dial on hourly billing", she surmised, and this, she said, is a good thing.

A nail in the coffin of 'outdated' practices?

As all lawyers know, Hive Legal principal Ella Cannon detailed, the traditional time-based billing model relies on time spent as the key metric for value.

This is an inadequate and problematic approach to pricing, she argued, "as it rewards inefficiencies and creates misalignment of incentives between lawyers and their clients".

"The emergence of technology like ChatGPT puts the outdated — yet deeply ingrained — time-based billing model at further risk, as it has the potential to automate some aspects of the time-consuming and low-value tasks that have traditionally been billed by the hour (and for which clients may be less inclined to pay a high hourly rate for)," she posited.

"As lawyers, we need to embrace new pricing models that are more transparent and aligned with our clients' interests, or risk being left behind in a rapidly changing legal landscape."

View Legal director Matthew Burgess supported this, telling Lawyers Weekly that it is difficult to see how such technology does anything but undermine the very foundation of the billable hour.

That is, he said, the model is predicated on being able to take as long as possible on every "chargeable" task to maximise revenues.

"ChatGPT — and AI generally — simply provide a stark reminder that the future is here. It, however, remains very unevenly distributed in law land between those that use timesheets to determine value and those that do not," he noted.

“Specifically, each of the core attributes of success in time-billing law firms [is] directly devastated by AI — if not immediately, then in the very near future. That is, the areas rewarded by time billing (like long hours, rote learning and adherence to tradition) are useless with democratized access to ever-improving machine learning.”

Arguably, Mr Burgess said, AI is particularly impactful given the so-called “Donkey Principle” time-billing firms struggle with: “that the best-performing professionals in a time-billing model are generally of least benefit in a non-time sheet model — the impact of this culturally cannot be underestimated”.

“In this regard, for us, the most important lesson abandoning timesheets over a decade ago is the depth of cultural change because what timesheets do (even when a firm purports to be offering fixed pricing) is create a focus solely on what is billable. Without timesheets, the focus is solely on what is valuable. This one concept can have an impact on every part of a law firm,” he suggested.

Are billables redundant moving forward?

However, Mr Burgess added, the advent of platforms like ChatGPT does not necessarily mean that time-based billing is a thing of the past - at least, according to the AI platform itself.

“While ChatGPT can assist with various tasks and provide information to users, it does not have the capability to track time spent on a task in the same way that a time tracking software can. Additionally, businesses and professionals may need to track the time spent on non-digital tasks, such as meetings or phone calls, which ChatGPT cannot do,” he explained.

“Therefore, time billing remains an important tool for businesses and professionals to accurately bill clients for their time and ensure that they are compensated for the work they have done.”

Mr Burgess reflected on his own “extensive” use of ChatGPT thus far and said that the most underwhelming answer he has received from it thus far is to the question of whether it makes time billing redundant.

The aforementioned ChatGPT answer to whether time billing is made irrelevant by AI was as follows: *“While ChatGPT can assist with various tasks and provide information to users, it does not have the capability to track time spent on a task in the same way that a time tracking software can. Additionally, businesses and professionals may need to track the time spent on non-digital tasks, such as meetings or phone calls, which ChatGPT cannot do,”* ChatGPT explained.

“Therefore, time billing remains an important tool for businesses and professionals to accurately bill clients for their time and ensure that they are compensated for the work they have done.”

“Any law firm who would rely on the above response and continue with timesheets does so at their peril,” Mr Burgess warned.