

India Business Law Journal

2008 Billing rates survey

Transparency may be taking hold in India's legal profession. A year on from *India Business Law Journal's* inaugural survey of billing rates, the number of law firms willing to reveal their fees has risen significantly

Vandana Chatlani reports

In response to growing demand from corporate clients, *India Business Law Journal* has once again invited Indian law firms to reveal their billing rates.

"I completely support [this] initiative," says Himavati Chaudhuri, general counsel at NDTV Imagine. "It's helpful when making a decision on who to go to, and saves time and effort for both the client and the firm."

Paul Sandosham, a partner at WongPartnership in Singapore, believes the survey will provide "good information to assist foreign firms in selecting local counsel," while Suresh Sambandam, founder and CEO of OrangeScape says "it would give me as a customer [an] understanding [of] the price band in which this market operates."

Padmakar Rao, vice president (legal and company secretary) of the Times of India Group adds, "I think this is a good initiative, since it will give industry professionals an idea of the cost versus quality available in the legal market."

"[An] interesting initiative," agrees Guillaume Bouthillier, director of structured finance in the Americas and Asia for Bombardier Transportation. "Benchmarking fees may contribute to better determination [of the] value for money."

Modest increases

Based on billing information received from 33 participating firms, the average hourly charge for a junior associate is now US\$90, unchanged from last year. For a senior associate, the average fee has risen by 1.5% and now stands at US\$132.

It is the billing rates of partners that have witnessed the greatest growth. A junior partner now charges an average of US\$189 per hour, up 8% on last year. The rate swells to US\$252 for a senior partner (up 9.5%) and US\$298 for a managing partner (up 8%).

"Hourly rates are high for good lawyers," admits Soon Hee Koh, legal counsel at Yara in Switzerland.

But in a climate where lawyers are undoubtedly in heavy demand and where law firms are struggling to find experienced and qualified professionals, it is perhaps unsurprising that fees have risen. The survey indicates that the average hourly fee paid for a corporate lawyer in India, irrespective of his or her seniority, is now US\$192, a 7% rise from last year. The hourly rates of all participating firms are shown in the table on page 48.

It is important to note that while insightful and revealing, these figures are not necessarily representative of the entire legal market. None of India's largest law firms agreed to participate in the survey. Had they done so, it is likely that the average rates would have been slightly higher.

Independent advocates – the majority of lawyers in India – were not included in the survey.

I think this is a good initiative, since it will give industry professionals an idea of the cost versus quality available in the [Indian] legal market

Padmakar Rao
Vice President Legal
& Company Secretary
Times of India Group



I am keen to participate, respond in detail and furnish [the relevant] information

Amarjit Singh
Managing Partner
Amarjit & Associates



Growing transparency?

There are signs that transparency is spreading among Indian law firms. Driven by the globalization of the legal profession and increasing demand from domestic and international clients for transparent billing practices, law firms as a whole are much happier to reveal their rates than they were just a year ago.

Indeed, of around 100 corporate law firms that were invited to participate in *India Business Law Journal's* survey, 33 agreed, a 32% increase on the number that participated last year when the survey was conducted for the first time.

"I am keen to participate, respond in detail and furnish [the relevant] information," enthused Amarjit Singh, the managing partner of New Delhi IP firm Amarjit & Associates.

Corporate clients, it seems, are conscious of the change in attitude.

"[Legal fees in India are now] pretty transparent if you ask to see [them]," says Chris Flosi, head of the legal team at Barclays Capital in Singapore.

"If the client negotiates and fixes the fee structure in advance, most firms are fairly transparent," concurs Rao.

"Our experience with the firms we have worked with shows full transparency," says Jochi Jimenez, general counsel of Barcelona-based HCC Global Financial Products.

However, in spite of the perceived improvements, some observers believe that the level of transparency in the country's legal profession still leaves much to be desired.

"On a scale of one to 10, where 10 is very transparent and one is no transparency ... I would say [the level in India is] two," says Venita Gabriel, the regional intellectual property adviser to Nestlé India.

"There is [a] lack of clarity on what rates different firms charge clients for different transactions," adds Chaudhuri. "It's really decided on a transaction to transaction basis."

"More transparency is definitely expected but not available currently," adds Sai Lakshmidhar, head of business development at GoDB Tech. "Such information would be useful to compare where we stand in terms of our payments."

"[Transparency levels] are poor and extremely hidden," says R Narayanan, a partner at Sterna Security. "It would be a wonderful step forward to make this process open and rational."

Although *India Business Law Journal's* billing rates survey was willingly answered by many of the country's medium-

sized corporate firms and leading IP boutiques, none of the country's largest firms agreed to participate.

"We have discussed this internally. We don't want our rates published, but many thanks for the opportunity," says the managing partner of one of India's leading firms.

"Our rates are confidential to clients and I am afraid we will honour this," says another.

Such reluctance among the large firms has not gone unnoticed.

"There is normally a great sense of transparency with the Indian law firms which deal with corporate law," remarks Rakshit Jain, senior general manager at Emaar MGF. "Large law firms, however, need to be more transparent."

"It's encouraging that mid-sized firms are disclosing their rates," says Chaudhuri. "I wish the large firms would follow their example, but it's their prerogative whether to disclose their rates or not."

Varying price structures

While happy to disclose his firm's hourly billing rates, Sumes Dewan, a partner at KR Chawla & Co, points out that he also "undertakes assignments on a fixed lump-sum fee basis, which varies depending upon the transaction and its complexity". This strategy is clearly in line with client sentiment.

Despite being the norm in the legal profession, the concept of hourly billing has been heavily criticized for not encouraging efficiency or reflecting the quality of the lawyers involved. It is also open to abuse.

"Who monitors the number of hours spent?" asks KS Suresh of ITC, raising a common concern held by clients over the practice of hourly billing.

"For corporate transactions, we would prefer to have blended or capped fees as fees based on total hours worked may not accurately represent the value provided by the lawyers," says Koh. "It does not make sense why a lawyer who is efficient should be paid less – based on total hours worked – than one who is less efficient."

Bhasin & Co, a Delhi-based law firm, offers legal advice for the payment of a single hourly fee known as a "firm fee". Managing partner Lalit Bhasin says that unlike other law firms which charge hourly fees for each earning member, his firm charges a single fee irrespective of the number of lawyers involved in a transaction.

Bhasin goes on to explain that billable hours are determined on the basis of the time spent by the most senior professional involved in the matter and not on a cumulative basis, as is the norm in most firms. "All [other] expenses including secretarial services, court fees, postage, faxes, couriers, telephone calls, etc. are charged additionally on actual," he says.

The complexity of the transaction may also have an effect on the fees charged, as does the reputation of the firm.

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Venita Gabriel
Regional Intellectual
Property Adviser
Nestlé India



Our fees do depend on the complexity of the assignment

Anand Desai
Managing Partner
DSK Legal



"Our fees do depend on the complexity of the assignment," says DSK Legal's managing partner Anand Desai. "While we have level-wise hourly rates, we typically quote a blended rate across levels for each assignment, and often agree to a lump sum fee that we compute as a function of the time we anticipate will be involved."

"While a particular work may be charged less by some firms, the charges may be more in a renowned firm," says Sushma V, from the legal team at Watanmal Group. "I do not feel that the charges are entirely transparent."

India Juris and Hathi & Partners continue to make their fee structures publicly available on their websites. Clients can obtain a password for a limited duration of time in order to access this material and make an informed choice.

Many other firms are earnest about their transparency and emphasize it. "We work in a very transparent environment and we have no hesitation in sharing the information," says Vineet Bhagat, a lawyer at KG Bhagat & Co.

Corporate clients have largely supported and driven this kind of transparency, suggesting that business prospects for law firms would be enhanced by a greater level of disclosure.

"I would definitely be more likely to use one of the law firms that has revealed its rates in this survey than any of those that haven't," says Chaudhuri at NDTV Imagine.

Value for money

While price structures may differ, the most pertinent question is whether clients are receiving the quality of advice they are paying for, especially at a time when legal fees are rising.

According to Rao, Indian firms offer good value "considering the stakes involved and compared to the rates charged by firms abroad for cross-border transactions."

Jimenez agrees: "We work with approximately 120 firms around the world and we can compare fees [and] advice from India with firms in other countries. India is at the top of the list. Indian practitioners are sound professionals," he says.

Some observers, however, have criticized the rising billing rates of Indian lawyers.

"A few Indian firms have raised their rates to such a level that they are close to pricing themselves out of the market," laments a regional counsel at a global investment bank. "A few seem to have taken advantage of the rising foreign interest in India to raise their rates to almost international levels," he continues. "This is pretty hard to swallow, as the level of expertise and level of service provided by almost all Indian law firms is not yet at international standards."

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Himavat Chaudhuri
General Counsel
NDTV Imagine



"The billing rates in India for high quality work are in line with international rates," agrees Peter Rosell, legal counsel for Topsoe in Denmark.

Others, however, believe they are getting a bargain.

The billing rates of Indian firms "are the lowest of any firm that I work with around the world. In some cases, they are 25-33% of the rates that I pay elsewhere," says Geoffrey Moore, corporate counsel at Powerwave Technologies.

"[There is] no comparison," agrees Gauri Gandhi, senior general manager in the legal department of Godrej & Boyce. "International law firms are beyond our reach!"

Peter Doerr, general counsel and corporate legal head at Holcim, has been pleased with his encounters, praising the Indian lawyers he has consulted for their "very high quality [advice]," responsiveness and business acumen.

Koh agrees. "[Indian lawyers] tend to have the human resources we need to get big deals done, due diligence completed quickly, and the in-house expertise for specific issues."

Many clients also mention the honesty and sincerity displayed by Indian firms. They "tend to not charge us for each and every small thing," says Prakash Grama, CEO and co-founder of Span Systems.

RC Daga, company secretary at ITD Cementation, has

similar sentiments: "Generally we have found that Indian law firms don't necessarily drag matters simply to raise higher bills to be charged to clients," he says.

"Indian law firms offer real value for money," says Sushma V. "[This] is one of the main reasons why we have shifted all our legal work from foreign associates to Indian law firms. The hourly billing rates of international law firms are more than twice the amount charged by their Indian counterparts."

A culture of haggling

While *India Business Law Journal's* survey has been widely welcomed by law firm clients, several observers emphasized that the public disclosure of billing rates will not stop them fighting for a better deal.

"We will still want to negotiate fees," says Greg Tanner, senior vice president of strategic development at DHL, indicating that concessions are still expected, regardless of transparency levels.

But in spite of the need to haggle, Tanner is happy with the service he receives: "[You get] smart people and advice [at] reasonable rates," he says.

"We do not know of any fixed structure existing in India today," says Jitesh Devendra, PBU head at the pharmaceutical division of Shasun Pharmaceuticals. "Each law firm fixes its own [rates] ... the charges would vary from customer to customer."

We will still want to negotiate fees

Greg Tanner
Senior Vice President
Strategic Development
DHL International



Some clients fear that the public disclosure of billing rates may affect their ability to negotiate with law firms. "Does [the] publication of rates mean they can't be negotiated? And if they can be negotiated, what's the point of publishing [them]?" asks Suresh at ITC.

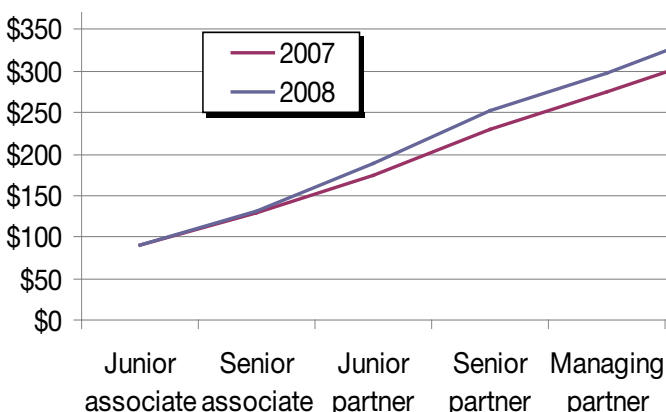
Jain welcomes the disclosure of fees, but is worried that the published rates won't reflect the quality of service offered by different firms. "I would think this would be a good initiative, since it will provide transparency," he says. "However, care should be taken to also show the competency of the law firms to reflect in the differences in their rates. These rates should be shown as a benchmark rate as opposed to a rate list ... somewhat like a hotel tariff, where you have a rack rate [which] corporates can negotiate based on their business with the firm."

"We tend to use specialized law firms which are smaller and therefore we are able to get a good rate," continues Jain, adding that "some law firms, particularly the large ones, are expensive and tend to use less-experienced staff at higher rates."

"Every query or issue cannot be billed as per American or European standards," says Gabriel at Nestlé India. "Ultimately though, even top law firms abroad are not sticklers to their schedules. Who wouldn't want to be flexible on that count?"

How much should you be paying?

Average law firm billing rates (US\$ per hour)



More than just money

Pricing structures certainly offer a benchmark for corporate clients, especially those with newly established India operations or investments. However, many clients have questioned whether price alone is an effective criterion by which to choose a law firm.

"Each project is different and needs to be tailored," says one client who wished to remain anonymous. "Billing rates do not reflect the amount of work that needs to be done."

Other clients have stressed the importance of quality. "To really get value, Indian firms need to improve on their transaction management skills," emphasized a Singapore-based client. "This is a value-added service which is essential for international clients."

"I will not select the legal adviser in an important matter based on his fees," says Rosell. "I will select the adviser based on his experience and reputation in the field."

Patrick Le Denmat, managing director of Poclairn Hydraulics, reiterates this point. "Sometimes we would like to pay more if we [are] sure to get good advice without asking very detailed questions."

"It is unfair to compare [firms] head to head due to varied operational costs and conditions," maintains Narayanan. "A good firm would be valuable not only on the basis of financial evaluation but based upon performance."

Doerr believes that "hourly rates are just one of the elements to consider and should be seen together with quality of service."

"While legal costs are definitely something corporates keep an eye on, they are equally, if not more, concerned about the quality of expertise and service," adds Suresh, confirming that cost isn't always the deciding factor.

From Gabriel's perspective, clients should demonstrate their awareness, knowledge and proficiency to prevent law firms from taking advantage at a heavy price. "Of course they [offer value for money]" she says, "but it depends on who is interacting with them. Is it someone with a legal background and experience or someone unconnected with the legal field? Generally, I have noticed that law firms take companies and clients for a ride if they find that they are not challenged by the client."

Transparency of information

For many clients, it is not just the lack of transparent billing rates that makes it hard to choose a law firm, but also the lack of publicly available information about their services.

Vodafone's in-house counsel, Helen Lamprell, views legal fees as a microeconomic issue. From a macroeconomic perspective, her key concern is the prohibitions on advertising that prevent her gaining access to important information.

I think the most significant issue is the restriction on the ability of Indian law firms to have websites setting out the services they provide

Helen Lamprell
In-house Counsel
Vodafone



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Peter Rosell
Legal Counsel
Topsoe



"Regarding billing, obviously we seek value for money, so transparency around fees would be interesting, but I think the most significant issue is the restriction on the ability of Indian law firms to have websites setting out the services they provide.

"It makes it extremely difficult to compare practices and puts Indian law firms at a disadvantage compared to international firms," she says.

Chaudhuri has similar concerns. "[It would be] helpful if law firms disclosed their core competencies, rather than just stating that they are full-service law firms. If a particular firm specializes in power projects or media deals, [it would be useful] to have that information." ■



SEEING RED: Some clients are angry about the lack of transparency in the billing practices of Indian law firms.

Hourly billing rates of Indian law firms

Law firm	Main office	Nature of firm	Number of lawyers	Junior associate (US\$ per hour)
Abacus Legal Group	New Delhi	General practice	14	\$100
Agarwal Law Associates	New Delhi	General practice	26	\$60-65
AKS Law Associates	Bangalore	Specialist firm	20	\$75
Altacit Global	Chennai	IP boutique	15	\$50
Anand and Anand	New Delhi	IP boutique	65	\$110
Bhasin & Co	New Delhi	General practice	40	
DH Law Associates	Mumbai	General practice	23	\$125
India Juris	New Delhi	General practice	25	\$80
Inttl Advocare	New Delhi	IP boutique	22	\$75
KG Bhagat & Company	New Delhi	General practice	30	\$40
Kanga & Company	Mumbai	General practice	30	\$150
Kesar Dass B & Associates	New Delhi	General practice	60	\$75
KR Chawla & Co	New Delhi	General practice	50	\$125
Lall & Sethi	New Delhi	IP boutique	20	\$120
Law Quest	Mumbai	General practice	5	\$40
LEX Nexus	Mumbai	General practice	30	\$94
LexCounsel	New Delhi	General practice	44	\$150
NDLO South	Gurgaon	General practice	15	\$60
Paras Kuhad & Associates	Mumbai	General practice	110	\$100-120
Preconcept	New Delhi	IP, IT, telecoms & media	12	\$50-75
Premnath Rai Associates	New Delhi	General practice	16	\$50-75
Seth Associates	Noida	General practice	10	\$100
Seth Dua & Associates	New Delhi	General practice	25	\$125-150
Singh & Associates	New Delhi	General practice	21	\$50
Singhania & Co (Mumbai)	Mumbai	General practice	16	\$80-100
Singhania & Partners	Noida	General practice	66	\$100
SKS Law Associates	New Delhi	IP boutique	4	\$150
Solomon & Co	Mumbai	General practice	20	\$75-125
Surana & Surana	Chennai	General practice	53	\$95
The Practice	New Delhi	General practice	11	\$55
Thiru & Thiru	Bangalore	General practice	53	\$80
Titus & Co	New Delhi	General practice	49	\$75
Yang Lawyers	New Delhi	General practice	11	\$75-100
Average 2008				\$90
<i>Average 2007</i>				<i>\$90</i>
2007-2008 average increase				0%

The above information was supplied by participating law firms with their consent for it to be published in *India Business Law Journal*. Law firms that declined to have their rates published are not included. The figures quoted are the average hourly billing rates for each category of lawyer. Actual rates may vary depending on the nature and complexity of work. Law firms may sometimes bill on a project basis rather than an hourly rate.

Senior associate (US\$ per hour)	Junior partner (US\$ per hour)	Senior partner (US\$ per hour)	Managing partner (US\$ per hour)	Law firm average
\$150	N/A	\$200	\$200	\$163
\$100	\$150	\$150	\$220	\$137
\$125	N/A	\$150-200	\$250-300	\$163
\$75	\$100	\$150	\$150	\$105
\$165	\$250	\$350	\$400	\$255
Flat "firm rate" of US\$250 per hour based on hours of most senior lawyer involved				N/A
\$150	\$200	\$250	\$350	\$215
\$120	N/A	\$150	\$200	\$138
\$100	\$150	\$250	\$350	\$185
\$75	\$100	\$250	\$350	\$163
\$200	\$375	\$750	\$750	\$445
\$125	\$200	\$300	\$350	\$210
\$150-175	\$175-200	\$225	\$250	\$190
\$140	\$150	\$200	\$200	\$162
\$70	N/A	N/A	N/A	\$55
\$100	\$110	\$115	N/A	\$105
\$200	N/A	\$250	N/A	\$200
\$110	N/A	\$180	\$180	\$133
\$130-180	\$200-280	\$300-350	\$350-400	\$241
\$75-100	\$120-175	\$200-300	\$200-300	\$160
\$75-100	\$100-150	\$150-200	\$175-225	\$130
\$150	\$200	\$250	\$350	\$210
\$175-200	\$225-275	\$300-400	N/A	\$231
\$75	\$90	\$100	\$125	\$88
\$100-120	N/A	\$150-200	N/A	\$125
\$150	\$200	\$250	\$275	\$195
\$200	\$250	\$300	\$350	\$250
\$125-175	N/A	N/A	\$175-225	\$150
\$125	\$150	\$200	\$245	\$163
\$112	N/A	N/A	\$272	\$146
\$150-250	\$300-400	\$500	\$600	\$346
\$125	\$175	\$225	\$275	\$175
\$125-150	N/A	\$250	\$300	\$194
\$132	\$189	\$252	\$298	\$192
\$130	\$175	\$230	\$275	\$180
1.5%	8%	9.5%	8%	7%

These figures are indicative of hourly rate billing only. The average rates for each law firm have been calculated as the mean average of the billing rates provided for each category of lawyer. *India Business Law Journal* has not verified the accuracy of the billing rates supplied by participating firms.