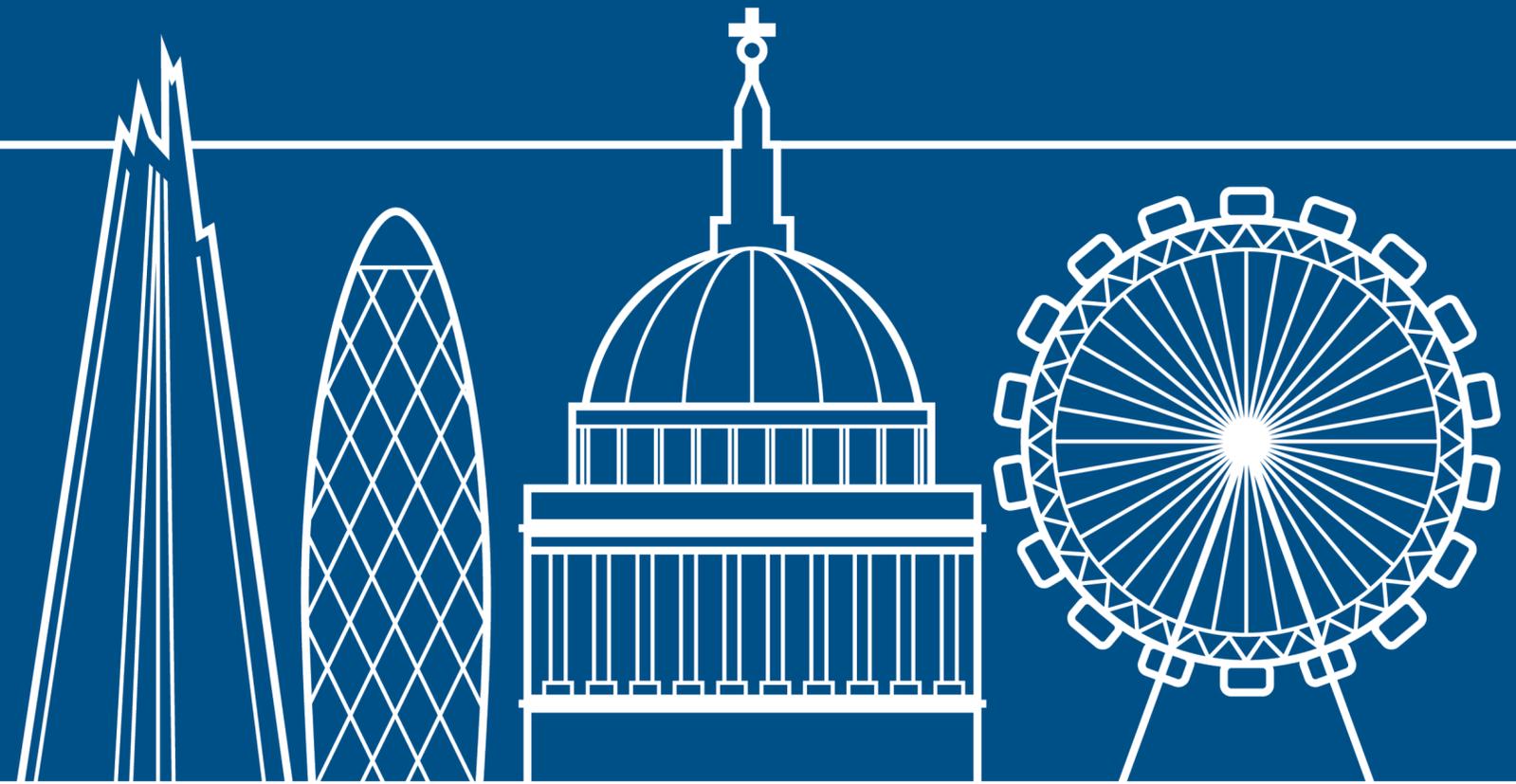




FICPI ExCo & 21st Open Forum

London, 1-7 October 2023



Sustainable Profitability in IP Firms



STRENGTHENING THE PRACTICE OF THE INDEPENDENT IP ATTORNEY

www.ficpi.org

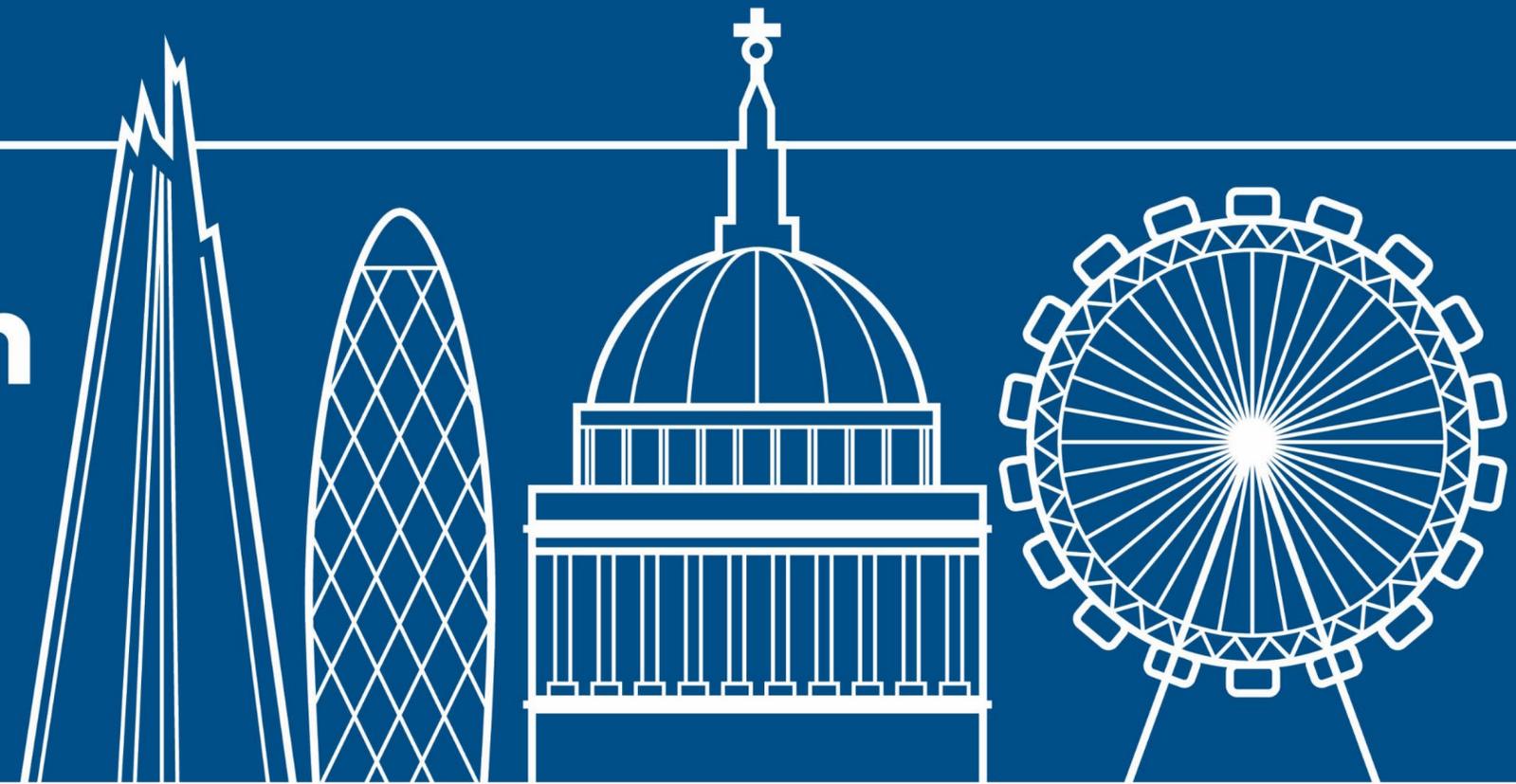
stpancras



21st Open Forum

London

4-7 October 2023



Introduction

Louis Lagler
Partner, Rentsch Partner AG
Switzerland



stpancras

STRENGTHENING THE PRACTICE OF THE INDEPENDENT IP ATTORNEY

www.ficpi.org



21st Open Forum
London, England
4-7 October 2023



Louis Lagler



Norman Clark

Looking to the future...



...sustainable profitability will be
a decisive issue for most IP practices.

our agenda

- Six Drivers of Law Firm Profitability
- FICPI Sustainable Profitability Survey
- applying the concepts and methods



Think of your practice as separate lines of business.



The factors that have the greatest impact on the profitability of an IP subspecialty might be different from the ones that affect another IP subspecialty in the same firm.



6 drivers of
profitability
in a law firm



**Sustainable
Profitability in
a Disrupted
Legal Market**

Norman K Clark
Lisa M Walker Johnson

Law firm management 

available from

Globe Law and Business

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SALE2023 - 35% discount



pricing

productivity

realization

cost management

compensation

leverage

pricing



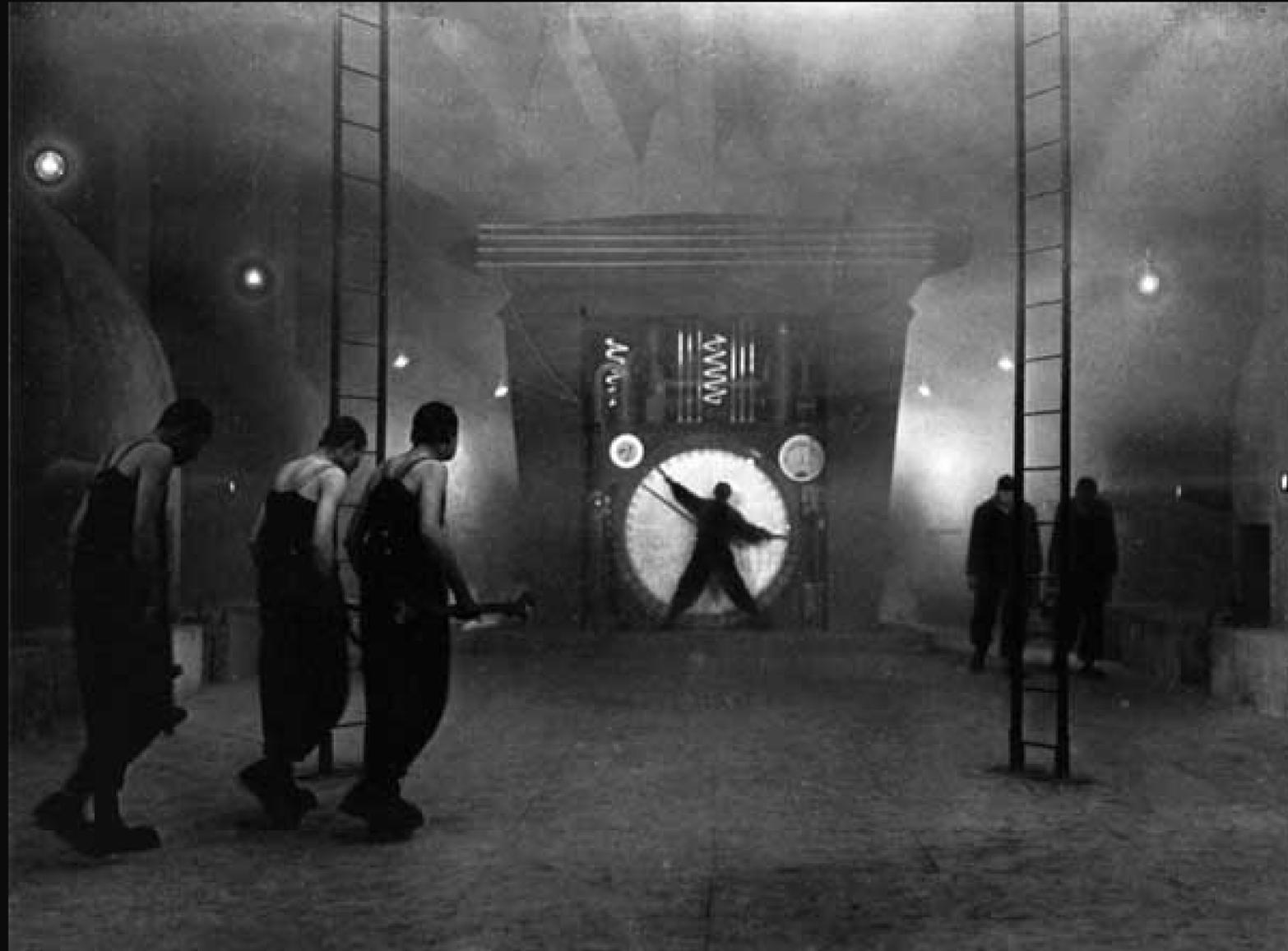
Fixed fees can be more profitable than hourly rates.

Being the cheapest is not a strategy.

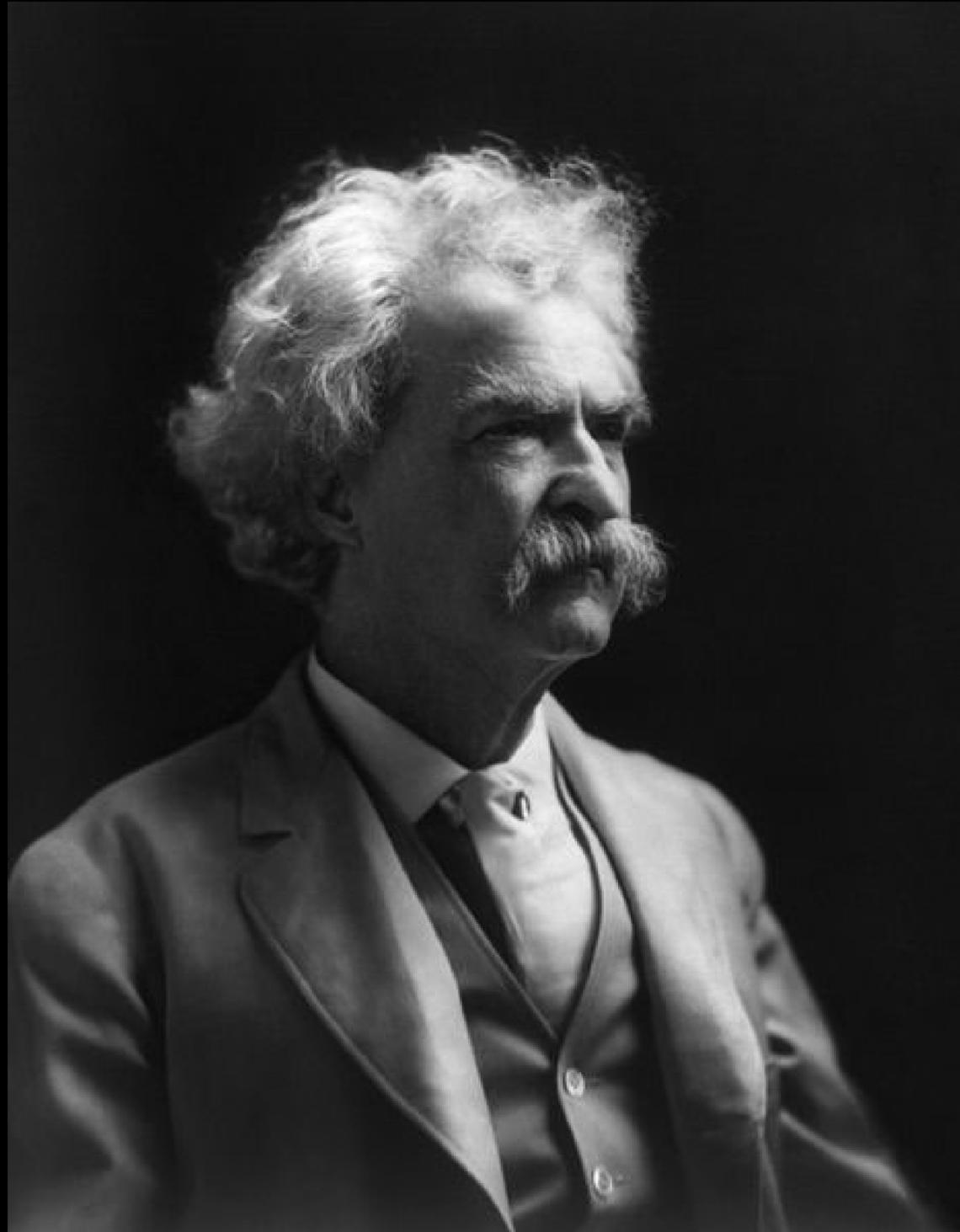
Most clients of professional services firms still care about value.



productivity



“It must be great to be a partner.”



the billable hour

“The reports of my death
have been greatly
exaggerated.”

Samuel L. Clemens
(1835-1910)

realization



recording realization

Of all the billable work that we do, how much is recorded?

billing realization

Of all the billable work that we record, how much is billed?

collection realization

Of all the fees that we bill, how much is paid?





recording realization

Of all the billable work that we do, how much is recorded?

90%

billing realization

Of all the billable work that we record, how much is billed?

90%

collection realization

Of all the fees that we bill, how much is paid?

90%



72.9%

4 leading reasons for write-offs



65% to 80% of all write-offs

The task took too long to complete.

We had to spend extra time to correct errors in our work.

The client was dissatisfied with the work product

There were misunderstandings or disagreements about the terms of the engagement.

high-risk practice areas and services

document-intensive

high-volume routine

high degree of delegation



cost management



facilities





Outsourcing of Core Legal Service Functions

How to Capitalise on
Opportunities for Law Firms

Editor: Norman K Clark

Law firm management 

available from

Globe Law and Business

<https://www.globelawandbusiness.com>

Core

Table 1. Cost and risk analysis

Step	FLOC/hour	Average hours	Estimated cost of each step	Probability of errors	Relative severity of an error
1	£305	0.5	£ 152.50	15.5%	low
2	£155	3.3	£ 511.50	41.7%	moderate
3	£305	1.0	£ 305.00	12.5%	moderate
4	£190	1.2	£ 228.00	39.6%	high
5	£245	0.5	£ 122.50	49.5%	low
6	£400	1.5	£ 600.00	8.0%	high
7	£400	0.5	£ 200.00	3.2%	high
Total		8.50	£2,119.50		

Where are the opportunities?

How do we decide which functions, if any, to outsource?

compensation



attrition costs

Even in well-managed law firms, the total cost of an unplanned loss of a fee earner can be equivalent to 4 to 6 months' compensation.





leverage

Give me a place to stand and a lever
and I will move the whole world.

Archimedes
(287-c. 211 BCE)



leverage

staffing leverage

work leverage



Which drivers offer the best opportunities to improve profitability...

pricing

productivity

realization

cost management

compensation

leverage

observations about profitability in IP practices

Sustainable Profitability in Intellectual Property Practices



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August 2023

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the survey

May-August 2023

84 respondents
(35.44% response rate)

35 countries

2/3 are from firms with 20 or fewer
lawyers

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the practices

Patent and trademarks practices are the dominant fee producers.

median fee production percentages:

- prosecution 80%
- litigation 15%

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2018-2023: an era of “stable change”

staffing turnover (43.59%)

profitability increase: (40.29%)

changes in the client base:
(30.88%)

...but not for everyone.

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shifting paradigms

- *Depends on what you mean by foreign. We are UK and DE based but many of our direct clients - that we consider to be local and for whom we perform local type services, such as drafting and strategic advice, are based in other European countries*
- *There is a huge pressure on margins in the trademark business and there are more and more “non law firm” service providers for auxiliary services that also have an influence on profitability.*

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shifting paradigms

*Direct competition from service providers
Greater diffusion of the use of tenders to
assign new tasks/portfolios. No more
limitations in the aggressive competition from
other firms. Entering on the IP prosecution
market of national and international law
firms Investing on digitalization. Outsourcing
part of the processes. Reducing the
paralegal and non paralegal staff.*

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changing expectations

Advising on IP matters usually involves no physical tangibles save the usual ones needed to run any business. But AI based systems are becoming available and it would be a disservice to clients not to use them where appropriate, particularly for searching.

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foreign clients dominate the client bases

top client sectors producing at least 30% of the IP revenue:

- foreign law firms
- foreign corporations
- local startups

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most profitable IP specialties

(top 4 “very profitable” or “moderately profitable”)

- patents
- other IP litigation
- trademarks
- designs

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Which of the Six Drivers have the greatest impact on profitability?

(top “great impact” responses)

- pricing (70.69%)
- productivity (63.52%)
- cost management (47.37%)
- realization (41.38%)
- fee earner compensation (26.32%)
- leverage (25.00%)

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competing profitability dynamics

- *Costs are mushrooming at the moment - it will be hard to maintain profitability over the next years*
- *Digitalization has helped to become more profitable*
- *More profitable due to growth*
- *Due to higher costs for paralegals/staff.*

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the Six Drivers

- *The main factors are really the productivity and the realization in the sense that attorneys need to charge a certain minimum amount of hours in order to create a profit. Other factors are somewhat important, but their influence is less.*
- *We are not able to measure productivity and realization because of a mixed system of fixed fees and hourly rates. Most fee earners are partners and therefore responsibilities are with the partners.*

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the Six Drivers

- *Usually, delegation of work to younger practitioners is not so profitable, because they are not familiar with the case, and you have to educate them first*
- *The problem with leverage is that in some cases there are no good specialists, thus we have to do the work ourselves.*

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post-pandemic profitability

- *Profits have increased but not significantly. Partly our new office has begun to come on stream. Also a major client has had their budget restored after a 50% cut during covid and another major client has greatly increased its EP filings.*
- *Profit has lowered, especially in the work coming from abroad. The arrival of the UP/UPC seems to be the most important ground for this.*

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post-pandemic profitability

Turnover sank. Reason not clear, maybe fear of recession or supply chain problems Costs rose, due to inflation and salary increases. Profits sank. We are trying to reduce costs. We invest in acquiring new clients.

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post-pandemic profitability

We have a lot of work from multinational corporations, mostly located outside of the United States. We have experienced a decline in new work from these companies, due to the poor international economy. Due to travel restrictions, we were not able to travel and rejuvenate this work by maintaining a personal connection until mid-2022. Web meetings (Teams/Zoom) is a poor substitute for in-person contact and it is very difficult to generate new work using these "remote" technologies.

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managing profitability

Almost 80% of the respondents receive financial reports for the IP practice monthly or quarterly.

23.73% also said that they receive reports on request.

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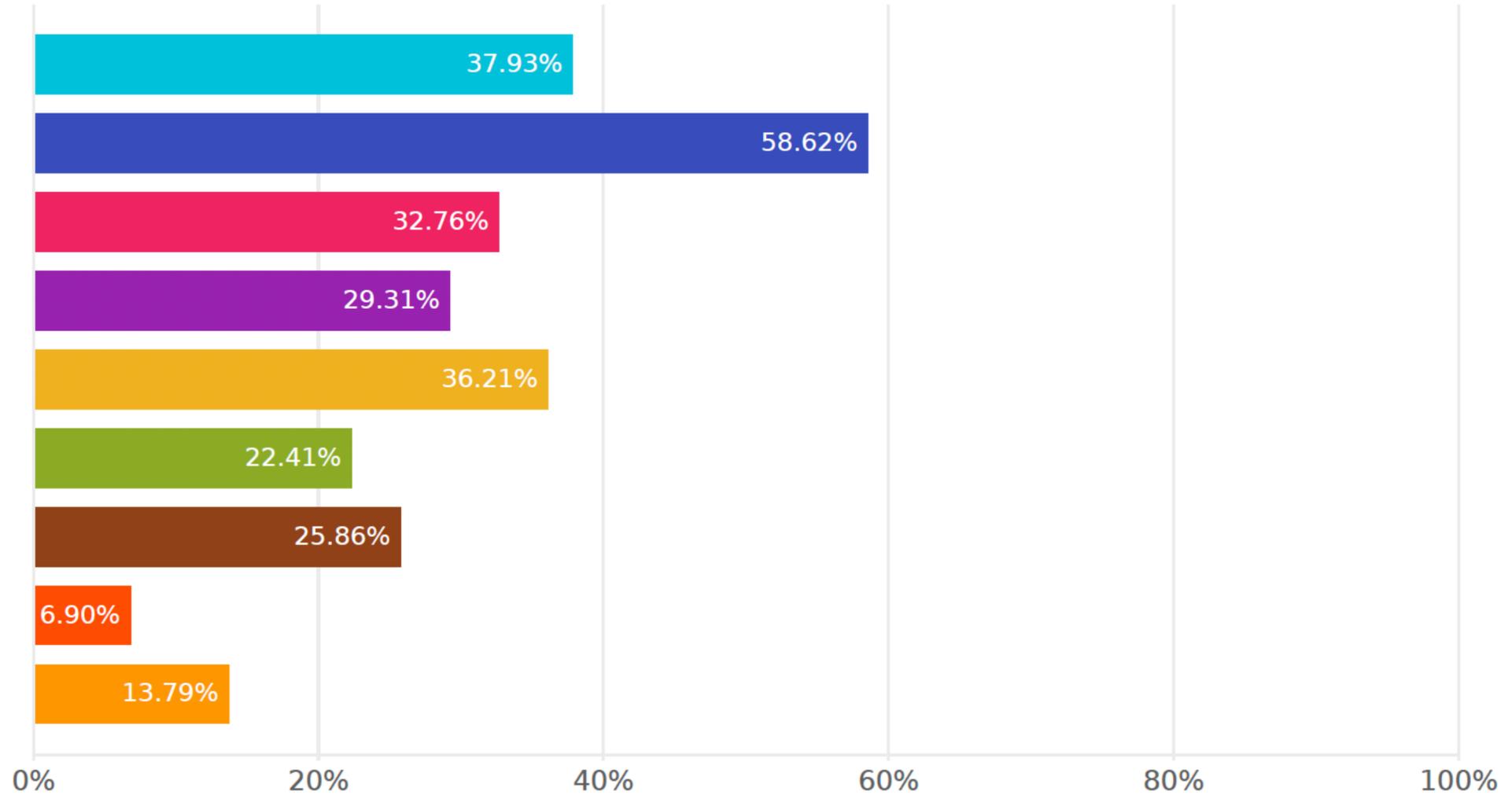


managing profitability

Q27

Which of the following measurements does your law firm use to monitor the financial performance of your intellectual property practice?

Answered: 58 Skipped: 26



● average fee yield per fee earner hour

● billable or chargeable hours

● fee earner utilization rate

● fully-loaded operating cost per fee earner hour

● profits per billable or chargeable hour

● workflow delegation to junior fee earners and staff

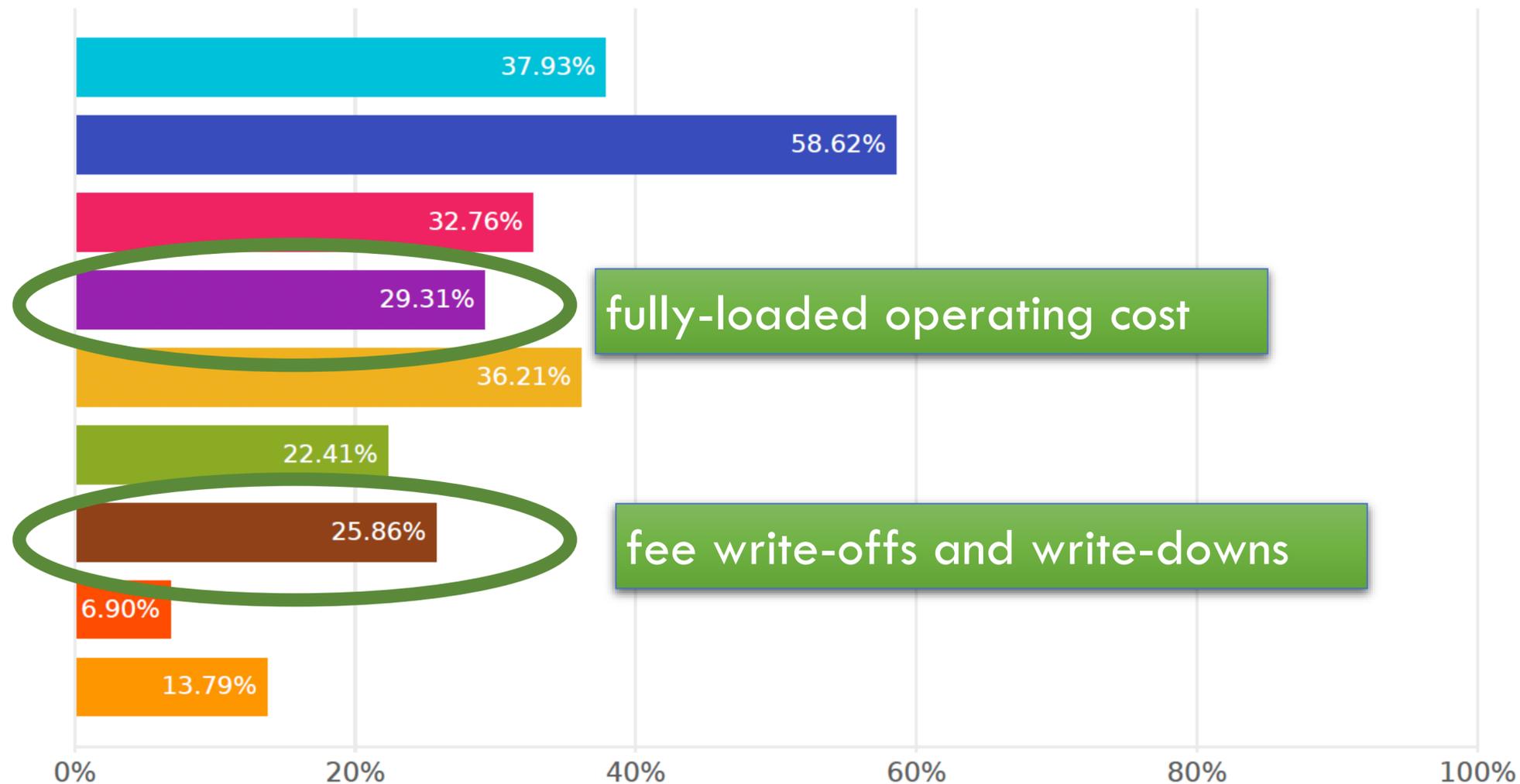
● fee write-offs and write-downs

● return on marketing investment

● other (Please specify)

Which of the following measurements does your law firm use to monitor the financial performance of your intellectual property practice?

Answered: 58 Skipped: 26



fully-loaded operating cost

fee write-offs and write-downs

managing profitability

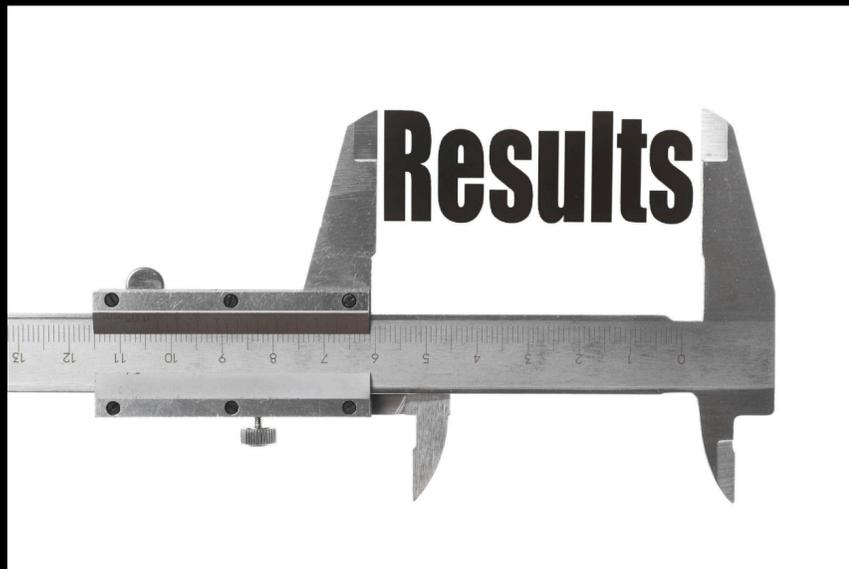
2 missed opportunities?

- average fee yield per fee earner hour
- billable or chargeable hours
- fee earner utilization rate
- fully-loaded operating cost per fee earner hour
- profits per billable or chargeable hour
- workflow delegation to junior fee earners and staff
- fee write-offs and write-downs
- return on marketing investment
- other (Please specify)

A top-down view of a wooden desk. In the top left, a portion of a silver laptop is visible. In the top right, there is a small potted plant with long green leaves. On the left side, a white coffee cup with a frothy top sits on a bright red saucer. In the bottom left, there is a brown paper envelope and a black pencil. In the bottom right, a single yellow sticky note is placed on the desk. The text "using the concepts, tools, and methods of sustainable profitability" is centered on the desk in a white, sans-serif font with a subtle drop shadow.

using the concepts, tools, and
methods of sustainable
profitability

two sets of diagnostic indicators



- financial performance metrics - “the numbers”
- changes in one or more of the profitability drivers

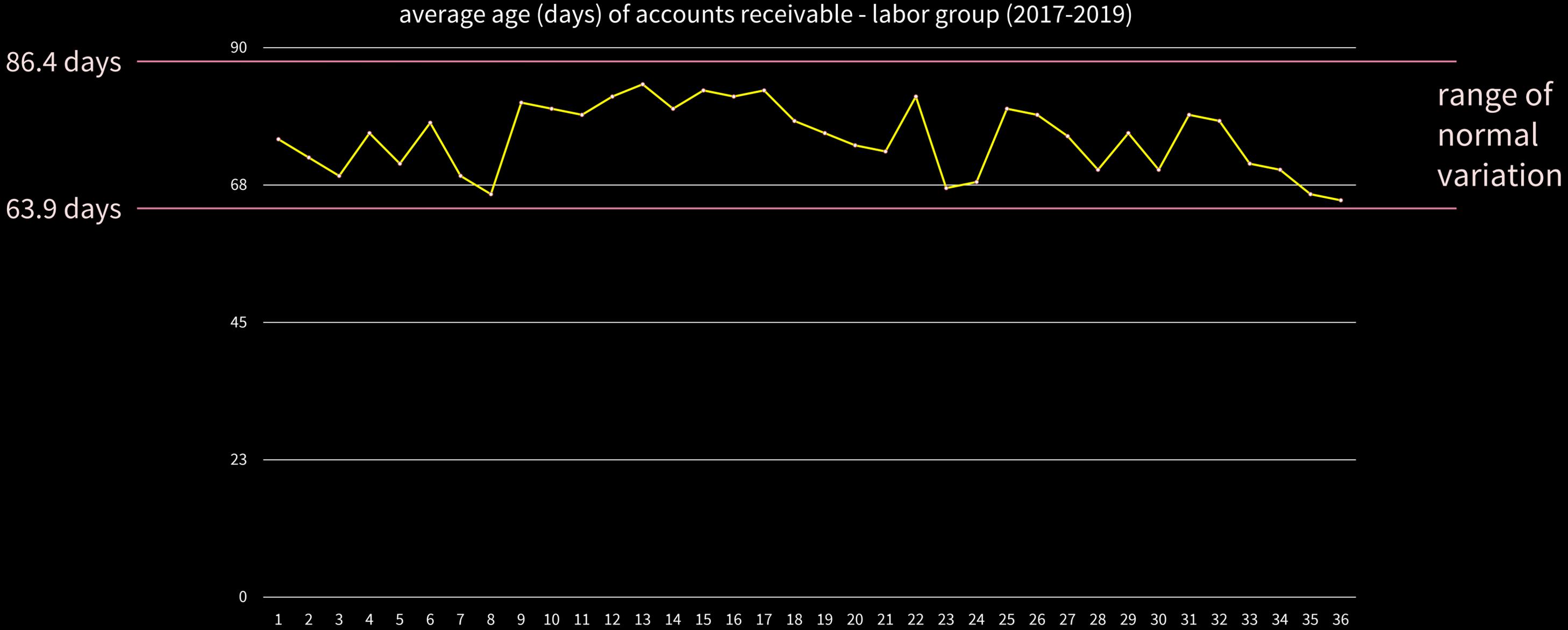
8 reliable measurements



“Either he’s dead or my watch has stopped.”

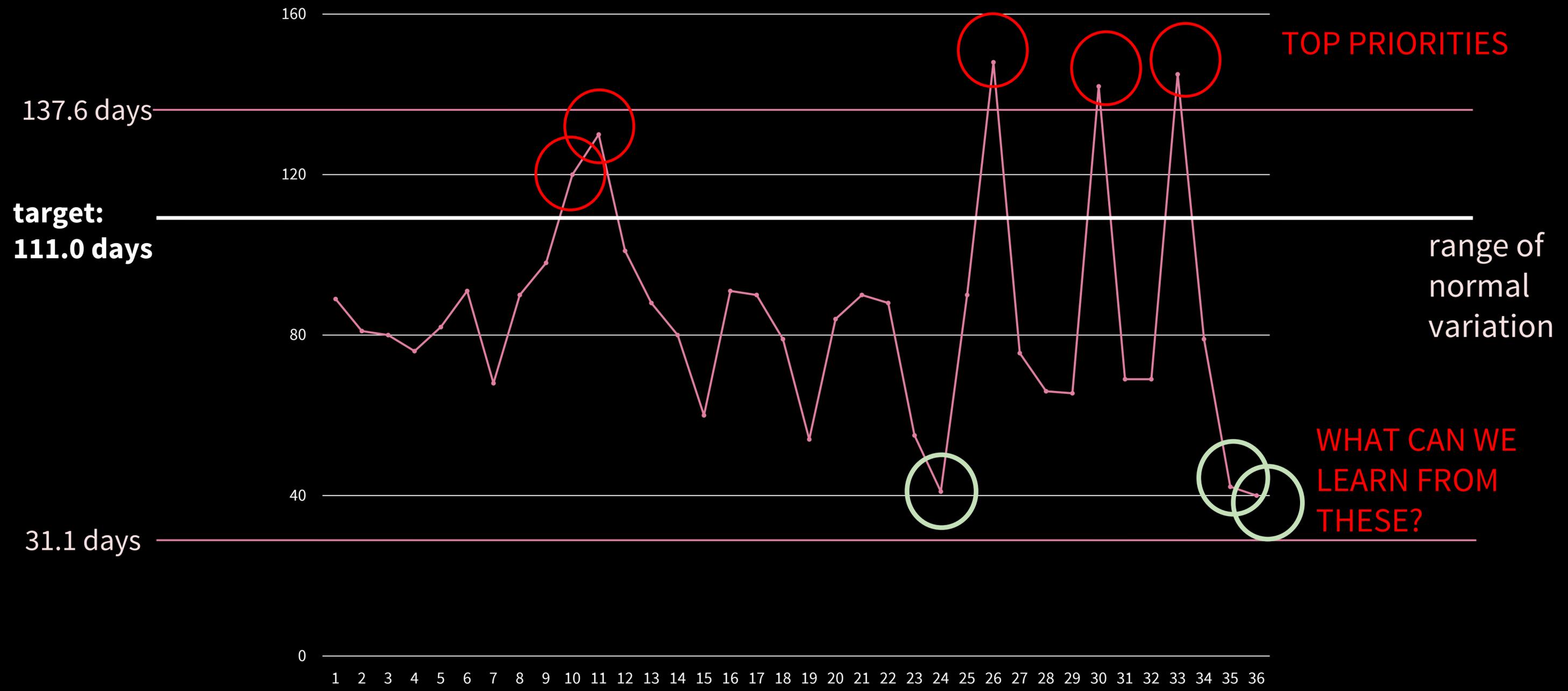
- realization rate
- fully loaded cost per hour
- fee yield per hour
- profits per hour
- lawyer utilization rate
- workflow delegation to junior fee earners and staff
- fee write-offs and write-downs
- return on marketing investment

Watch how the numbers move.



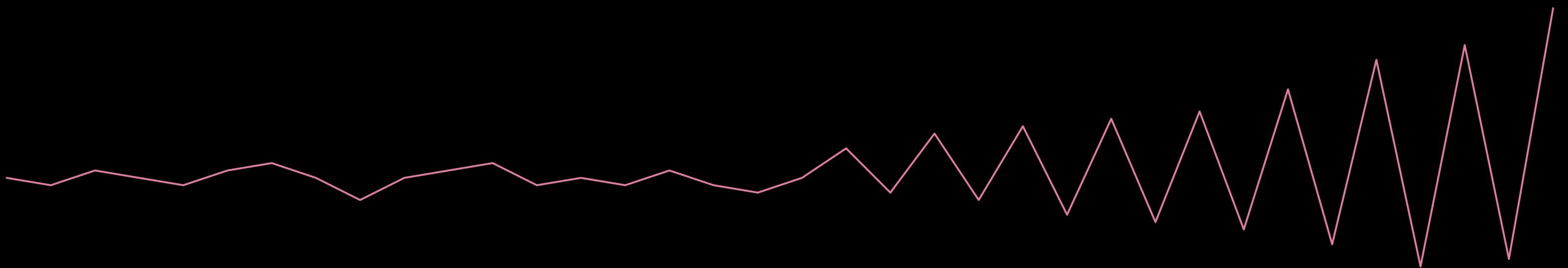
Watch how the numbers move.

average age (days) of accounts receivable - banking group (2017-2019)



Avoid the temptation to “chase the numbers.”

You could make the variation worse.



“tampering”

a diagnostic understanding of profitability



pricing

productivity

realization

cost management

staff compensation

leverage

the six drivers of law firm profitability

recording realization

Of all the billable work that we do, how much is recorded?

billing realization

Of all the billable work that we record, how much is billed?

collection realization

Of all the fees that we bill, how much is paid?



recording realization

Of all the billable work that we

billing realization

Of all the billable work that we

collection realization

Of all the fees that we bill, how

- inadequate knowledge or skills of fee earners
- inadequate knowledge management systems, policies, or practices
- unnecessarily time-consuming or inefficient internal processes in the preparation and delivery of a client service, especially in document-intensive services
- inadequate internal communication of the purpose, scope, or expectations concerning tasks performed by fee earners

recording realization

Of all the billable work that w

billing realization

Of all the billable work that w

collection realization

Of all the fees that we bill, ho

- preventable errors in the billing process
- weaknesses in the firm's policies or practices concerning timely billing and collections
- client dissatisfaction with the results of the engagement
- vulnerabilities in the firm's credit risk assessment practices when accepting a new client
- weak risk management practices to detect and respond promptly to changes in the client's financial position that might affect the ability to pay the firm's fees

Ask *why* 5 times.

Why?

Why?

Why?

Why?

Why?



Why were you late to the meeting with our client this morning?

Why were you late to the meeting with our client this morning?

Why were you speeding?

Why did you leave home late?

Why did you wake up late?

Why did your alarm clock not wake you up?

The police stopped me and gave me a ticket for speeding on my way to work.

I left home late.

I woke up late.

My alarm clock did not wake me up.

The battery was dead.





5 practical applications

Is our strategy producing the results we want?

Can we spot problems before they deteriorate into a crisis?

Are we pursuing the right priorities in the best way?

Are we assigning the work profitably?

Is our quality assurance adequate?



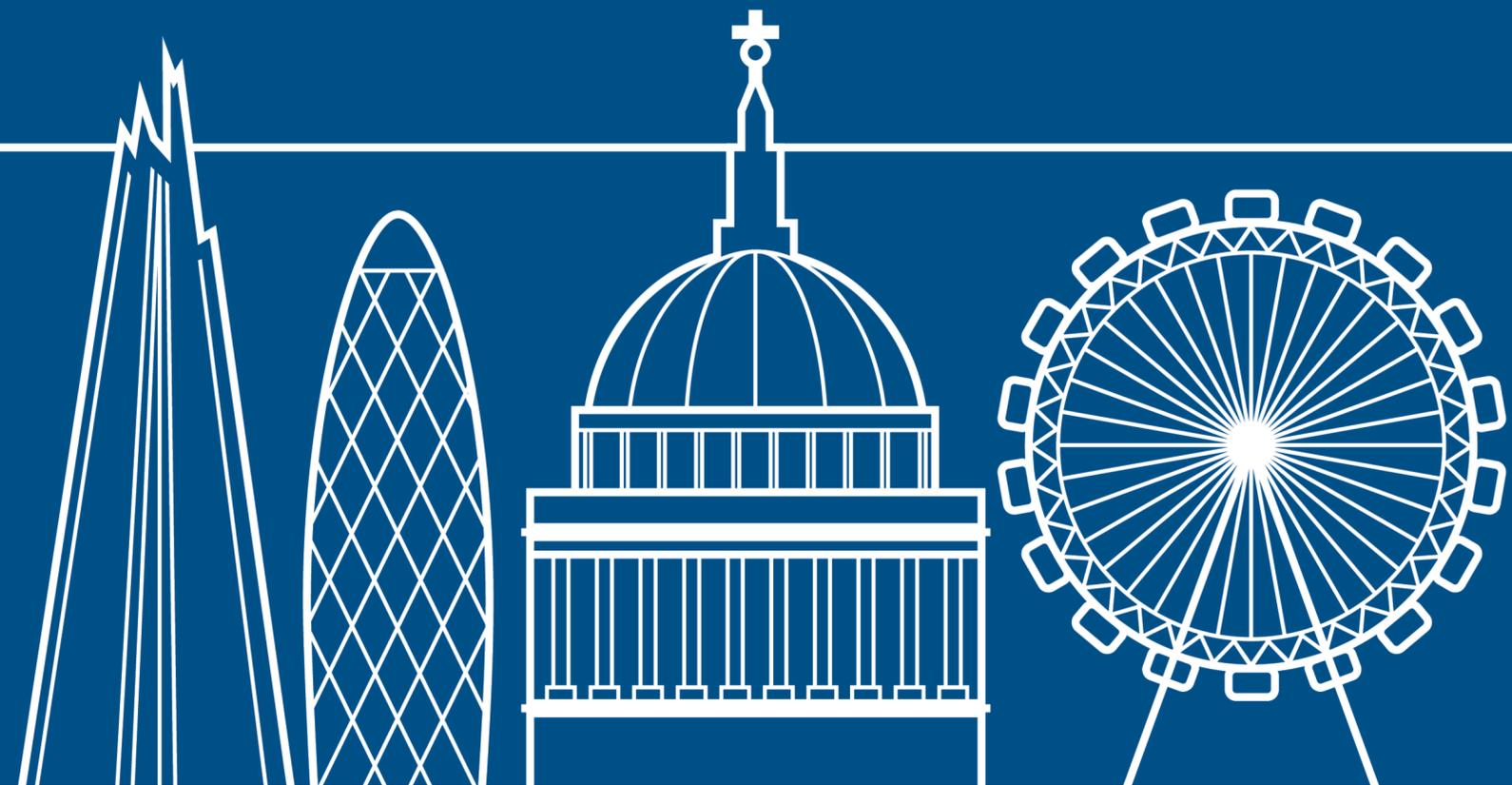
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