Case Western Reserve Law Review

Volume 52 | Issue 4

Article 8

2002

Comment: Global Multi-Disciplinary Practice: A Word on "The Future"

Gary John Previts

COMMENT: GLOBAL MULTI-DISCIPLINARY PRACTICE:

A WORD ON "THE FUTURE"

Gary John Previts†

Carole Silver's presentation of the findings, which she and Bryant Garth have developed, as to the global environment and prospects for multi-disciplinary practice ("MDP"),[1] is thought provoking and provides me an opportunity to say to the legal community: "Don't worry. Be Happy!" For as the words in that song suggest: "Things will work out!" So, just leave it to "us"—the "us" being your new neighbors in the Certified Public Accountant ("CPA") Profession!

My participation in that profession, from an academic base, has evolved from a series of opportunities to participate in leadership roles—serving as President of the Ohio Society of CPAs during 1993-94, the Board of Directors of The American Institute of CPAs ("AICPA") during 1995-98, and currently as a member of the Governing Council of AICPA. These experiences relate back to the 1980s, to my 1985 book *The Scope of CPA Services*,[2] and to my subsequent editing and writing activity on the subjects of accounting regulation and professional duties. Consequently, my viewpoint is focused, narrowly if you wish, on the maturing of the oft-called "Accounting industry." This label, affixed by critics, competitors, and journalists, asserts that the "CPA profession" has become distracted from its "social contract" with the public as provider of a "core" assurance function, and has dissipated itself over whatever variety of economically and market justified services it can provide. This broader domain became so extensive in geographic and technical service features as to assert its similarities to early industrial conglomerations of commodified goods; thus, the "Accounting industry." I must admit that until late in the year 2000, or early 2001, when sev-

---

† Professor and Associate Dean, Weatherhead School of Management, Case Western Reserve University. The author expresses his appreciation to Dr. Orhan Celik, University of Ankara, Turkey, for assistance in developing the trade and capital flow data presented in this comment.

[1] BRYANT G. GARTH & CAROLE SILVER, *The MDP Challenge in the Context of Globalization*, 52 CASE W. RES. L. REV. 903 (2002).

[2] GARY JOHN PREVITS, THE SCOPE OF CPA SERVICES (1985).

eral of these firms actively shed their burgeoning consulting practices—KPMG via an initial public offering, Andersen Consulting into Accenture, and Ernst & Young Consulting into Cap Gemini—there was substantial evidence to support this label.

But now, and particularly since September 11, 2001, with reconsideration of global alliances being among the strategic consequences of the events of that day, is it likely that the major accounting firms still warrant being labeled as a threat to the autonomous practice of the law? As we speak, AICPA membership is balloting an initiative to establish an allied credential that would identify those holding it as being members of an "International Institute of Strategic Business Professionals" ("IISBP"). IISBP succeeded the ill-fated term "Cognitor," which was first proposed for this designation. Is there even more change coming as "consultants" organize themselves to serve the business community as members of a new "knowledge" profession to compete/coalesce with both CPAs and lawyers?

Indeed, last year trustees of AICPA were asked to assist in funding the plans of a consortium formed in the state of Oregon. This group, after nearly a decade of effort, managed to cobble together a host of disciplines—including architecture, management, accountancy, and law—to approach and study common issues in preparation for collegiate study in professional disciplines. Their strategic intent was to develop a base of economic development in Oregon that would place such knowledge professions as the provider of as much as fifteen percent of the state's economic product.

This example illustrates that while the traditional views of the scope of service in law and accountancy are vibrant, and in the case of the latter, vocally opposed to the IISBP, there are strong economic evolutionary forces that support recasting the arrangements by which the knowledge professions intermediate their services to the business community. If the lawyers opt to bury their proverbial heads in the sand, I can assure you that the CPA profession will not—because it cannot. The core CPA service of assurance, complemented by tax services, is no longer sufficient in providing the economic base from which to sustain the knowledge assets and talents required to provide the service. Since the 1980s, rulings of the Federal Trade Commission have firmly pushed the CPA profession in the direction of accepting a market approach to providing their services, versus the profession's traditional mandate of audit and tax services. Thereafter, the organized CPA firms and the CPA profession have seen a seismic shift in the demographics of AICPA membership. Changes in the marketplace for decision information relating to business and government have resulted in laws mandating stricter corporate payment controls following Watergate. Further, recent legislation requires the federal government to produce an annual audited financial report to connect performance and establish accountability of government resources claimed in the traditional tax-budget cycle. These are but two fundamental examples of how investment, information, and control for the public have evolved, perhaps without much notice, in the past two decades and how they establish markets for information services in our economy. Today, the various groups of accounting practitioners traditionally associated with CPA and tax services in the "public accounting" sense no longer comprise the dominant number of AICPA members.

Instead, the modern CPA is an information professional—within business firms as an executive, in mutual funds as a senior analyst, and in government as a controller in the armed services and in investor relations' communications functions. Information technology has made the technical functions of the CPA less labor intensive and more strategic. Audit examinations are similarly less mechanical and stupefying, requiring a more highly educated, analytical practitioner. Such a strategic information professional committed to serving the needs of the public is a well-positioned match for attorneys whose professional tasks include advocating the legal rights of individuals and their corporate counterparts. While both groups aver to serve distinctive needs of the public, both also are compelled by the realities of marketplace competition, or are they?

I. SCALE ECONOMIES AND SOVEREIGNTY

Assuming that U.S. lawyers and accountants can develop a technically compatible professional synergy, with accountants as professionals committed to protecting the information rights of individuals who invest in large enterprises, and lawyers advocating the legal rights and well-being of the public, one would ask: "How would that impact global MDP thinking?" If they exist separately, why should they consider merging? After all, the U.S. system does not extend beyond its sovereign boundaries. Therefore, whatever comparative advantage exists might suggest closer U.S. affiliation, but wouldn't international or global affiliation be different?

Some facts based on data about the trade and capital sourcing relationships that exist between our sovereign nation and other sovereign nations may begin to assist us in assessing this situation. Of course global trade, from the days of caravans to Columbus, is not new. Today's relationships, however, suggest more fully integrated and possibly more permanent sets of economic relationships. The numbers leave a trail that leads toward a significant portion of economic activity permanently beyond the sovereign boundaries of our country and encapsulated in a world of trade organizations.

II. TABLES[3]

A. U.S. Trade Flows

Table A: U.S. Exports by Country: 1995-1999 (millions of dollars)

Country	1999	1998	1997	1996	1995
Canada	166,288.6	156,603.4	151,766.7	134,210.3	127,226.1
Mexico	86,865.8	78,772.5	71,388.4	56,791.5	46,292.1
Japan	57,483.5	57,831.0	65,548.5	67,606.8	64,342.6
U.K.	38,337.8	39,058.2	36,425.3	30,962.5	28,856.5
Germany	26,788.9	26,657.4	24,458.3	23,495.0	22,394.3
South Korea	22,954.0	16,485.5	25,046.1	26,621.1	25,379.9
Netherlands	19,412.1	18,977.7	19,826.7	16,662.6	16,557.7
Taiwan	19,121.1	18,164.5	20,365.7	18,460.2	19,289.6
France	18,838.5	17,728.7	15,964.9	14,455.5	14,245.2
Singapore	16,246.4	15,693.6	17,696.2	16,720.0	15,333.2
Brazil	13,249.0	15,142.0	15,914.7	12,717.5	11,439.4
China	13,117.7	14,241.3	12,862.3	11,992.6	11,753.6
Hong Kong	12,647.1	12,925.3	15,117.1	13,966.3	14,231.4
Belgium	12,384.9	13,917.8	13,420.3	12,532.2	12,465.5
Australia	11,810.7	11,917.6	12,062.9	12,008.4	10,789.1
	535,546.1	514,116.5	517,864.1	469,202.5	440,596.2
Others	159,463.1	168,021.2	171,318.3	155,872.5	149,145.8
Total	695,009.2	682,137.7	689,182.4	625,075.0	589,742.0

[3] Data from Tables are derived from U.S. CENSUS BUREAU, SERIES FT900, INTERNATIONAL TRADE IN GOODS AND SERVICES (2001), *at* http://www.census.gov/foreign-trade/www/statistics.html (last visited Apr. 10, 2002).

Table B: U.S. Imports by Country: 1995-1999 (millions of dollars)

Country	1999	1998	1997	1996	1995
Canada	198,324.0	173,256.1	168,200.9	155,892.6	144,369.8
Japan	131,403.6	121,845.0	121,663.2	115,187.0	123,479.1
Mexico	109,706.5	94,629.0	85,937.5	74,297.3	62,100.6
China	81,785.9	71,168.7	62,557.6	51,512.6	45,543.2
Germany	55,093.5	49,842.0	43,121.5	38,945.1	36,844.0
U.K.	39,190.8	34,838.2	32,659.3	28,978.8	26,929.5
Taiwan	35,198.5	33,124.8	32,628.5	29,907.3	28,971.8
South Korea	31,262.0	23,941.8	23,173.1	22,655.1	24,183.9
France	25,909.6	24,015.9	20,636.4	18,645.8	17,209.4
Italy	22,438.0	20,959.1	19,407.5	18,324.8	16,348.3
Malaysia	21,428.6	19,000.0	18,026.7	17,828.8	17,454.7
Singapore	18,187.7	18,355.7	20,074.6	20,343.1	18,560.5
Thailand	14,323.8	13,436.4	12,601.5	11,336.1	11,348.1
Philippines	12,379.7	11,947.3	10,445.0	8,161.4	7,006.5
Brazil	11,313.8	10,101.9	9,625.5	8,773.4	8,832.9
	807,946.0	720,461.9	680,758.8	620,789.2	589,182.3
Others	217,085.6	191,434.2	189,911.9	174,500.1	154,360.5
Total	1,025,031.6	911,896.1	870,670.7	795,289.3	743,542.8

Table B-1: U.S. Exports and General Imports in Goods: 1970-1999 (billions of dollars)

	Total Goods		
Years	**Exports**	**Imports**	**Balance**
1970	43.8	40.4	3.4
1971	44.7	46.2	-1.5
1972	50.5	56.4	-5.9
1973	72.5	70.5	2.0
1974	100.0	102.6	-2.6
1975	109.3	98.5	10.8
1976	117.0	123.5	-6.5
1977	123.2	151.0	-27.8
1978	145.9	174.8	-28.9
1979	186.5	209.5	-23.0
1980	225.7	245.3	-19.6
1981	238.7	261.0	-22.3
1982	216.4	244.0	-27.6
1983	205.6	258.0	-52.4
1984	224.0	330.7	-106.7
1985	218.8	336.5	-117.7
1986	227.2	365.4	-138.2
1987	254.1	406.2	-152.1
1988	322.4	441.0	-118.6
1989	363.8	473.2	-109.4
1990	393.6	495.3	-101.7
1991	421.7	488.5	-66.8
1992	448.2	532.7	-84.5
1993	465.1	580.7	-115.6
1994	512.6	663.3	-150.7
1995	584.7	743.4	-158.7
1996	625.1	795.3	-170.2
1997	689.2	870.7	-181.5
1998	382.1	911.9	-529.8
1999	695.0	1,025.0	-330.0

Table B-1 presents U.S. exports and general imports by industry from the period 1970 to 1999. For these data, international trade in U.S. manufactured goods is the main component.

Table B-2: U.S. Exports by State of Origin
Top 25 States: 1999

State	Rank	Millions
California	1	$97920
Texas	2	82999
New York	3	37068
Washington	4	36731
Michigan	5	31086
Illinois	6	29432
Ohio	7	24883
Florida	8	24155
Massachusetts	9	16805
Pennsylvania	10	16170
Louisiana	11	15842
New Jersey	12	15355
North Carolina	13	15007
Georgia	14	13749
Indiana	15	12910
Arizona	16	11824
Virginia	17	11483
Oregon	18	10471
Tennessee	19	9868
Wisconsin	20	9673
Minnesota	21	9373
Kentucky	22	8877
Connecticut	23	7231
South Carolina	24	7150
Alabama	25	6192

B. U.S. Capital Flows

This section presents data on flows of capital between the United States and the leading fifteen country-partners and the ten leading business sectors in the data set.

The value of foreign investments by the U.S. represents capital outflows from the U.S. U.S. direct investment abroad means the ownership or control, directly or indirectly, by one person of ten percent or more of the voting securities of an incorporated business enterprise. Direct investment position is the value of U.S. parent's claims on the equity of and receivables due from foreign affiliates, less foreign affiliates' receivables due from their U.S. parents. Income consists of parents' shares in the earnings of their affiliates plus net interest received by parents on inter-company accounts, less withholding taxes on dividends and interest.

Table C: U.S. Direct Investments Abroad: Capital Outflows by Country, 1995-2000 (millions of dollars)

Country	2000	1999	1998	1997	1996	1995
United Kingdom	40,962	29,824	36,552	22,961	16,421	13,830
Canada	16,052	14,268	9,152	7,642	7,181	8,602
Netherlands	13,102	7,980	24,034	12,450	6,308	9,386
Italy	8,490	3,211	-606	123	416	2,506
Ireland	8,123	3,436	5,649	2,266	1,954	695
Switzerland	6,119	11,910	9,418	-792	1,264	1,850
Japan	6,081	10,616	1,394	-339	-280	2,336
Bermuda	5,291	5,122	1,352	589	3,170	275
Hong Kong	4,616	2,596	1,831	3,759	1,690	631
Mexico	3,091	5,355	4,718	5,596	2,405	2,983
Germany	2,677	5,875	3,284	2,464	1,956	3,349
Luxembourg	2,458	1,221	3,942	2,444	1,041	-477
Singapore	2,265	6,274	542	3,697	276	947
Brazil	2,027	455	4,834	7,138	371	6,954
Panama	2,009	1,803	718	354	920	781
France	1,791	786	3,805	2,971	4,463	5,196
Australia	941	4,063	4,697	1,209	3,787	5,537
International	214	549	631	482	1,451	-416
	126,309	115,344	115,947	75,014	54,794	64,965
Others	21,743	23,166	18,136	20,755	29,632	27,109
Total	148,052	138,510	134,083	95,769	84,426	92,074

Table D: Foreign Direct Investment in U.S.: Capital Inflows by Country, 1995-2000 (millions of dollars)

Country	2000	1999	1998	1997	1996	1995
United Kingdom	73,194	116,605	65,701	11,395	14,404	16,255
Netherlands	39,623	32,845	9,606	12,710	12,262	-1,526
France	36,704	19,310	10,371	10,932	7,244	2,725
Canada	28,951	12,228	16,012	10,838	8,590	4,824
Switzerland	27,987	4,930	6,392	8,611	2,438	4,066
Luxembourg	26,491	25,888	14,299	5,334	-2,230	3,429
Germany	14,928	22,701	42,110	12,186	19,616	7,908
Japan	12,710	9,529	7,563	10,559	13,337	8,118
Sweden	10,600	3,476	2,257	2,213	-1,243	2,231
Spain	6,512	353	235	325	60	789
Singapore	6,185	-544	-1,013	1,931	-410	232
Ireland	5,799	2,472	2,554	4,711	2,544	1,657
Australia	4,648	-2,507	904	1,821	5,321	2,003
Belgium	3,161	1,045	4,040	1,584	354	-68
Italy	2,181	1,056	1,044	-245	333	197
	299,674	249,387	182,075	94,905	82,620	52,840
Others	12,225	21,782	-311	8,608	1,835	5,932
Total	311,899	271,169	181,764	103,513	84,455	58,772

Table E: U.S. Direct Investments Abroad: Capital Outflows by Industry, 1995-2000 (millions of dollars)

Industry	2000	1999	1998	1997	1996	1995
Finance	70,515	54,475	62,161	39,001	31,601	22,001
Manufacturing	42,364	35,524	22,126	28,326	24,325	44,472
Petroleum	12,473	8,892	8,517	11,555	6,239	675
Wholesale Trade	10,487	11,801	6,434	121	6,498	8,880
Services	10,448	10,778	12,210	4,306	3,511	4,014
Depository Institutions	-2,190	-920	2,140	1,508	2,448	1,032
Other	150,242	139,430	131,943	94,261	81,978	91,042
Total	148,052	138,510	134,083	95,769	84,426	92,074

Table F: Foreign Direct Investment in U.S.: Capital Inflows by Industry, 1995-2000 (millions of dollars)

Industry	2000	1999	1998	1997	1996	1995
Manufacturing	121,922	72,610	87,010	34,218	37,538	28,739
Petroleum	47,625	5,558	58,813	3,847	8,852	3,863
Services	39,680	16,876	6,764	4,680	4,214	1,551
Finance	23,634	8,793	2,388	6,970	6,186	4,009
Wholesale Trade	17,529	11,853	10,364	13,020	7,974	6,556
Insurance	17,459	27,014	5,537	12,922	6,747	3,807
Depository Institutions	11,898	18,331	4,618	7,626	138	6,879
Retail Trade	4,423	2,478	4,123	3,181	2,708	1,336
Real Estate	2,685	1,341	2,980	5,149	2,535	-639
Other	309,214	269,828	178,784	98,364	81,920	59,411
Total	311,899	271,169	181,764	103,513	84,455	58,772

Businesses such as agriculture and manufacturing, including automotive as well as financial enterprises, have all been impacted by the global economic system. The setbacks suffered by Microsoft in its antitrust litigation and by General Electric in its unsuccessful bid for Honeywell, which was blocked by the European Commission,[4] suggest that the global merger movement has slowed, but certainly has not halted. Such global entities, the argument goes, will require integrated, efficient services from the knowledge professions in whatever part of the world their businesses take them. This orthodox statement of globalism and the tables provided relate the dimensions of both corporate control, investment, and trade dollars flowing to and from the United States. The premise is that the low costs of satellite communication, jumbo cargo ships, and jet transportation (even after September 11th) make operating over broader geographic spaces competitively cost effective, if not necessary, in order to capture scale economies. Yes, scale economies have been demonstrated to be effective in a variety of commodified goods—where one can replace higher labor cost with large-scale technology applications and employ less costly labor, in turn becoming the lowest cost provider of higher quality goods.

In order to make such relationships and exchanges with our trading partners most efficient, we, as knowledge professionals, will be

[4] Press Release, The Commission Prohibits GE's Acquisition of Honeywell (July 3, 2001), *at* http://europa.eu.int/rapid/start/cgi/guesten.ksh?p_action.gettxt=gt&doc=IP/01/939/0/RAPID&lg=EN.

expected to work out the knots of legal and accounting technical differences to ascertain the most economic and fair basis for such activity. If we don't address and resolve these knowledge issues, trade will suffer and the quality of life, health care, and all the attendant concerns of crime, pollution, and domestic instability will be affected unfavorably. But are the knowledge disciplines/professions subject to such economies of scale in their operations? On this point the evidence is less complete, but by analogy, there is no lack of opinion about whether or not the dissemination of knowledge can be "scaled." "While knowledge scales very easily, education does not," says Robert Joss, the current dean of the Stanford Graduate School of Business.[5] "What we have not figured out is how to scale the learning experience."[6]

Yet, there are after all certain high-fixed costs in knowledge businesses, which if spread across an increasing number of variable applications, will work toward a lower break-even-point for such activity. However, what if the variable costs are the key to the scale economies of knowledge professions? Aren't the true costs heavily incurred at each point of decision, or if you will, on a case-by-case basis? The highest and best use of talent comes by knowing each situation, unique to its circumstances, so well as to make the optimal decision. Can this be achieved other than by having key, and costly, service personnel fully involved at the situational level? Once this unique situation is resolved, does any, or some, or all of the "experiential" knowledge gained transfer to a "pool of knowledge" applicable to other clients? Or is it only valuable to the client uniquely or, heaven forbid, to its competitors, with whom the client certainly does not wish to share such valuable insight? Once the "knowledge rendering experience" is bought and paid for, the processes and output may not have further market value beyond the immediate circumstances. Up front, the talent cost is expensive and applied to the unique circumstances, which are not "one size fits all."

Therein lies the unknown, and the controversy. Recently, the Advocate General of the European Court of Justice opined that a ban on associations between lawyers and accountants was anti-competitive. At the same time the UK law firm of Clifford Chance, recently expanded in a three way UK-German-U.S. merger, demonstrated that their annual revenues of $1.3 billion were the largest globally.[7] Michael Bray, Clifford Chance's chief executive, affirmed

---

5 Simon London, *Where Small is Beautiful*, FIN. TIMES, Dec. 10, 2001, at 11.

6 *Id.*

7 Jean Eaglesham, *UK Law Firm Beats U.S. Competitors*, FIN. TIMES, July 30, 2001, at 12.

that these results were "proof positive that the calculated, first mover risk . . . in going global is paying off."[8] Do such anecdotes affirm that scale economies have been achieved? They do confirm that the sum of three large firms produces greater revenue than that of three separately, but that's about all. There is no clear evidence of total cost reduction and no proof of competitive advantage, at least not yet. What has been demonstrated is greater capacity to service clients in a broader domain. How valuable that capacity is has yet to be proven. However, if Clifford Chance sustains such revenue and also achieves satisfactory return to partners/shareholders over time, it will have provided stronger evidence to support the superiority of the global legal services firm. Then, and perhaps only then, will legal firms, who are alleged to be conservative business managers, seek out merged non-legal service activities on a broad scale. Consequently, I believe the future of global legal firms' success must first be proved before law firms will move to establish global MDPs.

As to the major accounting firms, many fresh from selling off non-audit service functions at apparent handsome capital return, and many accustomed to having large staffs of legal professionals working for them in limited but expanding roles, including tax and litigation support service, may have a more ready belief in their ability to deliver increasing volume and "profit" from legal-knowledge services. Therein lies the threat, or the opportunity. If the law firms do nothing more to "experiment" with the market and scale opportunities, it seems like the accounting firms will. Granted, very recent auditor independence rules promulgated by the U.S. Securities and Exchange Commission specifically proscribe audit firms from providing advocacy services to *audit clients*. However, there is no such proscription to offering legal services, less efficiently bundled with auditing, to a large market of *non-audit clients*! So I conclude by again repeating the refrain: "Don't Worry. Be Happy!" There are sufficient opportunities to motivate and sufficient threats to dampen the pursuit of a global MDP and its attendant controversy so we may expect to review this subject often in the future.

III. WHAT ABOUT THE FUTURE?

Among the Canadians who permanently brought their knowledge and talent to the U.S. film industry in the early twentieth century were Louis B. Mayer and Samuel Goldwyn. In 1925 they combined the Metro studios with their own entities to create the Hollywood gi-

[8] *Id.*

ant Metro-Goldwyn-Mayer ("MGM"). During the 1940s and 1950s, MGM ruled the movie business, nationally and globally. But Goldwyn is remembered also for his "sayings," much as Yogi Berra is today, e.g., "It ain't over 'til it's over!" Goldwyn gave the following advice, which seems a fit way to conclude my comments: "Never make predictions, especially about the future."