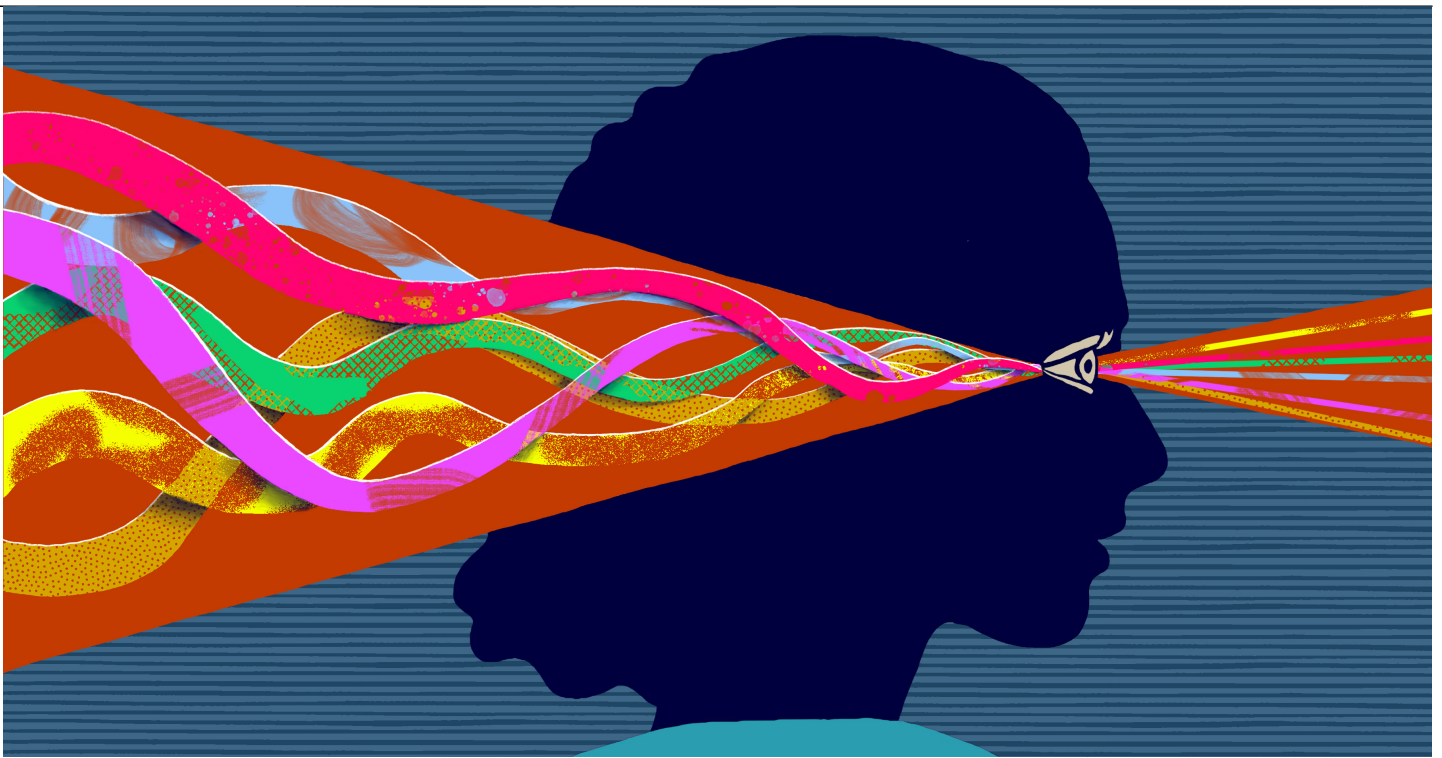




Measuring What Matters

Technology, Privacy, and eCommerce



In an information economy, attention is the scarcest commodity. How we budget our finite attention reveals our preferences. When we claim we “don’t have time,” we are indirectly expressing that we have other priorities. Because technology now enables us to measure just about anything with sometimes suffocating precision, our choices about what and how to measure are indicative of what we have decided is worthy of our attention. While it is not quite the case that everything that gets measured gets managed, it is close to axiomatic that what gets managed first gets measured.

Reflecting on our attention, rather than our good intentions, can make for an uncomfortable exercise. What we claim to care about and what we choose to measure do not always overlap. For example, many law departments and law firms are quite public in their commitment to diversity. Yet, the diversity statistics remain abysmal and, in several troubling respects, are deteriorating. Tellingly, we only get diversity statistics on the most macro of levels a couple of times a year. I don’t know (because it isn’t measured) but I would wager that only a few individual law departments track diversity in any meaningful way. Otherwise, we would not have a situation where the originations gap between the average male and female partner is 77 percent and African Americans make up only 1.37 percent of the equity partner ranks.

Technology empowers law departments to measure their own commitment to diversity. Internal numbers should be immediately accessible. By next week, the GC from any member company could have a report from her firms on the company’s external utilization of diverse timekeepers. By next month, the GC could task her e-billing provider with making diversity a queriable field in the company’s e-billing database so that the company could generate its own diversity reports. By next quarter, the GC could change the company’s approach to retention of outside counsel and regularly measure progress against the now-established diversity baseline. The question is, will the GC actually take these steps?

The salient point is not so much hypocrisy as preference intensity. Many things are considered intrinsically good and receive near universal support in the abstract. It is easy to advocate for diversity in the same way it is easy to talk about living healthier, eating better or exercising more. Making and following through on the commitment to change long-entrenched behavior is something else entirely. Our system is perfectly optimized to yield the results we are currently getting. To get different results, we need to actually change the system. That starts with deciding what is truly important and introducing a mechanism to measure it.

This remains a technology column. I use diversity as an example because it should be uncontroversial. While, personally, I believe that diversity is a goal worth pursuing, even those of you who disagree will concede that many law departments and law firms have made public commitments to diversity, and that those public commitments have resulted in minimal movement in the diversity statistics. The real question is not so much whether these companies genuinely care about diversity, but whether they care enough to actually do something about it. Is a company really going to make a retention decision based on the diversity of outside timekeepers? While I would argue that the answer should often times be in the affirmative, the marketplace's answer appears to be in the negative.

This brings us back to our finite attention. We would be well served to think about what we measure and what such choices say about our priorities. We are acclimated to taking the world as it comes to us. For most of our professional lives, it was hard to do much else: We only had so many metrics and creating new ones was not easy. Technology has shifted our metrics paradigm. We can now measure just about anything with relative ease. We can know whether we are making progress in the areas we claim to care about, whether it is diversity, costs, budget accuracy or turn-around time. Technology gives us far more control — and the price we pay for increased control is increased accountability.

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