

# Kluwer Arbitration Blog

## Should we start with WHY?

Santtu Turunen (The Arbitration Institute of the Finland Chamber of Commerce) · Tuesday, March 2nd, 2021 · Finland Arbitration Institute (FAI)

When starting as the secretary general of the [Finland Arbitration Institute \(FAI\)](#) almost two years ago I wanted to properly understand what it is that we do and how we can reach our full potential in it. I had been a part of the arbitration community, arbitrating, teaching and doing research for long enough to know the discussions that define this field of law. Still, I felt I did not have simple enough answers to very basic questions explaining what the Institute does and what arbitration as an institution is about. What is more, I felt I needed a stronger answer to why the customer should use our services instead of other methods of dispute resolution or other institutes. I soon realised that I need a different perspective from the classic pros and cons. I started reading business books, which some of my lawyer friends and colleagues very explicitly considered nonsense and a waste of time.

[Start With Why](#) is a global best seller business book by [Simon Sinek](#). The idea is that people, be they customers or employees or other stakeholders, should be inspired rather than manipulated to be motivated. He introduces the “Golden Circle”, a pattern of circles inside each other. In the centre of everything is WHY – why companies do what they do and what is their purpose, cause, or belief.

According to Sinek, people do not buy WHAT you do, they buy WHY you do it. He says most of the businesses think people are their customers because of superior quality, features of the product, price or service. According to Sinek, this means that companies have no clue why their customers are their customers.

As an example of starting with why he uses Apple, as many business books nowadays seem to do. He summarises the WHY of Apple and the way it is communicated this way: “Everything we do, we believe in challenging the status quo. We believe in thinking differently. The way we challenge the status quo is by making our products beautifully designed, simple to use and user-friendly. And we happen to make great computers. Wanna buy one?”.

Looking at the arbitration market, this sounded very convincing to me. We are often selling WHAT's that our end customers do not really understand or even care about instead of WHY's. We sell expertise that people cannot even assess and instead of the actual quality of the services customers must often decide based on reputation of law firms, arbitration institutes or arbitrators. The prices of our services are often difficult to compare. We rarely promise to deliver specific outcomes and in any event companies would struggle to rationally assess the promise. In terms of arbitration institutes, people often talk about caseload numbers of the institutes or the market-

research based preferences of users. We, as arbitration lawyers, are very much focused on WHAT instead of WHY, and in addition struggle to be concrete on the WHAT.

And it is not just about the customers but also about us – we need to be motivated, too. When drafting a recruitment advertisement for the FAI specialisation programme for arbitration lawyers I searched our web page for a short description of the institute: “FAI administers domestic and international arbitrations governed by its Arbitration Rules and Expedited Arbitration Rules. Further, it appoints arbitrators in ad hoc cases when the arbitration agreement so provides, and acts as appointing authority under the UNCITRAL Arbitration Rules.” I am afraid few people get excited about and motivated by this, as such very correct and precise description, as it only discusses WHAT we do. To motivate our own, to give them a purpose, we need a WHY.

So what should be the WHY for an arbitration institute? In the end, the WHY for any arbitration institute and thus for the FAI too is quite simple and obvious once one starts thinking. We are there to offer efficient dispute resolution and protection of substantive rights for our customers. For the customers this means predictability, reduced costs and efficiently allocated resources. On the level of society this contributes to efficiency, prosperity, and welfare. The efficiency on the societal level does not just mean the saved resources in more efficient procedures but the dynamic effect through efficiently allocated resources, trust and foreseeability. The dynamic effect and increased economic activity lead to welfare.

Basically, the arbitration community, and the institutes as part of it, thus share the same function as state courts, we just perform the function differently. As we know, both systems have features that make them more suitable than the other for certain disputes but in the end they have a similar WHY.

The cynical reader would, firstly, say that we are not there for society but for the companies. Efficient dispute resolution and protection of rights in the society is always realised through single cases, parties and companies. If parties get their dispute off the table quickly and their contract enforced timely, they will most likely contribute to the economic activity of the society more than if they focus on the dispute or if the contract is not enforced and they lose their trust in the agreements they make.

The cynical reader might also say that the stakeholders in the legal market are there to make money, not to act on a purpose or to serve the society. Apple owners want money too, and still we are discussing the WHY of Apple which is challenging the status quo and thinking differently. The logic is, I assume, that a relevant WHY brings you the money in the end, too. As the FAI is (an autonomous and independent) part of the Finland Chamber of Commerce, it is even easier for us to adopt a WHY related to supporting an efficient society, suitable climate for business and creating welfare. And finally, according to the traditional approach of legal ethics also the bar is there to serve justice. Yet in that discussion serving justice does not seem like a sociological purpose but rather a legal principle limiting zealous advocacy.

It is not enough to know why you exist – the why needs to be concretised and realised. According to Sinek, HOW's are the actions we take to realise the beliefs of WHY's and WHAT's are the results of those actions. At the FAI, we have, for example, put much effort in shortening the internal duration of the dispute at the institute before the transmission of the case file to the tribunal. This leads to less uncertainty, less costs and faster enforcement to the end customers. This leads, in the end, to the WHY and a more efficient society.

A cynical reader, again, could say that one need not start with WHY to understand that fast service at an institute is better than slow. The competitive advantage of starting with WHY comes from the little differences that result from a clear and profound understanding of the WHY in the organisation and from the mindset, not to mention the motivation, of people. On the level of the institution of arbitration instead of just one arbitration institute, a clear WHY based on how the added value to the customers also benefits the society as a whole helps arbitration become more accepted, less awards being set aside and arbitration being even more attractive for the end users.

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