

Building a business: winning clients and adding value to the practice

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1. **Introduction**

Building a successful legal practice is more difficult today than ever before. In most jurisdictions, the competition is broader and more intense. The rules and recipes for success in the legal profession have changed. To succeed today and in the foreseeable future, lawyers and law firms need to understand the practical consequences for legal services of the maturation of markets.

This chapter identifies the most influential trends shaping marketing and business development for law firms today, as well as those which are likely to continue to have a profound impact on an increasing number of legal markets worldwide. It then presents three strategic tools that any lawyer and law firm can use to win clients and add lasting value to their practice.

2. **The economic challenges of a mature market**

A mature market is one in which the number of lawyers seeking clients and the volume of available legal work approach equilibrium. As one after another legal market has matured since the early 1990s, the competitive forces that define successful marketing strategies for legal services have changed fundamentally.

The maturation of markets for legal services is a natural consequence of economic development and globalisation. Some of the major legal markets, such as those in North America, Europe, Australia and New Zealand, had substantially completed maturation by the end of the 1990s. Legal markets in some of the recently emerged economies, such as Brazil, Russia and Colombia, had become more or less mature by 2010. Clear signs of the market maturation process are also appearing in much of Africa and Asia, and the smaller economies of Latin America.

In short, there is more work available in mature legal markets, especially in emerging economies, but there are also more lawyers chasing it. This rough equilibrium of supply and demand typically introduces at least three difficult competitive issues for lawyers and law firms that want to build their businesses:

- Competition can create intense downward pressure on the fees that the best clients are willing to pay. Sophisticated purchasers of legal services, who previously might have been content to pay hourly rates, have started to demand alternative fee structures, such as fixed fees or success fees. This makes it imperative that law firms quote fees that are competitive in the new mature legal market, as well as profitable. Firms that have only a vague

understanding of their own profitability usually get this wrong.

- Mature legal markets are frequently invaded by new non-traditional competitors, such as accountants, paralegal firms, non-lawyer trademark services and foreign law firms.
- Law firms frequently face only two options. The first is to get out of the practice area. The second option, which has longer-term promise but is more expensive and time consuming, is to re-engineer internal service delivery and administrative processes to improve high-volume productivity and reduce operational costs.
- The competition for legal talent can sometimes be even more intense than the competition for clients, particularly in markets recently entered by foreign law firms or in which companies are building large in-house law departments. It usually becomes more difficult and more expensive to recruit and retain the best young lawyers. The movement of partners and entire practice groups from one firm to another becomes a common feature of the talent market.

The consequences of market maturation can be swift and stunning. Maturation usually produces a wave of shake-outs and consolidation in the legal market. Some law firms can simply no longer compete and fail. Others abandon some traditional practice areas, in which they are no longer able to compete profitably.

Maturation also usually sets off an unprecedented number of law firm mergers and acquisitions. Small and medium-sized firms use mergers and acquisitions to consolidate stronger competitive positions, often to enhance their credibility as 'full service' firms. Foreign firms look for small or medium-sized local firms for merger, affiliation or outright acquisition, in order to establish quickly their presence as more than a representative office or sales outpost.

As a result, a common characteristic of the maturation process is that the number of law firms competing for sophisticated transactional and litigation matters from major corporate clients can condense, often in only three or four years, to a small group of top-tier firms that pull away from the competition. Such a group would now command a combined market share that could be as high as 65% to 70% in some practice areas and jurisdictions.

These factors exist to some extent in every legal market but drive the maturing ones. They require a special focus on the development of persuasive competitive advantages that clients perceive as beneficial.

3. New competitive advantages

It might appear that a mature legal market is driven primarily by price competition. The downward pressure on fees and the incursion of non-traditional service providers sometimes combine to spark a price war among local law firms. This can sometimes result in law firms doing legal work at a financial loss merely to retain clients and perhaps attract new ones from their traditional local competitors.

Such a race to the bottom is usually only a short-term reaction. Partners of price-cutting law firms soon become unwilling to endure low profitability without results.

The loss leader pricing concept seldom works in a maturing legal services market. The losses continue but rarely lead to new clients or higher-priced work.

The price warriors in a maturing legal market also soon discover that offering the lowest fees does not create more than an ephemeral competitive advantage. All that a competitor needs to do to destroy your lowest fee competitive advantage is to cut its fees to one euro, one pound, or one dollar lower than yours.

As lawyers and law firms respond to these pressures and begin to find their way in this new competitive environment, the range of fees charged by various competitors tends to compress. With most credible competitors charging more or less the same fees for the same services, clients increasingly base their selection of a lawyer on non-economic factors. Surveys conducted by Walker Clark, LLC between 2002 and 2011 of clients of law firms in mature or maturing markets, clearly identify these new competitive advantages as ones that are based on client service, not price. The four most decisive factors in the selection of a law firm have consistently been:

- availability of a partner;
- responsiveness;
- understanding of the client's business; and
- the prior relationship with the firm.

Although clients always report it as important, price is never one of the top factors.

So, to build their businesses lawyers and law firms must re-focus their marketing communications and business development efforts on these new service-related indicators. More importantly, they must also be able to demonstrate how they consistently deliver service quality, rather than just talk about it in marketing brochures and on websites.

4. Client satisfaction: good news and bad news

Another complicating factor is that, as a group, law firm clients are very pleased with the services that they receive. Client surveys conducted by Walker Clark, LLC, for example, report that an average of more than 92% of all law firm clients are either "satisfied" or "very satisfied" with the overall quality of the services received. It is not unusual to see the satisfaction rate as high as 98% or 99% for some law firms.

Combined with the decisive impact of a prior professional relationship in the selection of a lawyer or law firm, high ambient levels of client satisfaction in most legal markets – even maturing ones – quickly narrow the range of opportunities for a law firm seeking new clients.

Winning a new client frequently means taking one of the very few dissatisfied ones away from a competitor. This is made even more difficult by the costs involved with switching, which clients think prevent them from firing their current law firms. They believe, with some reason, that it is better to suffer less than completely satisfactory service or disappointing results than to pay a new firm to become fully conversant with their business.

The combination of these characteristics of the mature legal market strongly point to a business building strategy based on developing the full opportunities that might be latent in a law firm's existing client base.

5. **Beyond the myth of the 'natural rainmaker'**

Too many lawyers believe that only 'natural rainmakers' can win new clients. This is possibly one of the biggest factors in poor marketing and business development in law firms. Not believing that they can be good at marketing, many lawyers discourage themselves and are sometimes discouraged from trying, even by colleagues and consultants.

Successful marketing actually involves a set of skills. Some people, because of personality or personal interest, acquire these skills more quickly or feel more comfortable exercising them, but effective marketing and sales skills can be learned and mastered by anyone.

When one strips away the academic theory and jargon from most guides to marketing and sales techniques, what remains are basic behaviours and attitudes. These competencies are useful in many aspects of everyday life and human relationships. They are especially powerful in selling legal services in a highly competitive market that might be already overcrowded with excellent lawyers and law firms. They include observable behaviours that are evidence of:

- optimism;
- adaptability;
- achievement orientation;
- empathy;
- organisational awareness; and
- influence.

Learned behaviours such as these are important to building a legal practice, but many lawyers focus intently on them without also considering the overall strategic context in which those skills are to be applied. Winning clients and adding value to one's practice is more than a matter of sales skills. This is one reason why so many of the generic sales and marketing courses that lawyers take produce disappointing results. Skill without strategy is like a bow and arrow without a target.

Three strategic tools to win clients and add value in a changing markets

How can lawyers and law firms create and execute realistic strategies to win new clients and keep current ones in rapidly changing markets for legal services? Since the 1990s three methodologies have emerged for identifying opportunities for the best possible return:

- strong clients;
- profitable legal work; and
- sustainable business growth.

6. **Strategic business units: where to focus the marketing investment?**

First of all, focus.

A first step to winning new clients and adding lasting value to a legal practice is to decide where to make the considerable investment of time, intellectual capital and resources needed to build it. With so many possibilities, what are the best targets for your firm?

The best place to start is with your existing strengths, defined in terms of the

legal specialities and practice areas that you offer and the business sectors represented by your current clients. It almost always requires less investment to build on present strengths than to attempt to establish a competitive position in an entirely new area. It is also less risky.

7. **Two fascinating questions**

Start with your current practice areas and service, such as litigation, corporate finance or tax. Ask these two questions:

- **Which of my practice areas are currently most profitable?** Focus on current practice areas, not ones that you would like to offer or that you think might be profitable. Look at each area's current profitability, not how profitable it could possibly become. Finally, focus on the word "most". It is possible that all of your practice areas are profitable to some extent. The purpose of this analysis is to identify those that are the most profitable. This question is not as easy as it might first appear. To answer it, some firms must scrutinise profitability by practice area for the first time. Be sure that your conclusions are supported by actual financial data, such as fee revenues, fully loaded operating costs per hour and the average profit per fee earner hour. Without data, you are only guessing.
- **Which of my practice areas offer the greatest growth potential over the next five years?** If you are already in the happy position of having a large share of the market for a particular service, there is probably not much growth potential. Likewise, in markets where a relatively small number of firms have a high combined market share, such as 70% or more, there is little opportunity for any one firm – even yours – to achieve significant growth, other than by merging with one of your competitors. Some of the best data on this point usually will come from your clients. Ask them about their long-term business strategies and plans. Do they foresee a significant increase in their needs for legal services? If so, what types of services will they need more in the future?

Repeat this same analysis for different industry sectors, such as banking, hospitality and telecommunications. The business-sector evaluation can produce some interesting insights by which to guide your marketing strategy. For example, you might discover that:

- Some of the business sectors represented in your current client base are more profitable than others. This can also vary considerably among clients in the same sector, but in different countries; or
- Growth opportunities might be short-lived. If an industry sector is entering a period of consolidation, the number of potential clients might decrease sharply, reducing the growth potential for law firms that target that industry. Instead of winning new clients, your firm probably will lose clients, as some of them go out of business due to a merger or withdrawal from the market.

8. **Identifying your strategic business units**

This analysis sorts the possible combinations of current profitability and growth