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How to Position Your Law Firm's Value More Effectively in the Legal Market

Summary: The achievement of value convergence will greatly benefit your law firm. Learn the steps you need to take to achieve value convergence in your firm.

Increasing competition has caused more and more US law firms to focus on their desired strategic position. This effort requires a firm to think clearly about its current and desired value positions as a key element of its strategic positioning. Put simply, it is unlikely a firm will achieve a clear strategic position if it leaves the value positioning of its practice unattended.

- **See Law Firm Strategic Positioning for more information.**

The value position of the law firm (or any other business) is the position it occupies in the perception of the clients and would-be clients of the firm. Abstractly, law firm managers have long recognized that different legal services command different market values. At the extremes, for example, corporate M&A is worth more to the client (by a lot!) than collections of delinquent retail accounts, and almost everyone would recognize this distinction.

But, in between dwell a range of other types of work that are considered by clients to have different values. Further, within any generic type of work, such as "corporate" or "real estate," there is a wide variety of value positions. Unfortunately, most lawyers, including most of those managing law firms, are insufficiently attuned to the differences in value both among the practices in their own firm and between a practice in their firm and one with the same name in another law firm.

- **See Self-delusion among Law Firms for more information.**

Consider the following law firm claims:

"We compete with [top-tier Wall Street law firm] because we work for the same banks doing commercial loan work as they do." – from the managing partner of a small local banking firm.

"Our real estate practice is competitive with any in this [first-tier] city." – from the practice group leader of a real estate group where the typical transaction involved the purchase of a $1.0 million six-floor apartment building.

"Our lawyers are every bit as good as those at [brand-name firm]. But, clients won't hire us because they want to 'Buy IBM.'" – from many middle-market commercial law firms!

Some time ago, I gave up asking lawyers what their firm's key strengths were because every one of them started out the same way: *"We have really great lawyers!"* The implication was that their lawyers were technically excellent and as good as anyone in town in their subject area. Of course, that cannot be true by definition for all law firms. Nor does it need to be. But, as long as this illusion holds, it is impossible to get past the perception that the reason the firm doesn't have more or better business is a marketing or market failure. Since we are just as good as anybody else, what else could it be?

Clients of law firms, however, tend to have a different perspective, which is far more refined and analytical. *"In [practice area] they are as good as or better than anyone else, and that's why I use them. But other areas are not on the same level."* This is client recognition of a critical law firm strategic challenge. Most firms' practice areas, even those the firm may consider "core," tend to occupy different positions on the value pyramid.

These firms, which have historically positioned themselves as "full-service," tend to have a mix of matter/service value positions across the firm. In most, practice areas have grown up as opportunities presented themselves. No one focuses on the relative value of the practices being built with the possible exception of avoiding insurance defense and other extremely price-sensitive practice areas. The results tend to be 1) marketplace confusion; 2) failure of cross-selling; 3) internal cultural frustration and challenges; and 4) sub-par economic performance.

Why Does Value Position Matter?

The concept of work “value” tends to be an emotional one for many law firms. Quite simply, many lawyers have difficulty coming to grips with the idea that they provide “low-value” services. It is not consistent with their self-image. After all, most of these lawyers have been successful their entire lives and are certainly highly intelligent individuals. Their reaction to any sober appraisal of their value position is, of course, a major obstacle to a collective agreement on both the firm’s current position and its ultimate desired market position.

There is substantially more lower-value legal work available in the market than there is high-value work. Furthermore, low value is not synonymous with low profit. It is possible to structure a legal practice to be highly profitable based on handling work of low market value. Profitability alone, therefore, is not a reason for choosing a particular position on the value pyramid, although it is an important reason for choosing *some* consistent position.

So why does value position matter? There are at least four critical reasons:

First, a firm’s perceived value position is fundamentally a part of its perceived market position. The firm’s overall market position will likely be driven by the lowest perceived value position among those practices for which the firm is most known. Overcoming this image, even with the right lawyers, is extremely difficult.

This is one reason why many insurance defense firms have had a great deal of difficulty successfully implementing diversification strategies intended to push their value position up. In addition, a market perception dominated by a perceived low-value position will tend to push the pricing of all work in the direction of the appropriate pricing for the dominant lower-value work. This tendency is driven both by market perception – i.e. clients' expectations about the level of the firm's practice – and by internal cultural issues – i.e. a reluctance to push rates above the most senior partner's rate, even though that partner is working in a lower-value area.

Second, and critically, the economic structures necessary to profitably handle work at different levels on the value pyramid are different. Firms that choose to operate in the highest-value segments (for example, major M&A practice) of the market require a substantially greater level of overhead than those that operate in lower levels. Start with the lawyers themselves. As a general matter, the highest value work will only be entrusted to the "best lawyers" – those with excellent credentials, skills, and experience. These lawyers, of course, command the highest levels of compensation at every level of experience.

All things being equal, leveraging these practices is more difficult than leveraging lower-value practices, necessitating a greater component of partner time. In addition, a great deal of depth is necessary for credibility, which necessitates maintaining a significant presence in the practice, with individuals capable of handling all aspects of client problems.

Beyond the basic resources, however, such practices are characterized by extreme service demands, which lead to requirements for sophisticated technology, greater and better staffing, research capabilities, and other enhanced overhead. The value of these practices is such that the firm can price their services at a level to recover their costs and earn a substantial profit, but only if these resources can be kept consistently deployed to handle relatively high-value matters.

Lower-value services, such as lower level insurance defense matters or routine loan documentations are best handled with a different economic model. It is not necessary to hire lawyers from the top of the class at an Ivy League school, nor is it necessary to pay top-level compensation for good lawyers capable of handling this work. With good supervision, very high levels of leverage can be effectively achieved. Technology and resource-sharing can drive down costs, and there is little need for costly center-city high-rise office space. Client decisions are driven significantly by the cost of service production, and cost-efficiency in resource use is critical.

At the extremes, there can be variations of 200% or more in the overhead cost associated with a fee earner in different value practices, with additional cost differences generated by differences in the hiring costs of the lawyers themselves.

Obviously, a firm cannot afford to sell lower-value services with a business model created to support high-value services. Likewise, it is not possible to produce high-value services with a commodity service business model. In between the two extremes lies a range of possible value positions and ideal business models. Economically, the firm will maximize its performance if it provides at least its core services within a similar range of value positions.

The third critical reason for seeking a convergence of value positions in the firm's core services is cross-selling. Almost all firms today talk a lot about cross-selling, but few have succeeded in achieving their desired performance level. Invariably, this lack of success is blamed on internal factors – the lawyers don't know how to market, or they don't know what other lawyers do, or the compensation system doesn't reward it, or some other identifiable issue. All of the above may in fact be true and contributing to the problem.

However, even if all of these internal issues disappeared, few firms would achieve significant success in cross-selling unless the practice values being cross-sold are at sufficiently similar levels of value to generate client credibility.

Finally, the fourth critical reason is that there are significant cultural benefits for a firm to achieve convergence of value positions across at least its primary practice areas. If a firm operates its practices optimally, different value positions require different operating structures, which include different rates, hours expectations, leverage levels, and support structures. If the firm's core practices have significantly divergent operating structures, the firm will ultimately be forced to have different standards for promotion, hiring, and the like.

At the extreme, the firm will be forced to compensate lawyers in different practices differently. Such differences inevitably drive internal tensions and, in many cases, contribute to some feeling treated like second-class citizens while others feel that they are "carrying" the firm. Such issues can be avoided or lessened if the firm achieves value convergence, at least of its core practices.

- **See Why Law Firms Should Restructure Immediately for more information.**

Achieving Value Convergence

Left on their own, a law firm's practices are unlikely to converge, on value position or anything else. But, through concerted and strategically focused efforts, firms can bring their practices into general value alignment. Consider a firm with three core practices, two of which are operating at relatively low value levels and the third operating across a wide range of value positions.

The market position of this firm will be driven by the perceived value position of the dominant practice.

However, since the dominant practice actually operates over a wide value spectrum, the overall market perception of the practice, and hence of the firm, will likely be relatively low.

The firm has a strategy of moving all three core practices to a consistent, higher-value position. In most cases, of course, there will be a number of other practices (non-core, or "adjacent" practices) also supported by the firm's strategy that should be considered in the value migration process as well.

The firm must design specific tactics to implement the strategy, which will fall into various groupings that include:

Expansion tactics. The firm should concentrate on building those parts of the practice that occupy the desired target value position. Tactics focused in this area would include:

- Direct, targeted marketing approaches to build additional client base in the practice area
- Branding efforts to concentrate the firm's reputation on the elements of the practice occupying the desired market position
- Lateral hiring to expand the depth of talent and increase the client base
- Focused resources (e.g., the strongest associates, technology, etc.) to assure the ability to service and build the practice
- Client and practice management efforts to improve the management of the practice and build reputation **(See Practice Management for more information.)**
- **See Capitalizing on a Law Firm's Growth-Is Bigger Better? for more information.**

Migration efforts. For practices that are core to the future of the firm but where the current value position is relatively low, strategies to gradually migrate the value position would include:

- Expansion of the depth of talent through lateral hiring at a level higher than, but close to, the current value position, allowing for gradual position migration.
- Refocusing of existing skills and market research to identify adjacent segments of the practice that are of higher value than the current position.
- "Borrowing" the reputation of higher-value practices to focus cross-selling on achievable targets, thus increasing the value of the work received.
- Re-pricing resources as value and depth develop to feed improved market perception
- Investment in training and development to upgrade skills and expertise.
- As appropriate, merger or significant acquisition to add depth and enhanced credibility.

Contraction efforts. Some practices in the firm that do not occupy the desired value position and are not core or necessary to support the core client base should probably be spun off, absent compelling independent justification for their continued presence. However, there are likely to be other practices and, potentially, portions of the core practice that are demanded by the firm's core client base but that do not occupy the firm's desired value position.

The goal with these practices is to limit them to that which is necessary to support the core clients of the core practices and other strategically critical practices – *not* to market to an independent client base or develop an external reputation.

Specific tactics might include:

- Reduced investment (or elimination of investment) in marketing activities. This may include elimination of website references, brochures, and the like.
- Strict controls on new client and matter acceptance.
- Reduction in hiring and restricting hiring to limited necessary skills.
- Controlling compensation, but assuring necessary practitioners are properly compensated.
- Leveraging to technology, paralegals, staff lawyers, and other lower-cost practitioners to maximize efficiency.

It is critical that management manage the expectations of those practitioners in these areas. Most lawyers want their practices to grow, but such growth might be counter to the goals of the firm. Of course, the firm walks a fine line in these areas, because maintaining talent will require believable assurances of job security and professional satisfaction. In many cases, the firm will need to determine whether maintenance of the practice is truly necessary.

Achievement of value convergence of core firm practices thus requires substantial efforts over an extended period of time. Absent a degree of value convergence, firms have limited potential to achieve their strategic goals, thus sacrificing economic and market success. For those willing to take the steps necessary to achieve it, however, the benefits can far exceed the costs.

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