

The Continuing Evolution of Law Firm Marketing

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The primary responsibilities of the lead marketer at a law firm are largely dependent on the point the firm has reached in its marketing evolution, and where its culture stands in terms of business development. A firm may be at the very rudimentary stages of building a foundation for a marketing program, in which case the duties of the director or chief marketing officer (CMO) are going to be focused on the basics of marketing—providing consistent information, messaging, and marketing materials, as well as a basic direction and perhaps some internal training. In such cases, the CMO's role will likely focus on delivering basic marketing services, rather than more sophisticated business development strategies. After all, you can't take a junior varsity football squad and put them on the field with an NFL team, because they are still mastering the basics of the sport. Once the lawyers are utilizing the fundamentals of marketing, they will then be ready to move on to proactive business development strategies (i.e., targeting new clients and developing strategies to pursue new business).

When your lawyers' basic marketing needs are being met, the branding of the firm and its marketing materials are complete, the communications and research resources are all set, and the client relationship management tools are in place, the role of the CMO transitions into developing programs for generating business. When you reach the point where your attorneys have an effective foundation, it is time to create an active business development plan. Target only those industries and clients that strategically match attorney/firm strengths. It is equally important not to overlook existing clients and the expansion of the scope of work you do for them, and then, on a more sophisticated level, assemble industry and/or client teams. For example, lawyers with diverse practices (e.g., labor, real estate, corporate, tax, etc.), but with shared experience in a certain industry (e.g., construction, energy, or retail), can combine efforts to more effectively pursue new/expanded business in that industry. Teams such as this are better positioned to market a specialized, yet broader service array to both existing and new clients. This is effective business development, and that is at the top end of the spectrum of what a law firm director/CMO does.

The Sales and Law Dichotomy

While a law degree is not a critical factor in being an effective lead marketer for a law firm, an understanding of how firms and lawyers operate is very

important. The skills and personality traits that make an excellent lawyer are, for the most part, the polar opposite of those needed to be a natural business developer. By training, most lawyers evaluate situations in black and white—their highest talent is to find weakness in an argument or situation and exploit that to the benefit of the client. Selling (marketing) requires different skills, personality, and perspective. It is not black and white, and it involves assessing client personalities and needs and flexing to accommodate them. A CMO's job is to develop ways to help the lawyers build business and foster new business relationships.

Let us say that an experienced salesperson and a top lawyer both ask the same potential client for the opportunity to do business. Suppose that potential client's response is, "We are happy with our legal services right now, but let's talk again at the end of the year." The lawyer's assessment of that response might be very negative. The client did not say "yes," ergo they said "no." Depending on how risk-averse that particular attorney is, the likelihood of any follow-up attempt is very low. Conversely, the salesperson is likely to think, "Great. I will call back at the end of the year," and mark his or her calendar to follow up. The same conversation created a dead end for the lawyer but opened a future door for the salesperson. Their mindsets tend to create different assessments of situations—which is why salespeople are not great lawyers, and why only a very few talented lawyers master the sales process.

Cross-Selling Services

Perhaps the biggest challenge a law firm CMO must face is getting the firm's attorneys to share information and cooperate as a group. Clients are the livelihood of an attorney, so naturally they are very protective of those relationships. But as the legal industry has become more competitive, law firms must look to their individual attorneys and their practice areas, and find ways to expand those practices for the good of the firm. One key lawyer in the firm may be generating \$1 million a year in general corporate work for a particular client, but if that client has a \$200 million legal budget, the smart firm will work to find opportunities to provide other legal services to that client. Key introductions with the firm's labor or environmental practitioners, for example, could very well lead to a larger piece of that company's overall legal expenditures. Cross-selling is often the

toughest thing to accomplish in a firm with multiple practices and large numbers of lawyers, but once that hurdle is overcome, the doors open for a firm to greatly increase their business.

One strategy that can be used to meet this challenge is to focus on working with those lawyers who are open to the idea of cross-selling. Our philosophy has been “put the saddles on the horses that want to run.” We won’t drag the mules reluctant to participate in the race. Why waste energy trying to convince certain people of the wisdom of a marketing strategy when there are others who are open to it? If you find there are attorneys in your firm who are willing to get out in front and work together to generate business, you should develop and support the activity of those attorneys.

At the same time, management must also get behind your marketing strategies. If lawyers in your firm say they will not participate in these practices and firm management does not work to alter that mindset, you are not likely to gain any ground.

Earning Trust and Winning Arguments

Another major challenge for a law firm marketing leader—and one that was difficult for me, having worked as a professional for fifteen years outside the legal industry—is earning the trust and respect of the firm’s attorneys. You must learn and understand the mindset and culture of your firm if you are to succeed in implementing any successful initiatives. You must also learn how to walk through the positives and negatives of your programs and proposals before presenting them, which is discussed in more detail later.

The Origins of Law Firm CMOs

Legal marketing is still relatively young, and up until fifteen years ago, there were very few professionals in the United States who served as law firm CMOs. From a historic perspective, it was not even legal to market a law firm until 1977,¹ and even then, only personal injury firms and attorneys

¹ The U.S. Supreme Court, in *Bates v. State Bar of Arizona*, reverses the Arizona Supreme Court in a 5-4 decision on the question, “Did the Arizona rule, which restricted legal advertising, violate the freedom of speech of Bates and his firm as guaranteed by the First and Fourteenth Amendments?”

advertised directly to the consumer. Most corporate lawyers and litigators kept their distance and declared advertising and marketing distasteful, unscrupulous, and unnecessary. “We don’t advertise. Business comes to us because we are good at what we do, and our reputation precedes us.”

However, over the last fifteen years, many large corporations involved in major litigation cases found they were managing many law firms for various types of work. At a given period, major companies such as Wal-Mart or Coca-Cola might have as many as 200 law firms delivering legal services. A consolidation trend began as many companies decided they needed to better their legal services and reduce expenses. A company might decide, for example, to replace several boutique firms specializing in certain areas of law, with a larger firm that could cover the breadth of their needs. In addition, as mergers became more popular and law firms became bigger and more competitive, companies began comparing the value and quality of service as well as legal acumen. Suddenly law firms and the lawyers providing the services were being viewed more as commodities, and general counsels now wanted comparative data to help them choose one law firm over another. Consequently, the collective group of independent entrepreneurs who had been operating under the umbrella of “Law Firm X” suddenly had to come up with messaging and marketing materials to put in front of these clients—materials that could explain what their firm did and why they were better than the competition. This was new territory for most law firms.

Marketplace changes such as these forced law firms to market themselves in a more organized and strategic manner, just as corporations do. As an example, there is a three-letter acronym seldom heard in a law firm prior to 2000—RFP, which stands for “request for proposals” and has become part of the daily vernacular for most marketing departments. Born from the bureaucratic process used to compare and analyze contractors bidding on government projects, requests for proposals are now a common tool used by corporations to compare and contrast law firms. Law firm responses can include information related to office locations, technology used, billing rates and processes, attorney experience, potential conflicts, diversity policies, and ratios and other data they deem pertinent to the hiring of a firm. The request for proposals is now a head-to-head comparison document used by companies to determine the best firm to hire. Expertise is needed in this

area to handle the request for proposal process effectively and strategically, and often the CMO is called upon to develop that process.

There is much activity and rapid growth as firms initiate and advance their marketing programs. Marketing directors and CMOs are now a critical component of law firm operations, and growth will likely continue for many years. Currently, those law firms behind the curve are playing catch-up, and the competition for a relatively small number of qualified marketing leaders is strong. What does it take to effectively lead the marketing and business development efforts of a law firm? Experience in the legal field is a must, but marketing, management, or sales experience outside the legal sector can broaden perspective and provide backgrounds that foster new thinking and innovation for a profession still in its formative years. Combined, a lead marketer should command a minimum of seven to ten years of marketing management experience, but the more complex operations of larger firms may demand even more.

Key Marketing Practices

Our firm, like many large firms, delivers services across a broad spectrum of practice areas in both litigation and transactional law. With areas including banking and finance, bankruptcy, construction, environmental, tax, government affairs, labor, intellectual property, energy, technology, and more, it is important to determine the demand and market potential of each practice. Each area's value is based on the revenue each brings or potentially brings to the firm and the cost/value ratio of promoting and growing the practice versus the potential increase in new business. Market factors such as the economy can affect that value as well as fluctuating litigation trends or changes in the law. The emergence of electronic discovery is an excellent example of how increased use of technology over the past decades has forced dramatic changes in how evidence is gathered, stored, and used in trial. As such, it is also a practice more large firms will likely add, since it has become a critical component for most litigation matters. Our firm has approximately fifty practice areas and several industry-focused practice groups such as chemicals, energy, construction, hospitality, private equity, real estate, retail, and technology. The development of industry-focused practice teams allows us to package the best legal product for a client whose needs may be broad, but in a single

industry. For example, a client with a chain of retail stores is likely to look for a single law firm that understands all of the employment, tax, real estate, environmental, litigation, or franchising issues the client deals with as a retailer. Providing a team of lawyers with that experience delivers a better value proposition than hiring multiple firms with fewer areas of expertise. This premise holds true for other industry groups as well. Developing such teams is just one of the specialized tactics law firms use to increase and maintain their client base.

In general, marketing strategies may be somewhat different on the litigation side. It is a bit harder to say to a client, “Be sure to call us the next time you are involved in a class action lawsuit.” However, firms can and are conducting seminars for companies about best practices, things to look out for that might expose them to potential litigation, and strategies to reduce their chances of being involved in antitrust or class action lawsuits. We have found that training and informing clients provides added value and positions our attorneys as the knowledgeable, go-to lawyers to consult when such problems arise.

It is also important to understand the legal and business landscape and be flexible in your business development efforts as they change. The formation of industry teams or special practice groups allows us to adapt and provide appropriate service lines to clients as the marketplace shifts. This flexibility not only benefits the clients, but provides the ability to perform more focused branding, so that regardless of a firm’s broad offering of services, it can be still be viewed by those in the sector as an “energy” firm or a “construction” firm.

Staffing Strategies

Strategies for ensuring each practice receives appropriate focus will typically be based on the demand. A good example mentioned earlier is electronic discovery—the relatively new and highly technical process of gathering and preparing electronic evidence for trial. Since this area of law is becoming more critical, it makes sense to offer this service from both a product and client service perspective. The logical next step might be to integrate that practice with the various industry and client teams to expand their service offerings. If the demand is such, it might be prudent to expand further,

hiring new lawyers and specialists to create a more robust practice that can be marketed directly to new clients. As these practices and teams are added or expanded, they will need specific internal services from the marketing team. The CMO's job is to ensure those services are assigned accordingly and delivered with expertise and speed.

Delivering those services requires a capable team and strong core organization. Our marketing team is structured to emulate that of a corporate marketing organization—we have communications, research, and business development managers, an assistant director who manages community relations and corporate networking, and database coordinators. Of the core functions of the marketing department, information management is the newest. Indeed, customer relationship management systems are probably the most significant innovation to come into law firms in recent times. When you have a firm consisting of 300 lawyers, each of whom has anywhere from a few hundred to several thousand contacts, it is important to know, track, and update those relationships and interactions. There may be many internal marketing opportunities that might never be discovered without a manageable collective database. For example, if you are looking for a certain business contact at a company, you can access your customer relationship management database and instantly see which of your attorneys knows that contact or may have done business for/with that contact. That can be a critical first step and connection when you are trying to build business, but it is often very challenging for law firms to find ways to manage that massive amount of client information—and get their attorneys to share it. However, once that impediment has been overcome, the firm has an extremely valuable marketing tool. The ability to share information might be the single most effective strategy in terms of moving a law firm forward in the area of business development.

Components of a Marketing Campaign

There are a small number of successful marketing campaigns for law firms. Marketing a firm involves sending a clear message of the unique value of that firm. Unfortunately, getting consensus on such a message is difficult for most large firms. For example, a boutique firm with thirty lawyers that does nothing but intellectual property work will have a highly focused product, and can therefore market more effectively. Conversely, large firms with multiple

practices tend to send out the message that they can do it all, and it is very difficult to differentiate yourself when your message is the same as all your competitors. That specific and unique branding message is the key to a successful campaign for a law firm (i.e., what is the one aspect of your firm that makes you most valuable?). Of course, most lawyers would say their firm is valuable because it gives great client service, but if that is what all the others say, how does that present your firm in a different light?

Our firm conducts focused and targeted marketing campaigns for some of our industry teams, so we can directly market our chemical and refining team to that specific industry. Another focused tactic might be encouraging our retail team to find a well-respected retail or trade organization and become part of that organization, and allow the attorneys to build relationships and expand their reputation as attorneys who understand and participate in the retail industry. The same can be done for our construction team, our hospitality team, and others. As the potential market dictates, we can create advertising and unique business development strategies for these teams. Although we cannot do an individual campaign for every team, we are likely to do so for those teams that have sound business developers and strong team participation when it comes to building business.

It is often very difficult for law firms to come up with one unique value proposition. Corporations with vertical management structures will typically fall in line behind the chief executive officer's branding strategy. But for a horizontally structured partnership with numerous owners, it becomes difficult to gain that kind of consensus—especially among lawyers, each of whom is likely to have a different opinion, and most of whom are averse to promoting themselves. I was once asked what it is like to be a marketer of a law firm. I responded with an analogy of being the captain of a supertanker, upon which all of the owners of the ship's oil stand on the bridge with you. When you say to them, "Which way should we go?" it is likely that every one of them will point in a different direction—and because they are your bosses, you must find a way to take them there. The challenge of being a good law firm CMO is taking the firm's attorneys where they **need** to go, while convincing them they are traveling in the direction each requested.

Growth Strategies

The process of implementing growth strategies at a law firm will differ at every firm, but having a seat at the table is key. Our firm's leadership values input from marketing with respect to certain decisions, and there is an *ex officio* position for the marketing director on the firm's business development committee. The ability to discuss the pros and cons of strategies face to face with the committee helps develop a trusting and respectful relationship, and leads to more sound business development decisions for the firm.

As a CMO, it is important to provide balanced counsel and work with firm leadership with respect to what it needs to do to grow its business—and the more success a firm achieves, the easier the process gets and it tends to gain momentum. Our firm has initiated some strategies that did not work out exactly as we wanted them to. The key is to keep going, figure out why things did not work, and change your approach the next time out. To be truly successful in terms of implementing growth strategies, however, you need to have buy-in from firm leadership, and they have to believe in you.

The Role of Emerging Technology in Integrated Marketing Efforts

Technology plays a huge role in integrated marketing efforts these days. The customer relationship management software that has long been used in the corporate and sales worlds now gives law firms the ability to tap into the information to which all of their attorneys have access. Such software is of critical importance to our firm. Over the last two years, it has been the driving force in ramping up the business development activity of our attorneys, and the activity of the marketing department on their behalf.

Such software has changed the playing field for law firms, because you now have access to a wealth of information, and the ability to communicate it to either a mass audience or a laser-focused target. If you have a newsletter you want to send out to a group of one hundred people every month, you can do so at the push of a button, and you can track that newsletter and see when people read it. This technology also ensures you are not violating anti-spamming laws and improves the ability to track those who unsubscribe or opt out. It is important to make sure the communications you are delivering remain relevant and valuable to them.

The tools available on a daily basis from huge information companies place immense power in the hands of marketers and attorneys, in that they enable us to figure out the right targets for our marketing efforts. If we want to get business from a particular industry, for example, we can access research that tells us whether that industry or client traditionally uses larger law firms, what type of litigation they defend against most often, how their business or litigation needs vary compared to others, or their industry trends. Simply put, the power we now have to assess targets and find new potential clients is overwhelming. Indeed, it is sometimes empowering to the point where it can immobilize you, because so much information is available, it can often be difficult to determine which way to proceed.

Developing the Budget

A law firm CMO also plays a strong role in managing and developing the budget for marketing and business development activities. I make recommendations based on review of previous years' expenditures and determine which efforts were most valuable and which ones weren't so valuable. Then the business development committee reviews new requests and ongoing activities, and decides whether certain programs merit continued funding, expansion, or elimination.

There are typically several key budget-related questions that need to be considered. Do we need to add or upgrade new customer relationship or other marketing software? Will we need to develop a budget for a training program that will show our people how to use these new software programs? How much do we want to spend on advertising? Do we want to develop a campaign to get the message out about what kind of a firm we are? In the end, developing a budget for a marketing program is a process of suggestion, negotiation, and acceptance, and the average budget for a law firm marketing program ranges from about 1.5 to 2 percent of a firm's gross revenue.

The Importance of Business Experience and Troubleshooting

A law firm CMO needs to have real-life business experience, and by that, I mean an understanding of the operations and needs of large and small companies. You need to understand what those needs are and be able to

Speak their language in order to help present legal solutions and strategies in a manner that makes sense and appeals to them. It is always helpful if you have been at the top level in another company. You are better able to understand what needs to be done in terms of marketing strategies if you have already done similar work in another industry. Experience is really important, because you cannot wing it, and that business experience can come from sales, accounting, or management in a corporate environment. If you have high-level experience in marketing, public relations, or even sales, you have a background that can help you succeed as a law firm CMO.

Beyond that experience, your personality will make the biggest difference in terms of your success as a law firm CMO. Can you deal with the unique demands and requirements that come with working in a law firm? Can you adapt to the different cultures in order to achieve the goals the firm needs you to achieve? You need to be level-headed and able to walk through all of the things that can possibly go wrong before you launch a marketing program. For example, if you are going to make a presentation, you need to walk through that process before you make it to management, and have answers at the ready for any arguments a lawyer might bring up. Be prepared to say, “While this may not seem like the most logical idea, here is the reasoning behind it and why it works.” If they raise an objection and you do not have an answer, and the reason supporting that answer, the attorney has won—and you are done.

If a lawyer tells you something does not work, you will not make headway unless you can prove otherwise. You must emulate the lawyer’s thought process. The cognitive process that makes lawyers smart and effective also makes them analyze things very deeply. Therefore, you should be ready to justify your proposals, plans, and direction. Success dictates that you do your homework before presenting, and make sure you have walked through and analyzed the weaknesses as well as the strengths of the initiatives you are planning.

Identifying Trends and Benchmarking Marketing Efforts

There are several ways to identify trends in this industry. Conduct surveys, network with law firm leaders, tap industry organizations such as the Legal Marketing Association, and utilize the vast amounts of data available

through paid sources such as West, Lexis, and others. It is also important to talk with your peers on a regular basis to bounce ideas and issues off one another.

Ten years ago, it was virtually impossible to track the success of law firm marketing programs. Today, however, there are many ways to monitor these programs on a cash inflow and outflow basis. We can benchmark by saying, “Okay, we budgeted this much money for this industry team for marketing purposes;” and then comparison of the business and billing figures will indicate if that team has been able to develop business. Overall marketing activity is always a valuable benchmark, because if lawyers are not doing anything productive, your revenues will not be going up. A certain amount of work just falls into a firm, but if your lawyers are not actively out there meeting new people, building and expanding relationships, and delivering the best legal work possible, your firm is not likely to see much of an upswing in new business. Therefore, activity is our primary benchmark for the success of our marketing programs—and fortunately, we have seen a great increase in our activity over the last few years.

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