

Managing Your Portfolio of Practices With a New Level of Strategic Planning

By Alan R. Olson

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In the new legal economy, market maturation is driving accelerated practice segmentation – i.e., the degree of difference between and within practice areas. One of the keys to managing a successful law firm going forward will be the ability to effectively analyze and strategize for a diverse practice mix operating under a single law firm umbrella.

Most law firms, whether large, mid-sized or small, have diverse practices: business and corporate, transactional and ongoing, real estate, estate planning, business litigation and possibly, insurance defense or plaintiffs litigation. These broad categories are typically further delineated by practice and vertical market distinctions, such as banking, utilities and energy, natural resources and environmental, public and closely held businesses, wealth planning and ERISA, employment law, contracts, and the broad and deep array of dispute resolution and litigation.

With the ongoing segmentation of the market for legal services—in fact, *markets* is more accurate—the differences between practice areas become more pronounced, not only in terms of legal issues, but as businesses and economic entities. Operating a commercial litigation practice is dramatically different than insurance defense, personal injury plaintiffs or commercial plaintiffs practices. Significant variables include: the clients and client segments served; the propensity, frequency and patterns of consumption; price elasticity, pricing and billing methods; types of marketing and business development; client service models; use of lawyers, paralegals and others; use of technology; profit drivers and profitability; and the list goes on.

Moreover, segmentation is increasing and intensifying *within* practice areas, industry segments and even within what are regarded as legal specialties. A real estate practice can range from serving highly sophisticated client segments with complex, interdisciplinary services, to highly routinized, forms-driven work.

Law Firms at a Pivot Point

In the past, law firms could lead and manage their range of practices based primarily on their commonalities and similar keys to success, with some differences in hourly billing rates, use of associates and marketing. *As segmentation “marches on” however, law firm leaders increasingly will need to manage different practice areas differently—as different business units, different economic and practice models—and with increasingly differentiable keys to success.*

Sooner or later, firms that fail to do so will be at a competitive disadvantage in progressively more practice areas, and will fall behind in retaining and developing clients, in economic returns and ultimately, in competitive position.

Analyze the Businesses You Are In

To respond effectively, it is necessary first to analyze the businesses in which your firm is engaged. Although you may feel this is well-covered ground, given the cumulative degrees of change that have occurred, and are continuing throughout the legal market and within practice areas, it will be helpful to take a step back -- to look at the forest and at the trees from economic, business and market-driven perspectives.

This should include review at the firm, practice group and possibly additional levels of inquiry. In each of the following areas, law firm leaders should ask: What are the key trends driving change?

- Clients
- Practice trends
- Interdisciplinary services
- Client service
- Economic building blocks and profitability
- Competition
- Branding
- Optimal team structure and staffing
- Other factors deemed as strategically, operationally or economically significant

Implications and Keys to Success

Once you have completed a thoughtful and objective review of your firm's practices, you should have a much clearer idea of how to structure and position each group most effectively. Key implications will emerge, including: What are keys to success in this practice? What do clients appreciate most? Strategically, what does the market appreciate? What attributes are not really important?

It is critical that your analysis goes beyond the conclusion that "We are all good lawyers." Undoubtedly this is true, but in the current marketplace it is neither a compelling differentiator nor a meaningful branding statement. In 2013, market factors, client factors and economic factors are the drivers of a practice's success, and they must be the focus of effective practice positioning.

The Commoditization Scale

One model that can be very helpful and illuminating in your analytical process is an evaluation of where a practice falls on the 'Commoditization Scale' (below). At the high end of the scale are practices that require highly specialized knowledge and judgment as well as personal counseling. At the low end are fully commoditized practices involving process-oriented, routine work.

Of course high end and commoditized practices represent opposite ends of a complex, multi-point spectrum. The range in between can be labeled "*positioned*" legal services. These are practice areas that have some degree of complexity, specialized service requirements, brand name recognition and elasticity in pricing.

Commoditized practices are usually characterized by:

- Price competition from other law firms
- Cost-sensitive clients
- Standardization of work
- Large volumes of work
- Powerful concentration of clients both in the market and as a percentage of the firm's client base

In identifying where each of your practices falls along the spectrum of commoditization, it is important to remember that a law firm, practice group or lawyer operating in a relatively high end practice is not “better” than those practicing in a relatively commoditized practice. At least some degree of commoditization comes to most practices over time and it is simply a market factor that must be managed for. It is also important to point out that, no matter how often this point is repeated and understood on a strategic level, individual lawyers will tend to feel less valued in a commoditized practice, and more valued in a high end practice.

Following is an illustration of high end and commodity practice attributes.

High End Legal Services	Commoditized Legal Services
Less price competition	More price competition
Larger margins	Tighter margins
Less price sensitivity	Greater price sensitivity
Larger matters, but probably less volume	Probably higher volume, smaller matters
More “feast and famine” volumes	Work flows can be steadier
Compete based on brand—name, reputation, experience, number of cases	Compete based on price, ability to manage, sometimes brand name
More complexity	Less complexity among matters
More difficult to leverage, train associates	Easier to leverage associates, paralegals
Technology generally less applicable	Technology can be leveraged
More interdependent on other lawyers/areas in firm	Typically, more independent of other lawyers/areas in the firm
Rewards innovation/cutting edge expertise	Rewards consistency, may reward innovation in quality for less, structuring production
More often, greater client loyalty	More often, lawyers regarded as fungible; however, for large volumes, have loyalty and/or high switching costs

As the above table illustrates, both ends of the spectrum, (and certainly, the range in between), present challenges. Most law firm practices include combinations along the spectrum, and often combinations exist within individual groups. In general, high end practices are more profitable per matter and can engender greater client loyalty. However, commodity practices can also be profitable and successful—if managed, structured and (usually) staffed differently. In addition, differences should be reflected in a law firm’s approach to pricing, probably business development and other significant strategic, management and operating decisions.

Your practice analysis must always be objective. All decisions, including those regarding marketing, staffing, management, practice management, use of technology, use of project management, or recruiting, should flow from the economics of the practice—revenues, costs and profitability, possibly along with consideration of margins both in percentages and total net dollars/contribution to profit.

Recognize Internal Pressures and Respond Affirmatively

Structuring practice groups that are economically viable and meet and exceed client needs is always difficult. *Re-structuring* law firm practices that are already in place will usually be much more difficult. However, it must be done.

In today’s market, the work flow for many high end services has become less predictable—or in some cases very unpredictable and problematic. This may require fine-tuning or major restructuring of a group. A firm might consider the retention of a smaller nucleus of practice group members, combined with alternative or contract resources expanding and contracting as needed on an “accordion-like” basis.

Services that are becoming increasingly commoditized will also require major shifts in approach, possibly utilizing fewer owners, adding lawyers who act primarily as project managers, and leveraging other human and technology resources.

Legal services positioned somewhere in between will involve combinations of both strategies.

In addition, the ongoing differentiation among practices, and within practices, will create additional stressors in law firms’ fundamental structures for advancement, ownership, and compensation. Firms will also have to work hard to preserve firm

cohesiveness, communication and a single over-arching view of *Firm*, even as larger numbers of increasingly distinct businesses are operating under one roof.

Conclusion

In today's legal market, firm leaders and managers must simultaneously manage multiple diverse businesses in different markets. They need to be effective in analyzing the main external and internal influences on their practice groups, and chart effective courses for each unique group that best serve both the clients and the firm.

A heightened commitment to objective and focused analysis and planning, beginning at the firm and practice group levels, will be a key differentiating factor.

Optimally, law firms will structure their mix of practice areas, practice groups and client markets strategically, akin to a well-balanced financial portfolio. With the appropriate analysis and objectivity, firms will be able to effectively manage the cycles, counter-cycles, and variations within industries and market segments, and provide services devoted to their clients' ongoing and varying needs.

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