

RETHINKING BUSINESS DEVELOPMENT: CUSTOMER INTIMACY TO DRIVE CLIENT LOYALTY & PROFITABLE CLIENT RELATIONSHIPS

I. Introduction

Most law firms today face significant headwinds: stagnant demand, demanding clients, increasing competitive pressure from peers, alternatives and substitutes, technological progress changing fundamentally the way legal services are delivered, and a changing work force. The net result for many law firms is that growth is anemic and profitability is under pressure. More in-sourcing by corporate legal departments and growing market share of tech- and process-savvy service providers mean that law firms are competing for a shrinking pot of outsourced legal work.

In response, among other initiatives, law firms have ramped up spending in marketing and business development, even in a cost-cutting environment. A recent study by the Legal Marketing Association (LMA) and Bloomberg Law found that more than two-thirds of firms are increasing their focus on marketing and business development. Most marketing initiatives at law firms are not client-focused. Instead, firms generally market the firm's internal capabilities and the partners' accolades and qualifications. Such business development methodologies do not work in today's market; there's little to distinguish among the firms, and the conversation with clients usually move quickly to pricing—a race to the bottom.

Firms need to change their approach to business development and account management. To understand how, firms need to understand why clients are dissatisfied and less likely to increase spend with law firms without a fundamental change in, among other things, how firms engage clients. How can account management and business development efforts drive "stickiness" or loyalty in the client account, in order to grow incremental business?

II. The Chasm – Customer Intimacy

The disconnect between clients and law firms remain significant. Based on a recent study by LexisNexis and Judge Business School at Cambridge University, law firms generally engage clients on a transactional, rather than a *relationship*, basis. Firms believe that their role is to provide deep legal expertise, when instructed by the clients. Clients, however, do not see deep legal expertise as necessarily a differentiator, but as table stakes and increasingly commoditized. Instead, clients, are looking for firms to be proactive in offering a mix of standardized and bespoke solutions that meet both the legal service requirements, as well as the clients' budget constraints. Significant areas of disconnect include:

- Law firms focus on providing legal advice while clients look for solutions to business problems;
- Law firm, reflecting the "guild" approach, incur significant time and costs, when clients may be looking for "good enough"
- Clients' expectations that firms improve certainty and predictability in service delivery, through process improvement.

However, the principal gap, the survey suggests, is that that the firms fail to understand the client's business *and* the client's increasing cost pressure (and perception of value) to provide better strategic support to the client's organization. As a result, clients observe that law firms make little effort to think structurally how to help general counsel with broader issues beyond transactions.

The consequences of these gaps are clear. Because their external counsels do not provide holistic solutions, general counsel are forced to unbundle the legal services they require, which means reducing spend with larger, traditional firms, while increasing spend for in-house resources, non-traditional or technology-based legal service providers, and on smaller law firms.

III. Client Requirements

What are the pain points of general counsel (**GC**) and her legal teams (**LD**)?

LD's face key *internal* challenges:

- As businesses become more complex, LD's need to have the right coverage and strategic focus to contribute to their companies' *competitive advantage*, while continuing to perform key governance and compliance functions.
- CEO's and CFO's are requiring more transparency in the LD's financial operations (e.g., budget justifications) and, as with other functions, LD's are under severe pressure to be cost efficient and often "to do more with less".
- Internal clients demand that in-house lawyers add value by being commercial, practical and strategic to achieve strategic business and commercial goals. These demands require in-house lawyers to obtain and exercise skills and competencies that may be new to them.

The *external* environment presents additional challenges to LD's. GC face difficult resourcing decisions in deciding how to use external and internal resources, as well as technology. Law firms continue to resist change to provide real value to clients. In addition, there is an increasing array of different legal services providers—from legal process outsourcers, body shops, boutique law firms—as well a rapidly expanding universe of technology and tools available.

Many GC's do not have the experience or skills, nor the time, to study, assess and address these challenges and decisions. There's real opportunity for a law firm to provide insight and recommendations to LD's and their GC—where to play, coverage, operational excellence, resourcing strategies and human capital development. This in turn will generate additional revenue opportunities for that law firm.

IV. Rethinking Business Development and Account Management

"The lawyers who have the highest loyalty and who best understand their clients' businesses are the ones that take the time to be relentlessly inquisitive about their clients' needs."

In order to be positioned as a trusted advisor, firms must market and deliver business solutions, rather than just legal services. Firms therefore must be focused on the clients' business requirements. There are *three* levels of business knowledge, and many external counsels misunderstand this concept. Many firms market themselves as knowing the clients' business because of the firm's knowledge of the client's industry—e.g., banking, oil and gas, etc. That is not what clients mean when they say their external counsels don't know their business. Some counsels are more proactive and get to know the actual business of their clients, including business strategies, competitors, financial performance, etc. That is an improvement, but often not enough. The third level of business knowledge is *the business of the GC and her LD*—what areas on which that team is providing advice (e.g., sales, procurement, HR, real estate, compliance, etc.), the profile mix of who's providing that advice, the infrastructure that the team requires, the budget of the team, the mix of the spend, regional coverage, etc. Unless, a firm understands the LD's business at such detailed level, it is not possible for the firm to provide any meaningful solution to solve the general counsel's pain points.

Therefore, firms must rethink account management practices in order to reframe the conversations with general counsel and move beyond the traditional vendor relationship. Firms will need to develop the capability to engage the GC to (i) understand the business of the GC (and not just of the company) and (ii) provide recommendations and input on the detailed operations of the LD. Those recommendations naturally will include a discussion of how the firm can provide services (at the right cost level) to enable the client's LD to do what it needs to do, within the LD's budget, to help the LD's company achieve its strategic and business goals.

In other words, the firm needs the capability and skills to conduct a consultancy or assessment exercise to understand the business of the GC, and to provide recommendations on a *matrix of solutions* for the GC to consider. These solutions will consider areas that will need to be standardized and where bespoke legal services are appropriate, and who should be providing them (e.g., in-house resources, law firm resources, outsourced services, technology-based services, contractors, non-lawyers, management services, etc.). As important, the firm will need to develop offerings and pricing practice appropriate for the type of services where the firm thinks it can provide value to the GC.

These are some areas to consider. Not all of these are appropriate for all firms (given their strategic direction, current capabilities and investment appetite), but are some initial ideas about how this consultancy capability can be structured:

A. Client Engagement

- a. Selection of key client accounts, which have good level of trust and good working relationship with the relationship partner
- b. Consultant(s) to work closely with relationship partner on key accounts to understand the legal services and cost constraints of the general counsel and her team, and to provide recommendations to the general counsel.

B. Assessment

There are *four* potential categories of assessment and consultancy activities:

1. Strategy and Coverage

- Coverage and strategy assessment and recommendations, based on the company's strategic and business goals, and risk assessment
- Organization design (business-aligned), including coverage, management structure, and population profile required to drive the LD's strategy and provide consistent delivery by practice area
- Service "agreements" with business setting out role of legal representatives on business leadership teams, rules of engagement to obtain legal support and, where appropriate, service levels.

2. Resourcing Strategy & Spend Management

- Assessment and recommendations of resourcing choices and decisions (internal and external), based on assessment on value, risk and complexity of work
- Demand and budget planning for "run-rate" requirements and "extra-ordinary" or one-off projects
- Consistent work allocation across LD and work partners, with ability for flexible sourcing
- Major spend areas consolidated and resourced
- Regular reports and analytics of spend
- Terms & conditions and billing guidelines, and consistent methodology of invoice review
- Procurement of legal and other services, including development of engagement and, where appropriate, tendering processes.

3. Operations and Infrastructure

- Assessment and recommendations, and preparation, of legal or business processes and policies
- Assessment and recommendation, and preparation, of key contract templates
- Project management

- Strategy and roadmap of the use of technology for contract management, self-help tools for business partners, and other technology platforms (IP protection/patent, e-Discovery, e-Billing, etc).
- Crafting legal operations' roles and functions

4. Human Capital Development

Talent management strategies need to be aligned with the company's strategy and business model to improve productivity, quality and retention of the best talent.

- Benchmarking of performance against peer groups, including cross border comparisons and developing measurable development plans for the in-house teams and/or individuals within team
- Developing commercial acumen and strategic thinking
- Leadership training
- People development, including creating and managing coaching and mentoring programmes
- Communications skills

V. Economic Benefits to Law Firm

An ability to engage general counsel about their LD's business operations (including offering consultancy services) can provide significant benefits to a law firm. It (i) may provide additional sources of revenue, (ii) generates additional demand for the core legal services business and (iii) embeds the law firm within the client account to provide the "stickiness" that is critical to the long-term sustainability and profitability of the client account.

Even if a firm is building a world-class, cost-efficient delivery platform, such delivery platform alone will not be a differentiating factor over the long term. There is nothing significant to prevent others from creating high-expertise, lower-cost platforms to effectively compete with a law firm.

An ability to provide strategic and operational consultancy services (paid or unpaid) is both a defensive and offensive move for a firm to create a sustainable and profitable business over the medium- to long-term. Such ability enables the law firm to gain insight into a client's business, as well as the operations of the LD supporting such business. This insight will demonstrate the deep "business knowledge" that GC's demand and position the law firm as a "trusted advisor". When perceived as a trusted advisor, the client is more likely over time to (i) procure from the law firm additional core legal services and (ii) consider using the firm for more complex legal services. The consultancy capability therefore will there drive economic benefits for a law firm over and above the value and revenue from the consultancy services alone.

The ability to understand the business of a client's general counsel and her LD, at a detailed operational level, is critical to creating a multi-layered relationship of trust between that client and the law firm. By creating a framework for interaction and offerings on a broad relationship basis, the firm creates a level of trust with which it can embed itself in the supply chain of that LD. In doing so, the law firm will more likely be the first point of contact if the LD has business problems that it needs solving. By helping the firm's LD clients to meet their current and evolving challenges—greater transparency and predictability, a cost-efficient LD, and better and more consistent legal and business outcomes—the firm will build more stable, long-standing, and profitable customer relationships. Such competency therefore is a core component for a firm to build a scalable and profitable legal services business.