

Marketing — The Conceptual Base

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More and more articles on marketing are being written for lawyers; whole newsletters are dedicated to the subject. Nevertheless, true service marketing is still not well documented or clearly differentiated from product marketing. As an example, the terms "marketing mix" and "product" in such service industries as banking and management consulting derive from the manufacture of physical goods. Clearly, new concepts are necessary if

for the *Journal of Marketing*, summarized the dilemma of adopting effective product marketing techniques to a service oriented profession.

"Could marketing itself be 'myopic' in having failed to create relevant paradigms for the service sector? Many marketing professionals who transfer to the services arena find their work fundamentally 'different,' but have a difficult time articulating how and why their priorities and concepts have changed. Often, they also find to their frustration and bewilderment that 'marketing' is treated as a peripheral function or is confused with one

ments for advertising brochures, client newsletters, and (lately) sales training classes.

Product or Service?

The conceptual base referred to is embodied in the answer to the question, "Do I fully understand the nature of my law practice?" Several concepts are important here. The first is to realize that, unlike product marketing, which is the creation of an image (e.g., linking toothpaste with sex appeal), the law firm's image is built by its clients' perception of its practitioners. Toothpaste is mute; it is given personality by its marketers. Attorneys, however, already have personalities. They interact with people in purely human terms we all understand and know how to judge. Law firms cannot physically display services or provide samples or demonstrations, and generally will not warranty their work. Given the nebulous nature of buying legal services, it becomes necessary for the prospective client to make the "purchase decision" based on feelings of familiarity and comfort. What is communicated across the desk is "Do I like this attorney," or the converse, "Does he/she like me and understand my situation?" In this context, the client is always an individual. Corporations do not buy legal services — individual representatives, making the judgments noted above, are the purchasers.

A second and more difficult concept is that of the service business itself. What is it? What are attorneys selling? Many advisors to lawyers and some lawyers themselves say jokingly that attorneys are in the business of selling paper. This originates in the clients' and attorneys' need to make concrete what is essentially an intangible product — legal advice. We have all heard the joke about weighing the file and charging accordingly; this is product orientation intruding into service marketing.

Another comparison must be noted. More and more attorneys are concerned about price competition; that is, they have become interested in

As an attorney, you may have trouble applying product-marketing techniques to your service-based firm. For example, price competition only works if toothpaste is always only toothpaste.

the marketing of attorney services is to succeed. Attorneys, as relative newcomers to the marketing arena, may well become frustrated trying to apply product marketing techniques to their service-based law firms, without a strong conceptual base.

Recent experiences in the legal profession suggest that individuals and corporations are shopping for price, demanding an accounting in the form of detailed bills, and asking for documentation. Is any of this on point? Can prospective clients effectively shop for price? Are attorneys hired for activity and documentation skills?

G. Lynn Shostack, in a 1977 article

of its components, such as research or advertising, and kept within a very narrow scope of influence and authority. . . .

"This situation is frequently rationalized as being due to the 'ignorance' of senior management in service businesses. 'Education' is usually recommended as the solution. However, an equally feasible, though less comforting, explanation is that service industries have been slow to integrate marketing into the mainstream of decision-making and control *because marketing offers no guidance, terminology, or practical rules that are clearly relevant to services.*"

This article will distinguish between marketing a product and marketing a service, in an effort to help attorneys clarify the conceptual base from which they make large financial commit-

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what other attorneys in their geographical area charge for their services. This is entirely appropriate in the context of a service market. Attorneys are selling an intangible and highly differentiated (i.e., personal) service. In the product market, price competition is appropriate when the

uct marketing, however, it is clear that if Brand A's toothpaste does not come readily to hand, the consumer will not seek it in another grocery store. Brand B will be purchased instead. Again, the attorney must look at the underlying assumption — in this case, the convenience issue. Is the firm that is considering opening a branch acting on the belief that "All lawyers are alike so clients will go to the nearest one?"

If attorneys experience clients acting in this manner, there are two solu-

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underlying fact is that toothpaste is always only toothpaste. Attorneys, however, are very different from one another. Granted, some clients may decide between firms solely on the basis of price because they have no other grounds on which to decide. Nevertheless, only the personal encounter between the lawyer and the prospective client can create a meaningful distinction in the client's mind. Obviously, the offset to cost is quality. If the attorney can demonstrate top quality to the prospective client's satisfaction, the issue of cost will take care of itself.

The attorney's highly detailed bill is another example of the confusion between marketing a product and selling a service. Here, the product supplied is activity. "I was very active on your behalf, client." Is that what clients are buying?

The third variable (in addition to price and promotion) in product marketing is distribution. In the context of law firms, distribution is the opening of nearby branch offices, offices whose ostensible reason for existence is "convenience." Certainly, there are highly practical reasons for branches separated by great physical distance. From the standpoint of prod-

tions (as with the price issue): open a branch or create real differences on a personal level.

Service Marketing

Money, time and trouble go into expensive brochures and branch offices (some 75 percent of which are closed within three years). I believe that for attorneys there is no real substitute for traditional service marketing — personal contact. Detailed bills or client newsletters can be justified only on the basis of a total marketing plan founded on personal contact. These institutional forms of communication will not carry the firm's marketing program. Remember that the service is "advice"; that is, something that can be delivered and received only by human beings. Philip Kotler, in his January, 1977 article "Marketing Professional Services" for the *Journal of Marketing* (p. 72), defined professional services marketing as "... organized activities and programs by professional service firms that are designed to retain present clients and attract new clients by sensing, serving, and satisfying needs through delivery of appropriate services."

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Note the emphasis on “people” in his definition. The clients who are being attracted by those people using the skills of “sensing, serving, and satisfying” are also people. This suggests that providing legal services is a highly personal business and possibly not susceptible to the mass-marketing techniques of putting brochures into every prospect’s hands or of advertising in telephone books. These methods of creating or enhancing visibility neither demonstrate the service — legal advice — nor express the provider of that service — the attorney.

The basic marketing process is to choose target clients and avenues for meeting them. Some recommended practices for increasing visibility and enhancing image are association memberships, public speaking, and seminar sponsorship. All of these practices are designed to encourage personal encounters between attorneys and prospective and current clients.

In conclusion, it would seem that no institutional solution to the legal services marketing puzzle exists. Basically, convenient branch offices, brochures, newsletters, and advertising in general are largely peripheral and inefficient ways to provide client satisfaction and/or attract new clients. Instead, energy should be focused on referrals — both internal and external. Internal referral means directing an existing client to a new service provided by another attorney in the firm. Clearly, larger firms have an advantage here. Also, certain specialties are recognized “feeders” to the firm’s other specialties, *i.e.*, corporate and tax work. External referral is available to every attorney in private practice. Natural referrers include other attorneys, accountants, bankers, insurance brokers, real estate brokers, and financial planners. Such a “generic” list is no substitute for an analysis of the firm’s own client intake forms for more specific names. The referrers will vary with the type of practice. Whether an attorney cultivates referrers or clients directly, the method is the same — meeting people, establishing cordial relations, and being truly concerned about them as people. The rest will take care of itself. ■