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Strategic Segmentation
Your Differences Can Make You Stronger

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As it has matured, the legal market has been segmenting. In fact, whether in legal services, other professional services, or manufacturing, segmentation is a classic result of the maturation of a market. As a market matures, demand for a product or service diversifies, creating different markets within the original market. When ice cream is brand new, one flavor is sufficient. When only one car is being mass-produced, one body type, one level of horsepower, and one color are sufficient. As markets evolve, demand diversifies — or demands diversify. Typically, diversification of demand is accompanied (and some would say driven, at least in part) by diversifying capabilities to satisfy these demands.

In the legal market, "segmentation" refers to the increasing differences between different practice areas, specialties, and even subspecialties, as economic and business units.

Strategic Importance

In fact, segmentation is now one of the most important concepts with which law firm strategists must grapple. Understanding and using segmentation is critical in assessing your law firm's practice, and in planning for the future.

At the same time, segmentation also presents numerous challenges for leading and managing law firms. Many firms under-perform, and some even fail, due to the organizational fallout engendered by segmentation.

This article seeks to underscore that:

- segmentation is a reality in the legal marketplace
- segmentation offers tremendous opportunities for law firms that effectively implement the demands of segmentation in their strategic planning
- stress factors resulting from segmentation are significant — and even organization-threatening
- the major opportunities and stress factors must both be recognized and dealt with by law firm leadership

Salient Example

Consider a typical creditor-side bankruptcy practice compared to a typical debtor-side practice. As practitioners, the creditor-and debtor-side lawyers speak the same lan-

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guage and operate under the same sets of rules, from different sides of the aisle.

As economic units and businesses, however, creditor and debtor practices have huge differences. As lawyers have become more specialized in these practices, and market influencers such as advertising costs have increased, creditor and debtor bankruptcy practices have diverged into separate businesses.

In particular:

- The creditor-side practice typically involves representation of a limited number of financial and commercial institutions. The debtor practice tends to be high-volume, representing numerous individual clients.
- The creditor lawyer's clients are often professional creditors, having multiple matters and an ongoing need for representation. Debtor clients, whether individual or commercial, cannot be characterized as professional debtors.
- In marketing, the creditor-side practice typically involves focused, targeted one-on-one contacts. By contrast, the debtor-side practitioner must reach a broader audience of consumers with a highly infrequent or once-in-a lifetime need for representation in bankruptcy court.

Business Model Alignment

As these important contrasts suggest, the business model for planning and managing a successful creditor bankruptcy practice is substantially — and critically — different than the model for operating a successful debtor practice. If the consumer debtor lawyer endeavors to market his or her practice one-on-one, the number of contacts that would need to be made to develop a thriving practice would be staggering, leaving little or no time for practice. The more successful business model typically involves direct-to-consumer advertising or the development of referral sources that can refer multiple clients. On the other hand, if creditor-side lawyers attempt to mass-market their services by media advertising, they are unlikely to reach, nor to favorably impress, their targeted clientele, and the misaligned business model will fail.

"...the most serious issues potentially arising from segmentation can be the negative feelings of individual lawyers and practice groups..."

If the consumer debtor-side lawyer does not strive for the efficiencies compelled by the generally low and fixed fees accompanying these cases, there will likely be insufficient revenues from an insufficient number of similar cases to cover overhead and applied professional resources. While efficiency and cost-effectiveness are also important on the creditor side, maximizing efficiency at the expense of client contact, including direct client contact by the lawyer(s) involved, is much less likely to provide a formula for successfully building relationships with ongoing clients. Here too, we have a misaligned business strategy.

Major Opportunities

Recognizing and employing segmentation at a strategic level creates a legal marketplace that is really quite a rich tapestry for the strategist (although some might maintain that the tapestry is a more chaotic patchwork). The typical law firm is a mixture of different businesses with varying clients and sources of business, diverse economic realities, different cyclical/counter-cyclical patterns, different market forces, different competitors, and variegated internal practice area interfaces. Analyzing and employing these differences in strategic planning, marketing, firm management, and practice management provides the law firm with a multitude of vehicles to success.

This complexity spells major new opportunities for law firms because it means multiple new client and industry needs.

Potential Major Difficulties

Simultaneously, the phenomenon of segmentation also can mean significant potential difficulties for law firms. Operating numerous businesses "under one roof" presents many challenges to operations, management, and leadership.

Operationally, the complexity of increasingly divergent specialties creates numerous demands for technology, legal processes, forms, diverse billing approaches, and secretarial and staff training. The list goes on.

Moreover, the overall impact of complexity, and of specific decisions, has unavoidable economic effects. A law firm that wants to be dominant in too many practice areas will likely be dominant in none. A law firm that wants to be state-of-the-art in all of its practice areas can only do so by making huge economic and managerial investments. Even then, the task at hand is formidable, to say the least.

But the most serious issues potentially arising from segmentation can be the negative feelings of individual lawyers and practice groups — of separateness from their firm colleagues, of internal competition, and even mistrust. These issues are manifest in

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many forms, but the common examples include:

- One group in a law firm, or lawyers occupying a defined niche within a practice group, has lower billing rates than other practice groups. They begin to feel embarrassed or embattled by comments related to their contributions and profitability relative to other higher-rate practices.
- Members of another group in a practice that is prone to peaks and valleys in their workloads might feel embarrassed and embattled when they're in a down cycle, even if they don't hear those deprecatory comments. Once they do hear such comments, they'll probably conclude that their previous contributions have all been forgotten.

Action Points

In the face of such opportunity and challenge, law firm leaders and managers need to:

- Recognize and identify the different practice areas and specialties in their firm, not only as substantive practice areas but often as individual business units.
- As strategists, focus on the market and economic factors underpinning the firm's services, and incorporate those into planning.
- Stimulate, lead — and facilitate, if necessary — discussions within the firm about the market, and about the economic and business factors that bear on particular practice areas and specialties. These discussions can be in the context of planning, marketing, budgeting, staffing and practice management. Whatever the context, they need to be conducted in a rational, businesslike, and problem-solving mode, without blame or recrimination.
- As strategists, leaders, and managers, privately seek reasonable conclusions regarding group and individual lawyer performance. In particular:
  - Is a group's performance lagging because of market factors or because of individual/group performance issues?
  - Stated another way, is a down period (or an up period) more a result of market factors, of firm/practitioners responsible for building the group, or both—and in what approximate proportions?
  - Are people, or a group, being blamed for economic or other forces beyond their control?
  - At what point have market factors become an excuse for sub-par planning, management, or performance?

Market and economic forces affecting (or afflicting) a practice group or an individual's practice might naturally result in significant consequences, including compensation and, eventually, even the firm's capacity to maintain a particular practice. The end result might be similar to what would happen as a consequence of sub-par performance attributable to individuals' inattention or other omissions.

In response, leaders and managers should deal with market and economic forces publicly, through planning, marketing, management, and practice management discussions; and they should deal with productivity issues privately and appropriately, through the firm's management, practice management, and compensation structures. ◆

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