Solicitors - part of the solution or part of the problem?

No article concerning marketing to private clients can ignore the context of the Legal Services Bill (LSB) and the increasing commoditisation of legal services. If there was any doubt in my mind that commoditisation has already gained a strong foothold it was confirmed by a recent bank statement from Nat West and its footnote: "Need a will? Contact us for free advice."

While the regulatory aspects of the LSB are being enacted immediately, the more topical ownership of solicitor practices issue will not be addressed for several years while a suitable compliance regime is developed. Government needs more time to define a fit and proper person to own a law firm. But don't be complacent.

As evidenced by the publicised intent of organisations such as the Co-operative, DAS, RAC and Halifax- the institution's plans to own their own solicitors are well advanced. Many of the secret marriages have been consummated even if the engagements were not announced.

Commoditised law is a reality. It started with conveyancing, moved into will-writing and then personal injury and very few areas of legal services are exempt from the width of the changes to come, not even commercial litigation. In the next few years the growth of before the event legal expenses insurance for business will become the norm and work hungry law firms will compete aggressively with each other on a CFA basis - initially just for good cases, but ultimately for all of the other work as insurance backed retainer arrangements come to the fore.

Lawyers often refer disparagingly to Tesco Law as the euphemism for commoditised legal services. Tesco Law is not some Orwellian prophecy; it's here and has existed for several years already. But it is not what you may have expected. It is in fact a range of self-help booklet and guides such as a DIY divorce for £9.99 - a bargain as many will testify!

Personally, I regard Tesco Law as a litmus test for just how market focused a solicitor is. All solicitors know what is meant by the phrase - but how many have actually been interested enough to look it up? In my experience less than 1 lawyer in 10 has ever bothered to find the Tesco Law website. This level of apathy is the reason so many of the Bankassurers think that legal services will be such an easy additional profit centre- they think that a fractured profession will simply roll over and let them steal the market without too much of a fight- and so far they are right to form that view.

There are several common strategies shared by successful companies such as Norwich Union and Tesco that solicitors need to learn fast if they are to survive and prosper.

1. Do not feed your competitors
DAS as an example became the biggest name in legal expenses mainly because it was independent of the main UK general insurance companies with whom it traded. That meant insurers could use them without handing potential profit to a competitor. So why do so many law firms continue to bank with their competition? Norwich Union and other insurers will never give profit to a potential rival.

2. Maximise gross profit.
Tesco and NU are infamous for the way they vigorously control supply lines and seek to maximise every single line of income and to minimise every line of cost. Here at least I can

see one parallel to conveyancing. One of the earliest conveyancing ‘factories’ famously made its owner a fortune.

Paralegal staff were used in a ratio to trained solicitors never seen before, High St offices were decked in favour of modern office units out of town, systems were used for processing work (not just *word-processing)* and all costs were pared to the bone in order to compete. The average profit cost on every transaction was just £19, but there thousands of them. In fact the firms’ profit was achieved at the very end of the legal process when the final BACS transfer of funds was marked up from the Bank’s fee of £6 to a charged out price of £25!

Modern law firms simply cannot afford to ignore the potential income from insurance commission or added value services such as HIPD, because they are competing with firms that will take that income and compete even more aggressively on price.

3. They really understand marketing and the importance of Brand.
Follow the strategy of NU and Tesco again and you will see a process of continuance vertical integration- they want to be all things to their customer. Savings to buy a car, pay for a wedding, teach them to drive sell them home and motor insurance, insure them on holiday, lend them the money, insure their assets- capture them for life. Today, NU are even selling fridges and washing machines to their policyholders. And who underwrites Tesco insurance?

In contrast, marketing in most legal practices has been confined to the areas that all of the partners can agree upon- and that is usually just the brochure and corporate hospitality. That is the weakness of the existing partnership structure.

Marketing speak for vertical integration is sometimes referred to as a ‘womb to tomb strategy.’ And there’s a clue in this strategy for the survival of the local law firm, as I will expand later.

A visit to Halifax Legal Solutions is enlightening - a full range of personal legal services for £9.99 per month with a banner quotation from the FT of July 2006 stating - “These services are a bargain compared with the standard cost one would pay for each at a local solicitor.”

The important point to note that only a small element of what Halifax is doing is insurance. A law firm of any size with some marketing savvy could replicate many of the services they are offering.

Why wouldn’t a building society give free will-writing services with every mortgage? It is not really free because they are able to absorb the cost and amortise it over the life of the mortgage. Then they are sitting on a really close relationship with the client and an asset of future fees averaging more than £10,000 a time. They can wait to be paid a very healthy return on their time.

If High St solicitors are to compete for private client work they are going to have to change their mindsets. When I suggest lawyers need to stop practicing and start competing I am talking about marketing- in its widest sense. That means solicitors must firstly understand their customers well and then they must know their competitors even better.

One of the fundamentals of marketing is to put yourself into the shoes of your potential customer (in the context of a legal directory I refuse to glorify this subject with the word client) and to ask yourself: What would I do? How would I act? What do I actually want?

Internet searches on the words ‘probate’ and ‘conveyancing’ are enlightening. Few lawyers are shown, many calls are free call, on-line will writers dominate the response to probate enquiries, one or two financial advisors are wrapping-up wills with at home financial planning.

Click for a conveyancing quote on rightmove and you will be offered a panel of 5 quotes, quite varied in cost with no real differentiation except a dubious disbursement for ‘indemnity premiums’ (methinks why should I pay for someone’s negligence insurance?)

My recent conveyancing enquiry was for real. Internet buying took the legal cost for selling my house from a local law firm recommended by my estate agent of £1047 to £370 with a quality Liverpool firm whose name I regard. A big difference in price and only one email follow up from any of them and that got my name wrong in 5 places. Then there was a Post Office strike and postal communication became stuck. Could we switch to email? -No chance, simply not geared up for it. But why not? I can bank online.

Please do not discount this as just another Internet story that will have no effect on your firm. Face the facts, so-called Silver Surfers (over 50’s) are the top target for firms wanting private client business and they are also the heaviest users of the Internet - and I am talking about <u>buying</u> goods and services, not playing games. Already 25% of all UK sales by gross value are already online and it’s a higher proportion with over 50’s.

The music industry thought it could ignore the technology revolution, now it is giving away free singles and you can pay only what you think an album is worth (Radiohead were not the first to do this by any means). Commercial Radio thought itself untouchable but young listeners have halved and Commercial TV stands on the brink of catastrophe if Joost does to TV what Skype is doing to telephones.

But do you know your RSS from your SMS? Under a new practice directive technophobia is no longer allowed. Did you know that more than half the visitors to your firms’ web site will come through a back door- ie not the home page? Test how engaging your own site really is, start by having the bounce rate monitored. Surf the competition and search the subject, then we can discuss marketing in real earnest.

Marketing is such a misused term. When asked to define ‘marketing’ most of the delegates attending my seminars will say “it’s advertising” or it’s “promoting yourself”, that’s because they have only seen the <u>visible</u> part of marketing, they have not grasped the whole discipline. Definitions of marketing vary but I think that the one used by the Chartered Institute of Marketing is the best.

Marketing is: “The management *process* of *identifying customer needs* and *satisfying* them at a *profit*.” I have highlighted key words for emphasis. Marketing is a *process* - a continuous cycle of action consisting of analysing the market, planning solutions and controlling delivery and action or re-action. Marketing is also about *identifying customer needs* - working out what people need- and then satisfying these needs at a *profit* (or there is no point to the exercise in a business environment).

The marketing partner's role, if the firm has one, is therefore one of analysis planning and control of the firms marketing processes. So what it marketing? I think it is explained very simply with an analogy to cooking. No matter who we are the basic ingredients are available to all of us. For example with eggs, milk, sugar, water, flour, salt and heat, a cook could produce a range of products varying from an omelette to a loaf of bread or a cake. All companies have staff, ideas, computers, paper etc but how we mix these ingredients determines whether we build a Mini or a Rolls Royce - in legal terms this could be the difference between an on-line service or a personal consultation with fees fixed or contingent as the case may be. While there may be capital resource limitations the basic ingredients of knowledge as a product, price, methods of promotion, distribution and people are available to all law firms. But they need to be mixed with a focused eye on what the firm regards as its target market and how it intends to achieve its stated objectives.

This is where my earlier hint regarding life cycle marketing becomes most relevant to those firms concentrating on private client work. Births marriages and death and all of the key events in between should be the points at which lawyers can insert themselves into the awareness of a potential customer.

If you have done any initial research at all you cannot fail to notice how little the word 'quality' is explained to customers. Without an explanation, quality is just a word: In the conveyancing experience that I recounted earlier, no one said to me that using a local law firm could be quicker because I could pop in and sign key documents meaning they would be less likely to be lost and would not be affected by delays in postal services. Self-evident possibly, but that does not mean that a key benefit should not be explained. This is called benefit selling. A benefit only exists if it is explained and the value of the benefit attaches to the one who demonstrates it to the customer. Look at some of the advertising for motor insurance, for example: most insurers provide a courtesy car on a comprehensive policy, but the one that advertises this benefit gets a perceived edge.

In a private client environment the management of customer relationships between the probate, conveyancing, matrimonial and injury departments should be a seamless whole possibly including the criminal and legal aid teams. Yet how many law firms even seek client permission to cross-sell another service of the firm? I know the answer to that one, as from straw polls on my lecture circuit it is less than 2%.

The firm needs to focus its services and messages on its target customers- the style needed for High Net Worth individuals will be totally different to that need for socio-economic groups D, E, F and there may need to be yet another suite of messages for 'mid' net worth clients of for the 'A8s' (that's workers from the 8 new EC countries such as Lithuania, Slovenia and Poland).

Much of the firms marketing spend will naturally gravitate towards promotion, principally advertising and PR. The difference between the two is important, which leads me to my 4 most important lessons in marketing promotion.

1. Set targets and external objective input to your plans

Always set a target for every budget. How many and what type of new clients do you require from your marketing spend? I know how difficult it is for you to engage marketers that understand legal practice, that's why I am writing this article. But external input to your plans is not an optional extra it's a must. Failure to do so even has a term of its own-marketing myopia.

2. Get value from your marketing spend

DAGMAR is a marketing acronym for: defined advertising goals for measured advertising returns. It may not be immediately obvious but every marketing activity can be measured and do not work with someone who tells you otherwise. Even seemingly esoteric issues such as ‘local reputation’ or ‘brand strength’ can be measured (by using periodic surveys and contrasting their results). For example, it reputedly cost BA in excess of £200m to become recognised as the ‘world’s favourite airline. Good value? Well the answer depends upon whether that is what they budgeted to achieve that level of recognition they achieved and whether the campaign cost more or less than was anticipated. The point is that if you set goals as well as budget for your campaigns you can identify what is working cost-effectively and what is not.

3. Recognise the difference between Advertising and PR.

Obvious? Certainly the edges are blurred at times but there are some important differences to recognise and build into your thinking. The principle difference is that Advertising is completely controlled and PR is not.

When you place an advert YOU have chosen the words, the image, the timing and the media - sure, there can be some unexpected results but they probably should have been anticipated. PR in the shape of say a Press Release may in contrast seem a lot cheaper than an advert (it is not necessarily) but you have no control over when and how it appears. For example, the company that extols the virtues of its efficiency and cost-control over its rivals finds that is reported only for the fact that it made 10 local staff redundant at short notice to achieve this!

As well as being cost-effective PR is potentially more powerful than advertising because a third party endorsement is much more credible than blowing you own trumpet.

4. Learn how to buy your media

This is the lesson of Cost Per Thousand (CPT). It is the most effective way to compare the value of two media offerings. Always calculate how much per target it costs to put your message. For example, a trade magazine for say Dentists may have 2000 readers and charge £1000 for an advert. That is a CPT of 0.50.

A local newspaper may also charge £1000 for an advert and claim to have 250,000 readers - looks cheaper doesn’t it? But how many of them are your target audience? If only 10 dentists read it then the CPT is £100 each!

Placing the same article in a national daily newspaper may seem more costly and could be read by millions but including 5000 dentists, all for a cost of say £2500. While the actual price is higher the national newspaper is better value, the CPT is the same (0.50) but you have many more Dentists in the chair will get more business if the conversion rate for the advert is constant.

Never trust media readership claims unless they are properly accredited (look for ABC ratings which stand for Audit Bureau of Circulation) and a few extra definitions from emerging Internet vocabulary may also assist.

CPC: cost per click. The advertiser pays each time its advert is clicked on.
CPA: cost per action. The advertiser pays when a site user performs a certain action after clicking an advert. If the action means the customer orders a brochure this is called **CPL** or cost per lead, if the user buys a product this is called **CPS** or cost per sale.

The first part of any marketing plan is analysis and starts with a SWOT. You have to know where you are and where you want to go before you can choose from the alternative routes and there is simply no alternative to an external facilitator for your planning process even if you decide to implement the whole plan yourself.

There would no point in me listing potential points about your competitors or your SWOT analysis here because the value comes from completing the exercise for yourself. That said I have seen so many plans confused by mixing strengths and weaknesses (internal or self) with opportunities and threats (external or others) and a failure to recognise that the issues only count if they are positive or negative in comparison to your competition. And you must do a separate SWOT for every product or service you offer.

There is a common theme in all of my writing and consulting on subject of legal marketing: if a modern law firm wishes to survive and prosper it must evolve into a multi-faceted seller of services within which legal expertise is nothing other than a core.

That means building your own ‘panels’ and not relying upon others. It means selling the firms ‘own brand’ legal services and insurance products in areas such as family, employment and business law. The trick is to provide these services in such a way that the firm retains conduct of the work your clients generate. It can be done, the products are there but it needs a fresh legal mindset and maybe some external input to facilitate them.

10 years ago Bank branch managers did not understand that a good part of their day had to be spent marketing and selling everything other than core banking - for most law firms its time for the same understanding or they will know that they will learn that the time for being part of the solution has passed them by.

ENDS

Brian Dunk FCII MCIM
Director, Straight Solutions Ltd
Brian is an independent marketing and insurance consultant.