

## WHAT I LEARNED AT THE FAIR

### *Reflections On The Recent Chief Marketing Officers' Forum*

Recently, I attended the Chief Marketing Officers' Forum in New York. Sponsored by Incisive Media, the publishers of law journals. It was extremely well run, with a program and panelists assembled by Iris Jones and Larry Bodine – two of the brightest stars in our marketing firmament. From more than a hundred attendees, plus more than thirty speakers, I learned a lot about the current state of law firm marketing and marketers.

What astonished me most was not so much what was new, as much as what wasn't. The Bates Decision (*Bates v. State Bar of Arizona, 1977*), which struck down the Canons of Ethics prohibiting frank marketing, was some thirty years ago (older than many of today's marketers). In thirty years we've learned a thing or two – but surprisingly, not much more than that. And with notable exceptions, the lawyers and accountants seem to have learned even less.

What was new was the subtle but accelerating drive toward professionalism by the marketers, some new techniques in looking at return on investment in marketing, the shifting emphasis in marketing toward specific practice development, and the more sophisticated use of such marketing tools as client service teams and the new technology. The exceptional Monica Bay, the editor of Law Technology News, put technology in perspective by noting that technology is not a client's concern, but that the output of technology is. Monica is right, as always, which means that using a firm's technology in the service of clients can be yet another marketing tool, by demonstrating to clients and prospects the value of a firm's technology, rather than the technology itself. .

What was not new was the continued striving by marketing practitioners to be considered professionals in a firm of law professionals. In fact, this seemed to be the more persistent theme of the Forum. What was not new, and more disturbing, was the vast diversity of skills -- or lack of skills -- among the marketing directors. How many marketers are equally proficient in each of the skills of marketing professional services – planning, writing, direct mail, seminar planning, professional networking, and so forth? This diversity of skills makes it difficult to achieve credibility and professional status within a firm. It makes it difficult, as well, for lawyers and accountants to correctly assess professionalism in hiring and gauging performance.

Since marketing out loud became legal with the *Bates* decision in 1977, there been much groping to find those marketing techniques that are distinctive to professional services, and those that are not. At the same time, it has become apparent that, with no long standing tradition of frank marketing in the professions, there has been a vast disconnect between the professionals and the marketers. That disconnect was, in large measure, a function of the lawyers' and accountants' traditional view of themselves as somewhat exalted – above the ordinary. Many a lawyer and accountant, in those early days, gave me to understand that their superiority was founded in both tradition and the fact that they

had extensive educational requirements, professional exams (the Bar and CPA exams), codified ethical constraints, standing in their communities as professionals, the long paths to partnership, and licenses and certifications in a statutory context.

The marketers, on the other hand, come from different and various cultures, have no similar credentials, no such rigid professional ethical constraints, no rigid educational requirements, little of the public respect for their occupation, and therefore didn't come under the same professional rubric as lawyers and accountants. It's only been relatively recently that lawyers and accountants have begun to show some respect for marketers. Remember the days when, if you asked a partner about marketing, he (yes, he) was likely to say, "Oh, yeah...we've got a guy (or girl) down the hall who does that?"

Two other circumstances reinforced the rift. One was that with no long standing tradition of marketing in the professions, there was no foundation for understanding the basics of marketing that the marketers were foisting upon them. The professionals, in the early days (and still today, to a large extent) didn't know how to hire or monitor or judge marketers. The second was that the marketers and their outside agencies were slow to learn the differences between marketing a product and marketing a professional service, and thus there was little by way of tangible results from marketing efforts. There was no timely, immediate, and readily visible return on investment in marketing.

Now, some thirty years since *Bates*, we still find examples of that original disconnect, and it still stands as a significant impediment to marketing success. There are exceptions of course, and they are notable. But despite a growing education in marketing by the professionals, and an increasing number of experienced marketers, the disconnect still exists in what is probably the majority of professional firms.

Another reason for the disconnect is the lack of marketing training for lawyers and accountants. Not training for the specific ability to perform marketing programs, but rather for a better understanding of the role marketing plays in practice development. Without this understanding, everything a marketer proposes must be evaluated by people who don't understand it, there is no way for professionals to judge the results of marketers' efforts, and there is no foundation to judge a marketer's qualifications in a hiring interview. At the same time, lawyers and accountants must depend upon the marketers they hire to educate them. The problem with that is that the levels of capability of marketers varies all the way from naïve and inexperienced to highly experienced and sophisticated.

This would seem to indicate a certification program for marketers. There are, however, significant reasons why [certification](#) is not likely to work.

It was in this context that one of the most welcome among many excellent presenters was the keynote speech by Charles O'Neill, managing partner of Chadbourne, Parke. He noted, in quite some detail, what managing partners want and expect from their marketers – a return on the investment in a marketing program and a program and its execution that redounds to the bottom line.

Why this should come as a surprise to anyone eludes me. It says to me, and apparently to many other of the attendees of the Forum, that while the efforts to build name recognition and to project a firm's capability are necessary and important, practice development and client retention should be the major focus of all marketing programs.

I've long believed that the jargon of marketing -- branding, image, mission, etc. -- were major distractions in marketing, impeding focus on the bottom line of practice development. There are still marketers who use this jargon as incantations, as if saying the words makes competent performance unnecessary. Jargon spares us the need to think, even as they describe -- often inaccurately -- the working practices of marketing. They are the attractive curtains of marketing. The real play begins when the curtain goes up.

One formidable and important presentation, by the innovative and impressive marketer Steve Barrett, was a demonstration of how statistical analysis helps the marketer and the firm. By analyzing the various elements of a market, and a firm's position in that market, there is the advantage of both benchmarking and competitive intelligence. By analyzing the return on investment of each client, a firm has better control of the allocation of resources and budget for marketing.

Some years ago, I demonstrated to a major international accounting firm that they could judge a firm's competitive position by assessing the number of clients each competitive firm had in three categories -- emerging, static, and declining industries. It showed that the firms with the largest number of clients in emerging industries were more successful than those firms with a preponderance of clients in declining industries. More significantly, it demonstrated where a firm could best focus its marketing efforts.

The danger in relying too heavily on statistics is primarily in the source of the data, as many an election poll has demonstrated. For example, a survey of which marketing tools are most successful relies on marketing directors to make that assessment. Aside from the fact that marketing requires a great many skills, and that responses to that survey may be skewed by a marketer's preference based upon the marketer's strengths or weaknesses, there is a greater danger in not understanding the professional firms' structure and strictures. The most significant of these limitations is that the variety of practices, and the market for these practices, often requires different marketing practices for each client and each industry.

More significant is the fact that marketing a professional service most often can't create a client (as an ad for a product can often create a customer where none existed before). The marketing effort for a law or accounting firm can ultimately enhance the choice of one firm over another, *when legal or accounting service are needed*.

But as Barrett points out, this kind of survey can give a general sense of directions that marketers are taking. It can also serve as one element in planning a marketing program, but certainly not as more than a backdrop to other, more significant factors.

As I said in my speech to the Forum, "One problem that still nags at us is equity at the table. Never mind the personal aspect of respect -- I'm talking about accepting our professionalism -- recognizing that we know our business -- that we really do know how to compete. This is not petulance or ego -- it's realizing that as professionals, we function best --and serve best -- when we are recognized as professional peers."

Now, I recognize that we don't have professional degrees, nor are we licensed. But professionalism doesn't need degrees or licenses to be professionals. It is, rather the degree to which we know and perform our craft. An old friend once told me that a professional is somebody who works at peak capacity even when he or she don't feel like it. That may be better than a degree.”

Ultimately, the hardest thing for both lawyers and accountants, as well as marketers, to realize is that marketing professional services is extraordinarily complex, and the attempts to simplify it are at the root most professional services marketing problems. I don't think there's been anything like it in contemporary marketing. I know that the academics who teach marketing in MBA and other marketing programs don't have the least inkling of the complexities. This is a subject I mean to explore in depth in the near future.

There was a lot to learn at this excellent Forum. There was the new stuff, and the fact that so much of the old stuff is still gospel. In this dynamic society, this gospel is a mixed blessing.

**[HOME](#)**