

## IF MY MOTHER WANTED ME TO BE A SALESMAN...

### ***What Lawyers And Other Professionals Really Have To Know About Marketing – and Why***

**O**f the many impediments to successful marketing for lawyers and accountants, none is more toxic than the tenuous relationship between the professionals and the marketers. Granted, it was worse some thirty-seven years ago, when contemporary marketing first became legal, and granted that the growing intensity of competition has served to make many more professionals more knowledgeable and hospitable to marketing. But there still persist attitudes that prevent many professionals – the lawyers and the accountants -- from understanding the crucial role of marketing in every practice. There is, as well, a frank ignorance of both the concepts of marketing professional services and of the role that the individual professional plays in the marketing process.

A lawyer once told me, “If you’re smart enough to be a lawyer, you’re smart enough to do your own advertising.” To which I replied, “If you’re smart enough to be a lawyer you’re smart enough to be a nuclear physicist, but it doesn’t make you one.” And therein lies a significant part of the crux of the disconnect between lawyers and marketers.

Not surprisingly, many attempts have been made over the past decades to close the chasm between the professionals and the marketers, usually to no avail. Too often, there is pure exhortation at one end of the spectrum, and fruitless attempts to turn lawyers and accountants into marketers at the other end. For the most part, abject failure prevails at both ends (although slowly, more professionals are beginning to understand.) The result is that vast amounts of marketing energy is wasted by both groups, depriving both of needed competitive advantage in a burgeoning competitive environment. Solo practitioners often face the need to market on some level without outside help, but rarely have the training to do so effectively.

Judging from the many inquiries and pleas for help that I get as the editor of *The Marcus Letter* and in response to my writing in several industry publications, I know that many of the marketers themselves are concerned about this disconnect. I know this also from the articles that many others write in the myriad professional journals and online, and from the concerns so frequently expressed in discussions in public forums.

I know as well, from experience, that there is a solution. It resides in both focused education of professionals in sound marketing principles, and by clearly defining the nature of the separate roles of the professional and the marketers. I’ve succeeded most often by getting professionals involved in the practice. It’s important, too, that the professionals better understand the nature of the marketers themselves, and that the marketers better understand the reasons for the difficulties the professionals have in understanding the marketers.

Perhaps the most significant factor in the disconnect is that there are vast differences in the concepts and nature of marketing and the concepts and nature of legal practice. There are differences, as well, in training, professional structures, and in disparities of personalities that preclude a felicitous marriage, such as the professional's rigorous education in thinking like a lawyer, in practice qualifications, and in legal and ethical constraints. The marketer, on the other hand, has a different arsenal, one that includes different basic marketing skills and practices, tempered by experience and a focus on the ramifications of the market and the mechanics and strategies for reaching that market. The experienced marketer knows from experience what works and what doesn't in the marketing process. If there is a basic difference between the professional and the trained marketer, it may reside in the rigorous training and thinking process that works so well for lawyers and accountants, versus the creative concerns and experience that work so well for the marketer.

Ultimately, marketing is an art form, the mechanics of which may be readily learned. Not so easily learned is the artfulness, which uses imagination to conceptualize within the marketing process, and which demands intuition to understand and to interpret the market, plus the knowledge, experience and skills to reach and persuade prospective clients of the value of the lawyer's services. It requires the skill to use the mechanics effectively, and the competitive urge to drive the process – all of which transcend the mundane. All marketers have access to the same marketing tools, but what really works competitively for a professional services marketer is not the mechanics – it's *the strategy* in applying the mechanics. It's a different kind of planning, and a different set of objectives.

While it takes extensive education, intensive examinations, and long apprenticeship to become a lawyer or accountant, there are three main ways that marketers learn their craft. One is rooted in previous marketing jobs in related industries, enhanced by the ability to learn the ramifications of the legal and accounting marketing process. Some of the best marketers I know come from marketing positions in major corporations. (For example, I came from a background in public relations at a time (the 1970s and 1980s) when only a handful of us were retained by professional firms. We not only had to learn the hard way, but we had to invent many of the practices now standard today. We had to learn how professional services marketing differed from product marketing, and develop new ways to deal with those differences.)

Another marketers learn their craft is by apprenticeship to a working professional services marketer, and association with other marketers, and by reading books and articles, many of which are unfortunately inadequate. A third – and perhaps the most distorted – is from an MBA program in marketing. The distortion comes from courses that confuse marketing principles for products with the separate and distinctive principles and practices of professional services marketing. *This difference, we learned, dictates the distinctive nature of many of the practices we tailored that experience showed to work most effectively in contemporary professional services marketing.*

There are now few major accounting and law firms that don't have marketing programs, and the rolls of marketing directors are vast. But yet, the problem of disconnect between marketer and professional persists, and the quality of marketing ranges from occasionally superb to more frequently dismal, unimaginative, and ineffective. (This, I suspect, is one of the reasons that turnover of marketing jobs is so prevalent in professional firms.)

A large part of this disconnect, again, comes from the failure of professionals to understand both the nature of marketing, and their role in it. They rarely know how to qualify and hire marketers. They fail to understand the distinct and often unique characteristics of professional services marketing and the marketers, and how those differences alter the nature of the marketing program itself. They

often see marketing in terms of myths and misconceptions. They often fail to understand that marketing is itself a profession (or at least, can be practiced professionally), and that it's an integral part of any successful practice. And since few law schools or MBA programs offer education in marketing for professionals, the road to accommodation for marketers in professional firms remains rocky. Unfortunately, this limited view severely inhibits competing effectively, and is patently unfair to both the professionals and the marketers by diminishing access to the best that sound marketing has to offer.

### ***The Marketing Differences Between Products And Professional Services***

The role of a corporation, as the late corporate philosopher Peter Drucker has often noted, is to make a customer. Marketing is the process used to do that. Lawyers have the same responsibility – to generate a client, but the path to it is different. For example...

- There may be a thousand people, and complex production processes, behind a product. The interface between these people and processes and the consumer is the product itself. The interface between the professional and the *client* is the professional.
- When a corporation's sales person sells you a vacuum cleaner, the vacuum cleaner stays and the salesperson goes. When a lawyer sells you his or her services, the lawyer stays.
- A corporation can market test its product, and unless the product causes harm, the company can rapidly change it to adjust to customers' tastes. The reputation of a law firm can rise or fall on the performance of one lawyer and one client.
- Products have reliable consistency. The next tube of your brand of toothpaste is exactly the same as the last tube you bought. Lawyers' performances vary case by case.
- Product marketing has greater flexibility to meet or shape the needs of the consumer. There are flavors, colors, and bells and whistles that can be exploited to distinguish a product from its competitors. There is a broader spectrum of emotional appeals than professionals can use. Lawyers and other professionals are constrained by the law, its practice, and ethical strictures. While one lawyer may be smarter, more energetic, more reliable, and more imaginative than another, that lawyer can hardly promote that difference. You can't say, "*We write better briefs.*" This is both an ethical and practical constraint.
- Product manufacturers are able to build customer need where none existed before. They see themselves in terms of the variety of ways in which they can capitalize on consumer needs and desires – and in fact, they can generate those needs and desires where none had existed before. (The software program *Quicken*, which automates the personal finance process in ways that had never been done before, is a case in point.) Lawyers are severely – if not totally – constrained in their ability to create a need for their services where none had existed before.
- Product marketing can produce readily measurable results. For example The efficacy of a product ad can be measured by the number of products it sells. But professional services marketing can ultimately have only two significant results – building name recognition and projecting capabilities that lend themselves to choosing one lawyer or accountant over another *when a lawyer or accountant is*

*needed*, and gaining access to a prospect that affords the professional the opportunity to sell his or her services.

- A corporation's marketing department is not responsible to other departments of the corporation but just to the CEO or COO. Lawyers and other professional firms, on the other hand, must rely on the individual professionalism of partners, each of whom is functionally entrepreneurial, to achieve a firm's objective. While each corporate department may contribute to aspects of the marketing department, authority derives from the top of the corporation only. The vice president of marketing reports to the CEO, and the vice president of production or finance has virtually no involvement in marketing strategy. The professional's authority, on the other hand, resides in each of the firm's partners. In most law firms, the marketing professional reports to a partner, who frequently has no experience or training in marketing.
- The product company is experienced – with a long tradition – in understanding the market. It knows that it must actively define, pursue and nurture the consumer. Lawyers and accountants know that most clients have no choice but to use their services (nobody ever woke up and said, “*I think I'll sue somebody today*” or, “*What I really need today is a good audit*”), and thus have traditionally put little emphasis on understanding the market as a market. The product company has a long experience and tradition in competing. The word *competing* didn't enter the lawyer's lexicon until 1977 (*Bates*). The product marketing tradition goes back centuries. There is virtually no marketing tradition for accountants and lawyers prior to 1977.
- Lawyers are not concerned with the market – they are concerned with being lawyers and meeting their own personal needs of professionalism. That was sufficient pre-Bates, but not now, because it's not a competitive approach in a seriously competitive environment. They too often know too little about how clients choose lawyers or accountants from the vast roster of professionals.
- The product company understands, in a sense, that no matter what the product it makes, it is really a marketing company that manufactures products to fill the channel opened by marketing activities. Lawyers and other professionals see themselves, not their consumers (clients), at the center of their universe.
- While most products may be sold directly in response to a direct mail letter or other direct response or targeted marketing techniques, the well-crafted direct campaign for lawyers and accountants has the sole objective of allowing the opportunity of the professional to make a personal presentation.

### ***What Lawyers And Accountants Need To Know***

The definition of marketing, as it concerns professionals, is important to understand. *Marketing is a process to bring the services, capabilities, and services of the professional to the companies and individuals for whom those services are necessary.* Ultimately, the purpose is to get clients – to grow and shape a practice. But merely getting clients is difficult without understanding that the client, not the practice itself, is at the core of the process. This approach leads to a random and shapeless practice that usually does not sustain, nor is it often profitable over the long range. Thus, *the primary role of the marketing process is to demonstrate to a prospective client that you can meet his or her needs.*

How, then, do these differences translate into useful knowledge about marketing that lawyers and accountants should know?

- These differences are manifested in advertising and other promotional activities that are constricted from making claims other than to demonstrate a practice's or individual's experience or specialty. This limitation is further compounded by the inability to claim to be superior to other firms' with similar capabilities. Professional promotional material may not disparage other law or accounting firms. More significant than Bar Association ethical strictures, such claims are virtually impossible to prove, given the nature of professional practice.
- Because all professional firms virtually perform the same services – certainly, in the minds of the public – professional services marketing works best when it demonstrates capability and experience in specific areas, when it builds reputation for its strengths – which can only be demonstrated, but not simply claimed –and when, by being ubiquitous – it enhances name recognition. This is accomplished with specific marketing techniques, such as byline articles that demonstrate knowledge and capability, brochures, advertising, web sites, social and personal networking, and the like. Avoid self-serving and egocentric marketing that attempts to tell readers and prospects not just what the firm knows and can do, but rather exhorts the reader to accept ludicrous and unbelievable claims of integrity (that's a given in professional firms), caring for the client, or being passionate about law or accounting. As the song goes, "*Don't speak of love – show me.*"
- *Marketing for lawyers and accountants can only create an environment that may educate the prospective client, but ultimately enhances the prospective client's decision to choose one firm rather than another.* This is best accomplished by focusing on the skills of the firm's individuals, particularly in specific aspects of the practice, rather than the firm itself. It's accomplished with a complex process that requires an understanding the specific needs and requirements of each market segment, and projecting a firm's capabilities to serve that market's needs and problems. Outstanding examples of this process has been the firm that projected the experience of a firm's specific lawyers in dealing with *Sarbanes-Oxley* matters, or focusing on a litigation department's recognizing that most cases are won in the preparation for litigation, rather than by just the silver tongued litigator.

Essentially, the process is...

- *Define the market.* This means defining the market in terms of the client's needs, not just the lawyer's or accountant's wishes. This is a crucial marketing process, requiring a meticulous understanding of the client's industry and company.
- *Define your service* in terms of the needs of that market. Not what you do, but what the client wants and needs.
- *Define your marketing tools.* The catalog of marketing tools allows choice of the appropriate tools to serve each market. The important thing to remember here is that not all marketing tools may not be appropriate to every market.

- *Manage the tools, effectively, professionally, and strategically.*

It's important, as well to understand the nature and responsibilities of the professional marketers, and how they best serve the firm and its professionals. There are a substantial array of marketing techniques that the skilled and experienced marketer needs to do the job. These skills include...

- The ability to understand what lawyers and accountants do to serve their clients. The marketers need not know the legal and accounting intricacies' and skills that the professionals use to achieve their ends, but should understand the nature of the practice. Professionals, on the other hand, need not have the skills and mechanics of the marketing process, but should understand the process itself. (The only exceptions are the solo practitioners who must do their own marketing, and the professional who is specifically and naturally talented as a *rain maker*.)
- The role of marketing in any law or accounting practice. At least because of increased competition, *there is no legal or accounting practice of any size that doesn't need to understand, the need to know and communicate with their various audiences*. The failure to accept this has resulted in the past – as it will in the future – to being superseded by firms that do understand this principle.

### ***The Professional Marketer***

For lawyers and accountants, choosing a marketing professional requires skills not ordinarily within the ken or experience of most professionals. A trained and experienced professional marketer should know...

- How to fathom a market
- How to plan a marketing campaign in terms of the market (rather than as just a conglomeration of marketing activities)
- How to define and present the practice in terms of the client's needs, not just the lawyers' or accountants' skills
- How to know what business the professionals are really in
- How to develop a position that springs from what the client needs, not from what the seller wants to sell
- How to use the marketing tools
- How to manage the marketing effort

Ideally, an experienced marketer should be...

- An excellent communicator and a skilled writer for several different kinds of media, one who understands what is to be communicated and how best to do it.
- Experienced in marketing strategy – the ability to define the markets in terms of the firm's capabilities and objectives and how to serve those objectives
- A capable manager of others in a marketing department
- Thoughtful and imaginative. All professional firm marketers have or have access to the same skills and marketing tools, but not all can use them well or competitively

- A track record
- The ability to understand, work with, and educate professionals in their roles in the marketing process.

### ***Practice Development***

If the marketing process serves to promote the firm and its individual practitioners, the specific techniques of the practice development function serve to bring the client into the fold. They are separate functions in the marketing process, although both are part of the total marketing program, both of which the professionals should understand.

But ultimately, the last step in the process is meeting the prospective client, and persuading him or her of the professional's ability to serve the prospect's needs. Except for the naturally talented rain maker – the legendary professional about whom it's said can walk into a revolving door and come out on the other side with a client, the process of client development may take some training. Essentially, though, the process is not entirely alien to a lawyer or accountant. It's a business process that uses four distinct actions...

- Listen to the prospect, and ask questions until you understand the prospect's problems and needs.
- When you do understand, be sure the prospect knows that you understand those problems and needs. Repeat it back to the prospect, if necessary
- Explain how and why you can help the prospect resolve his concerns.
- Let the prospect know that you're ready to start on Monday morning.

In these difficult times, when competition is keen and aggressive, the professionalism of sound marketing practices is the best approach to growth and success. Unlike the not too distant past, where clients were gained on the golf course or with sports tickets, growing a practice is now a meticulous business process. It involves a mutual respect between the professional and the marketer. It requires a more sophisticated lawyer or accountant, working in tandem with the marketer to survive and grow. It demands an understanding that marketing is no longer optional, nor ancillary to the professional practice. It is an integral part of contemporary professional firm management.

The future for any professional firm depends upon understanding that fact.