

Market position

Peter Scott advises how to keep one step ahead of your competitors



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Competition has been said to be 'a process by which services that people are not prepared to pay for, high cost methods of production and inefficient organisations are weeded out and opportunity is given for new services, methods and organisations to be tried' (*Seldon & Pennance, Everyman's Dictionary of Economics* 1965). That is a description of what is happening today in the legal market and which is likely to continue with even greater severity.

Faced with today's challenges in the legal market, which include a difficult economy, new entrants to the market with deep pockets (and ambitions to match), government intervention and cut backs, a difficult professional indemnity market and greater regulatory burden, law firms cannot stand still if they are to gain a sustainable competitive advantage over rivals and as a consequence, win and retain more clients and generate greater profitability. They will need to consistently do things differently and keep innovating. There is now a compelling need for firms to urgently and critically review their organisations, including their operational, governance, ownership, reward and other structures, because all a firm's structures, systems and support processes need to be directed at improving a firm's competitiveness.

To do this a focused approach will be required, involving identifying those critical areas of the business where things must change if a firm is to increase its competitiveness, and then taking determined steps to implement those changes.

To achieve this, every aspect of a law firm will need to be challenged and measured for its effectiveness to meet present and future needs and to

contribute to its competitiveness. Often issues requiring attention are internally recognised but no steps are taken to deal with them. To permit fundamental problems to go unresolved and to fester by doing nothing is not a route to success in today's aggressive legal markets.

Every law firm is different and will have its specific issues and hurdles to overcome. There are however a number of common 'restructuring' themes in today's fast changing legal environment.

Competitive market positioning

Competitive market positioning requires continuous research, analysis, planning, decision-making and implementation. Understanding clients' needs is crucial for successful competitive positioning because firms face continuous judgement from their clients in terms of their skills in their core work types, their ability to anticipate and respond to market needs and their resources available, to deliver the services sought.

Undertaking client research is essential to be able to provide answers to questions such as the following if future competitiveness is to be secured – what services will our clients, referrers and sectors require in the future and how will they require those services to be delivered? Are there any clear requested improvements or gaps in our capability against what the market needs? How do our clients perceive our strengths and weaknesses compared with our competitors? Which types of clients should we act for/realistically expect to be able to act for? Are we adding value to our clients in a way which they require?

Feedback from clients and referrers (as well as from prospective clients and referrers) will provide a firm with invaluable information as to the markets it should be in, the types of clients it

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should be seeking and how it should be delivering its services, and should act as the catalyst for consideration of the investment/disinvestment required as a consequence.

A financial appraisal will also need to be undertaken of a firm's current and planned future operations, focusing in particular on levels of profitability and working capital required, in order that valid competitive restructuring choices can be made.

Performance

High performance by people in a law firm is one of the most important factors in building a firm's competitive advantage and so a firm must actively manage that performance. Its people will therefore need to know the key areas in which their performance will be measured, their performance goals in each area, and how their performance rates in relation to these goals. Ensuring that a firm's people are highly trained, skilled and motivated should be a critical objective if a firm is to gain a competitive advantage over rivals. Questions such as the following will begin to focus on some of these issues which it will be essential to address – what levels of performance will our clients and sectors expect? Do our people all have the skills necessary, and are they prepared to change how they work and behave, to help us to achieve our objectives? How much is underperformance costing us and what are we going to do about our 'underperforming' partners? Should all our partners be partners?

Moving to actively managing performance and removing underperformers can be one of the most important and challenging aspects of restructuring a firm and will need to be closely aligned with the firm's strategic objectives if competitive advantage is to be secured and maintained.

Reward

Discussion of performance nowadays inevitably leads to consideration of reward which is a strategic issue impacting on a firm's ability to compete, because any firm that is unable to offer competitive rewards to its high performers is at risk of losing them to a competitor which can offer such rewards. Moreover, firms should never underestimate the damage that can be caused if their lawyers perceive that the

contribution they are making to a firm is not being valued and fairly rewarded.

Relevant questions therefore to ask if reviewing a reward structure should include – are we able to recruit and retain the best talent? Is our reward system helping us to achieve our strategic goals, or is it a hindrance?

For many years firms have been moving away from lockstep systems based solely on seniority, and in their place implementing remuneration systems designed to more fairly

own and at an acceptable economic cost to achieve their goals.

As a result, resourcing issues have become an important driver of consolidation in an excessively fragmented legal market and this trend is likely to continue. The scale of a merged firm may enable it to position itself more competitively and at an acceptable economic cost in a way which neither of its two legacy firms could on their own have afforded. While lack of resource may seem

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reward contribution and enhance their competitiveness in the talent market.

Resource

There is perhaps one issue which is now likely to drive restructuring of firms more than any other – the need for greater resource. Feedback from clients frequently shows that firms are perceived as lacking in resources and unable to provide clients with what they want. Lack of adequate resource can identify itself in a number of ways, particularly in relation to:

- breadth and depth of expertise, specialist expertise features high on the list of why clients choose one law firm over another;
- financial resource to invest in the business and in its people;
- access to management skills covering areas including finance, HR, risk and compliance; business development, IT and knowledge management;
- access to larger and more profitable markets.

Given the challenges facing firms, including resourcing issues, many are now being forced to rethink their futures. However, a successful strategic plan will not only need to be realistic and have achievable objectives but crucially, will depend on having the available resources to make it happen. This is the point at which many plans hit 'a brick wall' because firms come to realise that they will not be able to generate sufficient resource on their

to be greatest in small firms, it can be an issue for all types and sizes of firms, and we are now seeing mergers between some of the very largest firms because merger can help them to provide the resources they need as they attempt to become global players.

The need for access to greater resource, at the same time as the Legal Services Act is beginning to impact, has instigated much of the restructuring now happening in the area of volume consumer law where deep pockets are needed to win and maintain market share and build recognised brands. For these businesses, investment in technology and scale are two major factors in providing consumers with value for money services now demanded. Traditional law firms on the other hand will not be able to compete with them in these volume consumer legal markets, and they must urgently rethink how to reshape their businesses if they are to survive.

The ABS with external investment has become a catalyst for not only restructuring the volume consumer legal market but is at the same time providing an added urgency and impetus to the process of consolidation and restructuring throughout other parts of the profession. However, we are now only at the beginning of a restructuring phase which will change the face of the legal profession beyond all recognition over the coming years. Some progressive firms will grasp the opportunities while others will fall by the wayside. To do nothing however is not an option when survival is at stake. ■