PETER SCOTT CONSULTING

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Opportunities need to be created

‘Vision’ was described by Jonathan Swift as *“the art of seeing things invisible”.* Those law firms which are able to see the opportunities capable of being created in their markets which others cannot see, are likely to be the firms which will be ‘winners’ in the coming years.

Those who are mandated with leading their firms should, if they are not already doing so, lift their heads from their desks while time is still on their side to observe what is going on around them and carve out some **‘quality thinking time’** from their day to day work schedules. It can be very easy to just continue working away in a business without ever thinking about where the business is going. Whilst those who subscribe to the *‘if it is not broke then why mend it’* school of thought may in the past have had a point, the legal market is now moving on, and with it competitors who are likely to be growing and developing their businesses to make themselves even stronger rivals.

Future plans can only be realistically and successfully formulated by a law firm if based upon sound knowledge of what is happening in its market place, with clients and in the business itself. A detailed knowledge and understanding of these things will be needed before a firm can commit with some degree of confidence to any particular course of action or direction.

Analyse the client base

A starting point can be to look at a firm’s existing client base to decide which clients it will want to work with in the future. For example:

Do we know which clients are profitable, and the most profitable?
An analysis for example of the top and bottom 10% of clients by billings is likely to indicate which clients are profitable or are losing money for the firm.

In the same way, a firm will need to look critically at every type of work it currently carries out and consider whether there will be a profitable market for that work in the future.

Is all the work we currently carry out profitable?

If not, are there ways to make it profitable?

If it is not capable of being made profitable, then why are we continuing to do this work?

What are the profit margins we earn on different types of work?

Will there be profitable markets for all our work in the longer term?

While each type of work may initially appear profitable, are any particular areas of work putting pressure on our available working capital?

Detailed financial analysis in respect of profitability (and cash flow) will help a firm to arrive at answers to such questions and to consider those conclusions as part of a broader strategic review.

Listen to and learn from clients

Sound market knowledge is likely to be acquired mainly through a process of methodical research and analysis of attitudes and future needs of a firm's best and most valued clients, focusing on the specific areas of advice clients are going to need in the coming years and other key determinants of client choice of one law firm over another.
A firm which regularly listens to its clients (and also to prospective clients and to referrers of work) regarding

- how well the firm is looking after them;
- the advice they are going to need in the future;
- how and where they will require those services to be delivered; and
- the level of prices they will be prepared to pay;

is likely to be in a stronger position to plan for its future than a firm which makes no attempt to gauge its clients' perceptions. Armed with the knowledge of what clients and the market are going to require, a firm will then be in a better position to take a realistic look at itself. In particular, such client feedback is likely to highlight where any 'gaps' exist in a firm's service capability, which gaps if not successfully filled in, are likely to cause a firm to lose its competitive advantage over rivals.

Filling in the gaps

'Gaps' may be perceived by clients to exist in a firm's expertise for various reasons, including –

- the total absence of any capability to provide certain advice;
- the absence of a capability to provide advice in a specific location or locations; or
- a perception that an existing capability is not adequate to meet a client's existing or changing needs, for example, because of lack of performance or lack of resource (depth as well as breadth of expertise is often perceived by clients as a key requirement);

In each case, clients will choose to use rival law firms for advice.

How can law firms use potential opportunities now arising in current market conditions to fill in such gaps?

- **Partner lateral hires**

The consistent delivery of high quality advice to clients, delivered in the manner clients will be demanding, will place ever increasing pressures on law firms to ensure that all their people are equipped with the skills and abilities to perform to the highest standards. The ability to attract retain and develop ''Key People'' who are outstanding performers and who are strong relationship builders, both internally and externally should be a primary objective in any law firm's strategy. As a consequence, law firms are now putting in place new strategies to retain their best people and, where there are gaps in their service offering, they are aggressively recruiting from other firms.

Some firms have had consistently good experiences with lateral hiring of partners whereas the experience of others has sometimes not been so good, often because they have not worked sufficiently at integrating new partners. From my own experience of managing a law firm, lateral hires can work and be very beneficial in filling in the gaps, but they do need to be worked at.

What does it take to attract (and retain) the best people?

The need to feel 'fairly' rewarded

In every legal market there is a threshold of average equity partner profitability. A firm which is below that threshold will be at risk of losing its best people and will find it difficult to attract the best. Lack of profitability in such firms is now creating opportunities for those firms which have higher profitability levels, because reward is important to many lawyers.

A level of profitability that also provides funds for investment in people, training and technology, whilst ensuring partners and staff are rewarded competitively for their endeavours can be a powerful incentive when faced with a decision to move or stay.

Profile of a firm

A respected and admired 'brand' which accurately reflects a firm's profile and market position is a strong attraction for lawyers considering a move. On the other hand, if the internal perception within a firm is that it is not progressing and compared to its rivals it is unsuccessful, then this is likely to be a major reason why good people will leave. By the same token, such a firm is unlikely to attract good candidates who will go to firms which can demonstrate that they have a 'vision' and are taking effective measures to achieve their goals.

Defined vision and strategy

A clearly defined vision and strategy which unites a partnership is for many lawyers an important factor. This combined with a management team which is capable of making and implementing strategic decisions in a way which is consistent with a partnership's objectives can be persuasive criteria when faced with a decision as to whether to move or stay.

People and Performance management

Another important aspect of a firm's *market profile* is the extent and manner in which a firm is seen to be driving up levels of performance to consistently provide clients with the levels of advice and service they are and will increasingly in the future be demanding. On the other hand, a firm which is prepared to permit its partners to perform other than at the highest level will cease to be competitive and the cascading effects internally on morale can be damaging, leading to the loss of good partners, usually accompanied by their clients.

Culture

Last but not least is the question of a firm's 'culture'. There are many ways to define culture but at its simplest it is about *'the way people in a firm behave'.*

A culture that is focused on achieving client objectives in such a way as to maximise business opportunities for a firm as a whole, if combined with a cohesive and supportive way of working, is likely to be more attractive to lawyers seeking rewarding careers. A firm which does not work to create an environment where the needs, ambitions and aspirations of its people are viewed as important as those of its clients is unlikely to create a firm in which people really want to work.

A firm which does not work at the above issues to build a firm in which people really do want to work will be **at risk** to other more developed and profitable law firms.

- **Mergers and 'acquisitions'**

Many smaller law firms are now reluctantly beginning to accept that the legal market is too fragmented, to such an extent that a very high percentage of the current 11,000 or so law firms are too small to have sufficient resource to compete effectively in what is becoming a harsher and more competitive legal market. As a result, many of these smaller firms are now running into harder times and the difficult economic climate has left them with poor profitability, poor cash flow and high levels of debt. Frequently there are also issues of succession.

Increasingly these firms are unable to provide their clients with the legal services they need and at the value for money prices which their clients now demand. Some are already falling by the wayside and more will follow as moves by politicians have an increasingly prejudicial impact on various sectors of the legal market or remove or further reduce public funding for various categories of work, and as more stringent compliance, the P I market, succession issues and a stagnant economy also take their toll.

However, in many of these firms there are excellent people who have potentially profitable clients but whose value is likely to be dissipated unless they can be incorporated into larger and better resourced and managed law firms which have built strong platforms for future growth.

Historically, when law firms have recognised that they cannot on their own achieve their goals, they have considered 'merger', although usually one party has been more dominant and has driven the terms of the “merger” and the shape of the new combined firm. However, weak firms have often preferred to merge with similarly weak firms to avoid facing up to their issues and taking necessary ‘harsh’ medicine, with the result that in the past some mergers have created firms with double the problems and their combined weaknesses are now causing them to struggle. Unfortunately they too often lack the strong management skills needed to see them through to a recovery.

However on the other hand, many potentially good ‘merger’ opportunities have been allowed to pass by because, from the point of view of one of the firms, the other firm is not ‘perfect’ in every respect, often because of certain perceived weak partners. No potential merger partner will ever be ‘perfect’ and some manageable compromises will often need to be accepted for the sake of ‘acquiring’ a firm which otherwise ticks all the boxes particularly in relation to culture and a strong business and financial case. Weaker partners can be dealt with as part of the integration of the two firms. Too often firms will focus on the differences between them rather than on the similarities and strengths each has.

As a consequence, it has often been the case that a “merger” discussion has, notwithstanding a good potential business ‘mesh’, not progressed beyond a very early stage because two firms are perceived to be really too different in terms of culture, profitability, debt, risk or size. A strong firm has not wished to “bail out” a weaker firm except on what have been in the past ‘unacceptable’ terms for the weaker firm. That is now likely to change as economic reality begins to bite and when many firms are already struggling and may be looking for a ‘lifeline’. Hitherto unacceptable terms may now be gratefully received.

An ambitious firm which is seeking to ‘fill in the gaps’, which has maintained its financial strength, has developed a strong management team and business model and is clear about the types of client and areas of expertise or locations that it wishes to develop, would do well to consider “acquiring” (either in whole or in part by way of a cherry picking exercise) suitable targets which are likely to be currently struggling. The key to this will be enhancing client management, improving financial controls, managing capacity, cutting duplicated costs and creating new opportunities and synergies.

The potential opportunities are there for those firms which are clear as to what they want and who have the ambition, determination and resource to grasp those opportunities. There may never be a better time than now to do so.