

THE ROLE AND RELEVANCE OF ADOPTING A MARKETING-ORIENTED APPROACH IN THE LEGAL SERVICES SECTOR: THE ZIMBABWEAN EXPERIENCES.

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ABSTRACT

Little research has been done in Zimbabwe on the role and relevance of legal services marketing as a way to create visibility for law firms and consequently to increase their competitive advantage in the business arena. Until the mid 1990s, law firms relied almost entirely on goodwill to get business and the need to market the law firm as a business was not appreciated. The steady meltdown of the Zimbabwean economy between 2000 and 2008 resulted in diminished demand for legal services. This precarious situation has been exacerbated by heightened competition as more graduating lawyers set up private practice. The competition does not only come from law firms, as other professionals who are assuming some legal activities as part of their operations have joined the fray. There seems to be a growing realisation in the legal profession that the practice of law is a business just like any other. Businesses are affected by internal and external pressures that abound in their operating environments. Besides, clients are becoming more sophisticated and increasingly aware of their rights as customers. The study surveyed experiences of the legal services sector in Zimbabwe in a bid to identify inhibitors in adopting the legal services marketing practice. The study results showed that, by and large, most of the firms (68%) had no systems to promote or enhance legal services marketing, with less than a third (32%) of the firms surveyed having at least a documented marketing strategy. The absence of a firm-wide marketing culture was evident in most of the firms. Regulations governing the operations of law firms were found to be the main inhibitors in the marketing of legal services. The main recommendation of the study is that, in today's cutthroat competitive business environment, legal services marketing is essential if the sector is to get the attention of modern day sophisticated and knowledgeable clients, as well as build their operations to become sustainable business entities.

Key words: marketing, legal services; legal profession, subtle marketing tools, differentiation

Introduction

Over the years, lawyers in Zimbabwe have tended to focus on their professional standing at the expense of the business side of the profession. They did not perceive themselves as being in business. Davies and King (1985) argue that lawyers sell services, just like banks, accountants, undertakers and even plumbers. They further argue that despite this, for many years the practice of law was viewed by lawyers themselves more as a profession than a business. Consequently, marketing, for a long time, was and still is, largely considered as outside the ambit of the legal

profession. In reality, marketing for this sector is as critical as it is in any business sector. As argued by Davies and King (1985), the legal profession is in the service sector. As such, it falls within the domain of intangible products and should thus be marketed in the same way as other services. It appears that research on the relevance of the marketing orientation in law firms is an uncharted area in Zimbabwe, thus presenting a research gap. Even in other countries, marketing for law firms is largely an under-researched area (Vickerstaff, 2000). Consequently, it is now attracting a lot of attention globally, the developing countries included.

The Legal Sector in Zimbabwe

At independence, in 1980, the legal services industry was dominated by a few large or fairly large law firms. The advent of independence saw an increase in the number of law students registered at the University of Zimbabwe's Faculty of Law. This was further boosted by the opening of another university, the Midlands State University (MSU), which also introduced a Law Faculty and thus, adding to the lawyer population in the market. In addition, South African Universities took Zimbabwean students to study Law under the newly introduced Presidential Scholarship (Mhishi, 2010). While not all law graduates join the private practice, the numbers of lawyers and private practice law firms were considerably increased by these developments (Mapara, 2010). Tables 1 and 2 below give a picture of how the numbers of practising lawyers and law firms in Harare increased. Since Harare is the capital and the hub of business activities in Zimbabwe, these figures are considered to be a good reflection of the situation in the country as a whole.

Table 1 shows that the number of lawyers in private practice in Harare rose by 8% between 2001 and 2002. Between 2002 and 2004, the numbers continued to increase but at a decreasing rate. In 2005, there was an overall decrease of 2%. Though no research has been conducted on the causes of the decrease, it is generally believed that the reasons were two-fold. Firstly, it was because of the migration of some lawyers to other countries such as Botswana, Namibia and South Africa, in response to the economic decline which affected the viability of law firms. Secondly, a considerable number of lawyers left practice to pursue other opportunities, as the economy seemed to favour informal trading more than formal business (Mtizwa, 2010). The figures picked up from 2006 to 2010, with 2009 showing the lowest increase in the period. It is not clear what was the reason for the upward trend from 2006 to 2008 but the rise between 2009 and 2010 could be attributed to the improved macroeconomic factors.

Table 1: Lawyers Practising in Harare

Year	Number of lawyers practicing in Harare	Percentage Increase
2001	362	
2002	391	8%
2003	403	3%
2004	408	1%
2005	399	2%(decrease)
2006	422	6%
2007	447	6%
2008	466	4%
2009	475	2%
2010	510	7%

Source: Law Society Directories (2001-2010)

Table 2: Law Firms in Harare

YEAR	Number of Law Firms	Percentage Increase
2002	123	
2004	144	17%
2006	163	13%
2008	173	6%
2010	192	11%

Source: Law Society Directories (2001-2010)

Table 2 shows an increasing trend of the number of law firms operating in Harare. Between 2002 and 2004, the number of law firms increased by 17%, and 13% between 2004 and 2006, 6% in 2008 and leaped to 11% in 2010. The marked increase in 2010 was presumably for the same reasons given for the increases witnessed in table 1 of practising lawyers, over the same period. The increase both in the number of individual lawyers and law firms inevitably leads to stiffer competition for clients among the law firms. The competition does not only emanate from among law firms but also from other professionals who are assuming some legal activities as part of their operations. As an example, legal aspects like debt collection and company registration were for a long time the preserve of lawyers but now paralegal firms are also involved in such activities and their charges are far less than those of lawyers (Mtizwa, 2010). Accountants give legal advice on tax matters; estate agents render quasi-legal advice on property matters; some stationary shops sell standard documents like power of attorney forms, wills and affidavits, all of which were the preserve of law firms. This has thus increased the scramble for clients and intensified competition for the sector, thereby highlighting the need for marketing. Groysberg and Abrahams (2006), point out to the fact that most of the professionals in law firms are not formally trained business people and this places them at a disadvantage in the face of competition.

Empirical Studies on Marketing in the Legal Sector

The Marketing Orientation

Sawhney (2009), observes that in general, law firms do not understand marketing the way it is, namely that it is about a marketing culture, otherwise known as a market orientation. He describes the culture as a business philosophy and a business process that is organization or firm-wide, and entails the generation of marketing intelligence about the current and future customer needs, communication of the intelligence across the firm's sections or departments, and firm-wide response to such intelligence. He points out that, for lawyers to be able to adopt and implement marketing, they need to understand that it is broader than advertising, which is one way of marketing and that marketing orientation, is a firm-wide culture, involving everyone.

When customers are satisfied with a service provider, there is a likelihood that they will continue to use that firm. They will also be happy to recommend such a firm to close friends, relatives, colleagues and acquaintances. Eisingerich and Bell (2007) found that clients' willingness to trust or recommend their legal service providers is related to how well they are treated by their legal advisers. They argue that, for that reason, service providers must make their clients aware and reassure them that the firm is taking very special care of them. This can only be achieved if the legal advisers are able to satisfy their clients' needs through diagnosing problems, thinking creatively and developing solutions. This is the essence of a marketing orientation approach. There are a number of factors that necessitate the engagement of the marketing approach in the legal sector today.

Relevance of marketing

Stein and Stein (1994) point out that law firms need to treat their respective practices as businesses. One way of treating the law firm as a business is to incorporate marketing in the practice of law. Various researchers have explored the factors that make marketing relevant to the law firm business. The relevance of marketing for lawyers is probably confirmed by the findings of Webster (1995), when she conducted a research on marketing for professional service providers, with particular focus on the level of interest or perceived personal importance as a determinant of the purchase of professional services. In that research, she found that most professionals have already stepped into the marketing arena, albeit with a lack of insight into their target market(s). The stepping up of marketing efforts by professionals is clear testimony of their realization that they need to market their services. This is consistent with the observation by Vickerstaff (2000) that the legal sector is becoming increasingly competitive and market-driven and that anecdotal research has revealed increased use of marketing by law firms, though the extent of such marketing is constrained by various barriers.

Research has further revealed that there is a link between the adoption of the marketing orientation and firm performance (Vickerstaff, 2000). This finding seems to be consistent with the observations by Jaworski and Kohli (1996), who, after reviewing earlier research findings concluded that there, is a linear positive correlation between the adoption of the marketing orientation and firm performance. Jaworski and Kohli (1996) summed up the benefits of adopting the marketing orientation as: improved business performance; improved customer perceptions of the firm, which in turn enhance customer loyalty or allegiance; enhanced employee commitment to the firm, thereby ensuring the retention of skills; and increased innovation or creativity in the delivery of value to clients. From the foregoing, it can be argued that the importance of marketing to law firms goes beyond the fact that competition has increased in the legal sector. There seems to be general consensus that marketing is one of the integral ways of doing business. This view is corroborated by Sawhney (2009) who found that marketing has the largest single impact on organizational performance and that this has been proved by numerous empirical studies in many different sectors.

Drivers to Marketing in the Legal Sector

The first driver is competition. O'Malley and Harris (1999) observed that the tremendous increase in the number of lawyers in practice world-wide has created an over-supply of legal services and consequent rivalry in the sector, against a backdrop of a decrease in demand. This scenario is pushing professionals to intensify marketing efforts to attract clients (Kotler, Hayes, and Bloom, 2002). The second driver relates to threats of Substitute Services. The coming in of para-professionals or paralegals that provide services that conventionally were provided by licensed lawyers poses a serious threat to the legal sector (O'Malley and Harris, 1999). Research has established that there is a gradual disintermediation of legal services (Susskind, 2008). This shows how essential it is for the legal sector to adopt marketing strategies that can help them to remain relevant to the new market forces. The cost pressures on clients come as the fourth driver. Cost pressures have shifted power from lawyers to clients. Clients shop around and want more value for their legal budget. Lately, they have become more discerning, sophisticated and more demanding because of increasing availability of information on the internet as well as companies employing former lawyers (Poynton, 2006). This has thus, necessitated the need for law firms to re-engineer, not only their service provision tactics but also the way they relate to their clients. Other important drivers to marketing in the legal sector include structure and firm size, macro-environmental factors, societal forces and marketing, higher level of education and technological forces.

Structure-firm size

Liu (1995) found that marketing orientation and firm size were positively correlated. It was also noted that law firms that increase in size tend to become more professional and institutionalized, becoming more inclined to the adoption of marketing (Maister, 1993). However, Vickerstaff (2000) did not find a significant relationship between the level of marketing orientation and firm size or the age of the firm and suggested that other variables may be at play, as this discussion shows, that there are indeed a whole lot of variables that influence the need to adopt the marketing approach.

Macro-environmental factors – Macro-environmental factors also play a pivotal role in the adoption of the marketing approach by the legal sector because they exert a lot of pressure on firms in terms of competition, thus creating the need to adopt a marketing orientation in order to survive (Dalgic, 1998). Market turbulence, technological turbulence, competitive intensity and performance of an economy are all factors impacting on the marketing need.

Societal forces and marketing – Societal forces are important in two respects: Firstly, they impact on the need for legal services and thus potentially drive marketing. Secondly, they have a bearing on the client's expectations regarding the delivery of services. Lawyers need to keep abreast of societal changes in order to be able to adapt, react and anticipate clients' new needs and expectations (Hodges, 2000). Affluence is also driving the need for marketing, as put by Hodges and Young:

“Marketing might help lawyers find ways to reach such a clientele, understanding and anticipating their needs to best cater for this group” (Hodges and Young, 2009:10).

Higher level of education – Mayson (1997) notes that a higher level of education is likely to influence the expectations clients have on the delivery of legal services. Traditionally, clients sought legal services in an unquestioning way because of the barriers created by the air of mystery with which professional advisers historically sought to “cloak their craft” (Mayson, 1997). Gradually, clients have become less tolerant because of their higher educational attainment and sophistication, which has made them, qualified enough to question the views of lawyers and how they handle them as clients (Headly and Choi, 1992). Laing, Newholm and Hogg (2005) reinforce this by pointing out that lawyers need to accept that the knowledge gap between them and clients is declining, also leading to a less loyal *clientele*. This obviously means that the legal sector has, of necessity, to run on pure business lines, with marketing taking centre stage.

Technological Forces – Technology is also at the forefront of the paradigm shift that is taking place in the legal sector with respect to the importance of marketing Skinner (1990). In the legal sector, the internet was viewed as an information resource rather than a distribution channel. Yet a website will allow a law firm to provide information online and promote its services. It can also give clients immediate access to the firm's resources and the opportunity to sample the firm's services, hence the need to make such resources available on-line to achieve competitive advantage.

BARRIERS TO LEGAL MARKETING

It will be futile to look at barriers to legal marketing without first understanding that barriers to marketing are somewhat misunderstood. The contention is that, in general, barriers to marketing include a lack of communication, leadership, commitment, skills, education and support.

Misconception about marketing

Harris and Piercy (1998) contend that marketing is misconstrued as being about advertising and selling. In the same vein, Piercy and Morgan (1989) found that the majority of professional service providers do not understand marketing and Vickerstaff (2000) confirms this about law firms. Many firms do not consider marketing to be core to the function of the firm and have marginalized it to

the point where it is not even part of the strategy process. It is pretty rare that law firms dedicate marketing staff and even in that rare event, the marketing people are overwhelmed with day to day initiatives that have little impact on firm performance. The lack of understanding of marketing regrettably reinforces the belief that marketing is a back office function of little significance. Sahwney argues that research has shown that 99% of law firms do not understand marketing from the perspective of building a marketing culture. Such misconceptions of marketing are likely to detract from more resources being allocated to marketing activities. This is confirmed by Nightingale (2003) who states that, since most law firms view marketing as a cost rather than an investment, there is often limited financial support for marketing training and the lack of resources is a major barrier to marketing. Vickerstaff (2000) also found that marketing is perceived in the legal sector as a time-consuming exercise which is outside the scope of normal legal work and hence constitutes an additional task which most lawyers are not readily prepared to undertake. This is probably true of law firms in Zimbabwe as well, as lawyers appear to be concerned more about the short term results of their hard work, at the expense of long term sustainability that comes with marketing.

Professional Culture

Lawyers have been observed to uphold certain status perceptions about themselves. This, in a way, acts as a barrier to the development of customer relationships. In line with this, Morgan (1990) observes that, the implementation of the marketing concept in the legal sector is adversely affected by the existing professional culture and fear of change and possible loss of status. This is reinforced by Ferguson (1996) who posits that professional firms have a weakness of putting too much emphasis on technical excellence at the expense of the functional aspects of how the service is delivered. The legal sector was often argued to be dissimilar from conventional businesses because of being one of the three “historic” professions (alongside medicine and the clergy) (Matthews, Anderson and Edwards, 1998). This outlook led them not to regard themselves as “vendors” of legal services and gave them a strong dislike of competition, advertising and the profit focus of other sectors (Pepels and Steckler, 2003).

Another critical factor is that the legal services sector has a long history of self-regulation. When former business practices are no longer reliable to sustain the prosperity or to emerge as a business philosophy, marketing is seen as the logical step (Kotler, 1999). There seems to be general consensus that marketing in the legal sector is still undergoing evolution. It has been described as being in an “*embryonic stage*” and is poorly understood (Vickerstaff, 2000).

Lack of internal communication and information sharing.

Another area that impedes marketing in the legal sector, according to Hodgart and Temporal (1991), is lack of inter-departmental co-operation, team approach and trust among partners, or lack of internal communication and information sharing. Antiquated structures which include fee structures and the partnership form itself is also an impediment. Vaagt (2007) points out that partnerships frequently resist marketing while professional businesses are likely to drive marketing to increase profitability. Law firms are typically not managed like “normal businesses” in terms of management power and authority. There is no board or shareholders (external) to report to. Decision making is largely by consensus and has been compared to consensus decision making in ancient Grecian (Athenian) democracies. Law firms tend to be federal structures where partners are their own masters (Nisus, 2006). This lack of a cohesive structure is a clear impediment to the tenets of marketing.

Phobia for change

Resistance to change has also been identified as a barrier to the development of marketing in law firms. People are often fearful of and resistant to change and do not want modifications to “the way we have always done things”, such as not marketing the firm’s services in a strategic manner (Hodges, 2000). The legal sector has always been a controlled sector as far as marketing their services is concerned and to veer from this culture is not easy, given their need to be law abiding professionals and defenders of the law. In Zimbabwe, like in many other countries worldwide, the Legal Practitioners Act clearly forbids advertising and any form of publicity “must remain honourable, within the existing guidelines and must not violate the law” (Tinoziva Bere, President of the Law Society of Zimbabwe, November, 2011). Because of these stringent rules, change is not an easy call for the legal sector and this obviously limits the level of diffusion of marketing activities the legal sector can adopt. They have historically relied on word-of-mouth. The tradition has been that people who were satisfied with the service rendered to them would pass on word to those who required similar services. While word-of-mouth is regarded as a marketing channel, its spread is very limited, compared to other modes of marketing or service promotion.

THE WAY FORWARD FOR MARKETING IN THE LEGAL SECTOR**Increasing Level of Marketing Orientation**

Vickerstaff (2000) suggests that it is important to assess the extent or level of marketing orientation across the firm. This, she says, will enable a number of steps to be taken. The firm should start off with the identification and prioritization of areas for development, based upon identified barriers. The next stage would be the establishment of targets and the regular communication of progress made. Thereafter, there will be need to fight for resources by demonstrating pay back in investment in marketing activities. Like in any change programme, it will be critical to have visible support and active involvement of senior partners (Burnes, 2004). It will be necessary to use internal seminars to establish the role of marketing as more than just advertising and sales promotion, which is a very common misconception among lawyers. It may also be necessary to conduct one-to-one coaching as may be required to develop skills and understanding. Lastly, there should be a swift gathering and dissemination of information, for example, client feedback, referrals, new business opportunities and encouraging exchanges of information and ideas across departments. Vickerstaff (2000) warns that the adoption and implementation of marketing is not a once-off exercise. An on-going programme of activities will be required to cultivate a marketing culture. It is a continuous process and not an event.

Need for a Paradigm Shift

Vickerstaff (2000) suggests certain techniques that are favoured to develop a marketing orientation. These include internal seminars and communication activities, training sessions, one-to-one coaching and target setting. Her contention is that, in order to influence an increase in resources directed to marketing activities, it will be imperative to cultivate a better understanding of marketing and a supportive culture. In like manner, in order to encourage lawyers to commit more time to marketing activities, it may be necessary to demonstrate the benefits of committing such time to marketing activities. This may have to include quantifying such benefits. This, she argues, may be achieved by internal communication activities, as well as internal control systems, which are basic or elementary requirements for a firm that seeks to adopt the marketing philosophy.

The legal services sector has a long history of self-regulation. When former business practices can no longer be relied upon as a business philosophy, to sustain the prosperity of the firm, marketing is

seen as the logical step (Kotler, 1999). The way forward is to develop it to a level whereby business development and sustainability can be assured, especially in today's fluid environment.

In Zimbabwe, there are indications that the Law Society of Zimbabwe, of late, has realized the need to open up the legal services sector to marketing. A draft Code of Conduct has been circulated among lawyers for their input, debate and possible adoption. Among other things, the draft Code has a section on marketing. However, the marketing allowable is really confined to advising clients about the rates charged for cases, the name of the company and their area(s) of expertise, the cases which the firm has handled – only if they have already been publicized, for instance in the papers. There are still restrictions on traditional advertising.

While there has not been a publicly acknowledged marketing drive by law firms in Zimbabwe, there has been an increase in marketing-related efforts. More lawyers have been taking up appointments as Board of Directors of companies. Such lawyers are likely to use their legal expertise on such Boards to build relationships and networks, thereby raising their profiles and indirectly marketing their practices. Others have taken up to writing as columnists of newspapers on legal matters. This may be regarded as publicity, which is an aspect of marketing. There can be no doubt that as clients continuously read “free” legal advice in the press, the name of the adviser is likely to stick in their minds so that when they need to consult a lawyer, they will probably consider the lawyer whom they are familiar with through their legal columns in the newspaper(s).

Malaysia shares the same restrictive policies on marketing in the legal sector as Zimbabwe. The Malaysian Bar Association explicitly prohibits certain advertising activities. Publicity Rules (2001) of the Association restrict advertising to aspects like the name of the firm, contact address, telephone and fax numbers. Radio adverts are strictly prohibited. Hashim (1981) argues that the law regulating the legal practice is still acceptable but needs to be improved periodically and gradually to adapt to the current needs of its practitioners and society.

The contention by Hashim is backed by Abdullar *et al.* (2008) who argue that legal advertising should be motivated by a desire to educate the public to an awareness of legal needs and to provide information relevant to the issues related to public matters. An advertising message should be disseminated in an objective manner and should be relevant to a prospective client and should facilitate an informed selection of legal services. In the United States, a study conducted by Lidsky and Paterson (2007) in Florida, suggested that the restrictive advertising legal framework limited the ability of the legal sector to operate effectively, hence it was a bad policy and should be repealed.

Thomas, Darroch and Galvin (2001) conducted a research on the marketing and service orientation of law firms in New Zealand. They found that prior to 1984 lawyers in New Zealand were prohibited from marketing, even carrying business cards. In 1984, some marketing restrictions were lifted but there were still limitations to advertising, for example, no radio or television communication was allowed. Communication was restricted to the print media such as newspapers and telephone directories. The content allowed was purely factual, like phone numbers, physical address and hours of business as is the case in Zimbabwe. It was prohibited to extol the benefits of the firm or to advertise fees or tout for business. In 1994, all restrictions were lifted.

The researchers cited above found that the lifting of restrictions was prompted by pressure from lawyers after their realization that traditional means of generating business, even though still practiced, had limitations in the changing modern market. They also found that the growth of the legal profession and increased specialization, for example, conveyancing, constitutional law, and company law, made marketing absolutely necessary. Traditional ways of practice were found to be incompatible with the marketing orientation, which emphasizes client satisfaction as paramount and

hinges on experiences and relationships that clients have with their lawyers, not necessarily how good a job might be done. This is consistent with the finding by Maister (1993) that only 10% of referrals to lawyers were made on account of results achieved, while 90% of referrals were based on reasons related to the relationship clients had enjoyed with a particular law firm. This demonstrated the importance of outstanding good service (service quality) over good service (technical quality) (Thomas *et al.*, 2001). Mayer (1995) made similar findings to Thomas *et al.* (2001) in respect of specialization in the legal practice. In particular, Mayer found that specialized expertise and reputation for service excellence was the major determinant of corporate selection decisions of legal firms and those legal fees charged were least important.

Vickerstaff (2000) argues that in order to gain commitment to marketing, underlying values and beliefs need to be addressed. She found that such underlying beliefs and values may be the perception that marketing is “*against the public interest*”, a belief that she found prevalent amongst older members of the legal profession. She also found that this was apparently a reflection of historical attitudes towards marketing within the profession’s activities. These attitudes, therefore, need to be realigned to the current market forces.

Methodology engaged in the research

Legal marketing is a relatively new area in Zimbabwe and no previous known researchers have studied this area in Zimbabwe. For that reason, the researchers found it appropriate to conduct an exploratory survey in order to clarify some abstract phenomena in the area of study. This involved face-to-face interviews with some seasoned lawyers in private practice to ask questions relating to their understanding of the development of the legal services sector from an inward-looking to a market-driven one, with a particular focus on the drivers for and barriers to marketing in that industry. Personal interviews were found suitable as they enabled the researchers to gather descriptive data such as lawyers’ perception of marketing, attitudes and reactions to changes in the legal services sector. Semi-structured questionnaires were also used as complementary data collection instruments. The questionnaires were administered to thirty respondents from law firms in Harare, Bulawayo and Chitungwiza. These were randomly selected from the lists of registered law firms obtained from the Law Society of Zimbabwe (LSZ). These being the three biggest cities in the country, it was felt that findings from the study would be reasonably representative of the legal sector across the country. Twenty follow up interviews were also conducted to verify some of the information submitted in the questionnaires.

FINDINGS OF THE STUDY AND DISCUSSION OF RESULTS

Having gone through empirical evidence on what barriers are in existence in the legal sector, the findings to this study have shown the limitations faced in the legal sector, specifically in Zimbabwe, with regards to the adoption of a market-oriented approach.

Recruitment and Selection has been identified as one of the inhibitors of adopting the marketing approach in the legal sector. It was noted that the major consideration in the recruitment process in law firms was academic competence, with social competence coming as a poor second. This is a clear indication that the tenets that make a good marketer are not considered important, which stands to reason that marketing is still not considered critical in the profession.

Sahwney (2009) and Piercy and Morgan (1989) asserted that lawyers have been found to lack an understanding of marketing. However, the findings in the current study showed that Lawyers had a good understanding of the concept of marketing. One would expect that because the majority of the firms studied (74%) professed to have a good understanding of marketing; such understanding would translate into the implementation of some marketing activities in their firms. The mismatch

between understanding and implementation may be indicative of the profession's traditional belief that marketing was not for professional firms but for goods and other services like in the tourism sector or transport services. It could also be an indicator of lack of appreciation of the benefits that could be derived from marketing efforts, in terms of image building and service information to clients. It could be further an indication that, while the respondents say they understand the concept of marketing, they do not really understand how it relates to their profession.

The research also looked into whether the law firms under study had a marketing strategy and whether it formed part of the overall firm's strategy. Since the firms had said they had a good understanding of the marketing concept, the researchers expected them to have a marketing strategy that would be weaved into the overall firm strategy. However, the response showed that less than a third (32%) of the firms had a documented marketing strategy. The respondents also pointed out that they had no systems in place to promote or enhance marketing. They were further asked whether they had documented shared values that fostered employee participation in marketing activities to promote a firm-wide marketing culture as opposed to a situation where marketing is a preserve of the partners of the firm. The findings reveal that only about 26% of the respondent firms claimed to have such shared values, while 74% confessed that they did not have such values. This is evidence of the absence of a firm-wide marketing culture in law firms. All these findings conjure up the questions on whether the 74% who claimed to have a good understanding of marketing really understood its importance. It also came to light that most of the firms did not have an articulated firm/company strategic position of any kind. This corroborates the findings of Marcus (n.d) that lawyers shun strategy formulation for their firms

The research also found that legal firms did not commit any financial resources to cover marketing activities, except for a few of the firms (37%). Marketing-orientation necessarily entails the commitment of resources to related activities. The literature reviewed suggests that, for financial resources to be committed to marketing activities there must be buy-in by management or the partners of the firm (Nightingale, 2003). The findings suggest that the partners in law firms generally do not attach a lot of value to marketing activities, hence the lack of financial commitment. This may be a pointer to the fact that lawyers generally do not understand the true value of marketing in building and sustaining their businesses or it could be merely because of the restrictive laws inhibiting the pursuance of marketing in the true sense of the concept. Further still, it could be a sheer lack of resources to engage some elements of marketing, due to the current economic distress. Related to financial commitment is the aspect of staff training and development. Training and development is critical in developing a workforce who understand the implications of marketing and how to handle it in their particular field. In this research, only about 21% of the respondents conducted training and development for their lawyers and ancillary staff while about 79% did not. This corroborates Malpas' (2003) findings that law firms are largely run by untrained managers where promotion is based on seniority rather than client orientation. The respondents were further asked whether they have ever afforded their lawyers and support staff any training on responsiveness to client needs and expectations, which translates to customer care. The responses indicated that no such training had been conducted in the majority of the firms. This is consistent with the literature reviewed, namely that marketing activities are not considered as core activities by lawyers. Instead, they are seen as peripheral and an unnecessary cost.

The absence of a marketing strategy and a marketing policy in most law firms, coupled with the absence of systems that enhance marketing knowledge, as well as skills, may be a pointer to lack of a company-wide marketing culture in law firms. Legal services are rendered by people and it would be critical for law firms to afford their people training and development, not just in the legal technical sense, but also in the sense of promoting a marketing orientation, where the satisfaction of

the client is of paramount importance. It probably requires no research to state that lawyers' clients would naturally expect not just a competent legal service but client care as well. Lawyers therefore need to appreciate that, while it is important to render a good service, the manner in which the service is rendered (service delivery process) should itself be consistent with client care. A competent legal service should be complemented by good client care. The two are not mutually exclusive but complimentary.

Advertising of the firm services

In Zimbabwe, advertising in the legal sector is allowed but highly restricted in terms of content and form. The respondents were asked whether they advertised their services. A nominal 16% said they did, while about 79% said they did not. The remaining (5%) did not respond. The explanation offered by most respondents was that advertising is barred by the Law Society of Zimbabwe. The correct position, however, is that it is only restricted rather than barred. Perhaps most lawyers find the restrictions on advertising too inhibiting, almost verging on prohibition. Nevertheless, this finding is consistent with some of the literature which says regulation is one of the barriers to marketing (Thomas *et al*, 2001).

Marketing orientation

Marketing activities

The respondents were asked whether they conducted a market research before setting up. The responses revealed that about 21% of the respondent firms had. The rest of the firms said they had not (79%). This suggests that lawyers set up law firms more as a matter of course, simply because they are lawyers, rather than as a matter of business decision.

When asked about their focus in service delivery, the majority of law firms seemed to appreciate the complementarities between competence in handling cases and customer care. Sixty eight percent (68%) said they focused on both competent handling of cases and customer care. About 27% said they focused on competent handling while only about 5% said they focused on customer care in service delivery. This probably suggests that there is a growing realization amongst lawyers that some marketing orientation is necessary to enhance viability. Despite 68% of the respondent law firms stating that they focused on both competent handling of cases and customer care, it is not clear how this is being done. It is also evident that most law firms have never conducted a research on what clients expect. This was apparent in their responses as to whether they had specifically conducted research into what their clients expect. Only about 21% said they had and 79% never did. Even in that case, some of the answers by the firms that claimed to have conducted research were not very revealing.

Related to market research is the aspect of competitor analysis. The respondents were asked whether they had conducted any research on what competing firms were doing. The rationale for the question was that services are by their nature different from tangible products and it may be useful for law firms to explore what other firms may be doing. Client expectations may well be influenced by what other firms are offering their clients. The findings reveal that only 16% had conducted such research, while about 84% never did. This is further evidence of the embryonic stage of marketing in the legal services sector in Zimbabwe. These responses show that there were hardly any significant marketing activities in these law firms.

Website ownership

The respondent firms were also asked whether they had a website. This was meant to reveal the extent to which law firms were leveraging on ICT to gain competitive advantage. A website can be

an effective channel of giving clients easy access to the firm's information on various essential matters such as service offerings and fee structures. The responses suggest that the majority of law firms in Zimbabwe (about 53%) do not have websites. Skinner (1990) found that technology has caused a paradigm shift and is at the heart of the market orientation.

On the whole, the findings suggest that, in general, most law firms have not engaged in meaningful marketing activities which would take their firms to the next level of development and sustainability.

CONCLUSIONS

The following conclusions were derived from this research:

Relevance of marketing

The research established that, while the legal services sector in Zimbabwe appears to be reeling under the pressure of competition from the paralegal services and other providers, their appreciation of marketing as a source of competitive advantage is still fairly low. However, they are slowly realizing that the practice of law is a business like any other businesses in which marketing is a relevant prerequisite for success. Marketing is not only necessary to market product or service offerings, but to build the business brand as well. Legal services are fairly homogenous and intangible. This makes marketing the more important in order to enlighten the clients on the unique selling propositions of the available offerings, thus distinguishing their services from competition and attaining competitive advantage

Drivers of marketing

The findings, discussion, and analysis also revealed that legal marketing in Zimbabwe is driven by a number of factors as set out below:

Increased competition

Available statistics from both literature and the findings in this research suggest that a significant number of law firms have entered the industry fairly recently, making the legal services industry more competitive than ever before. The threats presented by substitute services like accountants, debt collectors and paralegal service providers, who have taken away a considerable amount of work that would otherwise be done by lawyers, is also a pointer to the need for marketing in the sector.

More sophisticated clients

From both literature and the findings in the study, it is clear that today's clients, seeking legal services, have become more informed, sophisticated and more discerning because of the broad choices of legal services available to them, as well as the exposure they get from the age of information technology, making marketing very necessary. This has also resulted in diminished customer loyalty, thereby reinforcing the need for the adoption of marketing in the legal sector, especially in the area of customer relationships.

Extent to which law firms have embraced marketing

It is evident from the research that, although there is an awareness of the need for marketing in the sector, little has been achieved in that regard. Marketing is still in its vestigial stages. The study identifies the following barriers to the achievement of meaningful levels of marketing activities in the legal services sector.

Sector Regulations

Regulatory restrictions have been identified as the major barrier to marketing in the legal sector. The Law Society of Zimbabwe restricts many forms of marketing including advertising and this has been regarded more of a prohibition by the players in the market.

Lack of marketing knowledge

The study established that one of the barriers to legal marketing is the lack of marketing knowledge on the part of lawyers. Lawyers in most jurisdictions receive legal training only and hardly any training on marketing and management in general. The research indicated that while lawyers are conversant with the legal areas they have been trained in, marketing has not been a component of their training. This means that, unless they engage in marketing training at individual firm level, they are not likely to acquire any marketing skills and this negatively impacts on the development of marketing in the legal sector. In addition, a lot of law firms do not engage in market research before setting up their businesses and this means they go in without the knowledge of what their customers really need.

RECOMMENDATIONS

The findings and conclusions from this research show that there is need for training practitioners of law and their support staff in the concepts and strategies of legal marketing in order to make their services more sensitive to their clients' requirements.

A law firm that does not appreciate the importance of marketing is not likely to commit time, financial and other resources to marketing activities. The natural starting point in such a case is to initiate an educational drive for lawyers to build marketing knowledge. This may be done through the Council for Continuing Legal Education, an affiliate of the Law Society. The Council will have to broaden its training programmes to embrace marketing, especially in service quality, customer relationship marketing (CRM) and employee relationship marketing (ERM) which is an aspect of internal marketing. This could be done through the engagement of service marketing experts to teach students undergoing continuing legal education. While this may be viable in the short term, the Council might also have to make recommendations to the Faculties of Law at local Universities to include legal marketing in their degree programmes, or even introduce a Master's Degree in Legal Marketing. This will ensure that law graduates have some marketing knowledge upon completion of their degree programmes. Lawyers need to be taught early in their profession that, whereas technical excellence is important, the functional aspects of how the legal service is delivered are equally important. Lawyers should also take up training in business management programmes, of which marketing is one of the key components, to enhance their overall management skills.

Establishing strategic marketing plans

Marketing plans and strategies should be part of the overall organizational planning. The culture of the organization should embrace the marketing business model as part of the values of the firm. In planning the budget of the legal firm annually, consideration should be given to the requirements of a marketing component so that it becomes part of the overall budget from the onset.

Human resources development

Any organization that wants to excel in business, irrespective of its sector, needs to pay particular attention to its human resources. Recruitment and staff development should include, not only personnel with a legal qualification but also those with marketing qualifications or experience. Ancillary staff, just like the legal professionals, needs to acquire the marketing skills of customer care, which is an aspect of customer relationship marketing (CRM). It is therefore incumbent upon the law firm partners or consultants to ensure that they engage staff, not only qualified in legal matters but also those with management and marketing skills. This will enhance the quality of their service and their overall image, which elements are critical to survival, especially in the fluid environment in which organizations are operating in the 21st century.

In-house training

Law firms also need to conduct in-house training sessions to create a marketing orientation and to hold internal seminars to dispel the misconception that marketing is merely advertising and sales promotion. There is need for an overall organizational appreciation of the critical importance of a marketing-orientation in law firms as a source of business creation and development.

Online marketing

Lawyers seem to be lagging behind other sectors in terms of internet-based marketing. This is an area that, in today's business environment, organizations can only ignore at their own peril. Online marketing will help facilitate the easy dissemination of information to current and prospective clients. Online newsletters on legal issues, stories, concluded court cases and other relevant information, as well as an occasional email communication can also be used as a cheap and convenient way of keeping in touch with clients even when they do not have any pending legal issues.

Deregulation

As has been noted in the study, regulations have been partly responsible for the lack of marketing focus in the legal sector. It is therefore incumbent upon the players in the sector to lobby for deregulation or the relaxation of the relevant regulations to open avenues for effective marketing. However, deregulation cannot of its own be a source of competitive advantage, as all lawyers will then have equal access to various forms of marketing, but it will help to create a client-oriented environment in the legal service industry. It will still take creativity and ability for a law firm to distinguish itself and gain competitive advantage.

Marketing without breaking the rules: Using Subtle Marketing Tools

While lobbying for the removal of some of the restrictive elements imposed by the Law Society, a marketing orientation approach can be adopted without violating these marketing restrictions. In the area of customer relationships, which is the vital cog in the service firm's marketing orientation, there are a number of subtle marketing tools which seem banal but highly effective in winning over new clients and gaining old clients' loyalty, as well as building a competitive and sustainable legal practice.

Create positive visibility through differentiation: The image of law firms today is suffering from stereotyping based on a few cases of unprofessional behavior. To disengage from the market's negative perceptions, the legal fraternity needs to engage the following simple and common but "unregulated marketing tools" to market their services and boost their image:

Impeccable Professional Conduct: Everyone associated with the firm must conduct themselves in a professional way. This is, developing the total quality management culture. This calls for training of both the partners and ancillary staff in handling the customer-firm interface in a way that fosters a long-term relationship. This can form one of the building blocks of a strong brand image in the legal sector.

Integrity and respectability: the legal profession and the accountant share the same values that enable their companies to prosper and be held in high esteem – integrity and respectability. These two hinge on the practitioners' ability to instill trust and respect in their clients and also add on to the brand image of the firm. They also form a unique selling proposition for the firm.

Packaging the service: Packaging is a critical element of marketing. It adds to the clients' perception of the service or product and, in turn, to the service/product image. The location, appearance of physical facilities, surroundings and general ambience of the premises, presentation of written materials, office equipment, staff etiquette and deportment, caring and respect for the clients, are all part of the packaging which can enhance the service offering and boost the overall image of the legal firm. These simple measures are the essence of marketing, representing the

service physically – *tangibilising the intangible*. These can help the legal sector circumvent the marketing restrictions imposed by their mother body and associated regulators.

Moments of truth (MOT)/touch points/service encounters – the customer's service contact experience with a member of the firm should be made memorable and pleasing. This can be an effective marketing tool for the firm. This relates to the warmth, friendliness, and cheerfulness of the employees when they serve a customer. There is nothing that annoys and puts off the client more than a gloomy looking and unfriendly employee. Such an experience is likely to create an everlasting negative impression about the firm.

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