WHITE PAPER

READING BETWEEN THE LINES

How Client Needs Are Changing the Practice of Law

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For a decade or more, the legal industry has grappled with the notion that "clients are in control".

Thought leaders have put forth new frameworks for the market and doctrines for successful client service. And while few today would disagree with the sentiment, it tells only half the story. The truth may be that clients are in control *because they feel like they have to be.*

In an instance of a buyer's market, clients (or customers) may not want to be in control. They want better service – to have their expectations known, and then met. But it can sometimes feel like customers and businesses speak two different languages.

Take the car buying experience. Thirty years ago, the process of purchasing a car was time-consuming, information-poor and sometimes outright adversarial. Manufacturers and dealers had all the information and thus all the power. Buying a car today is a completely different experience. Customers have access to a wealth of detailed information, empowering them and pushing dealers to focus on improving the customer experience to win business. As Daniel Pink, author of *Drive*, put it, "[I]n a world of information parity – buyer beware is always good advice. But it's also, 'seller beware.'"[1]

The car buyer of 30 years ago wasn't necessarily saying, "I want to be able to research every vehicle before I visit a dealership." They were much more likely to express their expectations in terms of their dislikes. "The salesperson told me this model is reliable, but I really don't know for certain," or "I hate negotiating." It's up to the business or industry to translate what its customers are saying into new offerings. It took the advent of the internet and many years of evolution to create the car buying culture seen today.

While lawyers are certainly not car salespeople and clients are buying something much more complex and nuanced than a car, the simple fact is that meeting their expectations is central to the idea of control in the relationship. And little is more top of mind than pricing and cost-efficiency. Meeting expectations requires a clear understanding. Some clients are very sophisticated, able to communicate clearly and set specific criteria. These clients

[1] Fox, Justin, host. "Why We're All in Sales," HBR IdeaCast, Harvard Business Review, February 14, 2013. https://hbr.org/2013/02/why-were-all-in-sales.

require only that their firms listen. Other clients need help to uncover their critical expectations. Proactively seeking out and responding to each client's needs is key to firm success.

EXPECTATIONS HAVE CHANGED

In today's culture, consumers have come to expect companies to provide low-friction, high-quality experiences. Providers that meet unexpressed or unrealized expectations typically enjoy the highest customer retention and satisfaction. The internet and social media have radically changed the power dynamic between customers and companies.

Brands were once able to dictate the customer experience, leading to what could be called the "minimum viable customer experience." Customers tolerated less than ideal experiences because they had to. Information was scarce and alternatives were few. The rise of a plethora of brands in the on-demand or "gig" economy is evidence of the tremendous potential in simply improving the customer experience. Customers weren't asking for strangers to taxi them in the stranger's own vehicle or to open their home as a hotel. Customers were frustrated by poor experiences, and when presented with offerings that addressed key pain points, they embraced them.

These customers populate the businesses and legal departments that many firms service. Whether consciously or subconsciously, these clients have been primed to assume the right of customers to demand more of their providers, and that those providers will respond eagerly. But legal clients aren't bashful about telling their firms what they want. Or rather, they are adept at explaining their constraints. In discussions about what they need, clients are likely to use terms like "budget," "transparency" and the ever-present "value." But clients are not being obtuse or deliberately vague. They are busy, and they face pressures from their business and are looking for support.

CLIENTS ARE LOOKING FOR HELP FROM LAW FIRMS

Among clients' key challenges is translating business needs into clear legal requirements. This is evidenced by the increase in legal operations, project management, procurement and billing hires in legal departments. Yet these capabilities are still evolving. As many as 41% of outside lawyers feel their corporate clients could benefit from formal project management training.[2]

While there is certainly opportunity for clients to improve their project management acumen, it's important to recognize the wealth of information they now have access to when evaluating legal service providers. The proliferation of trade publications, rating agencies, social media and legal industry news coverage has empowered clients. They know (at least directionally) what it takes to complete the work, what competitors would offer and what kinds of client experiences are possible. As one global law firm leader put it, "Most sophisticated in-house legal departments are looking to their law firms to present pricing proposals that are realistic and supported by a law firm's historical experience. They don't want data that is based on 'gut' feelings."[3]

[2] Acritas and Legal Executive Institute. State of Corporate Law Departments 2019, March 2019.
[3] Watson, Nancy. Legal Operations: How to Develop a Win/Win Relationship Between In-house Counsel and Law Firms, Legal Executive Institute, April 16, 2019. Retrieved from http://www.legalexecutiveinstitute.com/legal-operations-win-win-relationship/.

The cost-cutting and efficiency measures put in place during the Great Recession and the years following it were highly influential in the rise of alternative legal service providers (ALSPs). These non-law-firm providers operate on the idea that some services previously offered only by firms (and thus assumed to be highly labor intensive) can be performed much more cheaply by specialists employing the latest legal tech.

The effect of all these forces is to create an environment in which clients expect their firms to be the experts in delivering predictable cost-effective work in service frameworks that are responsive to their needs. It's not enough for firms to demonstrate that they're "working on it" or taking cues from competitors. Clients are keenly aware of their options. As the industry incumbents with the most experience and resources, traditional law firms have some work to do to remain at the top of the legal food chain.

CREATE A PLAN FOR UNCOVERING CLIENT NEEDS

Crafting truly leading-edge client-centric offerings requires a two-part strategy: a formal assessment of clients' long-term (or more permanent) needs, and new processes for client onboarding and matter intake. While specific requirements will change from matter to matter, most clients have needs or goals that span across their book of business. These needs are the key to building scalable service models that can meet a variety of client demands. Firms can use the insights gleaned from this needs assessment to create new processes that put their strategies into practice.

Clearly, it's impractical to conduct an in-depth analysis for each client. Instead, firms should choose a representative group of their most sophisticated clients to engage in conversation. These clients should be those best equipped to provide clear, actionable insights. These conversations will likely result in some common themes, some of which may seem obvious and others that are surprises. Both are important – the obvious for validating assumptions, and the surprising for uncovering new opportunities. It may be wise to bring some of these themes to a larger client group to further validate their relevance.

Once collected, validated and reviewed, these themes should be used to begin developing new client offerings that can proactively uncover and address client needs. It's tempting to think of this approach as wresting a certain amount of control back from clients. While these strategies are certainly intended to support firm profitability and competitive positioning, the goal should always be mutual understanding and value creation.

As such, the best application of new insights will be in conversations at the client onboarding and new matter intake stages. Firms must make it a priority to have specific discussions about client expectations. These conversations can be a simple way to surface areas where the firm is especially well-equipped to meet and exceed expectations, as well as to highlight areas that may require additional attention. Most important, however, is honesty. Firms must be upfront about what they can and cannot provide. A clearer understanding will strengthen the relationship and help both parties plan and budget more effectively.

HAVE TRULY PRODUCTIVE CONVERSATIONS

So what do these conversations look like? Here are three common client requests and questions to ask to help uncover the core need the client is trying to express.

1 "We need more flexible fee structures.

This client is clearly expressing that cost and budget are top of mind. But without specific direction, the firm is left to guess at which fee structure will satisfy the client. Rounds of iteration on pricing is a highly inefficient process. Here are a few questions to help firms address this request:

"Do you have a structure in mind?"

Ask the big question straight out. If the client has a structure they prefer, pricing teams can get to work much faster. If they don't have a structure in mind, the door is open to discussing options the firm has already developed.

"Are there costs you're unwilling to pay for? Why?"

Sometimes, clients ask for different fee structures because they can't or won't pay for services traditionally included in the standard billable hour. Proactively uncovering these can enable the firm to create a fee structure that's more beneficial to both parties. In some cases, this question may open the door to a conversation about how the client perceives the value of the firm's services.

"Are you seeking a fixed budget for each of your matters?"

It may be the case that the majority of the client's cost-related concerns could be ameliorated by fixed budgets. If this is so, the firm's ability to profitably manage matters to a budget will determine whether it can meet this client need. New legal technologies have been developed that can help.

As a pricing director recently noted, "Identifying, creating, and delivering value is what drives price, not how many hours it might take or what kind of discount may apply."[4]

2 "We need increased transparency into your work.

This request is often made by a sophisticated client with some degree of legal ops or project management expertise. And while most lawyers will note the difficulty of providing transparency into their complex work, this client is a bellwether for the future of legal practice. Treat these requests as an opportunity to get a head start on addressing transparency requests at scale. The following questions can help firms get started:

"Do you have concerns about the way we (or a previous firm) completed work?"

It's no secret that these requests are driven by past missed expectations. Asking this question should not be an attempt to discourage the client. Instead, use it as a chance to uncover pain points they may

[4] Watson, Nancey. Legal Operations: How to Develop a Win/Win Relationship Between In-house Counsel and Law Firms, Legal Executive Institute, April 16, 2019. Retrieved from http://www.legalexecutiveinstitute.com/legal-operations-win-win-relationship/.

not otherwise reveal. It's unlikely that most firms are in a position to "open the books" to the client, but these clients can be an opportunity to test incremental information-sharing tactics.

"Are there specific software tools or workflows you're already using?"

It's important to ascertain the degree to which the client can hold up their end of the transparency ask. If the client has the personnel and tools in place, the firm's work may be limited to preparing and delivering reports. If they don't have a system in place, there may be an opportunity to exceed expectations with a new legal workflow tool that enables transparency.

"Is your concern primarily cost-related?"

Clients may make these requests as a way of investigating the value they're receiving from your firm. The key opportunity here lies in determining a way to accommodate the request while also starting a conversation about rates, the cost of services provided, and the holistic value of the firm's expertise to the client.

3 "We need project management for our matters.

Project management has been a growing trend in the business and legal worlds for years. Clients making this request may or may not understand the full scope of true project management. While project management can improve efficiency and service delivery, building an effective project management function is no small task. What's more, project management alone may not be enough to address the full scope of the client's needs. The following questions are a good place to start:

"What are your goals with project management?"

Many times, these kinds of requests are directly related to cost and transparency concerns. Clients may be using the term as a byword for requests that are much more easily addressed with strategies that have little to do with actual project management. For those who have a firm understanding of what they're asking for, the following two questions will be helpful.

"What, specifically, does project management look like for you?"

This question can help determine whether clients are seeking full-blown formal project management or something simpler. If they're speaking in terms of project plans, budgets and regular check-ins, firms may be able to deliver with existing teams and tools. Clients talking about project managers and Gantt charts are asking for something much more robust.

"Do you have a project management function in house?"

Project management can be a challenge for both the firm and the client. The frameworks involved require that both parties be well-versed in project management tactics and workflows. Clients without this expertise will likely find project management confusing and cumbersome. This may be an opportunity for firms to co-develop project management functions with clients.

BRIDGING THE GAP

At some point, nearly every law firm leader has said, “Our clients’ success is our success.” This sentiment is especially prescient for the future of the legal profession. But for this maxim to yield tangible results, it must be paired with another – “communication is key.”

Both clients and firms are perhaps more concerned about issues of pricing and value than any other aspect of their relationship. Clients concerned with maximizing value for spend are demanding new cost control, efficiency and transparency efforts. In response, law firms are rapidly evolving service models and pricing structures to nourish existing relationships and gain market share.

But a structured dialogue about client needs and readiness and firm capabilities and road map are key to aligning both parties around the value of the relationship. Building long-term trust and driving firm profitability are not mutually exclusive endeavors. Increasing clarity, setting expectations and delivering on promises reap benefits for all involved.

Still, clients will continue to unbundle work, moving down-market to smaller firms and ALSPs for work that larger firms cannot perform as cheaply. Part of a successful firm’s evolution is letting that work go while focusing on exceeding expectations with work that competitors can’t perform. This will mean continual conversations, feedback gathering and iteration. The framework presented here is a good starting point, but it’s critical that firms adapt it for their needs. The results must be embedded into daily processes and larger business improvement initiatives.

Meeting and exceeding client expectations is difficult – a moving target. And while satisfying legal clients will never be as simple as providing a mobile app or on-demand movies, there’s an important lesson to be learned from these kinds of consumer brands: Start a conversation with your customers. Engage with them, participate in a dialogue and demonstrate that their feedback impacts how you do business. Clients are speaking and law firms are listening, but long-term success will come only from mutual understanding.

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