

Legal Marketing and the non-billing department in the law firm

It may be surprising to learn that legal marketing is only recently picking up strength in the Peruvian legal market, though for those who know a little more about local business attitudes in general, and that of Peruvian lawyers in particular, the situation is not as remarkable. Peruvian businessmen and women are characteristically conservative, and not inclined to risks or to any investment that does not offer immediate visible returns.

Lawyers are no different. While the tendency to professionally manage law firms started over thirty years ago in the Northern Hemisphere, with few exceptions it has only started four or five years ago in Peru. It took hold in 2012, when the first global firm entered the Peruvian market in association with one of the top ranked Peruvian law firms. Though some skeptical lawyers said at the time that they did not see a future in their partnership, over time it has proved to be a new era for Peruvian law firms. Though prior demergers of traditional law firms did show certain signs of modernization, in most cases these were merely in infrastructure (placing offices in corporate office centers) or in the lawyers' style (which was more openly marketing-oriented), because they were actually looking to replicate the management structure of their former firms, where they probably had not found a position they were happy with. What we can recognize perhaps is their increased willingness or openness to modern management, but taking that step took quite a while as well.

With respect to legal marketing activities, we start from two premises, (i) that legal marketing has in fact always been done, though in an "old school" way, and (ii) that lawyers do not like this concept. Marketing is a word that does not sound good to them (because of its relation to the word publicity), which is why the term "business development" has been preferred. Discomfort with the word and also with the activity itself has delayed, and in some cases continues to delay, the implementation of marketing strategies at law firms. These strategies would ultimately improve their positioning and profits, if they were to take the "risk". This fear may be based on thinking that marketing jeopardizes the quality of legal services, or worse, on many people confusing it with publicity, which they think may expose the confidentiality that all clients hope for and expect. And these errors are certainly a result of unawareness.

We know that legal marketing activities can be carried out in-house or by third parties. While the tendency in US firms was already to have an in-house team by the 80s, in our case there was an intermediate step, where an attorney or group of attorneys at a firm identified the need to use certain marketing tools in a more organic way, coordinating with

legal publications, assisting events, with web pages and presentations. And in many cases what this team or work group did was outsource activities that were strictly related to the firm's image, to the logo or stationery concept or design, and then to the development and design of the web page, while management of contents and interactions with the press was reserved for "marketing-minded" lawyers. The investment of the human lawyer resource was not measured, was not billable, was simply part of his or her internal hours or free time, which was "generously" dedicated or donated to this activity, with better individual than institutional results in most cases.

Suddenly a group of lawyers recognized that this model was not efficient, and therefore marketing needed to be professionalized due to increased demand, development of new technologies and the emergence of social media, which also have an undoubted impact on the legal services business.

While this was a hard change to accept, there has been no choice. We are living with that fact today in the legal marketing world, where English and Spanish colleagues with extensive experience in this field in their own countries have offered their consulting services to Peruvian firms and the results are tangible: competition is increasingly fierce.

Why is it a non-billing department?

Unlike other administrative departments in a legal organization, such as administration, finance, treasury, accounting, logistics or human resources, the marketing department requires a greater dedication of the lawyers' time, with hours that will not be directly billable. Why is the attorneys' participation needed? Because they are the ones that provide the input needed for this job: information about their services' distinguishing characteristics and features, the content or messages they want to promote or publicize, information about their clients, new services they want to develop, trends in the services they provide, relevant news, etc. This also makes it necessary for the people in charge of this department to have legal know-how and understand technical legal language, so that the "fee earning" lawyer can use the time dedicated to marketing support activities in a very strategic and efficient manner.

The negative impact of being a non-billing department, as explained by the authors of the "Red Book of Law Firm Marketing" (original Spanish title, *El libro rojo del marketing en las firmas de abogados*), is when other practice areas within the firm do not want to recognize or do not favorably regard the investment in marketing activities or the team, because the economic returns will not be measurable until some point in the future, and, as the case may be, after interpreting any benefits achieved (such as the measurements often carried out by communications firms, which "value" media presence through interviews or pieces in various media like print, radio or television, and now perhaps interactions on social media and the internet).

It is therefore necessary to convince them of the need for legal marketing in law firms, and for them to convince their colleagues of the need to have, commit to and invest in a department that has no billings (returns) and to give it the importance and status it

deserves within the firm. The following are ideas set out in the “Red Book of Law Firm Marketing”, which we have further elaborated and consider should be taken into account to solidly develop a marketing department within a law firm and achieve good results:

- (i) For the marketing department to participate in the firm’s strategic planning and have its own budget;
- (ii) For the person in charge of marketing to have a designated contact partner, preferably a managing partner, but for reporting to be to the group of partners in charge of managing the firm;
- (iii) For the person in charge of marketing to be a legal professional with experience in communications and marketing or with experience in the legal world (that is, not a fee earning lawyer) in order to avoid potential friction with colleagues or any conflicts of interest.

Based on this decision, a good marketing plan (or business development plan, if that sounds better) can be incorporated into the firm’s strategic plan, leveraging the state-of-the-art of new technologies and the penetration of social media, which are topics we will cover in the next conversation.

Sources:

- Re-Envisioning the Law Firm: How to Lead Change and Thrive in the Future, Copyright 2016. TheRemsenGroup and Jaffe: <http://bit.ly/2gFTviS>.
- El libro rojo del marketing en las firmas de abogados; Carmen González, Marisa Méndez, Almudena Rodríguez, Ediciones Experiencia, Barcelona, 2005.

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