

What Clients **Value** and How to Provide It

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THE RECESSION and its aftermath, coupled with the Internet-fueled emphasis on consumer-powered buying decisions, has created an environment in which clients want to be in the driver's seat. And what are they asking for? Value.

This article will highlight what clients are asking for and some actions law firms can take to meet increasingly articulate client demands. The discussion is an opportunity for small- and mid-size firms to adapt to the new realities and gain market share.

What Is It?

Value is an estimate of what something is worth. It is typically subjective, tied to the importance of the desired outcome and an understanding of the degree of difficulty involved in determining that outcome. Value is defined by the person paying for the service or product. If a client does not think that what it bought was worth what was paid for it, then in the client's eyes it is "value-less."

Value increases as the importance of the issue rises. In "bet-the-company" situations price becomes relatively unimportant because the stakes are so high. In everyday situations, price sensitivity increases as the perceived impact (value) of the legal task decreases. Often arguments begin when clients think the matter at hand needs only a "good enough" solution and the law firm wants to use a "no stones unturned" approach.



Jay Galbraith, in his book, "Designing the Customer-centric Organization" (Jossey-Bass, 2005), says that "...one fact has become increasingly clear over recent years: the marketplace is customer driven. Customers demand, 'Give us what we'd like, with a side order of customization.'"

The legal services marketplace reflects this trend. Buyers today begin from the assumption that they are probably paying a fair price for what they will receive. What they want is more, a "good value," a "bargain," "added-value." Well-satisfied buyers like to think that the result obtained was worth more than they paid for it.

Defining Value in a Value Proposition

Marketing can help a law firm compose a value proposition that presents a clear statement of the tangible results and intangible benefits a client can expect. Typically, value propositions

are focused on specific outcomes for the client such as minimize risk, enhance growth, eliminate a problem. A clear value proposition focuses on the benefits of the service and helps a client to visualize the desired result.

For example, a corporate merger may require encyclopedic knowledge of the client's industry, state and federal law, intellectual property issues, employment concerns, etc. plus a facility for drafting strong contracts and an ability to negotiate successfully. All of these characteristics are features of the law firm's service capabilities. The client is focused on the resolution: a merger that positions the company for growth.

What Clients Want

The thesaurus provides a variety of synonyms for "want" including wish for, crave, need, require, lack. Usually clients' situations revolve around one or more of these meanings. Clients want a

reasonably priced, on-time, quality work product that results from a process played out without surprises. Clients want pragmatic outcomes that prevent or resolve a situation:

- appropriate results;
- savings in terms of time and money;
- closely aligned incentives to provide the best possible result;
- productive and efficient delivery of legal services;
- predictable costs that take into account budget constraints.

Notice that these outcomes speak to the benefits clients want to derive from a law firm's efforts. Except in a handful of 'bet-the-company' cases, clients' buying decisions don't focus on a reputation for A+ legal acumen, or specify a desired educational background of the attorneys. Their value assessment will be based on the result, the product of your capabilities rather than the process by which you produced that result.

Lawyers often try to sell based on the features of their firm: capabilities, locations, credentials, but clients assume sufficient legal expertise and solid training. No one knowingly hires an inept lawyer.

What the client wants to know is, "What can you do for me?" "How will you help me?" "Why should I hire you?" A Robert Half Legal survey on the "Future Law Office" (2009) says most clients want lawyers who have previous experience working with them and knowledge of their business, industry and situation.

An "Inside Counsel" article by Lauren Williamson, "Relationship Ups and Downs" (August 2010), found that general counsel rank three factors as the most important for selecting outside counsel:

- 99.5 percent emphasize responsiveness;
- 85.8 percent want industry experience;
- 82.1 percent want creative solutions and proactive guidance.

Their ideal relationship would be personal, knowledge-driven, relevant and focused on them.

To meet client definitions of value requires lawyers and law firms to understand where their clients are coming from and what their world is like. Common general counsel complaints suggest that this is easier said than done. In the same "Inside Counsel" article, general counsel complained:

- 51.4 percent of general counsel respondents don't think law firms recognize their budget constraints;

- 61.7 percent say law firms don't actively seek ways to reduce costs;

- only 40.9 percent say law firms understand their business.

The ACC Value Challenge

The economic downturn created new constraints on in-house legal departments that were not matched by changes in outside lawyers' work process or billing policies. To address this disconnect, the American Corporate Counsel, the professional association for in-house counsel, adopted a "Value Challenge"¹ initiative designed to generate a dialogue between inside and outside counsel focused on value:

"The ACC Value Challenge provides an organized, highly-structured approach to closing the perceived gap between what legal services cost and the value clients receive from those services. ...[It] is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability."

While many solos and small firms may never have a large corporate client, the **gripes** and **wishes** of inside counsel are representative of what **many clients**—individuals, small businesses, municipalities—think. **Pay heed** to these concerns to form solid relationships.

The conversation is built around finding value-add, win-win approaches to:

- improve the value of legal services;
- decrease costs;
- keep the client out of trouble;
- maintain law firm profitability;
- develop approaches that can be scaled up and attempted in other areas;
- improve training and career satisfaction and reduce attrition on both sides.

The Relevance for the Small Firm

While many solos and small firms may never have a large corporate client, the gripes and wishes of inside counsel are representative of what many clients—individuals, small businesses, municipalities—think. Lawyers need to pay heed to these concerns because the foundation for any successful practice rests on solid client relationships. Business development axioms

tell us that:

- It takes five to seven times more time, money and effort to win a new client than to get additional work from a current client.

- Average client attrition per year is 20-25 percent.

- Eighty to 85 percent of next year's business will come from existing clients.

- Unhappy clients won't complain to you but will complain to 10 to 15 other people.

- "Depth of client" is an effective way of generating additional work from a client and protecting your firm's relationship from competitor firms.

There are many ways in which lawyers and their firms can address the value theme. We will focus on two important initiatives: client-focused communication and shared risk fee arrangements.

Client-Focused Communication

Effective communication forms the basis of the attorney-client relationship and of a client-centric practice. The ACC value challenge "Covenant with Counsel" suggests the following communication initiatives as part of structuring long-term relationships.

- Give honest feedback as to whether the client's objectives are realistic and attainable.

- Designate one lawyer as the relationship manager whose time will not be billed for this role.

- Provide budgets and estimates up front for specific engagements, and advise when unforeseen events require a change in them.

- Keep in touch.

To implement these suggestions, at the beginning of an engagement, firms should meet with the client in order to understand its objectives, discuss options and strategy and lay the groundwork for developing an agreed-upon budget and process. Also agree on how often the client wants status updates, and what form they should take. Manage communications to avoid surprises. For example, if you can't meet a deadline, discuss alternatives with the client and agree on next steps.

Speak regularly with the client during the engagement, even if no new actions have occurred, and continue to speak at less frequent intervals between engagements. Develop a program of face-to-face meetings with all your contacts at a client. At least once a year, schedule a complimentary, thinking-ahead meeting (at their office if possible) to find out client objectives going forward, and develop plans for helping the client achieve its goals.

Prepare for these meetings by reviewing what you already know about the client and the work history of your relationship with it and supplement it with research regarding client happenings and industry trends. This preparation will enable you to ask targeted questions and suggest pro-active initiatives.

Responsiveness, Availability, Courtesy

Communication policies should be established that encourage responsiveness, availability and courtesy. To manage these expectations:

- Establish staff guidelines concerning how to handle a situation when you are unavailable.
- √ Try to have another professional cognizant of the issues and status to provide assistance.
- √ Set staff guidelines as to how to address clients.
- √ Hold frequent meetings with everyone working on the client to share information.
- Provide as many phone and e-mail ways to reach you as possible.
- √ Ask the client for the preferred method of contact and whether the time of day is important.
- Promise to return all engagement-related calls within a set timeframe, typically 24 hours.
- √ Create a back-up plan and share it with clients.
- Use technology to enhance client service. Create extranets or use cloud computing to create shared work spaces. Use webinars to provide customized legal updates or training for clients.
- Thank clients for making a referral or sending you a new matter or introducing you to a new contact.
- √ Meet with them after an engagement is closed to assess the process and result, discuss what worked well and what should be improved upon, and thank them for the opportunity.
- In meetings or phone discussions give clients your full attention. Turn off your PDAs and let phone calls go to voicemail or have an assistant pick them up. Show you value them by turning your full spotlight of attention on them.
- √ If you need to be available during a client meeting, tell the client about the situation, so that those in attendance will understand an intrusion that might otherwise be considered rude.

Billing and Alternative Fees

The Altman Weil "Law Firms in Transition" Survey Report (2010), found that two-thirds or

more of the respondents believed the following economic trends are here to stay:

- more price competition;
- more non-hourly billing;
- more legal project management to improve efficiency;
- more commoditized legal work.

Value-focused, shared-risk billing practices are one way to put a positive spin on these trends and differentiate your practice. Alternatives to the billable hour run the gamut from straight discounts to complicated reimbursement combinations segmented by activity and results. Many, such as retainers, contingency fees and straight discounts, have been hourly alternatives for many years.

The objective of value billing is two-fold: 1) to create a profitable law practice by matching the fee to the value of the services from the client's perspective, and 2) to deliver services profitability through the effective use of technology, internal systems, leverage, etc. The key to value billing is that it is about the client and its needs, wants, expectations and values rather than about the lawyer's costs or time.

Setting these fees is accomplished during in-depth discussions to set the engagement parameters. Probing questions will elicit the information needed to craft an appropriate fee arrangement.

- What does it cost the client to do nothing about the situation?
- What will resolution mean to the client?
- How will it help the client reach its objectives?
- How important is the issue to the client?

One way of determining realistic fee arrangements is to segment engagements into activity sections such as case assessment, analysis, drafting, etc. Litigators can apply the uniform task-based management codes (UTBM,) developed by the ABA and ACC, to determine tasks, time allotments and fee arrangements for specific activities.

Final Thoughts

The theme of this article is that by understanding the value of your services from the client's perspective, you can develop programs and policies to provide the value that will strengthen your client relationships. In today's world, value relationships are the basis of client relationships, price is a factor of perceived value and value must be continually proven to clients interested in the best deal.

To conform your practice to the new realities, begin by reviewing your services from the point

of view of benefits, results and solutions. Assess your service processes to make sure each one is as effective and efficient as possible. Make sure communication channels are strong. Use front-end planning and budgeting, plus staffing and work process efficiencies, to create shared-risk, results-based, win-win alternative fee arrangements.

Modernizing the way you work for and with clients is an iterative process, so be sure to track and measure the ROI of each engagement. In the end, everyone's goal is to work in a profitable law firm for happy clients.



1 See ACC value challenge materials at <http://www.acc.com/valuechallenge/>.