

Introduction

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1 Why this book?

Currently, both scientific research and practice are increasingly aware of the need for law firms to address the changes the legal service market faces in most jurisdictions of the world. These changes make it imperative for law firms to think much more strategically than before if they want to preserve their place in the market and remain competitive.

The IBA Law Firm Management Committee, together with the publisher Globe Law and Business, have taken up the challenge to produce an overview of how these challenges can be met, and provide an intellectual framework for undertaking this process. We thus attempt to be both practical and theoretical, addressing some of the major issues when lawyers discuss ‘strategy’ in the context of their law firms.

2 Some general hypotheses on strategies in law firms

From the outset, we would like to propose some general considerations about strategy work in law firms in order to provide the intellectual context for this discussion, and to which the discussion about strategy will occasionally revert.

- The primary task of a law firm is to provide its clients with legal advice or representation of the highest quality and ethical standards, for which it receives payment, which must be sufficient both to stay profitable and to finance future growth.
- It is considered a duty of each lawyer, or at least of each partner as the case may be, to look at the entrepreneurial challenges facing him/her as this is the only way to secure the independence of his/her practice – which is a core value of the profession. Strategy is the starting point for these considerations which centre on the competitiveness of the firm. The larger a firm becomes, the more important it is that it is capable of ensuring that all risks are contained and that the strategic development of the firm is duly carried out.
- Strategy work for law firms centres on the same issues as in any other industry: how can the firm differentiate itself in the marketplace sufficiently in order to become a primary provider of services, allowing it to generate higher fees than its competitors? This includes assessing the offer, the service, the people, the organisation, the reputation and the ability of the marketing to communicate this difference.
- Ethical considerations are not alien, but central to the concept of developing a strategy for a law firm, since ethics provide a framework for high quality advice. As value-based

strategies are more successful than others, high ethical standards are also likely to generate higher returns for firms.

- Strategies which strive only to increase bottom-line profits fail to address the complex challenges in service industries; but without appropriate economic considerations, law firms are likely to fail.
- Despite increasing costs in the market, any strategy must aim for economic growth, whether qualitative or quantitative. In addition, growing firms are more attractive to young lawyers
- Strategy work in law firms is, unlike in other industries, much more a process of consensus-building, than a case of implementing a top-down rational decision. Participation, of the partners in particular, is paramount for a firm. In this respect, providing for all issues to be negotiated by relevant stakeholders is much more important than finding a ‘right’ decision.
- For a long time, strategy in law firms has been an implicit process, in which the financial success of the firm has been regarded as the hallmark of a successful strategy, rejecting the implementation of a ‘planned’ strategy instead. At best, there is a consensus among partners regarding what kind of clients and work the firm should not accept.
- Strategic decisions are therefore much more the result of a learning process from day to day producing incremental developments, rather than bold initial strategies. Such decisions can be made more effective by ongoing reflection and discussion. Radical changes, including mergers, often fail to produce the results for which they were undertaken.
- This consensus-building process is guided by group dynamics, characterised by perception and positioning, as well as a political process of negotiating the interests of all present.
- Strategy work in law firms will be successful in so far as the partners are able to negotiate diverging minority interests in a respectful manner.
- Law firms with a pure lockstep-profit sharing agreement are more likely to discuss and execute strategies than firms with merit based profit-sharing agreements, as there is an inherent need to discuss strategic questions due to the high degree of profit being shared among partners in the former.

- Today's successful law firms are those which have the right processes in place and which have, more or less consciously, made strong strategic decisions in the past which are delivering good results now.
- As most law firms operate on the same business model (bespoke services for clients) and organisational archetype (professional partnership), the most important differentiator among law firms is the culture of collaboration which they foster (ie, the way the partners work together and produce success). This culture is, to a certain extent, induced by the profit-sharing system in place. Working on these cultural issues is therefore critical to the processes underlying a strategy.
- Strategy in a full service firm is much more difficult than for a specialist law firm: as in conglomerates, strategies for certain divisions or practice groups will be more useful than others. Strategy for the whole firm may be limited to maintain a clear brand and profitability targets.
- Discussion of 'strategy' in law firms is, quite often, a substitute for discussion on issues which are difficult to address, namely clarifying corporate identity, resolving economic differences that the profit-sharing agreement fails to bridge, in addition to other sources of conflict among partners. In this sense, if it is to be meaningful, discussion of strategy must also address any underlying sources of conflict within the firm.

3 Structure of the contributions

This book is divided into three parts:

Part I: General considerations and trends

Part II: The resources of a law firm and their impact on strategy

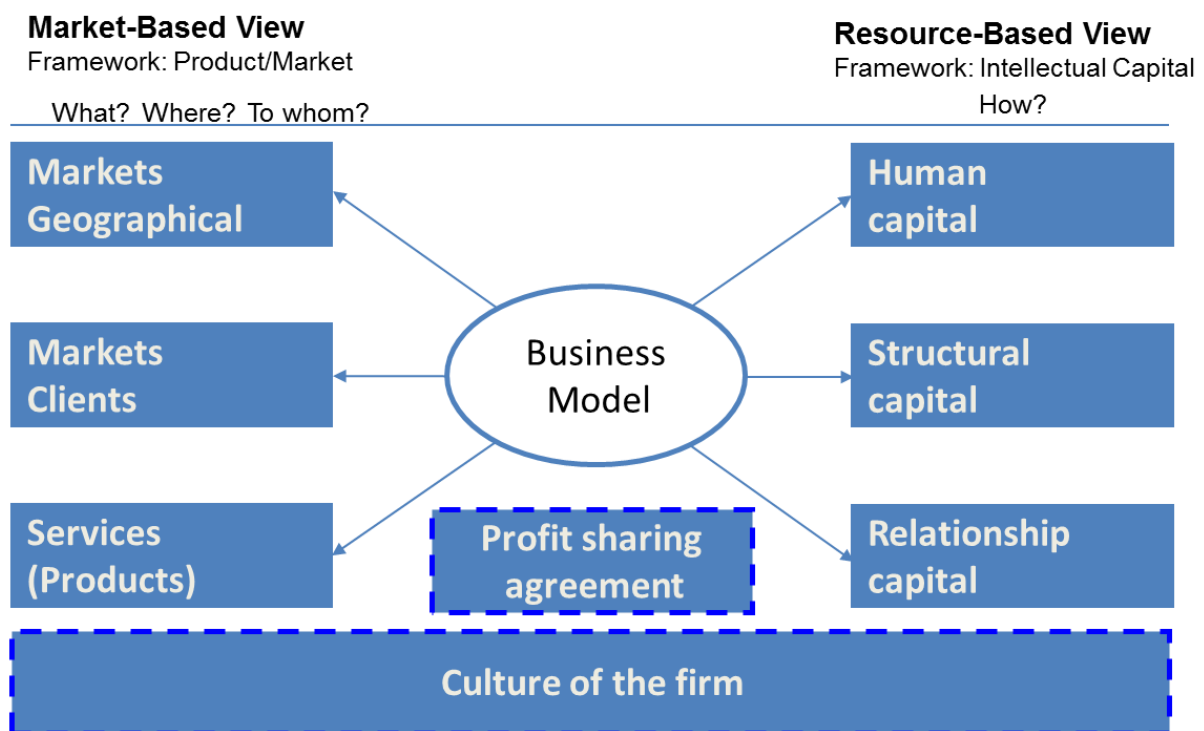
Part III: The market side of law firm strategy.

The book, therefore, follows the resource-based view of strategy as taken up by social research into the strategy of professional service firms, of which law firms are part. This structure addresses all the dimensions which form part of a law firm's strategic ability, and thus contribute directly to its competitiveness. We have, however, enlarged this view in three areas:

- the underlying business model, as this is the framework within which law firms operate and which constitutes a barrier to the strategies available to it;



- the profit-sharing agreement, as this provides the incentives for internal cooperation, of primary importance when it comes to learning from client matters;
- the culture, this being an enabler for cooperation and the most distinctive feature when comparing law firms in the same strategic group.



Source: Christoph H Vaagt

Unlike most discussions about strategy, here we focus first on the resource side, since this is usually overlooked by lawyers.

In *Part I*, Bente Løwendahl takes a look at the definition of law firm strategy from an academic point of view. It is noteworthy that she takes a completely different approach to strategic thinking compared to most academics and consultants. She sees strategic development as a learning process, where professionals learn from each client assignment and thus define the strategy of the firm by the client intake process.

Tomasz Wardyński makes the case that law firms' business is framed by ethical considerations. It is well known in economic science that value-based strategies pay off and thus enable firms to outperform competition. It is therefore not merely an ethical imperative, but an economic one,

too. At the same time, it is ethics which constitute the unique selling point of the profession as compared to other less regulated industries, such as chartered accountants, consultants and the like who may also provide legal advice in some form.

Peter Kurer illustrates the contextual difference between corporate strategy and law firm strategy based on his experience in law firms, in-house and as a CEO of several banks.

We also look at the general trends shaping the industry, as illustrated by Miriam Hermann and David Barnard who choose the US market by way of example. Their analysis can easily be adapted to other legal markets which are, nowadays, characterised by the same segmented, buyer-dominated market.

Mats Anderson shares his insights into the changes faced by the law firms for which he has worked during the last 20 years. He has also had experience working as a consultant to others, so he has a broad overview of the challenges law firms face in a more competitive market. He explores the factors he has found to be particularly important during periods of change, namely leadership and finance.

Whether law firms can ignore this discussion and simply ‘continue their ways’ is called into question by Paul Lippe and Richard Given. They point to assumptions typically made by lawyers which may pose an obstacle when looking at the future of legal services.

Part II of the book analyses the resources side. It is by looking at the human resources, systems, structures and procedures in an organisation that a law firm is able to deliver what clients are looking for. The market in law firms is more often than not the result of an opportunistic process of following clients, rather than an explicit strategic choice made by the owners at the formation of the firm. Dina Gracheva explains why the resource side of law firms is of such importance, and why this should be made an issue when discussing strategy.

Legal practice is a business serviced by people and staff. The quality of advice depends on the ability of the associates hired, and the manner in which communication and interaction among them is organised. As such, the HR dimension of a firm is crucial.

Jaime Fernandez Madero explores ways in which law firms may develop their business models into a structure better adapted to the current changes occurring in the market, thereby increasingly differentiating lawyers’ career paths to find flexible ways to respond to the expectations of a new generation of lawyers.

Peter Oberlechner looks into one of the trickiest issues of law firm management, namely that of performance review for partners. He examines the ‘balanced scorecard’ system which some firms have recently adopted, and explores the different dimensions of partner contributions and partner remuneration.

Law firms need to monitor their finances at every step. As profit margins come under pressure, financial control becomes a top priority for law firm management. Without key performance indicators and constant supervision of trends, law firms may easily run into difficulties. With new competition from LPOs, continuous in-sourcing of law departments, and new procurement procedures for legal services, law firms need to address this long-neglected area. Ashley Balls looks into this field and specifies the requirements for law firms to survive in a new environment, which some call ‘the new normal’.

The literature does not discuss the role of the managing partner in detail, except to highlight the need for firm ‘leadership’. This concept, however, is little explored. However, the way a partner who has been elected to this post assumes his/her roles and responsibilities is crucial for the development of the firm. This is particularly the case for larger firms. The role of the partner elected to this position, is a mix between that of a politician, a manager, a hero and an internal consultant, and therefore presents many challenges. Patrick McKenna tackles this area, drawing on his vast experience as a boardroom consultant for law firms.

Reputations and relationships are the two pillars relied upon by most professionals. Many pretend that this is the product of ‘good work’. Michael Smets, Tim Morris and William Harvey here explain what research tells us about the relationship between reputation and quality, and reveal some surprising results. In their chapter they outline the definitions of the concept of reputation and show how they derive from different disciplines. This team of researchers also discuss how definitions are interrelated in the management literature. Reputation is closely linked to an organisation’s perceived capacity to produce high-quality goods or services. Yet often quality is difficult to define and measure, particularly in the context of professional service firms. Smets, Morris and Harvey consider the implications of the relationship between quality and reputation, drawing on research conducted among a variety of professional service firms including law and management consulting.

Philip Rodney, a managing partner and noted IP lawyer who has recently managed a merger in Scotland, looks at the issue of reputation. He explores reputation from a practical point of view and demonstrates what is necessary to keep this issue high on the agenda.

Rob Millard looks at structural aspects in the management of the strategic development processes of law firms. He describes how the role of a ‘chief strategy officer’ (CSO) can help the management of a law firm to stay ahead of all the initiatives on which law firms of a certain level of complexity need to focus.

In *Part III*, we look at the market-oriented strategies available to law firms.

The very first question for a law firm to decide is whether it wants to serve its clients only in one jurisdiction, or in more than one. The cross-border needs of certain clients no doubt exist, but it is a major step to establish offices in other countries. Several hurdles stand in the way and firms have suffered as a result of premature attempts to establish themselves abroad. In the course of his professional work, Robert Bata has opened several offices for law firms, and here explains the major pitfalls facing firms setting up overseas.

If a firm is considering merging with another firm in order to improve its competitive position, then the lessons set out in Lisa Smith’s chapter will be of interest, as she has advised law firms on this issue for 20 years. Here she advises how not to merge.

The pricing of legal services has become ever more difficult, given the introduction of procurement processes inside client organisations. Such processes also cover legal services, and Silvia Hodges Silverstein provides an overview of how firms can manage these new challenges.

Leigh Dance looks at the individual and organisational capabilities necessary to establish a proper business process approach in the firm, based on her experience of working with both general counsels and law firms.

Firms have typically emphasised to clients that discrete legal issues are equally important, however minor they may be. In this way, firms have been able to bargain for high fees from clients by pointing to work produced, irrespective of the legal difficulty involved in the brief. Nowadays, clients have begun to question the value of an instruction and whether it is truly worth having a lawyer look at all questions. Clients are increasingly negotiating smaller fees for instructions, knowing that there are a range of alternative service providers to do the work. Given this, most law firms need to revise their business offerings and focus on providing services which represent value for money for their clients. This issue is explored by Mark Jones, who is one of the longest serving managing partners in the United Kingdom and who thus has first-hand

experience with this kind of change in the industry. In addition, Jones explains some of the solutions employed in his own firm.

If you are a law firm partner, you may want to review your strategy. Further to the information provided by our contributors, it will be useful to ask each of the following questions:

- How are we currently approaching these issues?
- Where do I see the biggest differences between what the authors are saying and our practice today?
- What would be a robust first step to changing direction?

We hope this book serves its purpose, namely to help partners of law firms understand the challenges their firms confront and to start a process which may address these to the benefit of each member of the firm and of the legal community at large.

We would like to thank the authors for their valuable contributions.

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On behalf of the Board of Editors

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