

WHITE PAPER

THE NEW LEGAL BUSINESS:

Rethinking Competitive Advantage



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When law firm leaders think about the nature of competitive advantage, a few common themes typically come to mind.

A successful firm's competitive edge often results from attracting and retaining top talent, delivering superior client service, offering unmatched practice area expertise, and adopting cutting-edge legal technology. With the rise of alternative fee arrangements (AFAs), firms' ability to provide and deliver on specific client budget requests has also become a key differentiator.

Though each of these qualities can be components of a competitive advantage, many law firms do not have a formal, documented competitive strategy. Instead, they rely on resources that are difficult to protect. Superstar talent can leave the firm at any time. Similarly, client service and firm expertise are fundamentally subjective assessments at the mercy of client perception. Even firms that focus on business development face limits on resources and gaps in strategy. Winning the competitive battle requires an integrated, holistic approach.

SHIFTING YOUR PERSPECTIVE

Developing a unique, differentiated and protected position — and securing a true competitive advantage — requires an analysis of your firm, industry and competitors. For law firms today, the question of exactly who their competitors are is paramount.

As the legal market evolves and clients become more likely to unbundle their legal work, firms must recognize that “competitors” are no longer just peer firms. Large law firms are seeing increasing competition from medium-size rivals offering lower rates and AFAs as a strategy for taking market share. Likewise, alternative legal service providers (ALSPs) have begun delivering pieces of the legal services firms would otherwise provide. Already a major force in the U.K., these providers are making headway in the U.S. ALSPs

in America represent a \$10.7 billion market, with nearly 13 percent compound annual growth (Legal Executive Institute. [2019 Report on the State of the Legal Market](#)).

And though the very nature of legal services encourages clients to shop around, the best firms succeed by offering something their clients can't get anywhere else. In years past, this kind of differentiation was largely qualitative. Firm reputation, talent, and promises of superior client service attracted many clients who were comfortable with the standard billable hour as the going rate for these intangible assets. Today's legal client is much more concerned with quantitative measures. In fact, 58 percent of surveyed chief legal officers (CLOs) cite greater cost reduction as their top service improvement wish for outside counsel (Altman Weil. [2018 Chief Legal Officer Survey](#)).

As clients push for increased clarity, law firms' ability to respond in kind is key. Increasingly, clients demand that firms provide clear budgets, stick to them and scope future services on a portfolio level rather than matter by matter. In support of these requests, they are also asking questions about the firm's use of legal technology to deliver on these promises and basing their decisions on the responses.

Clients have begun viewing their outside counsel as legal businesses – partners and vendors whose charge is to demonstrate increasing value for cost. These expectations increase competition and make differentiation more difficult. But in an evolving legal market, standing out from your competitors may well be the difference between success and failure. The firms thriving in five years will be those who have crafted and executed a comprehensive competitive strategy. Firms only "getting by" will see their practices and revenues shrink in a market where competition is increasing.

COMPETITIVE POSITIONING IS MORE IMPORTANT THAN EVER

Thomson Reuters' David Curle [once described](#) the legal market of the time as the "Betty Crocker Era." Using the analogy of baking, he described three ways to get cake (legal services).

- 1 **Bake it from scratch**, which is labor intensive but cheap.
- 2 **Bake it from a mix**, which is convenient and a bit more expensive, but you save by not needing to keep ingredients on hand.
- 3 **Buy it from a baker**, which is expensive but offers personalization and convenience.

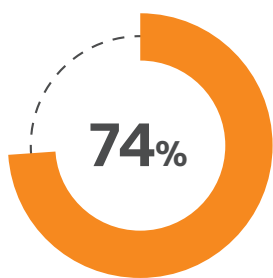
Years later, this analogy is perhaps even more apt as clients are employing a mixture of all three methods to cover their legal needs. In 2018, an average of 48 percent of corporate legal budgets were earmarked for internal work. Of those surveyed, 54 percent indicated this is an increase over the previous year (2019 State of the Legal Market). These clients "baking from scratch" have already cost firms, with more than 70 percent of firms surveyed indicating they've lost work to corporate legal departments (Legal Executive Institute. [2019 ALSP industry trends](#)).

For those "baking from a mix," ALSPs are the common choice. Alongside many small- and mid-sized providers, this group includes the Big Four accounting firms. Considering the reach and resources of these large firms, it's no surprise that 23 percent of law firms report losing work to the Big Four. Furthermore, 77 percent of corporate law departments of more than 50 lawyers indicated that outsourcing is a primary strategy, indicative of the larger unbundling trend.

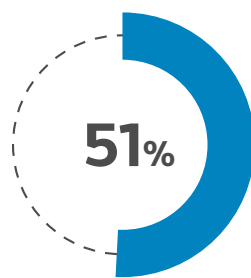
And while many large law firms pride themselves on being the client's chosen "baker" in the "mix" scenario, the outlook is not entirely positive. CLOs surveyed estimate that only 24.7 percent of their outside counsel fees went to work so important that cost was not a factor. As cost pressures increase and alternatives abound, fewer and fewer clients will choose their most expensive option.

Even across law firms, the landscape is changing tremendously. Across several major U.S. markets, 35 percent to 53 percent of partners made lateral moves to competitors and other organizations between 2010 and 2017. While some degree of mobility is to be expected, one commenter declared that such movement had "never been this aggressive." Likewise, the legal industry saw a record 102 mergers in 2017. This movement and consolidation impacts firms' ability to retain the knowledge and client relationships present in the lawyers and partners they rely on.

But all is not lost. The [2018 Dynamic Law Firm Study](#) notes an encouraging trend for firms considered dynamic rather than static. A majority, 74 percent, of dynamic firms reported increasing corporate demand growth." In contrast, only 51 percent of static firms reported positive growth. While the factors contributing to these metrics are complex, they serve as a clear indication of the stakes involved. Firms who are taking a proactive approach to their business and competition will continue to win.



of dynamic firms reported increasing corporate demand growth



of static firms reported positive growth

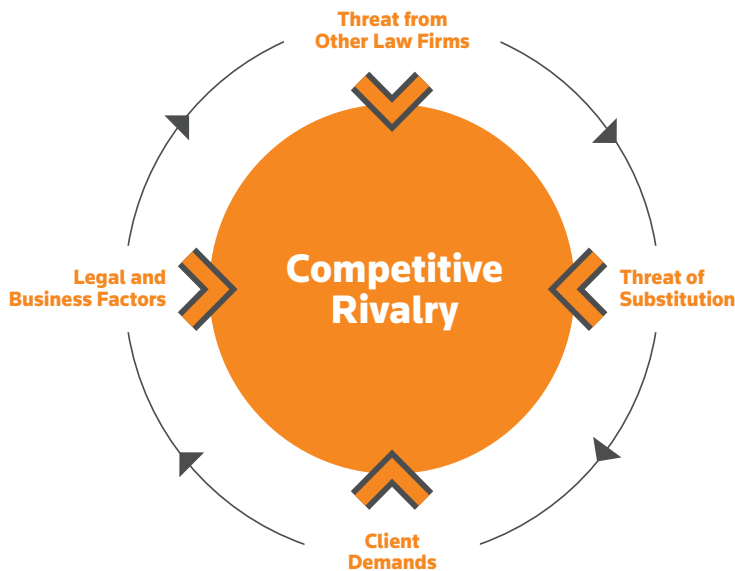
Dynamic firms are defined as those in the top quartile of composite scores derived from key financial metrics such as revenue per lawyer, profit, and profit margin taken from Peer Monitor data.

Static firms are those firms whose composite scores are in the bottom quartile.

A DIFFERENT WAY OF LOOKING AT YOUR FIRM'S PRACTICE

Crafting a truly differentiated competitive strategy requires an objective evaluation of the firm and market. This is not a task isolated to the marketing and business development teams. Competitive strategy also affects the way lawyers are compensated and incentivized to meet new firm goals. In fact, the impact of a new, or more focused, competitive plan will be felt across the firm.

Harvard business professor Michael Porter offers what is widely considered the best model for analyzing a competitive environment – the [Five Forces](#). As the name suggests, Porter's model asks the user to consider five key forces in their competitive environment. While Porter's model is intended for the broad business world, his framework can be adapted to help law firms. The following graphic provides a starting point for lawyers and law firms to evaluate their competitive landscape.



have non-lawyer options for their matters. This force encourages lawyers and firms to consider what is truly unique about their practice. Put simply, there will always be a viable alternative for many of the matters your clients bring you. For legal professionals in markets with a high threat of substitution, the path forward likely involves letting go of some of the work the substitutes are taking and refocusing your efforts on the services only you can perform for your clients.

3 Client Demands – How are your clients’ demands changing? Are you struggling to meet any of them? How much do their demands affect your pricing strategies, investments and profitability?

Everyone in the legal profession is working to meet and exceed client demands, but it’s important to take stock of the effect of this pursuit on your business. For instance, you may need to make technology investments to meet your clients’ demands. Even so, if they are unwilling or unable to pay the prices you require to make those investments, you’ll need to do some additional strategizing.

4 Legal and Business Factors – How do changes in the law affect your practice? What impacts do changes in the economy, in technology and in the legal workforce exert?

Every lawyer is accustomed to the evolution of the law. Keeping pace with these changes is table stakes for the profession, yet some practice areas change more frequently or dramatically than others and require constant scrutiny. It’s also important to consider the impact of the “business” forces on your practice alongside the legal ones. As the effects of the Great Recession linger, cost pressures may make it difficult to grow profits. Millennial and Gen Z lawyers bring new perspectives

1 Threat of Other Lawyers and Law Firms – How difficult is it for a new lawyer or law firm to enter your market? How strong are your existing competitors? How likely are your current or potential clients to consider them?

It’s unlikely this force is weak in your market, since the legal industry at all levels is facing increasing competition, but a high degree of strength among your opponents will have a major impact on your strategic planning. If you enjoy a position of power due to your particular practice area, reputation or client loyalty, you can spend more time on addressing the other forces. If you find yourself facing a very high threat from other lawyers and law firms, you may need to do some additional investigation into their competitive advantages.

2 Threat of Substitution – Where else can your clients go for some or all the services you provide?

From online legal service providers to ALSPs and the Big Four, legal clients of nearly every stripe

to and expectations for the profession. And as the pace of technology change accelerates, it is critical to have a technology roadmap in place.

5 **Competitive Rivalry** – This force can be treated as the sum of the other four forces you’ve evaluated. Unless you’ve already done so, consider the number of direct and indirect competitors to your firm, and the qualitative or quantitative differences between them.

While competitive rivalry is certainly a separate force, the most useful application for the legal profession is as a single point of reference for the model as a whole. High rivalry is typically an indicator that many of the other forces are strong, while low rivalry likely indicates weakness in the other forces. Depending on your goals, this force can work as a starting or ending point for your analysis.

While it’s impossible to predict the outcome of any individual firm’s analysis, it is important to ensure the results translate into action. This may mean new business development strategies, reprioritizing practice area focus, new hiring guidelines or new technology investments. Competitors are working every day to gain market share and establish dominance. Savvy firm leaders can use this framework as a practical tool to make impactful decisions for their firms.

THE RIGHT FOUNDATION

The common element across nearly every competitive assessment in any industry is the role of technology. In the legal industry, technology underpins the rise of many ALSPs. Young lawyers have grown up surrounded by technology and expect to have the best tools available for their

work. And competitors gaining advantage are almost certainly leveraging the latest legal tech.

Some firm leaders may shrug at these trends, certain that their technology choices are “good enough.” But technology is now the backbone of nearly every process in modern law firms. From legal research to billing, powerful tech tools that empower their users are critical to firm efficiency and effectiveness.

Some firms may find that their clients are already leading the way when it comes to technology. In fact, legal clients report a greater use of technology tools as a key tactic for process improvement (2018 Chief Legal Officer Survey). As clients see the benefit of new technology for their operations, they expect their firms to follow suit – and no law practice wants to appear “behind” their clients when it comes to technology.

Nearly 83 percent of CLOs report they require budgets for major matters, and almost 80 percent provide guidelines for billing, expenses, matter staffing and matter management. The message is clear – clients cannot and will not pay for things they deem unnecessary for the completion of their work.

For firms serving these and similar clients, the push toward repeatable and profitable service delivery is critical. The rise of pricing and project management functions in firms is evidence that they are already grappling with these new dynamics. But firms have significant challenges. They frequently don’t have a clear picture of project costs and how they relate to specific clients and matters. Then, when the scope of work changes, they can’t anticipate and protect their bottom line. New technologies have been developed that can help firms close these data gaps.

Closing technology gaps can be one practical step toward actualizing a refined competitive strategy. As one lawyer remarked, “The way technology is moving these days, you don’t want to be behind the curve, saying ‘How come we didn’t think of that?’” As firms evaluate their technology platforms, it is worthwhile to consider whether they enable the kinds of workflows that support the firm’s competitive strategy. Questions to consider may include:

- Do partners have insight into matter-level profitability for work in progress?
- Can partners check the budget-to-actuals status of a matter at a glance? And can they quickly identify where the matter may be straying off course?
- Do pricing and project management teams have access to historical matter profitability within their existing workflow?
- Can associates access firm templates, precedent documents and knowledge resources that increase their productivity?

Various technology platforms in the firm serve discrete groups: fee-earners, pricing and legal project managers, business and financial functions, etc. Connecting legal research, practical guidance and other productivity tools empowers lawyers but lacks oversight and context. Integrating those tools with project and matter management, historical pricing data, and budgeting templates creates an opportunity to more accurately scope and manage matters. Connecting that ecosystem to reporting and analytics tools can create a holistic view of firm activity that allows leaders to manage from the firm to matter level. It creates a common language for professionals across the firm.

THE TIME FOR ACTION IS NOW

It’s important to move quickly to keep up with the changing market. At the same time, thoughtful analysis will enable firms to avoid the pitfalls and mistakes that can cost less planful competitors dearly in the long run. The modified Five Forces model is an excellent place to start thinking about competitive advantage. In this endeavor, legal professionals have a distinct advantage: their talent for critical thinking and sound planning.

Legal technology that supports these strategic plans is critical. More than anything else, technology will determine whether firms are able to execute on the competitive strategies they develop. As client demands and competitive pressures increase, the tolerance for substandard tools will shrink. Firms that fail to act today may find themselves losing to proactive challengers with the latest legal tech.

Regardless of the strategies and technologies firms choose, it is important to remember that all the competitors in the market are evaluating the same set of conditions and making decisions to gain or preserve advantage. Those who make these decisions hastily or without a formal strategy put their practice at risk in an evolving market. Without a clear competitive strategy, law firms risk winning a race to parity rather than advantage.

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