

The Question of Whether to Focus On Core Practices

QUESTION:

As managing partner I believe that this is an important time for our firm to assess our strengths and strategically choose those practices for which we want to be known. There are three practice groups that I've identified as our best prospects for the future – for our competitive market position and for the firm's profitable growth. These would be the core practices in which I would envision that we invest the majority of our time and resources to build in 2010. The question (that I would sincerely appreciate the LAB's advice on) then becomes how do I sell this internally without causing certain partners (and staff) to feel that they are second-class citizens or incite a palace revolt?

RESPONSE:

It seems to us that there are two issues represented in your question. One is the issue of whether a strategy of emphasizing one or more practices over others is wise. The second is how you maintain unity and teamwork within your firm if one or more practices are identified as core and others are not.

A CAUTION IN IDENTIFYING CORE PRACTICES

One of the mistakes to be avoided as a managing partner, is responding to the regular calls of various consultants to engage in the latest fad. We all remember those various flavor-of-the-month initiatives where numerous firms wasted huge resources. Today, there are those who would advocate that you should **only** focus on a few core areas.

Thus our first caution is that any action which has the effect of emphasizing one practice area at the expense of another or which eliminates a practice area can be very destructive to the morale and collegiality of your firm and must be approached with a great deal of factual research and sensitivity.

Before you proceed too far, it is important to recognize the 'pendulum effect' – that practice areas can have their good years and their bad years. In times like these, we often find that some of our practices that weren't particularly high flyers a couple of years back are now functioning quite nicely, and may even be serving as a draw to attract new clients to the firm. Many of us have had the occasion to watch one particular group struggle for a couple of years only to then become the group that carried the firm for a while after that. We need to always realize that there is a cost to carrying a strong bankruptcy practice through the good times that is handsomely repaid in the lean times. And similarly, having a strong M&A practice may be a financial drag through a recessionary period, but promises to offer a tremendous upside in good times.

That said, over time some practices do **become less profitable**. Over the years we have all seen whole lines of business / practices shrivel to a shadow of their former selves: anti-trust, nuclear power and environmental being three that come to mind; and while some of those may be coming back, in some cases there has been at least a 20-year hiatus. For many firms, the labor and employment practice is another good example. It may be less profitable

than it once was and less profitable than some other practices within the firm today, but we still need those lawyers.

There are also times when it becomes clear that a practice area **may no longer be compatible** with your firm's business model. This may be because of the economics of the practice or because the practice area is incompatible with other key practices or the majority of the firm's client base. Some years ago many large firms decided to get out of the insurance defense business because the economic model of that practice had evolved to a point where it was incompatible with the firm's cost structure. In situations such as this, it makes no sense to continue to invest resources in the practice. It is not fair to the lawyers in the affected practice area to simply allow the practice to wither and die. It is better to address the issue head-on while the practice may still be strong enough to have a chance to be successful in another situation.

Our second caution then is to avoid anything that announces to your firm in effect, that we no longer care about the X practice. It is better to develop a plan and deal with it- and communicate with the group involved directly. Some examples: we are getting out of the practice, let us work with you to get you settled elsewhere; we have too many resources for the work - we need to adjust; if you want more people or marketing dollars you need a plan we can all believe in; we think you should change your product line; combine with another group, and so forth.

Understand that we are not advocating that you try to be all things to all people, it just means that to the extent you have good people who are contributing to the top and bottom line, those people need to feel that they are an important part of the team. You have to focus on what is essential and what is excellent. You've got to insure that what is essential -- litigation, tax, IP, transactional -- is sustained and nurtured. And you have to build and sustain what you have that is truly excellent and unique.

PROCEEDING TO IDENTIFY CORE PRACTICES

If we read your question to be about how to responsibly manage the optimal allocation of your firm's scarce resources, we would all agree that strategic decisions are constantly needed concerning where to put scarce resources.

For example, if you are a mid-sized firm in a mid-sized market with limited resources and you want to continue to grow and create opportunities, you almost have to identify the practices where you are going to direct more of your resources. As we look around at successful firms, many are becoming more focused, which is to say - have fewer small, weak practices - those that do not add to the whole, except perhaps marginally positive cash flows. And if they do not do even that over mid to longer term, then why are they there?

Here are some suggestions for your consideration in moving forward:

1. Collect and get all the facts to support any decisions.

Practices within law firms are not created equal; some invariably will be stronger than others as a consequence of many different factors, including, among others, effectiveness of the professionals, leadership of the practice, cyclical (our countercyclical) demand for the practice's services.

All law firms today can and must prioritize their strategic investments and make judgments about their optimum deployment of scarce resources. That necessitates an ongoing and dynamic business analysis of market positions, strengths and weakness, competitive pressures, client demands and other market place realities. Although that effort will often prompt shifts in practice focus, as well as differentiating levels of investment, in our experience, that seldom results in dramatic or immediate practice dislocations that could cause great alarm or prompt involuntary partner revolts or departures. Indeed, partners should be concerned if there isn't some amount of business analysis guiding the firm's strategic decisions and should also realize that building a stronger firm benefits all. Does that mean that a few positioning elbows don't get thrown in the process or that small beads of petty jealousy sweat don't form momentarily on a few foreheads? Of course not, but if the business analysis is sound and the process of arriving at prioritization decisions is thorough and fair, the outcomes tend to be fairly readily accepted.

One approach is to think about your practices at three levels - those with opportunity for significant growth, including growth in profitability, relative to other practices; those that are sustaining practices that are part of the core revenue and profit base of the firm; and those that are struggling and perhaps in addition, may not add much to the whole. You need to take a long-term view in making these judgments. Based on those judgments you will add resources to the first, provide sustenance to the second and restrict resources to the third. if you do not think there is much hope for a change.

We should add that in thinking about how to decide which are your higher priority practices you might also look at two factors which we think are sound on a pure business basis but which also help generate firm support:

- Is the market target - practice/ sector - likely to provide spin off work - e.g. Private Equity does to many groups; as does energy project finance; etc. and
- does the practice have the potential for providing some form of "halo" effect for the firm - i.e. improve the firms overall market profile.

Yet another approach might be to put a little less emphasis on practice groups internally and place more emphasis on multi-specialty client teams or industry groups. Emphasizing teams in dealing with the client and in compensation is pretty important. Even if you emphasize practices to gain strategic advantage, everyone is still part of the same team and are servicing clients as a team together.

2. Don't go it alone.

If the allocation decisions reflect material change, they should be made by the leadership of the firm. It is important, that a broad base of firm and practice leadership be involved in these strategic review and prioritization efforts under the framework and guidance provided by the Managing Partner. As Managing Partner, you cannot and should not try to go it alone.

3. Take a long-term view.

As leaders, we must remember that developing a consensus among the partners (owners) on practice area strategies is critical. Your strategies should be based on well-established long-term trends and not just short-term market fluctuations. It can be a mistake to lose talent now, only to pay a premium later to replace it.

4. Communicate to ensure that everyone is on the same page.

The more your action is based upon sound, collective and communicated business analysis, the more successful it is likely to be, and/or the less damage it might otherwise avoidably create. It is reasonable to devote resources to those practices that have demonstrated success and the potential for success and to emphasize those practices in deciding how to allocate resources. Doing so reinforces the successful practices, but this approach can also serve as an incentive to other practices to emulate those in which the firm is investing.

The issue of practice area differentiation, whether it arises by evolving practices or strategic decisions, is very difficult. As with most difficulties within the firm, honest, candid communication can avoid a lot of problems. If a strategic decision is made to emphasize a few practices over others, it helps a lot to go through a process of arriving at that strategy that gives people the opportunity to come to the conclusion that the strategy is going to strengthen the firm and be better for everyone. If the differentiation comes about as a result of natural market evolution, honest conversation that brings the lawyers in that group out of denial is important.

We have all talked to potential laterals who took a message from their firm, that was clearly not what was intended by their firm's management. Thus there needs to be bit of "all children are above average" in "Your Firm LLP" communications, while you manage the underlying reality.

5. Ensure that the core practices understand the need to share.

Good communication is second only to fair compensation in keeping law firms healthy. If some practices are going to be emphasized, other practices may move into more supporting roles. The core practice partners have to be willing to share the bounty if they want to continue to have the other practices in the firm and in supporting roles. If resources are to be directed at two or three practices and the strategy is working, the compensation metrics for lawyers in those groups are just going to look better. If the firm does not want to become a three-specialty boutique, the people getting the most resources need to not be greedy. One of the things you are likely to hear is, "We cannot attract young people to our group because there is no future." Of course, there is a future, but the money may not be as good. Most people do what they enjoy, not what maximizes the last dollar. But, if there are wide disparities in compensation, people may not go into those groups or people may leave those groups. You might even need to make a partner in one of those groups on marginal numbers if the group is to continue to be viable.

Lawyers from your less-emphasized practices also need to be included in the leadership of the firm. Having people from those groups in leadership roles lends stature to the group and helps them understand the strategy and become a part of it.

6. Make decisions based on the quality of the plan.

You should make your resource allocation decision in part on the basis of the quality of the plans developed by groups and their track record for sustained implementation. Why fund a great idea if you know you do not have the team that will successfully implement it?

You should try to work with both your core and troubled practices to develop plans for improvement and where appropriate, provide some support funding. As a pure hypothetical,

think of the labor and employment area where volume is predicted to go up but pricing is under stress. Helping that group to develop a plan to deal with both sides of that challenge - how to do more and make money at it - could be as advantageous to your firm as chasing an emerging practice area.

We think it prudent that firms make some investments in emerging areas and recognized both that some will not pan out and that some will, but will take longer than anticipated. Firms need to understand and have the courage to accept that sometimes they will be wrong.

IN CONCLUSION

These are difficult and politically sensitive decisions. Ultimately, partners and employees need to feel comfortable that the decisions are informed, thoughtful, fair and in the firm's best interest. We all recognize that there are some sea changes occurring out there, which make "steady as she goes" a difficult and probably unwise policy; but, ramming the lighthouse is not necessarily an effective course correction either.

At the end of the day, we all recognize that every one of our lawyers think they should be the drum major and spin the baton. That's where your leadership comes in. You have to foster the kind of culture, through leadership, where, even if other practices are emphasized, everyone feels included and no one feels like a stepchild. You can do it every day in little ways by showing respect, communicating, and publicizing the successes of non-core groups with the same vigor as you cheerlead the successes of the more emphasized practices.

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