

BALANCE

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Marketing is not a Dirty Word

By Jane Fenton, Fenton Communications

For many lawyers "marketing" is still a dirty word! It is something "other people" do as unprofessional and unpleasant, with no relevance to running a successful legal practice.

Those of you who are concerned about marketing may be under the impression that you will be required to sacrifice your souls for the sake of a few column inches in the newspaper, the expensive sponsorship of a struggling local football team or to letterbox drop a flier boasting of quicker, cheaper personal injury litigation! This may be because you are confusing marketing with selling, which may have unprofessional connotations; it is often seen as forcing people to buy things they may not want or need!

Good professional marketing is neither demeaning nor inappropriate to the legal profession. Some of the most successful law firms run very effective marketing programs buying little or no advertising space, let alone cold-calling potential clients with a hard-sell message!

However, marketing *is* about changing the services you provide so that they fulfil the needs of clients and potential clients in the marketplace. It is about being in tune with what your clients want in the way of both services and service and about trying to meet, even anticipate, their needs.

You may ask why you need to market your practice when you have managed perfectly well for years without marketing. The reason it has become virtually essential is that the rules of the game have changed so dramatically in recent years that the very survival of many in the legal profession is under threat.

Accountants and others are attacking areas of work that were once the exclusive domain of lawyers. Corporations are looking hard at how they spend their money on legal advice and are constantly seeking new ways to cut costs. Legislative changes mean existing practices must fight to retain their slice of a diminishing work pie.

Clients have also changed. They are less likely to be loyal to the one firm, have greater expectations of what their firm will do for them, are more aware of cost considerations, expect higher quality and greater value for money. In general, better-informed clients are a good thing, but they do represent a challenge to the law firm wanting to retain or win their business.

Marketing aims to bring your firm more work. But this goal should not be confused with bringing *new clients* to the practice. Indeed, the best source of new work is your existing clients. Conventional wisdom says the cost of winning a new client is five to seven times greater than retaining an existing client, so on cost grounds alone it is a logical strategy.

Many clients do not give all their legal work to the one firm because they are ignorant of the other areas of law in which the firm works. "Oh, I didn't know you did that kind of work" is a common reaction when asked why they hadn't used the firm for a particular case. Existing clients can also generate referrals and be the target of new services your firm wants to establish.

If you want to ensure that your marketing efforts bring in the right kind of clients, i.e. those with whom you like doing business, whose legal requirements interest you and whose needs will bring you a flow of profitable, challenging work, a little homework can be of enormous benefit.

Discuss with your partners where you would like the practice to go in the next few years. Identify the client group you would like to target, research their legal needs, plan services to meet those needs and how you will get your message to them.

It is at this stage of proceedings that lawyers tend to throw their hands up in the air and complain that marketing is "too theoretical". But translated into a practical example, the above marketing advice can be a genuine prescription for action, e.g.

- our firm wants to become the leading tourism law practice in the NT within five years
 - we will target Darwin-based tour operators with links to South East Asian and interstate travel companies
 - we will offer them a range of legal services addressing the risks and problems associated with tourism operation in northern Australia.
 - we will publish a brochure outlining our services and expertise in tourism law and write to companies personally to invite them to discuss their legal needs.
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Jane Fenton, LLB (Hons) is the principal of Fenton Communications and the co-author of The Rain Dance, a practical marketing book for lawyers. The Law Society has invited Ms Fenton to the NT for a series of seminars in November.

Legal update

Health and Other Services (Compensation) Amendment Act 1996

Advertising Guidelines- new booklet

Federal Minister for Small Business and Consumer Affairs, Geoff Prosser announced the release of *Guidelines for the Advertising of Legal Services*, a booklet which promotes advertising that is helpful, accurate and easily understood by consumers.

The guidelines have been developed by a working group of representatives from the profession, including the Law Council of Australia, consumer groups and state and federal government agencies.

"A big part of the reform of the Australian legal services sector has been the removal or relaxation of restriction of the ability of lawyers and other legal service providers to advertise."

"Over the last decade they have moved from being unable to advertise to a situation where more and more are promoted in the Yellow Pages, in newspapers and on buses, and in some cases, on milk cartons. In America they are increasingly using the Internet," said Mr Prosser.

"These guidelines should help legal services make this transition from a historically highly-regulated environment to a freer, more competitive one, without compromising the interests of consumers."

The booklet provides lawyers with guidance in the areas of risk in advertisement, such as use of the terms 'expert' and 'specialist' and will help consumers understand terms such as 'no win - no fee' and 'no win - no pay'.

Territory practitioners will note that notwithstanding the guidelines in this booklet, only those who have completed an accredited course, approved by Council may advertise themselves as a "specialist" in any area.

A copy of the booklet has been sent to all NT firms and it is to be hoped that this clarification of the guidelines will reduce the number of complaints received in relation to advertising.

In February this year the *Health and Other Services (Compensation) Act 1995* was introduced to ensure that the Commonwealth is reimbursed where people receive Medicare or nursing home benefits for an injury and then subsequently receive a compensation judgment or settlement that includes the cost of treatment for the injury.

The process of retrieving Medicare benefits has suffered some unforeseen and unfortunate consequences which saw claimants suffering hardships through delays in producing the notice of the amount refundable to the Commonwealth.

In order to address this problem an amendment has been made to the legislation in the *Health and Other Services (Compensation) Amendment Act 1996*. This enables an advance payment of 90% to be made to the claimant out of the judgment or settlement amount with the remainder paid to the Health Insurance Commission (HIC), where the settlement amount exceeds \$3,000. Once the insurer has made the advance payment, the dealing between the insurer and the HIC is concluded.

The HIC then corresponds with the claimant to determine, what amount, if any, is owed to the Commonwealth. If less than the 10% figure is owed, the balance is paid to the claimant. If the amount owed is greater, the HIC will seek repayment of the excess amount.

The advance payment option is retrospective and will be available to an insurer for judgments and settlements which have occurred since 1 February 1996.

An overview of the changes to legislation can be obtained from the Law Society and further information is available on tel: 07 3360 7033.

Compensation Payments & DSS

The Department of Social Security has released a kit on compensation issues, aimed at professionals with a working knowledge of compensation issues, Social Security and the law.

The kit contains, among other things, material intended for members of the legal profession, in particular, guidelines on advising clients about the effect of a lump sum compensation payment on Social Security payments.

The Law Society has a copy of the kit for consultation, as well as pamphlets in plain English aimed at Social Security recipients who may receive compensation payment. Further copies of the kit may be ordered from the DSS Compensation Liaison Officer, Trevor Fay on (08) 203 2367

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Don't leave the implementation of your marketing plan to one person, even if he or she is officially responsible for marketing in your firm. Everyone should play a role in marketing from the managing partner through to your receptionist. This spreads the workload, helps enthuse everyone with winning new work and creates a marketing culture in which staff are more aware of the little marketing opportunities that arise every day.

There will always be "rainmakers" in the legal profession who have a natural talent for getting on with people and persuading them to do business with the firm. But marketing equips lawyers who feel they aren't naturals with some skills and confidence to make marketing an effective team effort.

This extract is an example of how Ms Fenton's seminars can assist your practice. If you would like to attend a half day seminar, please register your interest with Janet Neville at the Law Society on 8981 5104.