Geographic Expansion Strategies

By David H. Maister

This article was written about European and Australian law firms, but I think its arguments apply to many professions in most parts of the world. It is a revised version of "Whither Global Law Firms?" published in ***EUROPEAN LAWYER*** *in 2002. It also includes material that appeared in* **THE AUSTRALIAN** *newspaper in July 2005.*

Newspaper coverage of the legal profession is filled with plans to expand geographically, diversify into new services and create multisite, multidisciplinary, multijurisdictional law firms. In this, Australian firms are copying (surprise, surprise) their U.S. and UK counterparts in focusing on growth and expansion as their primary strategic concerns.

And it's not just the megafirms that have these grandiose dreams: every established firm outside the major cities (in every country) has plans to join the big boys and open offices in major centers. (All together now: "If I can make it there, I'll make it anywhere…")

What is surprising about all these initiatives is how common they are. And how misguided. The time to expand is when you have a track record of being superb (not just competent) at what you do. Once you have found a way to do what no other good firm can match, then think of taking those (managerial) skills to new places and new disciplines—not before.

Beaton Consulting, a Melbourne-based research and consulting firm, has since 2003 performed a thorough investigation of the Australian legal marketplace. They report that clients rate competence, service and client care as most important in choosing a firm, providing national and international coverage ranked close to the bottom of relevant choice criteria.

What the research also shows is that in the legal profession, as in accounting, consulting and engineering, most clients rate the firms they use highly on competence, service and client care, but they do not think these firms are very much differentiated from each other on things clients care about. (My experience says that's the same around the world.)

It's not that these findings are surprising: firms have heard them before. Indeed, firms preach the virtues of reliability, client care and understanding the clients' business fervently to all their partners and staff. They just don't have programs to make them happen.

Firms everywhere (and in every profession) seem to miss the points that: (a) strategy is about differentiation; (b) differentiation is about going where your competitors aren't, rather than where they are; (c) strategy is about making your services more valuable to your clients than those of your competitors;

and (d) the differentiation comes from what you do consistently and to a high standard.

For example, what percentage of partners could honestly say that they read every issue of their clients' trade magazines? (Less than 5 percent.) Yet they continue to trumpet (falsely) their commitment to an understanding of their clients' business.

What are firms doing? Well, they seem to say, we've failed to differentiate in the locations and services we are already in ("We're no worse than anyone else" seems to be the implied slogan) so let's go to new places and be no worse than anyone else there!

Why? Because it is more difficult to get the partners and staff you already have to live their lives to higher standards than to go out and merge with new partners in new countries or bring in lateral partners in new specialties that you know nothing about. That's called strategic initiative, and it feels good—and it's just relatively easy to do. But it should not be as high a priority as firms think it is.

Why do such smart people do such dumb things? Part of the reason is that there truly is exciting work for fascinating clients in these new places. But the amount of work is vastly exceeded by the number of people pursuing it.

It's as if everyone is planning their dating and marriage strategy around capturing the hearts and minds of the latest model or movie star: No one is working at the romance of taking care of those they are already in a relationship with. The dreams are glamorous, and truly desirable. They just happen to be impractical for the vast majority of people who dream them.

U.S. law firm expansion into London is a wonderful case in point. Of course, London is a good market for lawyers. That doesn't take much genius to spot. Does that mean (as has happened) that over 100 American law firms can successfully open offices there?

Of course not, but that's what they've done. Almost all, of course, are unprofitable, certainly less profitable than their firms' domestic practices. The original partners are getting (and will continue to get) literally zero benefit from all the overseas expansion.

Yet Australian firms are rushing to copy this model. In the words of George Bernard Shaw (he was referring to marrying for the second time), it is the "triumph of hope over experience."

What law firms (and other professional firms) continue to ignore is the fact that success does not come from spotting emerging growth areas that your competitors have missed ("Wow—China's a big market! Don't tell anyone! Pssst! I know an Adelaide firm that has just discovered that there's great legal work available in Sydney! Keep it under your hat!")

Rather, success comes from consistent, diligent, passionate execution of the well-known basics of client service, user-friendliness, understanding of the clients' business, internal firm collaboration and other well-known virtues already included in every firm's strategic plan and mission or values statement. The key is not whether we know this stuff, but whether we have the managerial culture to ensure that we practice what we preach.

On a previous trip to Australia, one of the country's major law firms told me, "We're thinking of expanding into Indonesia, David. Do you think it's a good idea?" I replied, "Well, do you have three partners eagerly looking forward to spending the next five years living in Jakarta?"

"No," they replied. "Well, then," I answered, "your question about expansion is moot. Your success will not turn on whether Indonesia is analytically a good market, but whether you have the people with the passion, drive, enthusiasm, commitment, energy and discipline to make it work. Sure, *someone* will succeed in Indonesia, but the question is—what makes you think it will be you?"

The Basis of Reputation: Controls

What is often overlooked in today's law firm fascination with branding is that your reputation is based on what you really are, not what you hope to be. Your brand is not what you claim to be, but what you actually are willing to enforce. You only get a reputation when the marketplace experiences the fact that you are, 100 percent of the time, what you say you are.

Reputations are a consequence of internal management control and not primarily about marketing. The question is: do you have in place the control systems that make sure all your people adhere to the principles you espouse.

I have always been a cynic about the ability of law firms to achieve this standard in a global network. Managing a global network is rather like trying to do a doctorate in management when most law firms are still in kindergarten when it comes to management.

Some firms are still fighting to introduce the concept of partner performance appraisals, and many resist the notion that partners should be subject to coaching. Resisting these things may be fair and wise, but without them, it's hard to see how a firm can credibly present to the market an ability to coordinate multidisciplinary engagements across multiple jurisdictions.

I do not think the well-managed global law firm is impossible in principle, but I would bet against the ability of the majority of firms to introduce the culture and managerial processes to pull it off. It takes a level of managerial skill that the firms have not demonstrated domestically, never mind internationally.

Clearly, there are exciting clients who want to buy sophisticated legal services simultaneously on a multi-jurisdictional basis from the same firm. However, there is very little evidence that such clients constitute a large market segment.

Notice, it is not a question of having a clients that has domestic work in Germany, France, UK or the US. Single jurisdictional firms can handle that. The global firm is only justified when clients have, on the same project, a need for German, French, British and American expertise. It is only the integrated project that justifies having a global network.

There are some clients that need this, but there are more law firms going after this segment than the size of the segment justifies. There's enough work there for a few, truly stellar integrated firms, but the fact is there is a large stampede of firms, each thinking they will be one of the select few. Only a small fraction of them will succeed because the size of the market is currently small, and it has been made worse by the recession. This leaves firms putting the infrastructure in place ahead of demand, which is a very risky strategy.

There are benefits to being global such as knowledge sharing, real team work and collaboration, common values and standards. But first you have to prove that you can achieve these things domestically before you try them internationally.

Conflicts

The issues of conflicts will become even more pressing than they have already been. In England, Holland and to a certain extent Germany and Spain, firms can outgrow their ability to generate decent profits for the partners because they find themselves conflicted out of the high margin work too often.

The problem of managing conflicts has taken on great importance in the past five years or so as firms have become larger. By and large lawyers are noble and honourable people. The problem is not the ethical one about misleading clients or adhering to Bar rules. The overwhelming majority of firms do that with discipline.

The problem is the managerial issue. Conflicts cause disputes in partnerships when it becomes necessary to turn away either client A or client B. It’s very difficult to make a firm-wide decision if you are very big. The result is that the cannons and nuclear bombs come out as one group of partners wage war on another group, particularly if the partner compensation is performance related. This is not just a big firm problem. It also occurs in smaller firms with so-called "merit systems" in place because there are vested interests with groups of partners.

If London tells Frankfurt that they have to turn away a transaction (or an entire client relationship) because of conflicts, how then can London complain if Frankfurt misses its financial targets? What temptations might Frankfurt have to find some way to represent this client and "hide" the conflict in order to meet these targets? To believe that law firm partners will not be so tempted (because we're all honourable) is to believe that no accounting firm partner would ever shred documents.

Bigger or Better?

Law firms' obsession with size has always been a goose-chase. The secret of success is getting better, not getting bigger. What firms should be worried about is, are we becoming ever more valuable to our clients on things that they value (and will pay a premium for)? Are we giving better client service? Have we learned how to deliver excellence to our clients at an ever-decreasing cost. (i.e. become more efficient?)

For all of the talk about competition and client fee-sensitivity, the issue of costs remains a neglected one among law firms. I do a lot of work for in house counsel as well as law firms. No-one is worried about high fees for good work.

What they are incredibly annoyed about is that they do not believe of the typical law firm that it is acting as an honourable agent, looking after the clients' money, working hard to minimize the bill. What annoys the client is paying for inefficiency such as partners doing things that associate lawyers could do, having three partners attend a meeting when one would do.

Most of the pressure on fees we are seeing around the world today is because clients do not believe law firms are efficient in spending the client's money wisely.

Indeed the client perceives (accurately) that the incentives in most law firms are precisely the opposite! Because the average partner is rewarded (financially or otherwise) by the firm when he or she raises the number of personal billable hours, the client perceives that the partner (and the firm) has an incentive to charge as much as they can get away with.

Hence, most clients feel the need to watch their legal bills like a hawk, and go over them with a fine tooth comb. The result is we have made the client profoundly cynical. It's actually point of professionalism. Clients wants someone that he or she can trust you to look after their interests and spend their money wisely.

There is also a lot of work to do in the area of client relationships. The goal of building multi-jurisdiction, multidisciplinary relationships is a fine one. But current behaviour in this area, even domestically, is pretty poor.

Recently, I was at a meeting of a major Fortune 500 company which invited in all of its outside lawyers. They asked me to run a discussion on relationship building between the law firm and the client. I asked the in-house general counsel if any of the law firms present had volunteered, as a gesture of goodwill, to sit in on the legal department meetings to keep up in what was going on inside the corporation.

The general counsel said it had never happened in all his experience of dealing with outside law firms, and that he would welcome such an investment in relationship building. An old idea, but few are doing it.

If I were running a law firm and had one of two things to work on: get bigger (say, by merging or opening an office in a new location) or persuade my partners to act as if they cared I am convinced the latter would increase profits and the chance of getting better transactions. But of course, that would require tackling the behavior of partners, which is much harder than doing a merger or signing a new lease.

Global but not Multisite

I think it *is* better to be multi-jurisdictional on the condition that you have the managerial capability. But there is no virtue in being multi-jurisdictional by having dots on the map. The issue is not about how many new offices you've got. The keys are extra levels of client service, efficiency, innovation, creativity and understanding your clients' business. All basic things on which most firms do competently.

The issue then, is which firm is going to get the reputation for doing these things not just competently, but *superbly* - reliably, consistently, dependably, superbly.

The point about globalisation is that you can have a global reputation and a global business without actually being geographically global. Tom Peters or Charles Handy are internationally renowned management consultants.

There are also lawyers in the City and on Wall Street (and elsewhere) who have global reputations. They charge extremely high fees (because they are worth it) but they don't have offices in every city in the world. They are just superb at what they do. If they subsequently decided to expand geographically, they could.

But the time to do it is when you have the cultural or managerial ability to live up to the claims of excellence that you offer the marketplace.

It is no coincidence that the most financially successful (and admired) law firms in both the United States and the UK are the firms Wachtell, Lipton in the United States and Slaughter & May in the UK. These firms, unlike the majority of their grandiose, empire-building competitors, have done nothing but focus on being the best at what they do, thereby attracting the kind of top-tier work and premium fees that are the envy of their peers.

They do not attend business conferences, do not (to my knowledge) hire business consultants, and they have made no attempt to build global firms. They have simply focused on the highest standards of professionalism and aim to be perceived by the market as the best.

Everyone's trying to copy the expansion plans of Clifford Chance and Shearman & Sterling. Why aren't they trying to do what Wachtell and Slaughter & May are doing? Because getting better is hard work. Getting bigger is a simple matter of doing deals and hiring laterals—wonderful strategic avoidance tactics.

What, then, does it take to succeed in new markets (and/or new services)? In conversation with one of my UK law firm clients (a managing partner of a firm just outside the top Magic Circle set of firms), he was observing that the U.S. firms entering the London market that are threatening the established UK firms do not yet have sizable practices. Nevertheless, they seemed to be attracting terrific work.

"It seems as if size is a lot less important than people say," he commented. "What are these new U.S. entrants doing, then, that the UK firms' partners are not?" I asked. "They are showing 'Ooomph,'" he answered, implying that their energy was the key to their success.

Ooomph? That's the latest management theory? Well, yes. Ooomph. Focus on the essentials and just get it done—superbly. Read the clients' trade magazines, act as if you gave an unconditional satisfaction guarantee, insist that everyone put the clients' interests first. Be absolutely reliable, dependable and a true trusted advisor.

And when you've mastered all that, take your excellence on the road: the big city, China, the sexy practice areas. Go for it—but be sure you have made yourself ready to win!

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