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Getting and Keeping the Business: Market Penetration and Qualitative Research

By Merry Neitlich and Anne Gallagher

What are Market Penetration Research Interviews?

“Bill, it’s nice to see you. Were you aware that we were about to stop using your law firm?” said the associate general counsel of a Fortune 500 company to my client, the managing partner of a national IP firm. (OK, I wouldn’t have believed it either if I wasn’t standing right next to Bill.)

Bill and I went to visit this general counsel as a way to check for client satisfaction, learn more about the client and their needs, and explore options for expanding the law firm’s services to this significant client.

Over an 18-month period, Bill and I had been to visit nearly 20 clients or potential clients for the law firm. We had experienced other interesting feedback ranging from minor service glitches to real-time opportunities for expanding the firm’s offerings. This day, the feedback was a jaw-dropper.

At first Bill smiled warmly thinking the GC was joking with him. But it became all too apparent that this was no laughing matter. Evidently, the client’s law department had changed its invoicing policies. They had sent the new written guidelines to the firm’s billing department three months in a row. And each month, the general counsel received an invoice from the firm in the old standard billing format.

The GC was incensed. How many months was it going to take for this law firm to make the required change? Bill quickly followed up back at the firm. It seemed that the billing clerk had filed three sets of new billing instructions dutifully in the client’s file. Bill handled the problem that afternoon and salvaged a potentially disastrous situation.

Has anything like this ever happened at your firm? You may not even be aware of some client problems if your firm is like most other law firms. Despite an unending pile of articles, (including one of my all-time favorites, “*It’s the Client, Stupid!*” by William J. Flannery), research, seminars, and presentations on interviewing clients for their satisfaction levels, the vast majority of clients have *still* never been asked in a focused face-to-face meeting how the firm or servicing attorney is

doing. Perhaps the greatest of all marketing opportunities, the basic client feedback interview, is still unbelievably under utilized.

Client Feedback Interviews on Steroids

Imagine taking the concept of a client feedback interview and putting it on steroids. This is what a Market Penetration Research Interview SM (MPR) is. These interviews go beyond basic feedback. In addition to finding out what an attorney or firm can do to improve the way it delivers services to a particular client, MPR interviews drill down to unearth otherwise unknown information about the client, find opportunities to expand the firm's services to other areas in the company previously unavailable to the law firm, and create opportunities to turn a somewhat satisfied client into a completely satisfied and loyal client of the firm.

Three Types of Market Penetration Research Interviews

There are three types of MPR interviews to consider:

1. MPR interviews focused on exceeding client expectations and expanding into other possible service offerings with existing clients.
2. Potential client MPR interviews to target, court, and convert *qualified* prospects into clients of the firm.
3. Lost or diminished client MPR interviews to uncover "moments of truth" as to why a significant client was lost and what possibilities remain for recovery.

We recommend that you consider utilizing all three types of MPR interviews. However, most likely, your firm should plan on spending about 80% of your time, energy, and marketing dollars meeting with existing clients, contacts and referral sources. The tried and true 80/20 rule applies to MPR interviews as well. Eighty percent of your work for the next twelve months will come from existing clients, contacts and referral sources so the emphasis rightly belongs there.

Certainly some marketing resources should be applied to targeted non-clients and lost clients. The return on investment (ROI) is not as poignant for these types of interviews, but the opportunities that surface are real and can be lucrative. We recommend that a firm allocate resources to the three types of MPR interviews according to the specific business goals established for the firm. Success stories are interwoven throughout this white paper.

Type 1: MPR Interviews with Clients

Over the last fifteen years it has become increasingly apparent to me that many lawyers still believe they "know" just what their clients want and need. Conversely, 90% of the MPR interviews we conduct with existing firm clients uncover some service glitch, complaint, or nuance that if acted upon in a consistent recovery mode, would significantly enhance the client relationship. These interviews can close the gap between "what might be" and "what is".

What sets MPR research interviews apart from typical client feedback interviews is the depth of the information gathered and the results (read new business opportunities) achieved. Our work in this area incorporates the analysis of two researchers, Thomas Jones and W. Earl Sasser, who published their findings in the *Harvard Business Review*. Their article, "Why Satisfied Clients

Defect” is arguably one of the most intriguing and pointed works published on creating complete client satisfaction and loyalty. (A copy of this article can be downloaded from the HBJ at www.hbsp.harvard.edu)

Failure to deliver what a client wants (which might presently be unknown to your firm) can lead to disaster. What should be highlighted is that *somewhat satisfied* clients tend to look to other service providers to meet their needs. In fact, according to Jones and Sasser’s research, 85% of clients who switched to other service providers were *not dissatisfied* with the service provided. They were simply *not delighted* with the service provided.

Doug Ingram, former corporate vice president and general counsel of Allergan, Inc., commented, “I was working with one large law firm that had assigned an attorney to us in a specialty area. This attorney was not providing the decisive advice we needed in a timely fashion. I told them that this attorney needed to be replaced by a ‘bread and butter’ specialist; someone with more experience. After my second request went unheeded, I simply switched firms.”

To avoid being switched off and having clients go elsewhere for legal services, savvy firms are training their partners in MPR skills including active listening skills that produce a deeper reflection of what it would take to make a client completely satisfied.

For a client to feel “listened to”, the service partner must reflect back to the client what was stated. Some attorneys resist this step because they think it is obvious to the client that the servicing attorney “heard” what needs to be improved. It is imperative that the outside attorney not only mirror back to the client what their service preferences are, but also how the law firm will “recover” or act differently. The proof for the in-house client is actually seeing the outside lawyer making the requested change(s).

Mistakes are a part of life. It is the recovery process of righting a wrong that demonstrates that the attorney stands behind the relationship. The recovery of an error is one of the strongest marketing opportunities that exists. Clients generally feel renewed vigor towards the relationship after the outside firm rights a service problem. This opens up the relationship for future opportunities and successful cross marketing.

Actual Results

Here are some actual client reactions and comments requesting a change in the delivery of legal services.

- After 30 minutes of probing with an important client of the firm, the client finally revealed that the in-house legal department had been very disappointed with a weak coverage memo written two years earlier by the law firm. In fact, the client had been so disappointed with the memo that it had retained another firm to write a second opinion. This client never complained to the first firm about the problem or the accompanying fees. Chagrined to learn about this blunder and its consequences, the law firm decided to compensate by providing four free hours of coverage work to the client, to be used any time the in-house attorney deemed necessary. This solution pleased the in-house client and prompted a significant amount of new litigation to be sent to the law firm over the following months. The relationship continues to this day.

- When I accompanied the managing partner of a one hundred fifty attorney-Los Angeles-based firm and visited a privately held, father-and-son owned company, we were greeted with accolades and great war stories. When the son was asked whether there was anything the law firm could do to make the service even better, however, he peered over his glasses, and said, “Well...I wasn’t going to say anything about this because it’s embarrassing. But you know that litigator you’ve been bringing around? The one who replaced your retiring partner?” The partner nodded. “Well,” said the son, “Pop hates him.” He added that they’d been interviewing other litigation boutiques to take over that part of the work. The very next day, the law firm’s managing partner brought a new litigator to meet father and son, thus salvaging the relationship and the litigation work.

Outcomes and Considerations

Merely surveying clients is not enough to maintain and enhance client relationships. Responsiveness in delivering client preferred nuances in the delivery of legal services continues to be significant in creating longevity in the client relationship. Clients want to be more than “somewhat satisfied” with their outside lawyers. Clients are looking for delight!

A lawyer should leave a MPR interview with more than basic service preferences from the client. Through the use of gentle probing strategies and looking outside of the box, an outside lawyer should, at a minimum, also discover the company’s long-term trends and needs. This information is beyond what can be found through secondary research channels. MPR interviews provide the perfect platform for a law firm’s attorneys to be more responsive to in-house lawyers number one complaint: “Our outside law firms don’t really understand our company.”

MPR interviews allow outside law firms to glean information about the client company, its culture, how it operates, how decisions are made, and what other possible legal services the client might need. The law firm crafts questions tailored to elicit in depth responses from the client. This is where the door opens to expand the service offerings to new practice areas of the firm.

- As in many MPR interviews, the general counsel of one large corporation had no idea of the law firm’s capabilities. This was infinitely frustrating to the law firm as it had spent tremendous resources trying to get their capabilities to be top of mind with clients. In this particular instance, the client told the interviewer that he was unaware that the law firm had a litigation department. The client was pleased that the managing partner of this law firm took the time to meet with him in this capacity. He set up a meeting with the in-house litigation counsel three weeks later. New work in the litigation area was given out at the cross marketing meeting and continues to this day. (And by the way, there was a small problem in the delivery of service with this client, which was easily resolved. The problem involved the over-staffing of a past matter as viewed from the client’s eyes. The firm offered 6 hours of reduced hourly work because the client felt it had been over-billed.)
- A large international law firm left the interview process with one client forming a partnering arrangement with the in-house counsel on a new technology venture as well as inviting the in-house counsel to be of a panel at a national conference. This enhanced relationship gave way to a steady rise in the “market share” of finance and transactional work being received from this client.

The most important outcome of this process for the law firm is to provide specific and meaningful feedback to the client after the interview. Let the client know that you heard their issues. Tell the client specifically what changes will be instituted and how you plan to follow up over the long term.

Do not interview more clients than the partners and marketing department can follow-up with in a meaningful way. Work with the marketing department to construct and measure the feedback. The servicing partner should check back with the client periodically to assure that the service changes (if any) have been implemented.

Who Should Interview the Clients?

When law firms consider conducting feedback interviews with their clients, the partners frequently disagree on this issue. There is no one “correct” answer. The most important thing is that the clients are met with face-to-face and actively listened to.

There will always be partner sensitivities in regard to interviewing clients. Questions arise such as, “Who is actually the service partner?” “Will we really get in-depth responses if we send the servicing partner in?” “Do you really think I am going to let another partner interview *my* clients?” “Shouldn’t we use a trained and objective outside researcher to conduct the interviews?”

It is our biased view that clients will give the most thorough responses and in-depth feedback to a well-trained objective outside interviewer. If your firm chooses this route, carefully screen the consultant. Find someone with strong references and extensive experience in conducting these interviews. Check the consultant’s references carefully.

With that said, we are strong proponents of bringing a firm partner with the consultant on these interviews. Based on the firm culture, the firm “interviewer” might be the servicing partner, or it might be the marketing or managing partner. What is most important about using this method is that the partners are trained in MPR interview techniques. Let the outside interviewer take the lead during the first interview so the partner can observe the subtle nuances of MPR interviews. Strive to let the client talk 70% of the time. The interviewer should ask open-ended questions which challenge the client to respond in greater depth and with more directness.

Some firms choose to conduct feedback interviews using firm partners and/or a skilled member of the marketing department. These types of feedback interviews can also be highly successful as long as the interviewers are trained in the process of active listening and various other feedback interview skills.

Moments of Truth – Recovery Issues

The proof is in the results. As stated above, approximately 90% of the MPR interviews we’ve been involved in yield some service error or glitch. This is actually the silver lining of this process. Service errors provide law firms with the opportunity to recover from the error and enhance the relationship. This is the “stuff” that creates complete client satisfaction and loyalty.

It is my opinion, the single reason most law firms do not regularly conduct feedback interviews with their clients is the concern that something negative might be said about the work or service

relationship. These partners are probably correct – something probably will come up but it is almost never of devastating proportions. Never in my fifteen years of experience has a partner found herself without an office to work in as a result of these interviews. In fact, if the service issues get resolved, the entire interview process brings the client closer to the law firm partner opening up the door for additional work and opportunities for expanding the firm's offerings.

Sixty-six percent of the client MPR interviews we have been involved in yielded new work within six weeks of the interview process. Would this work have come to the firm anyway? That answer is difficult to determine. However, the statistic is too great to be taken lightly. The message is that clients still want to be listened to and have their needs met. Remember the Harvard Business Review statistic that 85% of the time a client goes to another service provider, it is because the client was not *delighted* with the service. It is not because the client was *very dissatisfied* with the service.

Who Should be Interviewed?

Clients should be selected based on potential for opportunity as well as revenue. Law firms need to give careful thought when choosing clients to interview. Again, only schedule the amount of interviews in a given time frame that can be effectively followed-up on by the firm.

Type 2: MPR Interviews with Targeted Non-Clients

Cold Qualified Leads: Proper planning and research needs to occur for non-client interviews to yield positive results. There should be compelling evidence gathered before a law firm decides to spend up to 20% of its interviewing resources to meet with targeted non-clients.

These interviews are similar to client MPR interviews; however, the focus is more on the potential client's preferences for the delivery of legal services and technology beyond written guidelines, how they find and choose outside law firms, what other firms they are currently working with, if they ever give out work through the proposal process, and what they view as the most important industry trends from both a legal and non-legal perspective. Some law firms use interview results to develop a brief survey of trends in the industry that a partner might use in writing a future article for a trade publication.

Why Would a Non-Client Meet With Us?

This is a frequently asked question.

The answers vary. Statistically we find that 30% to 40% of the targeted non-clients where there is no warm relationship that we contact are willing to be interviewed. The law firm must be forthright in its approach to non-clients. Most in-house counsels are open to having a discussion with an outside firm about their company's preferences in working with law firms, their perception of industry trends, etc. There are times when the willingness of the in-house counsel is there but their schedules are too busy to accommodate such meetings. There are in-house attorneys who are simply not interested in meeting for their own reasons. These reasons may include the fact that

they have decided to reduce the number of outside firms they are working with or that they are totally satisfied with their current outside firms.

However, enough in-house counsels make themselves available for these MPR interviews that the process is worthwhile. It is a great way to meet potential clients and to start to develop a relationship with them. The process allows law firms to gain a significant foothold on the direction of an industry, to develop insight into a particular company's needs, and/or to deepen the firm's understanding of a particular segment in the marketplace. Many firms use the data gathered from a series of these interviews to benchmark their service offerings as compared to the competition.

Warm Leads: We find that close to 90% of contacts will meet with attorneys where there is some pre-existing relationship to discuss issues such as:

- How they find and choose outside counsel.
- What works in a good relationship with outside counsel? What gets in the way?
- What information does their company require before an outside firm can be considered to assist them in future legal matters?

What is the Return on Investment (ROI)?

Before a law firm decides to invest in this strategy, it must get commitments from interested partners who will continue to work on developing relationships with these targeted non-clients. There are times when an immediate rapport is developed between the in-house counsel and the law firm partner present. I have participated in several of these interviews where the visiting law firm attorney walked out of the meeting with one or more new matters in her hand. This is not the norm however.

Generally we can expect to convert about 10% to 20% of the in-house attorneys we meet with into firm clients over time. There must be consistency in the follow up. There also has to be a need on the part of the in-house attorney. The in-house attorney must develop top of mind awareness about the outside lawyer and her firm, which can take six to eight separate interactions over time. The marketing department should assist in integrating appropriate follow up. These potential clients must be part of the firm's strategic client development efforts – from branding initiatives to invitations to firm sponsored seminars.

When are the Best Times for a Firm to Use This Strategy?

A law firm may choose to interview targeted non-clients for a variety of reasons.

- A firm might be trying to expand services in an area of strength. The firm may choose to select non-client targets in a specified market segment. For example, litigation in a targeted SIC code or industry might be a major practice area for a firm or branch office. The firm might begin by conducting secondary research (analyzing existing data, trends, surveys, charts, deals, etc.). Based on the results, the law firm might narrow down the field in its geographic area using industry data and other information such as partner contacts with potential client companies. The firm should prioritize the targeted potential clients and focus on interviewing, for example, the five best targets.

- A handful of firm partners may put together a list of targeted non-clients in their geographic area they are not currently servicing, but would like to explore. Chances are greatly enhanced if warm contacts already exist between the firm and the targeted company. However, this is not essential for success. The idea is to make face-to-face contact with these targets and begin to develop an awareness of the potential client's needs.
- A law firm may have a practice area for which it is known nationally. This firm might target large corporations in specified geographic regions and target those in-house counsels responsible for this practice area.

There are many reasons law firms conduct MPR interviews with targeted non-clients. The critical attributes for success in developing long-term relationships with the non-clients vary. These include limiting the number of interviews conducted; following up with the potential clients over the long term; finding the empty spot or vacuum for that industry or client and filling the void with appropriate information, training, seminars, etc.; making each potential client part of the firm's strategic business development efforts; and listening reflectively to potential clients' needs and responding to them.

Type 3: MPR Interviews with Lost or Declining Clients

The process for conducting these interviews is very much like conducting client interviews. The caveat in this instance is that the firm is aware that the client has been lost or is vanishing quickly. Client sensitivity takes on an entirely new meaning.

The strongest recommendation in regard to conducting these MPR interviews is to set them up as soon as possible. With the current marketing software applications, it is relatively simple for most marketing departments or billing departments to run a report on clients with diminishing revenues. After a thorough analysis of such reports, the firm's management will be able to spot such clients.

If the client is diminishing over time, it is time for a quick client interview to assess the "damage."

If the client has disappeared, it is time to conduct a lost client interview. Obviously, these are sensitive. A strong managing partner, marketing director or outside consultant should prepare carefully for this type of interview. (We strongly recommend using an outside consultant for this type of interview.) Explore the trend as the work to the firm declined. Speak with every partner and senior associate who worked on the client's matters over the past two years to gain as much history and perspective as possible. The interviewer must become intimately aware of the nature of the problem(s), if possible.

Some former clients will decline to conduct a debrief interview with the law firm. Other lost clients will understand the business needs your law firm has surrounding the loss of an important client. If this client has ever participated in a proposal or beauty contest debriefing session, they will be more inclined to assist you in conducting a lost client interview.

What Questions Should Be Asked

Develop a list of 10 to 12 questions to explore. The firm may wish to ask:

- Was it a conscious decision to give less work to our firm or were there other causes?
- What were the primary problems that caused the work to decline?
- Were there specific service preferences we did not adhere to?
- How important was technology in the decision to provide less work to our firm?
- Are you giving out more work through formal or informal pitches, RFP's, and beauty contests?
- What information about your service preferences would assist us in understanding your needs more thoroughly?
- What are other firms providing for you that make working with them a positive experience?
- What can a law firm provide for your department that would be "value added?"
- Are there any suggestions you may have in order for us to rebuild our relationship with you?

To reinforce an earlier statement about conducting these interviews as soon as possible, consider this comment from a lost client.

"I would never consider using this law firm again. Maybe if they had called me within three to six months to find out what the problem was, I would have met with them and gone over some issues. But it has been over two years!"

Conclusions:

Market Penetration Research Interviews are one of the strongest marketing tactics any service provider can conduct with their clients. What would please your clients more than being asked, "What can we do to improve the way we deliver legal services to you?"

MPR interviews can deepen the client relationship and open the door to expanding service offerings. They also open doors for starting relationships with targeted potential clients. If used early on in a declining service relationship, they can be the pivotal point for turning things around. Essentially, MPR interviews create opportunities to make significant in-roads into a law firm's marketplace.

As stated earlier in the research from the Harvard Business Review article, the main objective in conducting feedback interviews is to create completely satisfied and loyal clients. Remember that 85% of clients who switched to other service providers were in fact *not dissatisfied* with the service provided. They were simply *not delighted* with the service provided. Any of the three types of MPR interviews can enhance a law firm's position in the marketplace. These interviews are a great use of firm resources for any law firm...just ask your clients!

TEXT BOX: Market Penetration Research: The Corporate Counsel Perspective

"I think this process is an excellent idea. The results produce a more meaningful dialogue and practical exchange," said Fredric J. Friedberg, Senior Vice President and General Counsel for Toshiba America Medical Systems, Inc. Friedberg, who agreed to a research interview we

conducted for a large national firm added, "This interview technique provides an opportunity for general counsels to specifically discuss likes, dislikes, and needs. An open dialogue is a much better forum for understanding needs in the business community."

Gerald Flannery, Assistant General Counsel and Director of Product Liability for Hyundai felt that the interview process gave him significant pause for thought. During our interview he not only articulated the specific criteria he uses in selecting individual lawyers from outside firms, i.e. trial experience, technical abilities, and aggressiveness, but he also pulled his thoughts together on the "passion about cars" that he looks for in lawyers. He feels this genuine interest in the automotive and engineering fields produces an extra spark in Hyundai's outside litigators that causes them to go the extra mile, so to speak.

Art Moore, Vice President for Intellectual Property of Avery Dennison commented that, "The firm that requested this interview was probably pretty surprised to find out that we were unaware of their litigation capabilities. They also found out that we were open to engaging them in a direct extranet link."

Michael G. Brown, former Vice President of Legal Affairs and Director of Litigation with Thrifty Corporation feels that, "This type of research process absolutely dispenses with the honeymoon period for outside firms. You are no longer basing your hiring choices on the fact that you have heard of a lawyer or firm."

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