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Like Riding a Bike: Defining a Lawyer's Value



By Patrick Johansen

It has been six years since the Great Recession hit as the ACC Value Challenge launched, resulting in a legal industry that has been focused as never before on one single—but not simple—concept: value.

The global financial crisis, which led to the Great Recession, prompted corporate America to evaluate its legal expenses, to question the value of its legal counsel, to push back on rates and fee arrangements, and to target its legal spend for cost reduction. In-house counsel suddenly inherited the power position: the legal industry became a buyer's market.

At the same time, the Association of Corporate Counsel (ACC) launched a national initiative to improve value in the firm-client relationship. The Value Challenge called upon the legal industry to reconnect value to the cost of legal services, to end the decades-long rise in law firm rates. Buyers and sellers of legal services needed to understand the principle of value.

Barely five years after the initiative's launch, most of the industry had adopted the language of value, according to Michael Roster, ACC Value Challenge chair. "No one was talking about value before we introduced it," Roster reflected in the fall of 2013. "We have changed the conversation."

The *Law Practice* archive certainly reflects this reality. In the five years pre-Great Recession, only a few published articles addressed 'value' in legal services. In the five years post-Great Recession, more than a dozen articles have been published (averaging two per year). Interest in 'value' has never been higher.

VALUE 101

Before societies had formal economies or pricing systems, early civilization operated on the barter system: an exchange of goods. In fact, the foundation of all economic activity is based on the concept of exchange. Today's global economy—from multinational manufacturers to small-town solo firms—perpetuates the buyers-and-sellers framework. This simple truth magnifies the significant role value plays in the economy.

Whether in the barter system or in the free market economy, the core of all exchange is value. Rational economics holds that a buyer will not trade for a seller's goods or services unless the buyer's perception of value approximates the seller's price. In other words, value is defined as the benefits received after accounting for the costs to obtain the benefits. Expressed as a mathematical formula, value looks like this: Value = Benefits - Costs (V=B-C).

Ron Baker, author of several professional services books, including *Professional's Guide to Value Pricing*, advocates for a slightly different approach. Baker believes value is tied to clients' ultimate measure of value: profit. Baker's formula looks like this: Value = Customer Profit - Price.

In both cases, value is a client-defined principle. In other words, no purchase is ever based solely on price. For example, the best-selling car in America—the Toyota Camry—has a base price higher than nearly every competitor in its class. In the legal industry, the BTI Brand Elite 2014 report found that certain firms are "worth the high rates in exchange for premium value." Why do buyers of automobiles or legal services pay more for certain products and services? Value.

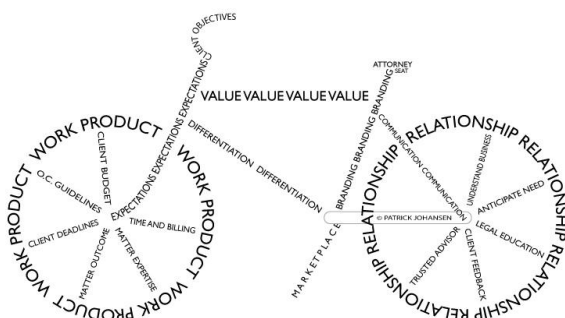
THREE VALUES

In general, the legal industry needs to consider three values: client value, firm value, and lawyer value.

Over the last decade, legal marketing has succeeded in promoting the idea of client feedback. Seeking the voice of the client is, subconsciously, a vehicle for getting at the basic question: how does your client define value? Client value is, of course, the most important of the three, and the industry is making progress.

As a part of the ACC Value Challenge, a group of law firm leaders attempted to enumerate the ways firms could go above and beyond. The Law Firm Value Committee published "51 Practical Ways for Law Firms to Add Value" to share best practices in such areas as matter management and fee structures. Law firm value is important, but it is unclear how many firms are focused on understanding and improving their value.

What has yet to be addressed is the question of lawyer value. In other words, how does an individual lawyer answer the question, "What is my value?" Until now, the industry has not had a good framework for understanding lawyer value. This framework not only helps lawyers answer "What is my value?," it also helps answer, "How do I improve my value?"



THE VALUE BIKE™

It has been nearly 200 years since Karol von Drais obtained a German patent for his two-wheeled invention, the Laufmaschine ("running machine"), often considered the forerunner of the modern bicycle. In fact, today's upright bicycle—the world's leading vehicle—bears a remarkable likeness to its centuries-old predecessor.

The basic framework is easily identifiable: a front and rear wheel, each connected by a tube to the frame, which

comprises three tubes. Add handlebars, seat and kickstand, and the familiar bike is assembled and ready to ride.

Adapting this framework to the legal industry, the Value Bike™ typogram illustrates the dozen-plus interconnected components that comprise a lawyer's value. Each component plays a role in helping a lawyer to attract, maintain, and grow client relationships.

Frame

The core of the Value Bike™ is its frame. The frame represents the lawyer and what he or she offers to the marketplace. Each lawyer's ultimate worth to the market is his or her Value—the top of the frame—which is supported by Differentiation and Branding, the keys to defining lawyer value.

- *Value – the central connector of all components, based on Differentiation and Branding.*
- *Differentiation – lawyers the power to stand apart from your competition; must prove why they are different (expertise, experience, client service).*
- *Branding – the stories lawyers tell.*

Wheels

The two wheels represent the foundation of the lawyer-client dynamic. The back wheel, which has all the energy to propel the bike forward, is the Relationship. The front wheel, which controls steering, is the Work Product.

- *Work Product – lawyers are hired first-and-foremost for their legal skills.*
- *Relationship – people hire people they like, and it is incumbent on the lawyers to make the relationship work.*

Spokes

The many spokes of a wheel help support and maintain the wheel's operation. Spokes of the Work Product wheel include Client Budget, Outside Counsel Guidelines, Client Deadlines, Matter Outcome, Matter Expertise, and Time and Billing. Spokes of the Relationship wheel include Understand Business, Anticipate Need, Legal Education, Client Feedback, and Trusted Advisor.

Work Product

- *Client Budget – the recession caused greater emphasis on budgets—especially tied to non-hourly fee arrangements*
- *Outside Counsel Guidelines – for clients that issue guidelines, they are the foundation of all expectations.*
- *Client Deadlines – as a general rule, deadlines typically trump all other expectations, because they are critical to the matter's outcome.*
- *Matter Outcome –clients do not expect promises, but they do expect their lawyers to discuss and meet goals, or explain why they can't.*
- *Matter Expertise – legal skills are table stakes; clients expect outside counsel to have expert knowledge and experience in a given area of law .*
- *Time and Billing – clients expect transparency and, to the extent possible, predictability in legal costs.*

Relationship

- *Understand Business – the key to any strong relationship is to understand the other side, and in-house counsel always rank this attribute number one in surveys.*
- *Anticipate Need – lawyers create the most value when they proactively counsel their clients.*
- *Legal Education – any touch a lawyer can create—especially with alerts, newsletters, CLE programs, face-to-face meetings— advances the relationship.*
- *Client Feedback – the voice of the client is to the true measure of a relationship.*
- *Trusted Advisor – the pinnacle of any lawyer-client relationship is David Maister's model of the trusted advisor.*

Wheel Tubes

The critical link of a bicycle is the wheel tube. Regardless of the frame's quality, the bicycle cannot perform without its wheels, which are dependent on the wheel tubes to facilitate the connection. The Work Product

wheel is connected to the frame by client Expectations. The Relationship wheel is connected to the frame by Communication.

- *Expectations – clients hold a certain set of expectations when they engage lawyers to assist with their objectives, and those expectations are key to a matter’s success.*
- *Communication – communication, whether professional or personal, is key to a lawyer’s relationship with his or her clients.*

Note the proximity of the wheel tubes with the frame tubes. It is no coincidence that Expectations - Differentiation and Communication - Branding are connected. These dynamic pairs are intertwined: the differentiation the lawyer promotes adds to the client’s expectations, and the branding effort only succeeds with the right communication.

Handlebars and Seat

The handlebars represent the client: in charge, directing Work Product via Expectations. In contrast, the lawyer is on the Attorney Seat, putting forth the effort to pedal the bike, with energy directed into the Relationship and going wherever the client steers.

- *Client Objectives –the lawyer must know and support the client’s objectives well enough to be able to grab ahold with both hands and be confident moving forward.*
- *Attorney Seat – the bike only moves with a lawyer’s input of energy (aka marketing and business development), which begins with, and is supported by, the lawyer’s Branding and Communication efforts.*

Kickstand

Among the smallest parts, the kickstand plays a significant role on the Value Bike™. It represents the Marketplace, where competition tries to gain the attention of clients when the wheels stop spinning. Like the kickstand, the marketplace is not relevant when the wheels are working, but is a critical factor when the wheels stop spinning. For example, a flat tire—no work or no relationship—allows clients to survey the market. No matter how strong the good tire is, a flat stops the whole bike.

SOME ASSEMBLY REQUIRED

The Value Bike™ is now ready for assembly.

The first component a lawyer must assemble is the frame. The lawyer, as seller, must persuade a buyer that he or she is worth a certain value. The lawyer relies on Branding and Differentiation to sell services, and will promote Value with value propositions. With the core of the bike assembled, a lawyer next focuses on Relationship.

In the case of a prospect, the lawyer is putting all of his or her effort into the rear wheel, as there is no work from a prospect, essentially effecting a ‘wheelie.’ With only one wheel on the ground, it is easy to understand the uncertainty and fragility of a prospect relationship. Not until the front wheel hits the ground (upon receipt of an engagement letter) is the relationship stable.

In working with clients, lawyers tend to focus on the work: Work Product. That is a lawyer’s comfort zone, and that is where the client’s Expectations lie. Such a focus ignores the equally critical Relationship wheel, however, and leads to instability.

In addition, the dynamics of riding a bike are important to bear in mind. Like riding a bike, a good deal of effort is required to get the bike started. Once the ride commences, the effort is reduced to regular input of energy. It still requires effort, especially if Expectations are high; however, sometimes the pedaler may find an opportunity to coast. Just remember: if you coast long enough, the bike eventually comes to a stop, and that brings out the kickstand. Also, even if the ride is going well, the client can apply the brake to survey the marketplace (e.g., a competitor’s promotion).

RIDING THE WRONG BIKE?

Just as the modern bicycle evolved from von Drais' "dandy horse," the legal industry has gone through its own evolution: for example, from apprenticeship to law school, and from partnerships to corporations.

Over the centuries, lawyers have adopted value models that closely approximate three unique bicycle models:

Tricycle. The most well-known model is the tricycle. Lawyers tend to put their emphasis (i.e., pedaling) on Work Product, which enlarges the front wheel at the expense of a shrinking Relationship. Even worse, lawyers have a tendency to bifurcate their Relationship: the smaller wheels represent minimal investment in client development and prospect development. The result is a vehicle that is not as quick or as nimble as a bicycle.

Penny-Farthing. Too often, lawyers try to ride the old-fashioned, 'Hi-wheel' bicycle popular in the late Victorian era. They put most of their emphasis (i.e., pedaling) on Work Product, which enlarges the front wheel at the expense of a shrinking back wheel. The tall front wheel makes mounting rather difficult and falling rather painful. Without a comparable Relationship wheel, the penny-farthing model doesn't offer a balanced approach, to bike riding or to value. There is a reason this model died out more than a century ago.

Unicycle. The least-effective model is the unicycle. Too often lawyers think of Relationship and Work Product as two separate activities (i.e., wheels), riding only one wheel at a time. Without a value frame and second wheel, the lawyer's effort is very inefficient and very unstable. For example, if a lawyer decides to focus on Work Product alone, Expectations not only serve as the only connector between lawyer and client, they also become the full support of the engagement. More importantly, legal work becomes a "pay for services" offering without any connection to value.

From these failed examples, it is clear that a successful model is a bicycle with two equal wheels supporting a strong frame. For lawyers, this requires equal effort in Work Product and Relationship, along with strong branding and differentiation. The right bicycle model for lawyers is the Value Bike™.

FIRM VALUE

As lawyers strive to understand the Value Bike™ framework and to improve their cycling performance, they should understand that, like road bicycle racing, value is a team sport. All lawyers are tied—at least in part—to their firms' marketing efforts. Therefore, a firm should utilize the V=B-C formula to understand its own value. A firmwide value initiative would help pave the road ahead of its lawyers, providing a smooth pathway for the sloop of bicycles serving clients and seeking prospects.

About the Author

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