

Online Strategies for Law Firms 2004 Release 2.0

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An Insider White Paper published by Legal Technology Insider Limited
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PREFACE TO THE 2004 EDITION – RELEASE 2.0

It was while attending a recent legal IT awards ceremony when, during the later, more alcohol-fuelled stages of the evening, one of the guests confessed to me that he had borrowed a substantial part of my old *Online Strategies for Smaller Law Firms* white paper and used it as the basis for his MBA dissertation!

Clearly he realised that if he appealed to my vanity, I would forgive anything. The experience did however make me realise that there was obviously still life in the old white paper (which was originally published back in the autumn of 2001) and so, with that thought in mind, I set about revising and updating the document, firstly, to broaden its scope – so it now encompasses some wider marketing issues and will hopefully appeal to firms of all sizes – and, secondly, to reflect the fact that the dotcom bubble has well and truly burst since the first edition came out.

Incidentally, at the time of preparing this Preface, there were an estimated 27 million adults in the UK with ready access to the internet and online services – that's 55 percent of the population.

Finally, if you do wish to borrow parts of this document for your own purposes – feel free – providing you give me and the Insider a reasonable credit.

...Charles Christian, May 2004

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THE JOINED-UP STRATEGY VERSUS THE SEMI-DETACHED STRATEGY

It is - or at least it should be - a fundamental principle of modern law firm management that before you embark upon any new project, you first devise a strategic plan that will help define not only what objectives you are hoping to achieve but also what the likely benefits will be to the practice of pursuing these objectives and why this particular course of action is most likely to realise these specified objectives. Unfortunately over the past five or six years, when it comes to the internet, far too many law firms have been guilty of throwing caution and common sense out of the window and hurling themselves into ill-conceived online ventures that are, at best, unprofitable and, at worst, counter productive. Blame excessive enthusiasm or even the dotcom mania that once gripped the commercial world, either way, both can usually be traced back to a fundamental failure of strategy.

In fact, if we are going to be cynical about this, the approach of most law firms to online services falls into one of the four categories...

1. Firms who are doing nothing about the internet in terms of the implementation of systems or strategies
2. Firms who still harbour delusions that the internet will transform their practices in some crazy dotcom boom way, citing paradigm shifts - whatever they may be - and Richard Susskind's latent legal market theory
3. Firms who are doing something online - but are making a great deal of noise about it
4. Firms who are doing something online but realise it is now just part of the wallpaper and that, for example, offering clients extranet/online case tracking facilities is now a standard part of the overall client service package

The starting point for any discussion about online strategies and the internet in general must be with the premise that the internet is not an end in itself but merely a tool to help implement a law firm's overall business and practice development plans. In other words, the emphasis is upon the creation of a joined-up, rather than a semi-detached, business strategy. To be effective, your online strategy must therefore be not only an extension of

your firm's conventional or offline marketing strategy but also of your firm's overall business and practice development strategy. As such, it should bring together the ambitions and inputs of your technology, marketing and practice management people, as well as your fee-earning lawyers.

Unfortunately, in far too many firms, the online strategy proves to be a stand-alone initiative commenced by the marketing department, the IT department or even a couple of forceful partners within one department and, as such, it can only ever be a semi-detached part of the firm. What, if anything, is wrong with this? Leaving aside the more general issue of the importance of ensuring a practice-wide commitment and buy-in to any online strategy, the inherent risks associated with the semi-detached approach include:

- Inability to integrate technology - so the IT systems supporting the website cannot talk to other case and practice management systems a firm may use, without a data conversion and/or re-keying exercise.
- Incompatibility of data - so client and matter records generated by the website cannot be integrated with other data. Along with the loss of marketing and practice management information, it could also expose a firm to conflict of interest and file handling risks.
- The creation of a blurred or even conflicting brand image. If a firm is trying to project an image as a specialist practice undertaking high end or premium legal work for its clients, it may seriously undermine this image if it is simultaneously selling cut price legal forms off a website.

To avoid such problems, do not think of the internet as purely a technical or marketing issue. Instead, think of it as an integral part of your overall practice and business development strategy. Firstly, think where do you want to go with your firm generally - which parts of the practice or types of work you want to develop - and then consider how online marketing strategies and technologies could complement these objectives.

As you will see from a later section on the different online strategies available to law firms, there is still some debate on the route to be taken by the traditional law firm as it evolves from its current bricks-and-mortar format. Does the future lie with an all-online virtual legal practice where clicks-and-portals are the order of the day? Or, should the role of technology be to complement the work of the lawyer in a clicks-and-mortals scenario? In an evolving market, there is, as yet, no clear answer and, to some extent, the answer is academic, as strategies that work in some firms or with some clients may be inappropriate in other settings. What is important is that lawyers start to appreciate that the world has changed and that they need to accommodate these changes in some way or risk being left behind.

It is inconceivable that a law firm would try to operate today without a telephone. It is equally inconceivable that any law firm would not publicise its phone number in appropriate trade directories, phone books - including Yellow Pages, and promotional

literature. The internet (and email in particular) is the new telephone and the world-wide web is the new Yellow Pages. And, just like the solicitor without a telephone, the law firm that tries to ignore the internet and/or does not develop an online strategy, risks having a profile so low that it will be virtually invisible to its clients, commercial contacts and potential clients.

DEFINING AN ONLINE STRATEGY

As mentioned in an earlier section, one of the classic definitions of marketing is defining the needs of a particular audience - in this case your clients and prospective clients - and fulfilling those needs with a particular product or service. Unfortunately, the prevalence of semi-detached initiatives within the legal market means that many firms approach this proposition from the opposite direction. They first devise a product and then try to foist it upon a (mostly) disinterested audience! The advent of the internet has served only to accelerate this trend as law firms, observing some of the novel (and subsequently proving to be commercially disastrous) business models being launched across the wider online services field during the late 1990s and early 2000s, have followed suit with their own online offerings.

Examples of this trend have included the provision of commoditised online legal products and services. It may have worked for Linklaters Blue Flag but the majority of law firms to have gone down this route have found very little take up, with firms reporting only a handful of online instructions during the course of the year for even budget priced services, such as document downloads. Another instance has been the virtual dealroom systems, where some larger City law firms spent millions of pounds on bespoke development projects during the period 1999-2001. Despite the huge investment, research conducted by the magazine *Media & Technology Adviser* in Spring 2002 found that out of a panel of investment bankers and corporate counsel who had used them, only 16% would willingly use them again, the rest viewing them as “a waste of time” and less efficient than email.

Although there are a number of possible explanations for these mistakes, including the tendency for law firms to jump on the bandwagon to keep up with their peers whenever a new technology trend emerges, the fundamental cause is usually getting the basic marketing strategy wrong. Or, as the old cliché would have it: there may be a niche in the market but is there a market in that niche? Just because no-one has tried a particularly novel approach to delivering legal services online before does not necessarily mean there is an untapped demand for that approach. It may be that no-one else is delivering services that way because they are smart enough to realise that nobody wants that type of service!

One of the difficulties here is the self-serving market research some firms conduct, where the questions inadvertently generate the answers the lawyers want to hear. For instance, if you ask a sample of your commercial clients whether they would like to have access to online legal services and information on a 24/7 basis via the web, most clients will probably say “yes” - not least because they want to be perceived as switched-on, go-

ahead businesses. But asking whether and how often they will actually use them or be prepared to pay for them, may provide a different response.

This has been the experience of a number of firms involved in the volume conveyancing sector, typically instructed by banks, estate agency chains and mortgage lenders. One of the market leaders had invested in a very sophisticated web-enabled case management system that allowed clients to submit instructions online and monitor the progress of individual conveyancing matters via a secure extranet link on a 24/7 basis. The firm in question had no doubt that possessing this technology and its ability to offer online facilities was a key factor in helping it differentiate itself from other firms in beauty parades and go on to win new business. Yet, despite the apparent enthusiasm of clients and prospective clients for these technologies, very few actually made use of them. In some instances, this was because the clients themselves lacked the in-house systems to access them, as many financial institutions still have 'green screen' or dumb terminals in their branch offices or stand alone PCs with no internet access.

There is, then, a very great danger that when it comes to online services, law firms may find themselves ahead of the game, offering services for which there is not yet any demand.

SWOT analysis

Given the unreliability of less-than-scientific research and product-led online initiatives, it may be more productive for firms to try to define their online marketing strategy by employing a SWOT analysis to look at their strengths and weaknesses, as well as the opportunities and threats they face. Factors to consider here include:

- Where are you actually making money at the moment and where do you hope (realistically) to be making it in the future?
- Do you have any particular skill sets - such as fee earners who are fluent in foreign languages or areas of legal expertise that help differentiate you from your immediate competitors?
- Are there any new business opportunities opening up in your geographic area such as a new business park or office development that will bring in potential new clients? Remember that it could even be a 'virtual' opportunity if you have a growing number of clients involved in technology services who are more likely to be interested in online services than more traditional clients.
- Are there any obvious weaknesses you possess or threats you face, such as a national law firm taking over a rival local practice and so facing you with competition of a more sophisticated nature than you have encountered before?
- What do your clients really think of the services they get and in what ways could you improve the way in which you deliver legal services to them?

Incidentally, it is best not to ask clients directly if they are happy with your level of service as, out of politeness, they will probably give you the answer they think you want to hear (more self-serving market research). Instead, use intermediaries and/or independent agencies to sound them out on an informal basis to ascertain if there are any causes for concern, bottlenecks to overcome or enhancements that could be offered to make life easier for them. Typically clients will be interested in anything that saves them time, saves them money and/or helps them keep track of the progress of matters. And, don't just stop with clients. Talk to your regular business 'partners' and associates, such as estate agents, barristers' chambers, insurance companies, local authorities, mortgage lenders and banks. If they have email services and websites, they may also be interested in creating online links between your offices and themselves.

No room for complacency

There is a tendency for complacency among long established law firms, particularly larger High Street practices, that runs along the lines that "people will always need lawyers and we've heard all these tales of fear, uncertainty and doubt before but have come through unscathed, so why should we worry now and start spending our hard earned profits on online ventures?" It is an understandable point of view but, even if the points made earlier in the SWOT section have not run any alarm bells in your practice, the following threats may not be so easy to dismiss.

- The client is king and more demanding: The traditional client relationship has been stood on its head. Clients no longer treat professionals with the due deference they did in the past. Instead, lawyers are now treated as just another service provider and the client expects them to provide their services quickly, efficiently and cheaply. It has become a buyer's market for legal services. And, not only are clients more demanding, but, even where a law firm does a good job for them, there is still no guarantee that the client will not challenge the bill and ask for a reduction in the fees being charged.
- Competition is on the increase. In contrast with the past, solicitors now face competition from not just other law firms but also alternative suppliers of legal services. The high street banks are taking a large slice of the probate market. Many home buyers will select the conveyancing services recommended by the building society/estate agency they use. And there are a growing number of other newer or more novel legal advice and assistance services available including: Claims Direct-type claim management companies, Community Legal Service agencies such as Citizens Advice Bureaux, legal expenses insurers, legal assistance services tagged on to insurance cover (which, in particular, is taking away a huge amount of employment work from law firms) and various forms of online legal advice and assistance.

Employment law, family law, conveyancing, probate, motor/RTA and personal injury claims are all areas of legal work that were once the preserve of law firms

but are now in danger of being irrevocably lost to the 'one-stop-shop' legal supermarkets and other alternative providers of legal services. It is also worth noting that nearly all these alternative suppliers already include - or else are planning to include - some form of online element to the way in which they deliver their legal services.

- Client-facing technology at large. An additional problem for solicitors is that while they continue to deliver their services in a traditional way - face to face consultations, real-time telephone conversations, postal communications and relatively rigid 9-til-5, weekdays only opening hours - there has been a revolution in the way other services are being delivered to both businesses and consumers.

Starting with the bank hole-in-the-wall ATM machine and moving on to today's 24/7 online e-commerce systems, the introduction of these client-facing technologies has not only served to provide consumers with a more convenient service but - by comparison - it has also made traditional services look slow, dowdy and inefficient. If you can use an online service to buy a book at any time of the day or night, or track the progress of a parcel you are sending from one side of the world to the other, why can't you buy legal services from your solicitor at 9.00pm on a Saturday night or log on to their website on a Sunday morning to check the progress of your matter? The problem is not that the service of solicitors has deteriorated but that the rest of the world has moved on and left the legal profession behind.

- Client loyalty is dead or at least fickle. Not only has the client become more demanding but, even where the client appears satisfied with the way a firm has handled a particular matter, that firm can no longer assume it will automatically win instructions for subsequent work. As any solicitors in the residential conveyancing market will confirm, clients will now shop around every firm in their local area and place the work with the practice offering the best or cheapest deal. And, an increasingly similar situation prevails in the commercial and business law area, with clients regularly reviewing the work of their lawyers, cutting back on the size of their panels and requiring firms to go through periodic beauty parades if they wish to win or retain business.
- Differentiation - but not on price and quality. Faced with such competition and challenges to their traditional role as the primary source of legal advice and assistance, law firms need something that will help give them a competitive edge so that they can stand out from the crowd. In other words, they need to be able to differentiate themselves from the competition. Unfortunately, the two most widely employed differentiators in the commercial world - price and quality - are not readily available to law firms.

The only way price can go is down and with many high street firms only just breaking even at the moment, to engage in a price war will result in firms running at a loss and going out of business, as many cut price conveyancers have already

found to their cost. In addition, the banks, building societies and insurance companies have deeper pockets and are better placed to sustain major marketing campaigns to promote their low cost services to a wider audience than any law firm can reach. As to quality, most law firms already offer broadly the same high level quality of advice (within their area of legal competence) and professional rules mean - quite rightly - that offering a lower quality service is not an option.

If most law firms cannot compete on the basis of price and quality, then the remaining way in which they can differentiate themselves is in the way they deliver their legal services. It may involve packaging or commoditising legal services in a new way or it may involve introducing new mechanisms and approaches for dealing with clients, so that the service is more convenient, faster and efficient. Either way, it is also going to involve the introduction of some form of online strategy.

- Defensive - if you don't, they will. It may be that your particular firm has a well established niche practice and is not under threat from some of the alternative suppliers of legal service mentioned elsewhere in this chapter, but that is no reason for complacency. For example, what about other solicitors' practices? What if they start embracing online strategies, thereby at a stroke making the way you deliver your services look old fashioned and inefficient? What happens then? Will your clients remain loyal or will they - as has happened in so many other markets - transfer their business to the other firm? In a fast moving, competitive world, you cannot afford to remain standing still. You must be constantly reviewing, adapting and improving the service you offer, if only for defensive reasons because, if you do not move with the times, you will surely be left behind by the firms that are prepared to evolve.

THREE ALTERNATIVE ONLINE STRATEGIES

For the purposes of this chapter I have split the online and internet strategies pursued by law firms today into three broad categories. The pros and cons of each of these approaches are discussed in turn.

- Marketing websites. This is generally a means of promoting traditional legal services in new ways. This covers everything from basic brochureware websites, through to pre-meeting questionnaires and using online marketing referral panels. With 'simple' marketing sites, the firm's legal services are usually still delivered by traditional means.
- Virtual legal practices. Using new technologies to deliver new types of legal service in new ways. This covers everything from virtual law firms - lawyers with no formal offices - through to online legal service earning fees while you sleep without the intervention of any lawyers. This is the clicks-and-portals option.

- Web-enabled legal practices or, in other words, using new technologies to deliver traditional services in new ways. This covers everything from electronic mail to virtual dealrooms. The objective is to provide an added value service that benefits both the client and the fee earner. This is the clicks-and-mortals option.

Marketing websites

Marketing oriented websites are not only the most widely deployed online strategy among law firms of all sizes (about 80 % of legal websites fall into the basic brochureware category) but they are also the logical and essential starting point for any strategy. Start with something simple and then build upon these foundations as your firm's experience and expertise grows.

The benefits of marketing websites come in various different shapes and incremental guises, each with their own benefits and attractions.

- The basic brochureware site is, as the name implies, an online version of the traditional promotional leaflet. It tells its audience who the firm is and what it can do for its clients. But, unlike the traditional brochure, it can be amended and revised at short notice (within a matter of minutes in fact) and without the delay and expense of a major reprinting exercise. And, you do not have to create a mailing list of people to be sent a copy of the brochure. Instead, your website is your shop window that is open to the world on a 24/7 basis. You can (and should) push your site to key targets but the beauty of the web is that they can (and will) find you.
- The next stage for most firms is to add some form of interactivity, so the website becomes open to two-way traffic. Typically this will involve either email links or a forms facility inviting visitors to the site to respond if they would like a quotation or further information about a particular service.
- Another permutation is the content rich site, serving as a honey pot to attract regular visitors - who you hope will subsequently become offline fee paying clients - to your website. Tactics here can include: providing commentaries on recent legal developments - particularly those relating to your firm's specialist areas of legal practice; email newsletters; and free document templates and precedents. The underlying theme is the same: "Come to our firm, we know our law, we are nice people to deal with - and we even provide some free advice and information to prospective clients".
- Many firms will take their marketing activities one stage further by adding features to their website that make life simpler for prospects poised to become actual clients. For example, you may include some form of online quotation system or fee calculator, so that a client can submit their own information (such as the purchase price of a house in a conveyancing matter) and receive an answer back from you on the legal fees you would charge for handling that work.

Alternatively, you may use the website to gather the basic pre-instructions client and matter information you traditionally collected during the first half of the first face-to-face meeting with the client. The attraction of offering an online questionnaire is that the client can complete it at their convenience and, more importantly, it makes better use of your lawyer's time, so that the first meeting they have with the client, they can focus on substantive issues rather than less (or non) profitable routine administration.

- Finally, a still popular option is for law firms to link their websites to a third-party legal directory/marketing referral/lawyer locator service - in effect an online version of Yellow Pages. Two of the most widely used are the Law Society's Solicitors-Online site at www.solicitors-online.com and the Legal Services Commission's Just Ask site at www.justask.org.uk. These may be generalist, geographical or legal specialism based but the underlying principle is the same. : By subscribing to one of these services, the firm will be supplementing its own marketing activities by piggy-backing off the activities of a larger organisation that has greater resources and so can help drive web traffic and new business leads to individual firms.

The drawbacks of marketing websites

Inevitably there are potential drawbacks with any form of online marketing.

- Before committing to online marketing, it is essential for law firms to start thinking digital. For example, it is no use having a website offering email links if no-one in the firm ever checks and deals with this email account on a regular basis. A recent survey found that when faced with a request for assistance from a prospective new client, only 50% of the firms in the sample responded within 24 hours and 10% were found to have the wrong, incorrectly formatted or inactive email addresses. Such performance creates a negative impression. It is better not to have a website than to have one that generates the subliminal message that you are a slow and inefficient practice. The same consideration applies to having a foreign language version of your website. By doing this, you are inviting responses from non-English speakers, so you must ensure that you can deal with their queries.
- Do not give away the family silver. Another common problem is the site, which is so content rich that prospective clients can obtain all the legal information they need, without having to pay any fees. There really are sites out there that give away huge amounts of very useful - and free - information, documents and advice. Unless you are a registered charity, curb this generosity! The objective is merely to whet the appetite - so perhaps give away a few spoons - and not to provide them with an alternative to paying for your services.

- Is there an adequate marketing budget? Do not believe people who tell you that if you use the right sort of meta-tags (hidden indexing data) your website will sell itself. There are millions of new pages of information being added onto the internet every day, and there are dozens of different search engines and they all use slightly different methods. Yes, meta-tags can help but, essentially, you still have to promote your website to the wider world through conventional advertising and promotional methods. So, make sure your marketing budget is up to the job. And, if you are thinking of signing up with a referral service/online directory check that they have an adequate marketing budget too.
- Evaluate your responses and monitor the NCV (non-commercial value) to fee earning conversion rate. Do not operate your online marketing activities in a vacuum. Monitor the responses: Are you getting any leads? Are they the right sort of leads or are you merely attracting inquiries about work you are not interested in handling? And, are the leads being converted from prospects into commercially viable fee earning clients? For example, some firms have reported that although, thanks to having free advice available on their websites, they were attracting a lot of enquiries from members of the public (so much so that some lawyers were unable to get on with their existing fee earning work) they had absolutely no success in converting these leads into new business. Again, it is better to cut back on or abandon such free services if they are proving a financial distraction.
- Finally, ensure any marketing information is protected by adequate disclaimers of liability. A solicitor-client relationship can arise in any situation in which a lawyer is dispensing legal advice regardless of whether it is charged for or being given away free. Similarly, a number of legal websites have blurred the distinction between generic legal information - which should not lead to professional negligence/indemnity issues - and tailored legal advice, which can give rise to liability.

Virtual legal practices

Is it possible to use new internet type technologies to reinvent the legal process and deliver new types of legal service in new ways? This covers everything from virtual law firms - lawyers with no formal offices - through to online legal services earning fees while you sleep without the intervention of any lawyers. This is the clicks-and-portals option.

Probably the best-known example of virtual legal practice in the UK is the Linklaters Blue Flag service. This focussed upon a number of specialist areas of law and broke down the practice issues into a series of commoditised products. These include a country-by-country guide to corporate investment regulations throughout Europe and a D-I-Y contract assembly facility for derivatives trades. So, although lawyers were used to create (and are still used to update) the various products, the virtual services client (and it must be stressed that the services are designed exclusively for blue chip banking clients

operating within the international capital markets) has no ongoing contact with them and instead buys the services directly from the Blue Flag website.

Although Blue Flag operates very much at the premium end of the legal market, the model has been widely followed by both other firms and alternative legal service providers such as Desktop Lawyer (a company that typifies the whole dotcom experience as it went from rags to riches and back to rags again within a two year period – however its founders bought back the business from the receivers and it is once more trading) so that today, there are now approaching 200 sites where you can buy online legal services, varying from simple “holiday from hell” complaints forms costing a couple of pounds, through to complex international financial services compliance advice costing tens of thousands of pounds. Most services offer some form of backup from lawyers - typically to help members of the legal public who are confused by the legal process -and a growing number now also offer payment facilities via a secure online credit card transactions.

It should also be mentioned that a number of firms are experimenting with internet technology to create virtual law firms. Instead of having a group of lawyers joined together in a partnership and working from a bricks-and-mortar office, these virtual firms exist primarily in cyberspace with only a handful of permanent staff and bring in other lawyers from a network of associates on a matter-by-matter basis. The V-Lex virtual solicitors chambers is the best known example of this approach in the UK..

The benefits of virtual legal practice

- Convenience - Clients can access the information they need or downloadable documents and precedents they want at any time of the day and night, without the inconvenience and delay associated with the traditional legal process, including making an appointment for a face-to-face consultation with a solicitor. It is the 24/7 approach to services that people are coming to expect in the modern world and is particularly pertinent for expert buyers of legal services, typically commercial clients with in-house legal departments or technology clients.
- Look - no fee earners! - Once the service has been set up, it not only operates without any further intervention by lawyers but even allows firms to make money while their fee earners sleep. The real benefit here is that it frees lawyers to concentrate on higher paying consultancy style legal work typically conducted in the traditional way, while the budget priced commoditised services can be delivered automatically via online systems.
- Create once, sell many times - Increasing productivity and profitability has always been a problem for law firms, given that there are only a limited number of hours in a day that a fee earner can work, so that any increase in the volume of business handled can usually only be achieved by employing more fee earners. With commoditised legal services, however, the lawyer only has to create the legal product once but then can sell it on multiple occasions, thus both increasing productivity and the profitability of the work

- Opening up the latent legal market - Slightly more controversially is the idea that commoditised legal services might unlock a latent demand for legal services. Its best known exponent is Richard Susskind in his books “The Future of Law” (OUP 1998) and “Transforming the Law (OUP 2000). The theory here is that there is a section of the community who need access to legal services but, for whatever reason, are currently reluctant to use the facilities of traditional suppliers of legal services, such as solicitors. This is the latent legal market and the suggestion is that if legal services were delivered in a different format, such as via the internet, the latent legal market would buy them.

The drawbacks of a virtual legal practice

- Can you commoditise your legal services? The commoditised approach works well with such products as downloadable documents and precedents but does your firm undertake the type of work that can be handled in this way? For example, it is very hard to see how many aspects of criminal, family and commercial work could be sliced up into commodity products that could then be sold without the assistance of a human lawyer.
- Is there a latent legal market? The jury is still out on this one but the concern is that instead of expanding the market for legal services, commoditised products will merely cannibalise the existing market. The result may therefore be that clients who used to place their legal work with solicitors practices will now instead merely switch it to an online service. It is also worth noting that Susskind himself says that the emergence of a virtual legal market is a long term development that could be 20 years away.
- Technology and infrastructure issues. The creation of a virtual legal practice also involves a potentially substantial investment in supporting technology, e-commerce systems and marketing campaigns to promote the service. It is worth noting that whereas with a ‘simple’ marketing site, the website is used to promote the firm, if you are selling legal services directly from a website, the firm will have to promote the site.
- Is there any real money in it? As with all legal services, the objective of any law firm is to make money but, with one or two exceptions, the evidence to date suggests that most smaller firms are not making any money out of their online legal services. The big problem seems to be the lack of demand, with firms reporting only a handful of online instructions during the course of the year for even budget priced services, such as document downloads. In fact, taking into account the technology, marketing and infrastructure issues mentioned previously, it appears that most virtual practices are failing to break even.

It is also worth noting that the Summer of 2001 saw the financial collapse of the original commercially based Desktop Lawyer service. Despite extensive

marketing activities over the previous two years, the service burned through £7 million of its investors' money before going into voluntary liquidation. (Its founders have since bought back and relaunched the service.) Its co-founder Richard Cohen, who re-acquired the assets to the company (which has since resumed trading) said at the time that they would no longer be actively promoting their DirectLAW system, which provides a technology platform for smaller solicitors practices to deliver online and e-commerce services to their clients: "Because there is no money in it. You can advertise your online legal services until the cows come home but there are not the volumes of consumers and SMEs out there to buy these services. The only organisations that are going to make this work are either the very large law firms or organisations like insurance companies who already have a captive audience for their services. I really do believe the internet is the way legal services will be delivered in the future but we thought the market would move a lot quicker than it has done. With hindsight, I can see we were ahead of the times and that we are looking at maybe another five years before the demand for online legal services really takes off".

- Conflict with traditional services. One problem reported by some firms that have gone down this route is that offering budget priced commoditised services on a website can create conflicts with a firm's traditional premium priced consultancy services. If you are offering clients completed documents off the web for £30, it can be difficult to justify why you propose charging £150 an hour for just a meeting with a partner. At worst, it can be counter-productive leading, as has happened in some cases, to clients complaining they have been 'ripped off'. At best, it can blur or confuse the brand message the firm is trying to promote.
- Professional indemnity issues. From both the point of view of your professional indemnity insurers and the Law Society's Solicitors Practice Rules, it is essential that you 'know your client', so as to avoid potential risks such as conflicts of interest, fraud and money laundering or - in the case of online wills services - impersonation and undue influence. This risk is particularly prevalent on the internet, as the nature of the technology makes it relatively easy to disguise a user's true identity.
- Do real people want real lawyers? The apparent lack of demand for online legal services, plus anecdotal evidence (such as the closure of part of the Marsons call-centre based conveyancing factory in early 2001 and the collapse of the Desktop Lawyer service) suggests that we are not yet ready for the virtual legal practice. Real people, it seems, still like to deal with actual lawyers.

Web enabled legal practices

The essence of the web enabled legal practice is to use new technologies to deliver traditional legal services but in new ways. It covers everything from electronic mail to virtual dealrooms but the underlying objective is the same: to provide an added value service - that little something extra that makes your firm stand out from the crowd - in a

way that genuinely benefits both the client and the fee earner. Yes, you are using technology but in a context that complements rather than seeks to replace or devalue the lawyer's personal role in the legal services scenario. This is the clicks-and-mortals option.

Research suggests that one of the most common complaints about lawyers is that they do not keep their clients well enough informed of developments. On the other hand, particularly in the case of firms handling large numbers of matters for commercial clients, such as bulk RTA and personal injury claims for an insurance company, progress reporting is a potentially onerous (and tedious) task that can distract the firm from getting on with the real fee-earning work. With the web enabled practice, the internet and related technologies are used to overcome this problem to the mutual benefit of both sides.

Typically the client wants:

- WIP Reports - in other words work-in-progress to-date, where are we with a particular matter, what has happened so far and what is due to happen next?
- Financial and Budgetary data - how much of our money have the lawyers spent on these matters and how much more are they likely to spend? This is particularly important for commercial clients where, for cost control purposes, it may be company policy to write-off some claims at a given stage rather than risk escalating litigation costs.
- Access to documents - again this is probably more relevant to commercial clients, particularly those with their own in-house lawyers who may want to comment on or amend certain documents before they are distributed.
- They want this information now - or at least at a time that suits their agenda and is convenient for them.

Web-type technologies allow law firms to give their clients access to some or all of this information as frequently or infrequently as the client wants by delivering it in new ways, rather than relying on the postal, phone or fax communications. Technologies available include:

- Email - this is particularly useful for overseas clients, as not only is it virtually instantaneous, but it also means the client can access it when it is convenient within their time zone.
- SMS/Texting - a number of firms are now using the text messaging service facility available with modern mobile phones to deliver selective messages, such as "congratulations - the buyer's chain is complete and they have exchanged contracts", to keep clients informed on progress.

- Secure extranet/portal access to selective data - a growing number of firms are creating online portals that allow clients direct access to financial and WIP data. Effectively, what happens, is the firm's practice management or case management system produces a report for the client but instead of it being printed off and posted to them, it is automatically published onto a secure, password protected page on the internet, where the client can then read it using nothing more special than standard web browser software. Among larger commercial firms, clients may also be given access to knowledge management/know-how materials.
- Virtual Dealrooms - a virtual dealroom is a collaborative website that allows the different parties to deal to review, share comments and propose amendments to complex documents that are to form part of a major commercial transaction. As such, these can be used for anything from commercial lease negotiations through to mergers and acquisitions work and on to collaborative project management applications.

The benefits of a web enabled legal practice

- Better communications with the client - if they have extranet access they can see the information at any time of the day or night, including weekends, without requiring the law firm to have staff available on a 24/7 basis.
- Fee-earners set the agenda for communications and are free to concentrate on more profitable, consultancy type work, instead of being endlessly distracted by having to deal with routine - and possibly unprofitable - client inquiries.
- And, by offering this service, you are providing facilities that clients cannot get from other firms. Not only does this differentiate you from the competition but the convenience of the service will help forge closer bonds (or 'electronic handcuffs' as one firm described it) with the client - they will keep using your firm because you offer something they cannot get elsewhere.

The drawbacks of a web-enabled legal practice

- Technology - there are inevitable technology overheads to consider, as it is not a feasible option to even try to produce all this online reporting information by manual methods. A law firm must have the relevant software systems that can automatically generate these reports and then publish them onto a website - or as email or SMS text messages. In some instances, this will require an investment in new systems that can be integrated with your case and practice management systems. And, unfortunately, in some cases it will be replacing your existing case and PMS products with new systems that are more internet friendly. The one consolation is that the latest versions of many established legal case and practice management systems are 'web enabled' to support precisely these kind of functions.

- Infrastructure - it is also worth noting that if you are going to offer clients 24/7 access to some of your systems, then you must ensure that, not only is your IT infrastructure suitably robust to function on a 24-hours a day, seven days a week basis but, that you must also have the necessary security firewalls and communications links (such as phone lines and modems) to ensure the network is reliable and safe from hackers. For this reason it may be better to use the facilities of a specialist web hosting service rather than try to do the job in-house.
- Conceptual issues - the technology and infrastructure issues are problematic but essentially can be overcome by money. But for many firms, the bigger issue is do they really want or dare give their clients direct access to matter information? Is the service to be offered to all clients - both private and commercial? What sort of information will clients be offered - just progress reports or WIP and financial data? Is it necessary to sanitise the data before it is shown to the client? For example, you probably do not want the client to know that you inadvertently missed a deadline or let the matter go to sleep for a few weeks!

There is an understandable view among some lawyers that providing clients with large amounts of information is asking for trouble, as it is likely to raise even more queries and complaints. On the other hand, he who pays the piper calls the tune and some larger commercial clients are already making the availability of this kind of information a precondition that will determine whether or not they instruct a particular firm. In the end, this is a policy issue rather than a technology matter. The systems exist to offer to support a web enabled legal practice. You can now give the clients as much - or as little - information as you want, and as frequently as you want. It all comes down to your judgment, given what you know of the individual client and the matter in question.

LEGAL AND PROFESSIONAL ISSUES

Along with the broader issues of devising an online marketing strategy and ensuring that law firm internet projects are not flawed through design, conceptual, management or technical issues, a firm should also be conscious of the professional and legal red tape that needs to be complied with. Or, as the well known legal technology expert Neil Cameron once said, paraphrasing the Red Queen in *Alice in Wonderland*: “One of the risks with the internet is that if you ‘institutionalise’ bad practice in a self-service, legal e-commerce application, then you could be committing six acts of professional negligence before breakfast, without even knowing it”. As this is not a technical law book, please treat this section as an aide memoire only.

Legal matters

The internet is no different to any other area of publishing or commerce and the same legal rules apply in cyberspace as they do in the workplace.

- If you publish material on a website, you must ensure you do not infringe any copyrights or other intellectual property rights. It is also worth noting that this includes not just the content that is visible on your website but also invisible material such as the meta-data code underlying your web pages. So do not, either deliberately or inadvertently, infringe third-party trademarks by incorporating their names into your meta-data in an attempt to make your site more search engine friendly.
- If you publish material on a website, you must ensure you do not publish any libellous or otherwise defamatory material. It is also worth noting that the web has a global audience, so you are not just looking at the boundaries of English libel law.
- If you send, receive, process or store material - typically email correspondence, data from 'cookies' and 'CGI' forms-type data - containing personal data, you must ensure you comply with the Data Protection Act 1998 and any subsequent codes of conduct or regulations relating to it. In the normal course of events, most solicitors are unlikely to be conducting activities over the internet that will invoke the terms of the EU Distance Selling Directive and related legislation.

Marketing matters

- If you are operating a marketing-oriented website, you must ensure your activities comply with any professional guidelines covering these activities, such as the Solicitors' Publicity Code 1990.
- If the site or service involves links to any third party websites, you must ensure this does not create any improper referral, introducer or fee sharing arrangements with non-lawyers.
- The Solicitors' Practice Rules 1990 also require a law firm's correspondence to carry certain items of information, such as the address, the fact the message is from a firm of solicitors and information about the partners. A firm's email messages must be adapted to include this material. This can be done automatically using a 'signature' template.

Security and confidentiality matters

- Standard (as distinct from encrypted) email is not secure, so you should ensure you have the informed consent of clients before sending them confidential information via electronic mail.
- It is widely accepted practice to include some form of confidentiality notice on any emails issued by law firms. The Law Society suggests the following model: "Information in this message is confidential and may be legally privileged. It is intended solely for the person to whom it is addressed. If you are not the intended

recipient please notify the sender and please delete the message from your system immediately.”

- Ensure that your email system is protected by an up-to-date anti-virus system, both to prevent your own network and files from being damaged and to ensure you do not inadvertently forward any viruses to your clients.

Professional indemnity matters

- If you have a website providing clients or members of the public with advice and information, remember that even if the information is being given away free of charge, it could create a solicitor-client relationship, giving rise to professional negligence and indemnity issues.
- It is also widely accepted practice to include some form of disclaimer on a website to exclude or limit any liability for content. The following is a typical example: “The content of this site is for general information purposes only. It does not constitute professional advice nor should it be used as such. We cannot accept responsibility for actions based on the materials contained herein. Detailed specialist advice should be obtained from a solicitor before taking any action as a result of the comments made on this site”.
- From both the point of view of your professional indemnity insurers and the Law Society’s Solicitors Practice Rules, it is essential that you ‘know your client’ so as to avoid potential risks such as conflicts of interest, fraud and money laundering or, in the case of online wills services, impersonation and undue influence. This risk is particularly prevalent on the internet as the nature of the technology makes it relatively easy to disguise a user’s true identity. Hence the saying “On the internet nobody knows you are a dog”. It is therefore essential to make enquiries before accepting any instructions from a prospective new client.

Design matters

For solicitors involved in Community Legal Service work it is worth noting that the Lord Chancellor’s Department and the CLS are working on various initiatives to ensure that websites offering legal advice and assistance under public funded schemes comply with certain standards, both with regards to their content and their design, to ensure they are both accurate and easy to use. One such initiative includes the introduction of a quality mark for CLS websites. Failure to comply may result in the site in question being excluded from a listing on the CLS JustAsk! web portal. For more details contact your local Legal Services Commission office. There is also a web standards project helpline on 020 7247 0054.

It is not the place of this chapter to discuss the merits of such initiatives, however, it is worth commenting that one objective is to make sites more accessible - so you do not need the latest hardware or software to use them and they can even be used by sight

impaired people by running special systems that ‘speak’ the contents of a web page. To meet this requirement, websites will have to comply with the so-called Bobby Test. If you visit the CAST website at www.cast.org/bobby/ there is a system available that allows you to freely check your own web pages for compliance and hints on how to improve it so that it will pass the test.

ORGANISATIONAL AND RESOURCE ISSUES

The key to the successful implementation of any law firm online marketing strategy is to allocate adequate resources to the project from the outset.

- Initial development – there is obviously money to be spent in the development of the website but it will also involve a substantial input in terms of time by members of your own firm, including lawyers, so ensure that the budget takes into account their lost fee-earning time. In addition, you must budget both to market the site or service - this may include PR activities, direct mail and advertising - and to ensure that all the firm’s stationery, including letterheads, business cards and brochures are revised, to include email addresses and the website URL.
- Version 2 - having completed and gone live with your first pass on the web project, you should carefully monitor its impact, including taking soundings from clients and target users of the site, to gauge their reactions towards it. Do they find it easy to use? What services are they looking at and which are they ignoring? Is it generating any new business leads? Are they the right sort of leads? What is the conversion rate between new business leads generated and actual instructions for fee-earning work? For example, a common flaw with many law firm sites is their use of legal jargon and/or to categorise the services they offer along the lines of their own internal practice areas. It is therefore essential to have a client/service oriented site. Once you have conducted a thorough review of the site, which should be done within the first few weeks of going live, you may need to revise and update the site.

A key point to note here is that this will have budgetary implications. If you have spent most of your budget on the development of version 1 of your site, you are going to be facing an embarrassing hiatus within the firm if you have no money left in the pot with which to fund the amendments and changes required for the updated version of the site.

- Ongoing commitments - even when you have reached the point where you are happy with the overall look and feel of the site, it will still be necessary to update and maintain it on an ongoing basis - particularly if you plan to comment on current legal developments for the benefit of your clients and other visitors to the site. If you fail to do this, you risk having a ‘cobwebsite’ that breaks the cardinal rule of the internet, that a ‘website is not just for Christmas’.

In terms of updating a website there are two options: either to use an external web design consultancy (typically the one who developed the site for you in the first place) or to do it in-house. The problem with the first option is that can be expensive and designers can be slow in responding to requests to carry out routine site updates. There has also been an unfortunate trend for smaller web designers to go out of business. (And 'yes' there really was a firm in the West Midlands that for six months had a picture of a senior partner who had unfortunately died on its home page, because it could not find anyone to update the site). With the second option - and it is not that difficult to update a web page - the firm will need to allocate the task to a specific employee and provide them with the training and software tools to do the job. Again, this has both financial and resource allocations.

- The web master - regardless of whether the site is totally developed and maintained by an external third party consultancy or the whole process is handled in-house, you will still need to appoint someone as the de facto 'web master' or content manager, to handle liaison between the different interested parties within the firm and the development resource. Anecdotal evidence from web designers suggests that one reason why law firm online projects frequently take so long to finalise and come in over budget is because everyone in the partnership has their own different opinion on, not just the strategy, but also micro-management issues such as the choice and colour of the text being used on the web pages. Although there is an obvious cost consideration here, this should be balanced against the billable hours that may be wasted if partners and other fee earners spend their time dealing with the routine aspects of the project.

CREATING AN ONLINE MARKETING PLAN

The prerequisite factor that has been stressed from the outset of this chapter is that any online strategy must be an extension of the overall practice development plan. Do not fall into the trap of seeing your website as a substitute for this plan. But, assuming that you do have this general practice development plan in place and have decided that it will be complemented by some form of online strategy, these are the next steps:

- Form a working party or subcommittee - to avoid the project being stalled by endless debates about its direction, delegate responsibility to a small committee or working party. However, just as you cannot 'push string', so a relatively junior member of a firm cannot push through an online strategy if he or she does not have support for and commitment to the project from senior people within the firm. The legal world's online success stories almost exclusively involve situations where senior management (typically the managing partner or equivalent) have endorsed and backed a project.
- Liaison and buy-in - management commitment may help overcome any formal opposition to a project but, for it to be a success, you also need the active support of your colleagues within the firm - both partners and other staff. You have to get

them to buy-in to the project. They must be won over so they see the benefits of the project to themselves and their departments. And you must allay any fears they may have about the impact of the project on their clients and area of practice.

- Set realistic objectives - far too many online legal projects are managed by people who let their enthusiasm blind them to the realities of the situation. Do not set yourself over-ambitious targets or raise unrealistic expectations of what the project is going to achieve within the firm (and no matter how successful the project, you and your partners are *not* going to become dotcom millionaires). If you fail to deliver the goods, you risk disillusionment setting in and the loss of support for the project within the practice.
- Have clear objectives - think niche. The most successful online legal business sites are those with a clear focus, so it is immediately obvious what the service is intended to deliver and what the benefits are likely to be to users. For this reason most law firms would be best advised to start with a relatively tightly focussed project - perhaps centred on a niche speciality - before broadening out to offering a more general range of legal services.
- Do not lose sight of the real world - do not make the mistake of losing sight of what is going on within the rest of the practice. Does your online presence complement the firm's offline brand? This is not merely a case of ensuring you use the same house style in the design but also making sure that the image you portray online does not give out confusing messages to people who are already familiar with your firm in the real world.
- Be clear who your audience is - whether it is an online service or just a brochureware website, you need to be clear who your target audience is and adapt the site accordingly. Is a marketing site aimed at prospective clients? And if so, what sort of clients? An approach that works in one market may be totally inappropriate in another. If it is existing clients, you will probably looking at some form of extranet/web-enabled strategy. Or, if it is primarily intended as a recruitment-oriented site (which is the option many larger commercial firms adopt), the target audience will be law schools and other law firms.
- What is the purpose of the site - is it intended to promote the firm's legal services? Or is it intended to sell and deliver legal services, in which case, the firm will have to promote it. The role of the site will also have important technology consequences. If it is to support existing clients, then some form of secure extranet portal will be required. If the site is going to be used to sell and deliver legal services, then you will need some form of secure online payments e-commerce system.
- Allocate adequate resources - as with all technology projects, an online project will inevitably cost more money and take longer to complete than was originally anticipated, so ensure you allocate adequate resources, both in terms of financial

resources and timescales. Also, factor in the involvement of fee-earners and ensure that the budget takes into account their lost fee-earning time. However, do not make the mistake of thinking money is everything. There are some very good law firm online presences that have cost under £5,000 to develop (excluding fee-earner time) and there are also some very indifferent sites that have cost in excess of £100,000!

- Small specific steps - not big bang. Do not attempt to transform your practice overnight. Start with small specific steps, effectively treating your first project as a pilot, beta or test site. Learn from this and then use those lessons to either revise the site or else provide the foundations on which to build and expand the project.
- Monitor the results - having completed an online project, do not then forget about it. Instead, carefully monitor its impact. Is anyone visiting the website? If they are, what parts are they looking at and which are they ignoring? If they are ignoring some services, is there anything you can do to improve this situation? Is it generating any new business leads? Are they the right sort of leads? What is the conversion rate between new business leads generated and actual instructions for fee-earning work? With all these questions, review the answers - and then revise and update the site accordingly.
- Ongoing commitment to the e-business life cycle. Finally, although there is an inevitable technology element associated with any online project, do not view it as just another IT project. The traditional law firm approach to technology projects is to allocate a limited budget, carry out the project and then write it off over a period of five to seven years until it next comes up for review. This approach will not work with online projects as the nature of the internet and e-business means that it is constantly evolving. A firm must therefore be willing to make an ongoing commitment (in terms of finances and resources) to its online projects, so that they can be developed and adapted both in the light of experience and to meet changing market needs.

ONLINE LEGAL SERVICES DEFINITIONS

With the online legal services market now approaching a degree maturity, the following seven categories effectively define the range and scope of services now being offered by UK law firms...

Web-enabled Case Management - sometimes referred to as online case tracking, allowing clients to place new/amend existing instructions and monitor of progress of specific matters

Client Extranet - provision of secure web access to a broad range of facilities including client, financial, marketing and matter management related information, reports and legal briefings

Commoditised Legal E-Commerce - facilities allowing clients to download & buy legal products, services and documents online

Knowledge Management Portal - providing clients with access to a firm's knowledge management resources and 3rd part KM resources where relevant

Online Data Room - also called online deeds storage, providing a secure space to store and access documents for use within a client's own organisation or, in the case of due diligence, access by 3rd parties

Virtual Dealroom - also called project rooms, providing access to client or matter specific online collaborative workspace including document assembly and document management facilities

Electronic Billing - all aspects of e-billing including compliance with standards such as CSC Litigation Adviser, DataCert, Serengeti etc

Notes

- Clients - all references to 'client' relate to work on behalf of corporate, institutional and public authority etc clients and not private client work
- The main practical difference between a data room and a dealroom is the former holds primarily static information whereas the latter involve dynamic/collaborative element.
- The difference between a client extranet and a dealroom is the former provides access to standardised information published by the law firm whereas the latter involves a two way exchange of information.
- The difference between a client extranet and web-enabled case management is the latter typically only deals with online case tracking/matter specific information relating to high volume work types, such as conveyancing, debt recovery, insurance claims etc, rather than the broader client relationship.

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Legal Technology Insider Ltd is Europe's leading provider legal technology information. It publishes the industry newsletter *Legal Technology Insider* - now essential reading for anyone who develops, sells, buys, implements, supports or manages legal IT - plus various specialist reports. These include *Online Strategies for Law Firms* and *The Insider 200* chart, which identifies the IT systems the UK's largest law firms are using. Both can be downloaded free of charge from the www.legaltechnology.com web site, which *The Times* newspaper describes as "the definitive resource for legal technology news".

Based on his unmatched experience and market intelligence in this sector, Christian can advise on legal IT business development, product and procurement strategies via informal and confidential briefings. He can also advise on branding, marketing and media issues.