

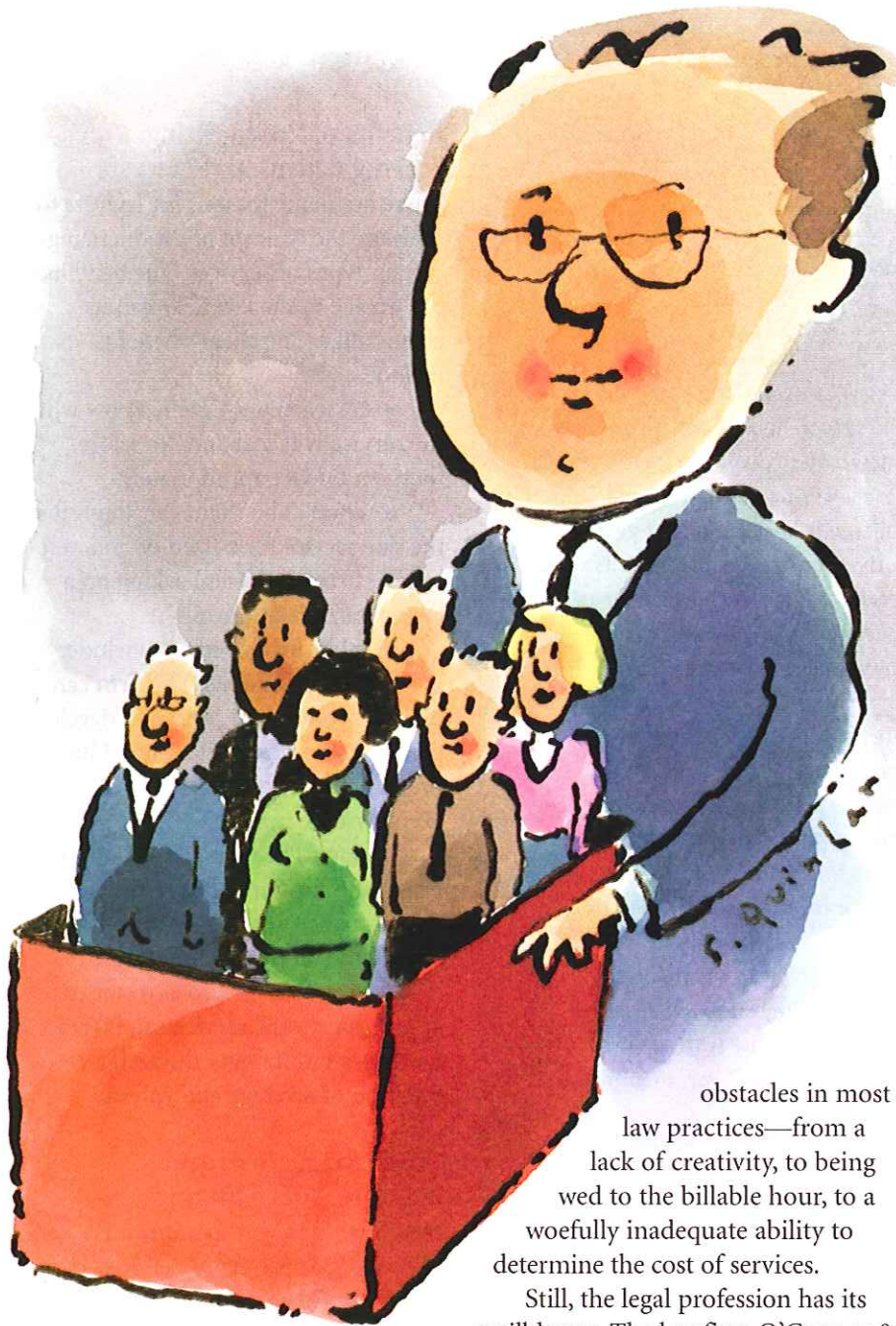
SHOULD YOU PRODUCTITIZE YOUR SERVICES?

Develop your reputation in a practice area. Build profits through stand-alone services. Gain opportunities to build existing or new client relationships. **Give the market what it wants—package a service that is easy to buy.**

BY SALLY J. SCHMIDT

PRODUCTIZING. It's a word that English language purists undoubtedly detest. Yet it's an exciting concept that has revolutionary potential in the realm of law firm marketing. • Consider how most legal services typically require building long-term relationships or waiting for an event to occur before a service is "sold" in response. Not to mention that pricing of traditional legal services is often a point of conflict with clients. In contrast, productizing, quite simply, means making a service more like a product—with a definable scope, understandable period of use and standardized cost basis. The service, consequently, is easier for clients to "buy."

- Are you intrigued by the possibilities? Then it's time to study up on the concept of productizing and the issues involved in putting together and marketing a packaged legal service.



The Concept in Action: Blazing New Trails

For years, lawyers have bemoaned the ability of CPAs to sell financial or tax products to clients. That ability gives the accountants a foot in the door and, thus, a stronger potential to sell other services to those clients. Lawyers have similar opportunities to package their services, but there have been myriad

obstacles in most law practices—from a lack of creativity, to being wed to the billable hour, to a woefully inadequate ability to determine the cost of services.

Still, the legal profession has its trailblazers. The law firm O'Connor & Hannan, where I served as marketing director more than 15 years ago, grasped the concept wonderfully, producing two innovative productized services. The first, called Closeure, was developed by lawyers in the financial services area. Closeure allowed banks to use the firm for uncomplicated loan closings that normally would be handled by the bank officers. The work was done on a flat-fee basis

and was paid for by the borrower.

In addition, the firm's litigators developed a service called Restrictive Covenant Enforcement. It provided a step-by-step process for preventing former employees of client companies from violating their covenants not to compete. Clients were charged an initial fee to participate in the program, along with a flat fee for each violation the lawyers handled. Litigation costs were excluded. The program, however, basically eliminated violations in companies where it was used.

Today there are some visible examples of productizing in action. Bryan Cave, for one, has gained significant attention by developing online training programs under the title The NoZone. Its NoZone for Supervisors program, for example, allows companies to train their supervisors to recognize and respond to discrimination and harassment in the workplace through an interactive online course. A second program, NoZone for Employees, offers a similar training program for all of a company's employees, with the aim of helping client companies prevent discrimination and harassment.

Among other firms with notable productized offerings are Geoffrey & Kahn, with its Emerging 100 program; Miller Canfield, with its Rebate Calculation Service; and Lindquist & Vennum, with its L&V Employment Assessment. (For their stories, see the sidebars on pages 34, 35 and 36.)

CASE STUDY

FIRM: GODFREY & KAHN
PROGRAM: EMERGING 100
MARKET: EMERGING COMPANIES

A Capital Idea

Milwaukee-based Godfrey & Kahn (www.gklaw.com) has long enjoyed a reputation for representing, and growing with, entrepreneurs. But hardly content to rest on its laurels, in July 2002 it took a new step to demonstrate its commitment to this special client group. The 168-lawyer firm launched its Emerging 100 program to provide emerging companies with specialized first-year services under a flexible-fee arrangement. The program lets participants select from a range of fixed-fee services and offers qualified clients the option of

deferring the fees for warrants in the company. The goal: To help position entrepreneurs for further growth.

Mark Ehrmann, the partner in charge of Emerging 100, explains how the program originated from involvement in venture conferences and meetings with investors. There, it became clear that emerging companies typically have one common need: capital. Without it, they sometimes have to forego important legal services. And "cutting corners," Ehrmann says, can lead to troubles for young businesses later (such as failing to secure a patent or giving up too much of their companies).

As Ehrmann explains, Godfrey & Kahn had always displayed a willingness to take a risk with clients. But the Emerging 100 program offered a way to formalize that readiness.

Initially, there were a few skeptics in the firm, with some partners worrying that existing clients might want to take advantage of the program. Ehrmann's admittedly flip but factual response was, "If [a large corporate client] wants to give us a warrant for stock in lieu of fees, why wouldn't we?" In fact, though, the firm has a set of criteria that allows it to qualify applicants for the program.

To promote Emerging 100, Godfrey & Kahn has employed mailings, articles in relevant publications, lawyer presence at trade shows—and even an airport diorama. And it's paying off. In the year since the program's rollout, the firm has signed up a number of new clients and has additional proposals under consideration. Just as important, says Ehrmann, the program has helped brand the firm. "We are getting our name out in this area. People are saying, 'You guys represent emerging companies.'" And with this value-added program, the firm is demonstrating that it means to help those young businesses reach their full height, too.

**Benefits of Productizing:
 Serving Clients and Lawyers**

There are many reasons for lawyers to examine the concept of productizing certain types of services. The benefits can accrue to the law firm and its clients alike. The client's benefits include:

- **Cost certainty.** Clients know what the service will cost and, therefore, they can budget appropriately.
- **Control.** The client can "buy" just the one service for a fixed period, testing the firm before embarking on a longer-term relationship.

The law firm's benefits include:

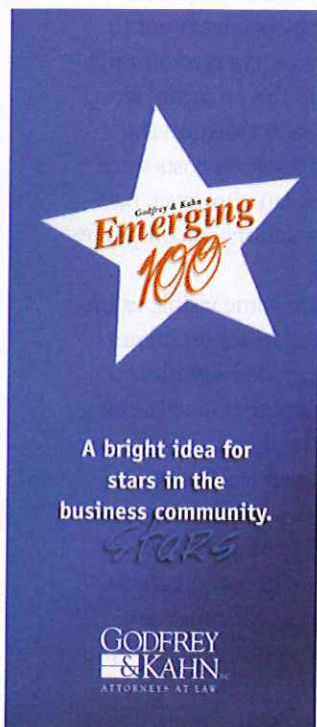
- **Market leadership.** The firm can use the productized service to develop greater name recognition, build its brand in a particular practice area or even own the market.
- **Entrée.** The firm garners opportunities to further cultivate the relationship once a company or individual buying the service becomes a client.
- **Profitability.** Priced and staffed appropriately, the service can increase the firm's profitability through a combination of leverage and volume.

**Productizing in Practice:
 Planning Your Offering**

How, then, can you start down the path of creating or packaging services to achieve the benefits of productizing? Here are issues you will need to address.

Concept: What service will you productize? Quite often, the best and most viable options emerge at the practice level, when lawyers recognize a specific service, or a way to package services, that will meet an existing or emerging client need. Usually, the service adds value for a particular category of clients, such as a given type of company or industry.

Market: Who will buy the service? You should define your targets generally by developing a list of characteristics



or qualities—such as size of company, number of employees, industry and so forth. You also want to develop a list of specific targets, whether they are existing clients, prospective clients or potential referral sources.

Offering: What is the scope of the service? The more specific you can be in describing the program parameters, the more you can clarify the scope of the service for both the firm and prospective clients. What exactly does your offering entail? Which services are included in the package? Which are not? Is there a specific timeline or contract period associated with the service? And what kind of deliverables can the client expect at the end of the engagement?

Competition: Who has similar offerings? Having defined your service, you must analyze the competition. Some lawyers dismiss the importance of this step, perhaps believing that it somehow shows a weakness. However, it can be highly instructive to find out who offers similar services, be it HR consultants, engineers, accountants or trade associations. In particular, the information you gather might help you get a handle on the price people are willing to pay. It might also affect your marketing tactics. It doesn't make sense to promote your productized service through a trade association that offers a similar version of its own to its members.

Staffing: Who will provide the service? At what level will the service be staffed—partner, associate, paralegal, other professional staff or some combination? That determination can, in turn, raise other questions to address. For example, while it may make sense to limit the number of people providing the service for efficiency and leverage purposes, if the fee is set below normal firm rates, there are compensation and fairness issues to confront.

CASE STUDY

FIRM: MILLER, CANFIELD, PADDOCK AND STONE

SERVICE: REBATE CALCULATION SERVICE

MARKET: MUNICIPAL BOND ISSUERS AND OBLIGERS

The Taxman Cometh— But No Need to Fear

For more than 40 years, Miller, Canfield, Paddock and Stone (www.miller-canfield.com), an international law firm headquartered in Detroit, has been a dominant player in the public finance arena. The 300-lawyer firm pumped up that market position still further by creating its Rebate Calculation Service more than a decade ago. In doing so, it became one of the first law firms in the country to figure out how to comply with IRS

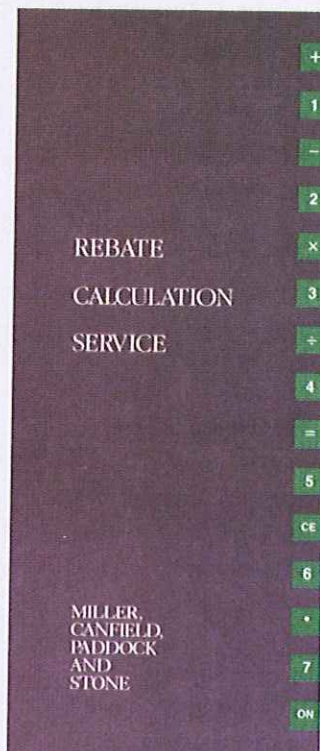
rebate requirements for issuers and obligers of municipal bonds.

The Rebate Calculation Service, which is offered through an annual contract, helps clients determine when IRS rebate reports are due, calculate rebate amounts, prepare the reports and handle the record-keeping. Another element is rendering an opinion about the client's compliance with the IRS code. A lawyer and a legal assistant do the computations with the aid of a proprietary computer program specifically designed to run the calculations.

According to partner Jeff McHugh, the impetus for the service was both defensive and offensive. In the first instance, the rebate program would provide existing clients with a value-added service and ensure they didn't go elsewhere for it. But in addition, the firm could offer the service to non-clients, allowing it to position itself before an even wider audience of municipalities.

Originally, the marketing plan called for a standardized offering to be performed for a flat fee. The service, however, has taken a slightly different direction over the years. McHugh reports that the "vanilla, cookie-cutter" types of projects initially envisioned represented only a small minority of the projects. Nearly each engagement, it turned out, had different issues. As a result, the service's pricing now varies based on the specific project's complexity.

The results have been impressive. Not only has the firm made solid money on the service, it has also reinforced Miller, Canfield's market position and brought fresh clients in the door, enabling McHugh and his colleagues to secure new business.



CASE STUDY

FIRM: LINDQUIST & VENNUM
SERVICE: L&V EMPLOYMENT ASSESSMENT
MARKET: EMPLOYERS

Serving Up a Pound of Cure

As chair of the Employment and Labor Group at Minneapolis's 157-lawyer Lindquist & Vennum (www.lindquist.com), Nancy Vollertsen was interested in building new business for her practice group. Drawing on her extensive experience in all areas of employment law, she hit on a way to develop business by helping clients prevent problems in their workplaces. She designed

a flat-fee program called the L&V Employment Assessment, which helps companies spot potential legal issues with their employment policies and practices—at a predictable, affordable price.

The service begins with a visit to the client's business, for an on-site evaluation of selected personnel files, employee applications, employee handbooks and job descriptions, HR policies, pay practices and other related items. Within one week of the visit, the client receives a written report noting problem areas and providing specific, practical recommendations to reduce the company's exposure to lawsuits.

Interestingly, while Vollertsen and her colleagues were willing to conduct the assessments as a loss leader, they found that pricing the service too low resulted in a perception that it lacked value. In fact, when they subsequently raised the price, they actually picked up more clients. And the clients, according to Vollertsen, have been very happy with the service.

There have, as with most new programs, been some bumps along the way. One issue has been the economy. In a time when, as Vollertsen notes, "companies are elim-

inating discretionary funds or looking at reductions in workforce," it can be difficult to promote new legal services. In addition, the marketing effort remains a work in progress—to date, it has been limited by concerns about rules of professional conduct, among other factors.

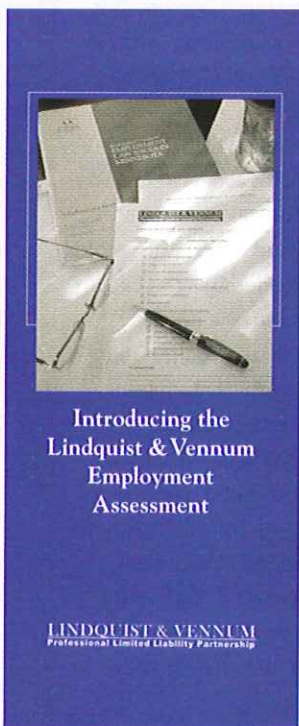
Yet even given the obstacles of the day, the program is doing its assigned job and attracting new clients, some of whom have then retained the firm for all their labor and employment work. Those businesses, it would seem, recognize the good sense inherent in the old maxim included in the program's description: "An ounce of prevention is worth a pound of cure."

Benefits: Why will people want to buy it? Before you can price and market your offering, you need to take a hard look at what value it will hold for clients. Will it save people money? Save them time? Keep them out of trouble? In some cases, the competitive analysis will help the firm better articulate the benefits of its service.

Pricing: What will it cost the buyer? There are many different ways a firm might price a productized service, from a flat fee, to a contingent fee, to taking warrants in a company. The price may be based on a company characteristic, such as a percentage of revenue or a flat fee per employee. To price the service effectively, you must carefully analyze all elements that compose the service, or each phase of the service. Your pricing structure should also factor in the benefits to clients.

Marketing: What is the best way to attract buyers? There are many approaches, including targeted promotional or substantive mailings, trade show activity, advertising, publicity, events, seminars and articles in relevant business or industry periodicals. Still, most legal services—even those that are productized—need to be sold through relationships. And the more expensive the service, the more necessary personal selling will be, and the longer the buyer's decision timetable becomes. The question is, *who* will do the selling? Depending on the nature of the offering, it may be the lawyers in the related practice, other lawyers in the firm or even third parties, such as trust officers or financial planners.

Also, remember that the name you select for the new service will affect the ultimate success of your marketing plan. Many firms saddle their offerings with names that are too generic. This mistake can make it difficult to trademark your service's name—and it cer-



tainly makes it harder for the offering to stand out from the competition.

Ethics: What rules apply to delivery and marketing? Depending on the jurisdiction in which your firm practices, you may be prohibited from certain pricing options or restricted in your marketing methods. Be thorough in investigating all the ethics rules and procedures that may apply.

Internal Issues: How do you prepare the firm? You need to get your firm ready to launch the service. There are any number of issues to be addressed, depending on the culture, systems and skeptics in a given firm.

For example, who will receive credit for clients developed through the program? How will the time and billing system track work related to the new offering? Will you need to assign new tasks to information technology and other support staff? Are there training issues involved for lawyers and staff, and what is the learning curve? And there are still larger issues to address, such as concerns about whether this packaged service will somehow diminish the value of existing services.

Costs: What's the price tag for developing, launching and sustaining the service? Given all the factors involved in the preceding issues, you have a variety of numbers to crunch. Depending on the type of offering, and your rollout plans for it, out-of-pocket costs may include training, marketing and business development, IT and systems programming expenses. There will also be substantial development costs in terms of lawyer time. Practitioners' involvement will be essential at every step, from creating the program and systems to promoting the service.

Results: How will you measure success? The measurement of success should relate back to the overall *objectives* of the offering. If the primary

objective is to garner additional business from existing clients, you will need to track the number of clients adopting the service. If the objective is to develop new clients, you will need to measure new business in the door.

For all new services, keep in mind that your timetable for success (however it is measured) needs to be realistic. Developing a completely new service often takes three years or more. At the same time, you should establish a "fish or cut bait" date for determining the offering's success, to ensure that resources are not devoted longer than necessary to an unsuccessful cause.

Six Rules for a Successful Service Launch—and Beyond

Regardless of what service you choose to productize, there are rules you need to heed as you develop and implement the new program. Here are a few final notes to help your offering succeed.

Rule #1: Market research is invaluable. Before investing your resources, bounce your idea around with some valued advisors. Ask a few existing clients to participate in a focus group to discuss the elements of the program, the market need for this service, the competition, the pricing options and ideas for marketing.

Rule #2: A marketing mix is mandatory. Successful service development requires more than just a brochure. Getting clients to buy productized services calls for a mix of marketing activities complemented by efforts to discuss the offering directly with prospects and potential referral sources. Mass marketing efforts alone will not ensure a sufficient volume of takers.

Rule #3: A proper "fit" is critical. Like ancillary businesses, productized services should work hand in hand with the firm's existing services and clientele. An NCAA compliance audit

might be a great service in theory—but without a toehold in the sports law market, the offering is likely to fail.

Rule #4: Cross-selling is the easiest way to sell. Sometimes it's best to have lawyers in the relevant practice area introduce the offering to their existing clients and, thereby, augment their relationships. Some offerings, however, need to be sold by other firm lawyers in positions to recognize good opportunities in the wider marketplace. Either way, much of your marketing effort needs to be focused *internally*, on educating other firm lawyers about how they can cross-sell this service.

Rule #5: You win some, you lose some—but you need to make money. Some firms intentionally develop their offerings as loss leaders, with the goal of obtaining spin-off work. Some firms expect to win substantially on a few clients, thus offsetting losses incurred with others. And some price their offerings to be profitable as stand-alone services. The bottom line, however, is still the bottom line. You need to measure whether the productized service is, in fact, contributing to profitability as expected. Otherwise, you run a risk of becoming like the old yarn: "The service may lose money, but we make up for it in volume."

Rule #6: Reinforcement produces results. Launching a new service may be exciting. But successful promotion requires more than just a one-time, flash-in-the-pan communication strategy. The hardest part of any marketing effort is sustaining it. To see results, you need to make an ongoing investment of time, money and energy and market the service continually. ■

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