



## BATTLE OF THE GENERATIONS: DIFFERING PERSPECTIVES ON COMPETING IN A MATURED MARKETPLACE

Ellen Freedman, CLM  
© 2019 Freedman Consulting, Inc.

---

---

I tend to use a lot of words which make my fellow baby boomers (born between 1946 and the early 1960s) and the traditionalists (also referred to as the silent generation; born between 1925 and 1942), uncomfortable. Words and phrases like “marketing,” “legal industry” and “key performance indicators” elicit clear reactions of distaste. I get it. Traditionalists and boomers entered the legal industry when it was seen as solely a profession. Discussion of business matters was inappropriate and unseemly when I joined my first law firm.

All industries — the legal industry being no exception — go through life cycles. Stages include inception, growth, maturity and decline. Timelines for each stage vary greatly depending on industry. Similarly, members within the industry will experience their own unique cycles. In the early 1980s, the legal industry was in strong growth mode. It created myriad opportunity, but tension as well.

In the 1990 book *Turks and Brahmins: Upheaval at Milbank, Tweed: Wall Street's Gentlemen Take Off Their Gloves*, author Ellen Joan Pollock, a former editor of *Manhattan Lawyer*, details the clash of generations at the firm's retreat in 1986. The firm had over 100 years of history earning great fees without actively seeking clients because they were servicing the Rockefellers and the Chase Manhattan Bank. Work was plentiful. Profits per partner were ample.

The firm had a lockstep compensation system. Partners received their draw regardless of merit, billable hours, or rainmaking abilities. The “old guard,” aka “Brahmins,” were intent on maintaining status quo. They were seemingly unaware that the younger Rockefellers were less loyal. They seemed not to notice the growth of the in-house counsel department at Chase.

The young partners, aka “Turks,” were concerned. They saw an increasing number of upstart firms willing to compete for clients -- their clients. They noticed that other firms were starting to recognize the business side of the practice. They felt they were standing still in the marketplace and being bypassed by other firms. They wanted to explore cross-selling, alumni networking and methods to improve client development. And they wanted compensation to be based on merit instead of

years in the seat. The retreat resulted in a peaceable transition from a traditional past to what was then a contemporary present.

Oddly, reviews of the book were mostly negative. A few downright nasty. despite the fact that it documented well a clash of generations over fundamental management issues. A review written by Jean M. H. Fergus, which appeared in the *New York Law Journal* on Oct. 11, 1990, stated, “The final chapters are yet to take place, leaving the inevitable question remaining -- will a quiet cultural revolution of the late 1980s meet the challenges of the 1990s and beyond? Or, in other words, will it work?”

As the saying goes, hindsight is 20-20. Yes, it worked. The firm is still alive and well, more than 30 years later. Its current tagline, “The merger of excellence and grit” shows the firm still actively charting a course to stay ahead of competition. Industrywide, it worked to make firms accept that they are both profession and business. Good business practices were and still are steadily introduced. New highs in profits and firm growth were achieved.

Unfortunately, no economic expansion lasts forever. Our country hit its lowest point of the most recent recession in 2009. Law firms experienced slower recovery than the general economy. The legal industry has emerged to a “new normal” that many law firm economists predict will never be as robust. Why? Our marketplace has now reached a mature stage.

What are telltale signs of a matured marketplace?

- Increased competition, including encroachment from non-traditional (non-lawyer) service providers.
- Commodification of work product.
- Greater downward pressure on rates, especially for “commodity work” and especially for “undifferentiated” firms.
- Lower overall demand resulting in underutilization of lawyers.
- Increasing consolidations of competitors (Pennsylvania law firms are almost leading the nation in law firm mergers /acquisitions.).
- Slow or no growth in revenues per lawyer.
- Decreasing profit margins.

Freedman Consulting, Inc.  
(215) 628-9422



So here we are in a matured marketplace -- in a “new normal” that leaves little margin for waste and demands good business planning and management. Unfortunately, most firms are doing little to prepare for the next economic downturn. They still empty the coffer of profits at year end. They still think short-term strategically. They still permit nonstrategic discounting. They still try to be all things to all people. They still accept and keep working for clients who cannot or will not pay. They are not seriously investing in their infrastructure -- people, technology – or planning to improve profitability in practice areas. When the next downturn occurs, firms that barely made it through the last recession and have not made smart strategic changes simply will not be able to survive.

Pause for a moment and think of the many firms, large and small, well-known brand names and hometown locals, old and new, that have vanished from the landscape in the last 10+ years. There is a mass of discontent and disagreement regarding strategic management and marketing at law firms. As Jerry Butler sang in 1968, “Only the strong survive.”

I have constant discussions with others who serve the legal industry and find their different perspectives enlightening. For this article, I purposely reached out to some of my favorite people in law firm marketing.

Gina Furia Rubel, founder and president of Furia Rubel Communications (a “recovering attorney” at an award-winning marketing and public relations firm), wrote in an email: “I don’t believe it is the legal industry that has reached maturity per se, rather it is the way traditional law firms are managed that has become antiquated. It is the law firms with diverse teams of professionals that provide added value and services to their clients that will be around 10+ years from now.” Yes, Gina, “diverse” hits the nail on the head. More about that shortly.

Micah Buchdahl, founder of HTMLawyers (the only marketer in the history of the American Bar Association to serve as chair of the ABA Law Practice Division,” has worked in marketing and public relations capacities since 1985, and a licensed attorney for more than 20 years) wrote me about his perspective on our current state of the marketplace, saying: “In recent years, law firms have struggled to adjust on so many different levels. On the client side, there is a shift in how billing is handled (and rates are charged), new factors in doling out business (like diversity), removal of many jurisdictional lines (nationally and globally), that make the market ultra-competitive. All of these factors contribute to more players and often less business.”

Freedman Consulting, Inc.  
(215) 628-9422



Let's return to the concept of diversity. Right now, for the first time in the nation's history (and the legal industry), we have five generations working side-by-side. Many law firms and legal departments are struggling to overcome the gaps in expectations, communications, workstyles and client development notions of the oldest and youngest employees – employees who are separated by more than 50 years.

. Just a few years ago, our labor force consisted of 5 percent traditionalists, 40 percent baby boomers, 33 percent Generation X, and 21 percent millennials (born between 1977 and 1992). From a statistical perspective, traditionalists have since exited, with a few exceptions. In 2015, millennials became the largest working group in the U.S. By 2020, they are expected to make up 46 percent of the U. S. workforce, and by 2025, millennials will account for 75 percent of the global workforce. With the pending exodus of nearly 80 million baby boomers, it's easy to understand why those percentages will shift significantly in short order.

What does this mean in terms of management and marketing at your firm? From a management perspective, you need to recognize that millennials are already entering partnership ranks. They may be a source of disdain to many boomers. Some boomers just don't "get" millennials; they'd rather complain about them. And some millennials see boomers as intractable obstacles, determined to avoid any change until they retire. But the reality, fellow boomers, is that they are going to take over your firms, whether you understand them or not. And, yes, they will transform your firm and ultimately may save it. So you need to learn how to manage this transitional process properly to get the most and best from your millennials.

From a marketing perspective, you need to acknowledge right now that the marketplace itself is transitioning. Millennials are increasingly running your client base. In an article in a December 2017 issue of *Law Journal Newsletter*, Jonathan Littrell, managing partner at Los Angeles firm Raines Feldman, was quoted as saying, "If you're viewed ... as an old-school law firm, I don't think the 30-year-old who created the next Uber will be excited to use your firm."

Let's start with a fundamental fact about millennials. They are the first generation to grow up with the internet and all the resulting technologies. They think of the internet the way most of us think about TV: It's a given. Like



breathing. It's something they expect to always have available. It's always been part of their world. As millennials continue to take over dominance as consumers of legal services, you need to have them already at full participation in your firm's marketing efforts. They know tech and they use it for all aspects of their life. Remember, they were born with it. They understand how to incorporate it into more effective, efficient and affordable legal service for clients.

Millennials are discerning consumers. They do their homework. They expect the firm will use available technologies to lower overhead, create efficiencies and develop more profitable practice areas. They expect that the firm will use available technologies to compete effectively for high-quality clients.

I'm a big fan of Wendy Witt, J.D. and CEO, law business strategist and marketing coach at Attorney Alchemy). She is a prolific author, particularly on social media, and a frequent lecturer. We are like-minded on most issues and I would have to say that I would have to work hard to disagree with her. She and I both know that attorneys should think first about what they really want to do before hanging out their shingle and taking on clients. She recently shared these gems of "Witt Wisdom" with me: "Law firm 'Mad Men' are extinct. The power has shifted from lawyers and law firms to consumers. Legal service consumers expect both control and choices: unbundled, virtual and concierge services, as well as 24/7 low-cost access. Regardless, it's essential to our well-being, career satisfaction, and families that we first identify the life we want and build our law firm around that life. Not the other way around."

"To do otherwise is self-defeating and guarantees unhappiness, already prevalent in our profession. You don't have to be someone else or squash yourself into a stereotype to prosper. My point is -- regardless of the pressure to be everything to everyone to get the business at the lowest fee possible, *don't do it!* You won't be happy. And if you're not happy, you won't prosper. Clients are attracted to those attorneys who are happy, having identified the life they want, the law they love and the clients they really want to work with. Happy lawyers make more money and do more good in the world."

Witt seems to have hit the nail on the head once again. This is what drives millennials to shift jobs at an average rate of every two to three years. It's not that they are unhappy. It's not that they need more compensation. What drives them to leave is a desire to find the environment which makes them happiest. Full blend of work and life. Not balance, folks, blend. Not two heavy but separate weights on

Freedman Consulting, Inc.  
(215) 628-9422



each end of a see-saw but rather one big, happy pile with flexibility as to when and where things get done.

So what should we focus on when we address marketing in today's world, aside from fully including your millennials and letting them take the lead in setting new strategies and innovating?

Mark Schmukler, (CEO and cofounder of Sagefrog Marketing Group) says, "Competing in today's market asks much more from modern legal professionals than it has in the past, with digital as the most evident and most significant new request. Younger generations know best that young consumers crave convenience and immediacy and harbor a relatively strong distaste for phone calls and unnecessary interactions. This means that not only do the most successful firms offer a clean and modern digital experience, but their websites also feature an online chat option backed by real humans who are more capable of answering technical and detailed questions than a robot."

"As with any industry, digital is the way to go, but it should be done in a way that considers the needs of the audience it serves. In e-commerce style, offering a nearly complete online divorce option for today's younger couples puts forward-thinking firms ahead of their competitors. Submitting paperwork, applying filing fees and finding more opportunities to introduce convenience and simplicity to processes and take the consumer experience online is the direction today's legal businesses should be heading—and that's where the youngest generation of legal marketers are taking their firms."

"There does exist another generational gap when it comes to going digital: event marketing. Previously seen as the key, and perhaps sole, marketing tactic for larger firms, event marketing is now considered less of an effective business development method in comparison to modern and more cost-effective digital marketing methods. Networking is fading into the background to be replaced by native ads through programmatic advertising platforms that help businesses appear all over the online space and generate more [return on investment]. Tactics like this also offer more easily measured ROI than expensive networking dinners and other in-person approaches. The shift from networking to digital makes more room for smaller firms as well, if they have the budget; small firms are often unable to take part in big networking events, and digital now brings with it a chance for them to stay competitive, leveling the playing field across the industry."

Freedman Consulting, Inc.  
(215) 628-9422



Rubel adds, “I often work with progressive law firms to provide the firm and their clients with trial publicity planning and crisis response techniques in the event of a negative trial outcome. This is a more modern way of approaching legal marketing. The majority of attorneys still prefer to say “no comment” even in the age of 24/7/365 media and social media. Getting out in front of a matter or being ready to respond when journalists pick up the story is more and half the battle in reputation management. A law firm that provides such proactive services to its clients is more fully serving its clients’ best interests.”

“For example, a law firm client of ours was served a complaint in an employment dispute. A national trade publication picked up the story. Outside counsel (an Am Law 100 firm) has a policy not to respond to media queries regarding active client matters. In order for our law firm client to get in front of the matter, they had to lead the media relations. Rather than say ‘no comment,’ the firm pointed the media in the direction of the publicly available, responsive pleadings. The story received fair and balanced media attention and the matter has since been dismissed by the court. In essence, the law firm protected its reputation by engaging with the media to the extent permitted by the rules of ethics.”

As we struggle to survive in the increasingly competitive marketplace, we must adapt. We must accept and contend with market forces we cannot control. We must be mobile- and social-media friendly, embrace technology, eliminate traditional advertising practices (and management practices) that no longer work and tap into the talents and sensibilities of the millennial generation, which is poised to transform and lead our firms into the uncertain future.

*A version of this article originally appeared in the January/February 2019 issue of The Pennsylvania Lawyer.*

© 2019 Freedman Consulting, Inc. The contents of this article are protected by U.S. copyright.. Visitors may print and download one copy of this article solely for personal and noncommercial use, provided that all hard copies contain all copyright and other applicable notices contained in the article. You may not modify, distribute, copy, broadcast, transmit, publish, transfer or otherwise use any article or material obtained from this site in any other manner except with written permission of the author. The article is for informational use only, and does not constitute legal advice or endorsement of any particular product or vendor.

Freedman Consulting, Inc.  
(215) 628-9422

