

Bar Leader: For the Leaders of Bar Associations

July-August 2006

Bar associations in transition – Part II

By Stephen P. Gallagher

*“Every organization reaches critical transitional points that require fundamental changes.”¹
Today, bar associations may be at such a crossroads.*

In a previous article that appeared in the March-April 2006 issue of *Bar Leader*, I talked about how bar associations may need to: 1) rethink past patterns of success, 2) embrace new behaviors, and 3) reconfigure new services. I suggested that bar leaders may need to focus on identifying the changing patterns for what members need, want, and are willing to pay for. I also tried to identify a number of challenges of particular concern to bar leaders. This article will assist readers in initiating a new business design for bar associations.

1) Rethink past patterns of success

To increase market share, bar associations typically have used mass marketing and mass advertising to reach the greatest number of potential members. Every newly admitted attorney in the region received the same basic message from every voluntary bar association in the geographic region: “We’re here to educate and inform you--for a price.” Promotional materials varied, but basically the service offerings were quite similar: “Buy our CLE, buy our books, buy our insurance, and buy from our affinity sponsors.” As a result, many bar services become highly *commoditized*, meaning there’s little that differentiates one bar’s offerings from another’s.² If members are being treated as any other consumer, could it be that the value as determined by each individual is just not keeping up with member expectations?

Today, it is becoming increasingly more difficult for professional associations to prospect for new members. As a result, many bar associations continue to spend more and more of their marketing dollars on promoting the association offerings, yet they are seeing less and less return on their investment. Every organization reaches critical transitional points that require

¹ James B. Wood, *The Next Level: Essential Strategies for Achieving Breakthrough Growth*. (Cambridge, Mass.: Perseus Books, 1999), p. 3.

² Don Peppers and Martha Rogers *Managing Customer Relationships: A Strategic Framework*, (Hoboken, N. J.: John Wiley & Sons, 2004) P. 4.

fundamental changes, and this may be the time for bar associations to shift resources into providing a new range of services for members--some of which should be free.

Is it really necessary to charge full price for all CLE programs? Won't a bar association make up in volume, what it seems to lose in price? If mandatory CLE is a challenge for prospective members, why not offer discounts on bar-sponsored CLE programs? Prospective members, especially those fresh out of law school, might prefer a financial assist on their CLE requirements even more than a discount on annual dues. A "cafeteria style" set of options for mixing and match dues costs, CLE, discounted CLE, and even "FREE CLE" should appeal to the membership. CLE ethics courses are particularly well-suited to this approach. Rather than being an after thought, Ethics CLE could be offered free or at a discount to all members. Consider charging less--not more--for CLE delivered electronically, such as steaming video or audio.

More and more, value--both paid and "free"--should be a viable option for improving your membership numbers. If potential members see little value to them in joining today's bar association, these new individuals will increasingly choose to spend their dues dollars elsewhere.

2) Embrace new behaviors

Members' wishes and priorities constantly change, so they make new choices all the time. One of the interesting challenges bar leaders face today is trying to figure out how to provide new services to members, who yearn to live differently than people lived in the past. Authors Shoshana Zuboff and James Maxmin argue that, "however varied their reasons, today's people share new dreams of psychological self-determination that in turn creates new markets characterized by wholly new approaches to consumption."³

Today's young professionals tend to use their own experiences as the basis for making judgments. They may have very little interest in the bar association representing their interests. These new members and prospective members may prefer that the bar association provide them with services by which they, themselves, may more directly represent their own interests. Bar associations will definitely need to better understand the interactions between member priorities and service offerings, so it becomes imperative that you find out what services your members are actually using and why they are using them.

³ Shoshana Zuboff, S. & James Maxmin, *The Support Economy: Why Corporations Are Failing Individuals and the Next Episode of Capitalism* (New York: Viking Press, 2002), p. 33.

"Bar Associations in Transition: Part 2," by Stephen P. Gallagher, published in Bar Leader, Volume 31, No. 1, September-October 2006. © 2006 by the American Bar Association. Reprinted with permission.

Don't limit your search for services to tinkering with your bar current offerings. Try exploring the exciting new world of Web 2.0, featuring the types of more social computing that your prospective members feel comfortable with. Web 2.0 defies easy definition, except by examples of differences; e.g., Britannica Online is Web 1.0, while Wikipedia, with its ethos of radical trust, is definitely a Web 2.0 concept. Personal web sites are very Web 1.0, while blogs, stressing participation over publishing, are Web 2.0.⁴

*If you are considering sponsoring focus groups or retreats to improve your marketing to these new professionals, consider inviting fresh, new faces from the Web 2.0 world. Emily Chang would be such a person. Never heard of her? You can be certain the people you want to attract have heard of Emily's eHub⁵, a constantly updated resource of web applications, services or sites with a focus on next generation web (web 2.0), social software, blogging, Ajax, Ruby on Rails, location mapping, open source, folksonomy, design and digital media sharing. Emily's interviews with site owners provide remarkable insight into this new world, where your prospects live.

Reconfigure new services

One of the most important things to keep in mind when you think about reconfiguring member services is that "value" is now deemed to reside in individuals, and this makes everything change. According to Zuboff and Maxmin, "Organizations no longer 'create' value; they can only strive to realize the value that already exists in individual space."⁶

Wow! Think about it, membership in many bar associations is probably made up of sixty percent sole practitioners, and now you are finding out that 'value' of your services actually resides in your members. What can a bar association do if sole practitioners are just too busy or too overwhelmed to attend your committee meetings or your CLE programs? According to Zuboff and Maxmin's logic, these members can no longer be written off as anonymous "consumers" who sit at the far end of the value chain.

⁴ For a more structured taxonomy of Web 2.0, see O'Reilly, Tim, "What is Web 2.0", 9-30-2005, O'Reilly Media, Inc. 7-01-06, <<http://www.oreillynet.com/pub/a/oreilly/tim/news/2005/09/30/what-is-web-20.html>>

⁵ Chang, Emily, eHub, 7-01-06, <<http://www.emilychang.com/go/ehub>>

⁶ Zuboff, & Maxmim, J. *The Support Economy*, 14.

As you look to add new services to attract members, you would be well served to focus on individual choice. No longer will one size fit all. Members want true voice with everything they choose to do; they seek direct participation, and unmediated influence. This is a big order to fill. If sole practitioners represent 60 percent of your membership, your challenge is to figure out how you can establish one-on-one relationships with each of these individuals?

What role can your bar association play in this new world where companies like Technorati (<http://technorati.com/>) is tracking over 75,000 new web logs created every day, which means that on average, a new web log is created every second of every day - and 19.4 million bloggers (55%) are still posting 3 months after their blogs are created. Some of these bloggers have to be your sole practitioners, who are obviously finding time to meet in their own time and space.

Why not offer free space on bar association servers for blogging. A blog can be a personal or professional journal. It can also work very well as a new type of web site for a solo practitioner or small firm. Why not create a member's blog community using your bar's virtual space. If you require a traditional analogy for justification for offering such a service free or at low cost, remember when bar associations with their own physical facilities offered members free or discounted use of their rooms for depositions, conferences, meeting with clients. Sole practitioners and small firms were avid users of such space. Is it too radical to think that they would flock to use the bar's virtual space?

Increasing the Value of Member Base - High Touch, High Tech

I submit to you that it may be better to invest dues dollars in helping individuals rather than diverting advertising dollars into building the association's "brand" or the "image" of the profession. In recent years, a bar association's primary marketing goals might have been to improve *brand awareness* and to increase *brand preference* and *brand loyalty* among consumers.⁷ Today, brand reputation has become less important among shoppers.⁸

Providing direct services to members may be a better way for the bar association to promote its interests than any other marketing initiative. If the association is able to provide

⁷ See Peppers and Rogers *Managing Customer Relationships*, 4.

⁸ Peppers and Rogers Group, and Institute for the Future, "Forecasting the Consumer Direct Channel: Business Models for Success" (2000), p. 50.

"Bar Associations in Transition: Part 2," by Stephen P. Gallagher, published in *Bar Leader*, Volume 31, No. 1, September-October 2006. © 2006 by the American Bar Association. Reprinted with permission.

members with new, unanticipated services, the “buzz” this will create will attract others—and much of the conversation will take place online. Online “buzz” is a conversation that bar associations cannot control, but bar associations can no longer ignore these conversations.

Ten years ago, Leonard E. Sienko, Jr., a sole practitioner, better known online as “lennyseq”, created a website for his local, rural Delaware County Bar Association in upstate New York <<http://www.pronetisp.net/~dcba/dcba.html>>. One of the first such local bar sites in New York State, Lenny prominently listed every attorney in the county, who wished to be listed. Over the years, positive feedback from satisfied members confirmed that the public visits the bar association’s website to find an attorney. Legal consumers choose an attorney from this simple directory. During that same ten years, Lenny has maintained an email list of members from the web site directory, passed down from one bar president to the next, providing important current case decisions and statutory updates via email to his bar’s 50 plus members. The email list is interactive. Members can participate in this online community to the extent of their comfort level. Messages announce meetings, births and deaths, judicial activities, even office relocations during natural disasters. The numbers are not overwhelming; but the principle of creating online “buzz” and providing free direct services to members could and should be emulated on a larger scale.

Offering a service that makes a real difference in members’ lives can dramatically change how they feel about the association—and that’s not just important for voluntary bars. Peter D. Roberts, practice management advisor for the Washington State Bar Association, a unified bar, reports that his bar’s law office management assistance program has generated a great deal of buzz. “The experience we have had in Washington is one of elation by our members that we offer such a program,” he says. “Our bar had been, for many year, a ‘dues and discipline’ brand, not a service brand.

“The positive feedback from members to our board of governors and our executive director has been deafening, so the positive PR potential is very real, especially when a bar needs to nudge license fees up each year.” The bar also added Casemaker online research as a free service to members last year, Roberts notes. If bar associations are not providing members with unique value, it will be impossible to keep this information from getting out. Bad news travels even more quickly through the Internet than good news.

Member Defection

According to marketing gurus Don Peppers and Martha Rogers, “The central purpose of managing member relationships is for the enterprise to focus on increasing the overall value of its member base—and member retention is critical to its success.⁹ In today’s bar association world, the most illuminating units of failure have to be member defection. When desirable members defect, it’s a signal that something in the organization is amiss. The departure of valuable member should prompt a search for the root causes of the problem to learn more about what needs to be fixed in the business, and if possible, to re-establish the member relationship. There is a strong temptation to rationalize why people leave. Too often it is felt that, “He or she was really not the type member we want so we didn’t really want him/her anyway.”

In a recent strategic planning retreat with the Massachusetts Bar Association, Marilyn J. Wellington, their Executive Director proposed that, “Merely offering a free bar membership to recent law school graduates might be the worse thing a bar association can do in attracting new members. A free membership has no value unless the association has paid attention to the needs of new lawyers and implemented programs and services that meet those needs. If you bring them into the association without these services and they leave at the end of the free membership year, you are unlikely to bring them back in the future. Until you can offer a full range of services these young people might want, you may be better off not opening your doors to them.”

Building a new business design

Bar associations face a dramatically different competitive landscape these days. I am suggesting that bar leaders need to begin building a new business design by establishing an ongoing dialogue with members to determine what they want from their association, what they are willing to pay for, and what they expect for free. I am not talking about conducting member surveys, I am talking about creating a dialog with them. As a starting point, bar leaders may want to bring together, physically or virtually, a representative group of stakeholders to examine the association’s statement of purpose or mission.

As you review these documents, pay particular attention to the patterns of member needs and wants. Do not overlook your members’ and potential members’ perceptions and expectations. If members’ needs and wants have changed, the statement of purpose should

⁹ Peppers and Rogers, *Managing Customer Relationships*, 15.

“Bar Associations in Transition: Part 2,” by Stephen P. Gallagher, published in *Bar Leader*, Volume 31, No. 1, September-October 2006. © 2006 by the American Bar Association. Reprinted with permission.

change, and so, too, should your business design and range of services. From a Web 2.0 perspective, this stakeholder review could be implemented using a Wiki, a type of online cooperative writing and editing tool. Allowing everyone to contribute text and to edit text, within the agreed-upon guidelines, should overcome the “lack of airtime” problem commonly associated with such discussions and may produce something more than the ordinary purpose or mission.

In order for bar associations to continue to grow, service offerings must be properly aligned with members’ most important priorities. When you bring your stakeholders together, invite the group to explore the following questions:

- What are the association’s strengths, and what should the future strengths be?
- What sets the association apart, and what makes the association special?
- What should the association be doing to enable members to be more competitive in the future? What should you stop doing?
- Are there opportunities for the association to better serve members if the association were to build alliances with other enterprises?
- What minor competitors could become immediate threats when combining with another business design?

Simply initiating this type of dialogue among members should have a powerful liberating effect on the association. It should provide you with an early warning signal for changes that may affect your future marketplace. Often, the fertile source of ideas for future member behavior is members’ current perceptions and expectations.

Does your statement of purpose contain any language that would support your efforts to directly serve your members--in addition to serving the public and upholding and defending the Constitution of the United States of America? If these new individuals are hoping to directly serve the public, and directly uphold and defend the Constitution of the United States of America, you will need to explore how the bar association can provide more intimate, more immediate services to help members achieve these goals.

Finally, you need to be prepared to shift responsibilities and eliminate routines within the organization. Explore emerging technologies as one way of spending more time with your members and potential members. In order to better understand and appreciate members’ options, every bar employee needs direct contact with members. Shouldn’t bar staff be able to accept voice-over-Internet-protocol calls, such as Skype and Gizmo? Wouldn’t that provide a more

personal connection for these new individuals?¹⁰ Shouldn't bar staff be using blogs¹¹ to participate in online communities?

You should be able to make products and/or services so satisfying, convenient, or valuable to your member that they become more willing to devote time and money to your enterprise than to any competitor. Your staff will be a critically important part of the bar's new business design. You will need to empower them to participate, physically and virtually, in ongoing conversations with members in order to explore new ways for the association to initiate value migration--in the association's direction.

Stephen P. Gallagher is president of Leadershipcoach (www.leadershipcoach.us), an executive coaching company in the suburban Philadelphia area that services the legal marketplace. Stephen conducts strategic planning retreats for law firms and bar associations. He also provides performance and developmental coaching for attorneys.

Stephen served as the first Practice Management Advisor for the New York State Bar Association from 1990 through 2003. Stephen is a member of the ABA Law Practice Management Section's Publishing Board and an adjunct professor of marketing at St. Joseph's University.

¹⁰ Skype and Gizmo are popular Voice-over-Internet-Protocol services. Skype, which operates a peer-to-peer voice calling service, was acquired last year by eBay. Gizmo Project uses your internet connection (broadband or dial-up) to make calls to other computers.

¹¹ Li, Charlene. *Blogging: Bubble or Big Deal?* Forrester Web Site November 5, 2004
<http://www.forrester.com/Research/Document/Excerpt/0,7211,35000,00.html>

Although Web logs (blogs) are currently used by only a small number of online consumers, they've garnered a great deal of corporate attention because their readers and writers are highly influential. Forrester believes that blogging will grow in importance, and at a minimum, companies should monitor blogs to learn what is being said about their products and services.

"Bar Associations in Transition: Part 2," by Stephen P. Gallagher, published in *Bar Leader*, Volume 31, No. 1, September-October 2006. © 2006 by the American Bar Association. Reprinted with permission.