



Law Firm Strategies for the 21st Century

Strategies for Success

Featuring
a key chapter on
**'Emerging market
response to trends
shaping the legal
markets'** by **Dr Irina
Paliashvili**

Law Firm Strategies for the 21st Century Strategies for Success

Law firm partners have long resisted the notion that they need a strategy. However, markets change and the landscape has become increasingly competitive. Law firms that want to remain competitive need to think about and engage in strategy development; those firms which have done so are now undeniably in a better position than those which have not.

Published in association with the Law Firm Management Committee of the International Bar Association, this practical title is the first in Globe Law and Business's series on the business of law dedicated to exploring strategic development in law firms. It includes contributions from leading academics, consultants and law firm partners who share their insights and experience in strategy development and management. The content is organised around the market and the resource side of law firm management, and offers new ways to think about strategy and how to discuss it in the context of a partnership.

Whether you are a managing partner of a small, large or international law firm, this book offers points of views which have never before been aggregated in a single volume. The book may also be helpful for consultants and academics in developing research in this area. This volume addresses in a most practical manner those questions which are of relevance in today's law firm management.



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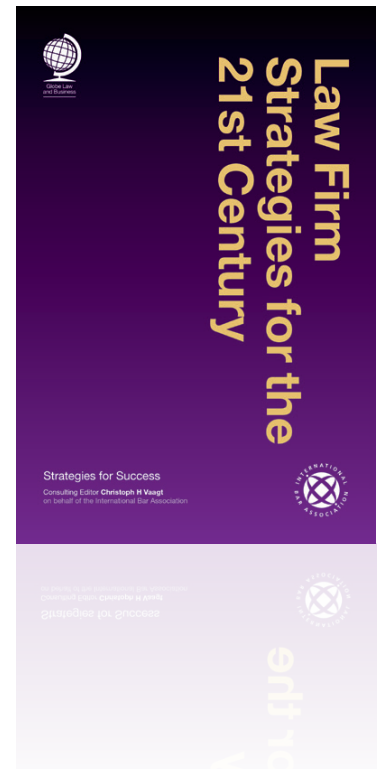
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Emerging market response to trends shaping the legal market

Irina Paliashvili

RULG – Ukrainian Legal Group, PA; CIS Local Counsel Forum

1. Introduction

This chapter summarises the results of collective brainstorming by legal market leaders of the countries of the CIS economic region on most of the aspects of law firm strategy covered in other chapters of this book.

First, a few words on the CIS economic region, its legal community and its place in the global economy and global legal market. The abbreviation 'CIS' is taken from the name of the international organisation which emerged after the dissolution of the Soviet Union – the Commonwealth of Independent States. In the economic context, however, the 'CIS' abbreviation has long lost its political connotations, and in the absence of a better term, is used in the global market to define an emerging economic region which covers most of the post-Soviet space. One of the countries of this region, Russia, is also a part of the group of emerging economies known as BRIC that also includes Brazil, India and China. Globally BRIC is treated as one group, but when it comes to Russia within BRIC, not only Russia is implied, but a much broader CIS economic region. Global CIS-centred transactions and projects always cover more than one country of the CIS region (eg, Russia, Kazakhstan, Ukraine, Moldova, Belarus and so on). In addition there is also an active market within the CIS region with direct business and investment activity among its constituent countries.

It is therefore only natural that, in response to this global and regional activity, national law firms of the CIS countries saw it as vital to become involved in the process of globalisation and also to form their own CIS legal community. To strengthen their current position and to enhance their future prospects, many CIS law firms are looking for international capabilities and to take their place within the global legal market. Understanding that globalisation is inevitable and irreversible and that it is up to us to decide whether we want to be active participants or stay behind and be outsiders watching the rest of the business and legal community adapt to the changes, business-minded CIS lawyers got organised in order to join the process instead of just staying on the sidelines and watching globalisation pass by.

2. The CIS Local Counsel Forum

The key platform of the CIS Legal community for the past eight years has been the CIS Local Counsel Forum (www.rulg.com/cisforum/), an informal network of managing and senior partners of national law firms from the CIS economic region, who gather every year in different countries of the region and invite partners from

international law firms from around the world to join these meetings. The members of the CIS Forum understand the significance of globalisation and are actively and enthusiastically involved in it. In particular, at every meeting they eagerly discuss law firm management strategy, what Christoph H Vaagt summarises as “how to manage a firm in an emerging country, how to make it more ‘resilient’ and how to make sure that the firm prospers”.

In terms of internationalisation of CIS law firms, and their contribution to the global legal market, the CIS Forum has demonstrated very interesting and important dynamics over the past eight years. The Forum covers the firm-to-firm segment of the legal market, and over the years a huge number of referrals were made at the Forum or through the contacts made there. When the first Forum was held in 2006, however, the majority of the referrals, if not all of them, came from international law firms to CIS law firms. This was basically one-way traffic and hence the name ‘CIS *Local Counsel* Forum’. Then, gradually, CIS law firms developed and strengthened, CIS clients went global, and more and more CIS law firms started giving referrals to their international counterparts. Today it has come to the point where the referral traffic is definitely a two-way street, with referrals from CIS law firms to international law firms sometimes outweighing the referrals they receive, and each of us becoming local counsel to one another.

Although there are various topics discussed at the CIS Forum, the topic of law firm management and law firm strategy, which is the subject of this book, is discussed each year. The different aspects of this topic are dictated by the current challenges of today’s life, which is moving with phenomenal speed. For example, some of the more recent aspects of this topic have been:

- How global trends reflect on CIS economic region law firms.
- Unique aspects of managing a local law firm in an emerging market.
- Meeting the challenges of growth and cross-border capabilities.
- Going from competing for clients, to competing for talent and back to competing for clients.
- Merge or not to merge? And if the latter – then internationally, regionally or locally?
- The role of the legal infrastructure industry (professional media, consulting, legal directories, HR, marketing) for a local law firm.
- Marketing: when and how to say ‘no’?

3. Formats for discussion at the CIS Forum

There are several formats for this discussion at the CIS Forum. One has been there from the beginning and is called ‘management hour’. This is an internal meeting of CIS law firms (also open to international delegates), conducted in an informal manner in the afternoon before the main conference opens. Very often the topics raised at this meeting set the tone for the rest of the particular Forum.

The other format, which was introduced at the seventh CIS Forum in Yerevan in 2012, and continued at the eighth CIS Forum in Kiev in 2013, is an interactive audience panel on the most current and critical topic of the year, moderated by the leaders of the international and CIS legal communities. There are no speakers at this

panel, only moderators, who outline the issues and then engage the audience in the discussion. This panel is followed by instant voting on several provocative questions on the main topic, with the results, sometimes unexpected and controversial, being instantly displayed.

The first audience panel in June 2012 focused on globalisation and its impact on law practice. The second in June 2013 continued with the topic of globalisation, but focused on a new aspect, basically discussing how we can adjust to the 'new normal' of the current economic environment. This idea had been in the air for several months, but seemed to be best expressed in a CNN interview in the winter of 2013 by the founder of the World Economic Forum, Klaus Schwab. He commented that the economic crisis has continued since 2008, with all of us suffering from it for years, but that the moment has finally come to accept the new realities and adjust to these new circumstances with optimism, which he termed 'resilient dynamism'. This idea also works perfectly for the legal community, both global and in the CIS, so we discussed how to transform the shock, which we have been experiencing all these years, into a positive.

4. Weathering the economic crisis: 'resilient dynamism'

First, we have to accept that a new reality, new conditions and new business environment, including for the law practice, have emerged; and instead of complaining about the crisis and waiting for the 'good old days' to return, we need to understand that we have reached 'the point of no return' and learn to accept this new environment. This also turns out to be a topic championed by the IBA, and thoroughly discussed in this book: how to shift the focus from the conditions that prevailed before and during the crisis, and to press the 'reset' button to carry on perestroika within each law firm, and within the legal community.

The questions posed and the results of instant voting deserve some analysis. First, it should be mentioned that the entire CIS Forum audience votes. This audience comprises roughly 40% of delegates who are partners of CIS law firms, 40% who are partners of international firms, 15% who are in-house counsel from major multinational and CIS companies and 5% from the legal industry (professional media, legal market consultants, law firm directories, etc). During voting we do not distinguish between these categories of delegates, so the voting results are not representative of just the CIS legal community, but of all the delegates of the Forum.

The first group of questions both in 2012 and 2013 was related to the place of CIS law firms in the global legal market. In 2012, 57% of the delegates believed that we will see new global law firms emerging from the CIS region. In 2013, 57% of delegates concluded that international clients acknowledge that the leaders of local markets can provide advice at the top international standard level, but only 27% thought that international clients are prepared to pay the leaders of local markets rates equal to, or exceeding those of, international law firms.

Keeping in mind this competitive disadvantage in their own market, the delegates were asked whether the CIS countries should introduce protectionist measures, restricting the access of foreign law firms to practice in their jurisdictions. In 2012, there was a majority of votes in favour of protection measures (50.1% for

and 47% against, with the rest undecided). In 2013, this changed to a majority voting against (42% for and 52% against, with the rest undecided). This represents quite a liberal approach, which is also followed in practice in many CIS jurisdictions, especially considering how tough, complicated and restrictive admission to law practice is in many countries of the world (not only in most western countries, but also in the BRIC countries – Brazil, India and China).

The next series of questions related to how the delegates view strategies for globalisation and enhancing the international capabilities of their law firms. In 2012, 67.5% of delegates confirmed that they are members of international legal networks; and in 2013 70% acknowledged that they benefit from globalisation (from the work international law firms bring to the region).

When it comes to closer ties, however, the delegates were not so sure. In 2013, 53% rejected the argument that merger with an international law firm would present a cost-saving resulting from shared administrative and marketing functions as not persuasive for the CIS region. Moreover, only 38% expressed an intention to merge with an international law firm; only 23% expressed a wish to merge with a local law firm in their jurisdiction; and a significant 30% declared that they will never merge (the rest being undecided).

Finally on the topic of economic crisis and ‘resilient dynamism’, in 2013 the most surprising results came in response to the question: ‘Has the economic situation in general and in the legal market improved?’ Some 49% of delegates demonstrated ‘resilient dynamism’, stating that although the crisis had been chronic, they had managed to adjust. This result might have been expected. The unexpected result though was that some delegates took extreme positions: 5% believed the crisis to be over and are back to pre-crisis scope of work and revenues, and sadly 8% had lost hope and decided to close their practice.

Delegates also shared their experiences as to how exactly they had overcome the crisis: 18% had reduced their office and rental costs; 29% had reduced personnel; only 2% had reduced salaries and some 36% had reduced all of the above costs. Paradoxically as many as 16% had increased hourly rates.

The ‘resilient dynamism’ strategy is not based on an illusion. CIS law firms understand very well that the tendencies the crisis provoked are still here. The buyer’s market is still the buyer’s market. Our clients still dictate. This phenomenon takes new forms; there is a new balance in relations between the client and a law firm. This process is taking place in the CIS economic region and all over the world, particularly in the United States. It has become evident how clients are getting used to doing business without external lawyers. Before the crisis, in the United States, for example, clients literally did not take a step without seeking advice from their external lawyers in any matter, however small. During the crisis, legal services budgets disappeared and clients somehow handled things on their own, believing that they would function without much assistance. Budgets were saved and in-house legal departments expanded. Many issues that would otherwise be referred to law firms are now handled internally by clients and they are satisfied with the results.

In March 2012, I attended an excellent conference in New York, the Best Lawyers Advisory Board Meeting, where leading law firms from the United States and other

countries were represented by their managing partners. During a client session three general counsel of major international companies spoke about their vision regarding the role of external counsel. After they had shared their ideas I turned to the person sitting next to me, the managing partner of an Australian firm, and said, “you know, it looks like we just need to commit collective suicide after this session”. He seemed to be of the same opinion. What we heard from the corporate lawyers could be summarised as follows: “Generally we don’t need you any more, and when we need you, it will be on our terms”.

Heads of in-house legal departments first expanded their staff, secondly limited the scope of the issues they refer to law firms, and thirdly have come to like these changes and are developing them further. The scope of the issues referred for external legal advice is being limited and narrowed, and this tendency has increased both in the CIS economic region and internationally.

5. The changed business environment

What we discussed at the post-2008 CIS Forums is that we need to learn the lesson, to identify the steps we have to take, to discuss how we can show our value to the clients and what products of value we can offer. We brainstormed together on most important issues for the survival of our profession. The questions about value of external counsel were also addressed by the corporate lawyers participating in the Forum, who eagerly and frankly shared their vision of our place in servicing them, in terms of what we need to develop in our practice in order to remain of value.

Part of the problem for the CIS legal community is to accept that private legal practice is a business and that there is a legal services market. This is not a very easy task, considering where we come from.

As a brief historical background, our current private practice has its origins in the advocate’s profession. It was considered to be a liberal arts occupation, somewhat artistic, intellectual and so on. Advocates have always perceived themselves to be above business and identified their occupation as something more inspirational. Of course, fees and incomes did matter, but the cornerstones of the highest value have always been professional activity, client representation and services. They also did not have a tradition of law partnerships, working mostly as individuals, sometimes only sharing the office costs.

Today, we can probably no longer pretend that we have a special profession that has nothing to do with business; that ‘legal business’ is an incorrect definition; that legal profession and business are *a priori* incompatible. One cannot fail to see that the legal market and legal business have developed in the CIS region and in every country of the region. Certainly, the basic sense of consulting is not doing business for the sake of doing business; it means offering legal services, providing legal support, value to the clients and so on, but the consulting format today is indeed a business with all its attributes – processes, marketing, management and so on.

Lawyers and especially partners in law firms involved in this business must master marketing and other aspects that require soft skills, such as personnel management, PR and business development. CIS lawyers have acquired these skills with varying degrees of success, but most of them are still far behind in terms of

mastering the numbers. I will risk stating that the aspects that are the least interesting or appealing to CIS lawyers are numbers, accounting, financial indices, costs and expenses, profit margins and so on. And, of course, we need to learn. If we were good at numbers, we would not be lawyers. We would be accountants, mathematicians, auditors. As we are basically not on friendly terms with numbers and earning money has historically not been the primary purpose of our profession, this in my opinion is a painful area for most law firms. And somehow we need to overcome those barriers and we need to pay particularly close attention to the financial and business aspects of our practice. Those who do not will lose their positions. You cannot operate a private practice today without earning enough money to cover costs, pay salaries to lawyers and earn some profit. Our profession has become more pragmatic and business oriented and probably tougher, with competition being another driver.

In many ways, recent developments in western countries and in the CIS region have been very similar. In the western world, however, the modern understanding of the profession evolved 150 to 200 years ago, while in our part of the world such an understanding began to emerge as recently as 25 years ago. This means that lawyers in the CIS, especially lawyers who work in business areas and in private practice, have covered this path in a substantially shorter period of time to reach today's understanding.

Moreover, we have to do our business today in a tougher environment than before, while firms in our region face this challenge in a time of upcoming generational shift. One of the peculiarities of the CIS legal market, as with any other emerging region, is that most established law firms are still run by their founders, who are still at an active stage of their careers. Those law firms, which were founded in the early 1990s, have matured to the extent that the next generation feels ready to take leading positions. There have been many examples where this evolutionary process has taken the shape of a revolution, resulting either in their collapse or in losing their positions because of generational changes which have gone wrong. We highlight this aspect at the CIS Forum's 'management hour', and discuss how the generational change can be handled smoothly and without such negative impacts.

Various other ideas have been discussed at the 'management hour'. In particular, we discuss every year the IT and social media revolution and its effect on the legal market. It is interesting that there is a clear division in the views of CIS and international delegates, with CIS delegates taking a far more conservative position and not accepting the cost-saving and other advantages of IT as championed by international delegates. Again, as with numbers, perhaps partners of CIS law firms do not feel as comfortable with IT and social media, and implement only such measures as are absolutely necessary. The idea of having a paperless office, in the less prestigious part of town, with many lawyers not having their own desk and telecommuting, and the managing partner sharing space with other lawyers at the table in the conference room, does not appeal at all to partners of CIS law firms, who still value prestige, hierarchy and subordination at their law firms. However, they understand that this global trend is coming to our region, and pay serious attention to international delegates sharing their experiences.

Among other global trends that might potentially reach the CIS region are outsourcing (sending the bulk of legal work to law firms in the regions, for example regions of Russia or Ukraine, which can perform them at much cheaper cost), re-focusing from existing practices (eg, M&A, the volume of which has dramatically decreased, especially in our region), to developing new practices that are in demand with the clients (eg, compliance, mediation) and offering new formats for services. To this end, the author's firm has developed and shared two innovations at the CIS Forum – a client appreciation programme (available to our priority clients) and 'virtual secondment', which is a collective work of several lawyers of different specialties at a fixed cost without the need for them to be physically present at the client's office.

6. Conclusion

To sum up, we believe that the CIS legal community and the international legal community mutually benefit from each other: from sharing ideas and experiences; from adopting and implementing global and regional trends; from exchanging referrals and cooperating with each other, either directly or within legal networks; and from actively participating in international conferences and organisations, such as the IBA and CIS Forum. All of these have played a part in one emerging legal community's story of successfully joining the global market.