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Bigger vs Better: Should your firm merge?

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By Jordan Furlong

First, see if it can answer “yes” to one essential question.

So law firm mergers are back in the news again, to the continued fascination of the legal press. For every combination that’s completed and announced, you can count on several others bubbling under in conversations within executive committees and at luncheon gatherings of senior partners, so there likely will be more such deals announced throughout the balance of the year.

It’s not clear that “mergers” are the best word to describe many of these transactions. Some of them involve global behemoths swallowing up comparatively modest firms in desired regions, resembling not so much a business deal as an annexation of territory. Others are billed as marriages of equals, but with so many of these merged firms maintaining their own profit pools, they seem like marriages where the spouses have no joint bank account and keep separate residences.

The common thread among all these deals, however, is that the merging firms go to great lengths to publicize the impressive size of the new entity, the huge number of lawyers, offices, and jurisdictions it will boast. It’s the kind of tactic you could understand if, say, two ice-cream dealers merged and could now deliver 70 flavours in one location, rather than 30 and 40 in separate stores as before. More volume and greater selection are obvious customer benefits in that kind of market.

It’s more difficult to make out clear customer benefits from law firm mergers. There’s an unspoken assumption that more lawyers in more offices in more locations is self-evidently a good thing, a competitive advantage and a client service. And maybe there are tactical benefits to be gained, especially around marketing strength, talent acquisition, and the like.

Yet I can count on the fingers of no hands the number of corporate clients I’ve overheard wishing their law firms were bigger and farther-flung. To the contrary, many clients greet news of a merger with a certain exasperation, having to turn their minds to identifying and resolving potential conflicts, or to awaiting the inevitable rate increases from the new entity.

Any law firm that’s considering a merger or acquisition should ask itself one question — the same question, really, that it should raise whenever any foundational or strategic decision is in play: “Would this make our firm more effective?” It’s a powerful question, because it forces the firm to focus its attention on its fundamental business purpose.

The point of any business is to serve its customers. For a law firm, that translates into helping clients in its chosen markets achieve their goals by addressing their legal challenges and opportunities. A law firm should be considered successful only to the extent it helps clients achieve their law-related objectives. Would a merger allow the firm to accomplish this mission more effectively? And if so, how?

Effectiveness, remember, is defined from the perspective of the client, not the firm. Clients consider a firm effective if it anticipates and meets their legal needs in the context of their business realities, demonstrates real commitment to procedural improvements that increase quality while reducing cost, provides reliability and competitiveness around pricing, and keeps lines of communication buzzing and productive. Mergers, by themselves, aren't going to move the needle very far on any of those criteria.

Mergers might very well deliver competitive advantages, although I'd love to see a study that contrasted those advantages with the costs of merger, which are manifold and substantial. But potential mergers ought to be scrutinized primarily with specific reference to how they will enhance the firm's effectiveness in its chosen markets, rather than with vague assurances that "global clients want one-stop shopping."

Size alone is no longer a significant differentiator for law firms. Increased profitability does not correlate strongly with increased size, nor does talent retention, realization rates, client satisfaction, or a host of other measurable criteria with which firms should be closely concerned. There is little evidence that becoming bigger means your firm becomes better. If you're unsure about this, feel free to call up a few key clients and ask them what they think about your merger plans. Their responses should be illuminating.