The Need for a Renewed Professionalism
Don Samuelson

The law industry has just completed two decades of unprecedented prosperity and growth. Lawyers have increased in number from 300,000 in 1970, to 600,000 in 1980, to 900,000 in 1990. Law is presently a $90 billion industry which has grown at a 10 percent rate during the last decade compared to a 3 percent growth in the American economy. It has been common for partners in big firms in big cities to make between $300,000 and $900,000 per year. The law industry clearly prospered in the 80s.

What are the prospects for the 90s? In the economy in general, there is emphasis on quality, on value, on providing cost effective solutions to the needs of consumers. These are the principles that will be applied to the legal industry in the 90s. Are clients satisfied with the legal services they have been receiving? From a recent survey of owners of mid-sized businesses in Chicago, apparently not.

The conclusions are:

1. Clients are dissatisfied with lawyer attitudes, narrow perspectives and costs.
2. Clients do not feel they are getting good value. The incentives in the current billable hour system appear to favor inefficiency, delay, and lawyer interests.
3. Lawyers do not adequately understand their clients' businesses. As a result, they don't appreciate the ways in which their experience, knowledge, and connections could create value for their clients.
4. Associate salaries and costs bear little relation to the value of their work. This is good for associates, good for leverage, good for senior partners, but bad for clients.
5. Law firms appear to have made little "investment" in their practices — developing products and systems, substituting technology for labor — to provide superior services at lower costs.
6. There is a paradox in the significant values that can be provided clients by senior lawyers in the early diagnostic and design phases of a legal matter and the great costs — rather than values — generated by younger lawyers in manufacturing the service. As much as 90 percent of the value can occur in the first 10 percent of the time. The remaining 90 percent of the time — and cost — produces the final 10 percent of the value.

Law is a profession, but it is subject to business principles. The legal industry today is a mature and competitive marketplace. It is a marketplace that is undergoing rapid and perhaps structural change. All industries proceed through stages in a common evolutionary process. The first stage emphasizes production. The product or service is new. The demand is high. There are few suppliers. The problem is in manufacturing the service and getting it out the door. This was the legal industry in the 70s and 80s, responding to the regulatory requirements of the Great Society.

The second stage involves "selling." Demand is not sufficient to "clear" all of the available product. Sometimes customers need to be persuaded to buy. Law firms added "marketing" staff to assist in this selling function in the late 80s.

The third stage requires "marketing." The focus is on the customer. What do they need? What value is the service to them? The basic elements are: a) the client has a problem; b) the lawyer has a solution; c) the client receives a benefit; d) the benefit is of value; and e) there is a reasonable relationship between the value and the price. These principles make up the "business" of law. By this I mean the client centered and efficient delivery of an appropriate and needed level of service.

When an industry enters the mar-
Marketing stage of its evolution, the producer's challenge is to develop a system which can produce services at a cost less than their value to the client. The key point is VALUE TO CLIENTS. The practice of law in the 90s will not be "interesting cases" for lawyers. It will be recommending and executing a course of action—among a variety of alternatives—that is appropriate to the client's needs and objectives. For too long now lawyers have been looking through the wrong end of the telescope.

What must lawyers do to produce values for their clients in the 90s? First, they need to understand the principles, language, values, and motivations of the business community they seek to serve. A law firm does not need to become a business. It does need to understand business.

Second, lawyers need to be able to array a spectrum of legal solutions to client problems—not simply a single, zero defect conclusion. The art of lawyering will be to assist clients in selecting appropriate, cost-effective solutions among a variety of options.

Third, the legal industry needs to develop systems and procedures—and the technology—so that the needed services can be produced cost-effectively, with the requisite degree of service and quality control, and at a price which is perceived to be a value to the client.

Fourth, lawyers need to reduce their manufacturing costs. They can "design" solutions with minimal manufacturing needs. They can substitute technology for labor in the manufacturing process. They can reduce labor (associate) costs. At the moment, lawyers produce high value diagnostic and design services. Their manufacturing processes result in low value products and services. A great deal of the current manufacturing process is unnecessary.

Fifth, both lawyers and law firms need to take longer term perspectives of their careers and law practices. They need to invest time, capital and creativity so that the costs of legal services can be reduced, resulting in increased value to clients. Lawyers cannot continue to sell hourly rate services, at ever increasing hourly rates, independent of the value of those services to clients.

Sixth, lawyers need to communicate their skills and capacities to clients in a persuasive and efficient manner, demonstrating how their services can be cost effective in advancing the interests of the clients.

The basic problem? There are not sufficient ownership interests in a law practice today to induce lawyers to take long term perspectives or to make investments in their firms or practices at the expense of current income. As a result, the prices for legal services rise—to reflect the increased costs of labor or the desire of partners for increased profits—with no offsetting increase in productivity. Markets shrink or are lost to more efficient industries. Revenues drop. Practices deteriorate. And law firms go out of business.

There is a message in this for the law industry. The practice of law needs to rediscover its professional premises. In a profession—or in any competitive marketplace—the interests of clients come first, not profit, not leverage, not the conversion of normal expenses and overhead items into cost-plus profit centers. Paradoxically, the marketplace pressures currently facing lawyers today are likely to result in renewed attention to the "professional" aspects of law practice.

Don Samuelson '67 is a consultant to lawyers and law firms in areas of career management and marketing.