

Help and advice



Leo Aspden on marketing in a weak economy

In Dire Straits? Want money for nothing?

THOSE who remember the song, Money for Nothing, may think it ironic that most economic pundits seem to suggest that we are indeed in Dire Straits. Whether you share this view, are encountering it first hand, absolutely key is the approach of your company to quality.

In business we define quality in a producer-consumer context, for example: ISO 9000: 'Degree to which a set of inherent characteristic fulfills requirements.' The standard defines requirement as need or expectation.

Management guru Peter Drucker: 'Quality in a product or service is not what the supplier puts in. It is what the customer gets out and is willing to pay for.'

As defined by Wikipedia, in the vernacular, quality can mean a high degree of excellence ('a quality product'), a degree of excellence or the lack of it ('work of average quality'). That's quite a range of possibilities from excellence through to down right nothing.

■ **Money for nothing – (no match):** Whilst BS and EN standards ensure that our products comply with legislation and therefore meet the expected requirement, the temptation to introduce cheaper products with limited or no marketing support should only be pursued with the greatest of care.

Customers may be looking to make their pound stretch further, however, they're still able to discern between products and services that give them what they want and those that don't.

The success of marketing is not in persuading customers to buy what they don't want, but in understanding what they want and

providing an offering to match and communicating it.

■ **Money for nothing – (no future):** Another temptation in tough times is to drive through promotions to move that all-important stock out of the warehouse. Short term this may result in healthy looking monthly sales, but when the dust settles in subsequent months the products won't move and distributors and retailers become less trusting and willing to commit to your products.

■ **Money for nothing – (no investment):** In times of need all areas of business come under scrutiny for cost savings, not only marketing or sales support, but often staffing resource. Departments may be downsized putting extra pressure on remaining staff, with more responsibility on those with less experience and seniority.

On paper this may present a happier financial picture but in reality, as with many of the sewer pipes which had no attention since Victorian times, these were under extreme pressure, ready to crack and more worryingly, the sh*t was ready to hit the fan.

We often joke and use the phrase, 'if you pay peanuts yet get monkeys' but don't underestimate the true value of your business, your staff.

Invest in your team; motivate them through training to help them be successful. Your sales team builds customer relationships, which lead to your success or failure. Enhance and develop techniques and knowledge of the products and services benefits relevant to your target market.

Within marketing, the call is towards ongoing staff training and development. Most

professional bodies recognise the importance of Continuing Professional Development (CPD), not only for those with senior responsibility, but also for all levels.

The Chartered Institute of Marketing is no exception and encourages members to actively pursue a programme of 35 hours of CPD a year.

Those who maintain this for a minimum of two years, and ongoing, are able to achieve the status of a chartered marketer, recognition of being at the forefront of knowledge and learning within their profession.

The vision for the future is a time where those who practice marketing will need the assurance of the chartered marketer status.

As an employer would you allow someone to come into your business without the relevant qualifications or accreditation and manage your finances? Can we imagine commissioning an architect without the relevant accreditation to design a building?

Yet when it comes to marketing, perhaps a critical factor determining success and failure, we often don't actively seek recognised qualifications, nor encourage ongoing learning. It is any wonder then that businesses find themselves in Dire Straits, after all no-one will give Money for Nothing will they? **CFJ**

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Dids MacDonald on protecting your intellectual property



The pitfalls of commissioning work

OUT-SOURCING business support services is common practice for most SME's. It is also everyday practice for businesses to commission third parties to design literature, software, websites, or work or similar for them.

Most of these works are protected by copyright and, unless the parties have agreed otherwise, it will be the third party designer that owns the copyright. This can sometimes be a problem, as restricts how your business can use the copyright work.

Patricia Jones, an intellectual property expert from Hammonds, one of ACID's accredited law firms looked at the recent case of Meridian

International Services v Richardson [2008] which highlighted some of the pitfalls of commissioning third party services.

Meridian commissioned (and paid) Richardson to develop bespoke software but failed to agree who would own the copyright. The High Court held that, in the absence of agreement otherwise, Richardson owned the copyright.

Meridian argued that the court should imply a term into the contract with Richardson effectively assigning the copyright to Meridian or granting it an exclusive licence of the copyright. The court refused to do this.

Courts are generally reluctant

to imply into a contract an assignment or licence of copyright in favour of a commissioning party. They must be satisfied that inclusion of the term would be 'so obvious it goes without saying'.

However, if the parties had never even thought about who should own the copyright, this issue cannot really be said to be 'so obvious' that a term should be implied.

In any event, such litigation is costly and time consuming and should be a last resort only.

To avoid problems arising when works are commissioned:

- Enter into a contract with the designer;
- Ensure that the contract is in writing;

■ Include a term in the contract making it clear that you own the copyright (and all related rights) in the finished work;

■ Incorporate an indemnity in the contract just in case the work infringes third party IP rights and you get sued. The indemnity would oblige the designer to reimburse you for any damages that you are ordered to pay; and

■ Take legal advice on the wording of the contract if you are in any doubt. **CFJ**

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