



Combating Origination Competition

Credit for work originated by a partner has become the centerpiece of partner compensation in many firms, in particular but by no means exclusively among US firms. As the legal market has grown increasingly competitive, and client relationships have become more transactional than institutional, many firms have shifted towards a greater focus on rewarding business generation. Unfortunately, the unintended consequence of an increased emphasis on business generation has been internal competition over origination credit. Increased lateral movement has exacerbated the problem, by encouraging partners to keep a tight grip on clients to allow for easier movement from firm to firm. Numerous firms report scenarios of infighting over compensation and credits and wasted hours dealing with partners fixated on boosting origination credit but not necessarily generating more business. This unnecessary and disruptive competition over origination causes firms to ask the question... Isn't there a better way?

Common Approaches

The primary approaches to relieving the tensions brought on by origination competition have been to 1) not track origination, 2) reduce or eliminate the distribution of origination data, or 3) implement a clear definition of origination and sharing policy. Of course each of these approaches has pros and cons.

No tracking of origination: There are a number of firms that have opted to not track origination, based on the theory that client relationships are far too complex to boil them down to individual allocations of credits. For some firms, particularly those with large, institutional clients, a lockstep compensation approach, or other compensation system or practice structure which does not emphasize business generation, this approach has been highly successful. They effectively avoid the internal tensions that arise out of origination allocations, and due to the stability of a number of high revenue clients, there is less need to directly and overtly emphasize and reward entrepreneurial efforts to generate business.

By contrast though, other firms have found that not tracking origination has led to sleepiness in business generation and behavior which supports the theory 'you get what you measure.' Often times, these firms lack the large institutional corporate clients and therefore, revenue growth depends more heavily on partner efforts to drum up business. By not tracking origination, partners perceive that the compensation system places less value on origination, and thus, they tend to focus more heavily on personal production or other highly reported and/or culturally favored metrics.

Ironically, we often find that some firms that claim to not track origination still use a proxy for business generation such as billing attorney credit. Of course, these firms generally face the same challenges experienced by firms that track and report origination – changing the name of the metric has no real impact on behavior. In other instances, firms that claim to not track origination do in fact measure it behind closed doors. Unfortunately, however, we find that such an approach creates other problems, often leading to inappropriate compensation outcomes based on flawed management information – as origination statistics are not discussed with partners closest to the situation.

Success in not tracking origination requires a deep management understanding of partner contributions towards client generation, and for those firms lacking a large institutional client base, it also requires a strong business development emphasis.

Reduce or eliminate distribution of origination data: Another approach to reduce tensions around origination is to track origination in a 'closed' or 'semi-closed' manner. This entails eliminating or reducing the distribution of origination data. In a closed approach, origination is tracked, but partners do not know other partners' origination statistics. In a semi-closed approach, origination is tracked, but only select metrics are shared (e.g., ranking of an individual's origination collections) or

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the data is only available in certain scenarios (e.g., for viewing in a Compensation Committee member's office).

By limiting the publication of origination data, firms can reduce partner preoccupation with the metric, while still ensuring partners are able to track their own business generation contributions. While we do see a reduction in internal competitiveness with this approach, successful application requires significant partner confidence and trust in management's ability to establish fairness in origination allocations. If partners believe that credit is either unfairly or inconsistently allocated, firms may experience even greater levels of dissatisfaction and further distrust due to the closed reporting approach. Also, in a fully closed approach, having candid conversations with partners about credit (without creating internal comparisons and competition) can be challenging, which can lead to less communication and as a result, flawed management understanding of origination contributions.

Clear definition of origination and sharing policy: For a variety of reasons, not tracking origination or eliminating distribution of origination data tend to be less common approaches in law firms. Most firms do track and report origination data, and a common and effective approach to reduce competition is a robust definition of origination and a sharing policy. In most firms, we see origination tracked at the matter level. Key success factors in leveraging this approach include a clear and consistent definition of origination and any other related metrics (e.g., responsible attorney), sharing origination in material increments (e.g., 25%), and seeking to establish broad partner understanding of appropriate allocations and sharing through guidelines or examples.

In spite of well-intended policies, problems can persist. Oftentimes, policies are established but not enforced, and credit is allocated without consistency depending on the partners involved. In other situations, partners demonstrate overt hoarding behavior as a means to maintain credit and avoid sharing. Such challenges are fairly common in a number of firms today, and overcoming origination competition through sharing requires particularly effective leadership and zero tolerance of bad actors. Management must be fully committed to enforcing adherence to the firm's origination and sharing policies and making adjustments when required – even in situations where big practices and big egos are at stake. It only takes a few hoarders or regular misallocations among partners to disrupt partner confidence in the fairness of the system.

Alternatives, New Ideas and the Role of Management

While each of the three approaches described above offer some relief from origination tensions, none represent a panacea that works across all types or sizes of law firms. There are other more nuanced approaches that firms attempt in addition to these, including double counting origination, allowing team originations, or utilizing multiple categories of origination and in some cases, requiring that partners share a minimum amount of at least one origination category with others.

While not always simple or particularly straightforward, we often see firms having the most success in using origination as a measurement tool when they consider the data in light of a broader range of metrics with the aim of getting a more holistic sense of contributions to the client relationship. Too much emphasis on any one metric creates challenges, and by viewing and interpreting origination as part of a broader set of metrics, firms are better equipped to compensate appropriately.

Given the complexity of client relationships and the challenges firms face in quantifying them, perhaps it is time that law firms explore new approaches. For example, what if firms only reported individual partner origination credit in material ranges instead of specific amounts (e.g., \$1,000,000 to \$1,300,000, \$1,300,000 to \$1,600,000, etc.)? This approach would promote internal nomenclature about tiers of business generation, reducing fixation on immaterial origination allocations and communicating that origination is not a precise number to be squabbled over. It could also reinforce the notion that given the complexity of client relationships, origination is intended as more of a general proxy or estimate of business generation contributions – not something that must be boiled down to precise dollars. This type of approach aligns with the movement that firms are increasingly making towards compensating partners based on ranges of contribution levels, and reinforces the notion that material differences in origination are required in order to merit greater compensation.

A critical success factor in any of these efforts to alleviate origination competition is involved management. Management plays an essential role in ensuring that an origination system, in firms that require one, is implemented as fairly and consistently as possible. This requires that leadership invest time in getting behind the data, communicating with the partners involved, reallocating credit where necessary, and demonstrating intolerance of hoarding or credit manipulation efforts. Unfortunately, firms often adopt origination policies or approaches, but fail to see the need for supporting the system with effective management, clear communication, and tools to support internal teaming. Getting origination right and overcoming

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competition requires a variety of approaches, including clear definitions, sharing, and perhaps most importantly – clear communication and management of partners’ behaviors around origination allocations and relationship sharing.

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