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**AN ANALYSIS OF SERVICE DIFFERENTIATION  
STRATEGIES ADOPTED BY TOP LAW FIRMS IN KENYA**

**ESTHER GATHONI KARIUKI**

**MBA 111325**

**A Dissertation Submitted in Partial Fulfillment of the Requirements for the  
Degree of Masters of Business Administration at Strathmore University**

**VT OMNES  
VNVM SINT**

**April, 2021**

## **Declaration**

I declare that this work has not been previously submitted and approved for the award of a masters degree by this or any other University. To the best of my knowledge and belief, the dissertation contains no material previously published or written by another person except where due reference is made in the dissertation itself.

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**Esther Gathoni Kariuki**

**Registration Number: MBA 111325**

**April, 2021**

### **Approval**

The dissertation of Esther Gathoni Kariuki was reviewed and approved by:

**Dr. Elizabeth Muthuma**  
**Lecturer and Supervisor**  
**Strathmore University Business School**



**Dr. George Njenga**  
**Dean, Strathmore University Business School**

## **Abstract**

The increasing pressure on businesses to curtail their costs has led to a challenging business environment for law firms, characterised by demand for reduction in legal spend, the demand for more use of technology, and more efficiency in legal service delivery. This study sought to examine how top law firms in Kenya have sought to differentiate themselves in a changing marketplace in the manner in which they price their services, harness technology to improve their processes, and endeavour to achieve efficiency in their operations. The study was premised on the market-based view that firm performance is primarily based on industry and market factors; and the survival based theory that companies have to find ways to differentiate themselves from their competitors in order to survive. The study adopted a cross-sectional and descriptive research design to identify the strategies that law firms had adopted and to examine the impact of the strategies on competitive advantage. The study population were the partners and senior associates from each of the 11 top law firms ranked as leading law firms by all of IFLR 1000, Chambers and Partners and Legal 500. Purposive and stratified sampling techniques were used to identify respondents with the requisite experience. Descriptive and inferential statistics were used to analyse the data. The study established that top law firms perceive that there exists a moderate to strong positive relationship between pricing and efficiency strategies adopted and an improvement in the firm's competitive advantage; but that the relationship between the use of technology and competitive advantage is negligible. The study recommends that law firms invest in the development of pricing strategy and integrate pricing strategy in overall strategic planning and the continued use of strategies that improve efficiency in service delivery. The study recommends that further research be carried out on a bigger population of law firms and that numerical measures of competitive advantage be used in further research.

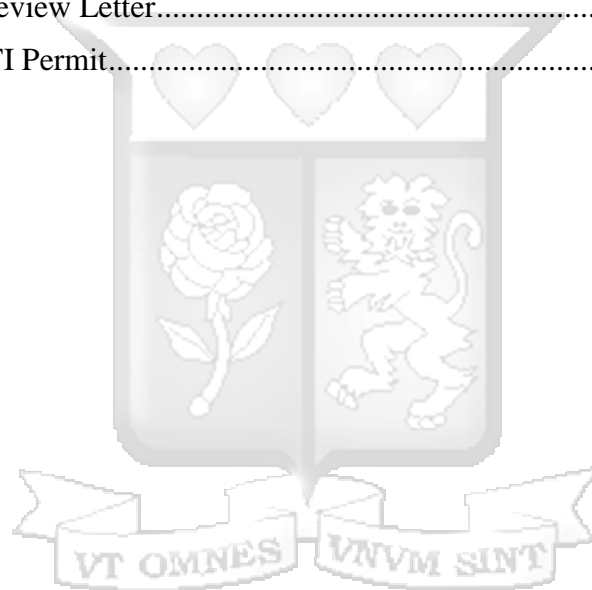
**Key words:** legal services, service differentiation, law firms, business strategies, competitive advantage.

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## **CHAPTER ONE: INTRODUCTION**

### **1.1. Background**

The pandemic brought about by COVID 19 has led to a global economic slowdown. The World Bank predicts that the global economy will shrink by 5.2% in 2020 which would lead to the biggest recession since the Second World War (World Bank, 2020). If these predictions are true, then the impact on businesses, including the market for legal services, can be expected to be significant just as was the case with the 2008 financial crisis (Wald, 2010). The 2008 financial crisis saw businesses begin to pull back work from law firms and change the manner in which they consumed legal services (Deloitte, 2018, Clay & Seeger, 2018). Consumers of legal services started demanding for reduction of legal costs and for more efficient and effective service delivery models (Clay & Seeger, 2018). Clients began to decry hourly billing models and started insisting on fixed fee arrangements (Deloitte, 2016).

The years following the 2008 economic meltdown, despite the global economic recovery, have not seen the market for legal services bounce back to the pre-crisis days. Consumer awareness has increased and customers are in a position to demand for more services for less and are in fact doing so (Clay & Seeger, 2018). Customers are insisting on fixed or capped fee arrangements or fee arrangements where payment is made depending on the value created for the consumer (Deloitte Legal, 2016). Technological evolution has resulted in more commercialization and commoditization of legal services. As a result, clients are demanding for technology driven improvements in service delivery (Clay & Seeger, 2018). The manner in which law firms price their services, use technology and ensure efficiency operations has therefore become critical for the ability of law firms to meet the needs of their clients and to remain competitive.

#### **1.1.1. Service Differentiation**

Porter (1980) argues that there are two fundamental strategies for achieving competitive advantage: cost leadership or differentiation. Differentiation is the process of creating a competitive advantage by making a product or service different from those of rivals (Mcgee, 2015).

Differentiation occurs when customers' perceive a product, service or brand as being consistently different on important attributes relative to its competitor's offerings (Chenet,

Dagger & O’Sullivan, 2010). Fisher, (1991) argues that differentiation is achieved when, in the customer’s mind a service differs on any characteristic including price. Service differentiation is about making a firm’s services distinguishable from those of its competitors in a way that is valuable to customers.

The avenues for service differentiation vary depending on what consumers value. Studies on service differentiation have set out various avenues for differentiation. Kotler & Keller (2016) set out service differentiators to include ordering ease, delivery, installation, customer training, customer consulting, maintenance and repair, and returns. Chenet et al, (1991) found that service quality and trust had an impact on service differentiation. Chege, Kimutai & Kibet (2018) found that service differentiation revolves around the marketing mix elements namely product, price, place, promotion, physical evidence, process and people. Gebauer, Gustafsson & Witell, (2011) identified customer support services, business consulting, integrated services, and operational service as avenues for service differentiation for manufacturing companies.

In the legal services market, consumers have been pressing for: reduction of costs and value based pricing through flexible pricing models; process improvements through technology; and the efficiency of service delivery (Deloitte Legal, 2017, The FLIP Report, 2017). For purposes of this study, these factors have been set out as important avenues for service differentiation for law firms.

### **1.1.2. Strategy**

Johnson et al., (2017) defines strategy as the long-term direction of a firm. Chandler, (1963) on the other hand focusses on a logical flow to define strategy as “the determination of the longterm goals and objectives of an organisation and the adoption of courses of action and the allocation of resources necessary for the achievement of the goals.” Porter, (1996) focusses on choices, difference and competition to define strategy as deliberately choosing a different set of activities to deliver a unique mix of value (Johnson et al, 2017).

### **1.1.3. Top Law Firms in Kenya**

There are various international legal directories that rank leading law firms. Chambers & Partners publishes a global guide comprised of the rankings of top lawyers and law firms in 190 countries (Chambers & Partners, 2019). The directory ranks firms based on technical legal ability, client service, commercial vision and business understanding, diligence, value for money and professional conduct (Chambers & Partners, 2019). According to the 2019

Chambers& Partners ranking, there were 16 top law firms in Kenya across various practice areas (Appendix 1). IFLR 1000 provides a guide of the world's leading lawyers in corporate and financial transactional work based on transactional evidence, feedback from clients and from peers (IFLR 1000). According to IFLR 1000, there are 17 top law firms in Kenya (Appendix 1). Legal 500 uses in-house lawyers and in-house legal teams together with confidential information on deals to rank law firms and lawyers on merit (Legal 500). According to Legal 500, there are 14 top law firms (Appendix 1) in Kenya across various practice categories.

## **1.2. Problem Statement**

In today's competitive climate characterised by clients demanding for more for less, law firms are experiencing pressure to increase their serving offering in terms of service and efficiency while still seeking to remain both competitive and profitable (Kluwer, 2018). According to a report on the state of the legal market in the U.S.A (2018) since 2008, there has been no growth in the demand for law firm services. This is despite economic recovery in recent years and despite an overall increase in legal spend by corporate clients; suggesting that law firms have been losing market share (Report on the State of the Legal Market, 2018). This was confirmed by a Harvard Business Review consulting survey of 300 large corporate clients which reported a growing demand for legal services and an overall increase in companies legal spend. However this increase was internal; outside counsel legal spending unchanged with 95% of the respondents indicating that they were taking measures to reduce their spend on outside legal counsel (HBR Law Department Survey, 2018).

Law firms are not just facing declining market share. Research by Legal Week showed that in the financial year 2012-2013 the average profits of law firms shrank by 0.5% although average turnover had increased by 6.9% which indicates law firms were feeling margin pressure (Tsolakis, 2014). According to a report by the Royal Bank of Scotland the market for legal services in the U.K was characterised by supplier over-capacity, declining demand, pressure on billing rates, margins and profitability (Tsolakis, 2014).

Law firms in Kenya have also been facing mounting competition. There has been a proliferation of new law firms that continues to put pressure on incumbent law firms (Nyambura, 2006). In addition, there has been entry of foreign law firms into the Kenyan market through strategic alliances with local law firms. Hamilton Harrison & Mathews entered into a combination with Dentons; Coulson Harney LLP in Kenya has a strategic partnership

with Bowmans from South Africa; Iseme Kamau & Maema has an alliance with DLA Piper; Walker Kontos with Norton Rose Fullbright; ENS South Africa with NBMA LLP; Daly & Inamdar with CMS; MMC Africa with Asafo & Co (Macharia, 2018); and recently Kangwana & Company with Clyde and Company. The increasing interest by foreign law firms means that competition in the market will continue to increase (Macharia, 2018). These foreign firms bring in superior technology and capital that will make it harder for firms without similar alliances to compete (Macharia, 2018).

Further, consumer awareness has increased which has led to a more demanding consumer base. Studies have shown that consumers of legal services have been pressing for more legal services for less and for value based pricing models (Deloitte Legal, 2017). Consumers of legal services have also been demanding for the adoption of technology in service delivery (Report on the State of the Legal Market, 2018) as well as increased efficiency in service delivery (The FLIP Report, 2017).

There was therefore need to understand how law firms in this changing environment are responding in order to ensure that they remain competitive or achieve competitive advantage. Porter (1980) argues that differentiation is one of the generic strategies that provides sustainable competitive advantage. The study therefore sought to understand how law firms were using service differentiation strategies as a means of obtaining and maintaining competitive advantage. The study specifically sought to understand whether top law firms in Kenya were using the factors that consumers of legal services were demanding for namely flexible and value based pricing models, technology adoption, and efficiency in service delivery as differentiating factors.

### **1.3 General objective**

The general objective of the study was to examine the strategies which top law firms are employing in order to differentiate themselves in a changing marketplace.

### **1.4 Specific Objectives**

The specific objectives of this study were:

- 1.4.1 To identify the pricing strategies which top law firms have put in place for service differentiation
- 1.4.2 To identify the technology led improvements to processes which top law firms have put in place for service differentiation

- 1.4.3 To identify the efficiency strategies which top law firms have put in place for service differentiation
- 1.4.4 To assess whether the pricing, process, and efficiency strategies put in place by law firms in Nairobi have improved the competitive advantage of top law firms.

## **1.5 Research Questions**

The research questions of this study were:

- 1.5.1 What pricing strategies have top law firms put in place for service differentiation?
- 1.5.2 What technology led improvements to processes have top law firms put in place for service differentiation?
- 1.5.3 What strategies have law firms put in place in a bid to improve on efficiency for service differentiation?
- 1.5.4 To what extent have the pricing, process, and efficiency strategies put in place by top law firms improved their competitive advantage?

## **1.3. Scope of the Research**

The study was limited to the 11 law firms that had been ranked as top law firms in all the tiers of the various practice categories by all of Chambers & Partners, IFLR 1000 and Legal 500. The rationale for this is that these are the market leaders who are likely to be disrupted if they are not taking steps to position themselves as offering services that clients perceive to be valuable. In addition, these firms are likely to be out-competed if their service delivery models are not unique and distinguishable from those of their competitors. Also, as these firms have international visibility they are the ones who have multi-national clients who expect and are in a position to demand for the replication of service delivery levels and initiatives being offered by international law firms.

## **1.6 Significance of the research**

### **1.6.1 To Lawyers and Law Firms**

This study will help law firms evaluate how responsive they are to the changes that are taking place in the market. The study will also enlighten law firms on how they can respond to those changes in a manner that will help them win in the end. The study will also assist law firms that are already putting strategies in place to evaluate whether those strategies are enabling them gain and retain a competitive advantage against their competitors.

### **1.6.2 The Law Society of Kenya**

The Law Society of Kenya, as the association that represents the interests of lawyers will find the study useful in understanding the forces that are shaping the industry; and accordingly enable the Society to agitate for policies that will assist law firms thrive. The Law Society of Kenya is also responsible for the Continuing Professional Development program and will thus find the study illuminating on the areas in which law firms need training on in order to thrive in the changing marketplace.

### **1.6.3 Academia**

The study will also contribute to academia by expanding existing knowledge and suggesting areas for further research.



## **CHAPTER TWO: LITERATURE REVIEW**

### **2 Introduction**

This chapter contains a review of the literature on service differentiation strategies and competitive advantage. The chapter begins by considering two theories on the influence of market factors on competitive advantage and on survival in competitive environments. Empirical literature on service differentiation strategies and competitive advantage from service differentiation is then considered. The chapter concludes with the identification of the research gap and a conceptual framework for the study.

### **2.4 Theoretical Framework**

#### **2.4.1 Market Based View**

This theory argues that firm performance is primarily determined by industry factors and external market factors (Wang, 2014). Mason and Bain (1950,1956) developed the Structure-Conduct-Performance (SCP) paradigm linking the industry structure to a firm's performance (Wang, 2014). Porter (1980, 1985) building on the SCP paradigm developed the five forces model for determining the industry structure and the three generic strategies to explain the competitive positions which firms can take within an industry.

Porter, (1985) argued that competition is the main determinant of whether firms succeed or fail. He defined competitive strategy as the search for a favourable competitive position in an industry against the forces that determine industry competition. Porter argued that competitive advantage emanates from a firm's ability to create superior value for its buyers either by offering equivalent benefits at a lower price or by providing unique benefits which allows for higher prices. Flowing from this, Porter argued that there are two types of competitive advantage: cost leadership and differentiation; and that these two types of competitive advantage lead to three generic strategies namely: cost leadership, differentiation and focus (Porter, 1985).

Differentiation is about being unique in an industry along parameters that consumers value (Porter, 1985, Mcgee, 2015). A firm pursuing a differentiation strategy selects attributes which buyers perceive as important and then positions itself as able to meet those needs (Porter, 1985). As a result of this uniqueness, the firm will be rewarded with the ability to charge a premium price.

From this theory, the performance of law firms is primarily determined by external market factors including a more demanding consumer base as well as more aggressive competition. Accordingly, law firms have to continually search for favourable competitive positions either through cost leadership or through differentiation and focus. This theory is therefore relevant to this study as it lays the basis for considering the extent to which law firms have adopted differentiation strategies in order to remain competitive as a result of changes in the legal services industry as evident from a more demanding customer base as well as more aggressive competition.

#### **2.4.2 Survival based theory**

This theory examines how organizations survive and thrive in competitive environments. Herbert Spencer coined the phrase ‘survival for the fittest’ in 1852 borrowing from Malthusian ideas of the inevitability of a population explosion (Tikhonov, 2010). Herbert Spencer argued that the struggle for survival amid scarce resources would inevitably lead to a survival for the fittest. Spencer merged this idea with the Invisible Hand theory to argue that this competition-fuelled progress would lead to a happier state of equilibrium (Miesing & Preble, 1985). This view is what came to be referred to as ‘Social Darwinism’ (Tikhonov, 2010).

In an article titled “The Origin of Strategies” Henderson, in agreement with the ideas of Social Darwinism, posited that competition existed since the beginning of life (Abdullah, 2010). Henderson argued that as organisms had to compete to survive, no exact species would survive and persist together; and that similarly two companies with an identical purpose and customers would be pointless and would inevitably end up in the demise of one of the companies. Accordingly in order to survive, companies had to differentiate themselves from their competitors (Abdullah, 2010). As a result, organizations need to continuously adapt to their competitive environment in order to survive (Otungu et al., 2011). Firms should employ multiple strategies at once and natural selection will then determine the best strategy for the company to adapt to its environment (Abdullah, 2010).

Flowing from this theory, no two law firms that are exactly the same can survive in a competitive environment. Accordingly, in a changing market place, law firms have to take steps to ensure that they are differentiating themselves from their competitors so that they are distinguishable and can therefore survive. The theory therefore lays the framework for considering what strategies top law firms have put in place in order to survive and to remain ahead of the competition in a changing and competitive marketplace. If top law firms do not

evolve then ‘fitter’ competitors will out-compete top law firms and the top law firms will lose their place in the market.

## **2.5 Empirical Framework**

### **2.5.1 Service Differentiation Strategies**

Studies on service differentiation have set out various strategies for differentiation. Kotler & Keller (2016) set out service differentiators to include ordering ease, delivery, installation, customer training, customer consulting, maintenance and repair, and returns. Chenet et al, (1991) found that service quality and trust had an impact on service differentiation. Chege, Kimutai & Kibet (2018) found that service differentiation revolves around the marketing mix elements namely product, price, place, promotion, physical evidence, process and people. In studying the marketing mix elements, Gholipour Soleimani (2009) as cited in Khodaparasti, Aboulfazl and Isakhajelou, (2015) included productivity and efficiency.

Nyambura, (2006) studied how law firms in Nairobi use the service offering, service delivery, and image as differentiators. The study established that service offering was the most widely used differentiation strategy followed by service delivery with image being the least used strategy. Onuong'a, (2009) studied how G4S Courier Services Company was using target market, service, place (channel), promotion and price to acquire a competitive edge.

Outside the marketing mix elements, Gebauer, Gustafsson & Witell, (2011) studied the extent to which service differentiation has a moderating effect on customer centricity and innovativeness. The avenues identified for service differentiation were customer support services, business consulting, integrated services, and operational service. The study recognised that service differentiation by itself does have a direct effect on business performance.

Studies have shown that consumers of legal services have been pressing for more legal services for less and for value based pricing models (Deloitte Legal, 2017). Consumers of legal services have also been demanding for the adoption of technology in service delivery (Report on the State of the Legal Market, 2018) as well as increased efficiency in service delivery (The FLIP Report, 2017).

As differentiation entails creating products or services that are perceived as having superior value or a special appeal (Chege et al, 2018), focusing on the parameters which consumers value can offer law firms a unique opportunity to strategically position themselves as delivering

value on those parameters. This study will therefore focus on the three parameters set out above namely flexible pricing models and value based pricing; use of technology to improve processes; and efficiency in service delivery in a bid to see how law firms are positioning themselves to be seen as the preferred service provider.

### **2.5.1.1 Pricing Strategies**

Pricing strategy refers to the policy a firm adopts to determine what it will charge for its products and services (Bonnici & Channon, 2015). Price is a vital strategic tool for differentiation (Iveroth et al., 2013). A 2018 survey by Altman Weil considered various pricing strategies which law firms have put in place in order to enhance service delivery (Clay & Seeger, 2018). A majority of the law firms studied indicated that they were: collaborating with clients to come up with alternative fee arrangements, including collaborating on budgets in order to better understand what clients want. Law firms were in addition accumulating and synthesising data on how much it costs to deliver a service. A majority of the firms however indicated that they were not training lawyers to talk about pricing with clients upfront; were not assigning pricing responsibility to a designated staff member; were not taking steps to identify the unique preferences of each client; and were not taking any steps to ensure that pricing has been incorporated in all planning efforts.

Weins (2010) found that large law firms are now offering large hourly discounts, fixed fees, and alternative fee arrangements in a bid to retain their largest clients. Firms are increasingly using contingency fee models or hybrid arrangements where they agree discounted fixed rates plus a contingency (Dillof, 2011).

A Commission of Inquiry carried out by the Law Society of New South Wales found that in addition to the traditional billing models and capped fee arrangements; law firms were getting into what they referred to as “collared fee arrangements”, which are a mash up of the fixed fee arrangement and the hourly billing model i.e a firm agrees on a fixed fee but still keeps track of the amount of time spent on the work. If the work exceeds the hourly rate then the client tops up the amounts by an agreed percentage. If the reverse happens then the lawyer accepts a reduction on the capped fee (The FLIP Report, 2017). Large corporations have evolved into flat fee arrangements where they agree to a certain annual legal budget regardless of the work done (Dillof, 2011).

However, other studies have decried the position that law firms have been embracing more flexibility in their pricing models. Deloitte Legal, (2017) has criticised the alternative fee

arrangements that law firms have put in place arguing that these arrangements are mere variations of the hourly billing rate. The Law Society of New South Wales (2017) noted that behind the front that law firms have been pursuing alternative pricing models is a shadow time based system where fixed fees maybe agreed upon but in essence such fees are based on undisclosed hourly rates. The FLIP Report, (2017) pointed out that although law firms were considering and embracing alternative fee arrangements, such arrangements will continue to be contentious because they often pass the risk of under-quoting solely to law firms.

In Kenya, pricing of legal services is regulated by the Advocates Act, the Advocates Remuneration Order, 2014 and the Code of Standards of Professional Practice and Ethical Conduct , 2016. The Advocates Remuneration Order, 2014 prescribes the minimum amount which law firms can charge for professional services; which minimum amount is generally based on the value of the transaction. The Advocates Act and the Code of Standards of Professional Practice and Ethical Conduct , 2016 make it an offence to charge below the prescribed minimum.

#### **2.5.1.2 Use of Technology to Improve Processes**

Business processes refer to how work is organised and co-ordinated in order to produce a service or the collection of activities needed in order to offer a service. (Laudon & Laudon, 2018). Information technology innovations as well as information systems have been improving business processes by automating manual steps, making it easier to share information, and consequently increasing access to information (Laudon & Laudon, 2018).

Padgett & Mulvey, (2007) studied how service firms use technology as a differentiating factor in a competitive marketplace. They found that the introduction of significant technology opens up new positioning avenues. Padgett & Mulvey, (2007) posited that firms can either commercialize technology by using it as a new interface for customers to interact with the firm or as a new functionality which does something for the customer. As a functionality, technology can be used at the back-end to improve processes. The study established that in order to effectively use technology as a differentiator, firms need to show consumers how the new technology allows them to gain important benefits and experience emotional payoffs.

The Guide to Legal Technology, (2019) agrees with the classification of technology either as a forward interface with clients or as a back-end functionality, focussed on aspects such as: practice management (e.g. for calendaring, case or contract management or time tracking), knowledge management, case management and analytics, legal research, business

development, as well as support activities such as: the automation of documents and processes, e-discovery, data analysis and extraction, smart contracts and interactive features such as chat bots.

Hongdao et al., (2019) studied how legal technologies enable the development of new business delivery models. The study found that technology based services, such as Legal Zoom and Rocket Lawyer, which were being offered to lower end sectors of the market had significantly improved their offering and that they were now serving larger portions of the population. They used this to support the claim that disruption is already happening in the legal services market. Support for the view that technology disruption is already happening is however far from unanimous. There are those who argue that the true scale of change brought by technology is being obscured by the hype in media reports (The FLIP Report, 2017). They posit that we are at stage where Artificial Intelligence and Legal Apps are being hyped but in reality hard real commercial activity is yet to be seen. This is in consonance with the position taken by the Law Society of the United Kingdom, (2019) that legal technology is still nascent and not yet disruptive; and that at the present technology is more focussed on efficiency rather than the delivery of new types of law.

### **2.5.1.3 Efficiency in Service Delivery**

Fugate, Mentzer & Stank, (2010) studied efficiency, effectiveness and differentiation in the context of logistics performance. In the study, efficiency was defined as the ability to produce the desired outcomes for clients at a cost level that clients find acceptable. The study posited that although research had suggested that efficiency and effectiveness were mutually exclusive, the dynamics of today's marketplace including a more demanding consumer base, rapid technological advancement and globalization demands that organisations integrate efficiency, effectiveness and differentiation in order to win in a hyper-competitive marketplace. Their findings were that there need not be trade offs between efficiency and effectiveness but that rather efficiency and effectiveness and differentiation reinforced each other.

A survey conducted in 2018 considered the efforts that law firms have put in place to increase efficiency in service delivery (Clay & Seeger, 2018). Among the parameters considered was: use of compensation decisions to reward efficiency and profitability; the use of technology in place of human resources; the use of knowledge management programs; the systematic re-engineering of processes; and proactively pursuing conversations with clients in order to better understand what the clients want. The survey established that a majority of the firms had been

using compensation decisions to reward efficiency and profitability and were using technology in place of human resources. However most firms did not have knowledge management programs, did not proactively pursue conversations with clients on matter management, and had not carried out any systematic re-engineering of their processes.

### **2.5.2 Competitive Advantage from differentiation**

Porter (1985) defines competitive advantage at firm level as the growth in productivity that arises either from low cost or differentiated products. It is the ability of a firm to improve the quality of its products, to reduce the cost of its products, or to increase its market share or profit (Sachitra, 2017). Others have defined competitive advantage as the extent to which firms are able to explore opportunities, eliminate their threats, and reduce costs (Sachitra, 2017).

Building on Porter, (1980), Fisher, (1991) argues that the principle advantage of differentiation is that it allows the organization to charge a premium or to adjust the price/quantity variables more flexibly. This in turn results in higher profitability for the organisation as the service provider is able to apply bigger margins. Gebauer et al., (2011) agrees with this and posits that firms that make their marketing investment more customer centric through service differentiation improve their financial performance.

Differentiation is also more likely, compared to the cost leadership strategy, to ensure that the service provider obtains and sustains a competitive advantage (Banker, Mashruwala & Tripathy, 2014). Competitors may find it easier to respond to cost-centric strategies, however differentiation strategies are hard to emulate (Banker et al., 2014). Porter, (1980) (cited in Banker et al., (2014) argues that cost leadership strategy based primarily on operational efficiencies are easily duplicated and hence the competitive advantage obtained through such strategies easily dissipates over time. On the other hand differentiation achieved through the uniqueness of products and services allows firms superior advantage over time (Banker et al., 2014).

Focussing on customer needs also helps firms and customers co-create knowledge which then serves as an entry barrier (Gebauer, et al 2011). Mcgee, (2015) agrees that differentiation strategies creates an entry barrier and therefore a sustainable competitive advantage.

These views are supported by empirical literature. Chege et al., (2018) studied the effectiveness of differentiation strategy on business performance by Kenyan Betting Companies. The study established that the strategies employed were effective in persuading the public to buy from

the betting companies. A 2017 study on U.S. law firms studied the differences between firms that had registered revenue and profit growth and those that had not (Report on the State of the Legal Market, 2018). The Report established that firms which had come up with unique pricing strategies by having upfront communications about pricing with their clients were the firms which were showing profit and revenue growth. Deloitte Legal, (2017) posit that the use of technology has significantly impacted businesses by: cutting the costs and reducing the time taken for routine work; sharing of insights through social networks; increasing the quality and consistency of work; assisting in the better management of workloads for instance through e-Billing systems; and the building of customer relationships.

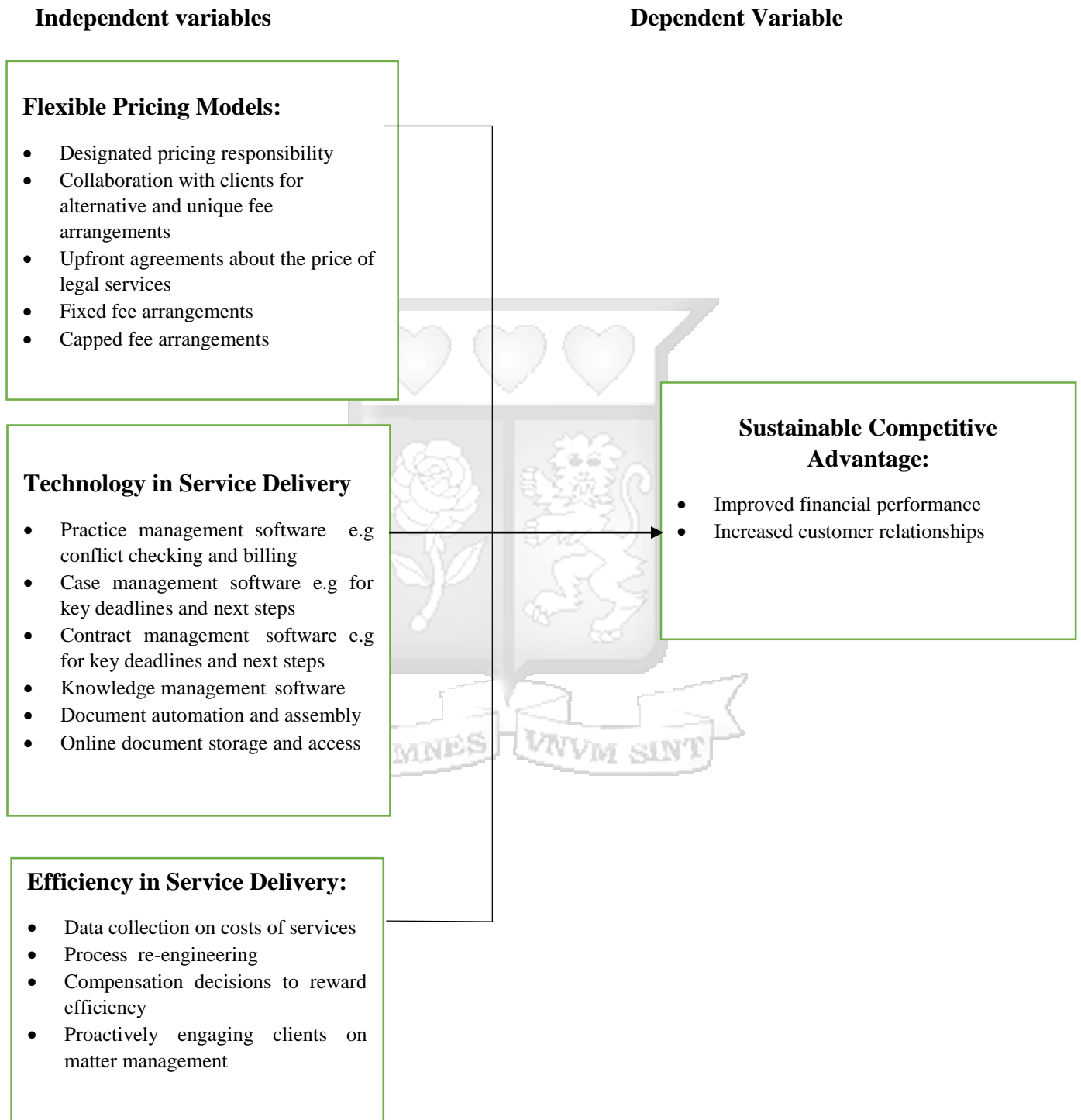
## 2.6 Research Gap

Generally, service differentiation is not widely researched (Chenet et al., 2010). Save for the study by Nyambura (2006), which was carried out more than 10 years ago, there is paucity of literature on how law firms in Kenya are achieving service differentiation. Although the literature identified has set out various strategies being employed by law firms globally in the context of a changing market place, the literature has not considered whether law firms are using these measures as strategic tools to achieve differentiation.

Furthermore, most of the literature identified on the measures taken by law firms is based on research carried out in the U.S.A, the U.K and Australia, whose context is significantly different from the context in Kenya. The markets in these countries have been undergoing liberalisation (Stephen et al., n.d). There have been legislative changes in the U.K that allow non-lawyers to compete in the legal services market (IBA Legal & Policy Research Unit, 2016). Law Firms in these countries also have huge capital backing and are therefore able to mobilize the huge technology investments required. This is not the same with Kenya. It is therefore necessary to study the legal profession in Kenya to understand how law firms in Kenya are differentiating themselves to achieve and maintain a competitive advantage.

## 2.7 Conceptual framework

Figure 2. 1 Conceptual Framework



## 2.8 Operationalization of the Variables

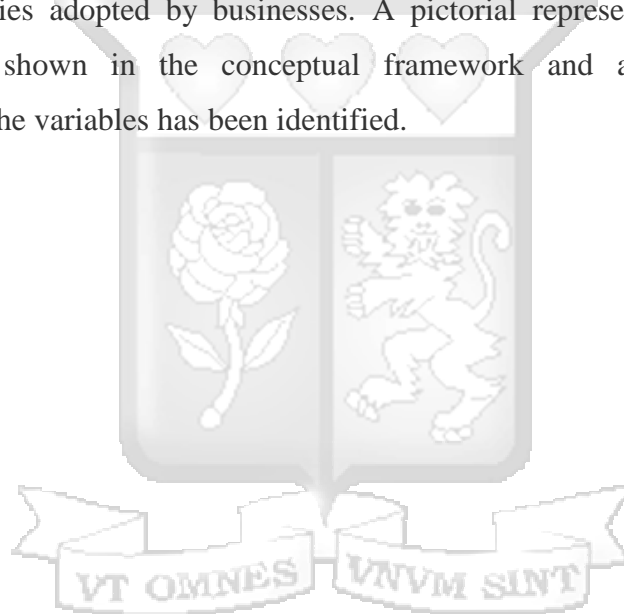
Variable	Operational definition	Measurement
<b>Independent Variable</b>		
<b>Flexible Pricing Models</b>	<ul style="list-style-type: none"> <li>• Designated pricing responsibility</li> <li>• Collaboration with clients on pricing</li> <li>• Upfront agreements about pricing</li> <li>• Fixed fee arrangements</li> <li>• Capped fee arrangements</li> </ul>	<ul style="list-style-type: none"> <li>• 4 point likert scale</li> </ul>
<b>Process Improvements through Technology:</b>	<ul style="list-style-type: none"> <li>• Practice management software e.g conflict checking and billing</li> <li>• Case management software e.g for key deadlines and next steps</li> <li>• Contract management software e.g for key deadlines and next steps</li> <li>• Knowledge management software</li> <li>• Document Automation and Assembly</li> <li>• Online document storage and access</li> </ul>	4 point likert scale
<b>Efficiency in Service Delivery:</b>	<ul style="list-style-type: none"> <li>• Data collection on costs of services</li> <li>• Process re-engineering</li> <li>• Compensation decisions to reward efficiency</li> <li>• Proactively engaging clients on matter management</li> </ul>	4 point likert scale

Dependent Variable		
Competitive Advantage	<ul style="list-style-type: none"> <li>• Improved financial performance</li> <li>• Improved customer relationship</li> </ul>	4 point likert scale

Table 2. 1 - Operationalization of the Variables

## 2.9 Summary of the chapter

This chapter has considered the theories and previous studies that explain service differentiation strategies adopted by businesses. A pictorial representation of the various variables has been shown in the conceptual framework and a framework for the operationalisation of the variables has been identified.



## **CHAPTER 3: RESEARCH METHODOLOGY**

### **3.1 Introduction**

This chapter provides the research methodology used for the study. It identifies the design as well as the processes used in answering the questions of the study.

### **3.2 Research Design**

Research design refers to the general plan on how the research question will be answered (Saunders, Lewis & Thornhill, 2016). The study adopted a cross-sectional survey design. This design was chosen as it allowed an analysis of the service differentiation strategies adopted as well as the impact of those strategies on competitive advantage at the time of the study. A longitudinal study over time was not possible due to limitation of time and costs.

In addition, the study adopted a concurrent mixed methods research design by combining the use of quantitative as well as qualitative data collection techniques in a single phase of data collection and analysis. This was done by using a questionnaire requiring respondents to tick an appropriate box as well as answer some open-ended questions. Saunders et al., (2016) describes the quantitative research design as any data collection or analysis technique that generates or uses numerical data; the qualitative research design as one that generates or uses non-numeric data; and a mixed methods design as one that combines the use of quantitative and qualitative data collection techniques and analysis procedures. A concurrent mixed-methods research design was used as it allows for both sets of quantitative and qualitative data to be interpreted together to provide a richer and more comprehensive response to the research question (Saunders et al., 2016).

A descriptive approach was used to describe and interpret the strategies which law firms have put in place to differentiate themselves and to describe the factors that have prompted these as well as to assess how effective such strategies have been in helping the law firms attain a competitive advantage.

### **3.3 Population**

The population of the study were partners and senior associates in the 11 law firms ranked as top law firms in three international directories namely: Chambers & Partners, Legal 500 and IFLR 1000 in 2020. The directories ranked the 11 law firms on client service and feedback, commercial vision and business understanding, technical legal ability, confidential information on deals handled, professional conduct, and feedback from peers. The 11 law firms are

therefore the market leaders who have distinguished themselves in their service delivery. Additionally these firms have international visibility and therefore have international clients who expect, and who are in a position to demand for the replication of service delivery levels and models offered by international law firms. These ranked firms are also large enough to have adopted strategic planning practices and the requisite systems for the implementation of the selected strategies.

The partners and senior associates were chosen as the population of study because they have the requisite insight and knowledge of the operations of the firms as well as the firm's strategic orientation. Partners, as owners of the business are responsible for setting and driving the strategic direction of the firm, whereas senior associates are involved in the implementation of the service delivery models emanating from the strategies developed by partners but are also senior enough to have deeper insight into the strategic choices adopted by their firms.

### 3.4 Sampling

A preliminary survey of the websites of the 11 law firms was carried out to identify the number of partners and senior associates in the law firms as set out in table 3.1 below. Some firms in addition to having partners had directors/ managers who sat in the same capacity as partners in the law firm hierarchy. In such cases the directors and managers were included. Some law firms did not have senior associates but had either principal associates or associates working directly under partners. In such cases, principal associates and associates were included.

<b>Name of the Firm</b>	<b>Number of Partners/Directors</b>	<b>Number of Senior Associates</b>
1. Anjarwalla & Khanna	16	16
2. Bowmans (Coulson Harney)	24	12
3. Iseme, Kamau & Maema Advocates (IKM)	12	11
4. Kaplan & Stratton	17	8
5. Walker Kontos	9	-
6. Dentons Hamilton Harrison & Mathews	13	7
7. MMAN Advocates	5	3
8. MMC ASAFO	12	5

9. Oraro & Company Advocates	12	4
10. Daly & Inamdar	15	3
11. Mboya, Wangong'u & Waiyaki	6	1
<b>Total</b>	141	70
<b>Total Partners &amp; Associates</b>	<b>211</b>	

Table 3. 1 Selection of Respondents

Source: Author 2020

Owing to limitations of time and money, sampling was used to carry out the study. McClave, Benson & Sincich (2014) indicates that sampling may be used where it is too costly or time-consuming to conduct a census of the entire population.

The central limit theory provides that the sampling distribution of the sample means approaches a normal distribution for sample sizes of  $\geq 30$  no matter the shape of the population distribution; and that thereby sample sizes of  $\geq 30$  accurately predict the characteristics of the population (Chang, Huang & Wu , 2006). Kish (1965), as cited in (Singh, & Masuku, 2014) state that where the population is normally distributed, a sample size of 30 to 200 is sufficient. Accordingly, a sample size of  $\geq 30$  was considered appropriate for the study.

As the strategies employed by law firms were expected to vary from firm to firm, it was necessary to get a fair and uniform number of respondents from each of the firms. Accordingly, a stratified sampling technique was used. McClave., et al, 2014 states that stratified sampling may be used where the characteristics of the units under observation are more similar within strata than across strata. Three representatives from each of the 11 firms were therefore selected using judgmental sampling. The criteria for selection at firm level was to have respondents from partner level (who would be responsible for the law firm's strategy direction) and at a senior associate level, (who would be implementing the service strategies) from the dispute resolution and corporate commercial departments which are the two main service departments of law firms.

### 3.5 Data Collection

Data was collected through a questionnaire (Appendix 2) which was informed by the literature review. The questionnaire incorporated both close-ended and open- ended questions on the service differentiation variables of pricing, technology and efficiency in service delivery as

well as the impact of these variables on the competitive advantage of the firms. The open-ended questions were included to allow respondents to include strategies that were not specifically listed in the close-ended questions. The questionnaire was refined after pilot-testing using respondents from the law firms that were ranked in either Chambers & Partners, Legal 500, or IFLR 1000, but not in all three of the directories.

The questionnaire was self-administered through Google forms. The respondents were first called on the telephone, the purpose of the study was explained and consent to participate was obtained. Thereafter the link to the questionnaire was shared on e-mail.

Questionnaires were used as they allowed the collection of standardised data in an efficient way.

### **3.6 Data Analysis**

The data collected was inspected for errors and completeness. The data was then summarised, and coded and entered into the Statistical Package for Social Sciences (SPSS) for computation. Descriptive tests were conducted on the data through measures of central tendency and measures of variability in order to describe the patterns and trends in the data. The data was presented using tables and graphs. The strength of the relationship between the strategies adopted and the competitive advantage variables was tested using Spearman's rank correlation co-efficient (Spearman's rho). The qualitative data obtained from open-ended questions was analysed and then categorized in themes in accordance with the research objectives and reported in narrative form. The qualitative data was used to reinforce the quantitative data.

### **3.7 Research Quality**

#### **Reliability**

Reliability refers to replicability and consistency (Saunders et al., 2016). It refers to the extent to which the methods of research used produce consistent results when replicated. The questionnaire was pilot tested using 5 respondents from the law firms which were ranked in either Chambers & Partners, Legal 500, or IFLR 1000, but not in all three of the directories, as is the case with the population of the study. A Cronbach's reliability test was then conducted using SPSS to measure the reliability of the questionnaire. The results show that the study constructs had a Cronbach' Alpha of greater than 0.7 as set out in table 3.2 below. A Cronbach' Alpha of greater than 0.7 is regarded as acceptable (Baruch, 1999). The research instrument was therefore sufficient for use as the instrument of the study.

<b>Variable</b>	<b>Cronbach's Alpha</b>	<b>No of Items</b>
Pricing Strategies	.869	9
Process Strategies	.702	11
Efficiency Strategies	.875	10
Competitive Advantage	.977	6

Table 3. 2: Reliability Analysis

### **Validity**

Validity refers to how well the study measures what it is supposed to measure (Heale & Twycross, 2015) as well as the extent to which the findings can be generalised to the whole population (Slack & Draugalis, 2001). This was achieved by ensuring that the operationalisation of the variables was informed by the review of literature. Additionally, the questionnaire was pilot-tested using respondents from the law firms that were ranked in either Chambers & Partners, Legal 500, or IFLR 1000, but not in all three of the directories to ensure that the questions were understandable and to provide opportunities for refinement.

### **3.8 Ethical Considerations**

Confidentiality, informed consent and the absence of deception are critical factors in ethics in research (Saunders et al., 2016). The informed consent of the participants was obtained through telephone calls before the participants were asked to fill out the survey. The purpose of the study was explained to the respondents. The data collected was anonymised and was kept confidential. Ethics clearance was also obtained from Strathmore University and a study permit obtained from the National Commission for Science, Technology and Innovation (NACOSTI).

## **CHAPTER 4: PRESENTATION OF RESEARCH FINDINGS**

### **4.1 Introduction**

This chapter presents the findings of the study in accordance with the objectives of the study and the research questions sought to be answered. The chapter includes the demographic characteristics of the respondents, descriptive statistics, the results of the correlation analysis, and a summary of the chapter.

### **4.2 Response Rate**

Out of 33 questionnaires sent out to the sampled respondents, 31 were returned. This represented a successful response rate of 94%. Baruch (1999) argues that a response rate of 55.6% should be considered as the norm in academic studies. Mugenda and Mugenda, (1999) stipulates that a response rate of 50% is acceptable, 60% is good and over 70% is excellent.

### **4.3 Respondents Profile**

#### **4.3.1 Gender**

The results indicate that 63% of the respondents were male whereas 37% were female. As the respondents were picked from senior levels in law firms, the study findings show that there are more men than women in top positions in law firms. This was confirmed from secondary data from the websites of the 11 law firms which indicates that the gender composition in senior positions in the 11 law firms stood at 51% male and 49% female.

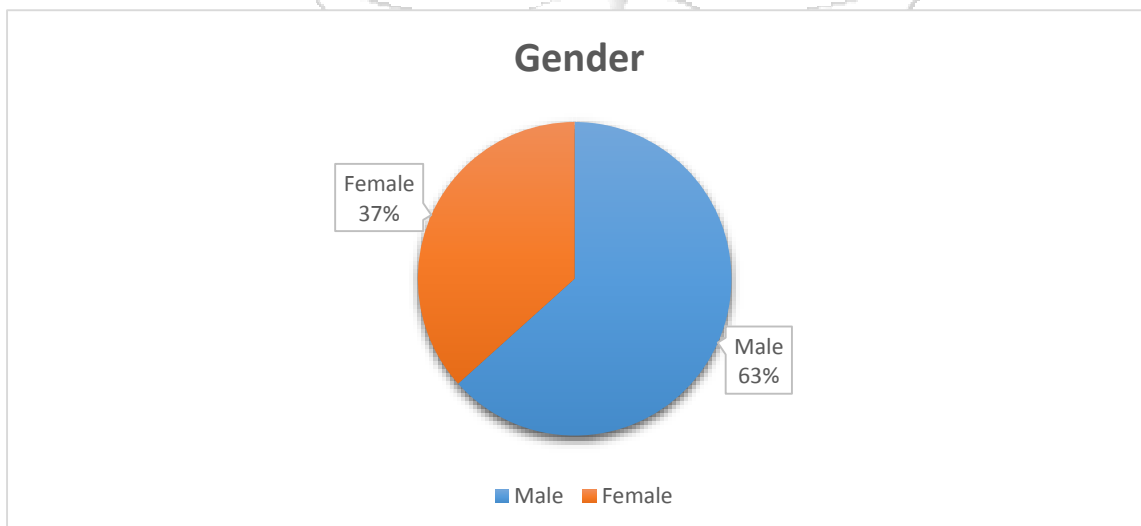


Figure 4.1: Gender

### 4.3.2 Position in the Firm

The Respondents were also asked to indicate the position in the Firm. 67% of the respondents were at associate level, whereas 33% of the respondents were partners. This shows that, as expected, law firms have a pyramid structure with fewer people in partnership.

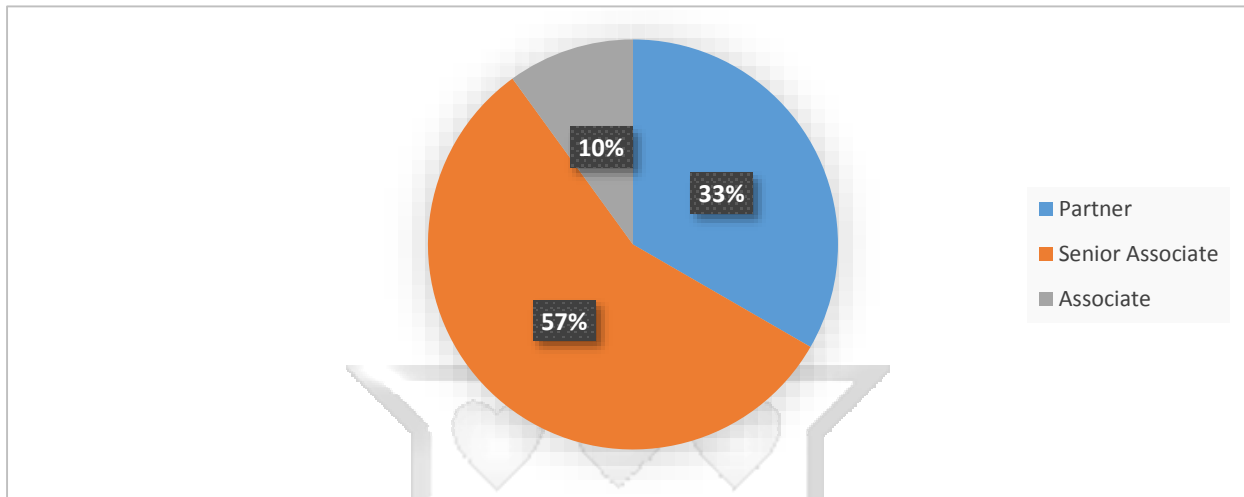


Figure 4.2: Position in the firm

### 4.3.3 Number of years worked

A majority of the respondents (60%) had worked in their current firm for 6 to 10 years whereas 30% had worked for 1 to 5 years. The findings shows that, the respondents had the requisite experience for the study.

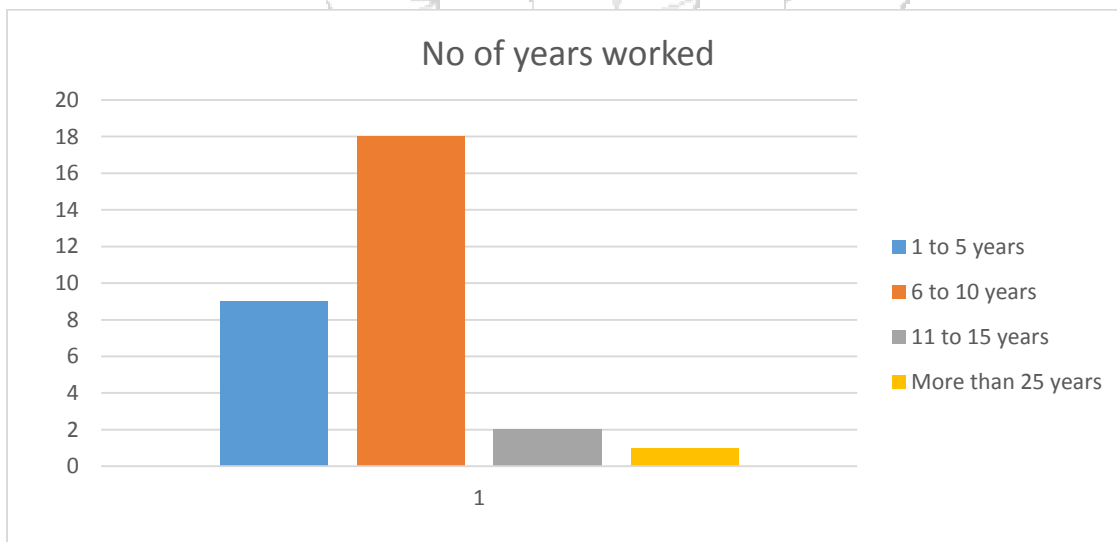


Figure 4.3: Number of years worked

#### 4.4 Service Differentiation Level

The Respondents were asked to rate on a 4-point likert scale where 4= To a Great Extent, 3 = To a Moderate Extent, 2 = To a Slight Extent and 1 = Not at All the extent to which they believed that their firm was offering services that were clearly distinguishable from those of their competitors. The results are as set out in table 4.1 below. A majority of the respondents (58%) agreed to a great extent that their firms had a service offering that was distinguishable from their competitors. This implies that most firms have a clearly distinguishable service offering from their competitors.

Differentiation Level	Frequency	%
To a Great Extent	18	58
To a Moderate Extent	12	39
To a slight extent	1	3
Not at all	0	0
<b>Total</b>	31	100

Table 4.1: Service Differentiation level

#### 4.5 Descriptive Statistics

This section contains the findings on the strategies adopted by top law firms as well as a description of the effectiveness of the strategies adopted. The frequency of observations were noted and the measures of central tendency as well as variance considered.

##### 4.5.1 Service Differentiation Strategies

###### 4.5.1.1 Pricing Strategies

The study sought to establish the strategies that law firms were using in pricing their services. The respondents were asked to rate five pricing strategies which had been identified from the literature review on a 4-point likert scale. The results are set out in table 4.2 below.

Strategy	Mean	Standard Deviation
My firm has a designated person who has responsibility on the pricing of services	2.3	1.124
My firm collaborates with clients to come up with fee arrangements that meet the needs of the clients	3.4	0.568
My firm agrees the price for legal services with clients upfront before the work is commenced	3.3	0.758
My firm charges an agreed fixed fee for services regardless of the amount of time spent	2.1	0.885
My firm provides services based on capped fee arrangements (i.e. a variable fee subject to a maximum amount)	2.5	0.86

Table 4.2: Pricing Strategies

From the findings, top law firms were to a moderate extent engaging their clients in making pricing decisions as noted from the mean of 3.4 and a moderate deviation of 0.568 in the responses. Top law firms were also to a moderate extent agreeing fees with clients upfront before services are delivered as noted from the mean of 3.3 and moderate variability of 0.758. This implies that top law firms are only moderately seeking to differentiate themselves by involving clients in pricing decisions. On the other hand, the study showed that top law firms were only to a slight extent providing services based on capped and fixed fee arrangements as noted from the means of 2.5 and 2.1 respectively. This implies that law firms were only slightly seeking to differentiate themselves by providing clients with certainty as to the cost of the services delivered. Similarly, most respondents slightly agreed their firms use a designated person for the pricing for services as noted from the mean of 2.3. This implies that for most top law firms there is no uniform pricing strategy that is being used to differentiate the firm from its competitors.

The respondents were also asked using an open-ended optional question to include any other pricing strategies that their firms use. Sixteen out of thirty-one respondents responded to this question. A content analysis of the responses was carried out. Ten out of thirty-one respondents indicated that their law firms were in addition billing on a time spent basis. Five out of thirty-

one respondents indicated that their law firms were billing using the Advocates Remuneration Order where applicable. One respondent indicated that their firm uses monthly or annual retainers; and one respondent indicated that their firm was using a combination of fixed and capped fee arrangements in a hybrid pricing model. These findings show that that top law firms are still using conventional pricing strategies and that price strategy in law firms is still in early stages of development as noted by Clay & Seeger, (2020).

#### 4.5.1.2 Process Strategies

The study also sought to establish the ways in which law firms were using technology in order to organise their work processes in a manner that distinguishes them from their competitors. The respondents were asked to rate six strategies identified from the literature review in which law firms use technology to improve their processes on a 4-point likert scale. The results are set out in table 4.3 below.

Strategy	Mean	Standard Deviation
My firm uses practice management software e.g. for conflict checks and for handling financial matters such as billing	3.4	0.817
My firm uses case management software e.g. for providing case checklists and for tracking important deadlines in handling cases in court	2.4	0.894
My firm uses contract management software e.g. for tracking next steps and important deadlines in contract negotiations	2.1	0.995
My firm uses a knowledge management system to keep and provide access to useful information	3.5	0.86
My firm has systems that allow automatic generation and assembly of common legal documents	2.7	0.988
My firm provides clients with online access to their files and documents and other useful legal information	2.0	1.083

Table 4.3 Use of Technology in Process Improvement

From the study, top law firms were moderately using knowledge management systems and practice management software as seen from the mean of 3.5 and 3.4 and standard deviations of

0.86 and 0.817 respectively, showing moderate dispersion in the responses. This implies that law firms were moderately using technology to differentiate themselves in the manner in which they produce services for their clients.

On the other hand, most of the respondents indicated that their firms only slightly use software and systems for the automatic generation of common legal documents as seen from the mean of 2.7. Similarly, most respondents indicated that their firms were hardly using case and contract management software with these strategies having a mean of 2.4 and 2.1 respectively. This implies that law firms are only slightly using the automation of common legal services as a service differentiating strategy. Further, a majority of respondents indicated that their firms only provide their clients with online access to their files, documents and useful legal information to a slight extent as seen from the mean of 2.0, with substantial variation in the responses.

The respondents were also asked using an open-ended optional question to include any other technology led improvements to processes used by their firms. Eight out of thirty-one respondents responded to this question. Three of the responses identified strategies that had been identified in the close-ended questions namely the legal practice management software, document management software that allows online access to documents albeit within the firm and software that allows the review of legal documents such as contracts and opinions. Three of the respondents identified the use of artificial intelligence to carry out due diligence, one respondent referred to the subscription to online third party providers of legal information. These answers corroborated the findings from the identified strategies that although there were steps to incorporate technology in legal service delivery by law firms, this was only happening moderately or to a slight extent.

#### **4.5.1.3 Efficiency Strategies**

The study sought to establish the strategies that law firms were using to differentiate themselves through efficiency in service delivery. The respondents were asked to rate four strategies identified from the literature review on a 4-point likert scale. The results are as set out in table 4.4 below.

Strategy	Mean	Standard Deviation
My firm keeps track of the cost the firm is incurring in handling a matter for a client	3.6	0.556
My firm constantly reviews its processes to enhance efficiency in operations	3.3	0.711
My firm rewards employees for carrying out their jobs efficiently	2.7	1.028
My firm proactively engages with clients on how to manage matters efficiently	3.0	0.85

Table 4.4 Efficiency Strategies

From the study, most top law firms were moderately tracking the cost of service delivery as noted from the mean of 3.6. Similarly most top law firms were moderately reviewing their processes in a bid to ensure services are being offered efficiently as noted from the mean of 3.3; and were moderately engaging with their clients to ensure that client matters were handled efficiently as seen from the mean of 3.0. The standard deviation on these statements was 0.556, 0.711 and 0.85 respectively showing moderate variation in the responses. These findings imply that top law firms were moderately seeking to differentiate themselves by producing and delivering legal services at cost levels that are acceptable to their clients. On the other hand, from the mean of 2.7 top law firms were only slightly using compensation incentives to improve efficiency with a high variation in the responses from the standard deviation of 1.028. This implies that law firms are only slightly seeking to differentiate themselves by using human resource efficiency management strategies to improve efficiency in their service delivery.

The respondents were also asked using an open-ended optional question to include any other efficiency strategies used by their firms. Five out of thirty-one respondents responded to this question giving varied responses. The additional efficiency strategies identified were training and capacity development, specialization, use of standardised documents, meetings to follow up on deadlines and an innovation committee that was continuously reviewing processes. These responses suggest that other than the strategies identified from the literature which were being used moderately, there was not much in the form of efforts to use efficiency as a differentiator.

#### 4.5.2 Effectiveness of the Strategies Adopted

The study sought to understand the extent to which the strategies adopted affected the competitive advantage of the law firms studied. Competitive advantage is the ability of a firm to improve the quality of its products, to reduce the cost of its products, or to increase its market share or profit (Sachitra, 2017). Accordingly the effect of the strategies on the competitive advantage of law firms was studied by examining the perception of the respondents on the extent to which the strategies adopted had improved the financial performance of the law firms as well as improved the relationships between the top law firms and their clients.

##### 4.5.2.1 Impact of Strategies on Financial Performance

The respondents were asked to rate on a 4-point likert scale the extent to which the strategies adopted had improved their firm's financial performance. The results are as set out in table 4.7 below.

<b>Financial Performance</b>	<b>Mean</b>	<b>Standard Deviation</b>
The pricing strategies adopted have led to an improvement in my firm's financial performance	3.4	0.718
The process improvement strategies adopted have led to an improvement in my firm's financial performance	3.2	0.61
The strategies to improve efficiency in service delivery adopted have led to an improvement in my firm's financial performance	3.4	0.679

Table 4.7: Effect of Strategies on improvement in Financial Performance

The findings were that most of the respondents perceive that the pricing strategies adopted, the use of technology, and the use of efficiency strategies had a moderate influence in the financial performance of their firms as seen from the means of 3.4, 3.2 and 3.4 respectively. There was a moderate variation in the responses as seen from the standard deviations of 0.718, 0.61 and 0.679 respectively. These findings suggest that top law firms perceive that the strategies they have adopted to differentiate themselves using pricing, technology, and improving efficiency were moderately leading them to achieve a competitive advantage. Gebauer et al., (2011) states that firms that make their marketing investment more customer centric through service differentiation improve their financial performance

#### 4.5.2.2 Impact of Strategies on Client Relationships

The respondents were asked to rate on a 4-point likert scale the extent to which the strategies adopted had improved their firm’s relationship with clients. The results are as set out in table 4.8 below.

<b>Client relationships</b>	<b>Mean</b>	<b>Standard Deviation</b>
The pricing strategies adopted have improved my firm’s relationship with clients	3.4	0.626
The process improvement strategies have improved my firm’s relationship with clients.	3.3	0.606
The strategies to improve efficiency in service delivery adopted have improved my firm’s relationship with clients	3.4	0.504

Table 4.8: Effect of Strategies on improvement in client relationships

The findings were that most of the respondents perceive that the pricing strategies adopted, the use of technology, and the use of efficiency strategies moderately led to the improvement in their firms’ relationship with clients as noted from the means of 3.4, 3.3 and 3.4 respectively. There was a moderate variation in the responses as seen from the standard deviations of 0.626, 0.6061 and 0.679 respectively. These findings suggest that top law firms perceive that the strategies they have adopted to differentiate themselves using pricing, technology, and in improving efficiency were moderately leading them to improve their relationships with their clients. This would in turn lead to top law firms gaining a competitive advantage. Mcgee, (2015) argues that differentiation strategies creates a sustainable competitive advantage by building customer loyalty.

#### 4.6 Correlation Analysis

Correlation analysis was carried out to analyse whether variable relationships existed between the differentiation strategies adopted by top law firms and the competitive advantage of top law firms. Competitive advantage was measured using the respondents’ perception of an improvement in the financial performance of their firms as well as an improvement in the relationships of their firms with their clients. The service differentiation strategies were measured by aggregating the responses on the individual strategies. As the data was ordinal, a Spearman’s rank-order correlation was carried out to determine the relationship between law

firm's pricing strategies, use of technology and efficiency strategies and the improvement in financial performance of law firms as well as the improvement in relationship of law firms with their clients. The results are set out in table 4.9 below.

**Correlations**

			Price Strategies	Process Strategies	Efficiency Strategies	Financial Performance	Improved Client Relationships
Spearman's rho	Price Strategies	Correlation Coefficient	1.000	-.071	.118	.397(*)	.701(**)
		Sig. (2-tailed)	.	.702	.528	.027	.000
		N	31	31	31	31	31
	Process Strategies	Correlation Coefficient	-.071	1.000	.389(*)	.330	.057
		Sig. (2-tailed)	.702	.	.031	.070	.759
		N	31	31	31	31	31
	Efficiency Strategies	Correlation Coefficient	.118	.389(*)	1.000	.683(**)	.380(*)
		Sig. (2-tailed)	.528	.031	.	.000	.035
		N	31	31	31	31	31
	Financial Performance	Correlation Coefficient	.397(*)	.330	.683(**)	1.000	.695(**)
		Sig. (2-tailed)	.027	.070	.000	.	.000
		N	31	31	31	31	31
	Improved Client Relationships	Correlation Coefficient	.701(**)	.057	.380(*)	.695(**)	1.000
		Sig. (2-tailed)	.000	.759	.035	.000	.
		N	31	31	31	31	31

\* Correlation is significant at the 0.05 level (2-tailed).

\*\* Correlation is significant at the 0.01 level (2-tailed).

Table 4.9: Correlation between service differentiation strategies and competitive advantage

**4.6.1 Correlation between pricing strategies and competitive advantage**

According to Akoglu, (2018) a correlation co-efficient  $r = +0.7$  denotes a strong positive relationship whereas  $r = + 0.3$  denotes a moderate positive relationship. The correlation analysis between pricing strategies and improvement in financial performance yielded a correlation coefficient  $r = 0.397$  and p value of 0.027 which denotes a statistically significant moderate positive relationship between pricing strategies and improvement in financial performance. The correlation coefficient  $r = 0.701$  between pricing strategies and improvement in client relationships denotes a strong positive relationship between pricing strategies and an improvement in relationship with clients. These findings show that there is a moderate to strong positive relationship between pricing strategies and improvement in the financial performance as well as client relations of top law firms. The study therefore implies that top law firms

perceive that their adoption of pricing strategies goes in tandem with an improvement in their firm's competitive advantage.

#### **4.6.2 Correlation between use of Technology in Process Improvement and Competitive Advantage**

The correlation analysis between process improvement strategies and improvement in financial performance yielded a correlation coefficient  $r = 0.331$  which denotes a weak positive relationship between use of technology and improvement in financial performance. The correlation coefficient  $r = 0.057$  between use of technology and improvement in client relationships denotes a negligible positive relationship between use of technology and an improvement in relationship with clients. These findings imply that top law firms do not perceive any relationship between their adopting technology to improve their processes and an improvement in the firm's competitive advantage.

#### **4.6.3 Correlation between Efficiency Strategies and Competitive Advantage**

The correlation analysis between efficiency strategies and improvement in financial performance yielded a correlation coefficient  $r = 0.683$  which denotes a moderate to strong positive relationship between efficiency strategies and improvement in financial performance. The correlation coefficient  $r = 0.380$  and  $p$  value of 0.035 between efficiency strategies and improvement in client relationships denotes a statistically significant moderate positive relationship between efficiency strategies and an improvement in relationship with clients. These findings show that there is a moderate to strong positive relationship between efficiency strategies and an improvement in the financial performance as well as client relationships of top law firms. The study therefore implies that top law firms perceive that their adoption of efficiency strategies goes hand in hand with an improvement in their firm's competitive advantage.

#### **4.7 Conclusion**

This chapter presented the study findings. The study was able to obtain an adequate response which was sufficient for statistical analysis. A demographic profile of the respondents to the study was presented.

The study found that top law firms were moderately using the pricing strategies of collaborating with clients on pricing and agreeing prices upfront with clients but they were only slightly using fixed and capped fee arrangements as well as only slightly designating pricing

responsibility. The study also found that top law firms were moderately using knowledge management systems and practice management systems; but only slightly using contract and case management systems; as well as only slightly providing clients with online access to documents and information. The study further established that most law firms were moderately tracking the cost of delivering legal services, moderately reviewing their processes, and moderately collaborating with their clients to improve efficiency; but were only slightly using compensation decisions to reward efficiency as a strategy.

The study further established that top law firms perceive that there exists a moderate to strong positive relationship between pricing and efficiency strategies adopted and an improvement in the firm's competitive advantage; but that the relationship between the process improvement strategies and their firm's competitive advantage is negligible.



## **CHAPTER FIVE: DISCUSSION CONCLUSION AND RECOMMENDATIONS**

### **5.1 Introduction**

Top law firms, just like other businesses globally have to continuously consider and respond to the forces that shape the legal services industry in order to ensure that they are competitive. The study therefore sought to establish whether top law firms were responding to a changing market environment by employing strategies in how the price for services, use technology and enhance efficiency in service delivery.

This chapter contains a discussion of the research findings, conclusions, and recommendations drawn from the research.

### **5.2 Discussion of the Findings**

#### **5.2.1 Pricing Strategies**

Price is a vital tool for differentiation (Ivero et al., 2013). Accordingly, the study sought to establish whether top law firms had deployed pricing strategies in order to achieve service differentiation.

The study established that the most widely used strategies by law firms were collaborating with clients in order to come up with pricing arrangements that work for the clients; and ensuring that law firms were agreeing price with their clients upfront. These strategies were however only being used moderately. In a similar study, Clay & Seeger (2018) had found that law firms were increasingly collaborating with clients on pricing arrangements including on budgets. The difference in the rate at which top law firms in Kenya were using these strategies could be attributed to the fact that in Kenya the Advocates Remuneration Order still prescribes the minimum price law firms can charge, which may have served to anchor the practices of top law firms and thereby diminish the drive to innovate in pricing.

Further, the study found that law firms were only slightly using pricing strategies that provide clients with certainty as to their legal spend, such as fixed fee and capped fee arrangements. This could be attributable to the fact that using fixed or capped fee arrangements has the effect of shifting the risk of underquoting entirely to law firms due to the unpredictability of certain legal services (The FLIP Report, 2017). Petro & Roberts (2014), however argue that this notwithstanding, fixed fees remain the future of pricing for legal services. This is because fixed fee arrangements reduce the hassles of billing caused by for instance scrutiny and haggling over time entries; they provide predictability to consumers; offer predictability of payments for

law firms; and ultimately provides for congruence between the cost and the value of the legal service.

The study further found that law firms do not have selected and designated persons with pricing responsibility. This was in tandem with the findings of Clay & Seeger (2018) that the pricing function in most law firms is largely decentralised.

The respondents were allowed to give other pricing strategies used by their firms using an open-ended question. Fifteen respondents indicated that their law firms were still using hourly billing models and were restricting themselves to the Advocates Remuneration Order. This was in line with previous studies on pricing strategies by top law firms. Suskind (2012) stated that consumers of legal services were dissatisfied with the pricing practices of law firms because law firms had not embraced innovative pricing practices; but were rather stuck on conventional billing models such as hourly rates.

Overall, the study established that top law firms were only deploying pricing strategies to a slight or moderate extent. These findings agree with Clay & Seeger, (2020) that most law firms are either at early or intermediate stages of pricing strategy development. Nonetheless, as Petro & Roberts (2014) the consumer of legal services has become highly price conscious and law firms that want to remain competitive have to continue to innovate in pricing strategy.

### **5.2.2 Process Improvement through Technology**

Technology creates competitive advantage in both cost leadership or differentiation by giving firms new ways to outperform their rivals (Porter & Millar, 1985). Accordingly, the study sought to identify whether top law firms were using technology to improve their processes with a view to differentiate themselves from competitors. The study put various legal technologies to the respondents and asked them to indicate the extent to which their firm were using those technologies.

The study established that most top law firms have put in place practice management systems and knowledge managements systems but that their firms were only using these systems moderately. This finding was unsurprising. Du Pleiss & Du Toit (2006) opine that traditionally most law firms adopt an adhoc and unsystematic approach to knowledge management in general. In another study, the American Bar Association (2017) had found that the adoption of practice management software by law firms was very slow.

The study also found that top law firms have only slightly adopted systems that will increasingly automate routine work, standardize the negotiation and drafting of contracts, standardize the management of cases on their client's behalf, or even ensure that clients can remotely access their legal documents. In a similar study, Aderant, (2016) had found that only 30% of top law firms were using case management software.

Overall, the findings were that top law firms were only using technology as a differentiator to a slight or moderate extent. This finding was in tandem with other studies on the subject. The Law Society of the UK (2019) found that the adoption of legal technologies by law firms is still nascent and that law firms are still playing catch up to digital adoption compared to other service based industries. Similarly, the FLIP Report, (2017) had found that real hard commercial activity coming from legal technologies is yet to be seen.

There are various reasons for this sub optimal use of technology including high costs of legal technologies (Brescia, .et al, 2014; the unwillingness to invest the time and effort required to successfully use legal technologies (Clay & Seeger, 2018); and being too busy serving existing clients (IBA Legal Policy Research Unit report, 2016). Nonetheless, the adoption of technology in service delivery provides a good opportunity for law firms to outcompete their rivals. Deloitte, (2016) found that one of the key expectations of consumers of legal services is the better and more relevant use of technology. Law firms that are able to harness technology therefore stand a good opportunity of meeting consumer needs and therefore achieving competitive advantage.

### **5.2.3 Efficiency Strategies**

Efficiency in service delivery has been found to be critical to a firm's competitive advantage, both in terms of a firm's financial performance (Musah, Kong and Mensah 2019) as well as in improving customer satisfaction (Chang, Jang and Kim 2017). Accordingly, the study sought to understand whether top law firms had put in place efficiency strategies in order to differentiate themselves so as to remain competitive.

Of the efficiency strategies identified from the literature and put to the respondents, keeping track of the cost incurred in delivering legal services scored the highest. Tracking the cost of service delivery offers insights for process improvements as well as supports law firms in making pricing decisions in a strategic manner which improves the strategic positioning of firms (True Value Partnering Institute & Thomson Reuters, 2018).

Top law firms additionally indicated that they were to a moderate extent continuously reviewing their processes in a bid to improve efficiency in their operations. In a similar study in the U.S.A., Clay & Seeger (2018) had found that only 19% of firms surveyed were systematically re-engineering their processes, which suggests that law firms in Kenya are ahead of their international competitors.

The study further established that top law firms indicated that top law firms were to a moderate extent involving clients in their plans to improve efficiency in service delivery; but that they were only slightly using rewards as an incentive to their employees for carrying out their jobs efficiently. In a similar study, Clay & Seeger (2018) found that most law firms were using compensation decisions to reward efficiency, and were using technology in place of human resources.

Overall the study found that efficiency strategies were the most widely used strategies compared to pricing and technology.

#### **5.2.4 Differentiation strategies and competitive advantage**

McGee (2015) had found that differentiation strategies, by being customer centric, create customer loyalty which then creates entry barriers and therefore a sustainable competitive advantage. In tandem with this, Gebauer et al., (2011) had found that firms which focus on meeting the needs of their clients through service differentiation improve their financial performance and thereby their competitive advantage.

Accordingly, the study sought to establish whether the pricing, process, and efficiency strategies put in place by law firms have improved the competitive advantage of law firms. This was studied by checking whether the respondents perceived any improvement in the financial performance of law firms as well as an improvement in the relationships of law firms with their clients because of the strategies adopted.

The correlation analysis established that there was a statistically significant moderate positive relationship between pricing strategies and improvement in financial performance and a strong positive relationship between pricing strategies and an improvement in relationship with clients. These findings agree with the literature that pricing is a key determinant to the profitability and therefore financial performance of firms (Hinterhuber & Liozu, 2014) as well as that price is the most important factor in determining customer satisfaction (Virvilaite,

Saladiene, Skindaras , 2009). Accordingly the study implies that the adoption of pricing strategies and firms gaining competitive advantage go hand in hand.

The study further established that there was a moderate to strong positive relationship between efficiency strategies and improvement in financial performance; and a statistically significant moderate positive relationship between efficiency strategies and an improvement in relationship with clients. These findings are in tandem with Musah, Kong and Mensah (2019) who argue that efficiency has a statistically significant relationship with firm performance. Chang, Jang and Kim (2017) also found that efficiency has a statistically significant positive impact on customer satisfaction. The results of the study therefore indicate that the adoption of efficiency strategies goes hand in hand with the improvement in the competitive advantage of firms.

On the other hand, the correlation analysis established a weak positive relationship between use of technology and improvement in financial performance and a negligible positive relationship between use of technology and an improvement in relationship with clients. The implication of this was that top law firms do not perceive any relationship between their adopting technology to improve their processes and an improvement in the firm's financial performance as well as their firms' relationships with clients and thereby competitive advantage. These findings contrast with Murey, (2016) who found that there is a statistically significant positive relationship between the adoption of technology and customer loyalty. Similarly Jan and Abdulla, (2014) found that adoption of technology optimizes customer relationships thereby increasing customer satisfaction. The variance between the findings of the study and the literature could be attributed to the findings that on average top law firms had only slightly adopted use of technology in their processes. Further, Shin, (2001) found that the adoption of information technology does not automatically improve a firm's profitability, but that this had to be coupled with other organisational factors. This implies that top law firms would have to combine the use of technology with other strategies in order to see an improvement in their financial performance and therefore competitive advantage.

### **5.3 Conclusions**

The study found the most widely adopted pricing strategies by top law firms were those that involved collaborating with clients in pricing decisions either by agreeing prices upfront or involving the clients in pricing decisions. Strategies that involve providing certainty to consumers of legal services on the price of legal services were seldom used. Similarly, most

top law firms have not streamlined the pricing responsibility with most law firms not having a person with designated pricing responsibility. The study also found that top law firms had adopted practice management systems as well as knowledge management systems in a bid to harness technology to improve their processes. On the other hand, the study findings were that top firms were only slightly using software and systems for the automatic generation of common legal documents; were hardly using case and contract management software; and have only slightly put in place systems to allow their clients online access to their legal documents and useful legal information. The study further found that efficiency strategies were the most widely used strategies with most law firms indicating that they continuously review their processes to enhance efficiency, keep track of the cost of delivery of legal services, and collaborate with clients to improve efficiency. Law firms were however only slightly using human resource management strategies such as using compensation incentives to enhance efficiency in service delivery. The study further found that there was a moderate to strong association between the pricing and efficiency strategies adopted and the competitive advantage of top law firms; but only a negligible association between use of technology in process improvement and competitive advantage.

#### **5.4 Recommendations**

The study established that there is a moderate to strong positive relationship between pricing strategies and the competitive advantage of top law firms. Accordingly, the study recommends to the management of top law firms that pricing should be considered as an integral part of business strategy. Law firms should designate persons to carry out this function so as to ensure that the billing process is uniform among practitioners across the firm. The research further recommends that top law firms continue to collaborate with clients to improve efficiency, continue to track the cost of delivery of legal services, and continue to review their business processes to improve efficiency as well as rewarding employees for doing their jobs efficiently. Law firms should do this to a great extent as there is a moderate to strong positive relationship between efficiency strategies and the competitive advantage of top law firms. The study further recommends the review of the manner in which lawfirms are harnessing technology to improve the processes of the firm. Harnessing of technology should be undertaken in tandem with other organizational factors such as process review in order to maximize on returns from use of technology.

To policy makers the researcher recommends more deregulation of law firms to allow law firms greater freedom in the strategies they employ in delivering services.

## **5.5 Suggestions for Further Research**

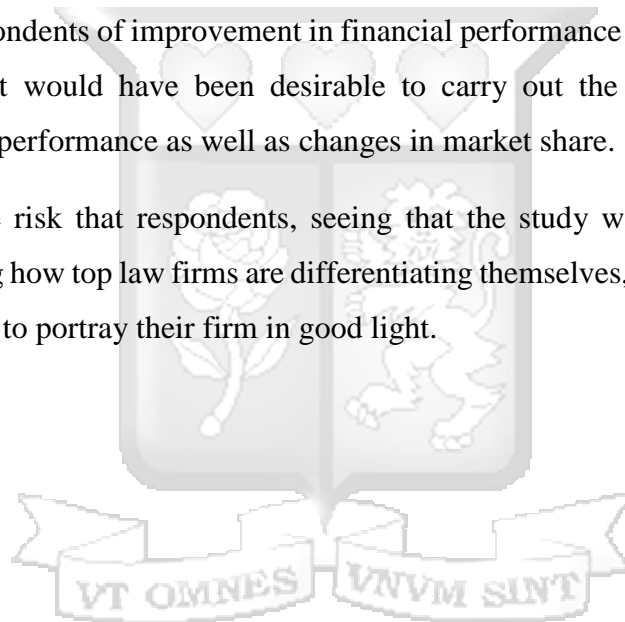
The study recommends that further research be carried out with a bigger population of law firms. Further research can also be carried out by considering a wider scope of strategies. The study further recommends that research on the service differentiation strategies be carried out using a longitudinal research design and numerical measures of competitive advantage to the extent that this data is available.

## **5.6 Limitations of the Research**

The study was limited to the firms ranked in all of IFLR 1000, Legal 500 and Chambers & Partners in 2020 which limits its generalizability to other law firms.

As information on strategy is sensitive in nature, competitive advantage was measured by the perception of the respondents of improvement in financial performance and of improvement in client relationships. It would have been desirable to carry out the study with numerical measures of financial performance as well as changes in market share.

Further there was the risk that respondents, seeing that the study was stated to be geared towards understanding how top law firms are differentiating themselves, may have felt the need to exaggerate in order to portray their firm in good light.



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## APPENDICES

### Appendix 1: List of Ranked Firms

Name of the Firm	Number of Partners/Directors	Number of Senior Associates/
1. Anjarwalla & Khanna	16	16
2. Bowmans (Coulson Harney)	24	12
3. Iseme, Kamau & Maema Advocates (IKM)	12	11
4. Kaplan & Stratton	17	8
5. Walker Kontos	9	-
6. Dentons Hamilton Harrison & Mathews	13	7
7. MMAN Advocates	5	3
8. MMC ASAFO	12	5
9. Oraro & Company Advocates	12	4
10. Daly & Inamdar	15	3
11. Mboya, Wangong'u & Waiyaki	6	1
<b>Total</b>	141	70
<b>Total Partners &amp; Associates</b>		<b>211</b>

## Appendix 2: Letter of Introduction

Esther Gathoni Kariuki  
P.O. Box 6630 - 00100  
Nairobi, Kenya  
Email: gathonikariuki@outlook.com  
Tel: 0729 480 406

[        ] Advocates  
Nairobi  
[Date]

For the Attention of: [ ]

Dear Sirs

### **Research Study: Request for Information**

I am graduate student at Strathmore University Business School pursuing a degree in Masters of Business Administration (**MBA**). For my MBA project, I am carrying out a study on the Service Differentiation Strategies Adopted by Top Law Firms in Kenya. As your law firm is considered a top law firm in Kenya and it is ranked on IFLR1000, Chambers and Partners and Legal 500, your firm falls within my research population.

Accordingly, I am inviting your firm to participate in this research by completing the enclosed questionnaire. The questionnaire will take approximately 5 minutes to complete. The information from the completed questionnaires will be kept confidential and used only for academic purposes. Further, **anonymity of the law firms that participate** in the study will be maintained when reporting its findings.

If you choose to participate in this study, a Google Form link to the questionnaire will be shared with you. Please answer the questions and submit. If you consider completing a specific question will disclose commercially sensitive information, please skip that question and move on to the next one.

A letter from Strathmore University in support of this study is enclosed. Thank you for taking the time to respond. If you would like a copy of the completed study please let me know and I will be

pleased to share it with you. Please do not hesitate to reach out to me if you have any additional information or require clarification.

Yours Faithfully,

Esther Gathoni Kariuki



### Appendix 3: Questionnaire

## ANALYSIS OF SERVICE DIFFERENTIATION STRATEGIES ADOPTED BY TOP LAW FIRMS IN KENYA

### INSTRUCTIONS

Please respond to the questions by ticking on the box or by filling the answers in the blank spaces

### SECTION A: BACKGROUND INFORMATION

1. Please select your gender

- a. Male [ ]      b. Female [ ]

2. Please indicate your position in the firm

- a. Partner [ ]      b. Senior Associate [ ]      c. Associate [ ]

3. How long have you worked at this firm?

- a. Less than 1 year [ ]  
b. 1 -5 years [ ]  
c. 6- 10 years [ ]  
d. 11 – 15 years [ ]  
e. 16 – 20 years [ ]  
f. 21- 25 years [ ]  
g. More than 25 years [ ]

4. To what extent do you think that your firm is clearly and specifically distinguishable from your firm's competitors?

- a. To a great extent  
b. Moderate extent  
c. Small extent  
d. Not at all

### **SECTION C – COMPETITIVE ADVANTAGE THROUGH THE STRATEGIES ADOPTED**

This section considers the extent to which the strategies which your firm has adopted have improved the firm's business

**SECTION B – SERVICE DIFFERENTIATION STRATEGIES**

(This section considers what strategies your firm is using to position itself as offering services in a unique manner)

On a scale of 1 to 4 where 1= Not at all, 2= Small Extent 3 = Moderate Extent and 4 = Great Extent, , please indicate the extent to which the strategies adopted have led to an improvement in your firm’s financial performance (either through an increase in revenue, prompt payment of bills or a decrease

Statements in costs) and customer relationships		1	2	3	4
Statements		1	2	3	4
5.	<b>Pricing Strategies</b>	Not at all	Small Extent	Moderate Extent	Great Extent
8.	<b>Improvement in Financial Performance</b>	Not at all	Small Extent	Moderate Extent	Great Extent
a)	My firm has a designated person who has responsibility on the pricing of services		Extent	Extent	Extent
a)	The pricing strategies adopted have led to an improvement in my firm’s financial performance				
b)	My firm collaborates with clients to come up with fee arrangements that meet the needs of the clients				
b)	The process improvement strategies adopted have led to an improvement in my firm’s financial performance				
c)	My firm agrees the price for legal services with clients upfront before the work is commenced				
d)	My firm charges an agreed fixed fee for services regardless of the amount of time spent				
c)	The strategies to improve efficiency in service delivery adopted have led to an improvement in my firm’s financial performance				
e)	My firm provides services based on capped fee arrangements (i.e. a variable fee subject to a maximum amount)				
9.	<b>Improved Relationships with Clients</b>	Not at all	Small Extent	Moderate Extent	Great Extent
<b>Any other pricing strategies (please specify)</b>					
a)	The pricing strategies adopted have improved my firm’s relationship with clients				
b)	The process improvement strategies have improved my firm’s relationship with clients.				
c)	The strategies to improve efficiency in service delivery adopted have improved my firm’s relationship with clients				
6.	<b>Process Improvements through Technology</b>	Not at all	Small Extent	Moderate Extent	Great Extent
a)	My firm uses practice management software e.g. for conflict checks and for handling financial matters such as billing				
<b>Any other ways in which the strategies adopted has given your firm an edge over your competitors.....</b>					
b)	My firm uses case management software e.g. for providing case checklists and for tracking important deadlines in handling cases in court				

**Thank you for participating in this survey**

c)	My firm uses contract management software e.g. for tracking next steps and important deadlines in contract negotiations				
d)	My firm uses a knowledge management system to keep and provide access to useful information				
e)	My firm has systems that allow automatic generation and assembly of common legal documents				
f)	My firm provides clients with online access to their files and documents and other useful legal information				

**Any other Process Improvement Strategies (please specify)**

.....  
 .....

	<b>Statements</b>	<b>1</b>	<b>2</b>	<b>3</b>	<b>4</b>
<b>7.</b>	<b>Efficiency in Service Delivery</b>	<b>Not at all</b>	<b>Small Extent</b>	<b>Moderate Extent</b>	<b>Great Extent</b>
a)	My firm keeps track of the cost the firm is incurring in handling a matter for a client				
b)	My firm constantly reviews its processes to enhance efficiency in operations				
c)	My firm rewards employees for carrying out their jobs efficiently				
d)	My firm proactively engages with clients on how to manage matters efficiently				

**Other efficiency improvement strategies**

.....  
 .....



**Strathmore**  
UNIVERSITY

21<sup>st</sup> May 2020

Mrs Kariuki Esther Gathoni  
kariuki.gathoni@strathmore.edu

Dear Mrs Kariuki,

**RE: Analysis of Service Differentiation Strategies Adopted by Top Law Firms in Kenya**

This is to inform you that SU-IERC has reviewed and **approved** your above research proposal. Your application approval number is **SU-IERC0782/20**. The approval period is **21<sup>st</sup> May 2020 to 20<sup>th</sup> May 2021**.

This approval is subject to compliance with the following requirements:

- i. Only approved documents including (informed consents, study instruments, MTA) will be used
- ii. All changes including (amendments, deviations, and violations) are submitted for review and approval by SU-IERC.
- iii. Death and life threatening problems and serious adverse events or unexpected adverse events whether related or unrelated to the study must be reported to SU-IERC within 72 hours of notification
- iv. Any changes, anticipated or otherwise that may increase the risks or affected safety or welfare of study participants and others or affect the integrity of the research must be reported to SU-IERC within 72 hours
- v. Clearance for export of biological specimens must be obtained from relevant institutions.
- vi. Submission of a request for renewal of approval at least 60 days prior to expiry of the approval period. Attach a comprehensive progress report to support the renewal.
- vii. Submission of an executive summary report within 90 days upon completion of the study to SU-IERC.

Prior to commencing your study, you will be expected to obtain a research license from National Commission for Science, Technology and Innovation (NACOSTI) <https://oris.nacosti.go.ke> and also obtain other clearances needed.

Yours sincerely,

  
for: Dr Virginia Gichuru,  
Secretary; SU-IERC

Cc: Prof Fred Were,  
Chairperson; SU-IERC



Ole Sangale Rd, Madaraka Estate. PO Box 59857-00200, Nairobi, Kenya. Tel +254 (0)703 034000  
Email [info@strathmore.edu](mailto:info@strathmore.edu) [www.strathmore.edu](http://www.strathmore.edu)

