

**MARKETING CASE STUDIES:
AN AMERICAN LAWYER'S PERSPECTIVE**

Vincent W. King (JD)

Minneapolis, Minnesota USA

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Dr Christopher N Preece BSc (Hons) PhD MCIOB

Editor and Conference Organiser

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I. INTRODUCTION

Despite recent setbacks in Asia, it appears there is still plenty of design and construction work on the international scene. In the US, the construction industry "is registering the highest levels of confidence in 10 years."¹ Internationally, construction work has slowed down, but not stopped, as investors and governments look for new methods of financing projects in light of devalued currencies.² One might dare suggest that the opportunities for contractors and consultants continue to be almost unlimited. Also unlimited, however, are the opportunities to lose vast sums of money chasing projects inappropriately, or chasing inappropriate projects. In an effort to provide some practical guidance, this paper offers case studies of three projects in which the writer has been personally involved. In each case, the firm on whose behalf the author acted is referred to as the "consultant".

II. THESIS

Marketing internationally must be viewed as a disciplined, step-by-step decision making process involving lead-finding and building relationships, lead-

¹ Merritt, "Building Optimism: An Outlook for the Construction Market Shows Confidence," *7 Construction Business Review No. 5, 1997-8, p.46.*

² See, e.g., Deger, "Firms Feel Impact of Asian Crisis," *The Recorder, 03 March, 1998.*

qualifying, making a "go/no-go" decision, establishing a marketing budget, and adhering to it. The keys to minimising financial risk when marketing internationally include the following: (1) Do one's homework before ever leaving home; (2) Build relationships, don't just chase projects; (3) Set budgets realistically and stick to them; (4) Know the Employer; (5) Define a go/no-go decision point; (6) Know when to stop marketing; and (7) Make sure the home office supports the effort. Regardless of project type or location, these rules are universal. Marketing success and ultimate profitability depend upon adhering to them.

III. OVERVIEW OF THE PROJECTS DISCUSSED

The case studies involve three projects.

A. Scandinavian Hospital. This is a new hospital for the government of a Scandinavian country. The consultant teamed up with four other firms to enter an international design competition.

B. Commercial Building, Russia. This is a design/build office building located in a major Russian city. It was the first such project to be undertaken on a purely private basis following the August, 1991 coup.

C. Transportation Project, Indonesia. This is a proposed integrated bus / train terminal and 2.4 million m² of office, retail, and housing in a major Indonesian city.

IV. DISCUSSION

Each of the projects discussed is significantly different from the others not only in terms of location and project type but also in business environment, character of the Employer, and team composition.

A. Marketing. In each case more or less distinct stages of marketing can be discerned. The overall success of the marketing effort can be gauged, in part, by examining the degree to which the consultant exercised business discipline during each stage.

1. Lead-Finding and Building Relationships. Each of the three projects came "in the door" via different paths.

- **Scandinavian Hospital.** The consultant's design principal was raised in the country where the project is located. The designer had become highly-regarded internationally, and had kept in touch with his school friends. Combined with the consultant's 80-year health care portfolio, the designer's reputation and relationships made it fairly easy to get on the short list of firms invited to participate in the competition.

- **Russian Project.** The consultant had worked on several Soviet projects in the early '80s. When *perestroika* arrived later in that decade, the consultant developed links with the Soviet organisation responsible for external trade, then known as *Technoexport*, and with a major European contractor which had been building military projects in the Soviet Union. The consultant also hosted a high-ranking Soviet construction delegation from *Gostroy* in the US. Finally, the consultant

began working with an agent who claimed to have numerous high-level contacts in the government. Despite many setbacks, the consultant was ultimately awarded the right to negotiate a contract to design and build the project.

- **Indonesian Project.** Through the efforts of an Indonesian-born employee, the consultant spending the early 1990s building a network of contacts in Indonesia. It took the consultant the better part of three years to meet people who, once they were comfortable, would introduce it to still other people. After many months, the consultant was able to receive proper introductions to the decision-makers in companies who were (or might be) planning future projects. One of these decision-makers was the leader of a seven-firm consortium which wanted to develop the transportation project. The process of introduction at each firm usually involved meeting one or two management-level representatives before getting to the top.

2. **Lead-qualifying.** Lead-qualifying is the critical stage in the marketing process. At bottom the lead-qualifying process requires answering a few basic questions: (1) Is this project likely to happen? (2) Does the Employer have the financial ability to make it happen? and (3) Does one have a realistic chance to get the project?

- **New Scandinavian hospital.** In a design competition for a government-funded project, one can assume that there is at least some level of official support for the project. However, a keen awareness of the behind-the-scenes politics is essential. Critical questions include: Have funds been appropriated for the total construction

of the project? Is the ultimate user of the project (*e.g.*, the Ministry of Health) behind it? What are the local politics? Who are the other short-listed competitors and what are their connections with the government and the user group? What is the competition stipend? On this project, there were early warning signs. For example, it was a crucial part of the deal the consultant had reached with its team members that the consultant have 20 to 25 percent of the fee and work load from start to finish. However, significant elements within the Government wanted to limit foreign participation to ten percent. In addition, under applicable architects' union rules, the maximum hourly rate that could be charged for a senior architect was the equivalent of \$US75.00. Finally, there were early signs of artistic disagreement amongst the competition team members.

- **Russian Project.** The Employers were two newly-incorporated commercial concerns, a bank and commodity exchange, who by the nature of their businesses had access to plenty of hard currency. The consultant's main challenge was to avoid doing too much free work. The consultant met this challenge by insisting upon signed interim agreements; requiring at least some interim payments; and holding on to critical drawings until they were needed by the Employer. Another important component of lead-qualifying in developing economies like Russia is understanding the tax and legal infrastructure which would be applicable once the project was awarded. This was not easy. For example, although Russia had a VAT on the books, no one paid any attention to it. Thus, one of the most difficult

issues in trying to negotiate a final price was assessing the degree of risk, and deciding who should bear the ultimate risk of after-assessed taxes.

- **Indonesian Project.** One of the first questions one must ask before chasing a major project in a developing country is whether there is a need for the kind of improvements being proposed. In most major Indonesian cities there is a desperate need for transportation improvements. The consultant realised that a project of this type would eventually be built. The question then was whether the private developer group which had proposed the project was capable of and committed to carrying it out. The seven firms involved -- four owned by native Indonesians and three owned by Chinese-Indonesians -- are among the most substantial companies in the country. They had each committed some of their best management talent to the project. In addition, it was learned that President Soeharto supported the project. Given all of this, the consultant determined that this was a lead worth pursuing.

3. The Go/No-Go Decision. At some point, hard decisions must be made about whether to keep chasing a project, or to drop it. Making the go/no-go decision should involve more than just one or two people. Once the lead has been qualified, a corporate team must be created (or already put in place) to assist the marketing and project management group.

- **Scandinavian hospital.** As the competition deadline neared, the artistic differences between the Scandinavians and the Americans had become

irreconcilable. It was decided that *two* complete competition entries would be submitted -- one incorporating the Americans' modernistic views, and one incorporating the Scandinavians' more traditional approach. In addition, the lingering dispute between the American and Scandinavian teams over the work and fee split remained unresolved. Despite these issues, the consultant decided to go ahead with the competition. The "divide and conquer" strategy did result in a marketing success. However, the inability to resolve key issues prior to making the go/no-go decision only resulted in those issues growing into larger problems.

- **Russian Project.** Making the go/no-go decision involves assessing the commercial and legal risks one will face if the project is awarded. To assess risk, however, one must be able to have a fairly good idea of what the risks are. This was very difficult to do in post-Soviet Russia. The consultant reviewed its risk position and decided that the best thing to do was find someone willing to share in it. Originally, the intent was that the European contractor teamed with the consultant would act as a subcontractor, with the consultant going "at risk" for the entire construction cost. However, after discussions with the Employer, the consultant and the European contractor agreed to form a consortium to perform the project, with each consortium partner going at risk for its portion of the project. Although the actual division of effort was not all that different from what was originally contemplated, the consultant's risk position was immensely better. The European contractor, for its part, was happy to have more control over its

own destiny.

- **Indonesian Project.** Frequent bursts of frantic activity, interspersed with long stretches of delay, made it difficult to maintain enthusiasm as people were diverted to other, more immediate (and paying) work. To alleviate the impact of this process, the consultant decided to test the Employer's seriousness by requesting payment for portions of the marketing effort. This, obviously, was a risky ploy. However, after some negotiation the Employer agreed to pay for some of the consultant's travel costs and other expenses. The compensation received did not even approach the break even point; however the consultant was sufficiently impressed with the Employer's seriousness about the project that the consultant was motivated to go all-out in an effort to secure the job.

4. Establishing a marketing budget and keeping it. None of the projects discussed in this paper had anything resembling a formal marketing budget. During the time period in question, the consultant's several divisions were given general allocations of marketing funds which marketers could "dip into" at will. International marketing was not segregated from domestic, and there was no real accountability for marketing dollars spent. Thus, after several years of concentrated international marketing, did not have a very good idea of why the money had been spent, or whether the money invested was well-spent. However, the consultant had developed excellent name recognition, had landed some good projects, and had developed or hired a corps of managers with international savvy.

B. Proposal/Tender/Competition. Most of the hardest marketing work is encountered once the job is supposedly landed.

1. Local contacts / transparency. There is simply no substitute for having someone on the ground, in the country one is attempting to market. The consultant developed a variety of relationships in the countries where it works, ranging from "one-night stands" to the formation of jointly-owned subsidiaries.

- **Scandinavian hospital.** As discussed previously, this project involved the formation of a loose association of Scandinavian and American firms. However, no formal business ties were created until after the competition was won. Fortunately, the competition rules were extremely well spelled-out. Even though the consultant's only contacts were within the competition team itself, the team had appointed as its project manager an experienced, hard-nosed, business-minded architect. Thus, the consultant did not need to be concerned that the associates' lack of business acumen would lead to trouble.

- **Russian Project.** If the Scandinavian project was a model of transparency the Russian project was an exemplar of opaqueness. Thus, the consultant relied on several sources, all leading to the same Employer. This gave the consultant a much better chance at obtaining an objective picture of the project.

- **Indonesian Project.** The Indonesian market is almost completely non-transparent. Thus, it is essential to work with, and through, agents--preferably more than one. A great deal of time was spent in-country maintaining the

relationship with the Employer, learning cultural nuances and the business environment, becoming familiar with the politics, and generally staying in touch.

2. Agents. Agency is in a sense the purest form of marketing, since the agent is unrestrained by any business issues. Great care should be exercised in developing any kind of relationship with agents. Detailed written contracts are a must. Exclusivity of representation should be avoided. Agents should work on a commission basis only; retainers should be given only in extenuating circumstances.

3. Competitions. International design competitions are a fact of life for any consultant seeking to establish itself internationally. If an consultant is going to enter a competition, it should choose its local associate carefully. A clear definition of the work and fee allocation, both for the competition and for the project itself, should be established at the outset. A budget should be established and business people should oversee the work effort of the designers.

By many measures, the Scandinavian hospital competition, despite its difficulties, was a success. The project made quite a splash internationally. However, the difficulties and additional costs could have been avoided with a little more planning.

C. Post-award. Once the project has been awarded and contract negotiations are underway, marketing should cease.

1. Contract. Contract styles vary around the world. In Indonesia, a five-

or six-page contract might suffice. The Russians, on the other hand, like contracts whose length and detail put American lawyers to shame. Adjusting to these different styles can be a challenge.

- **Scandinavian hospital.** Following award of this project, the parties finally had to address the differences which had festered throughout the marketing phase. The consultant's negotiating team quickly realised that under the marketers' originally-proposed fee and work split, there was no way for the consultant to make money. In addition, the consultant's original concept of transplanting a whole group of the consultant's employees to Scandinavia for the duration of the project wouldn't work, because it would expose the consultant to confiscatory taxes. After considerable discussion, a compromise was reached which would allow the consultant to maintain an important role in the project, while making some profit.

- **Russian Project.** No matter how large the consultant's team was, the Russian team was always bigger. Negotiations dragged on for several days, until the Russians knew the consultant's team was getting ready to go home. On the last day, the hammer came down. The consultant didn't budge. Plane reservations were canceled, and the consultant's team went back to the hotel and waited. Ultimately compromise was reached, but only because the consultant's team had consciously decided to quit marketing the project once it was awarded.

- **Indonesian Project.** In Indonesia, hardball tactics are definitely out. Nonetheless, one must be firm in negotiations. For example, during the first day of

contract negotiations the Employer made a shockingly low counteroffer to the consultant's fee proposal. The consultant spent the rest of the day discussing everything but fees. Compromise was reached a few days later, but in this case without confrontation.

2. Legal / logistic environment. The cost of setting up shop in a foreign country is an often-ignored marketing cost. Sometimes ignorance is definitely not bliss, as the Scandinavian hospital project case study suggests. Some money spent up front in determining the tax and legal aspects to doing business in a foreign country is a wise investment.

3. Negotiations. Each project is unique. Key rules are: never send someone to negotiate alone; be patient; and have alternative strategies available. It is also important to be aware of some of the logistical issues one is faced with in trying to do work in the country. Ignorance of these can have a disastrous effect on the schedule.

V. CONCLUSIONS

On international projects one must be persistent in the face of seemingly overwhelming obstacles, while remaining flexible enough to recognise and maximise opportunities when they are presented. Nonetheless, marketing zeal must always be channeled by continual reference to the rules discussed in this paper. If these rules are observed, not only will one win worthwhile jobs, the likelihood that those jobs will be profitable is significantly increased.