

Legal Marketing: Proposing an Operational Definition

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ABSTRACT

Legal marketing is a phenomenon that has been part of the daily lives of many legal professionals and institutions around the world. However, there is a profound lack of scientifically based knowledge to guide and guide actions in this direction, avoiding, for example, the confusion between legal marketing and advertising for attorney services. This study aimed to present a proposal for an operational definition for legal marketing based on contemporary state of the art. The results showed that legal marketing is a process composed of four stages, each structured around specific constructs and their respective forms of measurement, which allow both legal professionals and their institutions to elaborate their actions differently, if for the legal marketing, if for the marketing of your services, attorney marketing. The conclusion shows that legal marketing can be operated from 15 constructs and 37 measurement methods.

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I. INTRODUCTION

A Google search for the term “legal marketing”, in Portuguese, returns about 354,000 results; if done in English, it generates almost two million. In Brazil, the scientific concept of marketing as an effort to create value is still largely unknown. Generally confused with advertising, the professional institution of these professionals has built a strong barrier to prevent them from commercializing their services, as commercial companies do. Anyway, both in the official documents of legal institutions and in the commercial practices that are seen on social media, there is a lack of knowledge of what marketing is and what legal marketing could be.

From the point of view of science, there is no constitutive definition formulated and accepted for the concept. An exception to this was the proposal made by Simões and Nascimento-e-Silva (2020), still under discussion among scientists from various areas of knowledge, mainly from the legal, administration and marketing spheres. Based on the contemporary state of the art, the authors constructed a definition of the concept and put it into consideration by the scientific community. As marketing is a universal phenomenon, in the sense of being applied to both individuals and associations of individuals, its essential attributes would also apply to the legal case, according to the authors.

In this sense, this study aimed to present an operational definition for legal marketing. For this, a survey was carried out in all the scientific literature currently available to answer the following question: whether marketing is a value creation process, as shown by the specialized literature (Macedo, Silva e Silva, 2018; Gil, 2018) , what are the steps in this process? As the operational definitions are intended to show how a concept or construct can be measured, here are the measurement methods for each step of the legal marketing process.

This essay is organized in four parts, the first being this introduction. The second one presents the logical scheme of the operational definitions, to show the path taken for the construction of the definition that will be presented next. The third part presents, in detail, each stage of the legal marketing process proposed, pointing out the definitions of each construct and their ways of measurement. The fourth and last part is the conclusion, where the main findings of the study are pointed out, mainly the differentiating nature of legal marketing for the attorney and institutional marketing. The bibliographic references of the studies cited throughout the text complete the article.

II. ON OPERATIONAL DEFINITIONS

Science is a discourse on concepts. To be understood, the concepts need to be defined in two ways: in scope and operationalization. Conceptual definitions are intended to delimit a certain concept comprehensively so that there is a correspondence between reality and thought (Rodrigues, 2018; Oliveira, Oliveira, & Fernandes, 2020; Silva, Schraiber & Mota, 2019). To define is, therefore, to delimit. The delimitation is necessary so that one can distinguish one concept from the other (conceptual definition) and know how to deal with it.

Operational definitions are concerned with presenting a clear and understandable description of a certain aspect of reality (Vosloo, 2019; Brown, 2006; Hawkins, 2015; Hartfield, 2013). Clarity and comprehensibility should be such that they guide and guide other people's procedures on how to measure, analyze and interpret that aspect of reality ((Vosloo, 2019; Brown, 2006; Singh & Thirusangu, 2019), encapsulated in a concept. rigor allows the resulting definition to be reliable, accurate, measurable, and concrete (Brown, 2006). That is why Kurtz (2012) says that an operational definition is a method of both measuring and changing a concept, where it is explicit each stage that the researcher must go through to obtain the concept or construct measures adequately (Cooksey & McDonald, 2019).

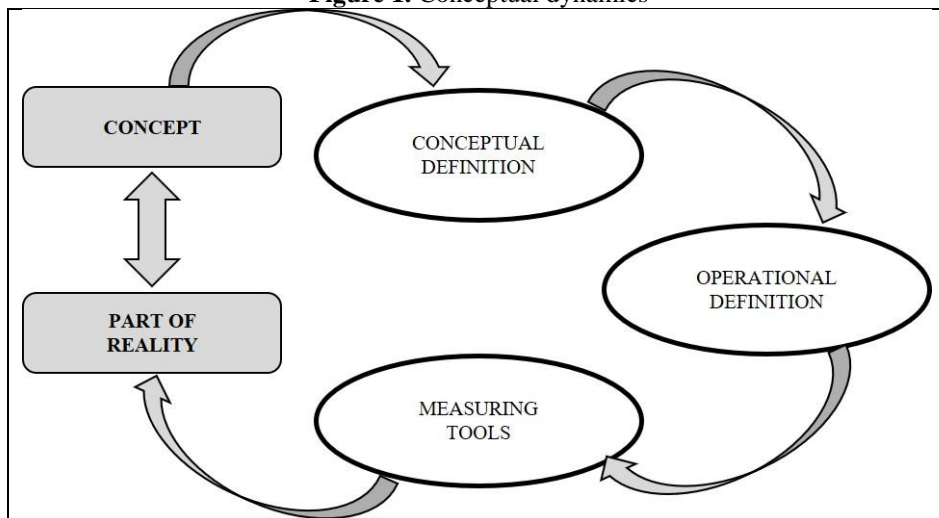
When it comes to measurement, however, action is not limited to the scope of quantification. The conceptual definitions do not apply only to so-called quantitative studies, but above all and fundamentally to qualitative calls, which use too much analytical categories to generate their discoveries. Operational definitions are the basis, the starting point for categorizing all observations. For example, the study by Carlisle (2014) shows the categorization of the concept "hand injury" as constituted operationally by any injury to the wrist, hand, finger, thumb and wrist and hand, simultaneously. Whether the researcher is going to quantify the injuries and thereby establish relationships and associations is one thing, if he is going to analyze subjective factors, it is another decision that belongs to him alone. However, without an operational definition, your results will at least have difficulties to be understood.

The essence of categorization, its purpose, is measurement (David, 2014; Hawkins, 2015; Hartfield, 2013), which is halfway towards handling, acting on the phenomenon. Kapu Arachchilage (2010) shows that the scientists' effort begins with the challenge of defining the concept's constitutive scope, followed by the endeavor to specify the possible ways of measurement and culminates with the creation of tools that contemplate the different items that make up the operational definitions. While constitutive definitions define words with words, operational definitions do so through logical measurement schemes (Silva, 2018). Hence the notions of observable and predicted behavior, which give meaning and guidance to theoretical-empirical studies.

For the construction of operational definitions, it is necessary to identify their components, constituent elements, called variables (Nasution, Siregar and Ismail, 2018). These components are usually either empirical elements or other constructs. Either way, both must also be defined in operational terms, presenting a way to capture them empirically and record their behavior. For example, for the concept of "Capital structure", the operational definition made by Nasution et al (2018) was "Index of comparison between total debt and total assets". As the definition denotes a division between two values, the measurement scale chosen was rational.

This shows that operational definitions are operations (Gresham et al., 2008), ways of dealing with the facts and phenomena of the world, delimited in terms of concepts or constructs. And they are present in all areas of knowledge, not just in the so-called hard sciences. For example, in a study in history, the construct "learning from local history" was defined as a process of teaching and learning as a teacher to understand the history of a locality (Suryana, 2012). Another study, in education, operationally defined the concept "non-verbal didactic guidance" as the child who looks into the eyes of the interventionists after an action is issued by the interventionist (Hartfield, 2013). Still in education, Souza (2017) is categorical when stating that an operational definition is the element that triggers the process of meaningful learning of the concept of function.

Figure 1. Conceptual dynamics



Source: prepared by the authors.

Figure 1 summarizes the dynamics of efforts to understand reality, which begins with the specification of a part of it, first transformed into a concept, which is a kind of label through which that part of the real will be identified. The next step is to define the concept in linguistic terms, so that it can be understood and communicated. Once defined conceptually, the effort continues to delimit it operationally, so that it can be measured, analyzed, finally, understood from its empirical behavior. To make measurements, adequate tools are built for this purpose. The more precise the operational definition and the tools built from it, the more there tends to be a match between that part of reality and what is known about it. A set of later steps, for example, would lead to the construction of technological artifacts based on the learning obtained.

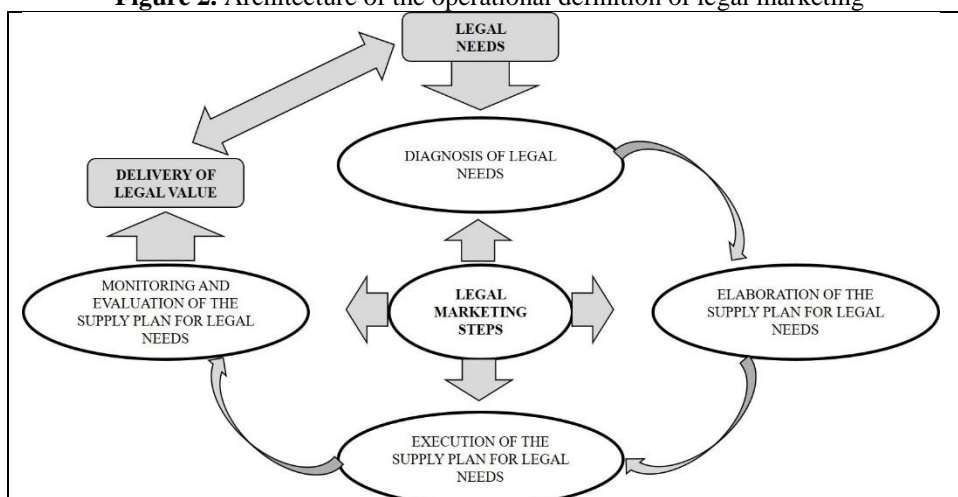
Something similar happens in Law. Here, the starting point may be unwanted behavior by individuals or organizations. Then the state's power enters legally delimiting what it is and what it is not allowed to do. The next step is to make this delimitation operational in clear and objective terms. A later stage would be the creation of measurement systems (such as the production of evidence) to assess legal compliance or non-conformity from the operational guidelines. In Brazil, for example, there is a civil code, notably conceptual, and a civil procedure code, where each aspect of the conceptual code is operationalized, with its valid and invalid procedures and evidence.

III. LEGAL MARKETING: OPERATIONAL DEFINITION

The study by Simões and Nascimento-e-Silva (2020, p. 12) conceptually defined legal marketing as “a process of creating value from institutional channels of communication that aim to establish long-lasting relationships to supply legal needs”. Like all marketing, legal marketing is also linked to a production system that, in turn, is linked to meeting the needs of people, organizations and institutions outside its borders, which involves both the public and private sectors. This logical scheme applies both to a markedly business organization, whose mission is exclusively financial, and to another of a philanthropic nature, with no economic purpose.

Marketing is not sales, nor is it advertising. It is a sequence of steps to create value. And value is everything that is desired and valued by an individual or a community. The creation of value dealt with by legal marketing, according to the study by Simões and Nascimento-e-Silva (2020), is done through the establishment of communication channels. Marketing is done through communication, dialogical interaction, therefore, which starts from institutions for individuals, organizations, and other institutions with a well-defined purpose: to meet legal needs.

Figure 2. Architecture of the operational definition of legal marketing



Source: prepared by the authors based on Simões and Nascimento-e-Silva (2020).

Survey of the scientific literature based on the definition of Simões and Nascimento-e-Silva (2020) allowed to identify four stages of legal marketing as a process, as shown in figure 2. The starting point is the diagnosis made to identify the legal needs of geographic space, which may originate either from individuals alone or from an associated form in organizations and institutions, public or private. In possession of the diagnosis, the next step is the elaboration of a plan to supply these needs, which is to say a communication scheme, since legal marketing is done through communication systems. The process continues with the execution of the legal marketing plan in order to meet the needs and is maintained with constant monitoring and evaluations in order to compare what was forecast and what was executed, as well as the quality of what was delivered to the client. target Audience.

The first stage of the operational definition is accomplished, then, with the identification of the constituent elements of the stages of legal marketing as a process: diagnosis, planning, execution, and monitoring / evaluation. The second step consists simultaneously of delimiting each of these constituent elements and their respective ways of measurement. This will be done with the aid of synthesizer tables.

3.1 Diagnosis of needs

Marketing only makes sense if linked to a production system. It creates value by communicating what is produced to customers and users who need what is produced by the production system. That is why the first stage of the legal marketing process is the survey of the needs of the environment, as can be seen in the studies of Bulhões (2010), Rodrigues and Bryto (2019), Gago (2015), Fernandes (2015), Semedo (2014), Kotler and Armstrong (2012) and Maia (2004), among countless others. The environments are made up of individuals and companies, individually or in association. Thus, there are two constructs involved in this stage: legal needs of individuals, which are their demands for laws as individuals, and legal needs of institutions, organizations and governments, which are the demands for laws by legal entities, which are individuals in associated form, as shown in table 1.

Table 1. Operationalization of the diagnosis of legal needs

Constructs	Conceptual definitions	Operational definitions	Theoretical support
Needs of individuals	They represent the legal demands of citizens as individuals	1) Clarifications about current laws 2) Creation of new laws 3) Repeal of existing laws	Bulhões (2010), Rodrigues & Bryto (2019), Gago (2015), Fernandes (2015), Semedo (2014), Kotler & Armstrong (2012), Maia (2004), Angelov, Pettinga & Bateman (2020), Özoğlu & Topal (2020), Adebayo & Govender (2020), Kotler, Armstrong & Opresnik (2017), Fitri (2019), Zehner & Zehner (2019), Kyunguti, Juma & Gathondu (2019), Kurabachew (2019), Solomon (2019)
Needs of organizations, institutions, and governments	They represent the legal demands of organizations, institutions, and governments	1) Clarifications about current laws 2) Creation of new laws 3) Repeal of existing laws	

Source: prepared by the authors.

The way to operationalize the diagnosis of both individual and associated needs are the same. The first of these is the identification of what clarifications are needed about which laws, to bring information to everyone so that they know all the intricacies of the laws about which they require clarification. The second concerns the knowledge that laws are necessary, but that do not yet exist, for them to be created and promulgated, which involves a multi-institutional effort from different spheres of the legislative, executive and judiciary. Similarly, the third way of making the diagnosis operational is through knowledge of existing laws that need to be repealed.

In general terms, this first step has the challenge of clearly understanding the needs of customers and users of products and services (Angelov, Pettinga & Bateman, 2020; Özoğlu & Topal, 2020; Adebayo & Govender, 2020; Kotler, Armstrong & Opresnik, 2017; Fitri, 2019; Zehner & Zehner, 2019; Kyunguti, Juma & Gathondu, 2019; Kurabachew, 2019; Solomon, 2019). Precision and clarity can take into account, for example, how many people, institutions and organizations demand the laws, in what geographic space they reside or are located and specific attributes of the demands, so that they serve as a basis for the making of the laws to be produced or repealed and that specific aspects, also of specific laws, need to be clarified and informed. It is based on this information that the second stage can be operationalized.

3.2 Preparation of the legal marketing plan

The legal marketing plan is operationalized from two constructs, objectives and strategies, as shown by studies by Solomon (2019), Kurabachew (2019), Kyunguti, Juma and Gathondu (2019), Zehner and Zehner (2019), Fitri (2019), Kotler, Armstrong and Opresnik (2017), Adebayo and Govender (2020), Özoğlu and Topal (2020), Angelov, Pettinga and Bateman (2020). Every plan is composed of objectives and strategies (Brito et al., 2020; Nascimento-e-Silva et al., 2013). Conceptually, objectives are desired future situations, what we want to achieve, which guide marketing actions (Kotler & Armstrong, 2012; Ribeiro, 2005; Semedo, 2014). Strategies are the path to be followed to achieve the intended objectives, generally organized in terms of programs and projects that are part of the plan (Fernandes, 2015; Gago, 2015; Rodrigues & Bryto, 2019; Bulhões, 2010), as presented in table 2.

Table 2. Operationalization of the legal needs supply plan

Constructs	Conceptual definitions	Operational definitions	Theoretical support
Definition of objectives	They are the desired future situations	1) Strategic objectives and goals 2) Tactical objectives and goals 3) Operational objectives and goals	Solomon (2019), Kurabachew (2019), Kyunguti, Juma e Gathondu (2019), Zehner e Zehner (2019), Fitri (2019), Kotler, Armstrong e Opresnik (2017), Adebayo e Govender (2020), Özoğlu e Topal (2020), Angelov, Pettinga e Bateman (2020), Kotler e Armstrong (2012), Ribeiro (2005), Semedo (2014), Fernandes (2015), Gago (2015), Rodrigues e Bryto (2019), Bulhões (2010)
Outline of strategies	They are the diagrammatic representation of the actions to be developed to achieve the intended objectives	1) Laws to be operationalized 2) Target audience to be served 3) Communication system to be used 4) Evaluation scheme to be used	

Source: prepared by the authors.

Objectives are defined operationally based on objectives and goals (quantified objectives) at three management levels. The strategic level involves long-term objectives, usually with a time horizon of more than three years; the tactical level concerns medium-term objectives, which are interpretations and developments of strategic objectives, with a time horizon of more than one year; operational objectives and goals are those with a time horizon of less than one year and are represented by projects, which are courses of action to achieve specific objectives. The result of this construct is a framework with objectives and their corresponding goals.

Strategies can be operationalized from the identification of specific laws to be worked on, both to bring the applicants the information they need and to create and revoke them. Therefore, they involve specific actions for different target audiences, adequate communication systems and an evaluation scheme that allows to know if the path followed was the same as that planned. While the objectives say what is going to be done, the strategies oversee clarifying how it will be done. The next step is to execute this scheme.

3.3 Execution of the legal needs supply plan

The execution of the legal marketing plan can be done from specific projects. Operationally, each project must deal with at least seven constructs: actors, activities, time, resources, location, methods, and results. The actors are the people and institutions involved and responsible for the execution of the marketing activities and can be measured by the type of collaboration, whether members or external to the project. Activities are the tasks that make up each project and materialize the specific strategy to achieve a certain objective and goal and are operationalized based on the type of responsibility attributed to each actor, as shown in chart 3.

Chart 3. Execution of the legal needs supply plan

Constructs	Conceptual definitions	Operational definitions	Theoretical support
Actors	They are people and institutions responsible for carrying out the activities	1) Project members 2) External collaborators	Águas, Rita & Costa (2001), Spurrier (2019), Solomon (2019), Kurabachew (2019), Kyunguti, Juma & Gathodu (2019), Gordon & Cranefield (2017), Zehner & Zehner (2019), Fitri (2019), Kotler, Armstrong & Opresnik (2017), Adebayo & Govender (2020), Özoğlu & Topal (2020), Angelov, Pettinga & Bateman (2020), Maia (2004), Kotler & Armstrong (2012), Gaspar (2016), Ribeiro (2005), Semedo (2014), Fernandes (2015), Gago (2015), Rodrigues & Bryto (2019), Bulhões (2010).
Activities	They are the tasks foreseen to be performed by the actors	1) Responsibilities attributed to people, institutions, and organizations	
Time	It is the estimated duration of the execution of each activity	1) Start time 2) Final time	
Resources	They are all the necessary means to develop each activity	1) Money 2) People 3) Machines 4) Equipment 5) Technology	
Local	It is the geographical or virtual space where the activities will be developed	1) Physical installations 2) Geographic spaces 3) Extraphysical spaces	
Method	It is how each activity will be developed	1) Tasks 2) Logical schemes 3) Critical paths	
Results	They are the by-product or final product to be achieved	1) Quality 2) Quantity	

Source: prepared by the authors.

Time relates to the duration of each task, counting from the initial to the end time, which leads to the split of minimum, average, and maximum time, for example. Resources are all means, tangible and intangible, necessary for the performance of each activity by the actors and can be measured through the amount and availability of money, people, machines, equipment, technology, and others. The location is the geographical space where marketing efforts will be carried out and can be measured through the physical facilities, geographic and extraphysical spaces to be worked on, which includes, in the latter, cyberspace.

The method concerns how each activity will be developed and can be measured through the specifications of the tasks, their logical sequencing and critical paths, in order to make it clear to the operator how each aspect of his work needs to be performed. The results of the by-products or products that must be delivered to the target audience and can be measured from their qualities and quantities. The qualities depend on the attributes specifically defined from the detail obtained in the diagnosis stage, while the quantity is aimed at meeting the needs of all the claimants.

3.4 Monitoring and evaluation of the execution of the legal marketing plan

The last step of legal marketing is monitoring and evaluating the execution of the plan. The purpose of this step is to make sure that what was predicted was performed, as can be seen from the studies by Spurrier (2019), Kurabachew (2019), Zehner and Zehner (2019), Fitri (2019), Kotler, Armstrong and Opresnik (2017), and Adebayo and Govender (2020), among others. This stage can be operationalized based on four constructs of results, since the purpose of marketing is the delivery of values: quality, value, satisfaction, and comprehensiveness. The monitoring / evaluation of the results of value seeks to make sure that the values sought by the claimants were received by them and can be measured by comparing what was demanded and what was delivered to them, as shown in table 4.

Table 4. Monitoring and evaluation of the execution of the legal marketing plan

Constructs	Conceptual definitions	Operational definitions	Theoretical support
Quality of results	Whether or not they have the quality attributes of the values received	1) Compliant attributes 2) Non-conforming values	Spurrier (2019), Kurabachew (2019), Zehner e Zehner (2019), Fitri (2019), Kotler, Armstrong e Opresnik (2017), Adebayo e Govender (2020), Özoğlu e Topal (2020), Angelov, Pettinga e Bateman (2020), Kotler e Armstrong (2012), Gaspar (2016), Ribeiro (2005), Fernandes (2015), Gago (2015), Bulhões (2010)
Value results	They are the values delivered to the claimants	1) Comparison of expected values with received values	
Satisfaction with the results	They are the satisfaction levels of the claimants in relation to the values received	1) Claimants satisfied 2) Dissatisfied claimants	
Scope results	They concern the number of claimants served	1) Total expected claimants 2) Total number of claimants served 3) Total number of claimants not served	

Source: prepared by the authors.

Monitoring / evaluation with respect to quality occurs through the pursuit of incorporating the quality attributes specified in the diagnosis phase in deliveries made to claimants and can be measured through compliant and non-compliant attributes. The monitoring of the execution of the legal marketing plan can determine the level of satisfaction of the claimants with what is delivered to them and can be measured by quantifying the satisfied and dissatisfied claimants. Finally, but not the least, the coverage results construct concerns the number of claimants served and can be measured through the total claimants expected to be served, total claimants served, and total claimants not served.

The monitoring / evaluation phase may (and is recommended) involve re-planning schemes for those results that do not comply with the plan. If monitoring is done simultaneously and the evaluation was carried out immediately after the end of the execution, the chances of failure are reduced. This procedure has been widely practiced in marketing efforts, so that, in the case of legal marketing, it can be an important step, and can even be incorporated as part of its operational definition.

This proposition of operational definition shows that legal marketing deals with laws and has its raw material in them. It is different from attorney marketing, therefore, which aims to bring the services of legal professionals to the attention of potential or actual clients so that they can solve their problems. In legal marketing there is no counterpart, unlike attorney marketing, which is present in the payment of professionals' fees. For this reason, in the attorney marketing all four marketing P's (price, promotion, place and product) are present, while in the legal marketing there is no presence of the price. Attorney marketing is business marketing.

It is also deduced that legal marketing can be practiced by any individual, organization and institution, because its purpose is to benefit everyone, without distinction, in a voluntary, civic manner. A lawyer or sociologist who decides to clarify a law for citizens of a city is practicing legal marketing, in the same way that a congregation of lawyers, such as the Brazilian Bar Association, could do or even the Supreme Court. However, lawyers and their professional institutions cannot create or repeal laws, for example, but they can act in this direction, activating the institutions that have this legal responsibility.

There may also be marketing done by professional law associations, which is technically called institutional or organizational marketing. When the institution does marketing to communicate its image and its mission, for example, it is not doing legal, but institutional marketing. Although it is not aimed at commercial or economic purposes, what is conveyed does not fit, scientifically, as legal marketing, as shown in this study.

IV. CONCLUSION

This study presented a proposal for an operational definition for the concept of legal marketing based on four stages: diagnosis, planning, execution, and monitoring / evaluation of the effort to meet the legal needs of individuals, institutions, and organizations. The operational model involved two constructs for the diagnosis stage and six forms of measurement; the planning stage also presented two constructs operationalized in seven forms of measurement; the execution stage consisted of seven constructs and sixteen ways of measurement; and the monitoring / control stage consisted of four constructs and eight units of measurement. In total, fifteen constructs and thirty-seven forms of measurement were involved.

These results reaffirm the distinction between legal marketing, which has its raw material in laws, and legal and institutional marketing, which are centered on other aspects. Legal marketing is concerned with solving the problems of clients of legal professionals, while institutional marketing generally aims at the image of the institution and its mission, even though it does not seek to obtain any type of financial or economic rewards from communication, unlike the marketing practiced by lawyers, who seek fees.

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