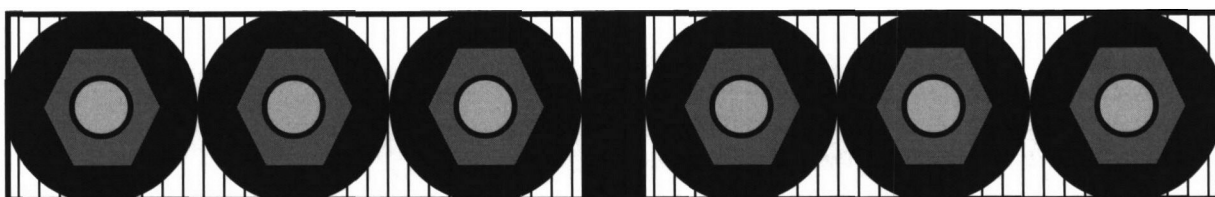


The Forensic Marketing Case Study Methods

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Introduction

The term "forensic" is effectively a synonym for "legal" or "related to courts" and in Latin means "before the forum." The term has practically become synonymous with the field of forensic science and, historically, has been associated with such fictional characters as Sherlock Holmes, Dick Tracy, Perry Mason, and the most recent CSI programs to produce what is known as the "CSI effect" in criminal investigations. The "CSI effect" may be described as the expectation that forensic science and evidence will be available and readily applied in all legal and criminal investigations. Natural science forensic fields have expanded in response to these expectations to include most commonly forensic odontology (the study of dental bite and teeth patterns), forensic toxicology (the drug and poison effects on the human body), forensic entomology (the study of insects and human remains), forensic psychiatry (the legal aspects of human behavior), and forensic engineering (the study of device and structural failure).

Business, as a social science, has already responded to forensic expectations and joined the forensic field to include forensic accounting (the study and interpretation of accounting evidence) and forensic economics (the study and interpretation of economic damage evidence). Common to both natural and social sciences, forensics is the application of the scientific method relative to objective empirical observation and evidence gathering, hypothesis testing via data analysis, and testimonial recommendations and conclusions. The case study method is tied to the field of forensics as a commonly accepted application of the scientific method in the social sciences. As a matter of application, the question of how the information should be gathered and organized remains. This paper introduces the Forensic Marketing Case Study

Method as a proposed structure for forensic case investigation dealing with marketing issues. It integrates case study methods and the information gathering tool of the marketing audit.

The paper's major sections include a business forensics review, marketing law review, review of case study methods and their relationship to the Forensic Case Study Method, a review of the marketing audit, and conclusions and recommendations.

Business Forensics Review

The field of forensic accounting appears to be well developed, professional, and institutionalized within the various accounting professional organizations. According to a memo issued by the Forensic and Litigation Services Committee of the AICPA (2004), forensic accountants have emerged as "vital allies in the fight against fraud." Forensic accounting has two major components: litigation services recognizing the role of the CPA as an expert, and investigative services using the CPA's skills that may or may not lead to courtroom testimony. In particular, the AICPA memo defined forensic accounting to include "the application of special skills in accounting, auditing, finance, quantitative methods, certain areas of the law, and research and investigative skills to collect, analyze and evaluate evidential matter and to interpret and communicate findings." A recent article in *Canadian Business* (2006) presents steps for forensic accountants to take in examining financial statements to include revenue verification, questioning lesser expenses, looking for debt, remembering that cash is important, counting stock options, and examining the condition of pension plans.

Grippio and Ibex (2003) identify forensic accounting as an emerging science that differs from traditional auditing in that it "deals with

the application of accounting facts gathered through auditing methods and procedures to legal problems usually dealing with financial and valuation issues." Forensic accounting is further identified as a usually expensive investigation of an allegation with the evidence expected to be presented in a judicial forum and the further expectation of a positive cost-benefit relationship. The marked increase in white collar crime and business disputes have helped create a need for forensic accounting generally in the areas of business valuations, divorce proceedings, personal injury and fatal accident claims, professional negligence, insurance claims, arbitration, partnership and corporation disputes, shareholder disputes, and civil and criminal actions concerning fraud.

According to Wolosky (2004) and the Association of Certified Fraud Examiners, the fallout from Enron and WorldCom has pushed fraudulent financial statements to front page news, with fraud remaining quite pervasive. Although most fraud goes unreported, an estimated 6% of revenues are identified as lost as a result of fraud, which translated into estimated losses of approximately \$600 billion in 2002. Small businesses are considered most vulnerable to fraud, averaging \$127,500 in losses, with the fraud typically perpetrated by first-time offenders. Fraudulent financial statements are the most costly, with median losses estimated at \$4.25 million per scheme. The average fraud scheme exists for 18 months before it is detected. According to Inkster (1996), police regularly advise businesses and corporations to hire forensic accountants to put together a detailed case and a nearly complete fraud investigation before bringing it to authorities — a practice known as investigative cost-sharing. Identified areas of forensic accounting functions include investigating fraud, acting as expert witnesses, patent infringement, breach of trust and fiduciary duty, due diligence analysis, security evaluations, insurance investigations, litigation support, and asset tracing and recovery.

The field of forensic economics also appears to be well developed and professional, according to numerous published studies and journals. Tinari (1993) identifies forensic economics as one of many different fields of applied economics that include labor economics, environmental economics, agricultural economics, and economic policy advising. Forensic economics is estimated to be approximately 40 years old, originating with antitrust litigation in the 1960s

and expert economic testimony in the 1970s regarding tort litigation and claims to economic damages. The expansion of forensic economics as a distinct and applied field has given birth to forensic economics journals such as the *Journal of Legal Studies*, the *Journal of Law, Economics and Organization*, and the *Journal of Forensic Economics*.

Various publications dealing with and developing specific forensic economic issues include the treatment of professional degrees in divorce actions (Raymond, 1995), the value of household services (Ireland and Riccardi, 2003), the value of future lost pension income (Raymond, 2003), employee benefits and economic damages (Hannah, 2005), disease and workers compensation (Leigh and Robbins, 2004), age discrimination valuation (Neumark, 2003), and widow's losses during retirement years (Conley, 2003). Little is said or reported about marketing fraud or forensics, however.

Marketing Law and Forensic Marketing

Engle (1936) is credited with the publication of one of the first marketing law articles in 1936 concerning the impact of the Robinson-Patman Act on marketing. Stern and Eovaldi (1984) are credited with publishing the first marketing law textbook in 1984. A study by Massin (1990) surveyed Fortune 500 CEOs on the relative importance of legal topics on business; employment law, government regulation, antitrust law, contract law, sales law, product liability and intellectual property law were identified as the most important, in that order. Many of these legal topics relate directly to traditional marketing functions and, therefore, point to the importance of marketing law to corporate executives and decision-makers. Given the extensive nature of the body of federal law relating to marketing and consumer movements beginning in the 1960s, Petty (1999) organized major federal commercial laws relative to their impact on the Four Ps as summarized in Table 1.

While the Table 1 approach is useful, the authors developed Table 2 to provide a general legal content description of legal business constraints, to include local and state legislation. This is more exhaustive and useful in illustrating the extensive, restrictive, and important effects of business law on marketing.

Given the pervasive nature and impact of commercial legislation on marketing and the Four Ps, the authors believe that a number of specific observations should be made relative to

Table 1. Major Federal Legislation as applied to the Marketing Four Ps

Federal Law	Product	Place	Price	Promotion
Sherman AntiTrust Act (1890)	X	X	X	
Food, Drug, and Cosmetic Act (1908)	X			
Clayton Act (1914)	X	X	X	
Federal Trade Commission Act (1914)		X	X	X
Robinson-Patman Act (1936)		X	X	X
Miller-Tydings Act (1937)			X	
Wheeler-Lea Amendment (1938)	X			X
Lanham Trademark Act (1946)	X			X
Antimerger Act (1950)	X	X		
Magnuson-Moss Act (1975)	X	X		
Fair Credit Reporting Act (1975)			X	
Product Safety Act (1976)	X	X		
Truth in Lending Act (1976)			X	X
FTC Improvement Act (1976)	X			X

X = General and traditional areas of legal application

Table 2. Legal Constraints on the Four Ps by General Legal Content

Product	Place	Price	Promotion
Trademark Law	Zoning Law	Unit Pricing Law	Truth in ADV Law
Licensing Law	Blue Sky Law	Correct Marking Law	Truth in Credit Law
Merchandise Law	Environmental Law	Dual Pricing Law	Comparative ADV Law
Product Safety Law	Door to Door Sales	Collusion Law	Bait and Switch Law
Liability Law	Lease/Contract Law	Sale Price Law	Inventory Law
Warranty Law	Local Ordinances	Minimum MU Law	Labeling Law
Lemon Law	Tying Contract Law	Loss Leader Law	Cooling Off Law
Minimum Age Law	Trade Restraint Law	Price Discrimination	Media Restriction Law
Ownership Law	Reciprocity Law	Quantity Discounts	Cooperative ADV Law
Recycling Law	Delivery Law	Business Tax Law	Sales Frequency Law

the conceptual nature of forensic marketing as a new, legitimate, and emerging functional area of marketing. These observations are:

1. Forensic marketing may be defined initially as dealing with the application of marketing facts and laws gathered through case study and auditing methods to address legal challenges usually dealing with market exchange issues.
2. Forensic marketing should be considered a distinct field of applied marketing (such as marketing research), similar in importance to the more established and defined applied fields of forensic accounting and forensic economics.
3. Forensic marketing should be based on a distinct subject matter and body of knowledge, presently identified as business or commercial law, as applied to marketing and potential exchange fraud.
4. Forensic marketing practice and areas of specialty should most logically be organized around the traditional Four Ps to include product, place, price, and promotion investigative services and expert witness testimony.
5. Forensic marketing should be practiced using a case study method as a means of organizing information and should be supported by a marketing audit method as a means of gathering such information.

The Forensic Marketing Case Study Method

Case study methods have long been used in marketing programs as a method of inquiry, a way to provide real world context to business

issues, and a structure of analysis and decision-making (Bussiere, 2005). As an application of the scientific method, the traditional case study method adheres to the following ordinal structure with some variation based on style:

1. Problem definition (negative result or effect)
2. Underlying issue (presumed cause of effect)
3. Relevant facts (empirically based facts relative to problem and issue)
4. Strategic alternatives (recommendations to address underlying issue)
5. Decision criteria (generalized conditionals/laws as the logic of justification)
6. Selected alternative (recommendations as supported by decision criteria)

As an alternate scientific method of inquiry, Golder (2000) described "the historical case study method" as a five-step process that moves from the selection of the research topic or problem to the presentation of the evidence and conclusions as follows:

1. Problem definition and evidence collection
2. Evaluation of evidence source credibility
3. Evaluation of evidence factual credibility
4. Evidence interpretation
5. Evidence conclusions and presentation

A variation of the "historical case study method" proposed by Peterson (1987) as a form of forensic marketing forces the investigator to research, analyze, and explain an historical marketing event. According to Jones (1991) and

Savitt (1980), the goal of historical case analysis and research is not prediction but retrodiction: an effort to determine what happened in the past as a source of understanding and explanation for the present. According to Bussiere (2005), the methodology and process of putting together the information is as important as the information itself in terms of "framing" and then interpreting the marketing issues at hand.

As a new methodology and process of putting together the information, the proposed Forensic Marketing Case Study Method is structured in support of forensic marketing analysis and practice as follows:

1. Problem Definition
2. Framing the Issue
3. Factual Evidence Collection
4. Evaluation of Factual Evidence and Credibility
5. Evidence Interpretation
6. Conclusion(s) and Presentation

The forensic marketing terminology applied to the new forensic case study method is based on the belief that the term "forensic marketing" will be viewed more professionally and favorably in marketing practice than any other term. As an integration of the traditional case study method and the historical case study method, the new methodology utilizes the first three steps of the traditional case study method (problem definition, underlying issue, and relevant facts) and the last three steps of the historical case study method (evaluation of evidence, evidence interpretation, and conclusions/presentation) to

Table 3. Application of the Forensic Marketing Case Study Method

Step	Process	Application Example
1	Problem Definition	Federal price discrimination suit
2	Framing the issues	Were goods of like grade and quality? Was competition substantially injured? Does the Robinson-Patman act apply?
3	Factual evidence collection	Actual grade and quality of goods Actual before/after competitive standing Historical Robinson-Patman court rulings
4	Evaluation of factual evidence and credibility	Grade and quality comparison of goods Before/after competitive standing comparison Comparison with historical court rulings
5	Evidence interpretation	Goods were not of like grade and quality Competition was not substantially injured Robinson-Patman act applies but not violated
6	Conclusions and presentation	Expert witness testimony against suit

meld the best of both models into a creative synthesis. This new analytical structure may be considered more useful to the emerging field of forensic marketing than separate use of either the traditional or historical case study methods. In essence, the models are not mutually exclusive in application and should be considered complimentary in approach and analytical framing contribution. Table 3 presents an example of a basic application of the Forensic Marketing Case Study Method concerning charges of potential price discrimination and their identified lack of basis in fact.

The Forensic Marketing Audit

As an investigative tool in support of the Forensic Marketing Case Study Method, the marketing audit may provide structure for forensic

marketing fact gathering. Kotler, Gregor, and Rogers (1977) identify the marketing audit as the answer to evaluating company marketing practice, just as the public accounting audit is the tool for evaluating company accounting practice. In their opinion, however, the marketing audit has not reached a high degree of methodological sophistication or consistency because, "Whereas two certified public accountants will handle an audit assignment using approximately the same methodology, two marketing auditors are likely to bring different conceptions of the auditing process to their task." This observation is a direct call for a more structured and professional method of fact gathering for forensic marketing in particular. The structure and components of the traditional marketing audit are summarized in Table 4 as

Table 4. Components of the Traditional Marketing Audit

Major Component	Sub Component
I Marketing Environment Audit	Macro-Environment Economic/Demographic/Technology/Political-Legal/Social-Cultural Task Environment Markets/Customers/Competitors/Distribution and Dealers/Suppliers/Facilitators
II Marketing Strategy Audit	Marketing Objectives Marketing Strategy
III Marketing Organization Audit	Formal Structure Functional Efficiency Interface Efficiency
IV Marketing Systems Audit	Marketing Information System Marketing Planning System Marketing Control System New Product Development System
V Marketing Productivity Audit	Profitability Analysis Cost Effectiveness Analysis
VI Marketing Function Audit	Products Price Distribution Sales Force Advertising, Promotion, and Publicity

Table 5. Characteristic Application Comparisons of the Traditional Marketing Audit and the Forensic Marketing Audit

Characteristic	Traditional Marketing Audit	Forensic Marketing Audit
Comprehensive	Horizontal	Vertical on 4P's
Independent	Internal	External Expert
Systematic	Basic	Diagnostic
Periodic	Annual	As Needed

follows:

To be effective any audit or information gathering structure should be comprehensive (collectively exhaustive), independent (objective), systematic (structured), and periodic (regularly scheduled). The traditional marketing audit is considered to provide a comprehensive, independent, systematic, and periodic approach to the information gathering needs of forensic marketing, although application should differ from traditional marketing audits. Table 5 compares the characteristics of a traditional marketing audit with the requirements of a forensic marketing audit, showing that application of their respective audit characteristics tends to be opposite to one another. Specifically, the forensic marketing audit should be considered more vertical (specific marketing function focused), more external (outside marketing expert), more diagnostic (evidence based), and less periodic (as legally needed) than the more comprehensive and traditional marketing audit.

Conclusions and Recommendations

The emerging field of forensic marketing was defined as dealing with the application of marketing facts and laws gathered through case study and auditing methods to address legal challenges usually concerned with market exchange issues. As such, forensic marketing should be practiced using a case study method as a means of organizing information supported by a marketing audit method to gather information. The Forensic Marketing Case Study Method was identified as the recommended approach to forensic marketing practice, supplemented by the forensic marketing audit to gather that information. The benefits of this approach provide a more vertical (specific marketing function focused), more external (outside marketing expert), more diagnostic (evidence based), and less periodic (as legally needed) structure to the marketing audit, based on the scientific method.

A quick "Google" of the term "forensic marketing," as an attempt at popular verification of this emerging field, produced references relating only to the marketing of forensic services and associated Web sites. Only one academic journal article, by Bussiere (2005), was found to contain the search words "forensic marketing" in title or text inclusion using the Business Source Premier Article database. Nonetheless, there is little doubt that the practice and field of forensic marketing existed long before the term was conceived or applied to such activity. To wit,

historic and ongoing examples of marketing fraud or scams include the Ford Pinto product liability disaster, the multilevel marketing or pyramid scheme distribution allegations of Amway (FTC v. Amway 1979), ongoing Wal-Mart minimum markup (pricing below cost) state suits, and the ongoing Internet promotions of lottery and windfall scams.

Just as forensic accounting may be supported educationally by CPA/JD certification and degree designations, it may further be argued that the emerging field of forensic marketing may best be supported by the MBA/JD, MS in Marketing/JD, or Ph.D. in Marketing/JD degree designations and combinations. Support in the development of the field of forensic marketing should also be forthcoming from a *Journal of Forensic Marketing* publication outlet or similar research clearinghouse.

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The Forensic Marketing Case Study Methods 4

Formerly associated with crime-solving techniques, the term “forensic” now appears regularly in the accounting sphere as a method for deterring or discovering irregularities in financial statements. Can forensic techniques be applied to expose practices that thwart federal marketing-related legislation, such as antitrust and product safety, not to mention state and local laws? The authors suggest an approach that integrates traditional and historical case study methods to enhance the new field of forensic marketing. Facts should be gathered through a more structured and professional (“forensic”) type of marketing audit, which they explain.

Steven J. Anderson, John X. Volker, and Michael D. Philips

Leadership Development: An Exploration of Sources of Learning 10

Large sums are spent by individuals and organizations on programs to develop business leaders. Perhaps more attention should be given to the materials and techniques used to teach leadership or train leaders, in short, to the sources of learning. To help fill the gap between research on leadership theory and actual leadership development practices, the authors developed a comprehensive list of over two dozen sources of learning. For ease of use, these sources are grouped according to Conger’s 1992 four-pronged approach to leadership development: personal growth, conceptual understanding, feedback, and skill building. These sources of learning alone will not create leaders without at least one more essential ingredient: a culture of leadership development that reflects long-term organizational commitment.

Scott J. Allen and Nathan S. Hartman

Developing Trust in Leaders: An Antecedent of Firm Performance 20

It seems intuitive that when employees trust their organization’s leadership, the organization’s performance will be positively affected. This is confirmed by research. But how can managers today develop productive relationships with employees amid all the demands of today’s marketplace? An investigation into some key factors that may increase employee trust—exerting rational influence, allowing autonomy, and collaborating to encourage leader-member exchange—sheds light on the problem based on data gathered from managers in the fast food industry.

Cesar Douglas and Suzanne Zivnuska

Investigating the Impact of Organizational Excellence and Leadership on Business Performance: An Exploratory Study of Turkish Firms 29

What makes a successful firm? Building on the research framework of Darling and Nurmi (1995) and other studies, the authors included seven business performance measures to test the effects of three key organizational excellence factors and four key leadership strategies on performance. Data were gathered from personal interviews with 200 firms in three major cities in western Turkey. Results for each factor were analyzed in detail, which should help managers weigh the value of various approaches and strategies. Overall, the study found a significant relationship between organizational excellence and performance, and between leadership strategies and performance.

Musa Pinar and Tulay Girard