



# ON THE EDGE

## HOW TO ESTABLISH AND PROTECT YOUR COMPETITIVE ADVANTAGE

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### **How to establish and protect your competitive advantage**

In today's world, more so than in decades past, business is not a "build it and they will come" affair. To create and maintain a profitable business, you need a competitive edge. Your competitive advantage can both drive more business your way and critically protect you against copycats. It can also take a variety of forms. The keys are distinguishing your business from others, fending off imitators and then keeping that edge fresh.

### **What Works for Your Business**

Every company is different. So the competitive advantage that works in one might not work at all for another company. Even in the same industry, your edge may vary. One dry cleaner might be the cheapest, another might clean your shirt in an hour and a third might be that rare one that doesn't smash my buttons (wouldn't that be something!).

The point is that you need to identify what advantage makes your business different and, hence, profitable. Being the low-cost provider might work in one scenario but flop on Rodeo Drive. In fact, under the somewhat counterintuitive "luxury effect," higher priced goods attract business from certain customers. These buyers are looking for the prestige, exclusivity and the presumed quality that comes from high priced goods.

In services businesses, attentiveness and responsiveness often capture the gold. In fact, with contemporary dual-earner families, everyone's time is highly prized. Even those who are unemployed or underemployed want great service, as they value their dollars ever more highly and want the most for their money.

Whatever the business, you need to understand your customer and how you can separate your company from the competition. I work with cosmetic dentists who fill their waiting rooms with patients eager to pay tens of thousands of dollars for movie-star-beautiful teeth. I represent a construction company that always builds on time, never defaults and will fix "defects" that aren't its responsibility to

keep the customer happy. I work with a defense contractor that has such a vast array of hardware and software services that the government can one-stop shop with it for virtually every need.

You know your customers. Figure out what will make them open their wallets for services or products like yours.

## **Protect Your Lead**

Once you know what your customer really wants, develop that advantage and guard it. Protecting a competitive edge can take a variety of forms. It might be as simple as a restaurant that not only has good food but is meticulous about cleaning its bathrooms. What more could we ask for? Likewise, your edge might be as straightforward as training your staff. If your customers want certain things every time they buy from you, it's critical to educate your team and make sure that every employee delivers your goods the same way every time.

But you can't just have that edge. You have to protect it.

As the famous truism goes for so many businesses, their most valuable assets walk out the door every night: their employees. So for many companies, your team is your competitive edge. Protecting your advantage here involves a variety of carrots and sticks. First, consider the enticements. Create an environment where people want to work where there is respect and consideration, opportunity for growth and fair compensation and benefits. Countless studies have shown that retention of employees is dependent on so much more than just a paycheck, however large it may be. Instead, many employees prize an ability to grow and the feeling that they can help shape their destiny, if not entirely control it.

On the "stick" side of the equation, you need to protect your business from those employees who want to walk out the door with the company's crown jewels. Here, you need to consider legal measures and agreements. These can take a variety of forms and require careful guidance because they are not allowed in all states in all forms. But notable measures include non-competition agreements that prohibit employees from competing with you for a limited time period in certain areas. Also, a non-solicitation agreement, when properly drafted, can limit an employee's ability to quit and then try to hire your other employees or call upon your customers. In other instances, you may need your employees to sign trade secret or confidentiality agreements that preserve the secrecy of information vital to your competitive edge.

Depending on your business, you may need a variety of other employment policies to protect your advantages. Notably, many businesses reserve the right to monitor employee usage of company computers to ensure that employees are not stealing vital company data.

Some protections are far from obvious. Many companies hire independent contractors to develop key company products and services, like software code but fail to require the necessary legal protections.

Here, it is critical that the business get a written agreement that legally establishes your company's ownership of the contractor's work.

Still, other protections are also vital. They run the gamut from patents that protect ideas to trademarks that protect brands to copyrights that protect words. The necessary protections will vary depending on your business. You may need a non-circumvention agreement that prevents a manufacturer that you hire from going around you and selling directly to the retailers to whom you provide your products. You may want your customers to work with a variety of your employees so that the loss of any one particular employee does not damage the relationship with a customer if a key employee departs. You may give a lot of business to a particular supplier and require it to commit to a "most-favored-nations" clause that ensures you will get that supplier's lowest prices for their goods. It's like any sport. The key is not just having the lead, but protecting it.

### **Keep it Fresh**

Some competitive advantages lose their edge. For example, even good service a mainstay for hundreds of years can lose out to other companies' new advantages. Countless brokers, such as traditional travel agents, lost their edge when the internet provided direct connections with companies and customers throughout the world on a 24 hour per day basis. On the other hand, the internet gave rise to a new competitive edge and a new class of brokers, such as Orbitz and Expedia, which offer a variety of travel accommodations at cut-rate pricing.

In business, the only thing that stays the same is change. You need to focus on the changing requirements of your customers and the evolving advantages offered by your competitors or it's off to early retirement. So even if you have the best bagel in town, remember there is a shiny new cupcake lurking out there, ready to lure your customers away.

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