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In 2006, I began working on a master's degree in mediation after nearly 25 years in the communications industry. As my exposure to alternative dispute resolution (ADR) grew, I became alarmed by reports that the field is struggling—that demand for services remains low, despite years of growth and evolution within the field itself. As ADR has expanded throughout our society—from the courts to labor unions to business and community centers—many have hoped that public demand for dispute resolution services would grow, and yet that demand has not materialized.

This fact and dire warnings from ADR leaders such as Bernard Mayer in his book *Beyond Neutrality: Confronting the Crisis in Conflict Resolution* that the “conflict resolution field is facing a serious crisis” (Jossey Bass, 2004), prompted me to research the following question—focusing specifically on mediation as one component of the larger issue: Can a marketing campaign be designed to influence public attitude in favor of mediation, so that individuals choose mediation when in conflict?

I looked at many sides of this question, from what is known about public attitudes toward mediation, to how opinions are formed and changed, to successful marketing strategies aimed at changing behavior, such as anti-smoking campaigns. I also turned to Tammy Lenski's book, *Making Mediation Your Day Job: How to Market Your ADR Business Using Mediation Principles You Already Know* (iUniverse, 2008), to inform my thinking. Based on what I learned, I believe that we can increase public awareness of and demand for mediation.

What We Can Learn from the Milk Campaign

The dairy industry has cemented into the American psyche the idea that milk is essential to a healthy diet. It has done such a good job in making its case that milk is now an integral ingredient in school meal programs, dairy has its own food group on the U.S. Food and Drug Administration (FDA) food pyramid, and parents strive to be sure their families get three servings a day. In the early 1990s, after watching milk consumption slump for years, the California milk industry hired San Francisco advertising agency Goodby, Silverstein &

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Partners to create a new campaign promoting milk. After much research, they developed the “Got milk?”™ campaign, which was credited with resurrecting milk consumption.

The field of mediation enjoys no comparable, overarching promotion. While mediation associations advocate educating the public about the benefits of mediation and link customers with mediators, little has been done in the realm of marketing to consistently frame and promote mediation in American life.

While our profession may not be able to afford the likes of Goodby, Silverstein & Partners, there are still steps that can be taken to turn mediation into a consideration in the public mind. To begin, we must build and promote a “brand” that makes mediation seem useful and necessary. Then, we must develop frames and metaphors that help people embrace mediation, and incorporate these frames into a specific marketing strategy, described later in this article. Finally, we must conduct ongoing research about the consumers and how they perceive mediation in order to fine-tune marketing and the services offered.

Branding

Americans are bombarded with messages 24/7. Ads blare over store public address systems. Incidents occurring anywhere on the planet receive instant coverage in the media. Junk mail piles up on kitchen tables, and spam reproduces in e-mail inboxes. Marketing strategist Jack Trout explains in his manual *Differentiate or Die: Survival in Our Era of Killer Competition* that over-communication has “dramatically affected the way people either take in or ignore the information offered to them” (John Wiley and Sons, Inc., 2000). To get our message through this din requires us to understand how the mind selects what to notice and how we can make our message relevant and keep it present.

An essential first step is to build a brand for mediators, to create in the mind of the consumer a singular image, idea, or concept about mediation. According to marketing consultants Al and Laura Ries, the objective is to build the perception that there is no other product quite like ours (*The 22 Immutable Laws of Branding*, Collins Business, 2002).

Listed below are a few well-known brands and the concepts linked to them:

- Milk builds strong bodies.
- Domino's Pizza® delivers (in 30 minutes).
- DR® Power Equipment: “Professional power for homeowners.”
- The National Organization for Women has been “taking action for women's equality since 1966.”

Learn from Milk Promotion

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- The Sierra Club®: “Explore, enjoy and protect the planet.”™
- Barack Obama: The change we need.

These statements are clear and concise and set the product, organization, or entity apart from others.

Below are a few mediation messages, taken from the Internet. These are representative of the type of messages generally in use in our field:

- “Qualified, independent attorney-mediators offering mediation services . . . united by a common commitment: To achieve the prompt, fair and cost-effective resolution of disputes through voluntary and court-annexed mediation.”
- “A not-for-profit organization that brings together individuals . . . who share a common interest in mediation as an alternate form of dispute resolution. The association advocates for and provides education pertaining to mediation; provides a network for information; skill sharing; and referrals.”
- “Mediators are individuals with specific training in assisting others in finding a resolution to their dispute. Our members come from a variety of disciplines and mediation specialties and have joined together in order to promote and further the process of mediation as an effective and efficient tool for the resolution of disputes.”

The difference between the two groups of statements could not be more revealing. I reviewed mediation Web sites in all 50 states and found only a handful that offered succinct, understandable messages for the consumer. If the field of mediation cannot explain itself succinctly, how will people in this over-saturated, message-laden world come to understand it?

Do mediators have a brand?

Ask a group of people what they know about lawyers, and almost everyone will have an immediate response. No matter what their opinion of lawyers, most people want an attorney when they are in trouble because the lawyer brand includes the concept of “advocate and protector.” But ask the same group what they know about mediators, and you are likely to get a confusing mixture of ideas and opinions, ranging from “peace-maker” to “negotiator” to “counselor” to “huh?”

As Bernard Mayer suggested, when people consider having their serious disputes mediated by a neutral, third party previously unknown to them, some do not feel too enthusiastic about the idea because they want “to be heard, and heard in

a powerful way by people whom they think count” (*Beyond Neutrality*, Jossey Bass, 2004); or they fear conflict itself and think that mediation might escalate it; or they do not want to meet their opponents on unfamiliar turf and possibly lose.

My own informal polling has borne this out. One acquaintance told me, “I didn’t want mediation when I was getting divorced. I was afraid that with Bob’s power with words, he’d beat me down, and I’d have to give him my property.” My acquaintance had no idea that a mediator could provide her with a platform to help her find her voice. If a mediator brand currently exists, I believe it goes something like this: “Mediators are neutral, impassive people, who employ a process that cannot help me.” To respond to the needs for safety, advocacy, and being heard in a meaningful way, mediators would need to be seen as active and impartial, but forceful, helpers, with expertise not found anywhere else.

Creating a New Brand

Ries and Ries point to numerous features that make up a brand; the following seem particularly relevant:

Credentials: Since, as Ries and Ries point out, people are likely to mistrust most product claims, mediation must make itself seem authentic by giving itself credentials. Any number of bone fide qualifications could be used: description of training, experience, relevant statistics, testimonials, lists of clients, and industry standards met and exceeded.

Quality: We must build the perception of quality in the mind of the market. One way to create the sense of quality is by emphasizing specific expertise—specialists are often thought to know more and offer higher quality than generalists. One area of high expertise is the mediator’s knowledge and skill in managing conflict.

Consistency: Ries and Ries and other marketing experts state unequivocally that, although markets may change, brands should not. Brands may be “tweaked,” but, they say, once the essential characteristics are planted in the consumer’s mind, they should not be changed.

Give customers a reason: Customers need a reason to use our services. We can identify those reasons for them by filling in the blank: Use mediation and you will _____. In her book, *Making Mediation Your Day Job: How to Market Your ADR Business Using Mediation Principles You Already Know*, Tammy Lenski suggests several reasons derived from people’s interests (iUniverse, Inc., 2008). These work very well to complete the sentence: “Use mediation and you will be able to “move on with your life . . . maintain your privacy . . . avoid court . . . be treated fairly and equitably . . . use your resources for what you really want . . . make your own decisions . . . solve your problem now . . . be heard.”

Repetition: How do we get the brand and its attendant concepts into the minds of would-be consumers? Answer: exposure and repetition. Mike McKenna, former CEO and chief creative officer at Marsteller, a global advertising, design, interactive and production agency, says that statements need to be experienced six or seven times before they are set in the mind. As much as we may not like it, repetition is essential because we are competing with a universe of messages.

What a Marketing Campaign Could Look Like

I have created a fictional mediators' association, Association of Green Mountain Mediators (AGMM), to use as a theoretical model. (A practice would work also.) The association is based in my home state of Vermont and is comprised of competent mediators who operate impartially, allow for full expression of interest and self-determination, and follow the Vermont standards of practice. Whether they practice evaluative, transformative, or facilitative methods is not as important as their ability to determine the parties' needs in each situation and to meet those needs accordingly or, if not, to provide referrals to mediators who can.

The target consumers are individuals from middle and higher socio-economic classes, with at least high school educations. Diversity issues are not addressed in this model but would need to be addressed in real applications.

The marketing approach responds to people's needs for safety, advocacy, and being heard in a meaningful way. It demonstrates that mediators are active and impartial, but forceful, supporters, with expertise not found anywhere else—the basis of the brand. It employs four linked components, informed by one overriding principle: *Be of service* (Regan L. Eberhart, "Is There Clinic After Funding? The Theory and Management of Self-Sustaining Family Planning Clinics," RAJ Publications, 1982). This means eliminating obstacles to learning about and using mediation. If being unfamiliar with mediation is an obstacle, which I believe it is, we must find ways to make that obstacle disappear; one way may be through free, short consultations that encourage people to come in.

First Component: A Web Site that Serves the Client and Anchors the Marketing

The Web sites for most mediation associations are geared to their members. Often, a potential client must navigate industry

jargon and visual clutter, eventually finding consumer information also written in jargon. "Find a mediator" links often consist of a bewildering array of pull-down menus from which the now increasingly confused customer must select types of disputes, regions, and areas of practice.

My theoretical site is geared to the customer. It is where many people looking for help with conflict will initially come to find it—in clean, easy-to-understand language, with welcoming, purposeful pictures. This site may incorporate video, interactive tools, and valuable links, but all components must integrate the brand. Here is an overview of the reasoning I used to construct the AGMM site:

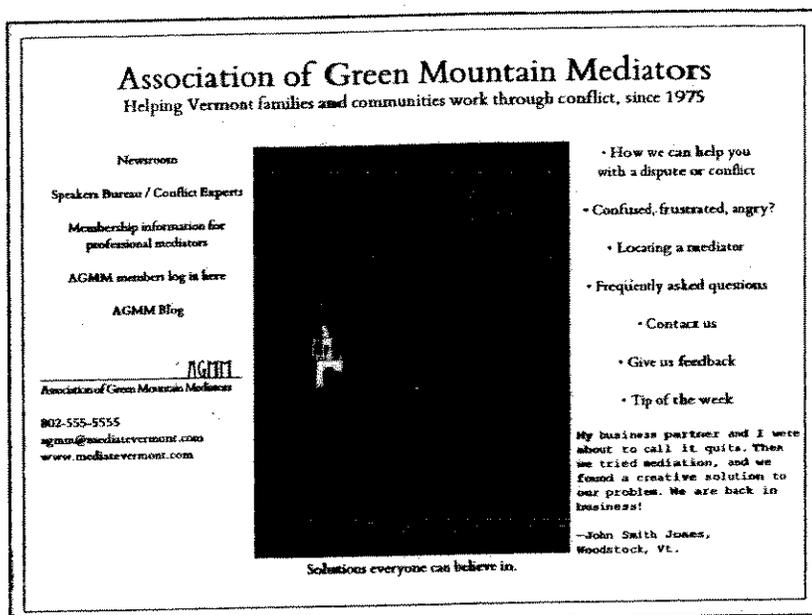


Figure 1.

Vermonters have a strong connection to the landscape and to being part of Vermont's heritage. Images showing scenes and people who are clearly in Vermont can tap into the sense of place and belonging. These might suggest the peace and safety one feels at "home," as well as other concepts often paired with Vermont, like "forward thinking" and "innovative." If Vermonters are forward thinking and innovative, and if mediation is seen as a creative way to deal with conflict, then possibly "Vermont" could become linked with "mediators" in the public's mind.

The phrase "Helping Vermont families and communities work through conflict, since 1975," indicates experience and leadership. The word "helping" implies active assistance. "Vermont families and communities" is inclusive and speaks of place. The slogan, "Solutions everyone can believe in," sets a hopeful tone, implying win-win solutions without actually saying it. This phrase may help dispel the fear that working with

a mediator will result in losing. It also suggests that creative problem-solving may be possible.

Alternatively, a site with a different focus might be used. Instead of the scenic image, the rugby team in full battle offers a humorous touch, focusing on people. "When conflict gets close and personal, call a mediator," is more direct and leaves no doubt about the association's purpose. The phrase is a call to action. If successful, I can imagine "Call a mediator" becoming the oft-repeated slogan in the association's marketing.

Information provided at each Web site link on the home page must consistently reflect and support the brand. Each should answer the phrase "Use mediation and you will _____." Information located in the section titled "How we can help you with a dispute or conflict" should demonstrate mediators' abilities to relate. For example, "Conflict is a natural part of life. But when it becomes overwhelming, when it is eating up financial and emotional resources or straining your relationships, you may want help. Or, you may have a tricky situation that you want to manage *before* it gets out of hand. Working with an AGMM mediator is a positive and liberating step that allows you to get back to the things that matter most to you. It can save money, time, and aggravation, and preserve relationships."

Dispel the neutral, impassive image in the section titled "Confused, frustrated, angry?" For example, "Emotions are an important part of being human. We understand powerful feelings, and, while we help people talk to one another, it is also our job to structure meetings so that all participants feel safe—and heard."

Describe credentials, background, accomplishments, and provide client lists or testimonials at the "AGMM" link, and carry forward to the "Find a mediator" section, where each member would have a compelling page that invites inquiry and offers free consultation and an overview of his or her approach, perhaps even a video.

Second Component: A Live Person at "Contact Us"

When people finally get the nerve to make a call, hearing a friendly voice on the other end can do more to sell mediation than anything else. Avoid recordings that state "press 2" for this or "leave a message" for that, but instead have a real person who listens (or answers e-mail promptly), provides information and referrals, and urges the caller to call again if he or she wishes. This keeps the association in contact with clients, gives clients an avenue for complaints or comments, makes mediators seem real, and reinforces the personal feeling we are trying to create with our brand.

**WHEN CONFLICT GETS CLOSE AND PERSONAL,
CALL A MEDIATOR**



Solutions everyone can believe in.

- AGMM Members log in
- Membership information for professional mediators
- Newsroom
- AGMM Blog
- Speakers bureau & conflict experts

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AGMM

Association of Green Mountain Mediators

- How we can help you with a dispute or conflict
- Angry, confused, frustrated?
- Locating a mediator
- Frequently asked questions
- Tip of the week
- Contact us
- Give us feedback

My business partner and I were on the verge of calling it quits. Then we decided to try mediation, and we found a creative solution to our problem. We are back in business!

—John Smith, Woodstock, Vt.

Figure 2.

Third Component: The Newsroom and Experts

Good public relations (PR) is an effective alternative to advertising. The PR arm of the organization provides the media with news stories that deepen and add texture to the association's messages. A PR person with astute news sense would establish relationships with reporters interested in conflict-related stories and provide them with ideas, tips, and news releases regularly.

An "expert" panel, composed of members with specific expertise, can be enlisted for interviews and speaking engagements. For example, if an environmental dispute is brewing, the association's environmental expert might speak with reporters working on related stories. Experts quoted in the media reinforce the credibility and credentials of the association and the field.

Fourth Component: Identify and Recruit Finders

Cultivate relationships with "finders"—those people who might refer others for mediation. Almost anyone in a service profession could be a finder—such as clergy, counselors, social workers, financial advisers, credit unions, and employee assistance programs. Give finders an ample supply of the association's business cards and follow up regularly.

I believe that these strategies—if used together consistently and widely, and if tested and fine-tuned as we go—have dynamic power to create demand for mediation services. If our branding is strong and clear, and if it brings more people into our sphere, then the general public will begin to view mediators as helpful, necessary, and worth hiring.



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Design: Regan Eberhart; Photo: Bridget Besaw