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BUSINESS INSIGHTS FOR SOFTWARE DEVELOPERS & PUBLISHERS

Creating and Deploying Effective Customer Concerns Surveys



Are you missing a bet by not creating customer concerns surveys? Our research will enable you to optimize your efforts See pages 4-5.

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Many times when we consult with a software firm, the first marketing program we recommend that they carry out is a *customer concerns and issues* survey. We're not talking about customer satisfaction surveys, or studies designed to ferret out new trends or uncover additional demographic information on your firm's behalf. We mean surveys that examine your **customer's** business issues and challenges. The reason for this recommendation is that a well-designed and informational survey that provides your clients with credible data about their business challenges is often the single most effective piece of collateral a software company can create. Nothing, especially in enterprise sales, supports the sales process more effectively than such a report or document, particularly in light of the fact that the responses and opinions highlighted in the survey come from your customer's peers (and quite often, from their employees as well).

Surveys are also valuable sources of information about your clients. A well-designed survey can elicit information about salary levels, purchasing processes, time frames, competitor's market shares and much more. And used properly, surveys are one of the most powerful lead generation tools available.

Unfortunately, in the past creating surveys was an expensive and time consuming proposition. However, web and server-based surveys make the process far easier and very inexpensive. Powerful web-based survey tools that highly automate questionnaire development and survey creation are available from \$20 to \$200 per month. Format and layout typically costs from \$1500 to \$3500 per piece. Given the relative inexpensiveness of creating good customer concerns surveys and their high value, there's no good reason not to do so.

The Credibility Question

One of the chief reasons companies avoid creating customer concern surveys is the belief these reports won't have credibility. However, our research indicates this is not a significant problem in most cases. If your survey avoids overt and obvious sales pitches, your customers will accept their validity. However, it can be useful to direct responses to a company-sponsored blog or sister site if this is a gating issue.

Survey Response Rates and Incentives

(continued on page three)

The Supreme Court Changes the Patent Playing Field (Again), Part I of II

by David Fox, Fulbright & Jaworski L.L.P.

In 2007, the Supreme Court wrought another significant change in US patent law. Continuing in its course of wresting control of basic patent law away from the Federal Circuit, in *MedImmune v. Genentech Inc.* the Court threw out the previous “safe haven” the lower court had enacted to protect patentees in patent licensing overtures and negotiations. Prior to *MedImmune*, if a company holding a patent approached another about potential patent licensing and the possibility of infringement, the company being approached was not able to file for a “declaratory” judgement, i.e. an appeal to the court to hold the patent invalid. The Federal Circuit justified this action under what was called the “reasonable apprehension test.” This test was designed to limit patent lawsuits by analyzing whether a potential plaintiff could claim they were in “reasonable” danger of being sued based simply on being approached by a potential licensor over licensing or possible infringement.

Furthermore, *MedImmune* also removed the Federal Circuit’s prohibition on companies suing for declaratory judgements against companies from whom they had purchased a license. Before *MedImmune*, a company would have to break their license before suing to invalidate a patent (and thus expose the firm to extensive liabilities if they lost the case). After *MedImmune*, **companies can now launch declaratory patent challenges while still under license to the patent holder** (consider the impact this would have had on the recent and infamous *RIM v. NTP* case).

The impact of the *MedImmune* case can be seen in the recent *SanDisk Corp. v. STMicrosystems* case. Upon being approached by *STMicrosystems* over a patent license, *SanDisk*, after some preliminary discussions, moved for a declaratory judgement declaring the patent invalid. On April 2nd, the Federal Circuit applied the Supreme Court’s *MedImmune* decision to *SanDisk* and allowed the case to proceed. (One striking point about the Supreme Court’s decision is that it was an 8 to 1 case, with only Justice Thomas dissenting. When a case generates such majority support, companies can expect the impact of this change in the law to be long term and permanent.)

Even before *MedImmune* and *SanDisk*, small patentees have faced difficulties licensing their patents to large companies. For example, a large company/prospective licensee could simply refuse an offer to license, taking the position “sue me for infringement if you’ve got the means.” However, under that scenario, the patentee at least has the option of bringing suit, and if it cannot afford to do so, it can simply not license or sue, and retain its patent rights. Now, after *MedImmune*, the large company/prospective licensee can sue the small patentee, and the patentee has no choice but to defend its patent(s) in court. This case reflects the fact that the recent uproar over patent trolls and the spate of “bad” patents issues in the late 1990s and early 2000s has caught the Supreme Court’s attention and it is determined to act.

For so called “patent” trolls, the business environment has become decidedly more unfriendly. Unfortunately, *SanDisk* is also a loaded gun pointed at the heads of smaller companies legitimately seeking to monetize their innovations. My next article will analyze why, and what smaller firms can do to protect themselves.

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Survey response rates are driven by the quality of your mailing lists and the incentives you offer to your audience for participating in and completing a survey. When first introduced, web surveys enjoyed 5% to 10% response rates; over time, however, typical response rates have dropped to .5% to 1.5% rates on average. How many responses you will need to be able to claim your report is statistically credible will vary based on your market, but a good rule of thumb is 100+ responses provides a respectable baseline and 300 responses will normally provide sufficient statistical coverage for most market segments and issues in the software industry. Thus, to achieve 100 respondents, anticipate having to contact on average 20k+ respondents (assuming a base .5% response rate).

Response rates can be driven sharply higher by a variety of approaches, including:

- Identifying online user groups, blogs, and forums where likely respondents are likely to participate and visit. For instance, for its product management, development, and sales surveys, Softletter sends regular invitations to participate to members of various Yahoo user groups organized around these topics and job titles. Another strong advantage of this approach is that invitations to participate in surveys are not usually perceived as intrusive sales pitches; this allows you to build awareness of your company and products in these venues without generating hostility over perceived “clacking” or blog spamming.
- Inviting your channel partners and resellers to invite their customers and contacts to participate in your survey.
- Inviting your customers to participate in your surveys. Surprisingly, many software companies do not do this, fearing that their customers may view such contacts as an overuse of marketing; our research indicates that if your survey avoids blatant sales pitches, this is not a problem.

Incentives can also increase response rates depending on the type and appropriateness. Softletter research indicates that providing a complete copy of the results is the single most effective incentive you can offer; however, this can impact your attempts to assign value to a survey via monetization. (Providing a copy of the results also helps guard against “click anything to finish the questionnaire” syndrome.) Other common incentives include an executive summary of the results, desirable gadgets, a free subscription to a publication relevant to your audience, restaurant vouchers and entrance into some sort of drawing (by far the least effective, at least for software companies).

Proper use of HTML E-mail can increase response rates by as much as 50% to 100% over plain text, but security settings and anti-spam protections can make HTML delivery problematical. To ensure your respondents receive your invitation, make sure you use a system that
(continued on page six)

“When first introduced, web- and server-based surveys were heavily criticized by many researchers as having an inherent bias towards people who prefer to respond to online surveys. Given the overwhelming use of online surveys, this is no longer a significant issue. The only demographic you are likely to miss are people over 60 who don’t use computers.”

—The Softletter
Marketing
Effectiveness Report
Softletter

“Avoid sending surveys on Mondays, Fridays, and before major holidays. If addressing an international audience, factor in international holidays such as Cinco de Mayo.”

—The Softletter
Marketing
Effectiveness Report
Softletter

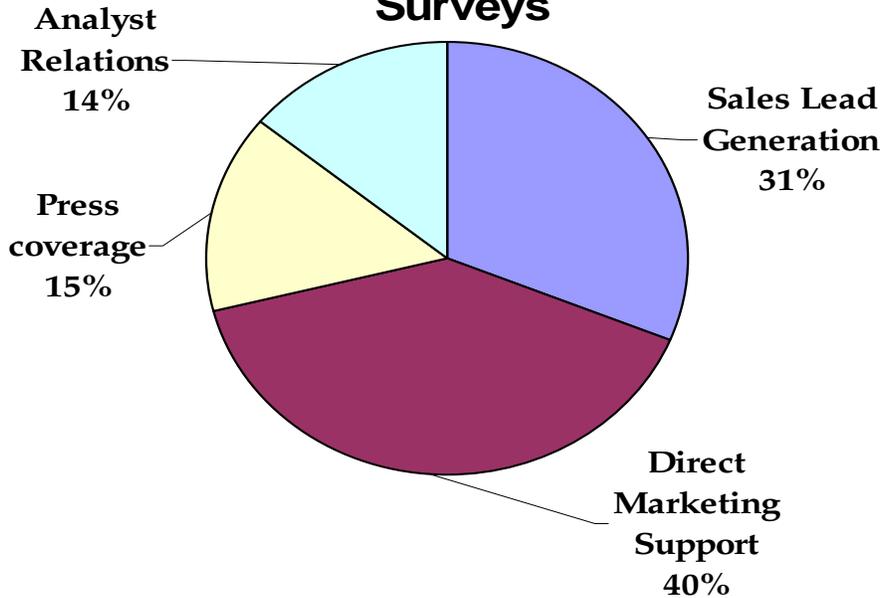
“Never, ever contact survey participants with sales calls unless they indicate they wish to be contacted.”

—The Softletter
Marketing
Effectiveness Report
Softletter

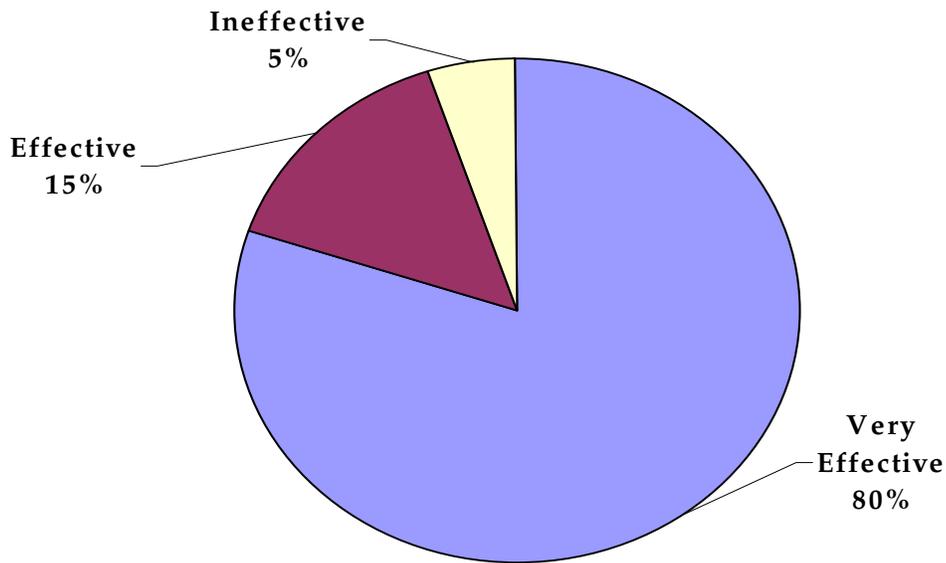
Benchmarks: Customer Concerns Surveys Best Practices

The information in these charts and tables was derived from the forthcoming *Softletter Marketing Effectiveness* report. The data in these charts and figures report was derived from 158 respondents reporting on their use of customer concerns surveys to support their ongoing marketing and sales efforts.

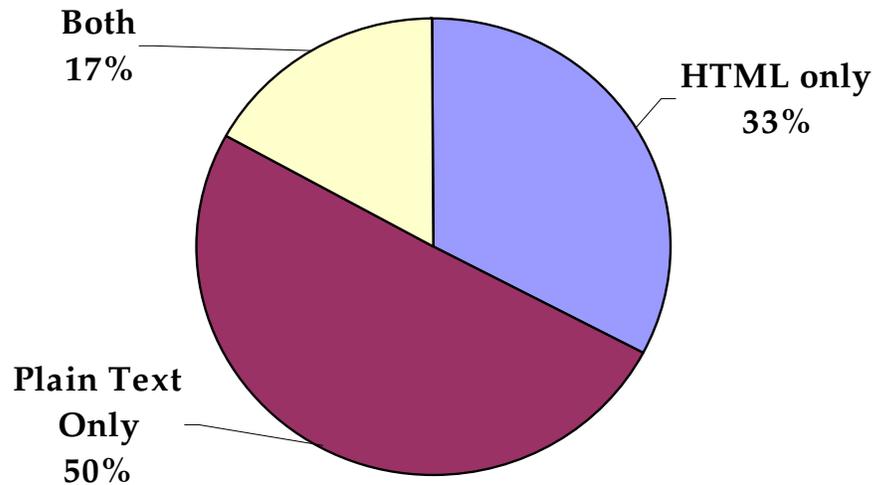
Primary Uses of Customer Concerns Surveys



Sales Lead Generation Effectiveness of Customer Concerns Surveys



E-mail Format Used for Survey Invitations



Median Survey Abandonment Rates (No Incentives)

Minutes	Drop Out Rate%
10	7%
15	19%
20	25%
25	40%
30	55%
35+	70%

Median Survey Abandonment Rates (Incentives)

Minutes	Full Results	Exec. Summary	Gift	Contest Entry
10	1%	3%	3%	6%
15	5%	11%	14%	18%
20	15%	18%	24%	25%
25	25%	28%	33%	39%
30	28%	40%	47%	55%
35+	40%	50%	61%	68%

can send E-mail in both formats. An interesting point is that respondents to our marketing effectiveness survey noted that including a picture of the results of a compelling survey question (often from a previous survey) in the E-mail invitation kicked response rates up by an additional 25%.

Creating Effective Surveys

The rule of thumb in creating surveys is usually the shorter, the better; however, if your survey is highly focused and includes a compelling incentive it is possible to create surveys with over 30 questions and maintain relatively low abandonment rates. The following techniques will both help increase survey length and decrease abandonment rates.

- **Make effective use of matrix questions.** A matrix question allows a respondent to fill out a table of choices and not step through a laborious series of conditional questions. You might use a matrix question, for example, when asking respondents to identify several locations they've visited, or perhaps to acquire several key demographics such as sex, education, age, etc.
- **If you have it, embed information about the survey respondent in the survey.** For example, if your survey is directed at CTOs and your respondent list consists of CTOs, include this information in the survey via such techniques as creating a variable place holder for a person's title in the survey form.
- **Place your longest and/or most significant questions at the beginning of the survey** (this is particularly important if you plan to process incomplete records). Also place any questions about your products or services at the back of customer concerns surveys.
- **Avoid fishing expeditions.** When different departments become aware that a marketing or sales survey is being developed, there is tendency for different groups to slip in unrelated questions on the theory that since you're going to ask people a group of questions, a few more won't bother anyone. Surveys that lose focus suffer from higher abandonment rates. Also, out-of-place questions tend to raise assumptions about possible changes in company policies and practices. For example, an out of place pricing question may trigger a belief your company plans to change its pricing schedule (something we have seen happen several times).
- **If a long survey, use encouraging narrative built into the questionnaire to encourage users to continue working through the questions.** Also be upfront about the survey length and estimated time to completion; this will dramatically cut your abandonment rate. And avoid leading questions; the purpose of a survey is to elicit information, not foster or reinforce opinions.
- **Make use of cross tabulation to dig deeper into your survey data.** For example, if your survey captures regional data, changing your report summaries from, say, company size to state can illuminate regional differences of which you are unaware. While many survey tools offer cross tabulation, in our opinion the best tool for detailed analysis remains a spreadsheet with "pivot table" capabilities. (PC Magazine provides a useful tutorial on pivot tables at <http://www.pcmag.com/article2/0,1895,1858038,00.asp>)
- **Assign your survey a monetary price.** This immediately enhances the perceived value of the survey and makes it a more powerful piece in bounceback and lead generation campaigns. An executive summary can function as the "free" version.

Working Capital—Its Role in Deal Negotiations

By Ward Carter, Corum

When negotiating an M&A transaction, few software companies believe that the balance sheet will be of importance in determining the valuation. This is true for the most part, as many valuation methodologies common to traditional businesses, such as book value, don't apply to software companies, which typically have few tangible assets. However, the buyer will want to determine what assets and liabilities they **will** be assuming at close. Typically, whether an asset or a stock purchase, the buyer will assume control of all assets, including cash and other liquid assets, inventories, accounts receivables, and any prepaid accounts. Liabilities will include trade payables, accrued payroll taxes, and deferred revenue. Few buyers will assume any long term liabilities, and if they do, will generally reduce the purchase price by a corresponding amount. The Letter of Intent (LOI) will normally spell out balance sheet requirements at close. The purpose of this is to ensure sure the buyer acquire a business where assets have not been distributed or additional liabilities incurred between the issuance of the LOI and the close.

Another requirement to close may be the delivery of a certain amount of working capital. Working capital is generally defined as current assets less current liabilities. This may or may not be a positive amount, as liabilities could exceed assets, especially if a substantial amount of deferred revenue is on the books due to maintenance and services that cannot be recognized in the current period. Positive or not, what is important is for the buyer and seller to agree as to what that number is so the seller can deliver it at close and the buyer knows what they will receive.

Buyers generally are seeking a level of working capital that is adequate to fund the business needs after close without the need for additional capital. Should there be inadequate capital, the buyer will need to make that capital infusion, and will likely want to reduce the purchase price to compensate for the additional investment requirement. Ideally, the working capital delivered to the buyer will be in excess of that required, and the seller will receive an increase in the purchase price, if that was negotiated into the agreement. In any case, if there is a shortfall, expect to see a corresponding reduction in the purchase price.

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Company/Description	Acquired by	Price/Terms	Revenues	Multiple
Mobius Management Systems • Enterprise records management	Allen Systems Group	\$197,200,000 Terms: Cash	\$91,600,000	2.15
DoubleClick • Online advertising	Google (GOOG)	\$3,100,000,000 Terms: Cash	\$150,000,000	20.67
Catalina Marketing (POS) • Direct marketing	Hellman & Friedman	\$1,700,000 Terms: Cash	\$440,800,000	3.86
Hitwise • Internet marketing intelligence	Experian Grp (EXPGY.PK)	\$240,000,000 Terms: Cash	\$40,000,000	6.00

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MERGERS & ACQUISITIONS

Survey Creation Resources

- **Data Illusion** (www.detailillusion.com) Publishes Feedback Server, a server-based system; very reasonably priced for this class of product.
- **SnapSurvey** (www.snapsurvey.com): Firm offers products that encompass web, mobile, and paper surveys.
- **SurveyGizmo** (www.surveygizmo.com): WordPress plugin adds short survey capabilities to your WordPress blog; surveys can be useful content generators for business blogs.
- **SurveyMonkey** (www.surveymoneky.com): Very popular and inexpensive survey systems; free version is not useful for serious survey work.
- **Survey Software Headquarters**: (www.surveysoftwarehq.com): Blog maintained by survey software firm Prezza Technologies. While not vendor neutral, site contains much useful information on survey techniques and use.
- **Vovici** (www.vovici.com) Formerly WebSurveyor and Perseus; company offers a suite of survey tools; aims primarily at enterprise markets.

ZD COLUMNIST DAVID BERLIND ON "SILVERLIGHT":

"Silverlight may indeed be the gauntlet that many are making it out to be, but I'm not here to debate its technical merits. As a supplier of technology and a business partner to its customers, the incumbent Adobe still has one very important thing going for it: the company's customers shouldn't expect Adobe to be competing against them anytime soon." (Quoted on <http://blogs.zdnet.com/Berlind/?p=430>, 04/17/2007)

THE SOFTWARE FREEDOM LAW CENTER ON THE WINDOWS

PATENT "TAX": "With tax day approaching in America, we at the Software Freedom Law Center wanted to share some important information about the hidden taxes added to every copy of Microsoft's Windows operating system. If you run a computer using Windows, you're not just paying for the programmers who put the program together and the corporate operations that brought it to market. You're also paying a hidden tax of well over \$20 that Microsoft has had to pay to other patent holders. This is true whether you bought your copy of Windows on CD or pre-installed on a laptop, desktop, or server machine." (Quoted on www.softwarefreedom.org, 04/16/2007)

MICHAEL DELL ON DELL'S DIRECT BUSINESS MODEL: "The direct model has been a revolution, but it is not a religion." (Quoted in *The New York Times*, 04/27/2007)

MILLWARD BROWN OPTIMOR ON GOOGLE: "Google has knocked Microsoft off the top spot and been named the most powerful global brand of 2007. It's the second year in a row a tech brand has beaten household names such as Coca-Cola, Marlboro and Toyota." (Quoted on <http://software.silicon.com/applications/0,39024653,39166829,00.htm>, 04/23/2007)

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