



Commercial Trading: Taking the Opportunity

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Solutions

What do we mean by 'commercial'



- Income generation
- Understanding markets
- Being competitive
- Maximising value of the public pound
- Acting like the private sector?

What are we looking for?



- Marginal contribution to overheads?
- Significant contribution to fill some of the gap?
- An alternative funding base for services?

The business case



- An argument or justification – why rather than how
- To convince investors
- Three stages
 - Strategising
 - Producing an outline case
 - Producing a final case

A five case model



- Treasury guidance
- A balanced approach
- Likely cases
 - Strategic – is it a fit with Council priorities?
 - Financial – does it stack up on cost and income
 - Commercial - why will anybody buy it from us?
 - Legal – can we do it?
 - Technical or operational – do we have capacity?

And let's not forget risk



- Trading is inherently risky
- All business carries risk with it
 - Financial
 - Reputational
 - Service
- So investors (decision makers) must know
 - What the risks are
 - How likely they are
 - What the impact could be
 - What you will do to avoid or mitigate them

Trading and charging legal



- Powers
- Duties and responsibilities
- Liabilities
- Trading vehicles and links with procurement

Doctrine of ultra vires



- Must have a power to provide
- Must have a power to charge for provision
- Types of power
 - Specific
 - Implied
 - Incidental
 - General

The Goods and Services Act 1970: A power to do and a power to charge



“...any public body...supply of goods or materials...provision...of any administrative, professional or technical service”

“use of vehicle, plant or apparatus” and appropriate staff

“works of maintenance” – not new build

- Not limited to “spare capacity” – YPO case
- Express charging power, but must be public body
- Can make a profit
- Separate account



Power to charge for discretionary services

- Section 93 Local Government Act 2003 and Localism Act 2012

“A Best Value authority may charge a person for providing a service” if:

 - The authority is authorised, but not required by an enactment to provide the service;
 - S/He has agreed to its provision
- Section 93(6) must have regard to guidance
 - *General Power for Best Value Authorities to Charge for Discretionary Services*

Calculating the Charges



- The limitation to cost recovery in s93, but flexibility
 - Definition of “each kind of service”
 - Time period for calculation
 - Method of calculation
 - Charging discretion
 - Differential charging
 - Total cost

Commercial trading through a company



Section 95 Local Government Act 2003 and Localism Act 2012

- Doing for a “**commercial purpose**”....any of their ordinary functions – now includes anything under GPC
- Not where “required” to do something
- Not where existing commercial activity
- Must be through a Part V company
 - Company or IPS for now
- Trading Guidance

But not the only type of company that can trade ...

Localism Bill: General Power of Competence



- Local authority has “power to do anything that individuals generally may do” including things “unlike anything” that public bodies do
- Power may be exercised in any way whatever:
 - Anywhere in United Kingdom or abroad
 - For a commercial purpose or otherwise, for a charge or without charge
 - For the benefit of the authority and its area or persons resident/present or otherwise
- Not limited by powers that overlap.....but

Boundaries and Limits



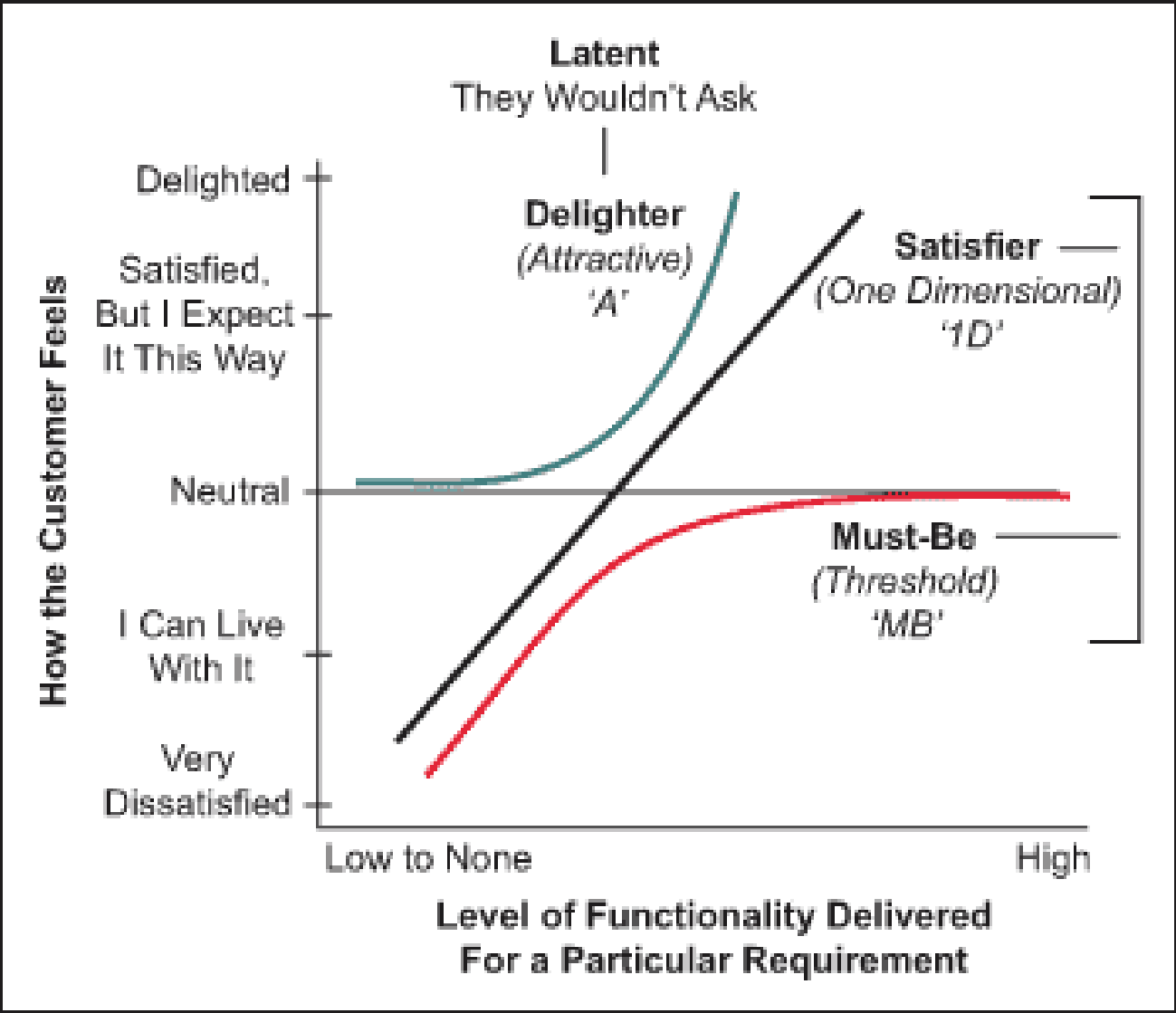
- Power to charge may only be used if not under a duty and where no power to charge outside this section and s93 Local Government Act 2003
 - cost recovery
 - definition of service
- Power to trade may only be exercised for a commercial purpose through a company
- No wider powers to delegate functions

Duties and responsibilities

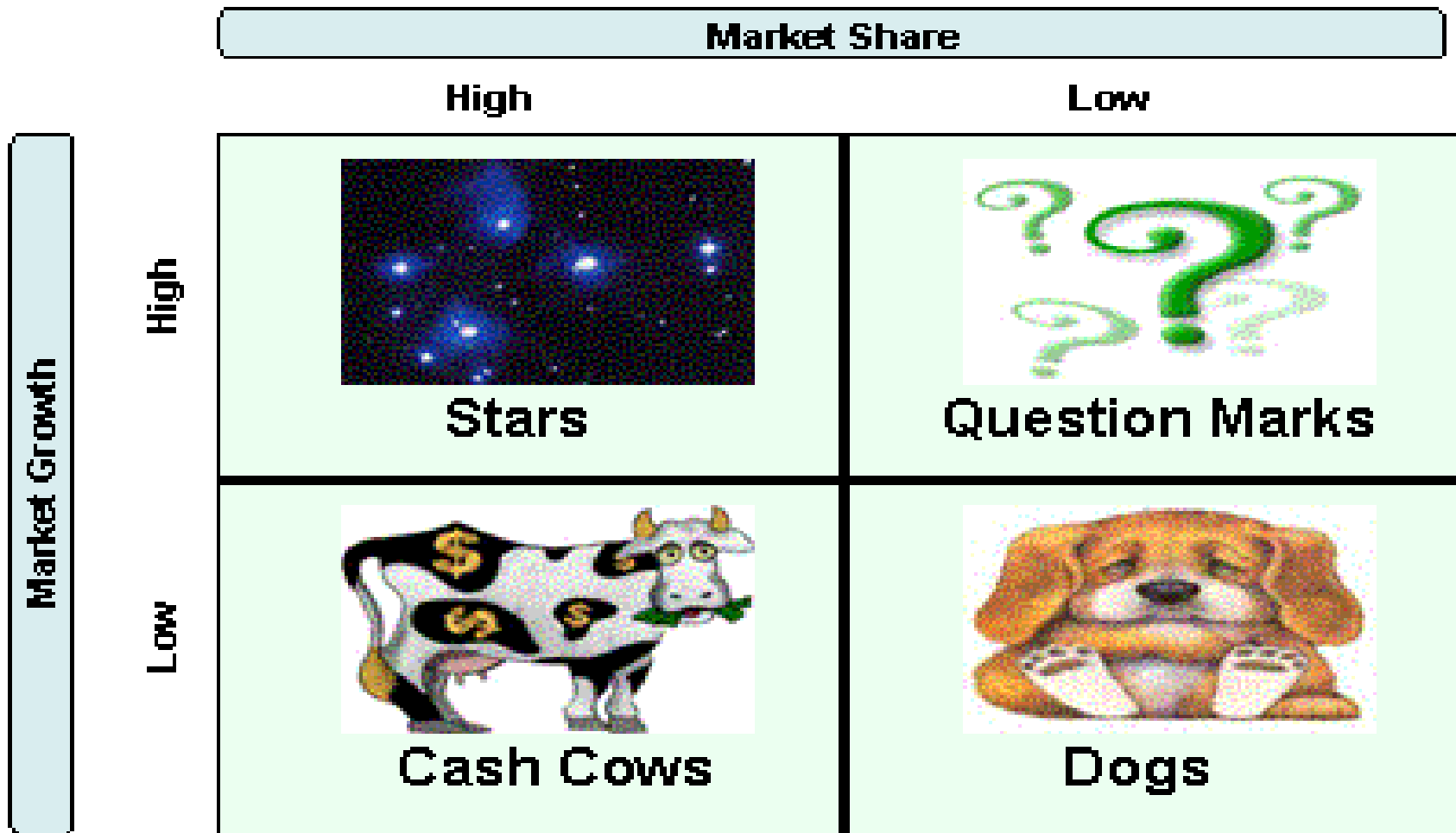


- Wednesbury rules
 - Have regard to all relevant factors
 - Disregard all irrelevant factors
 - Make reasonable decisions
- Fiduciary duty
 - Obligation to act responsibly
 - Impact on risk taking
- Duty of best value
 - To make arrangements to secure continual improvement by reference to economy, efficiency and effectiveness

What do Customers value Kano analysis



Boston matrix



What next?



Typically four different strategies to apply:

- Build market share – make further investments
- Hold – maintain status quo
- Harvest – reduce investment
- Divest – e.g. get rid of dogs, use capital to invest into stars and question marks

Ansoff's matrix



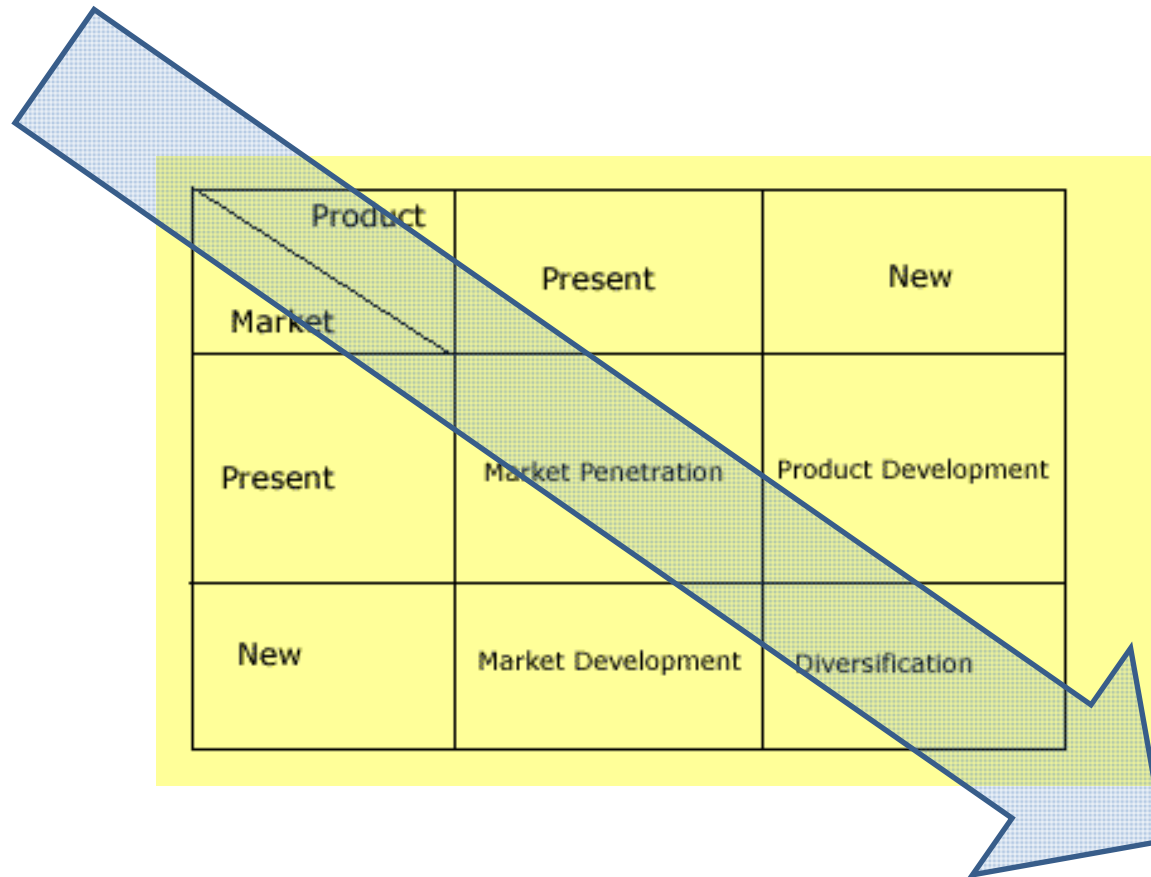
Product Market	Present	New
Present	Market Penetration	Product Development
New	Market Development	Diversification

Growing the business – a commercial approach



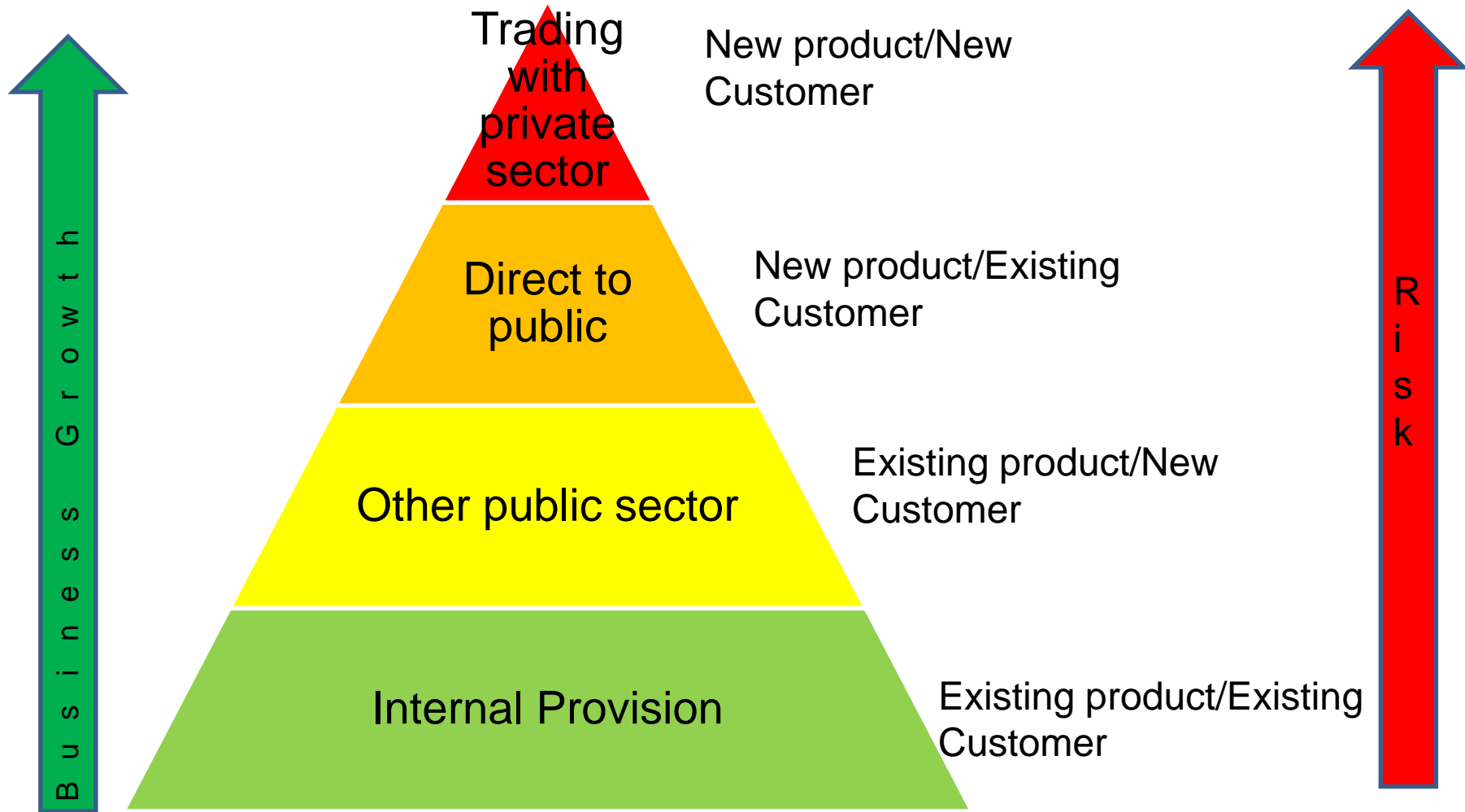
Ansoff's Matrix

Less risk



More risk

In a public sector trading environment





McInsey Growth Pyramid

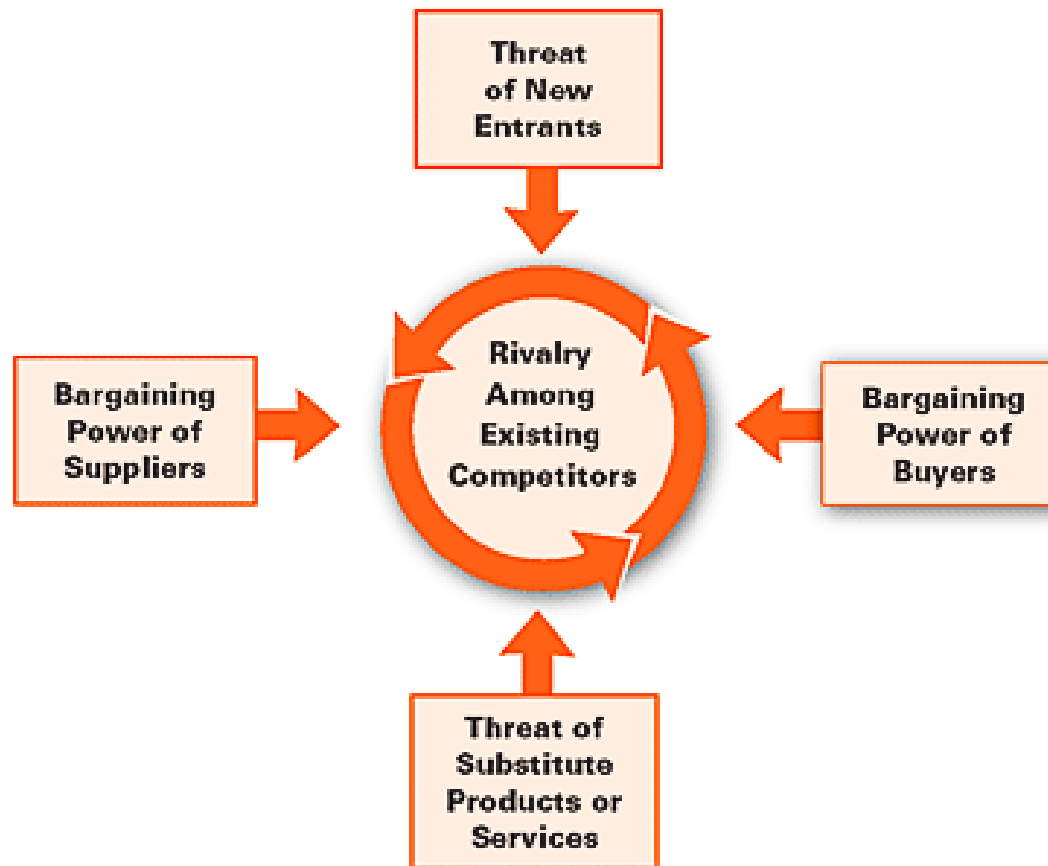
Generic options and investment structures for a growth strategy



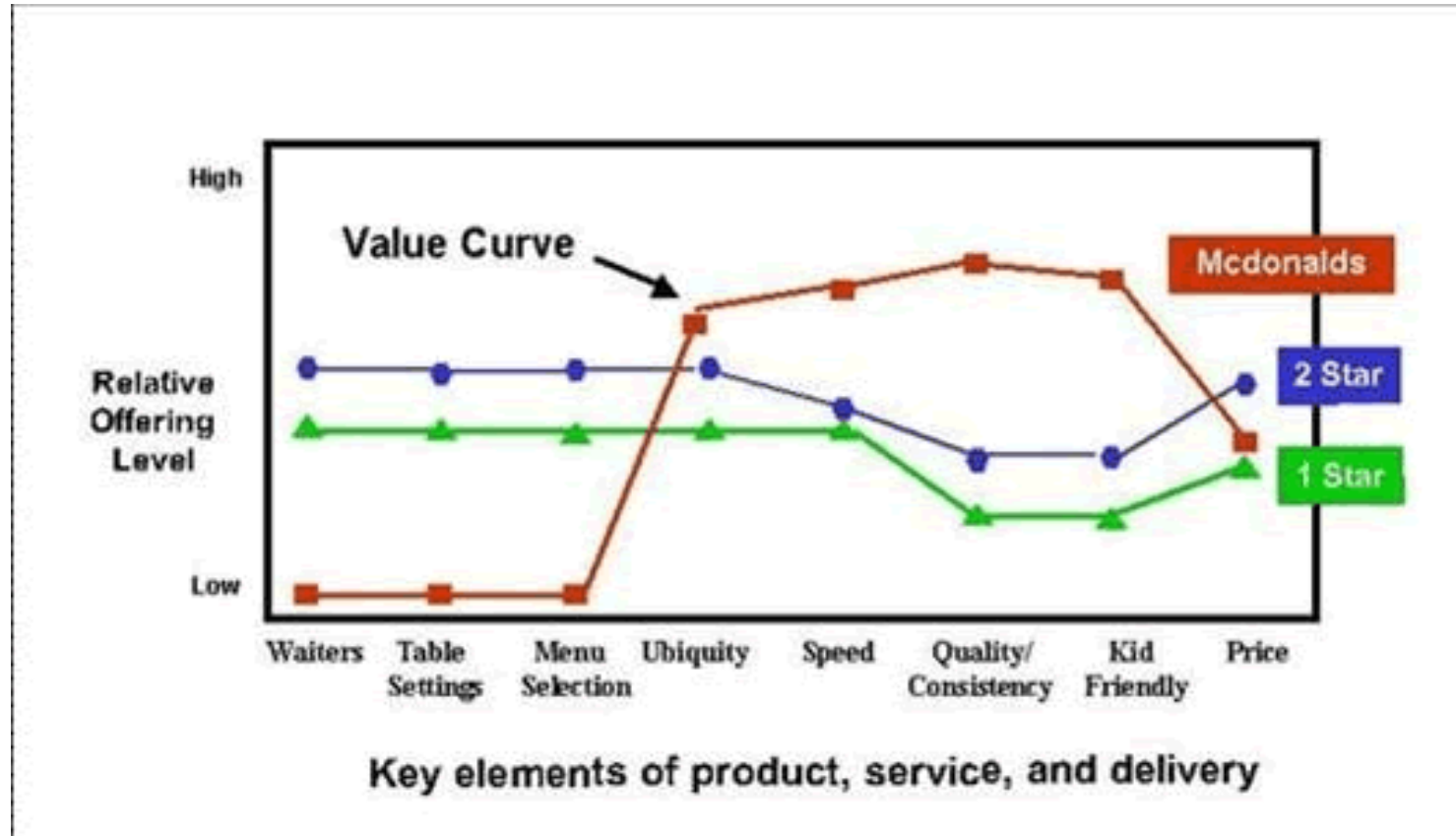
Porter's 5 forces



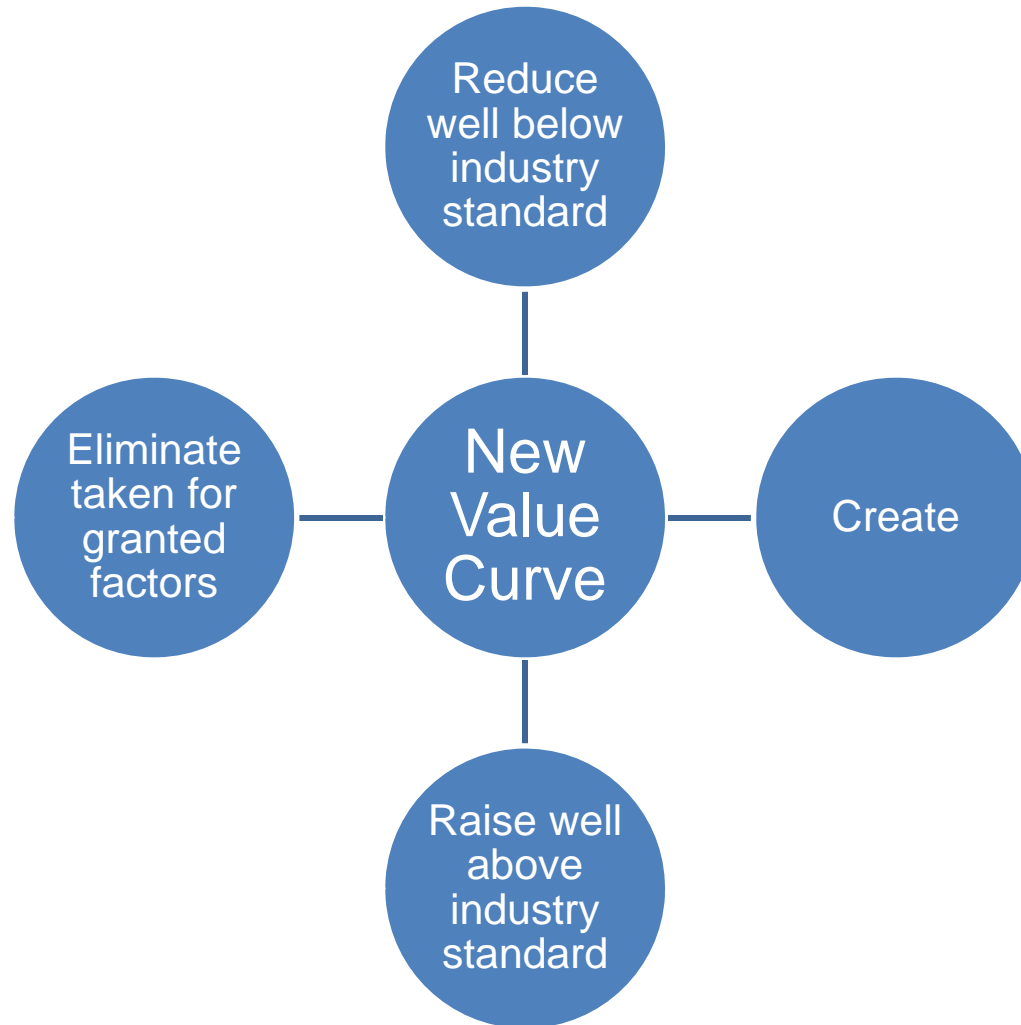
The Five Forces That Shape Industry Competition



Another approach: make competition irrelevant



4 Action Framework



What's the financial case for?



- To show that the business is affordable
- To demonstrate that it will be effectively managed
- To provide comfort that it will not result in a loss
- Public accountancy obligations

Budgets and trading accounts



Budget week 1



Trading account week 1



Budget week 52



Trading account week 52

Cash flow forecast



- The process of filling up the money pot
- Need to know
 - How much will go out and when - costs
 - How much will come in and when - income
- Key issue – how will you finance outgoing expense whilst waiting for income to fill up the pot?
 - Terms on which money comes in
 - Terms on which money goes out



Types of cost

- Fixed cost
 - Committed expenditure within a defined period
- Variable cost
 - Over the same time period (all costs variable over long run)
- Total cost and Full Cost
 - The two added together
- Average cost
 - Total cost divided by total output
- Marginal cost
 - Change to total cost of producing one more unit of output
- Sunk cost
 - Irrecoverable if the business fails

Operational/Technical Case



- What do we want to do?
 - Market understood
 - Customers identified
- What resources does it require?
 - Staff
 - Equipment
 - Expertise

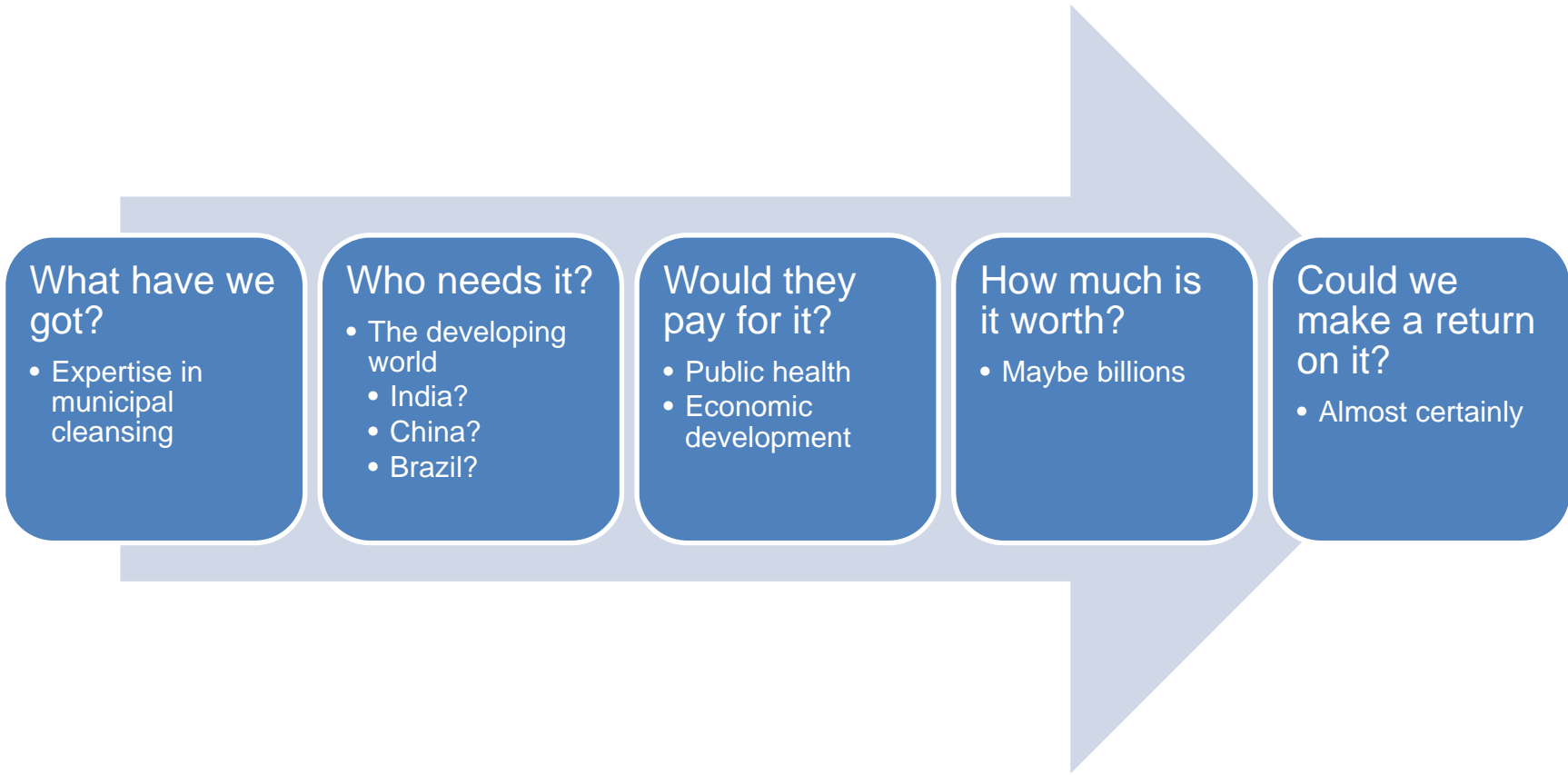
Could we do this the other way round?



- What have we got?
- Who needs it?
- Would they pay for it?
- How much is it worth?
- Could we make a return on it?

- The rest is planning and marketing

Example





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