



CBA LEGAL  
**FUTURES**  
INITIATIVE

JOIN THE **CONVERSATION**



THE CANADIAN  
BAR ASSOCIATION  
L'ASSOCIATION DU  
BARREAU CANADIEN

INFLUENCE. LEADERSHIP. PROTECTION.



# JOIN THE CONVERSATION

The CBA's Legal Futures Initiative is at work to develop an understanding of the future practice environment for Canadian lawyers. By looking ahead now, we can assist the profession in successfully adapting to change and help to shape the future.

## OUR AGENDA

A wave of unprecedented change is affecting every aspect of the legal profession - competition, the price of services, how services are delivered, law firm structures, legal education and training, and regulation.

Given the complexities of the changing legal marketplace, and the impacts of this change on current legal practice, lawyers themselves must take responsibility for shaping the future of legal services in Canada. If not, others will.

The status quo is not an option, nor is a piecemeal approach where issues are addressed in isolation. What is required is a comprehensive, knowledge-based, client-focused, lawyer-driven initiative which involves a broad cross-section of the legal profession and its stakeholders, and develops strategic initiatives, guidance and practical tools to help lawyers transition. That's what the CBA Legal Futures Initiative is about.

## JOIN US

During Phase I of the Legal Futures Initiative, the CBA commissioned seven research papers and held a facilitated consultation at our mid-winter meeting (February 2013) to gather members' views on how client expectations might be changing.

Based on this material we developed a discussion paper – **The Future of Legal Services in Canada: Trends and Issues**

Now, we need your help. We want to know what you think about the ideas that are surfacing.

For this Phase II consultation, we've put together 20 questions and presented some "what if" ideas to challenge conventional thinking and elicit your creative responses. Please join the conversation by reading the paper and by answering any or all of the consultation questions that are important to you.

This is just the beginning of the Futures consultation. We will have more questions and ideas for you to consider. We hope you will join, and stay, for the rest of the conversation.

Feel free to answer all or some of the consultation questions, and to share personal experiences, ideas, contacts, or other information that you can offer to guide the Futures Initiative Steering Committee.

Join the conversation: [www.cbafutures.org](http://www.cbafutures.org) – there will be regular updates

Email: [futures@cba.org](mailto:futures@cba.org)

Tweet: [#cbafutures](https://twitter.com/cbafutures)

Write: CBA Futures, 500 - 865 Carling Avenue,  
Ottawa, ON K1S 5S8  
Fax: 613-237-0185

# CHANGE, THE LEGAL PROFESSION, AND YOU

1. How are changing client expectations affecting the practice of law?

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2. What can be done to achieve more equitable representation of historically under-represented groups in all practice settings, at all levels?

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3. How can legal services be changed to increase access to justice?

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4. What do you most need to help you to succeed given the changes the legal profession is facing?

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5. How should the profession best engage in the discussion about change to affect the shape of the future in light of the forces at play?

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# BUSINESS STRUCTURES AND INNOVATION

“The globalization of commerce and the rapid spread and adoption of technology are having significant effects on the Canadian legal industry. In many cases economic power has shifted to the consumer or client side, with buyers demanding more say on what lawyers do, how they do it, and how much and how they charge for it.

With new competitors already in the marketplace – such as paralegals, global legal publishers, and legal process outsourcers (LPOs) – and more on the horizon – law firms and individual lawyers will have to make important decisions on how to maintain a competitive advantage in the provision of legal services in Canada and globally.”

*Executive Summary, Page 4.*

“For the legal industry in Canada, increased competition, downward pressure on prices for legal services, potential excess capacity, and the possibility of low or no growth in many areas of practice have compelled firms and individual lawyers to re-examine their business structures and operating processes and practices. Many larger firms may be forced to adopt new management and hiring approaches to improve efficiency and economy. Alternative business structures (ABS) which feature non-lawyer ownership are already legal in England and Wales as are publically-traded firms in various jurisdictions outside Canada. Canadian law firms, large and small, and sole practitioners will have to consider new options for operating in a changing marketplace.”

*Executive Summary, Page 5.*

“...clients no longer accept that firms are the sole arbiter of price. This pressure is forcing legal providers to re-examine their cost structures and to find ways to reduce or eliminate costs.”

*Section 5.4 Prices/Costs, Page 22.*

The reader may also wish to refer to additional materials in our discussion paper [The Future of Legal Services in Canada: Trends and Issues](#).<sup>1</sup>

6. Have you tried to package a bundle of legal services to respond to a client’s overall needs rather than a distinct legal problem (for example: “Consumer Debt Solutions” rather than “Real Estate” or “Banking”)?

*Consider this: What if Canadian lawyers see greater competition from international firms, the internet or other legal service providers? What if commoditization and price wars happened in the legal marketplace?*

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7. What management and hiring approaches could lawyers introduce in their practices to improve productivity, efficiency, and revenues?

*Consider this: What if law firm ownership, management, and profit sharing were separate functions, and lawyers could supervise legal practice outside ownership relationships? What if lawyers treated other service providers as clients, not as competitors?*

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8. What are the implications of non-lawyers owning or managing a law firm?

*Consider this: What if anyone could sell legal services using employed lawyers? What if lawyers could obtain clients, infrastructure, and access to specialized expertise by joining a legal services franchise?*

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9. How could the legal profession benefit from the experience of professional business managers without unduly compromising professional values?

*Consider this: What if non-lawyer professionals served as CEO or COO or chairs and on boards of directors of businesses offering legal services? What if privately-held or publicly-traded companies could own Canadian law firms? What if these corporate managers focused on long term goals rather than short term profits?*

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10. How might law firms be structured and managed to provide clients with greater efficiency and cost predictability?

*Consider this: What if lawyers priced and managed legal work for a fixed fee? What if the fixed fee was higher when a matter was settled faster and within predetermined parameters? What if clients could source the services for a file from multiple suppliers at once?*

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# EDUCATION AND TRAINING

“There has ... been a change in client expectations of their legal service providers. Aside from better prices, clients want more information on services, more involvement in decision-making and greater knowledge of the risks and potential outcomes of various legal strategies.”

*4.1 Client Empowerment, Page 16.*

“One area that is especially vexing when examining the future of legal services in Canada is the challenge of determining how to educate and train the new generation of lawyers, and what skills and expertise they will need beyond knowledge of the law and the justice system.”

*10.0 Legal Education and Training, Page 34.*

“Continuing professional development will be essential for lawyers in the future, although what courses and how they will be provided are still uncertain.”

*Executive Summary, Page 6.*

“While revenues and incomes of firms and legal practitioners appear to have remained buoyant in most areas of practice, there are growing signs – at least in some specialties – of “no growth” or “low growth” scenarios and possible excess capacity. Latent demand for legal services may be paralleled by a latent supply market component, as some trained lawyers leave the profession or operate below their full potential, while recent graduates have a more difficult time finding permanent employment.”

*5.1 General Legal Services Market Description, Page 19.*

The reader may also wish to refer to the additional materials in our discussion paper [The Future of Legal Services in Canada: Trends and Issues](#).<sup>2</sup>

11. Which skills and attributes of lawyers are most valued by clients? What skills do you think clients want their lawyers to have but find lacking?

*Consider this: What if clients wrote job descriptions for lawyers? What skills and attributes might they include that are not currently taught in law school or as part of the bar admission process?*

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12. What should be the primary objectives of legal education (for law faculties, bar admission courses, articling, and continuing legal education)?

*Consider this: What if law school was optional? What courses should law schools offer that have not historically been thought of as necessary to a legal education?*

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13. What needs to change with respect to legal education in Canada?

*Consider this: What if it was determined that the current law school model, which was developed in the 19th century, was no longer appropriate? Should a law degree be shortened to two years, or lengthened to four or more years? What about adding required clinical or work placements or practice and industry specialization?*

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14. What are the advantages and limitations of the articling system in providing an appropriate level of professional training to prospective lawyers? Are there other options?

*Consider this: What if in-house and public sector lawyers were exempted from articling? What if law students had to work at a "teaching" not-for-profit law firm and did not have to article?*

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15. What training is best provided post-call for lawyers?

*Consider this: What if CPD course certification included approval of content by a client panel? What if "study-group" CPD allowed lawyers to teach law to each other? What if following and contributing to certain blogs qualified as CPD?*

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# ETHICS AND REGULATORY ISSUES

“The growth of electronic communications, including social networking, will not only change how interactions may take place in the future, but also the expectations of a new generation of clients and lawyers on how business should be conducted and how services should be delivered – quickly, directly, and, in many cases, online.”

*Executive Summary, Page 5.*

“Demographics will play an important role in the future of the legal industry in Canada. The number of practicing lawyers in Canada is growing at a rate faster than the general population. While more women and historically marginalized groups are entering the profession, there are still few women in top management positions in firms.”

*Executive Summary, Page 5.*

“The challenges brought on by globalization and technology will also affect the regulation and oversight of the legal profession. Developments such as multi-jurisdictional practices (MJP) will require more cooperation and harmonization, nationally and internationally. Law firm ownership by non-lawyers will raise professional and regulatory questions regarding competence, conflicts of interest, confidentiality, independence, and fidelity to law and other related issues.”

*Executive Summary, Page 5.*

The reader may also wish to refer to the additional materials in our discussion paper [The Future of Legal Services in Canada: Trends and Issues](#).<sup>3</sup>



16. What five professional obligations would clients put in a professional code of conduct for their lawyers?

*Consider this: What if non-lawyers were licensed to practice law? If so, what professional obligations could be required from lawyers, but not from non-lawyers?*

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17. Which obligations in the professional code of conduct frustrate clients most and how could client expectations be met while respecting the objectives behind those rules?

*Consider this: What if law societies looked to preventative measures at law firms to avoid misconduct rather than discipline?*

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18. Should there be a separation between the establishment of codes of conduct and their adjudication by elected lawyers?

*Consider this: What if professional values for lawyers conflicted with their commercial self-interest? What if government-appointed adjudicators governed professional conduct?*

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19. Which of the current regulations, if any, inhibit technological and business process innovation?

*Consider this: What if law firms could be owned by business experts with the technological expertise and financial capital to provide legal services in new and innovative ways, not just by having people spending "hours" working on problems?*

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20. What existing legal services or client groups do you feel will experience high growth, low growth, no growth, or decline in the future?

*Consider this: What if general law licenses were eliminated for practice areas where competent legal practice requires specialist expertise?*

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# NEXT STEPS

Over the next months, the CBA Legal Futures Initiative Steering Committee's three teams – Business Structures and Innovation; Education and Training; and Ethics and Regulatory Issues – will be reading your contributions, doing further research and analysis, and continuing this conversation. Then the teams will make specific recommendations for action (Phase III).

In the final phase of the Initiative, the CBA will identify the tools and resources that will assist the profession in adapting to change, so that it remains confident, viable, relevant and competitive and so that it is in the best position to serve the legal needs of the public.

Your input is critical to this Initiative. Join the conversation (CBA Legal Futures Initiative - [www.cbafutures.org](http://www.cbafutures.org) and #cbafutures).

The completion of the following questions is voluntary. The information will be kept confidential and only used in aggregate form in accordance with human rights and privacy legislation. The CBA Legal Futures Initiative encourages all participants to complete this questionnaire in order to enhance the reliability of the data, to better understand demographic trends, and to develop recommendations to promote equality and diversity.

1. M/F
2. Age range: under 40, 40-55, 55-70, 70+
3. Are you currently...
  - Practicing law
  - Student at a law school
  - An articling student
  - A lawyer or law school graduate who is no longer practicing law
  - Retired and not practicing law
  - Retired but practicing law occasionally
  - A member of the judiciary or administrative tribunal
  - An academic or other teacher of lawyers
  - A client or representative of clients
  - A member of the public
  - Other \_\_\_\_\_ (Please specify)
4. If a lawyer, in which of the following practice settings do you work? Select one only.
  - Solo practice
  - Law firm (2 – 25 lawyers)
  - Law firm (26 – 100 lawyers)
  - Law firm (more than 100 lawyers)

- Legal clinic
- Government or a public agency
- In-house counsel for a private / public corporation
- Crown's office
- Judiciary
- Non-governmental organization (NGO)
- Academic
- Articling student
- Other

5. If a lawyer, in which province / territory do you primarily practice today?

- British Columbia
- Alberta
- Saskatchewan
- Manitoba
- Ontario
- Quebec
- New Brunswick
- Nova Scotia
- Prince Edward Island
- Newfoundland & Labrador
- Yukon
- Northwest Territories
- Nunavut
- Outside Canada

6. Please identify which of the following best describes the area in which your practice or the corporation you work with is located. **Select one only.**

- Village, town or small city of less than 50,000 population
- Regional Centre with population of 50,000 to 500,000
- Major metropolitan centre with population of 500,000+



Please check any of the following characteristics to which you self-identify.

7. Are you an Aboriginal person?  Yes  No
8. What is your mother tongue? (first language learned at home in childhood and still understand)
9. Do you identify with one or more racialized/ethnic groups?  Yes  No
10. Do you have a Religion or Creed?  Yes  No
11. Are you a person with a disability?  Yes  No (A person with a disability is someone who has a long-term or recurring physical, mental, sensory, psychiatric or learning impairment)
12. Do you identify as lesbian / gay / bisexual / transgender /transsexual?  Yes  No

(Endnotes)

<sup>i</sup> For more on Business Structures and Innovation, see the following: 2.1 Globalization, 2.3 Liberalization of Markets, 2.4 Deregulation, Disaggregation, Electronic Markets, New Communications Media, 2.6 General Economic Conditions, 3.1 Market Structure, 4.2 Downward Pressure on Prices for Some Legal Services, 4.4 Management and Ownership, 5.2 Supply Considerations, 5.3 Demand Considerations, 5.4 Prices/Costs, 5.6 Legal Products and Services Production Function (The Structure and Organization of Legal Practice), 7.1.2 Electronic Marketplace, 7.5 Reputation and Branding, Chapter 8.0 Business Structures and Models, Chapter 11 Regulatory Issues, and 12.1 Role and Value of the Legal Industry.

<sup>ii</sup> For more on Education and Training, see the following: 2.2 Technology, 2.4 Deregulation, Disaggregation, Electronic Markets, New Communications Media, 2.5 Demographics, 3.4 Technology and Innovation, 4.1 Client Empowerment, 4.4 Management and Ownership, 4.5 Increased Relationship-Building with Clients, 4.6 Aging of the Bar/Succession Planning, 5.2 Supply Considerations, 5.3 Demand Considerations, 5.5 Legal Products and Services Definitions, Chapter 6 Key Social Trends and Issues, Chapter 7 Key Trends in Technology, 8.2 Alternative Business Structures, 8.5 Some Overarching Trends, 9.1 Career Prospects and Progression, 9.2 Work/Life Balance, 9.3 New Skills Requirements, 10.4 E-Learning, Chapter 11 Regulatory Issues, 12.1 Role and Value of the Legal Industry, 12.3 Access to Justice, and 12.4 Attitudes to Change.

<sup>iii</sup> For more on Ethics and Regulatory Issues, see the following: 2.4 Deregulation, Disaggregation, Electronic Markets, New Communications Media, 3.1 Market Structure, 4.2 Downward Pressure on Prices for Some Legal Services, 4.3 Excess Capacity/Low or No Growth, 4.5 Increased Relationship-Building with Clients, 4.6 Aging of the Bar/Succession Planning, 4.7 Growth of Practice Areas and other Law-Related Positions, Chapter 5 Key Economic Trends and Issues, 6.1 General Demographic Trends, 6.5 Motives and Values, 7.1.2 Electronic Marketplace, 7.2 Impact on Client-Lawyer Dynamics and Loyalty, 8.1 Large Firms/Partnerships, 9.1 Career Prospects and Progression, 9.3 New Skills Requirements, Chapter 10 Legal Education and Training, and 12.1 Role and Value of the Legal Industry.





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