LexisNexis[®] Leadership Series: The Future of Law





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Letter from Loik Amis Chief Executive Officer, LexisNexis Canada Inc.

Dear Reader,

Today, we find ourselves in a world that is increasingly dynamic, complex and interconnected. The rate of change is rapidly accelerating, and a new reality is taking shape before our very own eyes. The constant shifts and subtle interplay between political, technological, economic and cultural forces, both globally and at home, are moulding the future of the legal profession in Canada. Yet our community lacks a shared story about the future. Rather, impactful but disconnected storylines about our future emerge from key stakeholders, a telltale sign that our profession is undergoing a foundational shift and transition.

At LexisNexis Canada, we are privileged to work with the multiple stakeholders that make up our profession – on a daily basis, we are exposed to the unique challenges and opportunities faced by law firms of all sizes, corporate legal departments, government agencies, regulators, members of the judiciary and academia. The common theme heard from these stakeholders, and the impetus for the whitepaper you are now reading, is the high degree of uncertainty that exists about the future.

But predicting the future can at best be a tricky undertaking, and at worst, irresponsible and potentially damaging. Rather, on April 18, 2013, we held a Leadership Summit, which gathered some of Canada's most well-respected thought leaders from across the legal community to help create original, relevant and alternative stories of the future. These stories both incorporated and challenged the implicit assumptions and "conventional wisdom" that we hold about the future of the Canadian legal ecosystem. It is the creative outputs of this event that form the foundation of this whitepaper.

To guide us along the journey of describing the future, we utilized an important – and novel – component of our strategic toolkit: scenario planning. Rather than try to predict a single future, we believe that scenario planning has great potential for use in this "transitional period" to simulate and rehearse multiple possible futures that could have profound implications, and highlight previously undiscovered areas of connection and intersection.

The results of our 2013 scenario planning exercise demonstrate a provocative and engaging exploration of the future of the Canadian legal system through 2020, as you will read in the following pages. This report is crucial reading for anyone interested in creatively considering the multiple, divergent ways in which our world could evolve. The sparks of insight inspiring these narratives – along with their implications for our legal system as a whole – were generated through the invaluable collaboration of many stakeholder representatives, external experts, and LexisNexis staff. My colleagues and I continue to be humbled by the people that have been involved in this process, and their deep level of expertise and passion for the future of the legal profession. I also offer a special thanks to Mark Tino at ThinkScenarios.com, who helped guide us through this stimulating and energizing process.

One thing is certain: **the future will surprise us**. We hope that this whitepaper offers a refreshing viewpoint on the possibilities that lie ahead and helps you better prepare and rehearse for the future. T. S. Eliot once wrote that at the "end of all our exploring will be to arrive where we started and know the place for the first time." I thank you for going on this exploratory journey with us.

Loik Amis CEO LexisNexis Canada Inc.



Introduction Our Legal System is in Transition ...

... and yet looking out to the future there is no single story to be told about the outcome. There are many possibilities, some known and some unknowable. Indeed, for everything we think we can anticipate there may be much more that we cannot yet even imagine. For the many key stakeholders in our legal community, this presents a unique challenge: given the uncertainty about how the future will play out, how can we best prepare ourselves?

We began this journey by asking many leaders in our legal community about their expectations for the future:

"What would you most like to know about how the legal system might look in 2020 in order to make better decisions today?"

Many critical uncertainties emerged from these discussions, signaling us to use scenario thinking as a process that could bring structure to exploring the future, and provide a framework for moving the dialogue forward.

Why Scenarios?

The goal of this discussion is not to affirm what is already known and knowable about what is happening right now in our legal system. Rather, it is to explore the many ways in which uncertain forces co-evolve – could both push and inhibit each other – in the future, and then to begin to examine what those possible alternative paths may imply for the stakeholders in our legal community. Such an exercise required participants to push their thinking far beyond the status quo, into uncharted territory.

Scenario planning is a methodology designed to help guide groups and individuals through exactly this creative process. The process begins by identifying forces of change, then combining those forces in different ways to create a set of diverse stories – or scenarios – about how the future could evolve. Scenarios are designed to stretch our thinking about both the opportunities and obstacles that the future might hold; they explore, through narrative, events and dynamics that might alter, inhibit, or enhance current trends, often in surprising ways. Together, a set of scenarios captures a range of future possibilities, good and bad, expected and surprising – but always plausible. Importantly, scenarios are not predictions. Rather, they are thoughtful hypotheses that allow us to imagine, and then to rehearse, different strategies for how to be more prepared for the future – or more ambitiously, how to help shape better futures ourselves.

The Focal Question

Every scenario discussion has a focal question - a broad yet strategic query that serves as an anchor for the scenarios. For this discussion, the focal question is:

How might the Canadian legal system look in 7-8 years, and what might be the implications for the key stakeholders?

A 7- to 8-year time frame was chosen on the assumption that it is both sufficiently long enough that significant change is plausible and sufficiently short enough that we can imagine some possibilities for the kinds of conditions that might develop in the Canadian legal system.

Engaging Your Imagination

It is our hope that these scenarios help inspire the same futureorientation in other initiatives that are broadly concerned with the Canadian legal system. Of course, there is no hard data about the future – nobody yet knows precisely what factors will have impact and in what order. Rather, as you read the scenarios, think of them as a journey – four journeys – into a future that is relevant, thought-provoking, and possible. Imagine how our community will function and how we will be organized to tackle the challenges. How might the Canadian legal system be structured? When might we see game-changing events? What is your own role in leading your organization, community, or province to a "preferred" future?

Scenarios are a medium through which great change can be not just envisioned but also actualized. The more closely you read them, the more likely it becomes that you will recognize their important but less obvious implications to you, your work, and your community. We strongly encourage you to share and discuss this report widely, use it as a springboard for further creative thinking about the future, and test and adjust your strategies or personal actions accordingly.

It is also our hope that these scenarios help to identify potential areas of future work for governments, law societies, corporations, and nonprofit organizations, and that they illuminate choices and commitments that a wide range of organizations may want to make in these areas in the future.



The Scenario Framework and Narratives Four Scenarios on the Future Legal System in Canada through 2020

A Framework for Contrasting the Scenarios

We began the scenario process by surfacing a host of driving forces that would affect the future of the Canadian legal system. These forces were generated through secondary research and in-depth interviews with key stakeholders from our legal community, who then came together in an exploratory workshop to discuss how these driving forces (predetermined elements and critical uncertainties) might interact and combine to create a set of plausible – even provocative – scenario sketches. Sixteen *critical uncertainties* were identified:

Social, Economic & Regulatory Context

- Response to Public Outcry for Affordable Access to Justice
- · Level of Economic Activity in Canada
- Degree of Government Oversight of the Canadian Legal System
- Competition Bureau Policy on Foreign Investment in Canada

Industry and Competitive Dynamics

- Rate of Growth in Alternative Fee Arrangements (AFAs) and Risk Sharing Arrangements
- Nature of New Entrants to Canadian Law Practice
- Emergence of New Practice Areas
- Role of Non-Lawyer Service Providers

Law Firm Structure and Resources

- Dominant Law Firm Ownership Model in Canada
- Standard Industry Practice for Lawyer Compensation
- Strategies for Young and Diverse Associates
- Impact of "Breakthrough" Technologies on the Legal
 Work Environment

Client Needs and Behaviours

- Degree to which Clients Perceive Legal Services as
 Commoditized
- Client Approach to Sourcing Legal Services
- Adoption of Legal Process Outsourcing (LPO)
 Services
- Size and Scope of In-House Legal Departments

We also recognized several *predetermined elements* that were considered "locked-in" or relatively certain in shaping the future between now and 2020:

- Technology enables greater speed and productivity, and the opportunity for virtual connections with clients and legal teams
- Public access to the Canadian justice system remains a challenge due to the length and complexity of dispute resolution, and the cost of legal services
- · Increased access to online legal information drives more "sophisticated," value-added roles for lawyers
- · Increasing complexity of law and the continued need for high-quality lawyers throughout Canada
- Increasing fee pressures driving Corporate clients to Request for Proposals (RFPs), AFAs and fee benchmarking
- Law firms face increasing fixed cost (real estate, travel, servicing global clients, etc.)
- Increasing number of overall lawyers driven by growth in the number of young female lawyers entering the profession, coupled with an aging workforce that is prolonging retirement

Although many uncertain forces were considered and will play an important role in the nature of the future legal system in Canada, two major uncertainties emerged as both very critical and most useful in framing the scenarios and imagining the pathways forward:



Laissez-faire

Government Role in Legal System

Known, Predictable

Legal Services Competition

New, Disruptive

Interventionist

Axis 1: Government Role in the Legal System: The Canadian legal system is considered independent of the government, and the standards of learning, competence and conduct of legal professionals are governed by the provincial law societies. These have a duty to protect the public interest and to maintain and advance the cause of justice. In recent history, however, there is an increasing public outcry for affordable access to justice. Will this need be addressed by the self-regulated profession (law societies, bar associations) or will it require government intervention to ensure affordable access to justice? The endpoints of this axis of uncertainty would result in very different future scenarios:

- Laissez-faire On one hand, if the law societies and bar associations develop solutions for lower cost, easily accessible legal information and services, then governments will not be compelled to intervene. Imagine, for example, policy changes by the law societies that provide an expanded role for paralegal professionals supported by Internet-based alternative dispute resolution options, resulting in more affordable access to justice.
- Interventionist On the other hand, the access-to-justice issues have been in play for many years, and some would say there are no clear solutions in sight. Might it require government regulatory interventions such as policies on consumer legal rights, new forms of professional licensing, or new law firm ownership structures? Imagine a coalition of key stakeholders able to muster enough political will to compel the government to regulate key aspects of the legal system (see reforms in the U.K., Ireland and Australia, for example) so that easy and affordable access is ensured for all.

Axis 2: Legal Services Competition: This axis of uncertainty is more straightforward. The traditional legal service providers in Canada have enjoyed relatively high profitability that has gone unchallenged for some time. While they may be adjusting to increasing fee pressures from some clients on certain legal matters, the competitive landscape has remained relatively predictable. Will this continue or will this market attract new and potentially disruptive competitors that seek new markets and/or a share of this relatively high-profit sector?

- Known, predictable The legal services landscape in Canada remains dominated by existing Canadian firms, both large and small, who for the most part share a common culture and approach to client service and the public interest. Some law firms have expanded their reach through mergers (e.g., Norton Rose) and/or consolidation of capabilities (e.g., McMillan/Lang Michener). While the competition for clients and talent may be intensifying, the major competitors and their capabilities are well known.
- New, disruptive On the other hand, globalization and technological innovations appear to be opening doors for new competitors to enter this once stable, close-knit legal community. Imagine a global, non-legal firm (e.g., Accenture) entering the legal services competitive set in Canada.
 Envision tech-savvy, entrepreneurial lawyers with virtual offices and software providing self-service options to clients. Or even the masters of "big data" like Google or Facebook offering legal search, guidance and online services. Look for analogies in other industries (healthcare) or geographies (U.K. and U.S.) for a glimpse of the types of competitive disruptions that might occur in legal services.



Four distinctly Canadian scenarios result from framing the future environment in this way:



Known, Predictable

The Scenario Sketches

The scenarios that follow are not meant to be exhaustive – rather, they are designed to be both plausible and provocative, to engage your imagination while also raising new questions for you about what that future might look and feel like. Each scenario tells a story of how the legal services environment in Canada might progress over the next 7 to 8 years.

Please keep in mind that the scenarios in this report are stories, not forecasts, and the plausibility of a scenario does not hinge on the occurrence of any particular detail. In the scenario titled "Breakaway" for example, "Most Canadian citizens use the free Google legal services app on their smartphones" – a detail meant to symbolize a disruptive entrant to Canada and the societal implications. That detail, along with many others in each scenario, is there to give you a more tangible "feel" for the world described in the scenario. Please consider names, dates, and other such specifics in each scenario as proxies for types of events, not as necessary conditions for any particular scenario to unfold.

We now invite you to immerse yourself in each future world and consider four different visions for the Canadian legal system looking forward to 2020.

Scenario 1: "Controlled Evolution" —

Familiar and known stakeholders retain a full span of control over the evolution of the Canadian legal space. While there is increased focus on the cost and efficiency of legal services, the overall system adapts using proven technology and processes. Even with the cost constraints, the law societies work successfully with the court system to improve the affordable access to justice. For corporate clients, their increasing sophistication and bargaining power are keeping law firms on their toes, and the winning service providers create a lean and flexible work environment that attracts top talent and delivers the best value to the marketplace.



A Familiar Context

The Canadian economy "limps along" with no particularly exciting growth prospects for the domestic legal services industry. Global influences are adding to the complexity of legal matters, and some Canadian firms are growing outside of Canada, increasing the need for international expertise and mobility.

At home, more attention is being focused on affordable access to justice, prompting consideration of new regulatory and licensing changes from the provincial law societies. One provincial law society is successful with expanding the role for paralegals as part of the solution to affordable access, much like the licensing changes enacted in the U.K. system of justice.

More and more legal information is available for free online. But for many, the self-service model raises more questions than it answers. There are growing expectations from all stakeholders for new technology investments in order to keep pace with societal and client industry norms. All this is creating more uncertainty in the system, leaving many stakeholders indecisive and slow to act.

Clients Have the Upper Hand

"... clients are much more sophisticated buyers these days with stronger bargaining power."

Most importantly, corporate and individual clients are empowered by more information, technology tools, and more choices in legal services. While there are no "disruptive" new service providers entering the legal space, clients are much more sophisticated buyers these days with stronger bargaining power. Many corporate clients unbundle the services they need and use formal RFPs to solicit work from multiple legal service providers. In fact, these clients often unbundle different activities within a single legal matter and allocate these to different service providers. They are making cost and quality trade-offs in the selection of service providers, and negotiating AFAs, including project-based "flat fees," with the chosen suppliers. This creates new challenges such as managing



multiple service providers simultaneously, especially when there is much less loyalty between client and lawyer compared to a decade ago.

This trend is also seen with individual, more "retail" clients who look for better access to justice and unbundle select legal services to better serve their budgets.

Law Firms Adjust

Increasingly, top legal talent is attracted to the opportunities offered by joining the in-house legal departments of global, branded corporations. These companies are also becoming top choices for the cream-of-the-crop law school graduates, as pressures within law firms mount.

As a consequence, legal service providers are managed differently now needing to be lean, nimble and increasingly more transparent. Cost and process management is at the top of the executive agenda. Reflecting this, two more Canadian firms join larger, global law firms and are claiming increased efficiencies resulting from scale.

"... the role of the 'generalist' lawyer is slowly disappearing as there is an increasing trend toward specialization ..."

As firms look to flexible staffing models and advanced project management techniques to improve the profitability of projects, benchmarks from the accounting and consulting industry are helping identify the best practices in this area.

Smaller law firms, specializing in niche areas and known for their fast, efficient and high-quality service, begin receiving calls from their larger counterparts who outsource select legal matters to these smaller players and begin forming closer partnerships. The mid-tier space is seeing consolidation, as star performers are acquired by larger firms and the role of the "generalist" lawyer is slowly disappearing as there is an increasing trend toward specialization, which benefits from domain expertise and efficiencies.

Many firms are using technology to improve efficiencies whenever possible. The technology revolution is slow but ongoing as "next practices" are shared across the industry and every incremental gain is appreciated. Large capital investments are put on hold, as firms are leveraging technology solutions already being heavily used in other industries, such as cloudbased solutions to minimize fixed costs.

E-discovery and mobile solutions to matter management are prevalent, with real-time "on-the-go" service required by clients as geographic location becomes secondary to providing immediate legal advice. Fortunately, firms are being managed by a new set of executives and decision makers, which grew up with the "mobile revolution" and are familiar with technology innovations and the business benefits.

However, a recent study reveals that law firm partners feel less job security and overall satisfaction. The focus on operational efficiency is making some lawyers feel less like "professionals" and more like technicians, being tracked and incented against project milestones, timelines and costs. Gone are the days of a lifetime commitment to the firm and vice versa. While a younger cohort makes its way to the executive level within the firms, older lawyers are reluctant to retire, leaving little room for advancement for the next generation.

The most reputable lawyers, be they domain experts, star litigators or "rain makers," are more mobile and switch firms for the best opportunities. Less experienced lawyers seek opportunities to get trained and mentored in order to advance their stature in the legal community. It is becoming clear that the most desirable clients find the firms that attract and retain the best talent.

Wide-Ranging Career Expectations

The diversity of legal professionals has really changed the way talent is being managed. There are wide-ranging career expectations within firms and for new recruits. For some professionals, working in a traditional law firm is less secure or less appealing. Achieving work-life balance is difficult, and a recent study shows there is increasing attrition, especially for women, in the legal profession.

In addition, law schools are struggling with the demands for curriculum changes with an increased emphasis on business training, practical experience and career counseling on career options.

A Watchful Eye

With a drive toward efficiency, globalization and industry consolidation, there are increased pressures on regulators to keep a pulse on the evolving legal community. Oversight is augmented by new regulations pertaining to firm-firm collaboration, data security and quality standards.

Scenario 2: "Open Season" -

Globalization and new technologies have opened the door to unexpected competitors that disrupt the legal system. Leveraging law society regulations that allow thirdparty legal services, professional services firms previously offering accounting and consulting services now offer legal services as part of their end-to-end offer, while tech-savvy boutique law firms are delivering legal services in novel, low-cost ways. Clients are reaping the benefits of more choice and better access while law societies, the judiciary and law schools reorganize to better address the new entrants. Traditional firms have made drastic changes to survive. The winners take risks and create innovative practice models that change the way lawyers value themselves and their firms.



Global Professional Firms Enter Canadian Law

The once stable, close-knit legal community is no more. Realizing the growing appetite for an integrated global offering for Canadian clients, and with the blessing of the law societies, Deloitte seized first-mover advantage by acquiring a highly respected mid-tier Canadian firm. For a time, no firm in Canada could compete with Deloitte's end-to-end offer.

However, through mergers with law firms or aggressive hiring of specialized lawyers, other multidisciplinary professional firms emerged (merging legal, accounting, and consulting). This business model is proving to be effective via sharing costs like technology infrastructure and professional training. In fact, it has become the dominant model for all professional services.

The legal community is dotted with several large professional firms in Canada, which a decade ago had no footprint in the legal space, but now offer legal services to their mix of offerings. With non-legal leadership, heavy discounting when clients bundle legal with non-legal services and highly skilled business development teams, these firms are formidable competitors.

Tech-Savvy Boutiques Emerge

Meanwhile, tech-savvy, entrepreneurial lawyers from Canada are thriving by selling and delivering legal services in novel, low-cost ways. Rebranded as specialized – almost retail – boutiques, these smaller firms operate with little overhead, interacting with clients either on-site or online using novel pricing and delivery models. They are clearly differentiated – in approach and price – from the global behemoths and the surviving traditional law firms. Further, they bill for services based on flat fees or outcomes, not hours. Paradoxically, the global professional firms begin partnering and working in conjunction with these smaller, lower-cost firms.

"... we now see retail law services leasing space at Loblaw's and providing store visitors with transactional legal services such as wills, trusts and estates ..."

This "virtual" and highly mobile business model has proven to be very attractive to many of the best, most entrepreneurial and brightest lawyers.

Other successful start-ups have created new channels to the market. For example, we now see retail law services leasing space at Loblaw's and providing store visitors with transactional legal services such as wills, trusts and estates, as well as real estate purchase and leasing agreements.

Many More Choices for Legal Clients

Not surprisingly, clients are reaping the benefits of this intensely competitive environment. Rather than build large in-house teams, they enjoy the flexibility and leverage afforded by having



many more choices. They take advantage of commoditized services and an expanded array of LPO offered by global service firms with impressive technology infrastructure.

Most clients show no loyalty to one firm, preferring to source matters case by case using a formal RFP process, and often selecting based on cost or specialized expertise. When looking for legal solutions, they often use social media for ratings and reviews, and coordinate internally with other business units to identify non-legal projects that could be bundled and outsourced for the best pricing.

Chaotic Competition for Law Firms

Squeezed from all sides, the original Canadian law firms have made drastic changes to survive. Just identifying these new competitors presents a major challenge for the more traditional firms, who must strengthen their business intelligence capabilities. While cost containment and operational efficiencies are important, growth is driven by more strategic moves. Law firms become more focused on articulating their unique value proposition that derives the highest competitive advantage over their new global competitors. They identify the areas of practice, geographies and customer segments where they want to play, and exit other areas where they cannot compete. The winners take more risks and begin looking at acquisitive growth through mergers and acquisition of smaller firms.

"Squeezed from all sides, the original Canadian law firms have made drastic changes to survive."

Several strategic moves have repositioned many of the larger incumbent law firms. For example, one of the largest national firms acquired an LPO provider to remain competitive in more routine practice areas. Several mid-tier firms have consolidated to reduce overhead costs and "trim the fat." Others deliberately fracture into specialized business units to face off against boutique competitors in targeted markets. Many of these strategic decisions required these firms to hire C-level, nonlegal professionals to develop and execute the strategies successfully.

Finally, some adopt the adage "if you can't beat 'em, join 'em" and sell their firm to a global organization while there is still a chance. For those still standing, competition for talent is fierce. Client relationship management and selling/negotiating skills are at a premium, together with strategic planning. Techsavvy, business-minded lawyers seem to have the most career mobility, while the "top 1%" of lawyers that specialize flourish. Geography is less relevant, and more lawyers are expected to travel wherever global clients need them on many of the increasingly global case assignments. Firms develop a variety of roles and compensation schemes to match changing expectations of a diverse team of legal professionals.

These drastic changes in business practices change the culture and the way lawyers value themselves and their firms.

Experimentation and Real-Time Learning

The global and technology dimensions introduced by the new competitors create unique challenges and opportunities for the law societies, judiciary and law schools. This is a time of much experimentation and real-time learning. Law societies react to the new competitive landscape by testing some new policies on professional certification and licensing. An increased role for paralegals, similar to the U.K., is still in an experimental stage in Canada. Law societies are also forced to reinvent the way in which they view malpractice and disciplinary measures from the multidisciplinary practitioners.

Budgetary constraints continue to hamper the modernization of the court system. The backlog forces more cases to go outside the traditional judiciary process and experiment with ADR structures and services.

Law schools struggle in delivering the new and different skills demanded by the professional service firms and the tech-savvy boutiques. They also struggle with how to advise students on their legal career path opportunities. Lawyers with joint J.D.-M.B.A. degrees become highly sought after, as value is placed on the integration of business acumen and legal expertise.

Scenario 3: "Patchwork Reform" -

To address the public outcry for affordable access to justice, governments from across Canada intervene in the regulation of the legal system. Public funding has modernized the court system and increased legal aid, and the new regulations triggered the launch of a broad range of lower-cost legal services enabled by innovative and efficient uses of technology. While the law societies have lost some independence, the legal community consensus is that government reforms and funding have helped inform the public and demystify legal services. The winning law firms have restructured to better service more market segments, and offer more flexible career choices. Clients benefit from the structured choices and prices available in this more controlled environment.



The Government Intervenes

Many factors conspired to drive governments across the country to intervene in the regulation of the legal system. First, a CBA-sponsored summit meeting created urgency for widespread reform and changed the dialogue on affordable access to justice, citing a cultural divide and legal aid constraints. Second, a coalition of major stakeholder organizations (trade, co-ops, social, etc.) supported by the media, mobilized to make affordable access a major public and political issue.

"... government reforms have helped to inform the public and demystify legal services."

Third, provincial government task forces worked with law societies to design a set of practical reforms and also elevated the discussion to the federal level. These activities led to the passing of the Access to Legal Services bill, focusing on affordable access, interprovincial services, and incentives for young lawyers to open up firms in previously underserved rural areas.

While the law societies have lost some independence, the legal community consensus is that these government reforms have helped to inform the public and demystify legal services. More people and organizations than ever before are using lawyers and the court system throughout Canada.

Lower-Cost Legal Services Emerge

The new regulations triggered the launch of a broad range of lower-cost services and, in turn, an investment in a range of technologies to drive efficiency in service delivery. Legal information and online services are widely available, more affordable, and easier to use. Many more legal service interactions are facilitated by video and mobile technology, and tools such as e-discovery and matter management become highly automated and streamlined.

Select provincial governments implemented a "reverse tender" online portal, where clients from across Canada can request access to legal services, quotes and information about local service providers, as well as linking to free online legal information and an overview of the legal process as it pertains to their matter. By simply inputting the nature of their legal matter and geographic location, Canadians can now become plugged into the legal system, which has become demystified and affordable.

"... a judge can adjudicate a hearing online and in real time, where the two sides are sitting in two different provinces."

With additional public funding and help from the law societies, the court system has the resources needed to modernize (automate records and processes), lowering costs and



improving throughput. Alternative dispute resolutions, including online dispute resolution and interjurisdiction case resolutions, are enabled by new regulations and technology standards for security and communications. For example, a judge can adjudicate a hearing online and in real time, where the two sides are sitting in two different provinces.

Corporate clients benefit from the lower-cost service offerings by shopping around for the most suitable services and the best fee arrangements. Interestingly, in-house law departments are growing at a lower rate than previously experienced, as many talented lawyers find work in smaller firms and rural areas that are seeing strong growth due to increased local demand. These firms provide a more optimal work-life balance and a more attractive work setting compared to the transformation that has taken place in the traditional larger law firms.

Law Firms Restructure

To manage compliance with the new regulations and the increasing volume and demand for affordable legal services, many law firms restructure their organizations to diversify their scope and reach. With this restructuring approach, law firms are better able to service more market segments and control their costs by tailoring services and staffing plans to very specific needs. Strategic value-based pricing is emphasized as a competitive differentiator in order to meet the various tiers of clients while not cannibalizing profitability and level of service.

A few select mid-tier / larger law firms develop specialized divisions focused on "consumer services" that target select higher-volume geographies that fit well with their current capabilities and expertise and offer a flexible model for the provision of legal services for these lower-cost matters.

In this restructured business model, lawyers fill a broader spectrum of roles than ever before. Successful lawyers are much more collaborative, selling and working on client matters that vary in size, scope and geography.

New Markets are Served

In fact, partnerships between larger law firms and smaller ones are at an all-time high, as these provide the larger players with channels into previously underserved markets. These partnerships are further accelerated by lawyers from larger firms exiting to spearhead their own smaller / mid-sized niche firms in more consumer-focused markets. Existing smaller law firms find opportunities to grow and differentiate in niche practice areas that are seeing increased demand from individual clients. For example, there are now more lawyers in smaller firms and in remote communities targeting the specific needs and cost parameters of these formerly underserved communities. By specializing in niche markets, these firms can target their limited technology budgets on specific and customized applications.

"... smaller players begin poaching lawyers nearing retirement from larger firms and creating a network of senior lawyer 'consultants' to whom they outsource work."

Further, smaller firms in rural areas find creative ways to offer legal services and manage increased client volume – these smaller players begin poaching lawyers nearing retirement from larger firms and creating a network of senior lawyer "consultants" to whom they outsource work. This provides the older generation of lawyers with continued exposure to the legal profession while achieving a more relaxed setting as they enjoy their golden years.

Support Systems Are Proactive

Law societies play a crucial role in introducing alternate business structure regulations, and helping many law firms adopt corporate ownership models. They also help usher in new risk/ insurance reforms that protect legal professionals in this newly regulated environment. Regulators are also keeping abreast of innovative partnership models, both within and outside the legal community.

All this is supported by a new law school curriculum that focuses on practical applications, entrepreneurship and business training across a broad spectrum of multidisciplinary services and career paths.

Scenario 4: "Breakaway" -

By creatively embracing technology, the Canadian legal system is better, faster and cheaper. New government regulations have encouraged corporate ownership and governance of law firms and the consumer-oriented Canadian Legal Bill of Rights continues to attract tech-savvy entrants who bring the best practices in digital innovation to Canada. In addition to smaller niche players, large non-legal service providers enter the market with unprecedented scale and efficiency. Traditional law firms have been hit the hardest. Many lawyers have had to specialize, and competition for the best talent is intense. The winners operate as decentralized, virtual teams working closely with non-legal business partners to find growth opportunities.



Disruptive Competitive Entrants

New entrants to the legal system lead the charge with technology-driven approaches. These innovations, together with government intervention encouraging corporate ownership and governance of law firms, help open the floodgates to increased access to legal services, regulated by newly formed consumerprotection measures.

"Accenture now effectively 'co-manages' several Canadian law firms under a unique outsourcing arrangement."

The biggest impact from a non-legal service provider comes from Accenture. They offer an unprecedented technologybased partnership with law firms, bringing into Canada the best practices in digital innovation (e.g., knowledge management, technology-assisted review, predictive analytics). The process efficiency and scale of this technology approach has translated into lower prices for most legal services using this business model. Accenture now effectively "co-manages" several Canadian law firms under a unique outsourcing arrangement.

To the surprise of many, Loblaw's also joined the competitive set, now offering transactional legal advice through its many grocery store locations (e.g., will-building, real-estate purchasing agreements, corporate shareholder agreements, etc.), in combination with its retail banking, insurance, and mobile solutions. Given Loblaw's success and unique differentiation, there are strong rumours that Costco is exploring becoming a player in the space.

The landscape is also punctuated by global and Canadian professional service firms, like Deloitte, who continue to innovate on their unique end-to-end service delivery model. Unlike Loblaw's model of serving the lower-end consumer market, these players focus on the corporate space, in direct competition to traditional mid-tier / larger law firms.

"Most Canadian citizens use the free Google legal services app on their smartphones."

Meanwhile, after Google acquired LegalZoom in the U.S., they entered Canada with similar services. It didn't take long for Google Law to capture a large share of the consumer and small business legal services market. Most Canadian citizens use the free Google legal services app on their smartphones.

National Standards and Consumer Protections

The government works closely with the law societies to establish and enforce national standards for technology use, information security, and consumer rights and protections. A digital, nationwide network now gives judiciary, legal professionals and individuals 24/7 access to shared legal databases and selfservice applications. For example, with additional government funding, CanLII has added more judgments and analyses to its offering, greatly increasing the value of free legal information.



The government also has engaged the top law schools and business schools to develop "Legal Services 101" — a free consumer education website and reference guide based on the recent regulations and Canada's new Bill of Legal Rights. Unlike the old law school curriculum, this approach focuses on practical applications and business training, featuring video clips from some of Canada's best-known lawyers, business and community leaders.

Niche Players

In this real-time environment, smaller niche players emerge with solutions targeted at specific markets. Some are successful providers of software tools to the law firms and corporate legal departments. These players develop products that leverage multidisciplinary expertise from industries such as engineering, mathematics, defence, and telecommunication to create unique solutions for the legal space. For example, Quantitative Legal Predictions uses complex algorithms to predict case durations, outcomes and the ROI of litigation.

Concepts from healthcare that focus on prevention rather than intervention find their way into the consumer legal space. Niche firms develop services allowing individuals to not only monitor their financial and health risks, but also keep a pulse on their legal well-being and risk exposure, providing guidance when a risk is identified.

The entry of niche players has put tremendous pressures on the traditional smaller and mid-sized firms, especially those with a more generalist nature. Consumer clients have now gone to a "self-serve" model, which forces smaller firms to reposition their specialization, integrate with other firms, move to more rural areas with a potential for higher demand, drop their fees, or face going out of business.

Clients Buy Solutions

There has been a shift from partnerships to non-legal ownership of law firms, where strategic value-based pricing is emphasized as a competitive differentiator in order to meet the various tiers of clients. This leads to corporate clients having more diversified choices. Many general counsel (GC) have broader training in business, technology and finance, and often take on an expanded corporate role. In turn, they expect their service providers to be highly specialized on a specific legal matter or a customized technology. Clients pay for solutions, not time spent on the case.

The New Law Firms

Traditional law firms have been hit the hardest, experiencing the increased pressures created by pervasive legal technologies, new entrants and more stringent government regulations. The survivors have adopted an aggressive "growth-hunting" mode.

Many lawyers are now employed by firms managed by non-legal experts, using corporate business models. These organizations have strategic business development capabilities to identify unmet client needs and growth areas. The successful firms are known to reconfigure themselves to develop custom offerings for specific practice areas, clients and geographies. Firms have become laser-focused on inorganic growth prospects, developing processes and partnerships with investment banks, venture capital and private equity that allow for the ability to identify and purchase fast-growth players.

"Many lawyers are now employed by firms managed by non-legal experts, using corporate business models."

The most successful law firms operate as decentralized, virtual teams – highly mobile and always connected to the resources they need to manage projects. Most have received external capital in order to invest in technology capability and support, often partnering with expert technology firms or purchasing these capabilities.

Most lawyers have had to specialize, and competition for the best legal talent has intensified. Continuous learning in areas such as selling, project management and business acumen is a must. The recent introduction in Singapore of globally licensed lawyers may be a sign of what lies ahead.

In most cases, these new work settings offer lawyers and other legal professionals increased flexibility in roles and career paths, where they are better able to balance work with lifestyle choices.

Preparing for the Future Continuing the Strategic Dialogue

We hope that reading these scenario stories has sparked your imagination, provoking new thinking about the emerging themes and possibilities. Looking across all the future scenarios, we suggest three ways to move the dialogue forward and better prepare for the future:

1 Engaging in Ongoing Dialogue on Seven Common Themes

2 Exploring Specific Stakeholder Group Considerations

3 Tracking the Possible Events and Early Indicators

1. Engaging in Ongoing Dialogue on Seven Common Themes

As we look across the scenarios, seven common themes emerge whose nature is independent of which scenario plays out in the future – these are common elements that, while impacted by the critical uncertainties of the future, play a critical role in determining how the legal community will respond and embrace the future:

a. Affordable and timely access to justice

All Canadian citizens have access to the justice system, and the provincial law societies have a duty to protect the public interest and to maintain and advance the cause of justice and the rule of law. However, there is an increasing public outcry for access that is affordable and timely. Some cite the high cost of legal services and lack of legal aid. Others cite unequal treatment of specific segments of the population (e.g., Aboriginal people). The public outcry has been increasing in this matter. What is the appropriate response? Who is responsible to find solutions?

b. Empowerment of legal clientele

With the increasing transparency and sharing of information, legal clientele – especially corporate buyers – are gaining the upper hand in defining the work to be done and negotiating professional fees with legal services providers. This shift in market power from suppliers to buyers is changing the relationship between law firms and their clients. Once based solely on trust and quality of service, these relationships are becoming more complex and difficult to navigate for both parties. Will this continue? What determines the value of legal services? What types of billing practices (AFAs or risk sharing agreements) might be needed?

c. Intensifying competition between legal service providers

More legal work is requested using formal RFPs sent out to multiple larger legal service providers. This reflects both the cost constraints of the buyer and the perception that the same services can be obtained at different price points. Buyers of legal services have become much more sophisticated in their procurement strategies and tactics. And the landscape of competitors continues to change with international mergers, cross-border partnerships and mid-tier consolidations in Canada. For smaller law firms, further commoditization of select legal services emerges given fierce price-for-value negotiations with individual clients. What other competitors might enter Canada? How will the changing competitive landscape impact the value propositions, differentiation, and profitability of legal services providers? What practice areas both in smaller and larger firms might become further commoditized?

d. Collaborative business models

Traditional business models exist to cope and thrive in a world characterized by a "zero-sum" game that has historically driven service, product and process innovations. Yet as we look across the scenarios, we see that the interconnectivity



of key stakeholders emerges. Whether it's within the legal system (e.g., larger firms partnering with their smaller counterparts) or outside of the legal community (e.g., firms forming tighter relationship networks with venture capital and private equity), there is an increased dependence on winning through collaboration. How will players derive competitive differentiation through partnerships? If collaboration and partnerships become key differentiators, how do you secure competitive advantage? Is your organization actively tracking and managing a pipeline of potential partnerships?

e. Technology's impact on legal service delivery models

Technology continues to improve connectivity, mobility and communications in the Canadian legal system. What's the next wave in technology-driven productivity? How might technology be used to significantly reduce the cost of legal discovery or dispute resolution? You don't have to look far to see examples of technology revolutionizing knowledge management, advanced search and data analytics, and document management ... for starters.

f. Changing needs and expectations of legal professionals

The demographics of the legal profession represent an unprecedented range of diversity and expectations regarding type of work, compensation, career path, work/life balance, etc. From older partners who don't want to retire to young women who want to balance family life, managing the talent pool of legal professionals is increasingly complex and challenging. Where is all this headed?

g. New demands on legal education

Are the law schools adequately preparing the lawyers of tomorrow? Our scenario discussions raised many questions about the need for more practical application experience and more business skills (e.g., selling and project management). Should law schools teach technology? Can law schools prepare students for their career path choices? What about continued education after law school? Many questions were raised about the challenges and opportunities for Canada's law schools.

2. Exploring Specific Stakeholder Group Considerations

These scenarios challenge each stakeholder group to think differently about the future. Here are some guiding questions to explore in the next round of discussions:

Larger law firms

- 1. How would we compete with a global, multidisciplined service firm offering end-to-end solutions?
- 2. What ownership structure gives us the most flexibility?
- How do we change our culture to attract and accommodate the top talent while fostering the ongoing gender demographic shifts?
- 4. Is there a first-mover advantage in changing our operating model?
- 5. Have we identified the fastest-growing markets and geographies, and are we configuring our services to cater to the unmet needs of clients within these areas?

Smaller law firms

- 1. What niche markets are we best positioned to serve and grow?
- 2. Do we need partnerships and alliances to compete effectively?
- 3. Should we go "virtual" to reduce costs and attract tech-savvy recruits?
- 4. How can we fund the technology investments we need to differentiate and be more efficient?

In-house counsel

- 1. What are the right metrics for measuring the value we receive from our legal service providers?
- 2. Is growing our in-house team the right course?
- 3. What is the best approach to attract and retain top talent?
- 4. What training is available to broaden our in-house team's skills in business and technology?
- 5. How can we best prepare to manage multiple suppliers of legal services simultaneously?

Law schools

- 1. Are we responsive to the changing needs of the Canadian legal system?
- 2. When and how should we start offering a broader curriculum of business and practical training?
- 3. What are the appropriate correspondent courses and programs?
- 4. What kind of career counseling should we be providing to our students?

Regulators (law societies and government)

- 1. Will market forces resolve the most pressing issues or do we need new regulations?
- 2. Would government assumption of regulating legal services be the best route?
- 3. Is our independent, self-regulated model sustainable?
- 4. What new professional development, licensing and support needs should we prioritize?

Judiciary

- 1. What ADR options are needed?
- 2. What are the best practices for resolving interjurisdictional disputes?
- 3. How can we keep current on global issues impacting the Canadian legal environment?

3. Tracking the Possible Events and Early Indicators

During the scenario exercises, each team had the opportunity to imagine future events that might occur as the scenario unfolded over time. These potential events can serve as indicators or future signposts to be measured and monitored, and provide benefits including:

- Help discern whether a scenario is beginning to emerge
- · Alert decision makers to linchpin developments and important cause-effect relationships
- Provide decision makers with trigger points that could suggest a new or different strategic move (e.g., the pursuit of a contingent strategic direction)
- · Alert organizations to weak, early signals of potential consequential changes

The following set of early indicators may help us anticipate which scenario(s) are taking shape:

Area of Interest	Potential Early Indicators
Policy & Regulation	New industry regulations (ownership structures, access rights) Access to justice metrics (legal aid, etc. – see CBA and U.K.) Law society policies and initiatives (licensing, scope of services)
Talent Management	Demographic change of practising legal professionals Growth (or shrinkage) of in-house legal departments Hiring of non-lawyer leadership Changes in law school curriculum (business, project management)
Legal Services Delivery	Use of ADR alternatives to court system (large cases, online, etc.) Availability and use of free legal information (CanLII) Use of LPO (volume, types of service outsourced) AFA activity level
Competitive Landscape	Law firm mergers, acquisitions, partnerships and/or spin-offs New entrants to the Canadian legal services market Corporate client RFP activity level Branding of legal service providers

Be on the lookout for these (or similar) potential events, as they serve as signposts to the future unfolding. Consider incorporating these early indicators into the strategy dialogue in your organization and with the broader legal community.



Concluding Thoughts This Is Only the Start of an Important Conversation ...

... which we invite you to be part of in the months ahead. Particularly, it is important to note that a scenario itself does not represent a discrete future, but rather, key elements from each scenario will combine in unique ways to form and shape a new reality. Hence, we strongly encourage continued discussion, preparation for and rehearsing of each of the scenarios within your organization. We trust this will lead to the type of strategic conversations required to prepare for the road ahead.

One of the most powerful themes that emerged from our reflection is the increased sense of linkages and interdependence that define the future of the legal community. To that end, we at LexisNexis are extremely delighted that the Canadian Bar Association recently spearheaded the Legal Futures Initiative, which aims to develop original research, ideas, approaches and tools to assist the Canadian legal community in managing the unprecedented change we are all experiencing. We will continue to collaborate with the CBA in innovative ways and feel privileged to share a voice in this impactful discussion.

While predicting the future is impossible, it is certain that all of us from across the segments of the legal community will have to learn how to adapt, prepare and flourish as an uncertain future emerges. It is our hope that the scenarios and their implications have provided you with a thought-provoking glimpse into how this age of transformation might unfold and that a shared narrative, whose voice is still fuzzy and ambiguous, is starting to be heard.

We thank you for engaging with us on this journey. We appreciate that preparing for what lies ahead given the current shifting landscape will not be easy, and trust that the framework, tools and collective thinking that is reflected in this work can help serve as a compass to help guide our community through the uncertain terrain that lies ahead.

We welcome your feedback, comments and questions. Please contact us at **thefutureoflaw@lexisnexis.ca** or at **1-800-668-6481, ext. 400**.

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