

Crystal Clear: New Perspectives for the Canadian Bar Association

*Report of the CBA Futures Committee
August 2005*

The Importance of Futures Planning

The Canadian legal profession is in the midst of profound, accelerating change. In response, the CBA Futures Committee was formed to examine the challenges facing lawyers and the legal profession, and to make recommendations about the kind of organization the CBA should be in 2015 and what it would need to offer lawyers and the legal profession in order to be relevant and vibrant.

Facing many fundamental legal, institutional, social, economic, cultural and other challenges in the future, we determined that there is an enduring need for an association to advocate on behalf of the legal profession's fundamental values and principles, to manage its evolution, and to champion the "rule of law" and defend the independence and integrity of the legal and judicial systems.

As essentially a voluntary organization, the CBA faces a number of risks (particularly the absence of a critical mass of members) that could doom it to mediocrity and eventually to irrelevance or even extinction. Rather than accepting this negative scenario, we opted to seek out the inherent values and benefits of association. These value roles will ultimately determine the structure, operations and services of a relevant and vibrant CBA for the future.

Approach and Methodology

Because the legal profession is not homogeneous, we placed a major focus on obtaining information on the values, attitudes, needs and expectations of individual lawyers, recognizing a wide range of professional experiences. In addition, we were cognizant at all times that the CBA is, in fact, an interconnected system of Branches, Sections, Conferences, Committees, partner organizations, staff, volunteers, members and others.

The Futures Committee held several meetings with CBA members across Canada. We commissioned an Ipsos-Reid survey to examine the motivations, career expectations, career satisfaction, practice intentions and major challenges facing law students, as well as lawyers at various stages of their careers. We solicited members' ideas and opinions through *EPIIgram*, the CBA's electronic newsletter of the Emerging Professional Issues Initiative. In addition, an extensive literature review was undertaken of both global futures trends and those particular to the practice of law.

The CBA as Prism

Throughout the Report, we compare the CBA to a prism. By adjusting its composition, size and alignment, the challenges of the present, represented by a kaleidoscope of competing and complementary light streams, can be focused into acceptable, discernable, manageable directions for the future.



The Drivers of Change

We examined a broad spectrum of trends and influences on the future of the CBA and the legal profession. Most notably, we see a fragmentation of the professional culture into a series of sub-groups, based not only on identifiable personal characteristics (e.g. gender, age, ethnicity), but also on factors such as area of practice, type of organization or workplace, or location. Three demographic influences appear to be dominant – the influx of more women to the profession, the increasing diversity of the profession, and the inter-generational differences in attitudes and expectations. Combined, these trends will place more emphasis on: the need for better work and family balance; a recognition and accommodation of gender and diversity differences; the desire to expand practice and career options, including taking on a more global perspective; becoming more pro-active with clients; and the importance of improving the image of the individual/lawyer and the profession.

The question of image – both self-image and the overall image of the profession – arises repeatedly because of its impact on both individual self-worth and the viability of a legal practice or career. A negative image of the profession will continue to discourage potential clients and encourage new phenomena such as “self-lawyering” and the rise of alternate service providers.

The legal marketplace will continue to see a number of trends such as the commoditization or unbundling of services, a shift to alternative pricing models, the use of alternative processes (e.g. Alternative Dispute Resolution), the ongoing need to demonstrate the value of legal services and the continuing demand for transparency and accountability.

One ever-present factor that will continue to influence the profession will be technology – as a resource, as part of the legal process and as an area of law.

Technology will allow lawyers to work better outside of fixed physical structures and allow flexibility in hours of work and geographical markets serviced. At the same time, technology will invite greater global competition and create more pressure for standardization of work.

Technology and commercialization will also alter the skill sets legal practitioners require, and may influence consolidation of small and mid-sized firms into larger entities. The trend towards multi-disciplinary practices will continue, allowing for the provision of more comprehensive services to larger, more sophisticated clients.

The legal and judicial systems themselves are also key drivers of change in ways including: the continuing potential for erosion of the rule of law by the use of extensive and arbitrary state powers; threats to judicial independence and the lawyer-client relationship; and the limiting of certain constitutional rights and freedoms in the interests of national security.

Other influences include the opportunities and challenges provided by Aboriginal self-government, non-adversarial mechanisms such as collaborative justice, religion-based legal frameworks and the international harmonization of legal systems. Access to justice and legal aid remain important and contentious issues that will influence the future of the profession and the role of the CBA.

One final factor is the proliferation of organizations representing elements of the profession. Without greater collaboration, there may be confusion among decision-makers and the public. In addition, individual lawyers and firms may have to choose the organizations they wish to join and how they seek to be represented.

Establishing CBA Value Roles

The CBA will have to react to each of these major



influences by adapting itself, its programs and services and its *modus operandi* to realize the greatest benefits for its members and the legal profession as a whole.

To develop value roles for the CBA to keep it relevant and vibrant, we asked a simple question:

What can/must the CBA do in the future that individual lawyers, their firms or employers cannot easily do on their own that brings value and benefits to its membership and the legal profession?

We concluded that there are eight existing and two new roles that will best serve the CBA and the legal profession in the future. In terms of existing roles, the following are important:

I. Power of Association/Protecting the Profession – using its size, diversity and strength for collective action, including advocacy, realizing economies of scale, bulk purchasing, branding, and protection of the commercial and professional boundaries of the profession.

II. Members’ Services – providing a range of services including: Continuing Legal Education (CLE); management support tools and information; advice on innovation, including technology; and direct services such as health and travel insurance.

III. Creation of a Networking/Collaboration Hub – providing a focal point for distinct “communities” within the profession, and through formal and informal means such as Annual and Mid-Winter meetings.

IV. Promoting Equity and Accommodating Differences in the Legal Profession – by promoting dialogue within the membership and

supporting the “democratization” of the profession, including accommodating minority and differing opinions.

V. Contributing to Social Value and the Public Interest – by representing the voices of the legal profession to lawmakers, the judiciary, senior decision-makers, government officials, and by seeking standing in matters involving important legal principles.

VI. Research, Innovation and Knowledge Management – by initiating research; collecting, managing and distributing information; and supporting advocacy issues and input to specific pieces of legislation.

VII. Communications, Marketing and Outreach – by active involvement with members, decision-makers and other interest groups and stakeholders through a variety of communications and marketing techniques.

VIII. Education – through CLE developed and delivered nationally, locally and by practice area.

In addition, our experience in developing this Report pointed out the need for two other important roles for the CBA:

IX. Centre of Information and Expertise on the Legal Profession – to collect basic statistics, initiate surveys, track and analyse trends and assess their impacts, and develop a “corporate memory” of the profession.

X. Risk Management for the Profession/Futures Planning – on a continual basis as part of ongoing environmental scanning, trends analysis and futures thinking to avoid major risks to the CBA and the profession.



Recommendations for the Future

We make 11 major recommendations for the future directions of the CBA (see Annex A), including over 125 specific actions that could be taken to support them. Our recommendations revolve around four key strategies:

I. Creating Internal Strength – by building CBA membership; developing core programs and services that are directed and delivered to segments of the membership; promoting equity and recognizing member differences in developing CBA policy, advocacy, programming, governance, organization, communications and membership recruitment actions; building a more integrated organizational structure; assisting members with achieving economic value from their careers; and establishing a centre of expertise about the profession.

II. Reaching Out – by creating greater dialogue and “connectedness” with members and other stakeholders; initiating a distinct CBA “branding” exercise; and by developing a more positive image and level of trust with the public.

III. Developing New Cooperative Arrangements – by building or expanding upon existing or potential partnerships and alliances.

IV. Protecting the Profession – by introducing environmental scanning, risk assessment and futures analysis to all planning activities.

The recommendations and suggested actions in this Report should be reviewed through an intense process of national and local consultation, dialogue and interaction among the CBA and its stakeholder groups. The Futures Committee is prepared to assist with this process and with the implementation of the more immediate and straightforward recommendations. New operational and management structures must be developed at the CBA in line with these key directions for the future. In addition, future recruitment of CBA staff and volunteers should reflect the knowledge and skill sets that will be required to implement these new directions.

We challenge the CBA membership to carry on the tradition of our Association by becoming involved in reviewing our ideas, providing input and helping us embrace the future with greater clarity and a shared vision.

To view the entire Report, please visit www.cba.org/futures

