

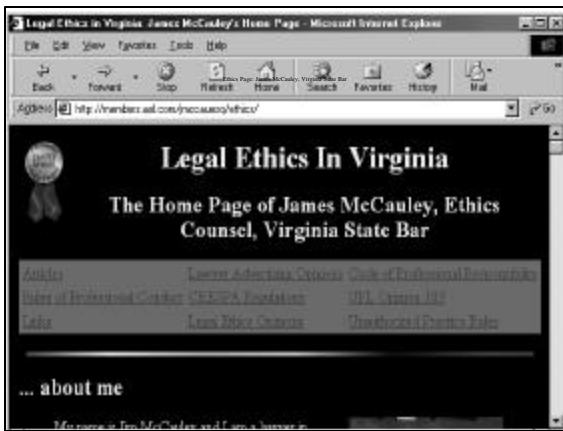
## New Challenges for the Legal Profession



The Internet & The Practice of Law  
by Jerry Lawson  
<http://www.netlawtools.com>

## Auto Sales Over Net?

- GM & Ford have begun preparations to sell cars to consumers directly over the Internet. The biggest obstacle? Most states have laws that give licensed local dealerships a monopoly on new car sales.
- Before beginning the meat of the presentation, two questions to ponder:
  - How likely is it that GM and Ford will be selling cars over the Internet 10 years from now?
  - Why is this relevant to the legal profession?



## Lawyer Advertising Opinion A-0110

LAWYER ADVERTISING ON THE INTERNET

<http://www.vsb.org/committees/standing/advertising/a110.htm>

## Challenges to the Profession



New Ways To Deliver Legal Services  
New Competition for Lawyers



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## The Texas Attempt

- Nolo Press
- Quicken Family Lawyer (Parsons Technology)
  - “Harvard Law Professor Arthur Miller gives you answers to some of the most commonly asked legal questions.” Interactive CD features Prof. Miller.
  - Link to FreeAdvice.com
  - Link to LegalWise Online (Online legal library)
  - Estate Planner

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## The Texas Result

- U.S. District Court Judge Barefoot Sanders ruled that “Quicken Family Lawyer” constituted the unauthorized practice of law.
- The Texas legislature promptly amended the definition of unauthorized practice of law so that it excludes legal advice delivered by computerized means.

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## Unfriendly Environment For Lawyers

- “Hands Off The Net” Attitude Prevails In Both Major Political Parties
- Net Alternatives Have Appeal
  - Lower Cost
  - More Convenience
  - The Kicker – Quality
    - For many consumers and for many types of problems, web-based delivery will be not just cheaper, but better.
- Public Dislike of Lawyers
  - Anti-Lawyer Jokes
  - Political Attacks

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## Auto Sales Over Net?

- Ten Years From Now?
  - Five years? One year? How about now? Ford has already started such sales in at least one state, despite a local statute.
- Why are GM & Ford likely to succeed?
  - Local statutes arguably violate Commerce Clause
  - More important: Consumer demand for choices, convenience and lower cost.

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## Lesson for the Legal Profession

- Don’t count on the continued existence of a state-granted monopoly on the sale of legal services to prevent the arrival of new types of competitors for lawyers.
  - For example, Arizona already has a very narrowly defined definition of unauthorized practice.
- What other factors are behind this change in the landscape?

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## New Drivers of Change

1. Demand Side: Consumer Drivers
2. Economics of Data on Networks  
“Information Wants To Be Free”
3. Supply Side: Venture Capital

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## Consumer Drivers

- Better educated & willing to try self-help
- Willingness to shop around looking for value
  - Little law firm loyalty
- Desire for different fee structures
  - Dislike of hourly rates
  - Alternative fee structures -- e.g., Priceline

## Consumer Drivers, Part II

- Consumers Willing to Sub-Optimize
  - Compare using Net for medical diagnosis
- Coming ubiquity of Net access
  - A Wired World
  - Net Appliances, Convergence (Web TV, Sony Playstation), etc.
  - Even refrigerators & cars will be on the Net

## Shift of Power To Consumers

- Consumers will first visit a legal web when they have a legal problem
- Consumers will see if they can get an answer for free
  - Or a legal document at low cost
- Buy discrete legal advice or legal service when required.
- Help in finding a lawyer at your price point. - informed decision-making

## New Legal Product Delivery

- Legal Information About Common Subjects
- Frequently Asked Questions Data Base
- Search Engines
- Diagnostic Analysis
- Document Assembly Services
- Automatic Calculators - e.g. child support


## New Business Models

- Digital Solutions
- Infomediary Models
- Auction Models
- Reverse Auctions
- New Types of Legal Insurance
- Alternative Dispute Settlement On-Line
- Electronic Filing - Productivity Solutions

## Solos & Small Law Firms


- Highly fragmented
- Under-capitalized
- Low level use of technology
  - Mainly word processing and billing
- Not truly web-enabled
- One-to-one relationship model
  - Limited “reach”
  - Limited “leverage”

Solutions?



Maybe.

ABA Tech 2000 Task Force



Lawyers Serving Society  
Through Technology

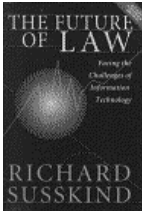
Mission Statement

- The mission of the Tech 2000 Committee is to assist attorneys and the organized bar to identify and use technology to meet the needs of moderate income individuals and families.

Dual Purposes

- Help Consumers
- Help Solos/Small Firms Meet New Challenges

“Latent Market for Legal Services”



Consumer Behavior Trends

- 50% of moderate income households in the US have at least one legal problem per year
- Only 20% seek legal assistance
- 26% do nothing
- Alternatives such as self-help

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## Recommendations in Three Areas

- Ethics and Rules
- Technology and Standards
- Lawyer Competency

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## Ethics & Rules Recommendations



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## Rule Modification

- **The ABA should fund an entity to review existing ethics rules to identify those that impede the use of Internet technology to deliver legal services to low and moderate income Americans, and, on an accelerated basis, to submit appropriate recommendations, consistent with the core values of the profession, to the appropriate rule-making authorities.**

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## Rule Interpretation

- **The President of the ABA should designate an appropriate entity to engage state rule making and rule enforcement authorities so that interpretations and enforcement do not needlessly inhibit innovation. To that end, convene a multistate (virtual and live) conference of state bar ethics policy makers and disciplinary officers, NOBC, NCBP to encourage Internet delivery of legal services and information.**

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## Safe Harbor Rules

- **The President of the ABA should designate an appropriate entity to facilitate the immediate creation of Safe Harbor rules to facilitate technical and practice innovation, while protecting consumers, lawyers and providers.**

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## Technology and Standards



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**Collaboration**

- **The President of the ABA should delegate to an appropriate entity the responsibility to develop collaborative relationships between non-profit organizations and entities engaged in electronic commerce and services, with a particular focus on those engaged in the delivery of legal services over the Internet.**

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**Standard (XML)**

- **The President of the ABA should designate an appropriate entity to play an active role in developing and sponsoring the Legal XML Standard. In that role, the ABA will encourage the use of the Standard among its members, private industry, courts, and government agencies. The ABA will adopt this Standard for all ABA publications.**


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**Low Cost Tools**

- **To improve law practice efficiency and enable lawyers to provide better legal services, the President of the ABA should designate an appropriate entity to facilitate private sector development of low-cost, comprehensive Internet practice tools for lawyers. These tools should be especially targeted at small and solo practitioners.**

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**Lawyer Competency**



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**Stamp of Approval**

- **The President of the ABA should delegate to an appropriate entity the responsibility to establish standards and policies for e-law sites and provide ABA stamp of approval for e-law sites. Such standards should include, but not limited to, privacy standards, disclosures, disclaimers, confidentiality, due diligence, security, consumer information, and consistency of business models with professional norms.**

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**Technological Competency**

- **The President of the ABA should designate an appropriate entity to revise the MacCrate Report's *Statement of Fundamental Lawyering Skills and Values*, to reflect new technological advances and interdisciplinary developments as standards of lawyer competency.**



## Related ABA Initiatives

- Chaos Dot Com
  - Met on April 15, San Francisco
- Ethics 2000
  - Draft Model Rule Revisions Posted March 23, 1999