



# The rules are **changing**

BY GERRY BLACKWELL

Off-the-rack compliance solutions make legal service more cost-effective.

**M**ore industries and institutions are regulated today than ever before. Regulations cover more aspects of how organizations operate; rules are stricter, and more strictly enforced.

This is good for customers, patients, citizens, and the environment. It's also a major opportunity for law firms. Most regulated organizations need help with the legal complexities. "Nine or 10 years ago, you would not find someone practising all the time in privacy or some other area of compliance," says Adam Kardash, a partner at Heenan Blaikie LLP and co-head of the firm's national privacy and access to information law group. "Now we have a whole team working on nothing but privacy

and access to information. It has just exploded."

Law firms that see this new demand as a windfall or potential cash cow and approach it in traditional ways may be in for a surprise. The paradigm for providing legal services, especially around compliance, is shifting. Gone are the days when regulated companies would pay steep hourly fees for bespoke solutions, says Kardash. "Organizations just aren't going to pay [those kinds of fees] when increasingly they have access to easy-to-use and much-less-expensive technology-based solutions to provide needed content."

Exhibit A is Heenan Blaikie's, which is on the verge of partnering with Corporate

Responsibility System Technologies Ltd. (a.k.a. CRSTL — pronounced crystal — Solutions) of Toronto.

CRSTL was founded six years ago by lawyer Felicia Salomon, a former general counsel and corporate chief compliance officer. It builds databases of content for specific regulatory regimes — those governing public issuers or financial institutions, or related to privacy or anti-money laundering — and delivers them along with tools for analyzing compliance gaps, training employees, monitoring progress on closing gaps, and reporting status.

In the old days, says Salomon, law firms would develop similar compliance-related content for a client and charge hourly fees for their lawyers to do the

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research from scratch and produce new documents. Then, they would do it all over for the next client, and charge each for updates to the information when regulations changed.

As recently as five years ago, she says, one Canadian financial institution spent \$30 million in legal fees to develop a tailor-made content base related to compliance in all the jurisdictions around the world in which it operated.

CRSTL offers a radical alternative: off-the-rack compliance solutions. “We build it once — it takes a lot of time and money — and then we own it,” says Salomon. “But we can spread that [investment] out over a wide customer base. We don’t redo the work for each customer. And we load [the content] on a technology infrastructure that serves as a delivery and updating mechanism.”

The company charges flat annual fees that include continual updating. The resulting cost savings for clients can be huge, she says. One CRSTL customer received a quote of \$500,000 from a law firm for compliance-related services that CRSTL could deliver for \$50,000.

It’s at about this point that lawyers reading this article — hello, you too — might be thinking, ‘Hang on a sec. How is this a good thing for me?’

CRSTL and its ilk — companies that use technology to deliver off-the-rack services and content that were the exclusive domain of hourly rate lawyers — seem to pose a threat to law firm revenues. But that is not a useful way to view the situation. “Law firms should embrace them,” says Kardash of such companies. “Whether we like it or not, they’re here to stay.”

Indeed, it could be argued they’re here

for good and just reasons. Charging each client to reinvent the wheel, whether it’s done cynically or inadvertently because a firm doesn’t manage knowledge effectively, amounts to fee gouging. Clients won’t put up with it, especially when there are ready alternatives.

In fact, for firms that have the best interests of clients at heart, CRSTL is not a threat at all, insists Kardash. “It’s a massive opportunity. Clients can get the initial content from something like CRSTL and then go to their law firms to tailor the solution and ask specific questions.”

In general, Kardash believes law firms need to rethink how they deliver services, but particularly around regulatory compliance. Heenan Blaikie has been experimenting with new approaches on a couple of fronts. Earlier this year, it launched a new compliance advisory service, AccessPrivacy, staffed with consulting professionals who have a combination of legal and corporate compliance management experience. “It was becoming more and more apparent that the services clients required were much broader than just legal — more that of a trusted adviser,” says Kardash. “That was the starting point, the realization that we needed those [consulting] skill sets.”

Heenan Blaikie also offers a web-based subscription service that delivers continually updated compliance-related content around privacy and access to information regulations — the content portion of what CRSTL does, without the sophisticated monitoring and gap-analysis tools. “The response to that service has been outstanding,” says Kardash. “And it’s not just from the perspective of providing existing clients a new informa-

tion tool. It’s also, quite frankly, expanding the scope of clients we attract to the firm.”

Most recently, Heenan Blaikie entered into discussions with CRSTL about a possible partnership that may incorporate Heenan Blaikie content in current or future CRSTL products. “We do the front-end policy development, their tool then allows clients to monitor what they’ve put in place,” says AccessPrivacy managing director Ruth Belcher. Details of the relationship were still being hammered out at the time of writing.

CRSTL currently produces its own content, using in-house and contract lawyers and paralegals, but it also works with law firms to develop content in specialized areas or for specific clients. It’s currently developing a new product with Macleod Dixon LLP around regulatory compliance in the oil and gas industry.

Kardash believes such initiatives may be just the tip of the iceberg. His firm has “great faith” in the web as a service-delivery mechanism. And with more and more firms embracing knowledge-management technology, the potential is there for them to profitably deliver off-the-rack content online or via a technology platform like CRSTLs. But he cautions it’s no slam dunk. “You have to have a combination of an excellent technology platform, one that is extremely user-friendly, and high-end content,” Kardash says. “And it’s not so simple to whip that off.” 

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