

**UNIFORM LAW CONFERENCE OF CANADA
CIVIL LAW SECTION**

**REPORT FROM THE ADVISORY COMMITTEE ON
PROGRAM DEVELOPMENT AND MANAGEMENT**

Submitted by
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Chair

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Report to the Uniform Law Conference Civil Section from the Advisory Committee on Program Development and Management

Acknowledgments

[1] I am pleased to present this report on behalf of the Advisory Committee on Program Development and Management, and to acknowledge the work and contribution of the members of that committee throughout the year. In particular, I would like to acknowledge the work of Clark Dalton who has managed the agenda for meetings and prepared minutes of our discussion and decisions.

[2] The committee has met monthly by teleconference, and on one occasion, in the fall of 2008, face-to-face in Toronto. During the months of January February and March 2009, in the absence of the Chair, the meetings were capably chaired by Mr. Darcy McGovern of Saskatchewan Justice.

Commercial Law Strategy

[3] The concept of an Advisory Committee on Program Development and Management is a relatively recent phenomenon. Its first iteration was in relation to the Commercial Law Strategy which was developed and financed as a separate program component from the normal operations of the Civil Law Section. A Steering Committee developed and monitored the strategy and its operations, and, because of the impact of the commercial law topics on the agenda of the Civil Law Section, exerted considerable influence on the research program of the Civil Law Section. When the Commercial Law Strategy ceased to exist as a separate component, and was folded into the general work of the section, the role of the former Steering Committee was adjusted and the committee eventually became known as the Advisory Committee on Program Development and Management. Essentially, the skills and experience which had been developed for the Commercial Law Strategy then became available for the overall program of the civil section.

Transition to Advisory Committee on Program Development and Management

[4] The transition from Commercial Law Strategy Steering Committee to Advisory Committee on Program Development and Management was not without challenge. The role of the Civil Law Section Steering Committee and the interaction with jurisdictional representatives was already well-established. The Advisory Committee was not intended to be in competition with the Steering Committee, but it was important not to lose the experience and expertise that had been developed through the Commercial Law Strategy. As a result, the Advisory Committee developed a mandate that would best serve the interests of the conference. The demarcation of responsibilities allows the Advisory Committee to manage the medium and long-term research agenda of the conference,

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allowing the Steering Committee, and in particular the Chair and incoming Chair of the Civil Law Section, to manage the program of the annual meeting. There is obviously some slight overlap, but the presence on the Advisory Committee of at least one of the Chair or incoming Chair, has provided for an efficient flow of information.

[5] The transition has also involved a slight change in reporting relationships. With its responsibility for medium and long-term research planning, and particularly because of the financial planning aspects related to that task, it has become clear that the primary reporting line is from the Chair of the Advisory Committee to the Executive of the Conference. It has been extremely helpful to have had the president of the Conference, Mr. Dean Sinclair, attending meetings of the Advisory Committee, along with our normal attendance of our Executive Director, Ms. Claudette Racette. It is anticipated that the Chair of the Advisory Committee will attend the meeting of the Executive at the annual conference.

[6] Finally, on membership and reporting requirements, it is anticipated that the Chair of the Criminal Section will join the Advisory Committee, especially for purposes of planning joint projects. It is also anticipated that the Chair of the Drafting Section will attend Advisory Committee meetings, on an as necessary basis.

Five Management Issues

[7] In addition to its management and planning of the various projects which are underway, the Advisory Committee has taken on five management issues. First, it has developed a set of selection criteria and a project selection statement which will allow the Conference both to identify potential projects and to make a more rational and educated decision as to which projects to take on. At this year=s conference, the project selection process will undergo at least two test runs. Second, the Committee has identified the necessity for development of an implementation protocol. The purpose of this protocol is to maximize the utilization of Conference proposals, and to ensure that the necessary information base is developed for the use of each jurisdiction. This initiative is in its early stages. Third, the Committee has identified the development of a communications strategy as an important element of the operations of the Conference. This activity was carried out in the early stages of the Commercial Law Strategy and has been continued through the Commercial Law Strategy Binder and communications associated with the binder. Given the change in the strategy and the management of the research agenda of the Conference, the communications strategy requires thorough revisiting. Again, this initiative is in the early stages of development. Fourth, the Committee has worked with a planning document which it has attempted to develop into a four-year rolling plan.

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Various versions of this document have been worked with and developed, especially with respect to research funding applications.

[8] Finally, the Committee has investigated the common application form developed by law foundations across the country. The investigation centres on whether individual projects might be eligible for law foundation funding, and how multi-jurisdictional work might best be presented for financial consideration.

Financial Challenges

[9] Perhaps the biggest challenge facing the Committee has been the financial aspects of medium to long-term management of a research agenda. This is particularly challenging when funding is received on an annual basis. A number of provinces have been reviewing their contribution to the commercial law projects. The largest part of the research contribution comes from the federal government which has generously supported the program of the Conference. However, the very practical difficulty which we face is that grants are made on an annual basis, do not cover work or expenses prior to the confirmation of the grant, and must be expended before the end of the financial year. For example, we are now five months into the financial year, there is no indication of the approval of the grant, and if successful, the grants must be expended before the end of March 31, 2010. This is particularly problematic for ongoing projects which normally have a two-year life cycle from start to finish. It is impossible to turn research capacity on and off when we depend so heavily on volunteer effort; and it is challenging to plan an ongoing project when funding is provided in such short spurts. We continue to raise this challenge, which represents one of the largest deterrents to the Conference meeting its goals of uniformity and harmonization.

Summary

[10] This has been an interesting year. The Advisory Committee appears to have found its footing with respect to its mandate and its relationship to the Civil Section and to the Executive. It has been active in planning the medium to long-term research agenda of the Conference, notwithstanding the very severe financial challenges under which it has operated. It has attempted as far as possible to stay away from micro-managing of projects. It has worked closely with the Chair of the Civil Law Section, Ms. Elizabeth Strange, and the incoming Chair, Mr. Nolan Steed.

[11] I thank the members for their hard work and for their continued investment in the work of the Conference.

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Peter J.M. Lown, QC, Chair
Advisory Committee on
Program Development and Management

Attachments:

- B Project Selection Criteria
- B Four Year Plan
- B List Of Members