



GREY AREAS NEWSLETTER

A COMMENTARY ON LEGAL ISSUES AFFECTING PROFESSIONAL REGULATION

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Unanticipated Consequences

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Technology often brings unanticipated consequences. AI is no exception. A recent article called [Synthetic Grievances: AI-Generated Bar Complaints and the Chilling of Criminal Defense](#) by American law professor Ashley Krenelka Chase illustrates the point. While the paper has a narrow focus (complaints against criminal defence lawyers), it points to a potentially much larger issue.

Regulators already face situations in which an individual makes multiple complaints against one registrant or separate complaints against many registrants. Generally, the regulator must follow its entire legislated process for each complaint including rendering separate decisions and reasons. This process is resource intensive. Where there is a right of appeal, both the regulator and the appeal body must follow yet another process.

Some regulators can take no action where they find a complaint is frivolous, vexatious, or an abuse of process. However, even this abbreviated process involves resources and can typically only be implemented where it is

obvious that the complaint has no merit (e.g., where a complaint is repetitive). Regulators are cautious about screening out concerns that could be legitimate.

There is little to prevent an individual from making an improper complaint, and AI is poised to make the challenge associated with processing complaints even more difficult for regulators. AI will make it easier for individuals (or even organizations posing as individuals) to make detailed and seemingly legitimate complaints. Just as concerning, AI will enable someone who wants to overwhelm a complaints system to make multiple complaints that do not appear, at first glance, to be repetitive.

As the author says in the article, in the context of complaints against lawyers:

The doctrinal and institutional architecture of attorney regulation is not designed for this world. Bar disciplinary systems assume that complaints will be rare enough to be read, screened, and, hopefully, informally resolved by human staff.

They assume that the narrative in a complaint reflects, in some recognizable way, the voice and experience of a client or other complainant. They assume, too, that the staff who screen complaints can quickly identify wildly implausible allegations, doctrinal nonsense, or claims that are obviously made in bad faith. Generative AI undermines each of these predicates. It can produce high-volume, high-verbiage complaints that bury thin allegations under thick legalese. It can fabricate precedent and procedure that look convincing enough to survive initial screening. And it can do so in the voice of a "model" complainant—educated, literate, and doctrinally aware—even if the actual client is not.

The author also discusses the impact of improper AI-generated complaints on registrants themselves. Again, while focussing on lawyers acting as defence counsel, these concerns would apply equally to other types of registrants:

The predictable response from many defense lawyers will be to practice more defensively. If every strategic choice, like whether to call a witness, file a motion, or advise a plea, can later be recast by a chatbot as unethical or incompetent, the rational lawyer will spend more time building a record for the bar than building a defense for the client. Counsel will overdocument, over-explain, and over-counsel against risk, not only to guard against ineffective assistance claims in appellate courts, but to inoculate themselves against the next AI-authored grievance. That defensive posture is not free. It consumes scarce time in already overloaded dockets, incentivizes conservative choices over risk-acceptant advocacy, and may push

lawyers to prioritize their own exposure over the client's best interests—precisely the inversion that professional-responsibility rules are supposed to prevent.

Addressing this concern will not be easy for regulators. Some suggestions made by the author include:

- Requiring complainants to certify whether AI was used to help generate a complaint. This requirement may not be complied with except for well-intentioned complainants. However, it may also form the basis for screening out complaints made by those intending to overwhelm the system or cause harm to registrants.
- Regulators using algorithms to flag AI-generated content.
- Training regulatory staff to recognize the hallmarks of AI-generated content.
- Using an expedited dismissal process for such complaints.
- Publicly reporting likely AI-generated complaints. The author appears to be referring to statistical reports so that the public, the profession, and policy makers are aware of the scope of the problem.
- Publishing guidelines for a registrant's responsibilities when they become aware of AI-generated complaints by others, especially other registrants.
- Imposing sanctions upon complainants who repeatedly submit AI-generated grievances. However, it is difficult to contemplate what an effective, yet acceptable, sanction might be.

One measure that the author does not mention is for regulators to implement a policy prohibiting individuals from using AI to help generate a complaint. Where AI use is suspected, no action will be taken on the complaint on that basis alone. In those

cases, the individual could potentially be asked to resubmit a complaint in their own words.

correct that at least some of them will soon become necessary.

Currently most of these measures seem a little excessive, but perhaps the author is

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