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Exponential growth in arbitration caseloads:

Using AI to save time, keep client costs low,
and retain competitive advantage

Recent statistics released by arbitration institutions show an explosion in investment and commercial arbitration caseloads, which have almost doubled in the past eight years.¹ By 2019, the Global Arbitration Review estimated the arbitration market among the top 30 firms was worth over US\$2 trillion.²

The challenge of the COVID-19 pandemic will likely create an even greater volume of work in investment and commercial arbitration than ever before, as States and companies go through economic changes and arbitration measures are implemented.³

A similar scenario of expansion in arbitration followed the economic turbulence of the Global Financial Crisis of 2007-2008, with arbitration law firms experiencing a boom in arbitration activity, particularly in Southeast Asia and the Middle East.⁴

The new massive growth in arbitration over the past eight years has placed new time and cost pressures on practitioners around the world, as they attempt to provide clients with legal advice and representation in an increasingly complex area of law.

There are also growing concerns that law firms risk their place as the originators of solutions to new legal problems, with the increasing use

of alternative legal service providers (ALSPs).⁵ Arbitration law firms that do not adapt to new technologies risk being left behind as other service providers become capable of advising clients on aspects of regulatory and litigation strategies at a lower cost.⁶

As law firms attempt to grow, expand, and remain competitive in the expanding arbitration environment, they must perform a balancing act of time and cost expenditure across three main challenges:

- **Growth**
- **Quality**
- **Knowledge Demands**

First, rapid **growth** in a firm's workload produces a corresponding expansion of human resources. For example, the arrival of new early-career lawyers requires experienced practitioners to transfer their focus from billable work, to supervision, training, and mentorship – usually with a low initial return on the investment of time, risking a lag in service and resulting in profit delay.

Second, to remain competitive, arbitration practitioners are expected to maintain and improve the quality of valuable advice to clients through precise legal research,

¹ Altenkirch, M., and Brigitta John, 'Arbitration Statistics 2019 - How did arbitration institutions fare in 2019?', *Global Arbitration News* (Baker & McKenzie), 15 July 2020.

² Global Arbitration Review, GAR 100 12th edition, 5 April 2019.

³ Bloomberg Law, *Analysis: Covid-19 Litigation Pending, Poised to Boom*, 11 May 2020.

⁴ Wilske, Stephan, 'The Impact of the Financial Crisis on International Arbitration', *Dispute Resolution Journal* 65, no. 1 (2010): 82, pp. 84.

⁵ Brooks, Chay, and Cristian Gherhes, Tim Vorley, 'Artificial intelligence in the legal sector: pressures and challenges of transformation', *Cambridge Journal of Regions, Economy and Society*, Volume 13, Issue 1, March 2020, 135.

⁶ Davis, Anthony E., 'The Future of Law Firms (and Lawyers) in the Age of Artificial Intelligence', *Revista Direito GV* 16, no. 1 (2020).

comprehensive due diligence, accurate legal analysis, and informed forecasting.⁷ This means in the increasingly competitive sector, it is more important than ever before for arbitration practitioners to have fast access to current and accurate knowledge.

Quality of advice expected by clients relates not just to traditional legal advice spanning domestic and international legal contexts, but also to arbitration firms' competence in knowing the global arbitration network as it expands. For example, law firms must now understand increasingly complex global networks of arbitration practitioners including practitioners' careers, experience as an arbitrator, counsel, or expert, knowledge of a specific industry, and relationships with other practitioners or clients when recommending potential arbitrators for their clients, determining conflicts of interest, and choosing experts for cases to build a strategy more likely to succeed.⁸

Third, because international arbitration and commercial arbitration are both experiencing substantial growth in caseloads, legal **knowledge demands** on practitioners are increasing exponentially. Both practitioners and arbitration institutions are being asked to climb an ever-increasing mountain of new decisions, cases, panels, judgments and awards, all interconnected across multiple digital layers.⁹

This increasing complexity of materials means that comprehensive coverage of legal content through AI is essential for firms to obtain the greatest benefit and value for their clients, ensuring delivery of information assets to the firm's relevant stakeholders when and where it is needed as a legal strategy is constructed and carried out.¹⁰

“Jus Mundi is an indispensable tool to meet the needs of our clients! It is cost-effective and gives us access to key information to build the winning strategy.”



Eduardo Silva-Romero
Co-Chair of Dechert's International
Arbitration global practice

The use of AI in the legal sector to manage this new large-scale data demand across multiple digital layers has begun to not only replace traditionally linear reviews of information through an individual practitioner's eyes, but is also creating new legal research angles that can uncover pathways to boost a client's chances of strategic success.¹¹

Practitioners in arbitration therefore face the three competing elements of **growth, quality, and knowledge demands** in the new digital AI-assisted era. If adaptations are not made by firms

⁷ Alarie, Benjamin, Anthony Niblett, and Albert H. Yoon, 'How Artificial Intelligence Will Affect the Practice of Law', *The University of Toronto Law Journal* 68, no. supplement 1 (2018): 124.

⁸ Shin, Susan L., 'How AI Enables Stronger Litigation', *Property & Casualty* 360 (2019).

⁹ Hutchinson, Terry, 'Legal Research in the Fourth Industrial Revolution', *Monash University Law Review* 43, no. 2 (2017): 567-590.

¹⁰ Evans, Nina, James Price, and David Pender, 'Digital Disruption and Innovation in the Legal Industry: Management Considerations', *Academic Conferences International Limited*, 2018.

¹¹ Walters, Ed, and Morgan Wright, 'Putting Artificial Intelligence to Work in Law Firms: How Librarians are using AI to Increase Efficiency and Productivity', *AALL Spectrum* 23, no. 1 (2018): 16.

to adapt to new technologies, practitioners will face a substantial increase in **time** expended, causing a corresponding increase in **cost** to the firm and the client, which in turn creates a real risk of losing clients along with competitive advantage.

Artificial Intelligence (AI) tools augment legal content, enabling arbitration lawyers to save time, keep costs low to clients, and thereby maintain a competitive advantage in the market.¹²

Because of this, Jus Mundi focuses its efforts beyond ensuring complete coverage of international law and arbitration, additionally providing lawyers with innovative AI and machine-learning tools to augment the value of legal content, such as the [Conflict Checker](#), [Directory of Arbitrators](#), and [Expert and Arbitration lawyer Search Filter](#) for cases. These tools meet the need of arbitration law firms to keep costs down while improving the chances of building a successful legal strategy for their clients through easy access to key information.

Jus Mundi's recent client surveys reveal that the Conflict Checker and Directory of Arbitrators have saved an average of 30 hours per junior

practitioner, per case. With an average of two junior practitioners on each case, at an average gross billable rate of €350.00 per hour, these two Jus Mundi features alone represent a potential cost to a client of over €21,000.00 per arbitrator due diligence.

The question of what will happen to arbitration law firms and the legal sector when AI is fully embraced depends on the aptitude of firms to adapt to the rapidly changing advisory landscape.

“Conflict Checker is a highly efficient tool that should supplement every arbitrator due diligence. It is not just valuable to counsel and parties but also helps increase transparency in arbitration.”



Arne Fuchs

Partner, Global Co-Chair International Arbitration & Dispute Resolution, McDermott Will & Emery

We agree that the traditional client-facing role that tailors a human reaction to a client's arbitration matters is unlikely to become automated.¹³

However, it is now without doubt that traditional models of legal advisory in the growing arbitration sector must be adapted to obtain greater value from AI for firms, ensuring in doing so that costs remain low for clients and competitive advantage is maintained.

¹² Drane, Simon, 'How Data Will Enable the Shift Towards the Productisation of Legal Services', *Legal Information Management* 19, no. 3 (2019): 140.

¹³ John Armour, Mari Sako, 'AI-enabled business models in legal services: from traditional law firms to next-generation law companies?', *Journal of Professions and Organization*, Volume 7, Issue 1, March 2020, 27.