

Alternative Business Structures: Fact Sheet 3

CONSUMER PROTECTION

What is the LSB doing?

The LSB is working with those who provide and need legal advice to reform and modernise the way in which it is provided. We want to ensure that the interests of consumers are at the heart of the legal services market as a whole.

How will the introduction of Alternative Business Structures benefit consumers?

Alternative Business Structures (ABS) will mean that legal services providers will no longer be tied to traditional working practices, but instead will have access to new investment and have a freer hand in shaping their services to meet the needs of consumers. Introducing these changes will lead to benefits for consumers, including the possibility of lower prices, a wider choice of providers and improved standards of services. This should make legal services more affordable and easier to get in the future.

Different types of ABS will bring different benefits such as:

- More convenience for the consumer from a one-stop shop for legal and other services;
- More competition to improve services and reduce prices;
- Entry of well known trusted brands, giving consumers confidence in the service being provided; and
- A greater use of the opportunities offered by new technology, such as telephone or web-based services.

How will consumers be protected when so much is changing?

We will ensure that there are safeguards so that consumers can make effective and informed choices, be confident about the quality and value of the service they receive and to know how to get redress when things go wrong. All ABS will have to be licensed. To get a licence we are proposing that they will have to:

- Check the backgrounds of owners and investors to ensure that they are fit to own and do not have a background that might cast doubt on their probity
- Ensure that the lawyer's duty to their client and the court prevails over any requirement to make a profit for shareholders
- Make sure their clients' money is protected
- Have adequate levels of insurance in case anything goes wrong
- Have named people who are responsible for ensuring that the ABS complies with its licence (with severe penalties if they do not)

There will also be a new independent Ombudsman (for ABS and non-ABS law firms) to consider complaints about poor service

I've heard a lot about the risks of ABS – what's your view?

We've yet to see any evidence that there are additional risks posed to consumers by ABS compared to using a traditional law firm:

- There are concerns that some new entrants may have lower prices, but also lower quality services. We think that many new entrants will have a trusted brand (either nationally or locally) and a reputation to uphold so they will ensure all the advice they give is high quality. There is a wide variety of quality now, and increased competition should help to push standards up, now down;
- Some have said that new entrants may focus on the most profitable areas of law leading to 'cherry picking' cases. Our view is that lawyers currently make decisions about what type of cases they want to take and where they want to base their office. These are normal commercial decisions;
- There is a view that access to justice will be threatened by the closure of small practices that cannot compete with more efficient ABS. Our view is that ABS will provide opportunities for local law firms and other businesses (for example a local solicitor and accountant) to go into partnership together, making it easier for their clients to get advice and leading to some cost savings. ABS will also be able to get external investment, for example to develop new technology such as phone and web-based legal advice. This would mean that more people will be able to get legal advice;
- People have argued that if barristers are allowed to join ABS there would be less choice for consumers because solicitors will only use the barristers in their own firm. We consider that the requirement for solicitors to always act in their client's best interest will ensure that this does not happen; and

- Some consider that there will be a loss of confidence if a number of new entrants go out of business. Our view is that whatever the economic conditions, some firms will not be able to compete and will shut down; it is not a regulator's job to keep inefficient firms going. A requirement to have insurance arrangements (as there is now) provides some protection for consumers and there will be (as there are now) provisions for the transfer of client files.

But no one can predict the future and so we will be monitoring developments after ABS starts in mid 2011 to see how these changes operate in practice.