

Regulating and Deregulating Lawyers

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Improving access to justice – can changing regulation help?

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Abstract

The regulation of lawyers in England and Wales changed dramatically in 2010 with the introduction of a new oversight regulator. This paper considers the role of the oversight regulator focusing on the proposed deregulation of ownership rules with the introduction of Alternative Business Structures in October 2011. Drawing on a recent qualitative study with small businesses this paper analyses the evidence from this sector of the market that there is an unmet demand for legal services from existing provision. The paper concludes that the ideas and capital from Alternative Business Structures could supplement and accelerate the developing market for firms providing alternatives to the traditional law firm.

Introduction: Regulatory Reform in England and Wales

The regulation of lawyers in England and Wales changed dramatically in 2010 with the introduction of a new oversight regulator – the Legal Services Board. The Legal Services Board aims to put the interests of consumers at the heart of legal services. Funded by, but wholly independent of, the legal profession, its three immediate major priorities are:

- Giving consumers more choice and lawyers new business opportunities by opening up the market to allow new types of legal business;
- Reassuring the public about the rigour of regulation by ensuring the frontline regulators have a common baseline of independence and competence;
- Better consumer redress when things go wrong through a new independent ombudsman for complaints - ensuring fair, effective and rapid resolution for everybody concerned.

The reforms leading to the emergence of the Legal Services Board in England and Wales started with a report by the Office of Fair Trading in 2001¹. This report questioned whether many of the rules designed to protect the professionalism and independence of the profession simply restricted competition acting against the interests of consumers. To consider how regulation should change to respond to the challenges raised in the Office of Fair Trading report, the UK Government commissioned an independent report into the regulation of legal services. The Clementi Report²

¹ Competition in the Professions, A Report by the Director General of Fair Trading, March 2001
(http://www.offt.gov.uk/shared_offt/reports/professional_bodies/oft328.pdf)

² <http://webarchive.nationalarchives.gov.uk/+http://www.legal-services-review.org.uk/content/report/report-chap.pdf>

was published in 2004 and recommended the introduction of an oversight regulator charged with introducing reform into the legal market and overseeing regulation carried out by independent regulators for each of the arms of the legal profession.

In 2007 the reports conclusions were introduced into statute with the Legal Services Act 2007³ giving the soon to be formed Legal Services Board its statutory basis and eight regulatory objectives:

- (a) protecting and promoting the public interest;
- (b) supporting the constitutional principle of the rule of law;
- (c) improving access to justice;
- (d) protecting and promoting the interests of consumers;
- (e) promoting competition in the provision of services;
- (f) encouraging an independent, strong, diverse and effective legal profession;
- (g) increasing public understanding of the citizen's legal rights and duties;
- (h) promoting and maintaining adherence to the professional principles.

Pursuit of these objectives as set out in the Legal Services Act 2007, gives the Legal Services Board a wide remit covering everything from the approval of new rules set by the approved regulators to seeking ways to improve the diversity of the legal profession. In its initial tasks the Legal Services Board has set up an independent Legal Ombudsman and a Consumer Panel charged with providing independent advice on the interests of consumers in the legal market. Pursuing the reforms set out and consulted in the Legal Services Act, the Legal Services Board has consulted on the detailed proposals to fundamentally change the ownership structures of legal firms allowing firms to be owned and run by non-lawyers and funded by capital markets. The introduction of such Alternative Business Structures (ABS) will commence in October 2011.

What is access to justice?

The new regulatory framework in E&W through the eight regulatory objectives puts the desire to improve access to justice at its heart. But when can we consider that everyone has access to justice? And what would it look like? We could argue that everyone can already get access to a lawyer, there are around 115,000 solicitors in England and Wales. Yet the fact that for many a lawyer is seen as unaffordable given the expected benefits may make us question whether access really is available to all? We might consider that a lawyer is simply a facilitator of justice but not in itself justice. Fair resolution of a legal problem is more important, while a wider discussion of what constitutes the principles of different forms of justice itself has been considered elsewhere (e.g. Rawls⁴, Wolf⁵) and is beyond the scope of this paper. It is fair to note though that the preferences of the administration and fairness of the justice for the individual must occur within the administrative, dispute resolution and affordability framework set by society. We must consider access to justice within the context of society wider choices.

³ http://www.uk-legislation.hmso.gov.uk/acts/acts2007/ukpga_20070029_en_1

⁴ John Rawls *A Theory of Justice* (Oxford: Oxford University Press, 1971)

⁵ Jonathan Wolff, 'Models of Distributive Justice', in *Empathy and Fairness*, Novartis Foundation, pp 165-170 (2005)

While access to justice is the acting out of the rule of law in particular or individual circumstances whether through information about rights or access to the courts, the other key concern is access to services. Can individuals get access to the services that both help them avoid encountering legal problems and where they do encounter legal problems can they access the people or services that help address these problems?

The important question posed for the new regulatory framework is therefore wider than simply how to increase access to lawyers – overall cost and efficiency of access is important both to society and the individual judging the value for money from the legal service. Regulation must consider how to increase access to the fair resolution of legal problems in whichever form works best for the individuals and society.

The prevalence of legal problems for individuals has been well documented (Genn⁶) most recently, the Legal Services Research Centre found that 36% of individuals had faced a civil justice or rights problem in the past three years⁷. The way that these problems were tackled by the individuals demonstrates the variety of approaches that individuals have to seeking access to justice and resolution of their legal problem. Despite this, fewer than half of individuals who had experienced civil justice problems (as defined within the English and Welsh Civil Justice Survey) managed to obtain advice successfully. Problems arising from legal issues can be much wider than simply legal problems e.g. health issues⁸, which suggests that solutions will need to be wider than simply legal.

Other studies have concentrated on a narrower definition of access to justice (e.g. Ministry of Justice⁹) looking at satisfaction with the traditional legal routes to justice. These studies assume that the success of reforms can be judged by considering questions (e.g. value for money, quality of service, resolution of problem) for those who are at least able to access a legal service in the first place.

Given the cost of employing highly trained lawyers to deliver advice other alternatives may not only make financial sense, both to individuals and the state, but also deliver better outcomes in some circumstances. In some circumstances for some individuals ignoring the problem may indeed be the best solution. Outcomes themselves can be measured in a number of different ways, were the problems solved, were the clients happy, was the service considered value for money etc. Of course, this question is particularly relevant in the current fiscal climate where pressures on government finances will inevitably be translated into further pressures on legal aid funding. This would seem particularly inevitable given that the legal aid bill that has risen by 5.3% a year from 1982/3 to 2008/9¹⁰. Finding new solutions that both increase access to justice and improve the cost efficiency of access to justice for all will be highly desirable.

The affordability of access to legal advice remains a significant challenge even in the presence of state funded legal aid. Legal aid undoubtedly increases access to legal services, but it has produced

⁶ Hazel Genn, *Paths to Justice: What People Do and Think About Going to Law*, (1999)

⁷ Legal Services Research Centre, *Civil Justice in England and Wales*, Report of the 2007 English and Welsh Civil and Social Justice Survey

⁸ Pleasence, P. et al. (2008) *The Health Cost of Civil Law Problems: Further Evidence of Links Between Civil Law Problems and Morbidity and the Consequential Use of Health Services*, 5(2) *Journal of Empirical Legal Studies*, pp.351-374

⁹ Ministry of Justice, *Baseline Survey to Assess the Impact of Legal Services Reform*,

Ministry of Justice Research Series 3/10, March 2010

¹⁰ <http://www.justice.gov.uk/news/newsrelease220310b.htm>

a U-shaped distribution of access to legal services¹¹ helping those on lower income get legal advice but doing nothing for those who find their income above the cut off for legal aid. Meanwhile for those with the highest wealth in society, access to justice remains easily obtainable. It is important in considering how we might increase access to justice to look holistically at the market and consider the needs of all, not just those who in other markets we might consider vulnerable. Furthermore, the presence of a U-shaped distribution of access provides strong anecdotal evidence of an access problem for those on middle incomes.

Clearly the problems with access show that it is not safe to look on the provision of legal services as something that can be achieved by a free market. Indeed this is reflected in the 237 page Legal Services Act 2007 replacing countless restrictions and regulations on the provision of legal services to ensure that the level and quality of legal services required continue to be provided to all. If the free market was believed to be the solution there would've no need for the act at all. The regulatory objectives, and the Act in full, are there precisely because free markets don't deliver those things that governments and, more broadly, society prioritises. But that fact that free market don't guarantee these things doesn't mean that free markets can't help. If a free market really couldn't help then surely the solution would be a state monopoly rather than freedom on entry for professionals but no one else.

But in accepting that this is not a traditional market that can operate with all the freedoms of a free market we must also question the role of legal aid within the market framework. We can accept that legal services is a market – albeit imperfect and certainly not free – legal aid is the mechanism by which the government prioritises its support to those not well served by the market. This suggests that legal aid is not a static funding mechanism but a dynamic model that must flex with the changing needs of consumers.

As in many complex markets where consumers have relatively little power, or experience when compared to the knowledge and skills of the suppliers, regulation of the market is seen as important for consumer protection. The regulatory landscape of legal services in England and Wales underwent a major change at the start of 2010 with the handing of formal powers to the Legal Services Board charged with overseeing the regulation of lawyers. This change has led to regulatory pressure to accelerate change already building in the market to reform the provision of legal services and offer new services tailored to the changing needs of consumers and promoting greater access to justice for all.

Do companies face problems accessing justice?

Almost all analysis of the challenge of improving access to justice has focused on the needs of retail customers, and in particular those on lower incomes either receiving legal aid or just above the legal aid threshold. Many of the challenges faced by companies attempting to meet their legal needs are likely to be significantly different from individual retail customers. Despite this they are still an important consumer group for the LSB to consider and it is essential that we ensure that they too have fair and efficient access to justice. It possible to hypothesise that smaller firms could face

¹¹ Income and advice seeking – a U-shaped distribution? Legal Services Research Centre – October 2008

similar challenges to those facing domestic customers, not least in the difficulty of seeking legal support when they have infrequent contact with legal services.

To explore the legal challenges facing small firms (in particular) and whether the current legal framework met their needs, the Legal Services Board commissioned AIA Research to conduct research with small firms. AIA Research held 10 Focus Groups with sole-practitioners and micro businesses (10 employees or fewer) in January 2010 (see Table 1 below)¹².

Table 1: Small Business Focus Groups

Audience	TOTAL (Groups)	Little/no experience of legal services	Recently used some form of legal services
Sole Traders, 'blue collar' industries	2	1	1
Sole Traders, 'grey collar' industries	2	1	1
Sole Traders, 'white collar' industries	2	1	1
Micro-businesses, 'blue/grey collar'	2	1	1
Micro-businesses, 'white collar'	2	1	1
<i>TOTAL GROUPS</i>	<i>10</i>	<i>5</i>	<i>5</i>

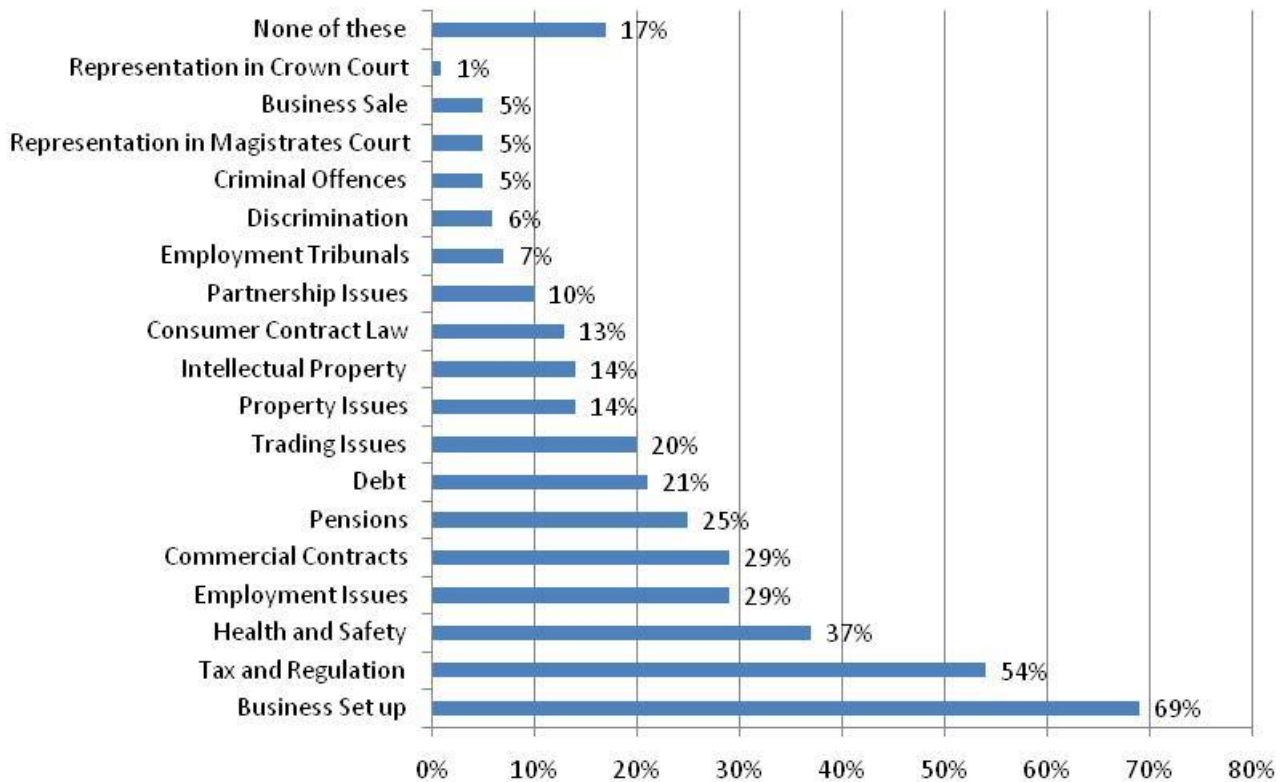
The researchers found that small businesses, perhaps unsurprisingly, face a number of legal issues. Like domestic customers, small firms often do not recognise that the issues they face are legal matters. In part this can be attributed to nebulous nature of laws in peoples lives that they often fail to categorise the issue as legal in nature or in its potential solution. However, perhaps more concerning for society in dealing with problems effectively some did not even realise that they had a problem at all. In general small firms indicated a desire to avoid using legal services and this persuaded many that they would be able to muddle through dealing with the issue without needing to resort to either formal or informal legal advice.

Without a doubt, the most pressing concern for all small businesses was the need to generate revenue and maintain cash-flow. Short-term concerns such as this dominate the thinking of most small firms, particularly sole-traders. As firms grow, taking on staff their horizons generally grow and medium and even long term strategies for growth become a serious consideration. Particularly for those without employees, strategies to generally avoid or ignore all administrative or legal burdens unless forced to confront the issue seemed common.

Alongside the qualitative study the researchers also carried out a short survey of small businesses to determine a hierarchy of issues facing small businesses (211 businesses responded). While these could all be described as legal issues, many small firms did not class them as legal issues and even where they did, they often attempted to avoid seeking formal legal advice to address them.

¹² Add reference to LSB research when published

Chart 1: Which of the following business issues have you had to deal with in the past?



As noted earlier, in practice a legal issue does not necessarily require the use of a lawyer, of key importance is the resolution of the problem to the satisfaction of the individual or business not how the problem reaches this resolution. But the evidence from this study was that small businesses were purposely avoiding using taking action for problems identified. The small businesses in this study considered legal advice to be expensive, serious and a last resort, informal legal advice was usually preferred, by many were uncertain where to turn or who to trust to help. Lawyers may not always be the most appropriate first point of contact on each of these matters, but the tendency identified to simply avoid any action was retrospectively seen by many as a mistake.

This research found that small firms, like retail customers, often try to muddle through with their legal problems hoping that the issues will pass. Unlike retail customers there is no legal aid for small firms despite the fact that for many cash flow problems (they noted particularly in current economic times) are often severe. With no legal safety net small firms fail to tackle the problems they face, despite in most cases facing legal problems that could be fairly straightforwardly tackled with a relatively simple legal advice. The consequences of this reluctance to deal with legal problems vary, from the problems solving themselves to the problems getting worse and in some cases threatening the business. Many firms seek to avoid the issues altogether by being reluctant to grow or shrinking back to become sole practitioners. These issues can have significant and widespread economic consequences and in the long run it is questionable whether the health and competitiveness of the UK economy is impacted?

Most businesses claimed that in the first instance when confronted by a legal problem they would consult with their informal network of friends, family, peers and colleagues before turning to a 'paid

for' option. White-collar professionals and longer established businesses tended to have built up a wider group of informal contacts or have specific 'go to' people for specific types of issue. While these routes were considered free and trustworthy they did not necessarily always resolve the issues definitely. Many businesses noted the growing importance of the internet as a source of preliminary research and help in filtering information before consulting with professionals. This mirrors the experience in many other markets over the past decade where the internet has helped reduce information asymmetry and empowered consumers in accessing goods and services. The internet is unlikely to replace lawyers, simply supplement their service improving consumers ability to maximise the benefit from legal advice.

Other support for small businesses was found from trade associations, legal helplines and in some cases Government departments. Generally, though the businesses included in this study found that the informal sources of help could not replace the feeling of certainty and finality delivered by professional legal advisors.

Whether the problems in accessing legal advice noted above arise from real problems in the availability of affordable advice or preconceptions based on previous experience or simply prejudice varies. When finally seeking legal advice commonly they will look for a recommendation, as they would do if they were seeking legal advice on a personal matter. Experience and availability led most firms in this research to use traditional lawyers giving face to face advice on an hourly charge. This was despite their perception of traditional advice being at a high and uncertain cost the resulting experiences left many reluctant to seek formal legal advice in future. This simply reinforces perceptions about knowledge asymmetry.

While overall the businesses included in this study relied and, for many, were disappointed with traditional legal services some firms had identified alternative suppliers of legal services that they believed were more suited to their needs. A small number of firms had identified and recommended online lawyers offering fixed price, and in their view affordable services. Others recommended government websites or simply relied on their accountant to handle their legal problems. The problem was not that these services weren't available, simply that many did not know they existed as the majority of legal services providers retained traditional business models. The suppliers of legal services have not reacted to the needs of small businesses in the numbers required – most businesses in this research had not recognised the availability of alternative types of formal legal service.

One of the challenges facing all concerned with improving access to justice is how to encourage the development of new models of delivery of the legal advice with efficiency savings that would make businesses and individuals more willing to take early action once they realise that they have a legal issue. Even then, small firms recognise the challenge they present in communicating the available services to them. Lawyers changing their business model to meet the needs of customers have an opportunity to expand demand for legal services or other resolution services growing the overall size of the market while helping more people avoid serious legal problems.

The problems identified by this research with small firms are familiar problems to those looking at access to justice. Concentration of access, meaning access to a 'traditional' lawyer has bypassed changing consumer needs. Whether for small firms or individuals, access to justice has to be framed

wider with a diverse set of professionals available for the diverse set of problems that affect people and businesses.

Can Alternative Business Structures (ABS) help increase access to justice?

Existing regulation of legal services restricts the legal forms and ownership structures of legal practices, for example solicitor firms are partnerships where the partners must be solicitors. ABS rules will take away many of these restrictions. They will allow a wider variety of ownership structures for legal firms. In future legal firms will be able to raise capital for their businesses from the capital markets or join forces with a wider set of individuals with a range of different skills. Since 2009 reforms to legal services have introduced new Legal Disciplinary Practices (LDPs) which allow up to 25% of partners or equivalent managers to be non-lawyers, though do not allow any external ownership. While these reforms have been popular with some firms, the restriction on external ownership continues to place significant barriers to the development of legal firms. In effect, the introduction of ABS will lead to a significant change in the regulation of legal services.

This change in regulation is significant, but even the existing provision of legal services varies significantly. Legal services are not provided as a single homogenous entity with a single standard and model of service while the majority of firms are small many operate significantly different business models to the traditional 'high street' firm. Indeed the research with small businesses revealed a market where a few firms had located providers offering models of legal services remarkably different to that commonly seen on the 'high-street'. The introduction of ABS into legal services should therefore not be seen as a big bang that will instantly revolutionise the provision of legal services – some firms have already moved from the traditional form of business. Alongside the introduction of ABS, changes in legal aid funding, challenges in the Professional Indemnity Insurance market, changing technology etc. will all have a role in shaping the future of legal services.

How will ABS affect the provision of legal services? It is possible to speculate both from the new options available to firms and from some of the changes that are already occurring even before this reform is introduced. Firms in future will have greater flexibility to find business structures that work best and deliver efficient cost effective legal services. Legal firms will be able to benefit from new capital and this could bring new ideas, management and skill sets over time into legal firms. While these are all the types of changes that many firms are already introducing, the scope for opportunities to experiment with new ways of doing business will change dramatically.

The opportunities for ABS firms to emerge are significant and the resulting market could look very different. For instance it is certainly not given that an ABS firm will be run by lawyers. While the Head of Legal Practice must be a lawyer other positions and indeed all of the owners of the business do not necessarily have to be lawyers. Future legal businesses could be owned and managed by a mixture of professions or businesses from other professions could simply hire some lawyers and offer legal services themselves. This could facilitate interesting new firms better able to manage the varied needs of customers, managing client flow between services, cross-selling services and ensuring clients get all the services and support they need. Other potential models could look similar to the networks/service firms used by small Independent Financial Advisers or investors looking for opportunities to invest in local law firms.

There are already significant commercial pressures within law firms that are changing the way that firms do business. Regulations currently restrict the existing response of firms in the market through blocking investment that could be used to drive down costs or taking a coherent approach to the provision of non-reserved/reserved services. Firms are already looking to address these challenges in the market, new firms are emerging, some in response to economic models such as referral fees, other firms in response to other commercial pressure creating virtual law firms. ABS will help facilitate firms' response.

While many of these opportunities are not new, the availability of capital for investment and the potential rewards available to professional managers to make these changes are altered by the introduction of ABS. Given a total turnover of a little under £26bn in 2008, the legal sector will look an attractive market for many to enter once ownership rules are relaxed. Even without significant commercial pressures to reduce costs or increase efficiency today's return on equity in law firms may already look attractive to many investors. This though is perhaps an area for further study by academics?

One particular opportunity for the reforming firms may come through changing the delivery of legal services by altering who supplies the service and how the service is delivered. Traditionally solicitors firms employ solicitors and a variety of others with varying degrees of legal qualification, but largely much of the work is undertaken by qualified solicitors. This is despite the fact that much of the work done by a law firm is non-reserved in other words it is not legally required for the work to be done by a an authorised person (i.e. lawyer). Potentially stricter separation between reserved and non-reserved functions with non-reserved functions undertaken by lower cost non-lawyers could reduce costs and increase the profitability of legal firms. Again this can be done already, but ABS could introduce new capital, management and ideas that could drive such changes through the market.

Perhaps most interesting is the possibility that firms from outside the existing legal profession may seek to set up and provide legal services. In fact few areas of law are reserved activities where a qualified lawyer is required to undertake the task. This leaves relatively rich pickings for a firm looking to reengineer the process of delivering legal services with the potential for significant efficiency gains.

As noted above, ABS while offering some new opportunity in fact builds largely on changes that are already taking place in the market – indeed this is probably one of the key strengths on this particular reform. Multi-disciplinary practices are already possible – earlier this year the Bar Council changed their rules to allow Barristers to become partners in solicitor's firms. Swiftly following the announcement of the rule change the first joint Solicitor/Barrister partnerships were announced. But these formal rule changes are simply the tip of an iceberg of change occurring within the delivery of legal services. The change to solicitor rules in 2004 to allow referral fees has opened up the market to an array of relationships between solicitors and many types of businesses who either have a better understanding of marketing or simply better access to clients. The market has already seen changes from wills sold through banks to claims management companies advertising for clients on t.v.

The potential availability of new funding for legal firms will not automatically lead to all firms closing their partnerships and setting up as new Public Limited Companies. Some firms may be waiting for the opening up of the market ready and waiting with a new business model – arrangements made

between legal and non-legal firms seem likely to lead to the first ABS firms once the reforms are in place. Further changes are likely over time as firms get used to the new regulations. Yet more firms with existing profitable business are unlikely to change business structures unless the economic or professional benefit. ABS does not impose changes on the market simply open up more opportunities for those who wish to change. It is unlikely that following the introduction of ABS there will be a revolution in the supply of legal services, ABS will undoubtedly provide new opportunities that for some may prove attractive.

Many lawyers have expressed the concern that introducing market pressures into the legal profession risks undermining the very ethics of the sector. The provision of justice is after all one of the very cornerstones of society, if through introducing a profit motive we undermine this then surely the reforms have failed. While opening up more opportunities for law firms, strict regulations will continue to be imposed to ensure the high professional standards expected of lawyers and law firms are maintained. ABS firms will be regulated by new Licensing Authorities, all will be required to have a lawyer acting at Head of Legal Practice (HoLP) and a Head of Finance and Administration (HoFA). An ownership test set out in the Legal Services Act 2007 and similar to that used within the Financial Services Act will be used to ensure that those who hold influence over ABS are fit and proper to do so.

Returning to the central premise that we want to increase access to justice, regulation must ensure that this justice is available to all. Applying economics and market principles without effective regulation and where necessary government intervention risks excluding those who either lack the funds or fall outside of the norm. Introducing new competition, capital and management is fine but if those with legal problems need local lawyers and want to deal with them face to face will ABS actually reduce access to justice for some? Generally local legal advice has been delivered by the small 'high street' firms that would seem most at risk from the significant changes affecting the market – from ABS, changes in legal aid, insurance issues etc.

It is likely that the make up of the firms providing legal aid will change over time. But is it right to assume that access to justice will continue in its traditional way with face to face delivery of formal legal advice from a qualified lawyer? The opportunities presented by ABS are to break down this standard interpretation of how justice is delivered and instead think about alternative ways of delivering services to consumers. The routes to justice for many are already incredibly varied (from courts to regulation and beyond), but the legal profession has been fairly slow in reacting to the changes occurring around them. As the research with small businesses demonstrated, many see legal services are expensive and just not-for-them. Problems are avoided, ignored and left until the problem becomes so great it cannot be ignored any longer. This unmet demand for help represents an opportunity for the legal market to develop affordable services delivered in ways that are attractive to people and businesses. For many face-to-face legal advice may one day become a much rarer event, but instead ABS may help the development of services that do meet the changing needs of consumers and help them access justice earlier.

For those who the market cannot or will not serve legal aid will need to continue to support. This is likely to require significant further changes to the way that legal aid works. But this is beyond the scope of this paper.

What does our research tell us about the types of service that small businesses want and will ABS help deliver? Firstly the clear concern for small businesses was the cost of legal advice – whether real or perceived. Greater clarity of pricing structures and transparent pricing would undoubtedly be popular reforms. For many businesses though the cost of legal advice will simply be too high and representing poor value for money. Secondly small businesses wanted a wider range of services. Efficiency savings through greater automation, better use of technology and alternative delivery mechanisms are both essential and probably desirable features of legal advice for many small businesses. In many circumstances face-to-face delivery of legal advice is desirable, but as our research demonstrated, in other circumstances alternatives such as internet delivery was in fact preferred.

These changes are already being delivered by some legal practices, they are certainly being delivered in other sectors of the economy. Even without the introduction of ABS the trends to deliver legal services in different ways are likely to continue. But through the addition of experience and management techniques available in other sectors of the economy the changes to the delivery of legal advice are likely to accelerate.

Conclusion

The changing regulation of legal services in England and Wales is introducing legal reforms that are likely to accelerate existing trends that are changing the way that consumers and businesses access justice. Research evidence from focus groups with small businesses highlights the potential demand for alternative legal services better designed to meet the needs of small firms. For those firms able to provide these services there is a clear market opportunity for growth and the potential to increase access to justice.

Changes to regulation like the introduction of ABS are necessary as consumers needs are changing without dynamic regulation there is a risk that access to justice could be reduced. New services are being developed by legal firms using a mixture of traditional and very modern approaches to match their services to consumer needs. Our research demonstrated with particular focus on small businesses the gap that exists between the potential demand for legal services and the current markets ability to deliver services to meet this demand. While the new services are being developed the market in the most part continues to deliver traditional services expecting the clients to change.

The Legal Services Board has been mandated to consider access when pursuing its eight regulatory objectives. Both the LSB and the Legal Services Act 2007 considered that some deregulation to the rules around the structure and ownership of law firms is needed to ensure that access to legal services is improved. Allowing capital and modern business practices to enter the legal services market should drive changes that open up new ideas and methods of delivering legal services. Undoubtedly, this may lead to further rethinking on the role for the state through legal aid, but the changes offer lawyers the chance to expand the market for legal services and expand access to justice in all its forms.