Introduction

Regulation of Legal Systems and Lawyers

- The general direction of movement has been from local→ to global
- This talk focuses on trends in global lawyer regulatory initiatives
- It will be a “whirlwind” tour
Some Observations about Regulation

- Globalization has changed the manner in which legal services regulators operate

- Globalization has changed the content of legal services regulations

- The new paradigm is “Lawyers as Service Providers”
  -- This paradigm influences WHO regulates lawyers
  -- It influences HOW they are regulated (cross-culturally and cross-professionally)


Regulatory Development Trends

1. Global trade agreements
2. UK and Global Regulatory Reform Initiatives
3. Global antitrust (competition) initiatives
4. Alternative Business Structure (ABS) Developments
5. Global money laundering & anti-terrorism laws
6. Global legal education initiatives
7. Global MJP, recognition & lawyer admission
8. Global lawyer accountability initiatives
9. Market forces: (e.g. outsourcing, litigation financing)
More on these Regulatory Developments

For additional info: See the urls at the end of this talk plus my topic-specific talks

http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm

Trade Agreements

Trade agreements usually have sections on: transparency, mutual recognition, MFN, market access, national treatment, domestic regulation disciplines, standstill provisions. There are many bilateral agreements as well as GATS and regional agreements.

http://www.wto.org/english/tratop_e/serv_e/legal_e/legal_e.htm
http://www.abanet.org/cpr/gats/home.html
UK Regulatory Reform Initiatives

Many are watching these initiatives with interest

Legal Regulation Review
An Independent Review of the Regulation of Law Firms by the Rt Hon Lord Hunt of Wirral MAE
www.legalregulationreview.com

Other Regulatory Reform Initiatives

Regulatory Reform

OECD

APEC

Asia-Pacific Economic Cooperation

Bureau de la concurrence Canada

Competition Bureau Canada

Global Antitrust Initiatives – Part 1

Antitrust authorities have targeted rules on: fees, advertising, entry requirements, UPL, alternative business structures, & regulatory structure.

Global Antitrust Initiatives – Part 2

http://www.ccbe.eu/index.php?id=94&id_comite=4&L=0
Alternative Business Structures (ABS)

[UK] Legal Services Act 2007

http://www.sra.org.uk/sra/legal-services-act.page

Terrorism-Money Laundering Initiatives

The intergovernmental FATF Gatekeeper Initiative is relevant to lawyer confidentiality and other rules; the FATF recently adopted a KYC- risk-based approach guidance for legal professionals. Several countries have changed their lawyer rules; expect more.
Global Legal Education Initiatives

Global legal education initiatives address recognition, curriculum, quality assurance, etc.

- International Association of Law Schools
- European Law Faculties Association
- Jindal Global Law School
- Peking University School of Transnational Law
- LSAC
- CCBE
- ABA
- American Bar Association
- Conference of Chief Justices

http://www.ccbe.eu/index.php?id=94&id_comite=13&L=0
http://www.ialsnet.org/
http://www.ehea.info/


MJP, Recognition & Lawyer Admission

Because of globalization, countries face issues of foreign lawyer MJP, temporary and limited (FLC) admission, and recognition.

- European Union
- Australia
- Canada
- India
- United States
- National Organization of Bar Counsel

http://www.abanet.org/cpr/gats/misc.html
http://www.ccbe.eu/index.php?id=94&id_comite=8&L=0

ABA MJP Resolutions 8 & 9

Lawyer Accountability Initiatives

Accountability concerns are one reason for recent lawyer discipline cooperation initiatives

Resolution 2 (Jan. 2009) In Support of Cooperation Among U.S. and European Disciplinary Bodies

See also SSRN Abstract 1371098 (India) & 1631256 (int'l standards)

Market Forces

Recent market forces include ABS, legal process outsourcing, and [international] third party litigation financing

Law Without Walls: Jan. 2011, Laurel Terry, p. 15

Law Without Walls: Jan. 2011, Laurel Terry, p. 16
Conclusion

1. Lawyer regulation is very much in flux
2. This regulation is subject to global influences
3. These influences are likely to be significant
4. **THEREFORE**: It is important to monitor, rather than ignore, these developments
5. It is important to have [even better] cross-cultural and cross-professional understandings

To Read More About....

**My Introductory Lawyer Regulation Comments**


Terry, *The Impact of Treating the Legal Profession as “Service Providers*”, 2008 J. Prof. Lawyer 189

All articles (and selected powerpoints) located here: [http://www.personal.psu.edu/faculty/l/s/lst3/](http://www.personal.psu.edu/faculty/l/s/lst3/)
To Read More About ....

Global Trade Agreements

Office of the US Trade Representative (USTR), Trade Agreements Page (with many links),
http://www.ustr.gov/Trade_Agreements/Section_Index.html


Asia Pacific Economic Cooperation (APEC), http://www.apec.org/

ABA GATS-Legal Services Webpage,
http://www.abanet.org/cpr/gats/home.html

http://www.personal.psu.edu/faculty/l/s/lst3/

To Read More About …

UK Regulatory Reform Initiatives


Solicitors Regulation Authority Consultations on the Legal Services Act,
http://www.sra.org.uk/sra/consultations.page

Law Society of England and Wales (includes links to the Hunt and Smedley reports), http://www.lawsociety.org.uk/InfluencingLaw/policyinresponse.law

5-09 Conference of Chief Justices Conference Webpage,

NSW Office of the Legal Commissioner, Speeches and Papers & menu links,

Georgetown Symposium, The Future of the Global Law Firm (4-08),
http://www.law.georgetown.edu/LegalProfession/GlobalLawFirm.html

Selected Articles in the ABA Canons Centennial Symposium,
http://www.abanet.org/cpr/pubs/symposium.html

Laurel Terry “Presentations” Page (includes UK, EU & 5.1 developments),
http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm
To Read More About …

Global Regulatory Reform

OECD Regulatory Reform Project,
http://www.oecd.org/topic/0,3373,en_2649_37421_1_1_1_1_37421,00.html

OECD Guiding Principles for Regulatory Quality & Performance,
http://www.oecd.org/dataoecd/19/51/37318586.pdf

OECD, Homepage: Indicators of Regulatory Conditions in Professional Services Sectors,
http://www.oecd.org/document/24/0,3343,en_2649_34833_35858776_1_1_1_37463,00.html

APEC-OECD Regulatory Reform,
http://www.oecd.org/document/25/0,3343,en_2649_34141_2397017_1_1_1_37421,00.html

Regulatory Reform section in Canada’s 2007 Self-Regulated Professions Report, pp. 39-41

To Read More About …

Global Antitrust Initiatives

EU DG Competition, Professional Services Sector,
http://ec.europa.eu/comm/competition/sectors/professional_services/overview_en.html

OECD, Competition in Professional Services, DAFEE/CLP(2000)2,

OECD, Competitive Restrictions in Legal Professions, DAF/COMP (2007)39,
http://www.oecd.org/dataoecd/12/38/40080343.pdf

Competition Bureau Canada, Self-Regulated Professions - Balancing Competition and Regulation (Dec. 2007),

CCBE Competition Committee,
http://www.ccbe.eu/index.php?id=94&id_comite=4&L=0

US Federal Trade Commission Letters regarding the Practice of Law,
http://www.ftc.gov/opp/advocacy_subject.shtm

See Laurel Terry articles and presentations:
http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm
To Read More About…

**ABS**

New South Wales, Australia, Incorporated Legal Practices,

UK Legal Services Reform (and the Oct. 2007 UK Legal Services Act),
http://www.justice.gov.uk/whatwedo/legalservicesreform.htm and
http://www.dca.gov.uk/legalsys/isreform.htm

EU DG Competition, *Professional Services Sector*,
http://ec.europa.eu/comm/competition/sectors/professional_services/overview_en.html

http://www.law.georgetown.edu/LegalProfession/Papers.html

And the items listed on the previous slide entitled: “To Read More About UK Regulatory Reform Initiatives”

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To Read More About…

**Money Laundering & Anti-Terrorism Initiatives**

Financial Action Task Force (FATF),
http://www.fatf-gafi.org

FATF Risk-Based Approach Guidance for Legal Professionals (Oct. 23, 2008),

Fed. Law. Soc. Canada, Model “Know Your Client” Rule,

UK Money Laundering and “Know Your Client” Rules,
http://www.lawsociety.org.uk/productsandservices/practicenotes/aml/453.article


IBA Webpage (including symposium articles):
http://www.anti-moneylaundering.org/

http://www.anti-moneylaundering.org/AMLResources.aspx

ABA Task Force on Gatekeeper Regulation and the Profession,
http://www.abanet.org/criminaljustice/taskforce/home.html

EU Money Laundering Directives,
http://www.ccbe.eu/index.php?id=94&id_comite=20&L=0

Law Council of Australia, Anti-Money Laundering Reforms,
To Read More About…

Global Legal Education

International Association of Law Schools, http://www.ialsnet.org/

The Law School Admissions Council and the National Organization of Bar Counsel now include Canadian and Australian members, http://www.nobc.org/ and http://www.lsac.org/


Bologna-Benelux Secretariat Webpage (with many links)
http://www.ond.vlaanderen.be/hogeronderwijs/bologna/


ELFA QAACAS Committee, http://elixir.bham.ac.uk/quaacas/

Prof. Lonbay’s EU Recognition website, http://elixir.bham.ac.uk/menu/country/default.htm


Peking University School of Transnational Law, http://www.law.pku.edu.cn/

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To Read More About …

Global MJP, Recognition, Lawyer Admission: Part 1


ABA Multijurisdictional Practice Recommendations 8 and 9, http://www.abanet.org/cpr/mjp/home.html


To Read More About...

Global MJP, Recognition, Lawyer Admission: Part 2


To Read More About....

Lawyer Accountability (Discipline) Initiatives

CCBE, Standing Committee Resolution (February 2009)


To Read More About…

**Market Forces Including Outsourcing and Litigation Funding**


*International Outsourcing of the Legal Profession, UC Berkeley (April 2008),* [http://www.law.berkeley.edu/centers/gcl/outsource/resources.html](http://www.law.berkeley.edu/centers/gcl/outsource/resources.html)

*Off-Shoring Legal Services, Association of Professional Responsibility Lawyers Conference (May 2008),* [http://www.aprl.net/Programs/program2008_05.htm](http://www.aprl.net/Programs/program2008_05.htm)

Outside investment in litigation, e.g., Juridica, OmniBridgeway, CFI, Burford Advisors, [http://www.juridica.co.uk](http://www.juridica.co.uk) and [http://www.burfadvisors.com/index.html](http://www.burfadvisors.com/index.html) and [http://www.omnibridgeway.com/](http://www.omnibridgeway.com/)


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To Read More About It…

**By Laurel Terry**

Global Legal Practice Resources Webpage: [http://www.personal.psu.edu/faculty/l/s/lst3/globalprac.htm](http://www.personal.psu.edu/faculty/l/s/lst3/globalprac.htm)

Links to Publications by Topic: [http://www.personal.psu.edu/faculty/l/s/lst3/](http://www.personal.psu.edu/faculty/l/s/lst3/)

Presentations Page: [http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm](http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm)


Presentations and publications address:

- the GATS, the impact of globalization on legal services, ABS, MDPs, competition initiatives, the Bologna Process, & outsourcing