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

- Global trade agreements
- UK and Global Regulatory Reform Initiatives
- Global antitrust (competition) initiatives
- Alternative Business Structure (ABS) Developments
- Global money laundering & anti-terrorism laws
- Global legal education initiatives
- Global MJP, recognition & lawyer admission
- Global lawyer accountability initiatives
- 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

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.
UK Regulatory Reform Initiatives

Many are watching these initiatives with interest

Other Regulatory Reform Initiatives

Regulatory Reform
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

International Institute of Law Association Chief Executives
Alternative Business Structures (ABS)

[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.

[Financial Action Task Force]
Global Legal Education Initiatives

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

RESOLUTIONS 7 & 8 (2007)

MJP, Recognition & Lawyer Admission

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

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

India: See SSRN Abstract 1371098

CCBE Standing Committee Resolution (February 2009)

Market Forces

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

- Lawyer regulation is very much in flux
- This regulation is subject to global influences
- These influences are likely to be significant
- **THEREFORE**: It is important to monitor, rather than ignore, these developments
- 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/
**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


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**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,

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, DAFFE/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**


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**


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


To Read More About…

Global Legal Education

International Association of Law Schools, [http://www.ialsnet.org/](http://www.ialsnet.org/)


Bologna-Benelux Secretariat Webpage (with many links)

CCBE Training Committee Webpage,

European Law Faculties Association (ELFA) Tuning Project,

ELFA QUAACAS Committee, [http://elixir.bham.ac.uk/qaacas/](http://elixir.bham.ac.uk/qaacas/)

Prof. Lonbay's EU Recognition website, [http://elixir.bham.ac.uk/menu/country/default.htm](http://elixir.bham.ac.uk/menu/country/default.htm)


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

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](http://www.abanet.org/cpr/mjp/home.html)


Global MJP, Recognition, Lawyer Admission: Part 2


Canada National Accreditation Committee,


Canada’s consultation on draft recognition rules (Due 12-08),

Australia’s National Profession Project,


Conference of Chief Justices’ MJP Resolutions,
http://ccj.ncsc.dni.us/LegalEducationResols.html

International Bar Association’s 2000 Resolution on “Recognition” of Foreign Lawyers’ Qualifications,

ABA CEELI, Globalization, Legal Education, GATS, and Recognition,

Lawyer Accountability (Discipline) Initiatives

Conference of Chief Justices, Resolution 2, In Support of Cooperation Among U.S. and European Disciplinary Bodies (Jan. 2009),
http://ccj.ncsc.dni.us/2-ProposedCCBEResolution1-6-09.pdf

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

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


See Prism Legal for a list of LPO clients, law firms and providers; see also Brown and Wilson’s Black Book of Outsourcing & annual lists

To Read More About It…

By Laurel Terry

Global Legal Practice Resources Webpage:
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/

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

SSRN page: http://ssrn.com/author=340745

Presentations and publications address:
the GATS, the impact of globalization on legal services, ABS, MDPs, competition initiatives, the Bologna Process, & outsourcing