

***Facing a Transformed Global Legal
Landscape:***
Introduction to the UK Legal Services Act

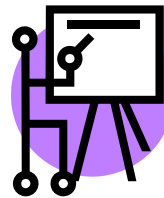
Professor Laurel S. Terry
Penn State Dickinson School of Law
Email: LTerry@psu.edu
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Overview

- Background of the 2007 UK Legal Services Act (LSA)
- Structure of the LSA
- Implementation of the LSA
- Likely future developments
- The LSA in a global context
- Implications for U.S. lawyers and firms



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Background of the 2007 LSA

- Impetus: the 2001 UK Office of Fair Trading Report and problems with the lawyer complaint system
- Framework: Based on the Dec. 2004 Clementi Report
- Legislation: Multi-year drafting process
- Became Final: Received royal assent Oct. 30, 2007
 - The LSA applies to England and Wales only
 - It has ***radically changed*** the lawyer regulatory structure

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Structure of the Legal Services Act

1. Creates a new Legal Services Board (LSB)
2. Establishes the Office for Legal Complaints, which will:
 - administer an ombudsman scheme to deal with all consumer complaints
 - be chaired by a non-lawyer and have a non-lawyer majority
3. ***Permits*** (but doesn't require) alternative business structures: LDPs, outside equity, and publicly-traded firms

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The Legal Services Board:

- is independent of the government & legal profession
- must have a non-lawyer majority & non-lawyer chair
- provides a single independent oversight regulator for the various legal professions
- regulates the “front-line” regulators
- regulates lawyers and firms doing “reserved” work
- regulates according to specified objectives

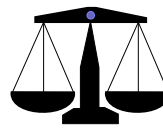
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Acceptable Regulatory Objectives:

- protect and promote the public interest
- support the rule of law
- improve access to justice
- protect and promote the interests of consumers
- promote competition in the provision of legal services
- encourage an independent, strong, diverse and effective legal profession
- increase public understanding of citizens’ legal rights & duties
- promote & maintain adherence to professional principles



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LSA Implementation

- The Legal Services Board (LSB) is now active
 - Chair David Edmonds took office May 2008 (until 5-2011)
 - 9 new board members took office 9-1-08 (for 3 year terms)
- The LSB hopes to be up and running by early 2010
- Right now, the Solicitors Regulatory Authority & Bar Standards Board are “approved regulators”
- SRA & BSB have conducted extensive consultations
- SRA issued LDP (and other) regulations that take effect March 2009 (if approved)

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What is an LDP?

(Legal Disciplinary Practice)



- This term was used in the Clementi Report
- LDPs offer legal services
- LDPs may have up to 25% non-lawyer owners or managers and will be regulated by the SRA
- There can be no external investment in an LDP
- SRA has drafted regulations to permit and regulate LDPs, effective March 2009
 - These changes still need final approval

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What is *ABS*?

- *ABS* refers to “alternative business structures”
- *ABS* could be adopted in many forms
- The term includes multidisciplinary practices offering legal and non-legal services
- *ABS* rules might allow non-lawyers, including commercial firms, to own law firms
- “Tesco law” is possible!



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ABS-related Future Developments

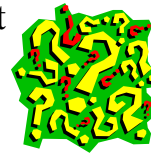
- LSB should be fully operational by early 2010
- *ABS* regulations aren't likely until late 2011 or 2012
- If regs are adopted, LSB will decide whether the SRA and BSB will become *ABS* licensing authorities
- Despite this...there already is UK investment interest
- See also: April 2008 predictions about UK firms' use of any new LDP and *ABS* rules

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Other Future Developments

- Firm-based regulation begins March 2009
- Solo practitioner regulation begins July 2009
- Both will receive “passporting” letters
- SRA has consulted (and may issue new regulations) on numerous issues including:
 - the Qualified Lawyer’s Transfer Test
 - compensation fund rules
 - trainee salaries



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Global Context of the LSA



- **Australia:** Developments started in 1994; Australia now has MDPs and several publicly traded law firms
- **OECD:** *Regulatory Principles; Competition Reports on Professional Services* (2000) & *Legal Services* (2007)
- **EU:** *Professional Services Competition Initiative* focused on five areas including *ABS* (see 2004/2005 Reports)
- **Canada:** Dec. 2007 *Self-Regulated Professionals Review* includes MDPs but not *ABS* in report
- **France:** in 7-08, announced a Clementi-like review

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Implications for US Lawyers & Firms

- US lawyers are regulated by US states
- No state permits publicly traded law firms
- Only DC permits MDPs and they're limited
- Many think *ABS* can't or won't happen in the US
- BUT...note worldwide regulator persistence
- There are competing market forces & views
 - ▶ This development could "jump the pond"
 - ▶ My advice: Be prepared to respond



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To Read More About It...

- **UK Government websites on Legal Services Reform**,
<http://www.justice.gov.uk/whatwedo/legalservicesreform.htm> and
<http://www.dca.gov.uk/legalsys/lreform.htm>
- **The Law Society's Legal Services Reform Links Page**,
<http://www.lawsociety.org.uk/newsandevents/news/majorcampaigns/view=newsartic le.law?CAMPAIGNSID=169105>
- **Solicitors Regulatory Authority Consultations**,
<http://www.sra.org.uk/sra/consultations.page>
- **Bar Standards Board Consultations**,
<http://www.barstandardsboard.org.uk/consultations/>
- **For citations to global developments, see articles on Prof. Terry's webpage**, <http://www.personal.psu.edu/faculty/l/s/lst3/presentations.htm>
- **See Georgetown Symposium, The Future of the Global Law Firm**,
<http://www.law.georgetown.edu/LegalProfession/Papers.html>
- **See Prof. Cone's Northwestern article and Maute, Paton, & Terry ABA Canons Centennial articles**, <http://www.abanet.org/cpr/centennial.html>



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To Read More About It (cont.)

- **New South Wales, Australia's Office of Legal Services Commissioner, Incorporated Legal Practices**,
http://www.lawlink.nsw.gov.au/lawlink/olsc/ll_olsc.nsf/pages/OLSC_ilp
- **EU DG Competition, Professional Services Sector**,
http://ec.europa.eu/comm/competition/sectors/professional_services/overview_en.html
- **OECD, Guiding Principles for Regulatory Quality and Performance (2005)**, www.oecd.org/dataoecd/19/51/37318586.pdf
- **OECD, Competition in Professional Services**, DAF/CLP(2000)2,
<http://www.oecd.org/dataoecd/35/4/1920231.pdf>
- **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)**,
<http://www.competitionbureau.gc.ca/epic/site/cb-bc.nsf/en/02523e.html>

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