

STRUCTURAL REFORM OF THE NZ PROFESSION

Lawyers and Conveyancers Bill is not the end, rather the beginning.

(Mar 06)

Any lawyer who considers the final reading of the Bill (in the last week of February) to be a 'way-point' in legal services reform in NZ which will now quietly go away and 'normal service will be resumed', may be in for a rude awakening.

The Bill is likely to be the start of an accelerating continuum which, if overseas experience is a guide, will lead to far reaching reforms of the very basis on which legal services are delivered to consumers. The starting point is acceptance and recognition of the paramount position of the consumer (client) in the legal services supply chain. It is substantially more than simply having to "provide clients in advance with information on the principal aspects of client service *including the basis on which fees will be charged*" (my italics) as specified in the Bill. It may herald the dawning of an entirely new basis of delivering legal services.

One major reform, if implemented, may turn out to be to the advantage of any lawyer who is a partner. At present in NZ and Australia most partners are unable to leverage cash from the equity in their firms. I have heard some senior members of the profession (who should know better) sounding off on this topic and making plainly daft assertions about the role of law firms. Suggestions that law firms are only able to deliver legal services to clients and income to partners without any *value-building* in the practice has long been accepted as normal. Practitioners holding these views are seriously out of touch and need to get informed about how the service delivery model is changing. I have written before on the growth of 'virtual firms' and how their cost base can be 30%-50% below the conventional firm. However, it is more than just a cut-down law firm operating on the web; a whole new range of options is now available to practitioners overseas. It started with Limited Liability Partnerships in the US which has subsequently spread to the EU and Australia. The next move will see firms able to sell their equity to raise money for expansion or even to float on the stock market. A White Paper published in September 2005 in England refers to the benefits for consumers of 'Alternative Business Structures' (ABS) for delivering legal and other services. Later this year it will be possible for non-lawyers to invest in ABS and even own these structures outright. Safeguards are to be put in place to ensure the criminal fraternity are not able to get their hands on law firms and the whole consumer complaints regime is to be overhauled with a new structure driven by a lay majority.

This is a development LegalBestPractice cannot wait to see in operation. Once owners of law firms become subject to transparency of operational performance and have to make returns to shareholders the productivity levels that have stalled at their present level for some 20 years will move ahead. Whilst it is speculative the outcomes of independently owned ABS will in all probability include:

- Fewer partners per firm (Public companies don't have dozens or hundreds of directors)
- HR leverage will have to change to deliver increased profits.
- Charging rates will come into the public domain
- Consumer prices will fall – reflecting new economies of scale
- Consumer choice will increase as firms will have to market themselves more competitively
- Consumer confidence will increase from greater transparency and the likelihood of multi-discipline service provision (a.k.a. the one stop shop). Some wag in England has dubbed this last component as 'Tesco Law'.

It is not all consumer-driven; the English reforms have been designed to benefit the profession in equal measure:

- Increased access to finance will stimulate investment in business development projects and deliver effective means to fund retirement.
- Commercial risk will be better spread and rates of return will be controlled by market forces which may result in lower prices to consumers without corresponding falls in personal incomes. (Present ROI figures may fall from up to 100% p.a. to a more usual 10% - 20% as seen in other businesses.)
- Synergies may develop with those who are now perceived as competitors – banks, insurers – who may well seek to offer integrated services in concert with lawyers.
- With no constraints on profit distribution any staff member can share in profits – this may be a significant stimulus to recruitment and retention.
- New career structures should provide stimulus for young lawyers to stay in the 'new' profession.

One negative outcome may see the demise of the small single-handed firms. They will have little capacity to compete in a marketplace dominated by corporate owned multiple service providers who are likely to invest in commoditising products to sell at lower prices.

Whether these changes arrive here is not really debatable. Once they are up and running off-shore and seen to work it is inevitable change will arrive here. Let's hope the profession doesn't decide to 'circle the wagons' as this will only make the reforms a political football and no one will benefit if that happens. After all look what happened when the NZ Parliament set out to 'reform' the electricity and gas markets!

Space does not allow for a full explanation of the offshore changes here but from our extensive study the proposals are likely to lead to a win-win situation benefiting lawyers and consumers in equal measure. Whatever eventuates in the Australasian jurisdictions productivity improvement can be introduced now. Gains of 5% - 15% are achievable in most practices and may require no more than a few professional development workshops, coupled with a willingness to change.

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