

**Competition in Professions – 10 years on:
The Liberalisation of Professions and Consumer Empowerment**

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Speech at OFT-hosted breakfast roundtable on competition in professions
12 October 2011

Ladies and Gentlemen

Welcome to the OFT's breakfast roundtable on competition in professions.

The latest stage in the reform of the UK's framework for legal services which took place last week marked a further significant milestone for the OFT's work over a substantial period in the professional services arena. We felt that this event would provide a useful opportunity to reflect on the rationale for change, to take stock of what has been achieved and to consider what lies ahead.

Throughout the OFT's long history of engagement in issues concerning the professions, we have consistently made the case for appropriate deregulation, liberalisation and effective competition with a view to driving efficiency, innovation and economic growth for the benefit of consumers.

This roundtable brings together many other experts who also have insights and experience on issues around the deregulation and liberalisation of professional services and who are equally focused on trying to stimulate greater consumer choice. With so many experts joining us here this morning, we hope that the roundtable will give rise to rich debate – so thank you for coming, and welcome.

So let me briefly outline why and how our work in the professions has focussed on promoting competition and empowering consumers.

Stimulating growth – the importance of professions markets and the OFT's tools

Given the overall importance of professional services to the UK economy, the OFT has invested considerable resources over many years on making these markets work well for consumers. The professional and business services sector's gross value added is approximately £166bn a year, the largest in the UK economy. The legal services sector alone generated £23.1bn or 1.8 per cent of the UK's GDP in 2009 and accounted for £3.2bn in exports, giving rise to major opportunities for UK-based firms.

In conducting our professions work, we draw on a wide range of tools at our disposal, ranging from the use of formal competition and consumer enforcement powers to market studies and general advocacy. This is in addition to our statutory competition oversight role under the Legal Services Act 2007.

Through this flexible, wide ranging commitment of resource, the OFT's professions work has had considerable influence and impact over time – in particular, we have a track record of promoting liberalisation and deregulation where this unleashes competition and stimulates better services and economic growth. One notable output, which has had such a legacy, is the OFT's report on 'Competition in Professions'. Published 10 years ago, it is widely acknowledged to have initiated a series of developments which ultimately resulted in a far-reaching process of liberalising the UK's legal services sector. Only last week, these developments culminated in the first Alternative Business Structures (ABS) being licensed and opening their doors for clients.

Promoting competition and growth through liberalisation - ABS and legal services

In light of the introduction of ABS only a few days ago, many eyes are currently on how the legal services market will respond to the new freedoms to develop new business structures, models and methods of operation. I anticipate that the Minister will perhaps talk about the Government's expectations and plans in this regard in more detail in a moment, so I will limit myself to making just a few remarks on this topic for now.

The OFT anticipates that the liberalisation brought about by ABS will give rise to significant opportunities for lawyers and law firms to build and maintain a reputation for expertise, quality service and value for money. The 'Brave New World' of ABS, I am sure, will bring about innovative business models in

response to, and driven by, consumer demand, including demand from individual consumers and small businesses that is currently 'unmet' as well as from larger and more sophisticated business clients. ABS are likely to be better placed to address this 'unmet demand' by developing affordable, efficient services in ways that meet the changing needs of consumers. ABS will therefore not only stimulate economic growth, but also facilitate access to justice.

Promoting competition and consumer choice in other professional services

As already mentioned, the OFT has taken – and continues to take – an active role in promoting competition in numerous other professional services markets, not just legal services. The OFT has consistently challenged unnecessarily restrictive ownership rules and restrictive access rights, with a view to allowing different skills and professions to be combined so that new, more innovative and more efficient business models can emerge that offer consumers greater choice. Allow me to mention just a few examples.

Very recently, for instance, we launched a market study into **private dentistry**. As part of our study, we are assessing whether there are any unnecessary barriers to new dental practices entering either private or NHS funded markets, and will consider the issues around professional restrictions on direct access to specialists or providers of auxiliary services, such as hygienists.

Another professional services sector which the OFT is investigating currently is audit services. We have had long-standing competition concerns in relation to the market for **statutory audit services** to large companies in the UK. At present, we are consulting on our provisional decision to refer this market to the Competition Commission for a fuller market investigation.

And back in the field of legal services, following intervention by the OFT earlier this year, the **Bar Council Northern Ireland** agreed to amend its Code of Conduct to make it clear that barristers operating in Northern Ireland are not prevented from competing freely on the level of fees charged to their clients. The objective of our intervention was to promote competition between providers of legal services for the benefit of consumers.

Across these interventions, the OFT has recognised the need to conduct a sophisticated assessment of the issues around liberalisation and deregulation which is grounded on a strong base of evidence. There can be no 'one size fits

all' approach when it comes to determining the 'right touch' or level of regulation for professional services.

Professional services markets comprise a wide spectrum of services and of different suppliers and consumers. As a matter of principle, a greater degree of regulation tends to be justified where consumers need more protection, in particular where the supplier/customer relationship is characterised by high levels of information asymmetry – i.e. where the provider has a knowledge advantage over the customer. Unlike individual consumers of professional services, however, large, sophisticated corporate customers or clients likely require less protection, meaning that restrictions are more difficult to justify.

Stimulating growth by empowering consumers

So one of the guiding principles in our professions work is to ensure that consumers get an appropriate level of protection. As part of this the OFT has sought to promote, greater transparency of performance, quality and cost so that consumers can make informed choices and can 'self protect'.

Effective consumer choice is also essential for well functioning, competitive markets. This is because well informed, effective consumers play a key role in activating vigorous competition between firms, which, in turn, provides firms with the incentive to deliver what consumers want as effectively and efficiently as possible, also driving economic growth.

In light of this importance of consumer choice for growth, the OFT has driven discussions on choice-tools in conjunction with the Cabinet Office and has supported the Government's agenda of stimulating growth by empowering consumers.

We need to ensure that consumers have confidence in the new business models that will flow from liberalisation, as well as from the existing ones, by allowing them to readily assess the services that they need and their likely cost, the quality of service they receive, and to seek independent redress when those quality standards are not met.

Consumers have an appetite to compare services and to exercise greater choice, although with regard to legal services they are still relatively short of instruments that help them effectively. For the purposes of today's roundtable,

the OFT has made a number of recommendations aimed at driving consumer choice, some of which we may wish to discuss further.

Publishing complaints data, for instance, could be an effective consumer empowerment tool. It recognises both the economic importance to lawyers of having a good reputation and the role of peer pressure in acting as a self-disciplining restraint. The OFT encourages publication in a way that is fair and meaningful, and in a form that can be used by consumers and intermediaries.

In addition to publishing information, there is also scope for other quality signals, such as customer reviews on price comparison websites.

Professions a further 10 years on

In setting ourselves a vision for what professional services markets might look like a further 10 years on, we should strive for a policy agenda which has delivered greater levels of liberalisation and consumer empowerment so that consumers are in a much better position to assess, and compare, quality and prices within, and across, professional services sectors. Those consumers will, in turn, have stimulated the UK's professions to become more efficient, innovative and competitive.

We envisage consumers being able to source from many more multi-disciplinary business models, combining skills of different professions, and less fragmented markets, with one-stop shop providers covering a much wider range of services catering for different categories of consumers more efficiently. If such greater levels of liberalisation, competition and consumer empowerment are achieved, the professional services sectors will provide an even more significant and valuable contribution to the UK's economic growth.