



Braced for the big bang and Tesco law

This article first appeared on Times Online on 19 November

The opening up of the legal services market brings with it opportunities and threats as new players seek to establish themselves

By Jon Robins

How is the legal services market to be reformed? The first detailed insight into what the “big bang” will mean in practice came this week with a major report from the Legal Services Board.

Launching its proposals for consultation, the board declared that it had faith in the market’s ability to deliver a robust regulatory structure for non-legal businesses offering legal advice in the newly liberalised market.

David Edmonds, the board’s chairman, called the paper on alternative business structures “a major milestone” in the process of opening up the legal profession, which began with David Clementi’s 2003 review and continues through the implementation of the Legal Services Act 2007.

The report concides with another major study this week commissioned by the Byfield Consultancy and Fox Williams on the likely impact of the shake-up, drawing on views of the profession across all sectors as well as banks and retailers.

In it, Mr Edmonds, a former director-general of Ofcom, enthused about the “incredibly exciting” prospect of transforming the legal services through the roll-out of alternative business structures (or ABSs) or what has become known as Tesco or Co-op Law.

These represent the most radical aspect of the legislation enabling businesses outside of the law, such as superstores and high street banks, to offer legal services. “ABSs are all about opening the market up by aligning alternative service providers with other professionals, by using the economies that come through scale and using marketing in a different kind of way,” Mr Edmonds argues in the study called *The Big Bang Report: Opportunities and threats in the new legal services market*.

The Legal Services Board paper sets out the principles that will govern the new licensing authorities that regulate alternative business structures and which are expected to include not just the likes of the Solicitors Regulation Authority and Bar Standards Board but professional bodies outside the law including, for example, accountancy regulators.

But how much control will it exert? The board claims to be “very happy to let the market and competitive pressures between regulators determine what works for practitioners and what doesn’t”. The work of the new arch-regulator was “not to plan or second guess market developments as we create the framework for ABSs”, Mr Edmonds said. “In my experience, those who try to see into the future in this way often don’t succeed.”

The role of the board is “to create a framework of rules that support those who wish to enter into ABSs whilst also building in appropriate consumer safeguards and protections”, he added.

The Big Bang report features over 50 interviews conducted over the past two months with City firms, such as Clifford Chance and DLA Piper, high street firms, barristers’ chambers and regulators. It also profiles leading non-law companies that could establish alternative business structures about their aspirations under the Legal Services Act. These include retailers such as the Co-operative Group, banks such as the Halifax, membership organisations including the consumers’ group Which?, insurers and less well known names such as the training company A4e.

These provide a revealing glimpse of the intentions of the retailers. “We want to be on equal footing with the high street,” Jonathan Gulliford, operations director of Co-operative Legal Services, said.

There are more than three million Co-op members and a further one million insurance policyholders who have access to the supermarket’s legal advice. Plus, Mr Gulliford pointed out, “about 15 million people walk through the stores every week” who are being reminded on in-store radio and till-screen displays about the legal services it already offers.

The Co-op regards the provision of legal services “as an inducement to come and join the Co-op”.

“It is one of those potential opportunities to provide a unique service to members at a time of difficulty, distress or need and to be seen to be adding something back to the community,” he said.

The Law Society attacked the Co-op’s recent decision to exclude sole practitioners from its merged Britannia Building Society/Co-operative Financial Services panel,

saying it “jeopardised its ethical image” by “threatening consumer choice” and access to justice as local firms were “wiped off the map”.

Mr Gulliford said that the Co-op planned to build its own in-house legal capacity retaining a panel of firms only to the extent that needed “a release valve”.

Joel Ripley, head of Halifax Legal Solutions, said that the bank had “at least 20 million customers” and with the merger with Lloyds TSB “going on for 30 million”. He said that the Halifax had no intention of using the Legal Services Act to develop its own in-house capability.

“We have always said we had no intention to buy a law firm or to create a law firm in-house,” he said. The Halifax was asked whether its growing legal services represented “a threat to the high street”. High-street lawyers “generally provide an excellent customer service to their client base and those that continue to offer an excellent service to their customer base will continue to thrive”, replied Ripley.

“The customers we’re trying to serve are those who are nervous around legal services or who have the perception that it will cost them an absolute fortune. We are saying we are a brand name that you can trust, one that you’re familiar with and one that you’re quite comfortable disclosing all your personal financial information to. You can trust us. Our brand is all about trust and we can help you get the very best legal services at a transparent price.”

Co-op members tended to be in the “C2/D social class grouping”, said Mr Gulliford. “They aren’t the sort of people who have a couple of hundred quid in their pocket to get hours of legal advice, and they are not the sort of people who feel comfortable in solicitors’ offices.”

The Law Society also makes the case that new providers entering the market should be made “to offer financial support to existing law firms to safeguard access to justice”. Mr Gulliford rejected that idea as “protectionist”. “It’s trying to put the problems of legal aid funded work into the courts of ABSs. Nobody is asking Silverbeck Rymer or Clifford Chance to subsidise legal aid work. To say that the Co-op isn’t allowed a financial model to compete with the likes of Silverbeck Rymer in the personal injury sector because it has to fund social welfare and immigration work is completely ridiculous.”

The Big Bang Report by Jon Robins, is published by the Byfield Consultancy and Fox Williams. It can be downloaded at www.byfieldconsultancy.com

<http://business.timesonline.co.uk/tol/business/law/article6921906.ece>