



LEGAL SERVICES
BOARD

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Dear Elisabeth

My Board has discussed your report on comparison sites on several occasions now: as part of its consideration of your work programme, as a contribution to our increasing focus on using transparency to drive up quality standards and more directly to consider our formal response. I attach the paper that my Board considered.

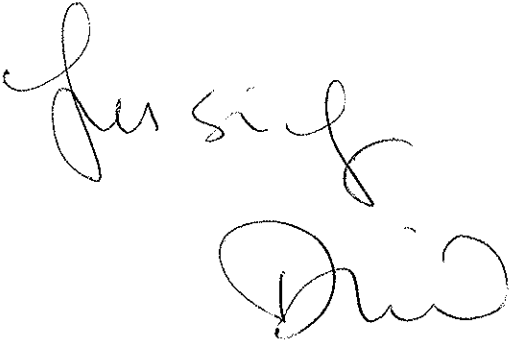
My Board has accepted your recommendations. We decided that at this stage we could facilitate progress most effectively by asking the regulators to engage directly with the report and its recommendations. Today I have written to the regulators to ask them to take forward the work that you have initiated.

I have put a particular emphasis on the publication of the professional registers and have asked the OFT to help take this forward. It is, as you know, considering the role of comparison sites more widely than in legal services.

My Board agreed that we would return to the issue of accreditation in 2013/14, though noted that may still be too early to test the effectiveness of self regulation. During the intervening period we expect that the regulators will take some steps to ensure that comparison sites develop in a way that supports consumers in choosing and using legal services.

I know that you will continue to focus on this issue, in particular with your direct engagement with the wider OFT work and the more local work with those comparison sites that are willing to react positively to your report. It will be helpful for LSB and the regulators

if you can keep us informed of progress. We stand willing to help facilitate discussions between interested parties.

A handwritten signature in black ink, appearing to read "David Edmonds". The signature is written in a cursive style with a large initial "D" and "E".

David Edmonds
Chairman

At its meeting on the 25 April 2012 the Legal Services Board resolved:

1. *To write to the Consumer Panel setting out its response, based upon the proposals in this paper and supporting the recommendations made in the Consumer Panel's report.*
2. *To regulators and professional bodies:*
 - *Encouraging them to make available (for profit or otherwise) their professional registers to facilitate the development of an innovative market in choice tools for consumers.*
 - *Encouraging regulators to think about the role of comparison sites in their own consumer education strategies;*
 - *Asking them to consider how best they can work with comparison sites to maintain good adherence to the standards set out in the Consumer Panel report.*
3. *LSB should reconsider the issue of comparison sites in 2013/14, when further information is available about the changing nature of the legal services market. At that stage the Board may again consider it is too early to take a view, but it must be alive to potential detriments in order to ensure that the legal market works more effectively for consumers.*

Analysis

4. Comparison sites are a contested subject. In theory they provide an important space for consumers and providers to meet with rational choices encouraged and good providers rewarded. However, the evidence on their effectiveness is more nuanced. The Consumer Panel concluded that:

"A key potential benefit of comparison websites, and one which addresses a real challenge in this sector, is enhancing access to legal services. People have little knowledge of the law and are not shopping around. Comparison websites can help to more easily connect consumers to suitable providers and provide helpful guides on choosing lawyers and areas of law."

5. In markets such as financial services they have substantially increased consumer power because of their links to best buy tables for a range of products such as savings accounts and products, mortgages, and annuities. Some have argued however, that for products which are less suitable for commoditisation such as energy (where it is continuous purchase rather than repeat purchase), comparison websites have led to inaccurate incentives to switch and even some misleading data supporting that, such as estimates of annual energy consumption. What is clear is that where consumers do use comparison sites, they should be encouraged to remember that they must use a range of information to support their choices and not rely solely on the results on comparison websites.
6. In the legal market such sites have yet to really take off. The Consumer Panel explored this with a range of stakeholders. Some argued that legal services were unsuitable for such sites because consumers would choose the wrong provider

because of a lack of understanding. It is difficult to understand how depriving consumers of additional information sources will solve that particular problem. Similarly it is relatively simple to argue that additional information is a good thing where information asymmetry is so significant. There may be a risk of information overload for consumers: few would argue that this point is close and even if were so, comparison websites may provide one route to managing that information systematically for consumers.

7. The Panel also considered arguments about the structure of the legal market. Could the fragmented nature of provision and emotional nature of much demand continue to prevent the development of comparison websites? The Panel took the view that while there may be much in the arguments (and it is hard to argue otherwise given the weak role of such sites at present) the reform of the legal market and the liberalisation of which ABS is first step, is:

“...likely to erode these away. This includes more legal services being delivered in standardised packages which facilitate easy online comparisons. The emergence of familiar legal brands taking a growing market share, each offering fixed fee services for a wide range of legal services, will enable and stimulate demand for tools enabling comparison of these.”

8. It is difficult to be against the furtherance of data transparency, especially in the legal market where individual consumers often struggle to choose when making one off purchases. The challenge is to make the provision of data proportionate so that the search costs do not of themselves make legal services less affordable. Furthermore, comparison sites are a fact of many markets and all current signs are that they are growing and developing in the legal market. The Board does not have an option of stopping their march. The Consumer Panel identified 16 such sites in operation and while their performance was hugely variable there can be no doubt that they are growing in influence albeit from 'no influence' to 'marginal significance'.
9. The Board can choose its engagement and strategy. It can choose to watch passively or, alternatively, actively seek to promote and regulate sites. Regulators in other markets have taken such contrasting approaches (again we can reference energy and financial services).
10. With the legal market facing changes in its competitive context it is perhaps too early to reach a settled view on comparison sites. The absence of strong brands plays a significant part in the relative obscurity in legal comparison sites – both at the level of the sites themselves and the legal businesses within the sites. Similarly the relatively low numbers of consumers shopping around is a probable barrier to the growth of such sites. However, the Board can take some action that is likely to support the development of consumer choice generally and may be of benefit to the development of comparison sites.
11. At least one comparison site has requested access to an approved regulator's professional register and been refused. We understand that the approved regulator may have taken a commercial view in reaching its decision. The LSB will invite the regulators and professional bodies to consider whether the professional registers may be of wider economic interest because they can support innovation and in turn the furtherance of the regulatory objectives (particularly supporting access to justice, furthering public legal education and promoting competition). It is likely that

the availability of the professional registers would facilitate more choice tools for consumers, although that does depend upon other aspects of the market.

12. It is worth considering what is included in the professional registers. Of themselves there is little of direct use to consumers in helping them differentiate between law firms. At present they are little more than searchable directories and this indeed how the Law Society for example uses the register. However, any more consumer orientated comparison site or 'choice tool' will need to base itself on such a directory. What the comparison sites could potentially offer is added value analysis that saves the consumer search costs. For consumers to explore the market at present, comparing say prices, complaints levels, panel membership and customer satisfaction between five providers, they would need patience, drive and a significant research and analysis budget. Even if firms made more of that data available it will take some time to search and compare. The development of comparison websites is as likely to drive the better supply of such data as it is to help consumers interpret and navigate the results. But the added value that is likely to be built by such sites needs (though it is not essential) to be based upon the professional registers.
13. As noted by the Consumer Panel, it is likely that choice tools and comparison sites are more likely to develop where quality and price are easily comparable. Quality marks (voluntary as much as regulatory), fixed fees and complaints data can be important. In fact the Board's recently published quality discussion paper makes these points in encouraging regulators to use data transparency more to support consumer choice tools and engagement.
14. The Law Society are currently exploring the possibility of developing a comparison website and have commissioned IFF Research to carry out research into the feasibility of a Law Society site.
15. While the changing picture may make it too early for LSB to fix a view on comparison sites, it is an opportune moment to start a discussion about agreed standards and common approaches. The Consumer Panel report does this and has 20 draft standards. OFT are currently considering the development of standards for comparison websites that would apply across the whole economy. It is unclear on the timescale for this and while there are advantages to a single set of standards, those of the Consumer Panel have been seen by the OFT and welcomed.
16. LSB could write to the sites owners to encourage adoption. It may be more effective to ask approved regulators to work with the sites: the regulators and professional bodies have the lever of data to encourage adoption of good practice. The Consumer Panel has proposed 20 standards against which comparison sites should assess themselves. The regulators and professional bodies could tie the provision of their registers to comparison sites to the adoption and public monitoring of these standards. However, it is arguable that the data in the registers should be widely available (not necessarily free – FSA do charge) without restrictions on use that could of themselves hinder new ideas and further innovation.
17. There is a risk that leaving action to the regulators may lead to a plethora of standards and perhaps even a 'title' based approach that serves consumer poorly. The LSB work on scope does start to break the automatic nature of the link between professional title and authorisation for reserved activity, and some regulators have shown an appetite for regulating 'authorised persons' beyond the

limits of their titled origins. The requirement under the LSA for regulators to seek to resolve regulatory conflicts further mitigates this risk.

18. Even if it were not the case that regulators and professional bodies are likely to have more levers over comparison websites, the LSB should be wary of directly intervening in regulation that is more appropriately the responsibility of the legal regulators. LSB remit is limited to 'legal activities' and it is hard to see how the provision of choice tools and legal information falls squarely within our remit. Even if it does, direct intervention should be approached warily, and only if there is evidence of failure should the LSB consider more direct intervention, with reference of course to its policy statement on enforcement.
19. In writing to the regulators, the comparison sites should be placed into the context of their wider consumer engagement and public legal education strategies. This will ensure that they remain one part of the toolkit for consumers to choose and use legal services rather than become an isolated or disconnected issue.

Summary of response to Consumer Panel recommendations

Consumer Panel recommendation	LSB accept or reject	LSB response
The LSB should work with the panel to facilitate discussion between consumers, comparison sites, providers and front line regulators aiming to secure the voluntary adoption of good practice standards based on those in this report;	ACCEPT	The LSB will take the initial step of asking regulators to take this forward, working with professional bodies, consumer groups and comparison sites.
In the longer term, and depending upon the progress of a self-regulatory solution, the LSB should consider the role of accreditation of comparison sites;	ACCEPT	At this stage the LSB does not consider there to be a made out case for regulation of comparison sites but will consider the matter afresh in 2013/14. This however may still prove to be too early to reach an informed view of their likely role in the market and the potential benefits and detriments that they are linked to.
Comparison sites should self-assess against the twenty standards and make remedial changes as necessary;	Not directly for LSB	LSB considers that the twenty standards identified by the Consumer Panel offer a solid basis for comparison sites to self-assess and, similarly, for others to judge

		them.
Regulators should open up their professional registers so that comparison sites and others can use this data to provide innovative services to consumers.	Not directly for LSB	The LSB will ask regulators and professional bodies to consider how best they can support the regulatory objectives through making this data available.