

Online reviews and endorsements
Competition and Markets Authority
Victoria House
37 Southampton Row
London WC1B 4AD



20 March 2015

Dear Sir/Madam,

Call for information – online reviews and endorsements

The Legal Services Consumer Panel is the statutory body which represents the interests of consumers on issues concerning the regulation of the legal services market in England and Wales. Our comments below are therefore rooted in the experiences of users of legal services.

Our starting point is the regulatory objective in the Legal Services Act 2007 to promote competition and the contribution that online reviews can make to guide choice, enabling consumers to play a more active, empowered role in the market. Consumers find it especially difficult to compare the quality and price of legal services due to factors which include asymmetry of information and infrequent purchase. In some cases consumers are not able to judge quality of work, even after the event. Moreover, with the exception of some complaints and disciplinary records, there is generally a lack of 'official' published regulatory data that would enable consumers to make comparisons based on quality criteria.

Within this context, we see online reviews as one development which can empower consumers and promote competitive markets. Intermediaries are especially important in this sector as the market is fragmented, and information regarding regulatory data, complaints data, sanctions data, and consumer reviews is currently spread around different websites. Drawing this information together in one place would help enable consumers to make better informed choices.

Although many consumers may be unable to provide feedback on the technical quality of work, they can report on the service experience. Currently, our data suggests that while many consumers start their search for a provider online, just 1% use comparison websites and only 2% use customer review websites (Legal Services Consumer Panel Tracker

Survey 2014). This is very low when compared to other sectors, but may change as recently there has been entry by new websites, some of which are backed by heavy investment. Therefore, online reviews and other choice tools may become a stronger feature of the legal services market in future.

The Panel is naturally concerned about the scope for fake reviews to mislead consumers, as well as wider problems with comparison websites seen in some other sectors, for example a lack of transparency and businesses 'gaming' sites, that have led to regulatory intervention. To help prevent the emerging comparison website market in legal services from falling into the same traps, in 2013 the Panel developed a set of good practice standards that have been supported by the Solicitors Regulation Authority and Council for Licences Conveyancers. These can be found on our website. Currently eight websites in the sector have self-assessed against the standards and consider themselves to be compliant.

Although early days in this market, the Panel is not aware of problems around fake reviews or other similar misleading practices by providers. As well as the deterrent of general consumer law, such practices would be treated as a serious disciplinary matter by the regulators. However, regulators have previously raised concerns about data integrity and asked questions about the safeguards put in place by comparison websites to avoid abuses. This is pertinent since, together with the Legal Services Board, since 2012 we have been seeking to persuade the regulators and other bodies to publish a range of basic regulatory information in a reusable format, as a means of facilitating the emergence of intermediaries and better consumer choice. All eight front-line regulators in the sector, plus the Solicitors Disciplinary Tribunal and Legal Ombudsman, have either published some information or committed to a definite timeframe to do so. We believe the take-away point for the CMA is that its call for information and any subsequent activity, if it succeeds in addressing evidence of any poor practices, could help give confidence to regulatory bodies in the legal services market and other economic sectors, to engage with intermediary services and thus promote growth.

The scope of the CMA's call for information includes businesses that may seek to influence the content of reviews and endorsements. A practice recently brought to our attention by a comparison website concerns use of the Defamation Act 2013 and the Defamation (Operators of Websites) Regulations 2013, which came into force at the same time. We have seen evidence of lawyers using the threat of defamation actions to ensure that negative online feedback is removed, in some cases before it has even been posted. The website operators' regulations oblige websites to pass on threats of defamation to the poster of the comments, and in some cases to give the name and address of the poster to the complainant.

The odds are already stacked against consumers complaining about or providing feedback to their lawyers. Our research shows not only that consumers are reluctant to complain about their lawyer – our 2014 Tracker Survey shows 44% of dissatisfied consumers do nothing – but also that they are intimidated by lawyers, uncertain about challenging a lawyer and

often try to take a 'softer' approach first. At the same time, experience in other markets such as Trip Advisor reveals that consumers post negative reviews less frequently, with the majority normally overwhelmingly positive, an experience which is reflected in legal services.

Honest feedback should be encouraged, with safeguards that ensure only users of the service can leave comments and that providers can always publish rebuttals. Websites could also consistently indicate where feedback has been retracted by service providers, which may demonstrate to consumers which businesses are more likely to use these threats, allowing them to make own decision on whether that is the type of firm they would like to use.

Whilst we are not suggesting inappropriate behaviour is widespread, it is concerning, and we would not like to see it become more prevalent. We believe this provides an important insight into how some service providers maintain their reputations, and, if such tactics were used more widely, this could have potentially far reaching consequences for consumers.

We have encouraged websites in the legal sector to respond directly to your call for information where they have evidence of these tactics being put into practice.

I hope this brief response is helpful. Please contact Harriet Gamper, Consumer Panel Associate, with any enquiries.

Yours sincerely



Elisabeth Davies
Chair