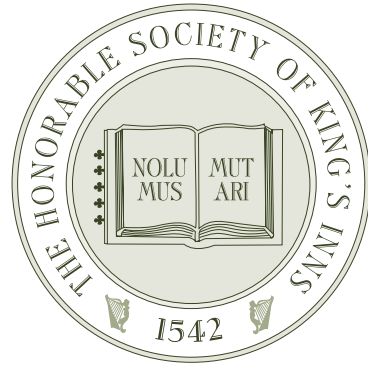


SUBMISSION OF
THE HONORABLE SOCIETY OF KING'S INNS
TO
THE COMPETITION AUTHORITY
IN RELATION TO
THE STUDY OF COMPETITION IN LEGAL SERVICES

21 JULY 2005



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SUMMARY AND CONCLUSIONS

OVERVIEW

The Honorable Society of King's Inns ("King's Inns") is a forward-looking legal educational institution providing for the education and training of barristers. It has educated and continues to educate highly skilled and well-trained professionals who serve within and without the practising profession at both national and international levels. As an educational institution it has demonstrated its ability to adapt to the needs of society by changing its courses to suit the demands of the administration of justice.

The objective of King's Inns is to ensure that prospective barristers are educated and trained to a standard sufficient to represent their clients effectively. King's Inns believes that the implementation of proposals put forward by The Competition Authority ("the Authority") would dilute the current high quality of legal education and training in Ireland. Any diminution of the existing high standards of legal education and training would ultimately undermine the quality of legal representation available to the public. In turn, this would have serious consequences for the administration of justice, the functioning of the economy and the operation of a democratic society.

As will be apparent from this submission, the professional degree course leading to qualification as a barrister-at-law has been fundamentally altered following a full review of current educational requirements. King's Inns is committed to the principle of ongoing review. At present consideration is being given to the introduction of a modular course and advanced specialist courses. It looks to the future with the confidence that it can provide for the increasing demand for the professional education and training of barristers.

The members of King's Inns comprise all persons who have qualified as barristers and include judges, practising barristers and many barristers who work in the public and commercial sectors and elsewhere.

King's Inns has no representative role for barristers nor does it have a role in the regulation of the practice of the profession as that term has been used by the Authority.

This submission represents the response of King's Inns to the proposals on the legal education and training of barristers contained in *The Study of Competition in Legal Services: Preliminary Report*, The Competition Authority, 24 February 2005 ("Preliminary Report").

PROPOSALS AND RECOMMENDATIONS IN THE PRELIMINARY REPORT

The proposals and recommendations in the Preliminary Report on the legal education and training of barristers are, in summary:

1. That a Legal Services Commission would be established which would, *inter alia*, set standards for the provision of barrister education.
2. That King's Inns would recognise barrister-at-law degrees awarded by other educational providers.
3. That King's Inns would abolish the requirement for persons who do not hold a recognised law degree to obtain the King's Inns Diploma in Legal Studies before being eligible to take the entrance examination for the degree course.

4. That King's Inns should abolish the requirement for graduates in law from recognised universities to take the degree course entrance examination.
5. That King's Inns should abolish the regulation that requires a solicitor to remove his¹ name from the roll of solicitors before being admitted to study at King's Inns.
6. That, *inter alia*, King's Inns should replace the present system of reciprocity for foreign lawyers with a system that recognises foreign qualified lawyers based on their suitability to practise; moreover, King's Inns should amend its rules to permit foreign lawyers to practise in Ireland as barristers without reciprocity or recognition requirements for further examinations.
7. That a voluntary system should be instituted whereby barristers who wish to represent clients in the Irish language or who have a particular interest in Irish could be trained and examined to a proper standard. A number of institutions would be permitted to provide suitable courses and examinations.

RESPONSE OF KING'S INNS TO THE PRELIMINARY REPORT

In line with the numbering above, King's Inns makes the following responses:

1. Legal Services Commission

Historically, the legal profession has been independent of the Executive in this jurisdiction and this has served the State well. To now entrust to a board, appointed by the Executive, the right to decide who should and who should not have the right to practise at the Bar or the educational standards to be met before being so qualified would be an undesirable interference with the historical independence of the profession. It is a development that has not been demonstrated to be necessary. Moreover, such a development would be to the detriment of consumers of legal services and the administration of justice generally.

King's Inns believes that there is no basis for a suggestion that it has in any way used its control over the entry process to the degree of Barrister-at-Law for inappropriate purposes such as the artificial restriction of the supply of barristers. However, it may be appropriate to have some form of periodic external verification that is independent of the Executive. King's Inns would be pleased to co-operate with any such reasonable independent verification process.

2. Other providers of the degree of Barrister-at-Law

The recommendation that there should be multiple suppliers of courses leading to the degree of Barrister-at-Law appears to be grounded upon the Authority's characterisation of King's Inns as an educational monopolist. On *a priori* grounds it states that a monopoly can have the following effects:

"First, the monopolist may raise prices in order to obtain greater profit from the market. The monopolist may reduce the number of places to similar effect"

¹In this submission, the masculine shall include the feminine.

“Second, the absence of competition removes an important incentive to keep costs to a minimum. For this reason, monopolists tend to be less efficient than competitive firms. In many cases, a monopolist’s high prices may be barely sufficient to cover its inflated costs”.

“Third, monopolists tend to be less innovative”.

The Authority also appears to have a particular concern that, because King’s Inns is closely connected with the barristers’ professional body, this in turn gives an additional incentive to limit competition in the market for legal education or the supply of barristers.

However, the Authority fails to demonstrate, on the basis of evidence, that its textbook description of a monopolist’s behaviour applies to King’s Inns in its provision of legal education and training or that the above concern is well founded. In particular:-

- The Authority fails to recognise that King’s Inns is not a commercially-driven profit maximising enterprise but a not-for-profit educational institution that is registered as a charity. It thus has no incentive to maximise profits. This is because its mandate extends beyond the commercial to the provision of education and training for intending barristers. This is a function that King’s Inns has always taken very seriously.
- The Authority fails to demonstrate that the fees charged by King’s Inns for the degree course are excessively high, either in absolute terms or relative to comparable professional courses provided by the universities. In fact, the cost of the King’s Inns degree course compares favourably with the cost of completing a Master’s in Business Administration at either University College Dublin or Trinity College Dublin. Moreover, since 1990, the cost of the degree course at King’s Inns has risen much more slowly than the cost of the MBA at either UCD or Trinity.
- King’s Inns is unaware of any research, comment or public concern that there are too few barristers in practice in this jurisdiction. King’s Inns educates all who wish to qualify as barristers each year provided that they meet the educational entry requirements that are both necessary and reasonable.
- There is no evidence to support the contention that the number of graduating barristers has been artificially restricted in recent years. Between 1999 and 2003, the increase in the potential supply of barristers – as proxied by King’s Inns graduates – has significantly outpaced both the growth in the numbers at work and the expansion of employment in services. Over the period, the supply of barristers has risen broadly in line with the growth in employment in professional occupations. Since the introduction of the new one-year full-time degree course, the number of students on the degree course has increased by approximately 55%; the projected further increase for 2005/2006 is approximately 10%².

²2003/2004 (final year of 2-year course), 114 students; 2004/2005, 177 students; 2005/2006, projected 195 students;

- The Authority has published no financial analysis of King's Inns performance that indicates either operational inefficiencies or excessive cost inflation. The fact that King's Inns receives no Exchequer-financed state grants provides a strong incentive for King's Inns to operate in a cost-minimising fashion.
- No evidence is provided to indicate that King's Inns has behaved in a less innovative fashion than other third-level education institutions.
- In summary, the Authority's proposals appear to be based more on an *a priori* analysis of monopolistic behaviour rather than on the actual detailed workings of the specific market in legal education and the supply of barristers in Ireland.

3. & 4. Entrance Requirements (Diploma in Legal Studies and Entrance Examination)

King's Inns welcomes the recognition by the Authority that ensuring an adequate knowledge of the law is a valid objective for King's Inns. Adequate knowledge of academic law is verified at the point of entrance to the professional degree course by the entrance examination and the requirement for students to have either an approved law degree or a postgraduate diploma in legal studies.

The current degree course is predicated upon an assumption that those admitted to the course have an up-to-date knowledge of certain core legal subjects. This is done by entry requirements that are a combination of an entrance examination and an approved law degree or postgraduate diploma in specified legal subjects. For the reasons set out in greater detail in the submission, King's Inns considers, at present, that such entrance requirements are necessary to ensure that barristers possess an adequate academic knowledge of law.

The current entrance requirements (with some modifications) date from 2000. As it has done in the past, King's Inns proposes to keep its entrance requirements under continuous review.

In its Preliminary Report the Authority proposes the abolition of the requirement for persons who do not hold a recognised law degree to obtain its Diploma in Legal Studies before being permitted to sit its entrance examination. King's Inns agrees that the King's Inns Diploma in Legal Studies should not be the only route of entry onto the degree course for such students. However, it does not consider it desirable to abolish the requirement for such students to hold a postgraduate diploma in law.

In April 2005, the Council of King's Inns altered its education rules in order to facilitate the recognition of postgraduate diplomas in law offered by other third level educational institutions. So far, King's Inns has been told of the intention of one third level institution to submit such an application for accreditation in Autumn 2005. If approved, such a diploma will provide an alternative means for non-law graduates to qualify to take the Entrance Examination to the degree course.

5. Solicitor Students

King's Inns wishes to clarify that under its existing rules a solicitor may study at King's Inns provided that he removes his name from the roll of solicitors before being called to the Bar.

6. Foreign Lawyers

The proposal of the Authority in respect of foreign lawyers would in effect, require King's Inns to admit persons to the degree of Barrister-at-Law with no knowledge of Irish law. King's Inns considers that such a proposal could be to the potential detriment of consumers of Irish legal services and is not warranted. If any alteration in the present situation is warranted it should be analogous to the EU schemes which permit verification of a knowledge of Irish law or a period of practice in Irish law prior to qualification as a barrister.

7. Competency in the Irish Language

For some years King's Inns has offered an optional course in advanced advocacy and legal drafting in the Irish language. This is open to a range of persons as well as King's Inns students. King's Inns believes that the further development of such a course is important in order to ensure the availability of legal practitioners who are qualified to conduct cases in Irish.

1. INTRODUCTION

A. THE ROLE AND COMPOSITION OF KING'S INNS

- 1.1 The members of King's Inns are all persons admitted to the degree of Barrister-at-Law. In addition to barristers, both practising and non-practising, they include all the judges of the Supreme Court, High Court, Circuit Court and District Court who qualified as barristers. Upon appointment, judges cease to be practising barristers and become the holders of public office. In the context of their current membership of King's Inns, they must be so considered.
- 1.2 Each year many persons are admitted to the degree of Barrister-at-Law (and thereby qualify as barristers) who do not subsequently practise as barristers. They include persons employed in the public service in legal and other capacities and persons working in the private sector or practising other professions. King's Inns is not a body that is confined in its membership to practising barristers nor is it a representative organisation for barristers.
- 1.3 The main objects of King's Inns in accordance with its rules are:
 - the promotion and advancement of learning in the law,
 - the education and training of members of King's Inns in the law,
 - the protection and furtherance of the reputation and standing of the degree of Barrister-at-Law,
 - the preservation of the heritage that is comprised in the King's Inns, its buildings, library, furnishings and environs.
- 1.4 Historically King's Inns was governed by benchers. The benchers now include all the members of the Supreme Court and High Court, the Irish nominated judges to the European Court of Justice, Court of First Instance, the European Court of Human Rights and elected barristers. In 1979 the Council of King's Inns was established and the benchers delegated to this body the management of King's Inns. Its members are elected from panels of judicial benchers, bar benchers, practising and non-practising barristers.
- 1.5 While the benchers continue to admit students to the degree of Barrister-at-Law, the responsibility for the management of the Society, which includes implementation and changes to the education rules, is delegated to the Council of King's Inns. Therefore, the Council effectively determines the education requirements leading to the degree of Barrister-at-Law.

- 1.6 A barrister is admitted to practise in the Courts of Ireland by the Chief Justice. The power of the Chief Justice to grant such right forms part of the common law of Ireland and stems from the well-established right that every court has inherent power to regulate its own practices including determining those who may appear as lawyers before it, unless fettered by statute, or, possibly, by ancient usage¹.
- 1.7 The distinction between qualifying as a barrister by being admitted to the degree of Barrister-at-Law and being admitted to practise as a barrister in the courts is long established. Formerly, the judges required further education and training of barristers after qualification before admission to plead in certain courts². Now the only additional requirement relates to a knowledge of the Irish language as specified in s. 3 of the Legal Practitioners (Qualification) Act, 1929³.
- 1.8 King's Inns does not have a representative role for barristers. Furthermore, it does not have any regulatory role as it understands the term to be used by the Authority: it does not promulgate rules, regulations or standards for the practice of the barristers' profession. It has no involvement, direct or indirect, in the prices charged by barristers. Hence, the concerns expressed by the Authority relating to self-regulation and relating to the combination of regulatory and representative roles do not apply to King's Inns.

B. THE IMPORTANCE OF LEGAL EDUCATION AND TRAINING

- 1.9 In this regard, King's Inns welcomes the Authority's statement that *"...lawyers play an important role in any society. By their legal expertise they facilitate citizens' access to justice and to the courts, both of which are vital elements in any democracy"*.⁴
- 1.10 The quality of justice is determined, *inter alia*, by the competence of legal advice and representation. Any diminution in the quantity or quality of legal education and training will act to undermine that competence in the future. A dilution of the quality of justice is far too high a price to pay for the furtherance of purely market economy objectives.
- 1.11 The ultimate consumers of the legal education and training provided by King's Inns are, in general:
- individuals (when the issues might include not only money but also, for example, their liberty, access to their children, the right to remain in the State, the family home, or an inheritance),
 - public bodies (discharging functions in the public interest),
 - corporate bodies (when the issues might affect thousands of employees, shareholders and customers).

¹ See, for example, *Abse v. Smith* [1986] 1 QB 536

² See, for example King's Inns & the Kingdom of Ireland, Colum Kenny, Irish Academic Press, 1992

³ Section 3 of the Legal Practitioners (Qualification) Act, 1929 provides:

"No person shall be admitted by the Chief Justice to practise as a barrister-at-law in the Courts of Saorstát Eireann unless before such person is so admitted he satisfies the Chief Justice, by such evidence as the Chief Justice shall prescribe, that he possesses a competent knowledge of the Irish language: Provided always that nothing in this section contained shall prevent the Chief Justice from admitting to practise as a barrister-at-law in the Courts of Saorstát Eireann any member of three years' standing at any other Bar who has been admitted to the degree of barrister-at-law by the benchers of the Honorable Society of King's Inns, Dublin, pursuant to a reciprocal arrangement whereby members of the Bar of Saorstát Eireann may be admitted to practise at such other Bar."

⁴ Preliminary Report, paragraph 1.5, page 2

The issues at stake for such consumers in any legal proceedings are usually of fundamental importance to them. Therefore, the legal education and training provided by King's Inns is designed to ensure that consumers of legal services are advised

- by academically and professionally educated and trained barristers who represent them effectively,
- in a manner that is ethical and efficient.

- 1.12 King's Inns also recognises that the proper functioning of a fair and transparent system of justice is crucial to a democratic state and to a properly functioning economy. Such a system can only function effectively if the legal professionals (including barristers and members of the Judiciary) who work within it are educated and trained to an appropriate standard.
- 1.13 Both the practice and substance of law in Ireland differ significantly from most other jurisdictions. This is particularly true of litigation, and especially advocacy, as practised in the courts. It is important both to the administration of justice in those courts and to the consumers of legal services in relation to representation in the courts that those who represent the interests of parties before the courts have the necessary skills, training and integrity. The skills and training must be suitable to the practice of law in Ireland.
- 1.14 To ensure appropriate standards, King's Inns continuously reviews the education and training of barristers. As part of this process, in October 2004, it introduced a new one-year full-time professional course leading to the award of the degree of Barrister-at-Law. The new degree course has a professional orientation focused on practice at the Bar.⁵
- 1.15 Members of the Judiciary and barristers at all levels of seniority are involved in the education and training process⁶. It is important that the professional stage of legal education and training is designed and delivered by barristers (and where available, by judges) as they are the people who have the knowledge and practical understanding of what is required, from both a professional competence and from an ethical perspective. The new professional degree course is taught by a teaching panel of 75 barristers with different areas of expertise across a broad range of legal fields. A number of these barristers also act as personal tutors to students.
- 1.16 As part of its review process of the education and training of barristers, King's Inns also keeps under scrutiny the "academic stage" of education and training and the entry requirements to the "professional stage". The fact that a significant part of the legal services provided by barristers is the provision of legal opinions on complex issues and as the large majority of the judges of the superior courts in Ireland are drawn from among barristers, it is essential that the academic stage of their legal education will have provided them with a deep knowledge of the law. The design of the new professional degree course is based on the assumption that students have already gained such an academic knowledge of the law.

⁵See Appendix 1

⁶See Appendix 1

2. THE PROPOSED LEGAL SERVICES COMMISSION

A. INTRODUCTION

- 2.1 The establishment of a Legal Services Commission with majority non-lawyer membership would effectively remove the current system of self-regulation and replace it with a body which would, inevitably, be state-appointed.
- 2.2 Such a move would, in King's Inns' view, have serious implications for the independence of the legal profession. Furthermore, King's Inns does not accept that the Authority's central premise in Chapter 3 of the Preliminary Report is correct, i.e. that there is a clear need to reform many aspects of the legal profession (at least insofar as King's Inns is concerned) and, in the circumstances, is of a firm view that the far-reaching and negative consequences of the establishment of the proposed Legal Services Commission are simply unwarranted.

B. INDEPENDENCE OF THE LEGAL PROFESSION

- 2.3 In practical terms, the principal function of King's Inns is to educate prospective barristers to a level of competence with which they may qualify as barristers and immediately be admitted by the Chief Justice to practise as barristers in the Courts of Ireland.
- 2.4 It is important in this respect to emphasise the level of judicial involvement in the affairs of King's Inns that occurs at a governance level as well as at the level of the provision of education. There is a significant Judicial membership of the main committees of King's Inns (Council of King's Inns, Standing Committee and Education Committee). In this way, the Judiciary has a significant input into the standards to be met by would-be practitioners.
- 2.5 Accordingly, King's Inns submits that its independence from the State is of importance, not only because the State is one of the largest purchasers of legal services¹, but also because of the separation of powers between the legislature, the Executive and the Judiciary under the Constitution, as recognised by the Supreme Court in *Re Haughey*². While King's Inns essentially regulates only one aspect of the barristers' profession - i.e. - education - this aspect is clearly of importance in the overall context of the independence of the profession and to the administration of justice. Currently all those who qualify as barristers are immediately admitted to practise in the Courts of Ireland (subject only to the statutory Irish language requirement). Therefore, it is important that the Judiciary retains an active role in setting the standards required of those who qualify as barristers.

¹As is recognised by the Authority at Chapter 3.17(d) and Chapter 3.39

²[1971] IR 217 at p.250

- 2.6 The benefits that derive from the principles of self-regulation of the legal profession and independence from the State are well-established at an international level³. For example, the United Nations General Principles on the Role of Lawyers, adopted in 1990, state that
*“...professional associations of lawyers have a vital role to play in upholding professional standards and ethics, protecting their members from... improper restrictions and infringements... and cooperating with governmental and other institutions in furthering the ends of justice and public interest.”*⁴
- 2.7 Similarly, the International Bar Association’s “Standards for the Independence of the Legal Profession” (1990) provide that *“...the functions of the appropriate lawyers’ associations in ensuring the independence of the legal profession shall be inter alia ... to maintain the honour, dignity, integrity, competence, ethics, standards of conduct and discipline of the profession”*⁵
- 2.8 Furthermore, the Code of Conduct of the Council of Bars and Law Societies of the European Union presupposes that legal professions are largely self-regulating, as does the Council Directive 98/5/EC concerning the right of lawyers to establish themselves in another EU member state.
- 2.9 Finally, King’s Inns notes the resolution passed by the European Parliament on the 11 December 2003 on “Market Regulations and Competition Rules for the Liberal Professions”⁶ that states: *“... the importance of ethical conduct, of the maintenance of confidentiality with clients and of a high level of specialised knowledge necessitates the organisation of self-regulation systems such as those run today by professional bodies...”*
- 2.10 It is submitted that the creation of the Legal Services Commission, either with full responsibility for the regulation of legal services or with the power to supervise such regulation, would have serious adverse consequences for the system of self-regulation and for the independence of the legal profession. King’s Inns has serious concerns that, were non-lawyers to set the standards for the education of barristers, there is a significant risk that it would not be possible to ensure that consumers of legal services can be advised and represented in an efficient, effective and ethical manner.

C. INDEPENDENT EXTERNAL VERIFICATION

- 2.11 Having regard to the absolute necessity for maintaining the independence of the profession, King’s Inns believes that compelling reasons would have to be advanced in order to replace the existing system of regulation with a body such as the proposed Legal Services Commission. It further considers that, at least as regards its own educational functions, no such compelling reasons have been provided.

³As the Authority will doubtless be aware, the various principles set out below were referred to by the Bar Council for England and Wales in its submission to the Clementi Group (June, 2004). In response, the Clementi Report included an opinion from Slaughter & May Solicitors, which concluded that the various matters referred to by the Bar Council would not provide grounds for challenging any statute ultimately passed implementing the proposed reforms. What King’s Inns would emphasise, however, is not that the international materials are themselves binding on the State, but that they recognise the importance of the general principles of self-regulation and independence from government.

⁴At Recital 10

⁵At paragraph 18

⁶Document No. A5-0469/2003

- 2.12 In its evaluation of the current regime, the Authority focuses on the roles of the Bar Council and of the Law Society. The Authority's main concern is that self-regulation allegedly facilitates the creation of rules and practices that, while in the interest of the regulated profession itself, may unnecessarily restrict competition and thus may not be in the public interest. As stated at 1.8 above, however, King's Inns does not have a representative function of the type exercised by the Bar Council and the Law Society.
- 2.13 King's Inns believes that there is no basis for a suggestion that it has in any way used its control over the entry process to the degree of Barrister-at-Law for inappropriate purposes such as the artificial restriction of the supply of barristers. In the circumstances it is believed that the proposed Legal Services Commission is neither necessary nor justified. However, it may be appropriate to have some form of periodic external verification independent of the Executive. King's Inns would be pleased to co-operate with any such reasonable independent verification process.

3. PROVISION OF THE BARRISTER-AT-LAW DEGREE COURSE

A. HISTORICAL CONTEXT

3.1 The current rules relating to qualification as a barrister must be considered in their historical context as they represent the present phase in what has been a continuous process of development. While the final qualification has the title of degree it should not be equated with an academic degree. Its origins are similar to the degree of barrister conferred by the English Inns of Court¹. Admission to the degree of Barrister-at-Law is qualification as a barrister². It should therefore only be awarded to persons considered to have acquired the legal knowledge and skills necessary to practise effectively as a barrister. It also currently confirms that the person is entitled to be admitted by the Chief Justice to practise as a barrister in the Courts of Ireland subject to compliance with the language qualification (if applicable) in s. 3 of the 1929 Act.

3.2 For a number of years King's Inns has enabled persons to qualify as barristers by two distinct routes:

- One route is a combination of a recognised university law degree and the degree course in King's Inns.
- The other route is by a combination of the diploma and the degree course in King's Inns

Since 1977, the last two years were common to both routes and led to the degree of Barrister-at-Law.

3.3 It is only since October 2004 that the prescribed education of barristers has had distinct academic and professional phases prior to call to the Bar. Notwithstanding the current distinction, both the academic and professional phases form part of the necessary education to qualify as a barrister. Any consideration of barristers' education must take account of the totality of the educational requirements

3.4 The courses relevant to the academic phase are provided by universities, other educational institutions and by King's Inns through its Diploma in Legal Studies. Following the amendment to the education rules, passed by the Council in April 2005, it will be possible for postgraduate diplomas in law to be provided by other educational institutions and to be recognised by King's Inns for the purpose of qualifying to take the entrance examination to the degree course.

¹See J. H. Baker "The Degree of Barrister" in *The Common Law Tradition* [2000] The Hambledon Press

²It appears to have been regarded as "the call to the Bar". See J. H. Baker "The Degree of Barrister" in *The Common Law Tradition* [2000] The Hambledon Press

B. THE CONTINUATION OF THE KING'S INNS DEGREE COURSE

3.5 The Authority proposes that King's Inns should cease to be the sole provider of the course leading to the degree of Barrister-at-Law and, as an interim measure, should licence others to provide a similar course.³ King's Inns considers that there is no justification for these changes and that, in Ireland, the consumers of law and student barristers would be better served by the continuation of King's Inns as the provider of the professional course leading to the degree of Barrister-at-Law. The following points summarise the objective justification for this position:

- The importance of a high standard of professional education and training of student barristers specifically focused on practice at the Irish Bar for the administration of justice in Ireland and the consumers of legal services.
- The necessity that the professional education and training be designed and, where possible, delivered by persons with experience of practice at the Bar.
- The significant involvement of the Judiciary and experienced barristers on a voluntary basis in the planning and supervision of the development and delivery of the King's Inns degree course.
- The availability of practising barristers to teach on a remunerated basis and judges and practising barristers to participate in mock trials and other ancillary events on a voluntary basis.
- The location of King's Inns adjacent to the Four Courts and Law Library which facilitates the involvement of judges and practising barristers.
- A certain critical mass of students is required to ensure the degree course has the level of teaching, educational standards and specialised facilities necessary to produce properly qualified barristers. Given the relatively small number of students in Ireland who wish to train for the bar annually, it is unlikely that this critical mass could be achieved if there were more than one provider. At current levels, the student numbers are already in excess of the relative number per head of population in England and Wales.⁴
- The complexities and inevitable increased cost to students of a validation system⁵. Such a system may be appropriate in England and Wales where there is an annual cohort of approximately 1600 barrister students. However, by reason of the complexities and costs involved it is not an appropriate system for a cohort of approximately 200 students.⁶

C. ECONOMIC ANALYSIS

3.6 The Authority characterises the current supply position as an educational monopoly and states that such a monopoly can have the following effects:

"First, the monopolist may raise prices in order to obtain greater profit from the market. The monopolist may reduce the number of places to produce a similar effect.

³While this recommendation was described in the Preliminary Report as a final recommendation, representations made to King's Inns in a letter from the Authority dated 21 March 2004 prior to the issuing of the Preliminary Report, and the description afforded by the Competition Authority itself to the latter document, suggest that it is also preliminary in nature. King's Inns has treated it as such.

⁴See Appendix 4

⁵The system in England and Wales under which course providers are validated is overseen by the Bar Council.

⁶In the UK, in 2004 with a then student base of 1450, a levy equivalent to €400 was imposed on each student to cover the cost of regulating Bar vocational courses.

“Second, the absence of competition removes an important incentive to keep costs to a minimum. For this reason, monopolists tend to be less efficient than competitive firms. In many cases, a monopolist’s high prices may be barely sufficient to cover its inflated costs.

“Third, monopolists tend to be less innovative. A competitive firm that innovates successfully will win business from competitors, a prize that is not available for an innovative monopolist who takes from its own business”

- 3.7 This constitutes the analytic core of the Authority’s case for change and for the recommendations it makes subsequently.
- 3.8 Before addressing the three strands of the Authority’s case in detail, two general points should be made:
- The textbook behaviour of a monopolist as presented by the Authority, relates to a profit-maximising commercial enterprise. King’s Inns is not a profit-maximising commercial enterprise. Instead, it is a not-for-profit educational institution that is registered as a charity. It thus has no incentive to maximise profits and its behaviour is unlikely to mirror that of a profit-maximising commercial monopolist.
 - Unlike the universities, King’s Inns receives no Exchequer-funded state grants to finance the legal education it provides. Nor does it receive any state subsidies to cover the cost of student fees, as do the universities⁸. In other words, the provision of legal education by King’s Inns imposes no direct costs on the Irish Exchequer.

(i) A Monopolist Raises Prices and/or Restricts Output

- 3.9 As noted above, King’s Inns is not driven by the commercial necessity to behave as a profit-maximising monopolist. It seeks to operate on a break-even basis, recording an operating deficit of €189,000 in 2003/2004 and budgeting for a small surplus of €4,000 in the current academic year (2004/2005). Historically, King’s Inns has accumulated substantial losses of €400,000 carried forward.
- 3.10 The Authority’s report provides no data to demonstrate that the fees charged by King’s Inns are excessively high or that it restricts output artificially in terms of the numbers of barristers graduating each year.
- 3.11 With regard to fees charged to students, the cost of the Barrister-at-Law degree course compares favourably with the cost of completing a Master’s Degree in Business Administration at either Trinity College Dublin or University College Dublin, both of which could be regarded as equivalent professional qualifications. Comparative fees for the full degree courses, translated into euro where necessary, are shown in Appendix 2.

⁷Preliminary Report at page 44

⁸Figures provided by the Higher Education Authority, April 2005, indicate that Exchequer funding for the Irish universities in the academic year 2002/2003 amounted to 76% of their recurring income (excluding research)

- 3.12 The data contained in Appendix 2 point to a number of trends that undermine the Authority's suggestion that King's Inns might act in a monopolistic fashion to raise prices to obtain greater profit from the market.
- 3.13 First, in 1990, the fees for completing the degree course at King's Inns (€3,429) were broadly in the same range as the fees for completing an MBA degree at Trinity College Dublin (€3,998) or University College Dublin (€4,764). Secondly, by 2003, the cost of completing the Barrister-at-Law degree course at King's Inns (€10,500) was a little over half the cost of undertaking an MBA degree at either Trinity (€20,515) or UCD (€19,250). It can be seen therefrom that over the period 1990-2003, the fee costs for completing the Barrister-at-Law degree course at King's Inns increased at a much slower pace (+ 206.2%) than the cost of taking an MBA degree at Trinity (+ 413.1%) or at UCD (+ 304.1%).
- 3.14 Secondly, on the basis of the *a priori* reasoning informing the Authority's perspective, it might have been anticipated that two colleges located in the same geographic area and offering broadly similar products would have competed vigorously against one another on price, resulting in cheaper fees to potential students. However, the fee data clearly do not support this conclusion. Instead, King's Inns, the sole provider of the Barrister-at-Law degree course, has improved considerably its competitive position relative to two of the major providers of management education in the Dublin market.
- 3.15 The Authority further suggests that a sole provider may use its position to restrict output, in this case the number of degree course graduates. Again, no evidence is adduced in support of this contention. While the numbers graduating with the degree of Barrister-at-Law over the years 1999-2003 are considered in the Preliminary Report, these data are not related to national labour market trends.
- 3.16 The figures in the Preliminary Report show that the annual increase in the number of King's Inns graduates went from 101 in 1999 to 126 in 2003, a rise of 24.8% over the period. Using the timeframe selected by the Authority, Appendix 3 places this increase in the potential supply of barristers in a national labour market context.
- 3.17 As shown in Appendix 3:
- The national labour force – broadly the labour supply – expanded by 11.2% between the second quarters of 1999 and 2003. Over the same period, the increase in the potential supply of barristers increased more than twice as fast as the national labour force, rising by 24.8%;
 - The growth in the number of King's Inns graduates between 1999 and 2003 outpaced the increase both in the total numbers at work and in services employment over the same period;
 - The increase in the potential supply of barristers, as proxied by the rising number of King's Inns graduates, broadly mirrors the growth in the numbers engaged in professional occupations, at 26.4%, over the period 1999-2003.

- 3.18 In fact, taking a longer time span than that adopted in the Authority's report, the growth in the number of practising barristers has consistently outpaced the expansion in the total numbers at work. Between 1990 and 2001, the numbers employed in Ireland increased from 1.16 million to 1.72 million, representing an employment gain of 48%. Over the same period, the number of practising barristers increased from 749 to 1,311, representing a rise of 75%.⁹
- 3.19 While the Preliminary Report correctly points out that *"A situation where appropriately qualified candidates were prevented from taking the degree would create a significant barrier to entry to the profession"*, it concedes that *"King's Inns rules have now been amended so that all persons who pass the entrance examination will be offered a place (on the Barrister-at-Law degree course) subject to teaching capacity"*¹⁰.
- 3.20 King's Inns has informed the Authority that, where demand warrants, the annual numbers that can be accommodated on the degree course in any year can be increased as required. There is ample capacity within King's Inns to accommodate anticipated demand for places in the foreseeable future with additional refurbished accommodation coming on stream at 11 Henrietta Street in October 2005. The suggestion at 4.47 of the Preliminary Report that *"its limit on physical space could be reached relatively soon"* is not correct.
- 3.21 In 2002, King's Inns initiated the development of its one-year full-time degree course. This was introduced in October 2004 notwithstanding that students on the last year of the two year degree course would also graduate in 2005. The result is that a total of 278 persons qualified as barristers in July 2005¹¹. It is understood that approximately 200 of the newly qualified will join the Law Library and commence practice at the Bar in October 2005. This is an addition of 13% to the current practising Bar.¹²
- 3.22 The projected number of students on the Barrister-at-Law degree course (commencing October 2005) will be approximately 195.¹³ This would represent a 10% increase in the number of students on the one-year course which commenced in 2004.
- 3.23 Finally, by way of comparison, on a per capita basis, the ratio of the number of student barristers in England and Wales in 2004 to the number of student barristers in the Republic of Ireland is 1:1.46. (see Appendix 4).
- 3.24 These data provide no indication that King's Inns has been restricting the supply of potential barristers.

⁹National labour force data have been derived from the Quarterly National Household Survey – Quarter 4 2004, Central Statistics Office, March 2005, Table 16; data on the numbers of practising barristers have been supplied by the Bar Council

¹⁰ Preliminary Report, at page 47

¹¹110 persons from the two year degree course and 168 persons from the one year degree course.

¹²This is based on the Bar Council's figure of 1,539 practising barristers in the legal year 2004/2005.

¹³This figure is based on the number of applications received and the expected percentage of these (based on past experience) that are likely to sit and pass the entrance examination and take up their place.

(ii) *An Absence of Competition Impairs Operating Efficiency*

3.25 The second potentially adverse effect of monopoly identified in the Preliminary Report's assessment of barristers' education is potential inefficiency and a consequent inflation of costs. The Authority argues that the absence of competition removes an important incentive to keep costs to a minimum. In consequence, monopolists tend to be less efficient than competitive firms.

3.26 The Authority raised this point at the outset as an *a priori* argument. However, the evidence in the case of King's Inns demonstrates that:

- King's Inns is a cost-efficient provider of postgraduate education in Ireland.
- The principal explanation for the relative cost efficiency of King's Inns is that it is unlike the state educational system and does not receive Exchequer-funding. Other than a small subvention from the Bar Council, King's Inns recoups its costs as an educational provider principally from the tuition fees paid by students. This engenders a strong sense of economy and an incentive to efficiency. Even a sole provider cannot simultaneously set prices and determine the level of demand for its services.
- A significant unpaid contribution is made by members of the Judiciary and members of the practising Bar to strategic planning and non-executive supervision of King's Inns' activities.

3.27 In summary, the Authority's report provides no evidence in the form of data or financial analysis to show that King's Inns operates in a financially inefficient manner in the provision of education for barristers or that its position as a sole provider of education has led to any unwarranted inflation of its cost base.

(iii) *Monopolists tend to be less innovative*

3.28 The third ground on which the Authority's study opposes monopoly centres on the suppression of innovation.

3.29 There is no evidence that King's Inns has suppressed innovation. On the contrary, it has historically innovated to meet the needs of students and consumers of legal services. It proposes referring to three particular examples.

- In the 1970s, it created an alternative method of entry to the degree course by establishing its diploma course. Entry to the diploma course was open to non-law university graduates and also a number of places were and are available to mature students without any specified requirements of even second level education. While this may now seem commonplace it was not so in the 1970s.

- In the 1990s, under the chairmanship of the late Mr Justice Shanley, King's Inns reviewed its entrance policy, resulting in the introduction in 2002 of requirements that are a combination of a university degree (or King's Inns diploma) with certain core subjects and a new entrance examination. This is a combination unique to King's Inns and considered necessary and reasonable for the reasons set out in section 4 of this submission.
- In 2000, a working group chaired by Dermot Gleeson SC carried out a substantial review of professional education for barristers and made proposals which resulted in the new one-year degree course. While the Gleeson working group considered in detail the type of professional courses for barrister students in other common law countries¹⁴ its proposals as implemented (see Appendix 1) differed in material respects to what is being offered elsewhere. Again, the new degree course is unique to King's Inns. The reaction of the students on the first course has been very positive. A review of the first year is under way by the committee that supervised its implementation under the chairmanship of Ms Justice Finlay Geoghegan.

- 3.30 King's Inns has commenced strategic planning that will result in further innovations over the next few years. The primary focus of King's Inns in the development, design and provision of the current one-year degree course related to the requirements of practice at the Bar. Notwithstanding this justifiable primary focus in the development of the new degree course and the decision by reason of its nature that it be a full time course, King's Inns wishes to facilitate those already in employment in the public sector and elsewhere to qualify as barristers. At the time of the decision in 2003 to introduce the new one-year full-time degree course, King's Inns committed itself to considering, as soon as the new course was securely established, its introduction on an alternative modular or part time basis. King's Inns intends commencing a detailed consideration of such a modular or part-time course during the 2005/2006 academic year.
- 3.31 This approach forms part of the already demonstrated willingness of King's Inns to facilitate access to the course leading to the degree of Barrister-at-Law. In the same context, a working group is currently looking at ways of increasing the level of bursaries available.
- 3.32 A committee has been established, under the chairmanship of Paul Gallagher SC, to review the content and method of delivery of the course leading to the Diploma in Legal Studies.
- 3.33 King's Inns is in the process of appointing a Director of Continuing Professional Development. It intends that this person will work with the Bar Council in the development of conferences, seminars and short courses primarily geared for practising barristers and solicitors. It is also intended that this person will assist King's Inns in developing specialist legal courses (some of which may lead to a specialist qualification awarded by King's Inns) both for practising lawyers and persons working in the public or private sectors in specialist areas.

¹⁴It looked in particular at Northern Ireland, England and Wales, State of Victoria, Australia, and Scotland. It also considered certain aspects of some American training and the Law Society's courses.

3.34 In conclusion, King's Inns submits as follows:

- King's Inns operates largely on a break-even basis with any surpluses being put back into furthering its role in educating and training barristers;
- Tuition fees charged to students are not excessive, either in absolute terms or relative to other third-level educational institutions, when the effects of government subsidisation of the universities is factored into the price equation.
- The number of barristers graduating from King's Inns, in the timeframe chosen by the study, has been broadly in line with the growth in the numbers employed in professional occupations. In absolute terms, the number graduating has been very high by reason of innovations by King's Inns.
- The Authority has produced no financial analysis of King's Inns performance that indicates either operational inefficiencies or excessive cost inflation. The fact that King's Inns receives no Exchequer-financed state grants provides a strong incentive for King's Inns to operate in a cost-minimising fashion.
- No evidence is forthcoming to indicate that King's Inns has behaved in a less innovative fashion than any other third-level educational institution. On the contrary it has become highly innovative and the evidence is that it will continue to be so.

4. ENTRANCE REQUIREMENTS

(Diploma in Legal Studies and Entrance Examinations)

- 4.1 In its Preliminary Report, the Authority proposes to abolish the requirement for graduates in law from recognised universities to take the King's Inns entrance examination¹. King's Inns considers that this is not desirable for a number of reasons.
- 4.2 Nonetheless, King's Inns will continue its practice of conducting regular reviews of its entry requirements to the professional degree course² and indeed, of any other courses that it might introduce in the future in the light of changing circumstances and needs.
- 4.3 From an educational point of view, at least two years of the one-year degree course must be completed before making any fundamental change. As already stated King's Inns is undertaking a review of the new degree course in the light of the first year's experience. It anticipates that a second year's experience will be necessary in order to gauge the appropriateness of the current entry requirements for the purpose of meeting the objectively justified educational requirements.
- 4.4 King's Inns welcomes the acceptance by the Authority that ensuring an adequate knowledge of the law is a valid objective of King's Inns. The stage at which King's Inns now ensures adequate knowledge of academic law, as part of the education and training of barristers, is at the point of entrance to the professional degree course.
- 4.5 The new professional degree course is designed and taught upon a number of assumptions including:
- that all those admitted to the course have an up-to-date knowledge of certain core legal subjects and, in particular, those aspects of the law most often encountered by barristers in practice,
 - that all those admitted to the course have already developed certain skills in relation to legal reasoning, legal research and basic legal writing,
 - that all those admitted to the course have demonstrated, in relation to academic law, a sufficient standard such that, as a matter of probability, at the end of the vocational course they will be capable of meeting the standard required by King's Inns to qualify as a barrister.
- 4.6 King's Inns has, at present, identified ten core subjects that persons seeking to commence the professional degree course must have studied. It satisfies itself as to the students' knowledge of these subjects by a combination of the entrance examination and approval of degrees and diplomas.

¹While this recommendation was also described in the Report as a *final recommendation*, representations made to King's Inns in a letter from the Authority dated 21 March 2004 prior to the issuing of the Preliminary Report, and the description afforded by the Authority itself to the latter document, suggest that it is also preliminary in nature. King's Inns has also treated it as such.

²King's Inns has already once changed the examinable subjects on the entrance examination as part of its review process.

4.7 If King's Inns was to go the route of testing the academic knowledge of law of aspiring candidates only by means of an entrance examination and not having any regard to subjects passed in approved degrees or postgraduate diplomas, it is probable that the entrance examination would have to be in either ten or twelve subjects. In particular, for those students who have a law degree, this would impose a significant additional burden and time requirement. It is unlikely that students would take all such subjects at one sitting. Even with the eight subjects currently required by the Law Society's FE-1, the majority of students appear to take them over at least two sittings.

4.8 At the other end of the scale there is the possibility, as suggested by the Authority, of King's Inns setting its entrance requirements by reference to recognised law degrees acquired by students in the universities. However, at present, it is not considered desirable to go this route for a number of reasons. These may be summarised as follows:

- As indicated already, one of the objectives of the entrance examination is to ensure that those commencing on the degree course have an up-to-date knowledge in the core subjects. At present, there is no time limit between a person receiving his/her law degree and taking the entrance examination. If there was no entrance examination, there would have to be such a time limit to ensure up-to-date knowledge.
- The professional degree course is a postgraduate course and, in terms of entry requirements, it must be considered as such. The Authority will be aware that the vast majority of well-recognised postgraduate courses contain minimum standards as entry requirements. In many instances, a candidate must have obtained a second class honours degree or better. In order to achieve the objective of only admitting to the professional degree course those who are capable of meeting the standards to qualify as barristers, it appears probable that King's Inns (in the absence of an entrance examination) would have to set such minimum standards.
- If King's Inns were to admit persons by relying only upon degrees obtained from other institutions, it would have to be far more vigilant in its approval of degrees than is necessary if candidates must pass an entrance examination, at least in some subjects, set by King's Inns.
- King Inns recognises both pure and mixed law degrees. Universities providing such degrees in law have differing emphasis, and the content and duration of their courses vary. Many courses offered within such degrees are of a theoretical nature; others are directed at aspects of legal

science that are of limited significance to the practice of law in Ireland. In an increasingly complex legal system, and in a context where many persons who study the subject at university do not practice law in Ireland, it is of course important that diversity in legal education at third level is available to law students. However, such diversity in third level legal education makes it more difficult to ensure that all students with degrees entering professional courses have a sufficient understanding of legal subjects believed to be core to practice at the Bar.

- 4.9 In its Preliminary Report the Authority proposes the abolition of the requirement for persons who do not hold a recognised law degree to obtain its Diploma in Legal Studies before being permitted to sit its entrance examination. King's Inns agrees that the King's Inns Diploma in Legal Studies should not be the only route of entry onto the degree course for such students. However, it does not consider it desirable to abolish the requirement for such students to hold a postgraduate diploma in law.
- 4.10 In April 2005, the Council of King's Inns altered its education rules in order to facilitate the recognition of postgraduate diplomas in law offered by other third level educational institutions. So far, King's Inns has been told of the intention of one third level institution to submit such an application for accreditation in Autumn 2005. If approved, such diploma will provide an alternative means of non-law graduates qualifying to sit the Entrance Examination to the degree course.
- 4.11 For the reasons already outlined at paragraphs 4.4 to 4.7 above, King's Inns considers that students must hold either an approved law degree or an approved postgraduate diploma before being permitted to take the entrance examination to the degree course.
- 4.12 The present entrance requirements of King's Inns are a combination of an entrance examination and an approved law degree or postgraduate diploma in specified subjects. King's Inns believes, for the present, that these are appropriate entrance requirements and necessary to fulfil its objectives. Further, King's Inns does not consider that they are restrictive. Experience shows that many law graduates, who take their final university examinations in May/June of a particular year, will take the entrance examination in September and can commence the degree course in October of the same year. Such persons are capable of being called to the Bar within one year of completing their academic law degree.
- 4.13 In October 2004, King's Inns put in place procedures for considering applications from EU nationals who do not qualify under Directive 89/48/EEC but who may have some legal academic and/or vocational qualifications and who wish either to be admitted to the professional degree course or exempted, at least in part, therefrom and admitted to the degree of Barrister-at-Law. The procedures were put in place in order to ensure that King's Inns was in compliance with the decision of the European Court of Justice in *Morgenbesser*³ and the earlier case referred to therein, *Vlassopoulou*⁴. Any change to entry requirements must take these procedures into account.

³Case C-313/01 *Morgenbesser v Consiglio dell'Ordine degli Avvocati di Genova* [2003] ECR I-0000

⁴Case C-340/89 *Vlassopoulou v Ministerium Für Justiz* [1991] ECR I-2357

5. SOLICITOR STUDENTS

- 5.1 The Authority proposes that King's Inns should abolish rule 24(b)(2) of its education rules “ *thereby removing the requirement for a solicitor to remove his name from the roll of solicitors before being admitted to study at King's Inns*”.
- 5.2 The Authority is mistaken as to the effect of rule 24(b)(2). It only requires removal from the roll of solicitors three months prior to admission as a barrister. Rule 24(c) allows a solicitor with permission of the Education Committee to take King's Inns examinations before he ceases to be a solicitor.
- 5.3 King's Inns favours facilitating the transfer of barristers and solicitors who wish to change professions. It is and has been prepared to make rule changes to do so. However, contrary to the Authority's position, King's Inns believes that it is essential that consumers of legal services are fully aware whether a person is practising as a barrister or as a solicitor at any given time. In practice, this requires that a person who transfers from being a solicitor must remove his name from the roll of solicitors. As this is an issue which primarily relates to practice rather than education it is not intended to make further submissions with regard to the matter.

6. FOREIGN LAWYERS

- 6.1 The Authority has proposed that King's Inns should amend its rules in order to enable foreign lawyers to practise in Ireland as barristers without reciprocity or recognition requirements or further examinations; such barristers, however, would be subject to the Irish Bar Council's Code of Conduct and disciplinary sanctions. It is assumed that by this the Authority means that King's Inns should amend its rules in order to permit such persons to qualify as barristers by being admitted to the degree of Barrister-at-Law under such conditions.
- 6.2 King's Inns believes that such a move, which would involve the designation of foreign lawyers of any type whatsoever as qualified Irish barristers in circumstances where they may have no Irish law education or training, would be detrimental for the consumers of legal services.
- 6.3 It would also be more lax than the scheme established by Council Directive 89/48/EC under which EU qualified lawyers may become qualified as lawyers in another member state without undertaking full professional education in the second member state. In that scheme, King's Inns, as the designated competent authority for the Republic of Ireland, may require EU qualified lawyers to satisfy its requirements in relation to their knowledge of Irish law and practice thereby ensuring that those who are admitted to the degree of Barrister-at-Law warrant being represented as qualified Irish barristers.
- 6.4 Furthermore, such a scheme would be significantly more lax than the second EU qualification regime provided for under Council Directive 98/5/EC, as implemented into Irish law by the European Communities (Lawyers' Establishment) Regulations, 2003. Under the 2003 Regulations, an EU qualified lawyer is entitled to practice in Ireland under his home country designation. After a three year period, that lawyer is entitled to apply for admission to practise as a barrister or solicitor. In making such an application, the lawyer is required to provide proof of regular and effective pursuit of an activity in the law of Ireland. It is assumed that during such period he will have gained a knowledge of the law of Ireland.
- 6.5 King's Inns notes that the issue of international recognition of legal qualifications is currently under review by the World Trade Organisation and that the extension of the model provided for by Council Directive 98/5/EC is under consideration. It believes that this model, and not that suggested by the Authority, would be the appropriate one in the event that it was decided to extend the recognition of foreign legal qualifications.

7. COMPETENCY IN THE IRISH LANGUAGE

- 7.1 King's Inns favours the existence of courses to ensure that there are barristers who are competent to conduct cases in the Irish language.
- 7.2 King's Inns has offered, for some years, an optional course in Advanced Advocacy and Legal Drafting through the medium of the Irish language. This is open to a range of persons other than students of King's Inns. King's Inns considers the development of such a course is important in order to have available legal practitioners who are qualified to conduct cases in Irish. It is willing to consider the further development of such courses and the granting of a qualification to those who reach an agreed standard.
- 7.3 King's Inns has no role in relation to the Irish language requirement in s. 3 of the 1929 Act.¹ The Authority has misunderstood its precise impact on barristers. A person may qualify as a barrister by being admitted to the degree of Barrister-at-Law by the benchers without complying with the requirements of the 1929 Act but may not be admitted by the Chief Justice to practise as a barrister in the Courts of Ireland without doing so.

¹Legal Practitioners (Qualification) Act, 1929.

APPENDIX 1:

BACKGROUND AND OPERATION OF THE NEW DEGREE COURSE

In October 2004, the new one-year full-time Barrister-at-Law degree course was introduced at King's Inns. This was a major undertaking and involved many members of the Bar and of the Judiciary.

Background

- **Implementation Committee:**
An implementation committee chaired by the Hon. Ms Justice Finlay Geoghegan formulated and agreed the overall template for the one-year degree including the subjects to be covered, the structure and ethos of the course, the mode of delivery, and the assessment regime. The committee also carried out research among members of the Bar before deciding on the specialist options to be included in the course. 64 members of the Bar, of differing levels of seniority, took part in this research.
- **Steering Groups:**
The Implementation Committee appointed steering groups to cover the following areas:

Subject	Chair
Civil Procedure (Superior Courts)	Hon Mr Justice Kelly
Civil Procedure (Circuit and District Courts)	Ms Sara Moorehead SC
Criminal Procedure and Evidence	Hon Ms Justice Dunne
Advocacy, Negotiation and Consultation	Hon Mr Justice Gilligan
Opinion Writing, Drafting and Legal Research	Mr John Finlay SC
Family Law and Practice	Mr Gerard Durcan SC
Land Law and Conveyancing	Hon Ms Justice Laffoy
Ethics, Professional Responsibility and Practice Management	Mr Kevin Feeney SC

In total 58 members of the Bar and Judiciary are members of the steering groups. Their task was to agree the learning outcomes in relation to their subject(s), to review samples of course materials and to agree the approach to teaching the skills.

- **The New Course:**
The one-year degree course commenced on 11 October 2004 with 177 students. By the end of the fourth week students had completed a two-week foundation course in remedies and quantum and had undertaken the first week of both the Civil and Criminal Practice courses. As part of the first week of each of these courses students had, in relation to the skills outcomes, undertaken numerous research exercises and had given presentations on their research, had written four opinions and had undertaken four negotiations.

- **Mock Trials:**

During the final term of the course all students acted as a barrister in two mock trials - one civil and one criminal. These trials took place over 5 days at the Four Courts. 14 judges (including 2 Supreme Court judges) and 31 senior counsel acted as judges for these trials and gave feedback to students.

- **Course Co-ordinators:**

12 course co-ordinators were appointed from members of the practising Bar to undertake the task of designing, in liaison with the Dean, the structure and detailed materials for the course, including all student materials and tutors' notes. All undertook training in course design.

- **Teaching Panel:**

There was an overwhelming response to the advertisement for members of the Bar to teach on the course. Following short-listing on paper and a two-day training programme 75 members of the practising Bar were asked to join the teaching panel. Eleven members of the Bar were also selected to act as personal tutors in addition to teaching on the course. Each personal tutor was responsible for one group of students (16 students) and for meeting this group on a fortnightly basis.

- **The Aims and Ethos of the Course:**

The aim of the course is to enable students to acquire and develop the skills, knowledge and values needed to become an effective member of the Bar. It is a practical and interactive course and is intended to bridge the gap between the academic study of law and practice at the Bar. The following subjects are covered:

- 1 Remedies and Quantum

- 2 Practice and Procedure:

- Civil Practice and Procedure
- Criminal Practice and Procedure
- Evidence

- 3 Legal Skills:

- Advocacy
- Negotiation
- Consultation
- Opinion Writing
- Drafting
- Legal Research

- 4 Ethics, Professional Responsibility and Practice Management

- 5 Participation in Mock Trials

- 6 Attendance at courts, tribunals and other specialist bodies

- 7 Advanced study of specialised areas of practice (students have a choice of areas from which they must choose two)

Operation of the Course

Throughout the course teaching and learning focuses on what happens in practice. Teaching and learning takes place almost exclusively in groups of 16 students with the emphasis on student exercises and group work based on realistic case papers. Students are given numerous opportunities to practise and receive feedback in the skills workshops and are expected to participate in all classes. Attendance is monitored strictly and is considered part of the students' professional responsibility to their future clients.

The first two terms are structured to comprise the Foundation Course (2 weeks: remedies and quantum), the Civil Practice Course (9 weeks) and the Criminal Practice Course (7 weeks). Both the Civil and Criminal Practice Courses take the student through the stages of litigation from commencement to final appeal and enforcement of judgments. The courses are divided into week-long sections, each section covering a different stage in proceedings together with the skills relevant to that stage of proceedings.

Ethics, professional responsibility and practice management is central to the course and is taught discretely as well as being integrated into the other courses. In addition the students take part in a clinical programme requiring them to visit courts and institutions, such as Mountjoy Prison, each Monday. Students complete written exercises in relation to these visits which are then discussed in class.

Refurbishment of Student Facilities

In the last five years, King's Inns has invested over €1m in facilities and IT services spread between its main building and the Library Building in Henrietta Street. This investment was specifically aimed at facilitating delivery of its courses and, particularly, for the delivery of facilities for small-group teaching. All teaching areas have appropriate classroom furniture, cameras, plasma screens and video equipment to record and view students' progress in advocacy, negotiation and consultation (and to enable the viewing of demonstration videos of these skills). In addition new IT and recreational areas have been created. All students have access to the Web, legal databases and email. There is a wireless facility for laptops in almost all areas.

At present (Summer 2005), King's Inns is refurbishing a 5000 sq ft property on Henrietta Street. This will be in operation in October 2005 and will provide three additional teaching rooms, video training booths and staff offices for personnel in the School of Law.

APPENDIX 2:

COMPARATIVE FEE COSTS OF PROFESSIONAL EDUCATION IN IRELAND

In € at current prices

YEAR	TRINITY ONE YEAR FULL TIME MBA	UCD TWO YEAR PART TIME MBA	KING'S INNS BL DEGREE*
1990	3,998	4,764	3,429
1991	5,080	4,940	3,747
1992	6,350	5,080	4,001
1993	7,620	6,094	4,128
1994	8,128	7,454	4,255
1995	8,890	7,860	4,636
1996	9,906	8,057	4,763
1997	10,795	8,546	5,880
1998	11,430	10,158	7,036
1999	13,335	13,333	6,922
2000	15,240	14,920	8,001
2001	16,507	16,801	8,890
2002	18,543	18,250	9,400
2003	20,515	19,250	10,500
INCREASE			
1990-2003	+413.1%	+304.1%	+206.2%

*Course changed from two-year part-time to one year full-time in 2004.

Sources: Fees Office, Trinity College Dublin, March 2004; Michael Smurfit Graduate School of Business, University College Dublin, March 2004; King's Inns.

APPENDIX 3:

NATIONAL LABOUR MARKET TRENDS 1999-2003 (Q2)

CATEGORY	1999	2003	% CHANGE
Labour Force	1,685,900	1,875,500	+ 11.2%
Total At Work	1,589,100	1,793,400	+ 12.8%
Employment in Services	1,004,200	1,179,400	+ 17.4%
Employment in Professional Occupations	158,800	200,800	+ 26.4%
Graduating Barristers*	101	126	+ 24.8%

* King's Inns graduates as enumerated in the *Study of Competition in Legal Services: Preliminary Report*, The Competition Authority, February 2005

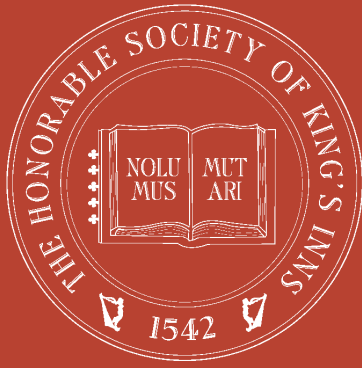
Sources: Quarterly National Household Surveys, Quarter 2, 2000 and Quarter 3, 2004, Central Statistics Office.

APPENDIX 4:

COMPARISON OF STUDENT BARRISTER NUMBERS IN ENGLAND/WALES AND IRELAND (ROI)

	Student Barristers (2004/2005)	Population (latest census in each jurisdiction)	Proportion
England & Wales	1594	52,041,916	0.0031%
Republic of Ireland	177 ¹	3,956,000	0.0045%
<i>Ratio</i>			1 : 1.46

¹Students admitted to the one year vocational course in October, 2004. There were, in addition 114 students in the final year of the old two year course. While the combined number of 291 students is exceptional, it should be taken into account in considering total student numbers over a three/five year period.



THE HONORABLE
SOCIETY OF
KING'S INNS

HENRIETTA ST.
DUBLIN 1

T: +353 1 874 4840

F: +353 1 872 6048

E: info@kingsinns.ie

W: www.kingsinns.ie