



## **NEWS RELEASE**

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### **The Competition Authority finds the legal profession in need of substantial reform**

The Competition Authority has today published its final report on competition in legal services in Ireland. The Authority has concluded that the market for legal services is permeated with unnecessary and disproportionate restrictions on competition and is in need of substantial reform.

The Competition Authority recommends comprehensive new legislation – a Legal Services Bill – to address the competition concerns identified in this report. The legislation would establish an independent Legal Services Commission with overall responsibility for regulating the legal profession and the market for legal services. The Legal Services Commission would be an independent, transparent and accountable body, involving a wider group of stakeholders than the current model of self-regulation. The Law Society and the Bar Council would continue to have a role in the day-to-day regulation of the profession but would be required to separate their representative and regulatory functions.

A new regulatory structure of this type is required to meet the Principles of Good Regulation established by the Government and in order to address adequately the risk associated with self-regulation. Currently, the Law Society and the Bar Council face a conflict of interest between their mandate to represent the interests of their members and their role in protecting consumers and the public interest. This conflict of interest has resulted in rules and practices that serve the interests of the legal profession rather than those of consumers.

According to Bill Prasifka, Chairperson of the Competition Authority,

*“The model proposed by the Competition Authority strikes an appropriate balance between the need to involve the profession in the regulatory system and the need to introduce the consumer’s voice into the regulation of legal services. The establishment of a Legal Services Commission would bring the regulation of the legal profession into line with best international practice and with other professions in Ireland.”*

The Competition Authority makes 29 recommendations in its report, designed to remedy the problems it has identified in the legal profession. The most significant of these proposals include:

- Abolition of the King’s Inns and the Law Society’s control of professional legal education which facilitates their educational monopolies;
- The introduction of a profession of specialist conveyancers to bring down the price and increase the quality of service in conveyancing;
- Empowering consumers by requiring the Law Society and the Bar Council to actively provide useful and accessible information to consumers about their rights and about key features of legal services, such as how legal fees are determined.

- Extending access to barristers for legal advice to all members of the public, which is currently the privilege of an elite.
- Allowing barristers to form partnerships.
- Requiring solicitors whose clients wish to switch to another solicitor to hand over the client's file to the new solicitor.
- Removal of unnecessary restrictions on barrister and solicitor advertising.
- Allowing employed barristers to represent their employers in court, as employed solicitors do.
- Abolition of the practice by which Junior Counsel's fees are set at two thirds that of Senior Counsel.
- The establishment of a transparent and effective scheme for the awarding of the title of Senior Counsel, together with the opening up of the title to solicitors.

Since the Competition Authority published its Preliminary Report on competition in legal services, a number of welcome initiatives have taken place - such as the proposals to create a Legal Services Ombudsman and reform legal costs. All who have looked at this profession have reached a similar conclusion – that the legal profession needs to move towards a more modern, transparent and accountable system. The recommendations in the Competition Authority's report are complementary to these recent initiatives .

The Competition Authority's 29 recommendations are in line with previous recommendations made by other independent bodies which have not been implemented. Bodies who have made recommendations in the past include the Restrictive Practices Commission (1982), the Fair Trade Commission (1990) and the OECD (2001). They are also in line with the reform of the legal profession that has taken place, and is taking place, in other common-law countries, such as England, Wales, Northern Ireland, Australia and New Zealand.

The root and branch reform recommended by the Competition Authority reflects the important and urgent need to create a modern system of regulation of the legal profession that is proportionate, accountable, transparent, flexible and responsive to the needs of consumers.

**ENDS**

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