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An opportunity for law societies

1.1 Professionalism versus commercialism: An opportunity for law societies

'Professionalism *versus* commercialism' (as famously identified by the International Bar Association)[1] sums up a central struggle within legal practice. If lawyers are to serve justice consistently and with open eyes, it can be hard to say 'no' to some commercial opportunities and some clients. It is not a new struggle. Individual lawyers have always had to identify on a daily basis what is ethical and decline to meet some clients' demands. Many, probably most, succeed in this role, but in recent years major cases involving everything from document destruction to money laundering and deceit of the United Nations have occurred against a background of demanding corporate interests. In the process, negative public and especially judicial opinion about lawyers' ethics has been galvanised.

Response to the perceived decline in professional standards has been strongest in the United States, followed closely by the United Kingdom. Rhode for example, suggests US Bar leaders should just use the disciplinary process routinely, without bothering too much about constant 'professionalism initiatives'.[2] Reflecting frustration with unethical behaviour, Rhode has sounded almost at the point of discarding ethics as a bar association goal, for what she sees as the major public concern: access to justice.[3]

1 International Bar Association, *Resolution on Professionalism versus Commercialism*, adopted September 2000, <www.ibanet.org/Document/Default.aspx?DocumentUid=d6fb6535–32e0–4fb1-a669–91edc9586f56> at 3 March 2009.
2 Deborah Rhode, 'Defining the Challenges of Professionalism: Access to Law and Accountability of Lawyers', (2003) 54 *South Carolina Law Review* 889, 892.
3 ibid.

Despite apparent good intentions and successive well-regarded reports over the last 20 years, there have been no really effective campaigns by the profession to pre-emptively develop and sustain members' ethics. Such a need is now urgent and cannot be left entirely to the traditional fixers: law schools. Ethics *assessment* is the missing ingredient in such efforts because it involves accountability for ethical consciousness, something that has always been missing in the professionalism versus commercialism debate. Lawyers' competence has been extensively examined because it is a baseline element of professionalism and is relatively easy to address, but ethics is not easy to define let alone assess, despite the terrible consequences of bad behaviour for both lawyers and clients. Ethics assessment has been ignored or left in the 'too hard' basket for too long and is now overdue for major attention. Careful and conservative assessment of ethics also offers an opportunity to law societies and bar associations to improve their members' attitudes in a manner that will pre-empt regulators' less empathetic scrutiny.

There is much at stake here. Community confidence in the legal system is at least partly influenced by their lawyers' behaviour, which can powerfully facilitate or retard global commerce. Lawyers' collective contribution to economic activity is enormous and so, therefore, is their influence. Value-added contributions to the relatively small Australian economy by legal practices and other organisations in 2007–08 was AUS$11billion,[4] as compared to UK legal services for 2004 of £Stg14.028 billion[5] and US legal services which are estimated to generate US$180 billion annually in revenue.[6]

All professionals associated with making and increasing wealth are under scrutiny, not just lawyers, but lawyers' influence may put them in a special category. The rolling 2008–09 global financial crises have encouraged suspicion of economists, financial planners, accountants, actuaries and the like, even though many if not most of these practitioners were powerless to prevent the losses. Yet lawyers were and are in a special position because of their broad 'deal-making' role. They sign off on everything. Their professionalism and sense of separation remains a critical issue in modern economies because at key points in facilitating wealth creation, and also later when that wealth is lost, their behaviour is pivotal to outcomes. If some lawyers choose commercial priorities and behave poorly in these hard cases, all lawyers' self-esteem can suffer with them.

Lawyers' independence then is vital, but their own corporate behaviours now also respond strongly to these economic cycles, so much so that commercially

4 Australian Bureau of Statistics, at <www.abs.gov.au/AUSSTATS/abs@.nsf/Lookup/8667.0Explanatory%20Notes12007–08?OpenDocument> at 21 December 2009. Industry value added (IVA) statistics measure the contribution made by businesses to gross domestic product (GDP).

5 Input-Output Analyses 2004, *United Kingdom National Statistics*, 2006 edition, Industry 109, Table 1.51, p 64. Note that the Law Society of England and Wales estimates gross fees earned in 2008 by solicitors' practices alone at £Stg19.304 billion. Personal communication with Law Society Research Unit, 29 July 2009.

6 Email from Amy Cole, Research and Markets Ltd, 26 June 2009. See <www.researchandmarkets.com/product/4d8fla/legal_services> at 26 June 2009. See also US Census Bureau, *2002 Service Annual Survey: Professional, Scientific and Technical Services*, at <www.census.gov/Press-Release/www/releases/archives/economic_surveys/001658.html> at 3 March 2009.

prominent lawyers can often be identified far more readily from their business priorities than for their ethical credentials. Websites of the most influential law firms in all jurisdictions display concern for every commercial and client priority possible, but not for ethics. And attempts to identify any firm on the basis of a cyber-ethical profile are unsuccessful. If these lawyers' own drivers are mainly commercial, the question is naturally asked: can they (psychologically) encourage at the critical time any other priority in those who pay them and upon whom they are dependent?

Fortunately, there are many lawyers in many firms who are interested in ethical accountability. Many heads of legal practices are privately understanding and supportive of an independence of spirit and purpose, although their roles hamstring them. Their admirable personal priorities and reputations positively influence a few around them or inside a partners' meeting or a client's boardroom, but client confidentiality means that they can offer little case-specific encouragement to law students or provide much in the way of convincing public examples so that many lawyers constantly struggle for their ethical identity. Confidentiality is a key ethical priority, but it keeps secret good deals and bad alike, unless a client consents to disclosure. Since 'deal making' is advertised widely, but not of course 'deal breaking', the public does not know the cost to lawyers who insist on an ethical position that might ruin a deal. Crucially then, many other lawyers do not hear of their ethical models.

If individual lawyers are constrained about their public positions on specific ethics issues and their law firms even more so, the same need not be true of their professional representatives who could act decisively if the case is well enough made. This book is addressed to law societies and bar associations as lawyers' representatives; but not so much to the representative professional organisation as to the representative *role* of that organisation. Representative and regulatory roles are distinguished in this book because in an increasing number of jurisdictions those roles are separated. Representative associations – which for convenience are termed 'law societies' or 'bar associations' – generally have the respect of their members voluntarily offered rather than compulsorily required. However, the many associations which still retain both representative and regulatory roles, and even a co-regulatory function with an independent body, will also find the discussion relevant to their efforts to balance both functions.

The strategies advocated here are addressed to the representative role rather than the organisation *per se*, because that representative function is just as important to lawyers' ethics as is that of regulation. Representatives, or those wearing a representative hat, have the positive interests of their members in necessary focus at all times and can take assessment initiatives which a pure regulator may either not have power to commence or will consider itself unable to initiate because of perceived conflicts of interest. Associations of lawyers are able to take a public lead on a professional issue if they want to, without an individual client complaining. They can be *more* responsive to overarching social and professional

needs than regulators because, once freed of regulatory obligation, they do not need to be constrained by the possibility of conflict in prosecuting a particular member. In fact, many members both expect and need their associations to take public-interest initiatives on many issues, without regard to the politics of regulation. A rare individual regulator may have the charisma and professional respect of lawyers, but they cannot easily expand programs to develop and improve ethics without at least some suspicion that there might be a regulatory consequence for non-cooperation. Representative societies and associations have the potential to take forward the professionalism agenda with members' cooperation, based on a sense of mutual interest, whereas regulators can only require a minimal compliance, rarely with a concern for lawyers' autonomy and never with a sense of their allegiance.

Law societies and bar associations have in these proposals a chance to strengthen public confidence in the profession and minimise the risk of government intervention when that confidence is shaken. And shaken it is, with more noticeable effect after each deplorable event. Consumer and government pressure on ethical agendas is now relentless. In common law legal systems there is an identifiable trend towards, for example, independent complaint handling. Where the dysfunction is bad enough, government intervention can extend to eliminating professional control of much more: admission controls, trust account regulation, client compensation funds and even malpractice insurance.[7]

Law societies have the opportunity through the measures proposed here to provide additional practical encouragement of lawyers' ethical behaviour, not just to support the legal system and resist government intervention in the profession, but to continue to build community confidence in the fairness of society. When lawyers' ethics are seen to be inferior, the ability of the justice system to function (and the social confidence which is nourished by our courts' ability to deliver justice), is undermined. Although community dissatisfaction with many aspects of lawyers' performance is not always reasonable or justified, questions about the integrity of the court process go to the heart of citizens' willingness to obey the law and must be answered, either by the profession or if not, by governments.

This book identifies various assessment strategies that law societies could use to improve lawyers' professional behaviour. Chapters 1 to 4 explore the cases and empirical research which establish the need for improved behaviours. They then describe legal ethical *methods* and *types* which are significant for assessment (that is, the ethical decision-making processes which all lawyers use, consciously or otherwise, to make decisions), and set out various approaches to counteract the commercial pressures of legal practice – notably 'quality' and competence testing in the United Kingdom, the insights from US efforts to assess medical

7 See, for example, 'Special Edition: Legal Profession Reform in Queensland' (2004) 23(2) *The University of Queensland Law Journal*; Reid Mortensen, 'Interest on Lawyers' Trust Accounts' (2005) 27(2) *Sydney Law Review* 289.

professionalism and the emerging 'ethical infrastructures' of incorporation and malpractice risk management that will increasingly influence practitioners' behaviours. Chapters 5 to 8 then discuss the opinions of a group of 30 specialist lawyers as to the usefulness of a number of compliance-like assessment mechanisms designed to encourage an individual lawyer, in their working life, to behave professionally. These chapters review what interviewees in this Melbourne-based study thought about, specifically:

- the possibilities for psychological testing of honesty and integrity,
- the relevance of disciplinary histories and clients' assessments to ongoing licensure,
- lawyers' awareness of values and ethical method and type, as periodically assessed by the combination of a numerical measure of awareness of ethical type and law society-controlled interview, and
- the potential of current continuing professional development schemes as mechanisms through which ethics assessment could be implemented.

It is important at this point to specify what is actually meant by 'ethical behaviour' when that term is used in this book. Potential understandings are numerous, but this is the definition used in following chapters: ethical behaviour is *considered, decisive* and *proper* in the circumstances. A lawyer behaving ethically will intentionally choose between the major competing legal ethical principles and rules and adopt a *bona fide* position and course of action, rather than responding to laziness, to intuition or to self-preservation. Such behaviour does not automatically fall on one side of a line rather than the other; for example compliance with professional conduct rules, because such rules are often inconsistent and do not always concur with underlying ethical principles. Conduct rules also vary widely across jurisdictions, making them relatively unsuitable for assessing ethical consciousness among practitioners with transnational practices. Rules are important, but if law societies limit themselves to promoting mere compliance with rules, devoid of context or situation, a continuously tightening spiral of decision making is necessary in order to try to reach ever narrowing but never certain guidance: a barren enterprise.

Similar reasons apply for the emphasis here on ethical methods and types for assessment purposes, rather than on assessing a lawyer's knowledge of inevitably local ethical doctrines and common or civil law principles such as confidentiality, client privilege or the limits of defence advocacy in any one jurisdiction. While knowledge of ethical doctrines can be tested as readily as any piece of substantive information, such knowledge does not indicate whether a lawyer, particularly a new lawyer, is more or less likely to decide to behave ethically, when they are struggling under the considerable pressure of the practice environment.

In proposing innovation of this nature, the ethics of assessment is itself an issue. As lawyers must collectively remain a central, if not *the* central mediator of individual rights and freedoms in tension with increasingly centralised and information-powerful governments, the possibility for ethics assessment to be utilised against the legal profession for ignoble purposes will seem too much for

some critics. They will claim, reasonably enough, that even the conservative proposals of this book will provide a thin end of the wedge for oppressive regulation, making it progressively easier to proscribe certain assessed attitudes as 'contrary to the public interest'. Orwellian thought control might be around an even closer corner as a result. But the proposals here are very cautious for precisely this reason; they do not advocate assessment of attitudes, that is, of a person's ethics *per se*, but rather of their awareness of the varying options that present themselves as a basis for decision making. It might even be said that they are too conservative and that mere awareness of options will say almost nothing about how a person might choose to behave. Yet the experience of educators and researchers is highly suggestive that it is the quality of awareness,[8] gained through discussion, learning about concepts and especially personal reflection on choices and on what is 'right' or 'wrong', that is more likely than anything else to give pause for consideration in ethically demanding situations and lead to better ethical behaviours in the vast majority of good lawyers who do seek to practice law with integrity. If there is any greater risk to lawyers' independence as a result of assessment of their awareness of ethical choices, it is hard to see how these proposals will produce that threat.

Overall, the argument is that better governance of lawyers *by lawyers* may be addressed at a practical level, not only in the general population of legal practitioners, but also among elite lawyers, by promoting and reinforcing – as positives – not just their competence but particularly their key ethical sensitivities. If adopted by law societies, this promotion and reinforcement might help to initiate a stronger culture of *ethical* accountability as a visible norm of all legal practice, in much the same way, for example, as 'accredited' or certified specialisation has become a visible norm of *competent* legal practice in a number of jurisdictions.

1.2 Standing aside from self-interest

It is certainly not suggested that lawyers as a class are no longer trustworthy. That proposition is ridiculous and extreme, but the indications of a profession under behavioural stress justifies a focus on greater ethical consciousness and accountability, just as the profession has thus far promoted lawyers' technical skills. Stephen Parker has commented:

> If, for example, it is accepted that work of a particular kind is specialist work and that lawyers who meet certain standards can hold themselves out as especially competent to practise it, why can it not also be accepted that the work brings with it particular

8 See generally the discussion in David Luban, 'The Ethics of Wrongful Obedience' in DL Rhode (ed), *Ethics In Practice: Lawyers' Roles, Responsibilities, and Regulation*, OUP, New York, 2000. See also Ingar Brinck and Peter Gärdenfors, 'Representation and Self-Awareness in Intentional Agents' (1999) 118(1) *Synthese* 89; AB Carroll, 'In Search of the Moral Manager' (1987), 30(2) *Business Horizons* 7.

> responsibilities which depart from the traditional idea of what a lawyer does? In other words, if boundary-drawing is possible for competence, is it not also possible for conscience?[9]

How therefore might law societies manage to prioritise ethical accountability, including responsibilities to the courts and the community? At least part of the answer must lie in the constructive study of bad cases and reflection on their impact. Such scrutiny is not easy for the profession and particularly difficult for law societies and bar associations because the cases themselves often involve well-known people who remain connected to the professional organisations in various formal and informal ways. To delve into such matters without good purpose can seem offensive, gratuitous or just embarrassing. But if the purpose is reflective; if the study of such matters is designed to alert and forewarn, even to inoculate, then it must be in the interests of those societies and bar associations to make use of the history in order not to repeat it, or at least not to be defensive when the exercise is part and parcel of a wider process of enhancing ethical maturity.

One such case – and perhaps the best known recent Australian example – involved a large national law firm, Clayton Utz, which was initially criticised by the Victorian Supreme Court in an important case involving the tobacco industry. Rolah McCabe, a terminally ill victim of lung cancer, had sued British American Tobacco Australia Services (BATAS) alleging that her cancer was a result of her childhood addiction to nicotine acquired from smoking and that BATAS was responsible because it had known of the toxic and addictive qualities of tobacco at the time they were marketing their cigarettes to her as a child. Mrs McCabe succeeded in persuading Justice Geoffrey Eames at first instance that the defendant, knowing that litigation was imminent by someone addicted to nicotine and suffering from lung cancer, had destroyed its own historical documents; documents which presumably showed that it knew of the toxicity of nicotine at the time of its cigarette marketing.[10] BATAS defence was struck out by Justice Eames on the basis that a fair trial had been denied to the plaintiff when the defendant (having destroyed its records) failed to provide sufficient discovery.

More particularly for the present purpose, His Honour found that BATAS was assisted by Clayton Utz in developing a 'document retention policy', which was in fact designed to systematically destroy incriminating documents, noting that they had '. . . advised Wills [BATAS] on the wording of the policy, [ensuring] that words were inserted into the written policy document to which reference could

9 Stephen Parker, *Cost of Legal Services and Litigation: Discussion Paper No 5 – Legal Ethics*, Parliament of Australia, Senate Standing Committee of Legal and Constitutional Affairs, 1992, p 94 [6.14]. Parker's comments were delivered in the context of a discussion about different rules of ethics for different sectors of practice, so that, for example, criminal lawyers might adhere to strict rules of zealous advocacy while corporate lawyers might be bound to consider the public interest at least as much as their own clients' interests.

10 *McCabe v British American Tobacco* [2002] VSC 73.

be made in order to assert innocent intention and to disguise the true purpose of the policy.'[11]

The court made other findings as to the effect of later variations in the policy which included holding documents offshore and in the custody of Clayton Utz, to make it easier to deny discovery to any future plaintiff.[12] The general import of the whole judgment was to suggest that commercial pressures on Clayton Utz to support the client were suffocating its primary duty to the court to see that a fair trial occurred and justice done.

Clayton Utz vigorously defended its actions and its reputation. In December 2002, the Victorian Court of Appeal comprehensively reversed the judgment of Justice Eames and exonerated the firm,[13] asserting that destroying documents was not unlawful unless it amounted to an attempt to pervert the course of justice or was a contempt of court. The appeal court effectively affirmed Clayton Utz' behaviour, but the damage had been done. Despite the reversal, public distrust of the profession was again boosted when Melbourne newspaper *The Age* published a critical commentary on the appeal court decision and its implications for document destruction.[14] The case at this point seemed to set up in the public consciousness a stereotypical 'bad' firm representing a 'bad' and wealthy corporate client. The stereotype was highly overstated, but more was to come.

In July 2003, a whistleblower emerged from the tobacco industry and re-ignited the flames. In an affidavit, a former executive of BATAS asserted that it was in fact the company's practice to destroy documents that might have been embarrassing.[15] Clayton Utz responded quickly by asserting that the New South Wales and Victorian regulators had withdrawn investigations into any alleged wrongdoing by the firm in relation to the 'document retention policy'.[16] An appeal to the Australian High Court was unsuccessful but the case had by then made an even larger impact. The State of Victoria enacted new criminal and civil penalties for individuals and corporations who destroyed documents 'reasonably likely' to be used in cases already underway or likely to begin.[17] In October 2006, an internal draft report by Clayton Utz on its own behaviour was leaked to the press by another former partner and appeared to confirm, despite the firm's own previous denials, that a small number of its partners

11 *McCabe* [2002] VSC 73, [289].
12 ibid.
13 *British American Tobacco v McCabe* [2002] VSCA 197.
14 Jonathan Liberman, 'Do Judges Now Admire Corporate Connivance?', *The Age*, Melbourne, 11 December 2002, 17. Liberman was a legal consultant to *VicHealth*, the NGO which stood behind the plaintiff and her family throughout the ordeal of the litigation. Liberman argued that 'the only winners will be corporations with much to hide, their $500 an hour lawyers and the makers of industrial size shredders'.
15 William Birnbauer, 'Tobacco Insider Tells of Files "Cull"', *The Age*, Melbourne, 19 July 2003, 1.
16 Marcus Priest, 'Clayton Utz Says It's in the Clear on BAT', *The Australian Financial Review*, Sydney, 25 July 2003, 58.
17 *Crimes (Document Destruction) Act* 2006 (Vic.). This legislation commenced on 1 September 2006 and imposes substantial fines on individuals and corporations and a maximum term of imprisonment of five years. A complete examination of the wider legislative and procedural consequences of the case is contained in Mathew Harvey and Suzanne LeMire, 'Playing For Keeps? Tobacco Litigation, Document Retention, Corporate Culture and Legal Ethics', (2008) 34(1) *Monash University Law Review* 163.

and staff were involved in deceiving the Supreme Court.[18] There were counter allegations against that former partner of mixed motives, but the leak was in the public domain. Subsequently, those involved all left the firm. Although the exact circumstances of their departure were not made public, it is fair to say that the remainder of the partnership was appalled and in due course went to Herculean efforts to persuade the public that the firm was honourable and the actions of the few were not representative of the remainder. Nevertheless, the possibility that the court process had been subverted by these few lawyers' unethical behaviour was plain for all to see.

Clayton Utz have since done much to restore their reputation and have been partially successful. Initial concerns for the loyalty of their client base did not reduce their long-term profitability. The firm announced, in the interim between the initial finding of Justice Eames in April 2002 and the appeal court reversal in December 2002, that it would cease acting for tobacco companies and that it had appointed former High Court Chief Justice Sir Anthony Mason to head a 'professional excellence committee.'[19] In other words, lessons were learned.

Simon Longstaff, Director of the St James Ethics Centre in Sydney, said after the initial *McCabe* decision that the reputations of some lawyers and accountants were already falling before the *McCabe* case, due to a failure of moral courage.[20] As Buffini noted:

> . . . Dr Longstaff said some professionals had lost sight of the fundamental difference between a profession on the one hand and a business association, guild or industry group on the other. 'To understand the difference you need to recognise that virtually everyone in the economy is encouraged by the idea that if they pursue self-interest, the invisible hand of the market will lead to an increase in the stock of common good. Where everyone is doing that, a small group of people in the professions say 'When everyone will pursue self interest, I will not'. . . . Some professionals appear to do anything but put the interest of the public first. They in fact collude with clients against the public interest.[21]

Longstaff asserted that the essence of professionalism is a personal willingness to align private actions with the public interest, particularly when the professional's own financial interest is compromised. Clearly, the *McCabe* case has had a negative impact on public perceptions of this sort of selflessness. While lawyers are not responsible for systemic cultural attitudes that 'each of us is entitled to as much as we can get', Longstaff's comment about the professional imperative to stand aside from the pursuit of mere self-interest must resonate to some extent. The

18 William Birnbauer, 'Cheated by the Law', *The Sunday Age*, Melbourne, 29 October 2006, 1, 16–17. See also Marcus Priest 'Informer Smoked Out Over McCabe Papers', *The Australian Financial Review*, Sydney, 2 February 2007, 69. At the time this book was finalised, these matters remained unresolved.
19 Bill Pheasant, 'Appeal Court to Rule on Landmark Tobacco Case', *The Australian Financial Review*, Sydney, 6 December 2002, 14.
20 Cited in Fiona Buffini, 'The Decline of Ethical Behaviour', *The Australian Financial Review*, Sydney, 19 April 2002, 57. Accountants and lawyers did not make the top five in a 2001 Morgan Poll that rated the public's respect for the honesty and ethics of 28 occupations.
21 ibid.

crux here is that, within strong commercial cultures and without additional professional incentives, individual lawyers' ability to *consistently* stand aside from self-interest may be too difficult to achieve.

Law societies and bar associations are also at risk here. Their own challenges around independence can send good and bad signals to their own members and the community. Consider, by way of analogy, the predicament of the organised legal profession in its ability to stand aside from its own self-interest, especially visible in some law societies' attitudes to self-regulation. Legal professional associations in many Western jurisdictions have seen a steady decline in the trust which communities place in them to investigate and discipline their own members,[22] because of a view, fair or otherwise, that they allow their peers to escape the consequences of their unethical actions. Thus the literature surrounding professional self-regulation is characterised, in the case of the legal profession, either as a necessity for lawyers' independence from potentially repressive governments (and hence a key element of 'professional' functioning) or an occupational smokescreen, designed to help lawyers stay in control of their reputations and often substantial incomes.[23] Some have learned from this risk and modified their approaches, but others have not. Poor complaint handling has drastically reduced the power and prestige of law societies in Queensland and the United Kingdom, among others. If a powerful profession cannot be seen as sufficiently trustworthy to discharge its community obligations unaffected by self-interest, how can individual lawyers be expected to cope with such pressure, unless additional incentives are brought into play?

It is worth observing that, for example, medical professional organisations cannot directly or indirectly investigate or prosecute their own members for misconduct.[24] And medicine's reputation for professionalism has not suffered to the same extent as law. In similar manner, it is unlikely that complete self-regulation by lawyers is an essential part of their professionalism,[25] though law societies' and bar associations' tangible encouragement of individuals' ethical probity, most certainly is.

1.3 Ethics at the centre of professionalism

Writers of various backgrounds, within Australia and elsewhere, are almost tiresome in their concerns about legal professional behaviour. In the United States, Anthony Kronman, the former Dean of Yale Law School, asserted in 1999

22 See Stefanie Balogh, 'We Win and You Pay,' *The Weekend Australian*, Sydney, 17 August 2002, 24.
23 See, for example, R Abel, 'Why Do Lawyers Promulgate Ethical Rules?' (1981) 59 *Texas Law Review* 639.
24 Thus, for example, the Medical Practitioners Board of Victoria shares complaint investigation with another statutory body, the Health Services Commissioner, not the Australian Medical Association. See <www.medicalboardvic.org.au/pdf/AR_2005/pdf Sec1:11> at 15 February 2005.
25 This does not alter the fact that many lawyers and commentators consider that there are good arguments to hold on to self-regulation. See, for example, William Hurlburt, *The Self Regulation of the Legal Profession in Canada and in England and Wales*, the Law Society of Alberta and the Alberta Law Reform Institute, Calgary, 2000.