

Preface

This book is the culmination of 30 years of research on the regulation of lawyers. That research has produced a large number of papers published in economics journals and reports for funding bodies including government departments. A disadvantage of academic discourse in economics is that it takes place exclusively in papers of 5,000–8,000 words usually dealing with a single substantive issue. In the UK writing a book on economics is seen within the economics community as an adverse signal with respect to being research active, particularly since the advent of the Research Assessment Exercise and Research Evaluation Framework regimes. For many years this has meant that I have not been able to publish work on the lessons for policy that can be drawn from across the range of papers on lawyer regulation which I have written.

It was partly a sense of frustration on the nature of academic economic discourse that led me to move from a Chair in Economics at the University of Strathclyde to the Chair of Regulation in the School of Law in the University of Manchester. That School has had a tradition of applying economic scholarship to legal issues and the regulation of the profession. Whilst I continued to publish papers in Manchester, writing a book on the regulation of lawyers was delayed by my having a period of four years as the Head of the School of Law from 2007. Work on the book could only begin during the sabbatical year which followed the end of my term as Head of School. In one respect this delay has had a fortunate consequence in that not only has the Legal Services Act 2007 been passed, it is now having an effect on the supply side of the legal services market in England and Wales which can be discussed in Chapter 8 of this book.

The book has also benefited from my being appointed as a Special Adviser to the Joint Committee of the House of Lords and the House of Commons which considered the Draft Legal Services Bill in 2006. I was also appointed Special Adviser to the Justice Committee of the Scottish Parliament for its consideration of the Legal Services (Scotland) Bill. Both cases helped me see better why sometimes legislators and others have problems understanding the subtleties of economics-motivated policies.

Because one of my principal objectives in writing this book was to relate and explore the bigger picture of solicitor regulation rather than discuss narrow aspects of it, I draw heavily on my previously published empirical studies. This also, to an extent, narrows the empirical focus of the book to the jurisdictions of the UK, although I believe the lessons drawn can apply to other jurisdictions. A second important objective of the book is also to stress the importance of empirical research in economic policy. Too often, I feel, policy is developed without the benefit of evidence. Similarly much economic discourse gives primary, if not exclusive, place to theoretical or conceptual analysis without recourse to empirical testing.

The various empirical studies that I have undertaken have been in collaboration with a number of other academics whose contribution to this work and my thinking I gratefully acknowledge. It was Allan Paterson who encouraged me to collaborate with him in an early empirical project on the liberalization of solicitor advertising in the UK that brought me to this subject. This led to a series of externally funded empirical investigations over a number of years. I have enjoyed this collaboration and the numerous discussions which we have had over subsequent years. However, I know that Allan does not share my optimistic view of the likely outcome of the most recent reforms in the UK. Jim H. Love played a central role in the early research projects and subsequent publications. We benefited in these projects from research assistance from Lindsay Farmer and Derek Gillanders among others. I subsequently collaborated with Cyrus Tata on the project which gave rise to the empirical evidence relating to solicitor motivation discussed in Chapter 4. I should make clear that the strong conclusions which I draw from this research are not wholly shared by Cyrus. The empirical work on that project benefited enormously from the input of Giorgio Fazio. Finally, in terms of my former collaborators, there is Angela Melville with whom I have worked since moving to Manchester. Angela and I collaborated on the projects dealing with the Faculty of Advocates and the Law Society of Scotland's Master Policy and Guarantee Fund. This collaboration, together with that on no-fault medical negligence, meant that I was able to continue with new research even when I was distracted by being Head of the School of Law.

In addition to acknowledging the contribution of my collaborators I must also acknowledge how much I have learned from the work of others in this field, including Benito Arrunada, Paul Fenn, Michael Faure, Nuno Garoupa, Gillian Hadfield, Anthony Ogus, Neil Rickman, Roger Van den Bergh and the late Larry Ribstein. I have also benefited from discussions

with David Booton and Andrew Griffiths on the importance of branding and trade marks.

I would also like to thank Anthony Ogus and Roger Van den Bergh for reading and commenting on a number of draft chapters. I am grateful for their comments and any remaining errors are my responsibility. Christina Blacklaws of Co-op Legal Services read and commented on the draft of Chapter 8 and Ken Fowlie of Slater and Gordon took the time to talk to me about his experience of incorporated legal practice in Australia and his firm's business model. I am grateful to these busy practitioners for this.

I would like to thank also Matt Pitman and Edward Elgar of Edward Elgar Publishing for having sufficient faith in me to publish this book.

Above everyone else, however, my greatest thanks are due to my wife Christine, who not only has suffered from my weekly commute to Manchester from Dunblane over eight years but also from the ever increasing timescale of the writing of this book. Her encouragement and sacrifice have ensured its eventual completion.