Foreword

The legal profession, at least in North America (but probably elsewhere), is facing more severe stresses on numerous fronts than it has at any time over the post-war period. First, at the lower and less complex end of the legal services spectrum, involving the provision of relatively routine legal services to individual consumers, information technology through the provision of online and interactive services is commoditizing many of these services and introducing unconventional forms of competition into this market. At the other and more complex end of the legal services spectrum, corporate clients and the rapidly expanding cohort of in-house corporate counsel who represent them in dealing with outside law firms have become much more sophisticated and demanding in terms of both the price and quality of legal services, while information technology has again introduced new competitive options, such as contract lawyers and out-sourcing. Third, in the wake of the recent global recession, demand for new lawyers has significantly weakened, reflected in sharply declining applications and enrolments at many North American law schools. Fourth, in an era of widespread public cynicism about the competence and integrity of government generally, the self-regulatory model of governance of the legal profession is increasingly under challenge, fuelled by apprehensions that it is motivated less by regulation in the public interest and more by regulation in the interests of members of the legal profession, and reflects an abdication of responsibility by democratically elected governments.

As someone who has spent significant periods of my career writing about the regulation of the legal profession and access to justice, and indeed been an active participant in policy reform processes in these contexts, I have been delighted to have been able to observe, and discuss with Professor Noel Semple, the evolution of this outstanding book over the past three years. In my view, there is no comparable treatment of the regulation of legal services in North America that is as comprehensive in its substantive coverage, broadly interdisciplinary in the perspectives it engages, and original in the insights it offers.

A central theme in the book is a contrast between two paradigms of legal services regulation that have emerged in recent years: a

competitive-consumerist paradigm that has increasingly come to predominate in much of Western Europe and Australasia, with a significant role for some form of public oversight, and the traditional professionalist-independent paradigm that continues to prevail throughout the United States and Canada. In his book, Professor Semple compares and contrasts how these two paradigms deal with central regulatory issues, such as occupational structure; governance; insulation from governments, non-clients, and non-legal service providers; and the unit of regulatory focus (individual lawyers or legal services entities).

While Professor Semple is rightly critical of the failures of the professionalist-independent paradigm that continues to prevail in North America in addressing many of the issues that arise in these contexts, especially from a client and access to justice perspective, he argues that the paradigm should be reformed and revitalized, rather than abandoned, given the importance of professional independence in most robust conceptions of the rule of law.

Whether the legal profession is capable of reforming and revitalizing this paradigm without external threats of more direct regulation remains an open question. Professor Semple concludes this seminal contribution to scholarship and policy commentary on legal services regulation on a note of cautious optimism that the organized legal profession in North America is up to this task of regulatory rejuvenation.

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