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### Globalisation of Legal Practice - will there be any High Street Lawyers in 2010?

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- "The number of small law firms in the West Midlands will drop by more than one-third in the next five years as they are swallowed by larger practices, a leading solicitor in the region predicts." (UK Law Society Gazette 13 September 2001)
  - "Commoditised work by itself is unlikely to provide many of us with a bright future unless we can find profitable ways of handling it .... we will have to face the fact that some of the things we now do, and the way we do them, will not remain viable. ((UK Law Society President - David McIntosh Key Note Speech to the Law Society's Conference November 2001).
  - "If Susskind is right then the outlook for High Street practice, in the conventional sense, is pretty dire. Increasingly sophisticated computer systems will deliver 'me now' satisfaction to the consumer at moderate or minimal cost; the role of the 'family lawyer' will be marginalized. (Halliwell - Bileta Conference Edinburgh - April 2001)
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Professor Richard Susskind in his recent analysis of technology as it affects the market place says this:

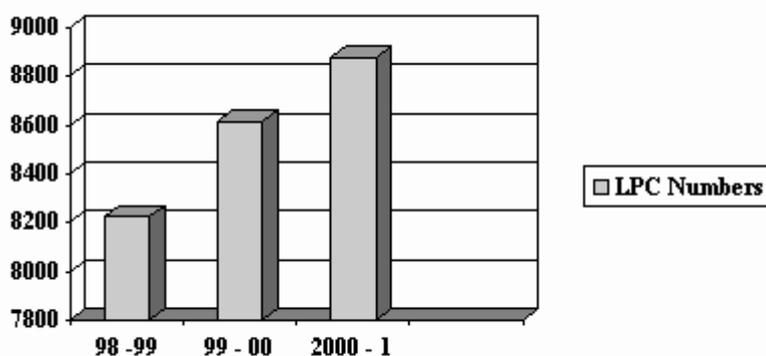
'Today's low-key online legal services will grow in strength and sophistication; and indeed are poised, I believe, to disrupt the entire legal market place....law and legal institutions are no more there to provide a livelihood for lawyers than ill-health exists to provide a living for doctors.

Small and medium sized firms are coming squarely to recognize the threats they face - not least the ability of larger firms to dominate much of the high end work... .' (**Transforming the Law**)

I qualified to practise as a Solicitor in the UK thirty years ago. At that time the Profession

undoubtedly enjoyed a privileged position. Fees were fixed by reference to published scales. There was no price competition. Advertising was not permitted. Any method of 'unfairly' attracting business to your practice was forbidden. If you commenced a new practice one very small press announcement was permitted, even the dimensions of the name-plate on the outside of your building were prescribed by the Law Society. There were about 22,000 practising solicitors serving England and Wales, and any attempt by 'alternative' suppliers - for example will making services - were vigorously suppressed. A 'No win - no fee' arrangement with a Client - a bizarre American aberration - could result in your name being struck off the Roll. But that was thirty years ago. The profession has grown five fold in those thirty years.

Mrs Thatcher was determined that the Professions be removed from their privileged pedestals and opened the door to extensive competition. Internal markets in the Health Service, Universities to compete on student numbers for funding, as for Solicitors they would have to fight for their work in the open market - all semblance of a detached elite was to be removed. Fuelled by a removal of restrictions, a buoyant and expanding property market, and relatively generous Legal Aid the Profession mushroomed.



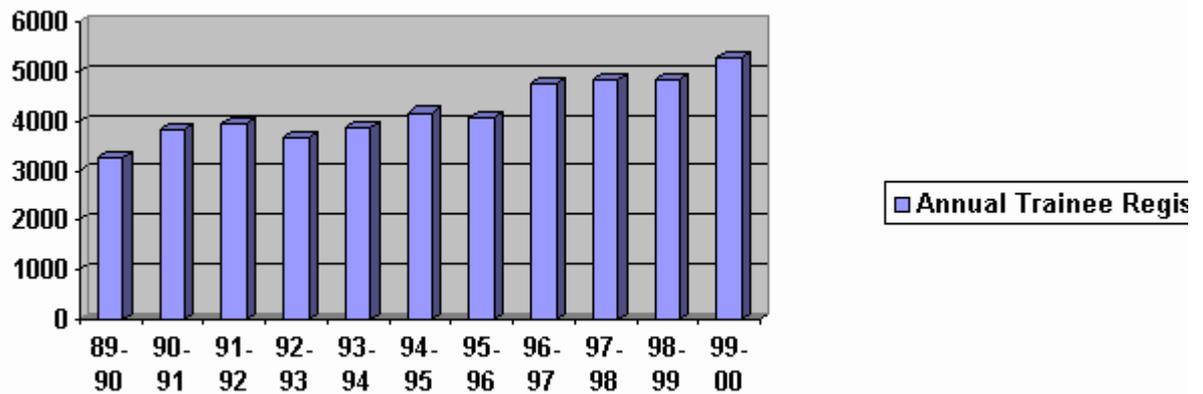
Growth seems inexorable - indeed it has been suggested, not wholly facetiously that:

'By the year 2055, barring the introduction of instant on-line justice and virtual lawyers, the profession is scheduled to celebrate having 1,000,000 solicitors on the roll". So says the Law Gazette of the 19th June 2001. This is wonderful news of course for Universities with Law faculties who, by then, will need to be producing 96,000 Law graduates a year. The funding opportunities will be like winning the National Lottery. But are there any signs that this huge supply is exceeding demand. Well my researches suggest that in the provinces this may be the case. ([Lili Conference 2002 - 'Halliwell' 'Where will all the Lawyers Go?'](#))

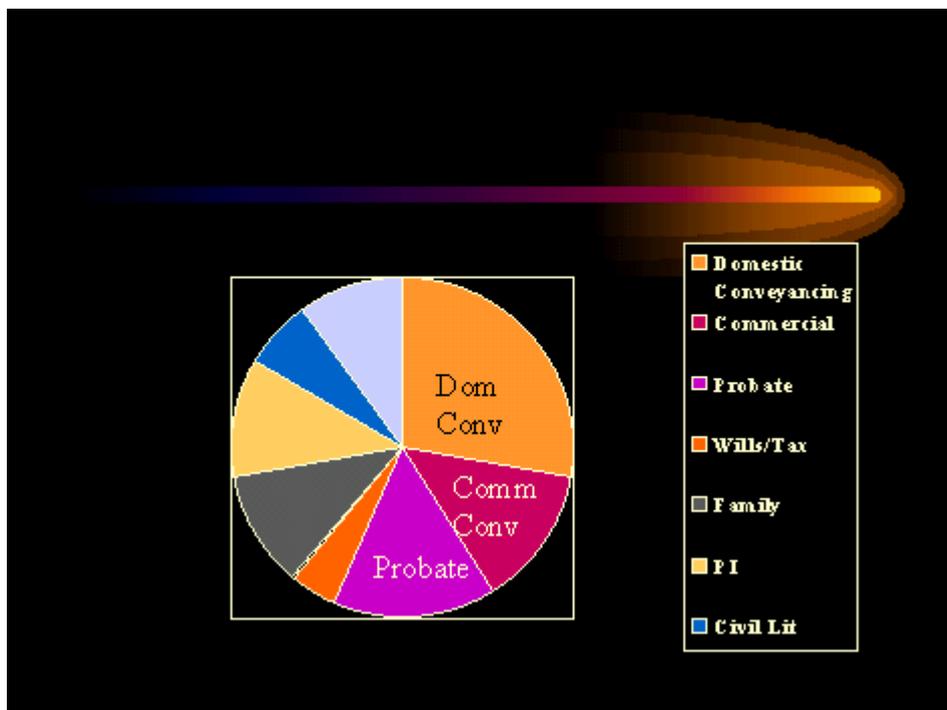
It's worth looking for a moment at the present breakdown of the Profession. There are about 8,319 effective firms of solicitors in England and Wales. London is swamped with solicitors. Whilst only 14% of the population live there it has 25% of law firms, and a staggering 42% of all solicitors! On the other hand 8% of the population lives in the East Midlands but that area has only 4% of solicitors practising there.

There has been a significant shift to larger firms over the past five years. Two to four partner firms have reduced by 5%, five to ten partner firms by 10%, but 26+ partner firms have however grown by 26%. The mega firms - defined as those with 81 partners or more - and there are apparently 23 of them, (this is less than 1/3 of 1% of all firms) account for

no less than 12,014 Solicitors - nearly 20% of the total. In terms of sheer numbers however 2 - 4 partner firms account for 14,432 solicitors. The huge growth in the profession - very roughly it has grown 50% - in each decade since 1960 when there were about 20,000 solicitors, to the figure now in excess of 100,000; of whom 82,769 have Practising Certificates. This also reflects in the demand for training places as this graph illustrates.



So why should Susskind's disruptive technologies affect this seemingly inexorable growth? To answer this it is first necessary to understand what High Street Lawyers actually do in the UK. My firm is one of the larger firms in the counties that border England and Wales. We have 17 partners and a staff of about 65 to 70 and operate from five offices. The work that we presently do is shown in pie chart below:



At a glance it can be seen that property work represents about 37% of our income. That is split as to 25% domestic and 12% commercial.

Probate (purple) trusts and tax account for about a further 15%, wills about 7%. We have a large family law practice (grey) and this delivers about 10% of our costs, similarly personal injury work also 10%, other civil litigation 6%. Contentious work accounts thus accounts for about 26% of our income.

Taking a broad brush for most multi - partner firms, who offer conventional legal services, the work breakdown (in gross fee income, not necessarily profitability) will be in the region of 1/3 property work, 1/4 contentious work, 1/4 from wills and probate. If my maths still serves me, that leaves about 1/6 for a broad spectrum of other work.

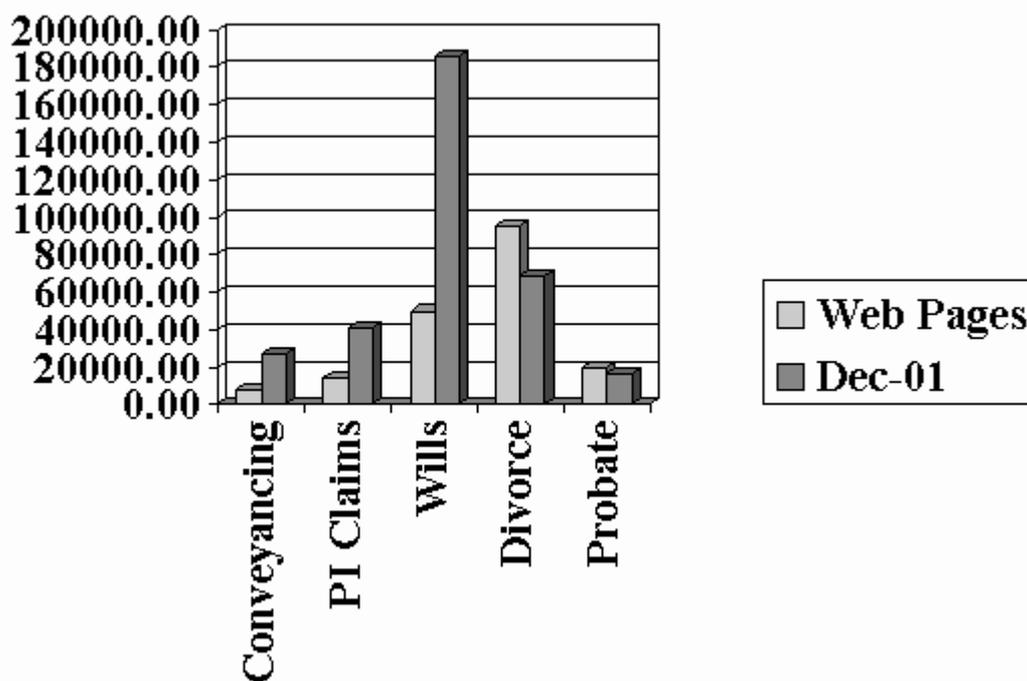
Last year in Edinburgh I suggested that a 10% shift in High Street work to Web would produce instability in a number of practices. Is that shift occurring? Well in some areas yes and others no.

A year ago I asked the UK Search Engine to look up the number of pages of law related sites on 'mainstream' High Street practice. The results were illuminating, and I repeated the exercise this year.

<b>Subject</b>	<b>2000</b>	<b>2001</b>
Conveyancing	7569	27347
PI claims	13949	40978
Probate	20000	16048
Will Making	50000	85000
Divorce	95,000	69000

This is I admit a pretty crude indicator, and makes a number of assumptions. The search engine was the same and search terminology repeated. This particular search engine is UK weighted. Of course they may have changed their crawling programme and all kinds of spurious pages may have been added or deleted. On the other hand the results reflect the general impression that you gain from practice. Conveyancing - the process of land ownership transfer in England and Wales has been specifically targeted by a major financial institution. Countrywide Property Lawyers reported a 41% increase in its conveyancing business in the past 12 months, with most of that work moving away from small firms and sole practitioners. They have a stated intention of lifting their share of the market to 10% or more. It currently has 1.5%. This represents a serious threat to the stability of small practices.

CPL used to operate under the name of Hambros - and presumably still has their backing. It is a very real and tangible demonstration of the commodification of legal services.



I suspect that property work is the mainstay of most small to medium sized firms in the EU. Of course systems are different within the Community. For examples Notaries in the UK play no part whatsoever in the land transfer process, unlike for example France and particularly Spain where they are instrumental. Commoditisation of the Conveyancing process means that you can obtain quotations to carry out property transactions of with values as much as 850,000 Euros for as little as 600 Euros - less than a one tenth of one percent of the value of the transaction. Our Government on the hand will help itself to 4% tax in the form of Stamp Duty! I suspect that those fees are already a level lower than anywhere else in Europe.

The rise in injury pages reflects the heavy investment in claims handling technology by a number of commercial firms now impacting on the UK personal injury and accident claim scene.

Will making in the UK is a 'free for all' from the 5 Euro Will Form, through to a wide range of online will making services - often priced around 80 Euro.

There is so little money in handling undefended divorces where there is no property to argue over that little effort is being put in to promoting such services. Only Probate and Trust work seems to be relatively unscathed. But even here anecdotally many estates which once upon a time would have been left to the Solicitor to wind up, are now undertaken by the beneficiaries themselves, especially where the estate is below our Death Duty (Inheritance Tax) threshold - in the UK this is at about 415,000 Euros.

These changes in the UK legal market place were considered by the President of our Law Society: Reported in the Gazette of the 11th November:

Some law firms face going out of business while many others will feel the pain as solicitors are forced to concentrate on the work where they can bring added

value, Law Society President David McIntosh warned at the Solicitors Annual Conference.

In his keynote speech in Birmingham last weekend, Mr McIntosh said: 'We will have to face the fact that some of the things we now do, and the way we do them, will not remain viable.'

He went on: 'Because of our versatility most - but I regret to say, not all - of us will be able to cope with these challenges. It will, however, be painful for many of us.'

Dividing the demand for legal services into three main needs - 'rocket science' work, work of importance to the client, and routine tasks - he explained: 'I believe the future for us lies only with work where we can add the extra value which solicitors uniquely bring. This means we need to major on the first and second categories of work.'

Routine needs included low-value bulk conveyancing, debt collection and 'other low-value matters where the outcome is not of earth-shattering importance to the client'. Mr McIntosh said: 'This work is only available to solicitors at bare bones rate. It carries with it the risk of being a loss leader, which leads nowhere. It often requires a level of skill which is not exclusive to solicitors.'

This is the problem for the provincial practitioner - most of us don't do rocket science, and much of what we do do is looking perilously easy to commodify.

I recently surveyed Solicitors in my area as the perceived threats the Profession was facing, they were rated as follows:

- 1st Price Competition - from within and without profession.
- 2nd Supermarket Conveyancing - i.e heavily commoditised IT driven conveyancing services.\*
- 3rd Institutional legal services (for Banks Building Society's)\*
- 4th Governmental hostility\* - for example recent reports from the Office of Fair trading which seeks to remove any form of 'restrictive practice'.
- 5th Legal Aid 'Reforms' reductions. Legal Aid in the UK has been removed for almost all damages claims and replaced with 'no win - no fee' type arrangements
- 6th The Internet.\*
- 8th Electronic land transfer\*
- 9th Claims and Complaints

I have starred\* those that seem to me to have IT connections. This survey was carried out before the publication of a new UK Parliamentary Bill, soon to be formally passed, which seeks to bring in a wholly electronic - IT driven - land Transfer process.

### **The Land Registration Bill 2002 - Electronic conveyancing**

The Bill creates a framework in which it will be possible to transfer and create

interests in registered land by electronic means. It does so by enabling the formal documents to be executed electronically; and providing for a secure electronic communications network. Because it is envisaged that the execution of those documents and their registration will be simultaneous, and the process of registration will be initiated by conveyancers, permitting access to the network is to be controlled by the Land Registry, which will also exercise control over the changes which can be made to the register. The Land Registry will be obliged to make arrangements for access to the network by those who wish to undertake their own conveyancing. Establishment of the system will require new ways of working by the Registry, and by conveyancing practitioners. It will, therefore, best be introduced in stages, starting with the simplest transactions and progressing to the more complex. The Bill therefore provides for the Lord Chancellor to regulate by rules transactions that can be carried out electronically. (Extract from explanatory notes to the Bill on the Parliament Website: <http://www.parliament.the-stationery-office.co.uk/pa/cm200102/cmbills/048/en/02048x--.htm>)

Our Land Registry is to play a major role, but the suspicion is emerging that the technology required to drive this 'revolution' forward is going to be very expensive indeed, and only realistically within the budget of mega-firms or financial institutions. This will hand over the whole process of Land Transfer to major financial players and leave the High Street Practitioner with very little to do. We are in the position of the small shopkeeper who watches the foundations of the new hypermarket being dug. Until it opens there is little change, but once it does open his customers flock away in droves and within months the business is non-viable. We are rabbits caught in the glare of technological headlights not knowing which way to turn. Professor Susskind is quite clear that there is only one answer and that is to embrace the new technologies now before it is too late - he predicts:

"Some major firms, even some of the world's outstanding practices may collapse over the next ten years unless they embrace the new technologies. Second it is precisely by adopting and exploring online legal service that the global accounting firms may come to dominate the international legal marketplace." *Transforming The Law - page 56.*

Well perhaps there is some short term glimmer of hope in the ECJ's recent upholding of the legality of bans on multi-disciplinary practices, but I wonder how long that will last. At the moment the provision of on-line services in the UK is being held back by the (lamentable?) lack of broad bandwidth transmission. Transmission is just too slow and unreliable over modems to make on-line business attractive. Even booking with Mr Easyjet on his admirably straightforward site to fly here was a 30 minute exercise. Imagine trying to conduct complex legal work via a slow modem. But that will change - eventually - even in the UK.

'Would you seek legal advice from Andersen? The question is not just a mischievous poke at the firm's Texan troubles. In fact, the accountancy profession has been stealing business from lawyers like a poacher armed with a Gatling gun. So lucrative has been the raid on the lawyer's honey pot that new entities have been established, such as K Legal, a law firm associated with KPMG. Today, the big five accountancy firms employ thousands of lawyers,

although the holy grail of full partnership integration still eludes them. Yesterday, the European Court of Justice (ECJ) appeared to bring the accountants' multidisciplinary juggernaut to a shuddering halt. Two Dutch lawyers challenged a ruling by the Dutch Bar Association that they were forbidden from entering into partnership with Arthur Andersen and PricewaterhouseCoopers. The ECJ came to the interesting conclusion that the Dutch bar's ruling against multidisciplinary partnerships was restrictive of competition, but nonetheless there was a conflict of interest between the "advisory" activity of a lawyer and the "supervisory" activity of an accountant. Moreover, the court focused on two aspects of a Dutch lawyer's role: the duty to act for clients in complete independence, and the duty of professional secrecy. THE TIMES 20th February

Our own dear Law Society was quick to the gun yesterday, saying the ruling was Dutch and nothing to do with us Brits and, with a dutiful nod to the Government and the OFT, which is investigating restrictive practices in the legal profession, said it welcomed multi-disciplinary partnerships. **Accountants don't make lawyers.'** European Briefing by Carl Mortished

So reluctantly I have to agree with Susskind. The writing is on the wall for many High Street practices. It will not come until the electronic conveyancing and supermarket services have finished digging their foundations and opened their electronic portals; but it could then come very rapidly indeed, because Land Transfer work is such a core component and financial underpinning of the service we offer.

So how far can your average High Street practitioner deal with this future? Many will retire and give up. Enterprising firms will have to amalgamate to afford the heavy investment in technology that will be demanded. Some may be able to develop niche practices and to use the web as an enlarged market place. Experimenting with my own website has been quite revealing. It only offers advice and guidance at a straightforward level. There is no attempt at interactivity. I well recall one will-making website I visited - after completing all its questions, it - I say it - the programme - turned to the question of attestation - the signing of the Will under English formalities - and in all seriousness it then asked if I was illiterate? Could I read? After an hour of reading detailed questions? But this only points up a very obvious hazard - that of identity in creating on-line documents. What onus is there on the provider of an online will making service to establish the identity of the Client? Is it any different from the seller of a printed Will form? Such issues are beyond this paper, but they highlight the considerable risks that legal 'e-tailing' will carry.

My site now attracts about 11,000 hits a month. Very modest - as quite a few of them are probably me. Nonetheless it has produced some business - particularly from Clients based abroad who would almost certainly never have contacted my firm previously. By offering a range of legal information free - in the best traditions of the web - enquirers seem quite ready to trust and do business with you. Of course the problem for lawyers at the high street end of legal practice is that their skills are very geographically and jurisdictionally limited, but there is an increasing overseas market as more and more people move about the globe. Simply by offering some basic guidance on the rather strange joint ownership concepts of English law the site receives about 100 search enquiries a month on this topic alone. So there are some opportunities even at this level but whether they can ever counteract the commoditisation of much of the existing work is very doubtful.

Does it matter? In the great scheme of things probably not. The great British Public thinks - with no little encouragement from the press and politicians - that lawyers have had it too easy for too long. Like the High Street Grocer - now almost a relic of the past - the High Street lawyer may one day be perceived nostalgically as something that it was actually quite helpful to have around when you wanted one. But he or she will no longer be there. You will get some sort of answer to your legal problems from a clever computer programme; you will make your Will over the Internet and file your divorce from a kiosk. You will move house with the aid your Bank's Conveyancing service - which will then have you in its financial stranglehold ever afterwards. Perhaps you will even be able to carry out your own Probate and wind up your own estate. With your dying gasp you will be able tell your voice activated PC to 'execute the Probate Programme' - and the beneficiaries will get their cheques the next day - no they won't - all the money will have been transferred electronically overnight. A Brave New World indeed.

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A version of this paper is available online at <http://www.learnedcounsel.com/bileta2002> - which will give direct access to the hyperlinks.

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### Websites

- [CMS - Conveyancing Agency](#)
- [Halliwell Tom - Home Page](#)
- [Marsons 'The Law Firm'](#)
- [Venables - Selling Legal services on line.](#)