

非律師者之法律業務參與^{*}

——論英國 2007 年法律服務業法

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摘 要

英國於 2007 年通過著名的法律服務業法，可謂大幅改寫既有法律服務提供之遊戲規則，對歐美國家造成深遠影響。該法在高度管制及放任市場運作這兩種模式中找到平衡點，於規範目的中明示了保護消費者、促進競爭及建立一個具有獨立、健全、多元及有效法律服務市場之決心。該法在監管方面最為特別之處，在於創設由非法律人組成的法律服務委員會，由其作為法律服務之最終監督機構，而日常活動之監管，則交由專業人員自行組成的認證監管機構負責。該法亦創設法律申訴辦公室，以行政調解來統一處理消費者對於法律服務之申訴。雖然英國此一新法帶給消費者更大的選擇自由，對整體法律服務市場帶來極大的利益，然而，有些潛在的法律倫理問題

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需要注意。本文擬就英國之法律服務業法及實施成效加以分析，並探討此法於運作上所可能產生之倫理議題，最後則會為我國提出政策建議，以期引起更多有志者的討論。

關鍵詞：法律服務業法、法律服務委員會、新型商業架構、非律師之律所所有權、律師獨立性

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Incorporating Non-lawyers into the Provision of Legal Services — The United Kingdom’s Legal Service Act of 2007

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Abstract

The famous Legal Services Act 2007 of the United Kingdom dramatically rewrites the traditional rules of legal service and has profound impact to the Western countries. The law finds a balancing point between highly governmental regulations and free market competition and announces in the regulatory goals the determination to protect consumers, to promote competition, and to build up a legal service market with independence, integrity, diversity, and efficiency. The law is special in the approach of regulatory governance that it established Legal Service Board which is dominated by non-lawyer persons as the ultimate regulator, and leave the day-to-day activities to be monitored by approved regulators organized by professionals. The law creates Office for Legal Complaints to handle consumers’ complaints by administrative mediation. Although the new law brings more freedom to choose for consumers and creates great benefits for the legal service mar-

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ket, but there are certain legal ethics issues requiring attentions. This article analyzes the Legal Services Act and the empirical data of the law's performance, discusses the potential ethical issues, and makes some recommendations for Taiwan's policymakers in the hope to have more fruitful discussion in this area.

Keywords: the Legal Services Act 2007, Legal Service Board, Alternative Business Structure, Non-lawyers Ownership of Law Firms, Independence of lawyers