

Comments on: **Alternative Law Practice Structures**

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Comments to the
**ABA Commission on
Ethics 20/20**

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Consumers for a Responsive Legal System (“Responsive Law”) thanks the Working Group for the opportunity to present its comments on its Discussion Paper on Alternative Law Practice Structures. Responsive Law is a national nonprofit organization working to make the civil legal system more affordable, accessible and accountable to the people.

Responsive Law would like to reiterate its disappointment that the Commission has limited itself to the least innovative options among those it could have considered. By adopting a proposal slightly less progressive than that adopted by the District of Columbia 21 years ago, the ABA would bring the business of law in the United States into the 1980s, while service providers in other industries and lawyers in other parts of the world are exploring how to better serve their customers using 21st century business models.

The Commission notes in its cover memo that it has “heard expressions of concern about any form of nonlawyer ownership.” One such concern is that even a marginal change like the modified District of Columbia rule could make external regulation more likely. Judicial regulation of the legal profession should be one way of holding lawyers accountable to their clients, but not the only way. Because law is both a business and a profession, consumers need to be able to avail themselves of protections outside the profession. Therefore, law, like other professions, should rely on a combination of internal and external regulation to protect the public. Accordingly, the possibility of external regulation should not be an excuse for limiting non-lawyer ownership.

Consumer Demand for A New Model of Firm Ownership

The Commission has inquired as to whether there is demand outside of the District of Columbia for change to its model for firm ownership. As the only consumer organization testifying before the Commission, we can confirm that consumers nationwide would welcome the lower prices and new combinations of services that

true innovation in the delivery of legal services would bring. The new rule proposed by the Commission is a step, albeit a very small one, toward allowing such innovation.

We continue to maintain that users of the legal system would receive an even greater benefit from the more open approach to non-lawyer participation practiced in the United Kingdom and Australia. However, the Working Group on Alternative Business Structures declined to consider these options.

Among the options originally under consideration by the Working Group, true multidisciplinary practice, with lawyers and other professionals offering both legal and non-legal services to clients, remains the best regulatory scheme for consumers, as it would open the door to greater innovation in the delivery of legal services. For example, if true MDP were allowed, partnerships between social workers and family lawyers or between financial advisors and tax lawyers could create new service models benefiting the large majority of the public that currently has limited access to the legal system.

Unfortunately, the Commission has rejected true MDP as well. The Discussion Draft is unclear as to why this option was eliminated from consideration, although it does note that this option was rejected by the ABA House of Delegates when it was last considered in 1999-2000. Responsive Law hopes that the Commission is not rejecting true MDP based upon this vote from the last century. Wide changes in the American economy have led to more innovation in service delivery, and the bar has begun to realize that it must adapt if it wishes to continue to thrive. The bar of the today is certainly more accepting of new business models than the bar of the 1990s. We urge the Commission to reconsider recommending rules to allow true multidisciplinary practice. Today's lawyers are more receptive to it, and today's consumers demand it.