

## **REGULATION OF PROFESSIONAL SERVICES**

### **First Discussion Session – Regulation & Business Development**

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#### **INTRODUCTION**

- I note that many of my fellow panel speakers are here today to represent their Professional Associations
- I'm here to speak on behalf of the Accounting Profession from the perspective of someone in practice
- I'm a qualified UK chartered accountant, although I have to confess that I haven't done a multinational audit since the early 1990s.
- I'm also Ernst & Young's Global Director of Regulatory & Government Relations
- In that capacity, I come into contact with a wide range of laws and regulations around the world that affect Ernst & Young's business
- Whilst this morning's topic is really a global one, forgive me if I talk from a European focus. That's where I have the most detailed first-hand experience.
- That said, many of the issues, problems and barriers apply, to a greater or lesser extent, wherever you are. Thus my experiences will probably have almost global application.

#### **WHAT IS AN ACCOUNTING FIRM?**

- Before I start, I have one practical problem and one problem of understanding that I would like to share with you. Firstly, the practical problem:
- The media refer to my Firm as "one of the so-called Big 4 accounting firms". What's wrong with that? Well, it may have been true 20 years ago, but today we employ professional men and women who include not only accountants and auditors but also actuaries, notaries, tax advisors, consultants, engineers and, yes, even lawyers...
- So, whilst I don't want to encroach on the territory of any of my fellow panel speakers, please forgive me if I talk about professional services from a slightly broader perspective than just accountants.

#### **TODAY'S PROFESSIONAL SERVICES PROVIDER**

- And my problem of understanding? Put simply, whatever their educational background, in the modern business world, today's professional will share a number of common characteristics:

- They will probably hold a post-graduate professional qualification;
  - They will probably be a member of a professional association;
  - Their activity or the use of their professional title will probably be "protected" by law or regulation;
  - Their driving ambition will be to provide professional services of the highest quality;
  - They will take pride in their professional status and will wish to preserve their professional values;
  - Some of them may be regulated by national law; some of them may be regulated by their professional body; some of them may not be regulated at all.....
- The point I want to make is that, whilst each profession is undoubtedly unique, their members have far more characteristics in common than they have which differentiate them one from another.
- If one accepts this statement, then domestic regulation of whatever sort should focus more on what brings these people together rather than what divides them.

As a practicing auditor I had to respect and comply with certain core values that governed my relationship with an audit client. These included strict rules on professional secrecy and client confidentiality, independence in fact and appearance and the avoidance of conflicts of interest. These core values may sound familiar to those of you in other professions....

We are here today to discuss the impact of professional rules on competition. I would like to propose ten general principles that, if adopted, would eliminate the vast majority of regulatory barriers that currently hinder competition in today's marketplace. So, here are my top ten...

### **TEN AREAS FOR FUTURE ACTION**

1. Let's all embrace the concept of mutual recognition and apply it to our respective ethical standards. In my experience, there is far more that unites us as professionals than divides us. There are no truly valid reasons to prevent the same profession in different countries or different professions in the same country from adopting this philosophy.
2. Let's use domestic regulation for its intended purpose - to protect the integrity of the marketplace and the public interest. Not as an excuse to erect or preserve barriers that protect the self-interest of professional service providers at the expense of the consumer. In my experience, the latter approach prevails too frequently, resulting in discriminatory rules that restrict trade and market access. If we were really honest with ourselves, I wonder how many of our domestic regulations have the sole purpose of protecting the public interest.
3. Let's recognise that "conflicts of interest" will always exist no matter what. For example, no matter how independent a statutory auditor is based on a strict application of the ethical principles of his or her profession, the fact remains that the statutory auditor is remunerated by the very company whose accounts he is auditing. The same is true for the legal profession. In my mind, what is more important is how the professional firstly identifies, then manages the conflict
4. Let every professional association that has responsibility for regulating its members have the courage to critically review each and every one of their rules and regulations in light of the legitimate objectives they invoke. Are the legitimate objectives really in the public interest? Or

are they, in truth, protecting the self-interest of their members by closing down the market place and restricting fair and open competition.

5. Let's ensure that rules and regulations are proportional. Just as you don't need a sledgehammer to crack a nut, neither do you need outright bans to prohibit co-operation between professionals. I know it's not easy to define in objective terms something that is as subjective as "proportionality". But what a businessman expects from any self-regulatory body is that they act in an independent and impartial manner.
6. Let us have the right to transfer our employees around the world so as to get the right people with the right experience at the right place at the right time. And without volumes of red tape. These days, clients are global. They expect global service. They're not impressed by administrative bureaucracy that ties up scarce resources. And for what purpose. We're not trying to infiltrate our nationals into another country's system. We're not trying to overthrow the democratically elected governments in those countries. We're just trying to service the needs of our clients.
7. Let professionals be entitled to work together and use a common name around the world. How can it be in the public interest to insist that a professional firm at a national level has to use as its name the name of one of its local partners. It confuses the consumer. And to what purpose? In today's world, brand awareness and brand reputation are important issues. No right-minded professional will deliberately take an action that could damage the brand. As an ex-Arthur Andersen partner, I know from bitter experience how the actions of a handful of people can destroy a global brand, literally overnight.
8. Let's recognise that the 21<sup>st</sup> Century New Economy is changing the way we do business. It is also rendering obsolete some of the "sacred cows" of the 20th and 19th centuries. We have to move with the times. As professionals, we have to change. If we don't, the future for some of our professions looks bleak. New ways to deliver professional services will require new ways to regulate them so as to maintain the public trust and confidence. But we should apply a "light touch" to this new regulation.
9. Let the way we structure our businesses be driven by commercial logic and administrative efficiency, not by the outdated requirements of the national regulator. Today's marketplace is becoming more and more competitive. The companies that survive are those best able to adapt the way they do business to meet the needs of the changing marketplace. Capital structures need to be flexible, not tied up in a regulatory straitjacket. The same applies to the professions. So much management time is wasted having to comply with different rules in different countries. And in today's environmentally friendly world, the one thing you can't recycle is wasted time.
10. Let consumers have the freedom to choose how and from whom they purchase professional services. Let the market decide. It is not our role as professional men and women to force the market to adapt to our antiquated rules. We should recognise that we do what we do today thanks to the markets. We are here to serve them, not the other way around.

Thank you.