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DISRUPTIVE INNOVATIONS IN LEGAL SERVICES

--Finland--

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More documents related to this discussion can be found at www.oecd.org/daf/competition/disruptive-innovations-in-legal-services.htm

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-- FINLAND --

1. Disruptive innovations and legal services in Finland

1. The legal service market is characterized by conservative business models and services in Finland. Moreover, it is rather small; and as a result, only a few innovations and startups have been launched. It seems that a few small-scale innovations have been introduced, for example, the utilization of data rooms, but they have not led to changes that would have had a profound impact on the field. However, some relatively new law and technology firms provide interesting services that are potentially ground-breaking and may lead to the gradual change of the legal service market.

2. The digitalization and democratization of knowledge have led some law firms to provide legal information for free. The main idea behind this is that today plain legal information without counselling has not much value; consequently, it can be given for free. Revenue is created from the business that has better added value.

3. VirtualLawyer¹ is a databank that is offered by the Finnish law firm Fondia² free of charge. It provides answers to the essential legal questions that are relevant to companies. VirtualLawyer features 1.700 articles written in Finnish and English. After registration anyone can access the database. It has approximately 10.000 users.

4. The outsourcing of legal services is not widespread, but it may become a trend in the future. Another interesting service by Fondia is 'Legal department as a service', which focuses on the markets between law firms and in-house lawyers. Sometimes hiring an internal lawyer may be too expensive to an undertaking, because the need for lawyers may significantly vary. Fondia offers a whole or partial legal department as a service, which is defined in a service contract. This enables undertakings to outsource their legal departments.

5. The trend appears to be that everything that can be digitalized will be digitalized and, as a result, routine works will be replaced by automation, search robots and artificial intelligence. It seems that disruptive innovations may not necessarily be launched by established law firms, but by outside innovators, for example, by IT-experts teamed with lawyers.

6. Trademarknow³ is a Finnish company that has potential to change the way the lifecycle of trademarks is managed. While many solutions automate the simple task of searching and monitoring trademark databases, they still rely on human intervention to analyze the results. Trademarknow provides a service which replaces work that was done manually with artificial intelligence. It is created by experts in trademark law and linguistics. The company claims that it is faster and better than its human predecessors with instant trademark search and watch results. It analyses millions of existing trademarks and other relevant data for product similarity, how the word looks, how it sounds when pronounced, and word meaning in over 150 languages.

1 <http://virtuallawyer.fi/>, visited May 16, 2016.

2 <http://www.fondia.com/>, visited May 16, 2016.

3 <https://www.trademarknow.com/>, visited May 16, 2016.

7. In addition, it is worth mentioning that digitalization also proceeds in the public sector and may have a significant impact on lawyers' work. AIPA is a document management information system, which will be utilized in Finland in the near future. The aim of the AIPA project is to create a unified system in which prosecutors, courts and lawyers manage all matters from the commencement of legal proceedings to decisions and archiving electronically.

8. Thus far, innovations have not focused on specific fields of law, but their impact has been general. The influence of non-lawyers entering the market is already felt as auditing companies offer legal services, but this appears to be only the tip of iceberg. It is expected that in the future IT-experts will find out that legal service markets could provide business opportunities. It is also expected that old billing models may face challenges: fixed fees instead of hourly rates may become widespread.

2. Enforcement and Regulation

9. In general, competition law cases relating to the legal services market have been rare in Finland. It appears that regulation is not a significant barrier to new innovations: neither legal professional regulatory bodies nor policymakers have opposed them. There seems to be no indication that disruptive innovations in legal services would be in conflict with existing regulation. Although the automation of legal documents has not been widespread, regulation neither limits the use of automated legal services nor sets conditions for their use such as obligatory supervision by a lawyer, for example. In addition, there are no quantitative entry restrictions on legal professions.

10. The professional regulation of legal services was recently partly modified by the Licenced Legal Counsel Act (715/2011)⁴, but the changes did not directly deal with innovative services. The Act contains provisions on the licence to serve as an attorney and legal counsel, their responsibilities and supervision. The Legal Counsel Board considers the granting and revocation of a licence and the imposition of a monetary penalty. Previously, licence to the legal representation in legal proceedings was not needed and only advocates were supervised by self-regulation. The Act has a narrow application scope, namely it is limited only to legal proceedings.

11. The Act contains some qualitative entry restrictions. For example, the licence referred in the Act to serve as an attorney and legal counsel is granted to a person who has completed a Master of Laws degree in Finland or a corresponding law degree abroad which has been recognized in Finland as separately provided. In addition, a person must be honest, not to be in bankrupt and must have full legal capacity. The motivation behind the Act was to improve supervision and the quality of representatives in legal proceedings.

12. In its statement⁵, the Finnish Competition Authority (now the Finnish Competition and Consumer Authority) held that the bill was basically justified to safeguard legal protection. However, it pointed out that a compulsory licence system and application and annual supervision fees may imply unnecessary strong intervention to the markets, when there was only little evidence of serious faults in the system.

13. Self-regulation relates to the legal profession; the Finnish Bar Association regulates and supervises advocates' activity. All members of the Bar Association must follow the professional and ethical standards of the legal profession. The Bar Association's Code of Conduct⁶ is a codification of these standards. The basic requirements established for a lawyer by the rules of proper professional conduct are loyalty, independence, avoidance of conflict of interest, confidentiality and integrity. The Disciplinary Board deals with disciplinary matters.

4 <http://www.finlex.fi/fi/laki/kaannokset/2011/en20110715.pdf>, visited May 16, 2016.

5 Kilpailuviraston lausunto: Oikeudenkäyntiavustajien kelpoisuus ja valvonta, Dnro 1272/14.00.20/2009

6 http://www.asianajajaliitto.fi/en/supervision/code_of_conduct, visited May 16, 2016.

14. The rules of the Finnish Bar Association set certain conditions for advocates in limited liability companies.⁷ The shares of a limited liability company engaged in advocacy may not be owned by any other but an advocate in a limited liability company in question, unless the Board of Bar Association grants an exemption from this.

15. Moreover, a limited liability company engaged in attorney's activity is to be exclusively the exercise of advocacy and immediately serving activities, unless the Board of Bar Association for special reasons grants an exemption from this. Finally, the Members of the Board of Directors, the Managing Director or the Deputy Managing Director can only be advocates. The Board of Bar Association may at its discretion and conditions grant an exemption from this provision. The Chairperson, the Deputy Chairperson and at least two-thirds of the Members of the Board of Directors must be advocates.

16. The reason behind the rules appears to be supervision and liability: under the Advocates Act⁸ (12 December, 1958/496), Section 5, “a shareholder of such a company is liable for all the obligations emanating from a mandate jointly and severally with the company.” Although this may serve the interest of customers, it is uncertain whether the rules are optimal from the perspective of renewal of legal services, in particular, if they lead to the exclusion of non-advocates. Today shares and stock options are typical means to recruit experts from the IT-sector in order to create new innovative services. Nevertheless, the membership of the Finnish Bar Association is not compulsory. Therefore, lawyers who find the rules too strict are free to pursue their profession outside the Bar.

17. Thus far widespread national lawyer rankings have not been introduced in Finland. Some Finnish lawyers are reviewed by international lawyer rankings such as Best Lawyers, Who’s Who Legal, Chambers, and Legal 500, for example. Nevertheless, international rankings address only a few big law firms that specialize in business law. Consequently, they are not enough to fully address information asymmetries between lawyers and customers in the legal service market.

3. Conclusion

18. Even though the legal service market appears stagnant in Finland, it is likely to change: it is expected that new disruptive innovations will be launched in the future. Moreover, it is likely that customers will also increasingly demand new innovations, services and models for billing. The only thing that is constant is change. It may be difficult to adapt to it, but legislators and lawyers should not try to prevent it but rather to guide it. Although disruptive innovations typically create instability to the market, they are beneficial to both competition process and consumers.

19. In order to ensure the development of legal technology two reforms may be worth considering: First, legislators should consider whether the way legislation is written could be improved so that machine intelligence would better interpret it. Clear definitions and sentences are in everyone’s interest. Second, in order to create more startups, legal technology should be taken into account in education. Fortunately, there appears to be at least one legal technology course for university students in Finland, in the University of Turku.⁹

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[http://www.asianajaliitto.fi/files/1232/B_11_Yleiset_lupaehdot_asianajajan_toimen_harjoittamiseksi_osake_yhtiössä_\(27_10_2010\).pdf](http://www.asianajaliitto.fi/files/1232/B_11_Yleiset_lupaehdot_asianajajan_toimen_harjoittamiseksi_osake_yhtiössä_(27_10_2010).pdf), visited May 16, 2016.

8 <http://www.finlex.fi/en/laki/kaannokset/1958/en19580496.pdf>, visited May 16, 2016.

9 <https://nettiopsu.utu.fi/opas/opintojakso.htm?id=40363&lang=en&lvv=2014&uiLang=en>, visited May 16, 2016.