



ECONOMIC IMPACT ANALYSIS

A BALANCING ACT

Cost-Benefit Analysis of Reforming India's Legal Services Market

May 2016



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ASSOCIATES

A BALANCING ACT: Cost-Benefit Analysis of Reforming India's Legal Services Market (May 2016)

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Summary

While laws and regulations are the backbone of an economy, a well-functioning legal services sector ensures that they are properly implemented. For the legal services sector to deliver services, regulations that create a level-playing field, and promote competition and innovation to the benefit of consumers, are imperative. That said, regulations that are not properly designed can be dangerous and stifle growth. Balanced regulations are therefore necessary to facilitate the growth of the sector.

The legal services sector is one of the most restricted sectors, not only in India but also across the world. Most regulations including restrictions on the advertisement of legal services, organizational forms that are permissible, and the practicing of domestic law by foreign lawyers and law firms have been in force in the country for more than 50 years. These regulations have shaped the evolution of the sector and the common business practices.

Liberalizing the sector is not easy as regulators, legal service providers and consumers have several apprehensions including,

1. Lack of preparedness of the domestic legal service providers to compete with the size and scale of global law firms, fear of loss of revenues for domestic law firms, and displacement of small and medium scaled law firms,
2. Increased costs of legal services resulting from due to entry of foreign law firms,
3. Diversion of talent pool towards foreign law firms, and
4. Lack of reciprocity with respect to Indian lawyers working in other jurisdictions.

Notwithstanding these concerns, there is growing support for liberalizing this sector.

Using information collected – on perceptions of costs and benefits of reforms - through a survey of business enterprises and law firms (consumers and providers of legal services), and secondary research, this study finds that economic benefits outweigh the costs of reforms in the legal services sector. The study also considers the experience of other developed and developing countries with respect to reforms in legal services sectors, to assess what the likely costs and benefits of such reforms in India would be.

Specifically, the study finds:

1. Experiences of countries like United Kingdom (UK), Australia and Singapore suggest that a liberal regime governing the legal sector benefit both the consumers and providers of legal services. It

contributes to innovation in legal service provision which generates benefits of reduced costs and liabilities for service providers and increased convenience to consumers.

2. The results of the survey of consumers and providers of legal services in India suggest that while some stakeholders are apprehensive about introducing reforms in the sector, most participants believe that benefits of quality and choice will emanate from liberalization of the sector, indicating an inclination towards reforms.

Results of the survey of consumers of legal services suggest that:

- Consumers perceive ex-ante benefits of reforms with respect to legal advertising and entry of foreign law firms, to be higher than the ex-ante costs.
- Firm-specific characteristics play a critical role in determining the perception of the consumers regarding ex-ante benefits of these reforms. For instance, firms engaging in outbound transactions (or firms looking to expand globally) are likely to report benefits from entry of foreign law firms and advertising. Similarly, rapidly growing firms are also likely to report benefits from these reforms.

Results of the survey of providers of legal services in India suggest that:

- Legal service providers in India perceive ex-ante benefits of reforms with respect to legal advertising and entry of foreign law firms, to be higher than the ex-ante costs.
- Specific characteristics of the responding firm play a critical role in determining the perception of the legal service providers regarding ex-ante benefits of these reforms. For instance, firms engaging in outbound transactions are likely to report benefits from entry of foreign law firms and advertising. This is similar to the results obtained from the analysis of consumer perceptions.

Keeping in mind the apprehensions as well as motivations of the consumers and providers of legal services and the relevant regulatory agencies, we recommend the following steps:

1. **Relaxing regulatory restrictions** - Learning from the growth experience of countries such as Singapore, it is important that initiatives to liberalize India's legal services sector are undertaken in a phased manner.
2. **Changes in the governance of the sector** - Measures must be taken to improve the regulatory governance of the sector by reducing ambiguity in the implementation of laws and encouraging dialogue between regulators and stakeholders.
3. **Strengthening capacity of the sector** - Measures must be taken to update the legal curriculum in line with developments in the sector and provide both theoretical as well as practical exposure to law graduates. There also needs to be continuous dialogue between industry participants and academia to ensure that training of law graduates is in line with the demands of the industry.

Introduction

Laws and regulations form the backbone of an economy. They play a critical role in protecting the social and property rights of citizens and institutions. A well-functioning legal services sector facilitates the implementation of these laws and regulations, and hence is fundamental for the harmonious growth of an economy.

The World Trade Organization (WTO) defines legal services as encompassing advisory, and representation services and all activities related to the administration of justice.^{1 2 3} This definition covers services such as litigation (including criminal and other fields of law), documentation and certification review, advisory services, research, contract services, intellectual property, and review of policies. The nature of demand and supply of these services, however, differs across the different types of services. For instance, the conditions of demand and supply of legal services for criminal matters differ considerably from those needed for corporate matters.

Like any other sector, the legal services sector also needs proper regulations that provide the contours within which the sector can operate. The need for regulations in the sector is furthered by asymmetric information flow between consumers and suppliers of legal services, which makes it difficult for consumers to fully evaluate the quality of legal service provided. Balanced regulations can, therefore, facilitate the growth of the sector by providing certainty to consumers, a level playing field to service providers and opportunities for innovation. In the words of the European Union, *that from a general point of view rules are necessary in the specific context of each profession, in particular those relating to the organization, qualifications, professional ethics, supervision, liability, impartiality and competence of the members of the profession or designed to prevent conflicts of interest and misleading advertising, provided that they: (a) give end-users the assurance that they are provided with the necessary guarantees in relation to integrity and experience, and (b) do not constitute restrictions on competition.*⁴

However, regulations that are not properly designed can harm the sector and stifle its growth. They can also have an adverse impact on consumer welfare as services that are required might not be provided, the quality of service might be compromised, or the pricing of the service might be inappropriate.

The most common regulations governing the legal services sector include restrictions on (a) the advertisement of legal services, (b) organizational forms that are permissible, and (c) the practicing of domestic law by foreign lawyers and law firms. The degree of restrictiveness in such regulations, however, varies across countries. There are some countries such as the United Kingdom (UK) that follow a liberal

regime, allowing lawyers to even advertise the fee charged for their services. In contrast, advertising of legal services is restricted in countries such as Brazil.

India also follows a restrictive policy regime in its legal services sector. Till recently, stringent restrictions governed the advertising of legal services in India and also the scale of law firms (in terms of the number of equity partners in a law firm). Some relaxations have now been introduced with respect to these regulations. For instance, while legal service providers were prohibited from advertising their service earlier, they are now permitted to advertise details such as their name, address and professional qualifications online. The entry of foreign law firms however, continues to be prohibited in India.

As several sectors of the Indian economy have opened up to the global economy, there is an active debate raging about liberalizing the legal services sector. Opponents of liberalization are of the view that by relaxing restrictions such as the freedom to advertise or the entry of foreign law firms, the domestic market discipline will be disrupted and this might have an adverse economic impact on the domestic legal service providers. Proponents of liberalization point out that these existing restrictions impose barriers to effective competition in the sector, which restricts the choices available to the consumers of legal services. They also argue that with increasing globalization, the demand for different kinds of legal services in India is likely to evolve in line with global patterns. This requires domestic law firms to be competent and innovative in terms of service delivery, quality, technique, capacity, price, and scale.

Liberalizing the legal service sector will have implications on customers, Indian law firms, foreign law firms, and, more importantly, on economic growth. It is, therefore, important to understand *ex-ante* what the likely net impact of such an action would be. Inherent in such an assessment is the impact of not liberalizing this sector. In this study funded by the British High Commission, Nathan Associates, examines how regulations have shaped the evolution of this sector and estimates the likely costs and benefits of introducing reforms in the sector. As a part of this assessment, we conducted a survey of business enterprises and law firms to gauge their perceptions on the costs and benefits of introducing reforms. We analysed the experience of developed and developing countries relating to legal reforms. Based on the information collected through surveys, secondary research, and stakeholder discussions, we estimated the overall likely impact of reforming the legal services sector in India.

The report is organized as follows: Chapter 1 describes the global market for legal services followed by lessons to learn from the experience of various developed and developing countries with respect to regulatory restrictions governing the legal services sector. Chapter 2 describes the current market for legal services in India and describes the regulations in the sector. Chapter 3 describes the survey methodology and results. Chapter 4 concludes the report along with our recommendations.

1. The Global Market for Legal Services

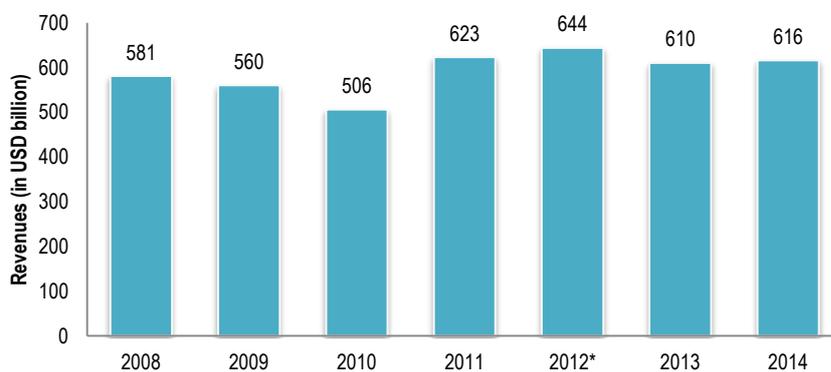
In the last decade, the size of the global market for legal services has nearly doubled.⁵ The number of law firms and services they provide has grown to keep up with the demand. In this section, we provide an overview of the historical and current trends in the provision of legal services, along with a brief account of the major market participants, globally. We follow this with a comparison of regulatory regimes governing the sector in different developed and developing countries of the world.

Trends in the Global Market

At USD 616.4 billion in 2014, the global market for legal services has grown considerably over the last decade, driven by economic growth, increase in international trade, and greater economic collaborations between countries.^{6, 7} Figure 1 illustrates this growth since 2008. As can be seen, the growth has not been smooth—it fell in 2009 and 2010 on account of the global financial crisis, after which it increased in 2011, only to fall again in 2013 owing to the global economic slowdown.⁸

Figure 1

The size of the global market for legal services (2008-14)



* Due to the unavailability of continuous time series data from a single source, this data has been obtained from different sources highlighted below. The market size data for 2012 is estimated based on the average growth rate of the preceding three years.

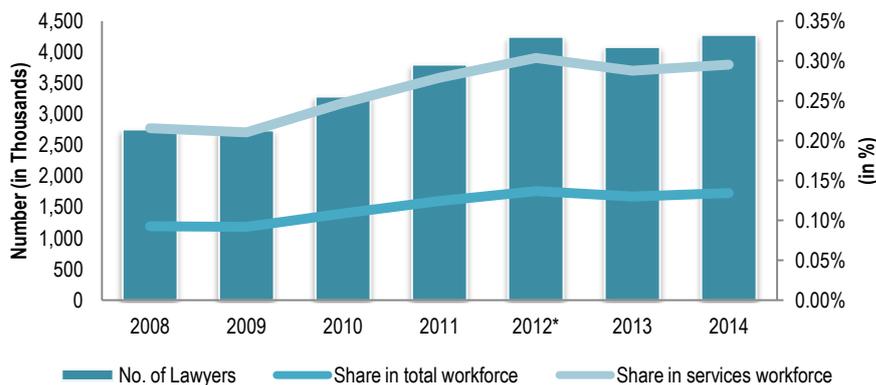
Sources: WTO. (June 2010). *Legal Services*. (Page 1);
Research and Markets' report of Global Legal Services; Retrieved from
< <http://www.marketresearch.com/search/results.asp?categoryid=0&query=global+legal+services>>;
Business Wire. (December 2011). *Research and Markets: Global Legal Services Industry is Expected to Increase to a Value of \$645.2 Billion by the End of 2015*. Retrieved from
<<http://www.businesswire.com/news/home/20111214006462/en/Research-Markets-Global-Legal-Services-Industry-Expected>>
Market Line. (2012, 2014, 2015). *Legal Services: Global Industry Guide* Retrieved from
< http://store.marketline.com/Product/legal_services_global_industry_guide?productid=ML00020-113>

The trend observed in the turnover of the global market for legal services can be traced back to the demand for legal services.^{9 10} Although overall demand gained momentum after 2010, the median total legal spending worldwide dropped as the financial crisis had made businesses more sensitive to costs.¹¹ The median total legal spending worldwide in 2013 was USD 29.7 million,¹² 11.76 percent lower than in 2008.¹³

The supply of legal services – measured through the number of lawyers employed in the sector – shows a similar trend to demand (Figure 2). The number of lawyers employed in the sector increased till 2012, and fell thereafter. At an overall level, the number of lawyers increased at a compound annual growth rate (CAGR) of 9.33 percent per annum during the period 2008–14. Further, although still small (0.13 percent), the share of the legal services sector in the total global workforce has seen a rise in recent years,¹⁴ as can be seen in the figure.

Figure 2

The number of lawyers employed in the global market for legal services (2009–14)



*Due to the unavailability of continuous time series data from a single source, this data has been obtained from different sources highlighted below. The market size data for 2012 is estimated based on the average growth rate of the preceding three years.

Sources: WTO. (June 2010). *Legal Services*. (Page 1);
 Research and Markets' report of Global Legal Services. Retrieved from
 < [http://www.marketresearch.com/search/results.asp?categoryid=0&query=global+legal+services](http://www.marketresearch.com/search/results.asp?categoryid=0&query=global+legal+services;)>;
 Business Wire. (December 2011). *Research and Markets: Global Legal Services Industry is Expected to Increase to a Value of \$645.2 Billion by the End of 2015*. Retrieved from
 <<http://www.businesswire.com/news/home/20111214006462/en/Research-Markets-Global-Legal-Services-Industry-Expected>>
 Market Line. (2012, 2014, 2015). *Legal Services: Global Industry Guide*. Retrieved from
 < http://store.marketline.com/Product/legal_services_global_industry_guide?productid=ML00020-113>

Market Concentration

With the increasing dependency on law firms for the provision of legal services, it is important to understand its consequent impact on the global market. Table 1 and Table 2 highlight the market shares of the top 100 law firms worldwide with respect to revenues and the number of lawyers involved in service provision. The majority of these are global firms with diverse practice areas and the ability to attract and acquire specialty boutique firms¹⁵ in order to further enhance their offerings and presence in different countries.¹⁶

In 2014, the top 100 law firms accounted for an estimated USD 92.7 billion in revenues globally,¹⁷ with Latham & Watkins leading the way (gross revenue of USD 2.6 billion), followed by DLA Piper (USD

2.5billion), and Baker & McKenzie (USD 2.4 billion).¹⁸ With respect to the number of lawyers employed, in 2014, the top 100 law firms had a total workforce of 111,735 lawyers.¹⁹ The largest law firms were Baker & McKenzie (4,363 lawyers), Yingke (4,153), and DLA Piper (3,702).²⁰ The market shares indicate the lack of concentration at the global level in terms of revenue and number of lawyers, amongst the top 100 law firms. Latham & Watkins, the biggest law firm in terms of revenue, has a market share of 2.82 percent; while Baker & McKenzie, the largest law firm in terms of number of lawyers, has a market share of 3.90 percent.

Table 1

Market shares of the top 10 law firms worldwide (in terms of revenues in 2014)

Law Firm	Gross Revenue (in USD million)	Market Share (in %)
Latham & Watkins	2,612.00	2.82
DLA Piper	2,480.50	2.68
Baker & McKenzie	2,430.00	2.62
Skadden, Arps, Slate, Meagher & Flom	2,315.00	2.50
Clifford Chance	2,225.50	2.40
Kirkland & Ellis	2,150.00	2.32
Allen & Overy	2,112.00	2.28
Linklaters	2,088.00	2.25
Freshfields Bruckhaus Deringer	2,052.50	2.21
Jones Day	1,850.00	2.00
Total (100 firms)	92,700.00	100.00

Sources: Pelavin, Daniel. (September 2015). *2015 Global 100: Top-Grossing Law Firms in the World*. The American Lawyer. Retrieved from <<http://www.americanlawyer.com/id=1202471809600/2015-Global-100-TopGrossing-Law-Firms-in-the-World->>

Lat, David. (September 2015). *The Global 100: The World's Top Law Firms Ranked by Revenue, Profit, and Headcount*. Retrieved from <<http://abovethelaw.com/2015/09/the-global-100-the-worlds-top-law-firms-ranked-by-revenue-profit-and-headcount/>>

Table 2

Market shares of the top 10 law firms worldwide (in terms of number of lawyers in 2014)

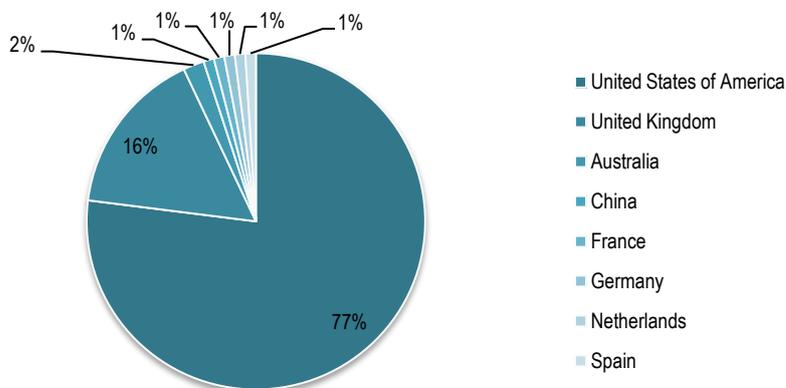
Law Firm	Number of Lawyers	Market Share (in %)
Baker & McKenzie	4,363	3.90
Yingke	4,153	3.72
DLA Piper	3,702	3.31
Dacheng	3,700	3.31
Norton Rose Fulbright	3,461	3.10
CMS	2,522	2.26
Jones Day	2,510	2.25
Clifford Chance	2,495	2.23
Hogan Lovells	2,360	2.11
Dentons*	2,285	2.05
Total (100 firms)	111,735	100.00

*This ranking does not take into account Denton's merger with Chinese-based law firm, Dacheng and US-based law firm, McKenna Long & Aldridge, which would make the merged entity the largest law firm in the world.

Sources: Pelavin, Daniel. (September 2015). *2015 Global 100: Top-Grossing Law Firms in the World*. The American Lawyer. Retrieved from <http://www.americanlawyer.com/id=1202471809600/2015-Global-100-TopGrossing-Law-Firms-in-the-World-> Lat, David. (September 2015). *The Global 100: The World's Top Law Firms Ranked by Revenue, Profit, and Headcount*. Retrieved from <<http://abovethelaw.com/2015/09/the-global-100-the-worlds-top-law-firms-ranked-by-revenue-profit-and-headcount/>>

This cannot, however, be claimed with respect to the geographic distribution of these 100 top law firms, as most of them have their headquarters either in the United States (US) or the UK. Figure 3 highlights the countries where most of the top law firms have their headquarters. As can be seen below, US alone accounts for around 77 percent of the top 100 global law firms.

Figure 3
Country-wise market shares of top 100 global law firms (in terms of revenue in 2014)



Source: Pelavin, Daniel. (September 2015). *2015 Global 100: Top-Grossing Law Firms in the World*. The American Lawyer Retrieved from <<http://www.americanlawyer.com/id=1202471809600/2015-Global-100-TopGrossing-Law-Firms-in-the-World->>

Lessons for India from International Experience

The evolution of the legal services sector and the structure of this sector globally owe a lot to the regulations that are in place in countries around the world. For instance, the relatively liberal regime governing the legal services sectors in the UK and Singapore have propelled the growth of the domestic law firms in these countries besides facilitating the emergence of these economies as regional hubs for legal services.

In this sub-section, we explain the regulatory regimes governing the sector in various developed and developing economies, and the impact that the liberalization of regulations has had (directly as well as indirectly) on different stakeholders – consumers and suppliers of legal services as well as the economy as a whole. We have specifically covered economies that follow the English common law system,²¹ as also practiced in India. (While Brazil follows the civil law system,²² we have included it in the cross-country analysis because of the country’s demographic similarities with India.)

Table 3 highlights the regulatory structures governing the legal services sector in seven countries – UK, China, Australia, Singapore, Israel, Malaysia, and Brazil (arranged in order of the timing of reforms in the legal sectors). The detailed information on the regulatory regimes in these countries and the resulting impact on stakeholders have been provided in **Annexure A** of this report.

Table 3***Cross-country case studies on legal services sector***

Parameters	United Kingdom	China	Australia	Singapore	Israel	Malaysia	Brazil
Liberalization of legal service	1970s	1980s (After the end of the Cultural Revolution)	1990s	1990s	1990s	1999	2000
Pre-liberalization restrictions	1. Restriction on advertising 2. Restriction on partnerships between law firms and non-lawyers or non-professionals 3. Restriction on partnerships between solicitors ²³ and barristers ²⁴	Non-recognition of law as a profession	1. Restriction on advertising 2. Organizational forms limited to a. Sole proprietorship b. General partnerships 3. Restriction on partnerships between law firms and non-lawyers or non-professionals 4. Restriction on partnerships between solicitors and barristers	1. Restriction on practice of Singaporean law by foreign law firms 2. Organizational forms limited to a. Sole proprietorship b. General partnerships	1. Restriction on advertising 2. Restrictions on entry of foreign law firms 3. Organizational forms limited to a. General partnership b. Unlimited liability company 4. Restriction on partnerships between lawyers and non-lawyers	1. Restriction on advertising 2. Restrictions on entry of foreign law firms 3. Organizational forms limited to a. Sole proprietorship b. Partnership c. Branch offices on the approval of the Bar Council	1. Restriction on advertising 2. Restriction on entry of foreign law firms 3. Organizational forms limited to a. Sole proprietorship b. Small partnerships c. Limited liability companies 4. Restriction on partnerships between lawyers and non-lawyers
Reforms post-liberalization	1. Law firms and lawyers are permitted to advertise their experience, staff and fees charged, subject to a Code of Conduct 2. Following organizational forms permitted: a. Limited liability partnerships (LLPs) b. Partnerships between law firms and non-lawyers/non-professionals (alternative business structures) c. Partnerships between solicitors and barristers (Legal disciplinary practices)	1. Law re-instated as a profession 2. Following organizational forms permitted: a. State-funded law firms b. General partnerships c. Special general partnerships d. Sole proprietorships	1. Law firms permitted to advertise subject to certain conditions - no deceptive/false/offensive advertisements, and no advertisements that may depict something prohibited by law 2. Following organizational forms permitted: a. Incorporated legal practice (ILP) b. Partnerships between law firms and non-lawyers/non-professionals (Multi-disciplinary partnership)	1. Law firms allowed to advertise across newspapers, own websites, and law magazines subject to certain ethical principles 2. Following organizational forms permitted: a. Limited liability corporations (LLCs) b. Limited liability partnerships (LLPs)	Law firms allowed to advertise their contact details, types of service offered, staff details through own websites, newspapers, telephone and professional directories conditional to satisfaction of certain guidelines	1. Law firms allowed to advertise across a. Bar Council's website b. Legal directories approved by the Bar Council c. Own websites with information restricted to areas of practice and contact details 2. Following organizational forms permitted: a. Limited liability partnerships (LLPs)	1. Restriction on advertising reintroduced as one law. Advertisement allowed with certain guidelines across a. Print media b. Internet c. Distribution of pamphlet, newsletter and visiting card on request d. Sign plates

Parameters	United Kingdom	China	Australia	Singapore	Israel	Malaysia	Brazil
Entry / operations of foreign law firms	<p>1. No restriction on entry of foreign law firms.</p> <p>2. Firms wishing to operate in the reserved areas of work need to obtain a license from the Solicitors Regulatory Authority (SRA).</p> <p>3. Firms from Switzerland or the European Economic Area (EEA) can only set up firms in the forms permitted to English solicitors</p>	<p>1. Foreign law firms permitted to establish representative offices in specific locations under following conditions:</p> <p>a. areas of practice excluding Chinese legal affairs</p> <p>b. establishment of additional offices based on:</p> <p>i. 'genuine need" to be established by government</p> <p>ii. 3 year waiting period needed since last set up office</p> <p>2. Restrictions on profit/revenue sharing arrangements</p> <p>3. Restrictions on hiring domestic lawyers by foreign law firms and satisfaction of 6 month residency clause for foreign lawyers</p>	<p>1. Foreign law firms and lawyers allowed to practice in all areas except Australian law</p> <p>2. Foreign law firms with at least one Australian partner allowed to provide advice on Australian law</p> <p>3. Foreign law firms permitted to enter into commercial association with local practitioners</p>	<p>1. Foreign law firms permitted to practice Singaporean law through -</p> <p>a. Forming Joint Law Ventures (JLV)</p> <p>b. Forming Formal Law Alliances (FLA)</p> <p>2. Foreign law firms permitted to practice commercial arbitration</p> <p>3. Foreign law firms allowed to have 25% stake in domestic law firms</p> <p>4. Foreign law firms allowed to practice in all areas through Singapore lawyers as partners/associates (Qualifying Foreign Law Practices)</p> <p>5. Foreign lawyers permitted to practice in reserved areas after passing the Foreign Practitioners Examination (FPE)</p>	<p>1. Entry of foreign law firms allowed with restrictions on</p> <p>a. areas of practice (limited to foreign law only)</p> <p>b. organizational form (limited to general partnerships and unlimited liability companies)</p> <p>c. requirement to employ a member of the Israel Bar Association (IBA).</p> <p>2. Foreign law firms permitted to set up offices, merge or form alliances with local law firms.</p>	<p>1. Entry of foreign law firms allowed with several restrictions on</p> <p>a. durations of stay of foreign lawyers (minimum 182 days in a calendar year)</p> <p>b. areas of practice (limited to advisory and consultancy services)</p> <p>c. equity and voting rights (limited to 40 percent stake)</p> <p>2. Liberalization in Malaysia has been introduced in a phased manner.</p> <p>a. Federal Territory of Labuan (1999)</p> <p>b. Peninsular Malaysia (2014)</p>	<p>1. Entry of foreign lawyers and foreign law firms as foreign legal consultants.</p> <p>2. Restriction on areas of practice (limited to international law and foreign law)</p> <p>3. Restriction on partnerships between lawyers and non-lawyers</p> <p>4. Restriction on mergers with Brazilian lawyers/law firms and foreign law firms (unless the local law firm/lawyers give up their license to practice Brazilian law)</p> <p>5. Requalification to the Brazilian Bar is allowed after passing the Bar examination and validation a foreign law degree while Portuguese lawyers admitted to the bar without any documentation (2008)</p>
General Agreement on Trade in Services (GATS) Commitments	Partial commitment	Partial commitment	Partial commitment		No commitment	Full commitment	No commitment

Parameters	United Kingdom	China	Australia	Singapore	Israel	Malaysia	Brazil
Impact of liberalization on the legal services sector	<p>Legal Advertising Mixed impact on consumers and law firms</p> <p>Organizational Form 1. Greater choice and convenience for consumers 2. New avenues of service provision and cost savings by law firms 3. Innovation of new organizational forms</p> <p>Entry of Foreign Law Firms 1. Increased quality of service offered by domestic law firms 2. Increase in number of arbitration cases and mergers and acquisitions (M&A) activities in UK</p>	<p>Legal Advertising Law firms in China have websites (no other data/info available in this regard)</p> <p>Organizational Form 1. Evolution of law firms from state owned to partnerships 2. Expansion of domestic firms in China and globally</p> <p>Entry of Foreign Law Firms 1. Entry of foreign law firms continues to be restricted. However, foreign firms still wish to set up offices in China. Number of foreign law firms has increased from 12 in 1992 to 170 in 2015. 2. Large foreign law firms have expanded due to scale advantage</p>	<p>Legal Advertising 1. Widely prevalent through online websites and social media</p> <p>Organizational Form 1. Conversion of law firms from traditional to non-traditional forms 2. 30% of solicitor firms are now ILPs 3. Publically listed law firms and virtual law firms also introduced</p> <p>Entry of Foreign Law Firms 1. Presence of foreign law firms from UK and US 2. Increased M&A and consolidation in the sector 3. Issues of employee retention 4. Growing export of the legal services</p>	<p>Legal Advertising 1. Limited impact 2. Increased work for law firms due to third party publicity</p> <p>Organizational Form 1. 12 out of the 25 largest law firms in Singapore were domestic law firms 2. Domestic expansion due to internationalization</p> <p>Entry of Foreign Law Firms 1. Presence of around 130 international law firms and 1200 foreign lawyers from UK, US, and Australia 2. Foreign firms exist through branch offices and marketing/liason offices 3. Joint law ventures (JLVs) only successful in cases where the practices of the domestic and foreign law firms are complementary 4. Aggressive pricing behaviour by law firms due to excessive competition</p>	<p>Legal Advertising 1. Not widely prevalent</p> <p>Entry of Foreign Law Firms 1. More than 60 foreign law firms from UK, US, and Europe currently present in Israel 2. Increased M&As and consolidation in the sector 3. Restriction on organizational form, and current political scenario are major concerns</p>	<p>Legal Advertising 1. Very few firms have websites 2. Marketing through internet at infancy levels</p> <p>Organizational Form 1. Expansion of firms, globally and domestically, through mergers, branch offices, and partnerships 2. Impact of LLPs yet to be assessed</p> <p>Entry of Foreign Law Firms 1. Impact yet to be assessed. However, given the restrictions, impact likely to be low on domestic law firms 2. Presence of UK and Singapore-based law firms has increased</p>	<p>Legal Advertising 1. Limited to press media and internet (websites)</p> <p>Organizational Form 1. Expansion of the legal sector domestically with large to medium-sized law firms, LLCs, sole practice and small partnerships</p> <p>Entry of Foreign Law Firms 1. Presence of more than 30 foreign law firms from UK, US, and Spain. 2. Foreign firms exist through branch offices and project-specific contracts with domestic law firms 3. Practice areas include arbitration, antitrust, capital markets, energy, oil & gas, M&As, project finance, infrastructure, and intellectual property</p>
Impact of liberalization on the economy	<p>1. Accounts for 1.60% of UK's economic Gross Domestic Product (GDP) 2. Work-force of 316,000 as of 2013/14 3. Trade surplus of GBP 3,056 million (USD 4,755 million) 4. UK's transformation as an international legal services hub 5. Increased inflow of foreign law firms and foreign lawyers</p>	Contribution to economic GDP limited due to only recent development of the legal sector	<p>1. Work-force of 103,005 as of 2015/16 2. Accounts for 18 % of the total revenue of the professional services 3. Export of legal services second only to engineering services amongst professional services</p>	<p>1. Accounts for 0.50% of Singapore's GDP (2012) 2. Accounts for close to 40% of Singapore's service exports 3. Transformation of Singapore into an arbitration hub</p>	<p>1. Accounts for 1.55% of Israel's total workforce 2. Importance of the sector amongst the people of the country reflects from the fact that every 1 in 126 citizens in the country is a lawyer, the highest in the world</p>	As part of Malaysian professional services a. legal services sector accounted for around 25.40% of the total establishments and, b. legal sector accounted for 27.20% of the total workforce c. legal services accounted for 21.60% of the total value addition	<p>1. Third largest legal system, after US and India 2. Highest number of law schools in the world</p>

Source: Nathan Associates

Based on the above cross-country comparison table, we discuss below certain key observations related to the restrictions on (a) advertising of legal service by service providers, (b) organizational forms of law firms (including structures based on liabilities), and (c) the entry of foreign law firms in the domestic market for legal services.

Regulatory Restrictions on Advertising

Across the countries studied, advertising is permitted, but with conditions imposed on the permissible media (print, online, directories), and content (staff details, fees charged, experience). While the UK follows a highly liberal regime, allowing lawyers to even advertise the fee charged for their services, Malaysia follows a relatively restrictive regime wherein law firms are allowed to engage in advertising only by publishing their areas of practice and contact details either through their own website or through platforms provided by the Bar Council.

Based on the experience of the different countries, there is no clarity on the impact of permitting legal advertising. For instance, in the UK, advertising is actively used by legal service providers (according to a survey, conducted by Hubbard One in April 2011, more than 53 percent of law firms engage in advertising).²⁵ However, most consumers still prefer trusted solicitors only.²⁶ In Singapore, while law firms are allowed to advertise on their own websites, they have also started advertising on third-party-owned websites, which has garnered additional publicity for law firms, thereby increasing their businesses.²⁷

Regulatory Restrictions on Organizational Forms

With respect to restrictions on permissible organizational forms, the UK, Singapore, and Malaysia have relaxed restrictions allowing law firms to be structured as limited liability partnerships (LLPs). LLPs confer benefits of limiting the liabilities of partners towards losses, while providing flexibility in terms of management of the firm and also favourable taxation policies.²⁸ Australia has also relaxed restrictions on organizational forms by allowing legal practitioners to operate as an incorporated legal practice (ILP) – a company structure, which can exist as limited or unlimited liability partnership.²⁹ While China, Brazil, and Israel have historically allowed general partnership structures, LLPs continue to be restricted in these jurisdictions.

Despite the varying regulatory regimes governing organizational forms of law firms, the impact of liberalizing organizational structures has largely been positive. For instance, the UK and Australia have allowed multidisciplinary partnerships called Alternative Business Structures (ABS), in which lawyers can partner with non-lawyer professionals. . The ABS has benefitted consumers of legal services by offering greater choice in terms of service areas and convenience, and at the same time, has opened new avenues of service provision for law firms.^{30,31} As a result of this relaxation, law firms have also been involved in an increasing number of cross-border mergers, overseas expansions, and strategic partnerships with other firms.³²

Regulatory Restrictions on Entry of Foreign Law Firms

The legal services sectors of UK, Australia, and Singapore have always been liberal with respect to the entry of foreign law firms. In Australia, while foreign law firms are prohibited from practicing Australian law, foreign law firms are allowed to provide advice on Australian law if they have at least one Australian

as a partner. It also allows foreign law firms to enter into commercial associations with local practitioners. These relaxations have led to increased competition in the market for legal services.

In Singapore, regulatory provisions to allow entry of foreign law firms were made after the Asian Financial Crisis in 1997, as the government identified legal services as an important engine for economic growth.³³ Following this, foreign law firms were allowed to establish representative offices and engage in marketing exercises or even establish themselves as licensed foreign law practice firms. Singapore also introduced specialized vehicles such as Joint Law Ventures (JLVs),³⁴ Formal Law Alliances,³⁵ and Qualifying Foreign Law Practices³⁶ to allow foreign lawyers and law firms to practice international law (home country law of foreign law firms) as well as domestic law (contingent on fulfilment of certain conditions). As a result of liberalization, Singapore's legal services sector is highly competitive which, in fact, has led to aggressive pricing by law firms, ultimately benefitting the consumers of legal services.³⁷ Liberalization of the legal sector in Singapore has also contributed towards making it a preferred destination for petitioning international arbitration matters, like in the case of the UK.

In contrast, regulations governing entry of foreign law firms in China, Brazil, Malaysia, and Israel are restrictive. While all these countries restrict the areas of practice of foreign law firms to international law alone, China and Brazil have additional restrictions on partnerships (profit-sharing arrangements) between foreign and domestic law firms. In Brazil, for instance, a foreign law firm can only partner or share profits with a domestic law firm once the latter gives up its license to practice Brazilian law.³⁸

The impact of the entry of foreign law firms in the aforementioned countries varies. In Brazil, exposure to internationalization (inclusive of entry of foreign law firms) has led to provision of various types of services by foreign law firms in the areas of anti-trust litigation, capital markets, infrastructure, etc.³⁹ In China, the entry of foreign law firms has been lopsided favouring large foreign law firms rather than smaller firms.⁴⁰ In Israel, the entry of foreign firms has led to increased mergers and acquisitions (M&A) and consolidation between foreign and domestic legal service providers in the sector.⁴¹ In Malaysia, however, as the entry of foreign firms has been permitted only recently, the impact of this relaxation is yet to be realized.

This cross-country review describes how regulations have shaped the evolution of the legal sectors in various developed and developing countries of the world. Countries such as the UK, Singapore, and Australia have followed a liberal regime governing their legal sectors, respectively, and this has benefitted the growth of both the domestic and international legal service providers in these countries. It has also contributed to innovation of alternative business structures of service provision in these countries, which include the benefits of reduced costs and liabilities for law firms and increased convenience to consumers of legal services. Reforms have, therefore, impacted both consumers and providers of legal services in these economies.

To examine if there exists a relationship between the legal framework in a country and its macroeconomic growth, we tested the following two (connected) hypotheses using the data from the Global Competitiveness Report (GCR)⁴² for UK and a statistical technique referred to as correlation analysis.⁴³

- 1. Better laws and regulations, and their effective implementation leads to certainty and better business environment in an economy, and*
- 2. Better business environments increase business activity and efficiency, which impacts macroeconomic activity in the country.*

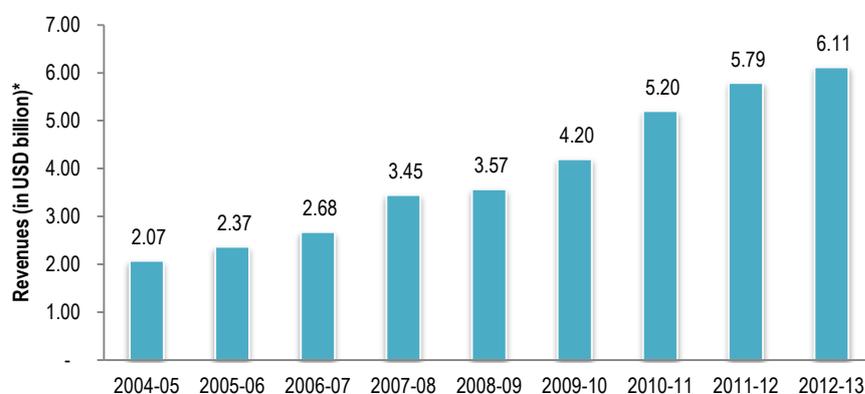
We used Institutional Framework and Business Sophistication⁴⁴ – the two pillars of competitiveness captured by the GCR and the country's per capita gross domestic product (GDP) (from 2006/07 to 2013/14) – to test these hypotheses. Results reveal that there exists a strong correlation (greater than 0.8) between Institutional Framework and Business Sophistication, and an equally strong relationship between Business Sophistication and the country's per capita GDP. These results support the hypothesis that allowing operational flexibility to law firms and the legal services sector provides the business world with the necessary enabling environment to engage in business activities, which, in turn, contributes to the economy.

2. The Market for Legal Services in India

According to the Legal Services Authorities Act, 1987 (Government of India), *Legal Service includes the rendering of any service in the conduct of any case or other legal proceeding before any court or other authority or tribunal and the giving of advice on any legal matter.*⁴⁵ This is one of the fastest-growing sectors in the Indian economy as evidenced from the threefold increase in the size of the sector since 2004/05 (see Figure 4).⁴⁶ In 2012/13, the sector was valued at an estimated INR 33,412 crore (USD 6.11 billion).⁴⁷

Figure 4

Estimated size of India's legal services market (2004/05 to 2012/13)



*The INR–USD exchange rate used is the average INR–USD exchange rate for the fiscal period starting 1 April–31 March for the respective years.

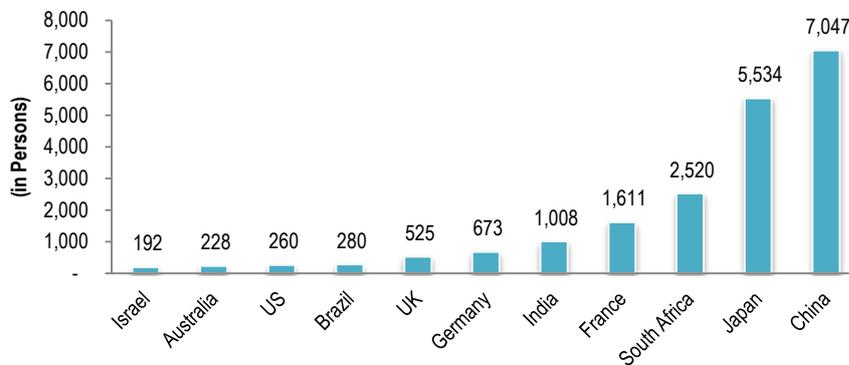
Sources: Ministry of Statistics and Program Implementation. Statement 70: Value Added from Real Estate, Ownership of Dwellings and Business Services. (2014). *National Accounts Statistics 2014*. Retrieved from <http://mospi.nic.in/Mospi_New/upload/NAS2014/NAS14.htm>; Ministry of Finance. Economic Survey 2013-14. (Page 186). Retrieved from <<http://indiabudget.nic.in/budget2014-2015/survey.asp>>

Over the past decade, India has seen an increase in the demand for more sophisticated legal services, owing to growth in sectors such as finance, corporate restructuring, and intellectual property rights (IPRs), and the overall globalization of the economy.⁴⁸ In terms of consumption of legal services, in 2012, the top 500 corporate firms in India spent an average USD 2.15 million in legal expenses, while each of the top 50 firms spent, on average, more than USD 10 million on legal services.⁴⁹ Companies from the telecom, finance, and pharmaceutical sectors spent the largest amounts.⁵⁰ A significant 23 percent of the total legal spending by corporates was spent on foreign law advisory services from international or foreign law firms, while the remaining went to Indian law firms.⁵¹

With increasing demand, the supply of legal services has also increased. The number of advocates practicing law in India has increased from around 600,000 lawyers in 2006/07⁵² to approximately 1.20

million⁵³ in 2010/11, a CAGR of 14.87 percent. In fact, in 2010/11, the legal services sector in India was the world's second largest legal market in terms of number of lawyers, almost at par with that of the US (1.202 million).⁵⁴ Figure 5 shows a cross-country comparison of the density of legal population. As can be seen, in India, one in every 1008 citizens is a lawyer, which compares favourably with China and South Africa, but is low compared to other developing countries such as Brazil where one in every 280 citizens is a lawyer.⁵⁵

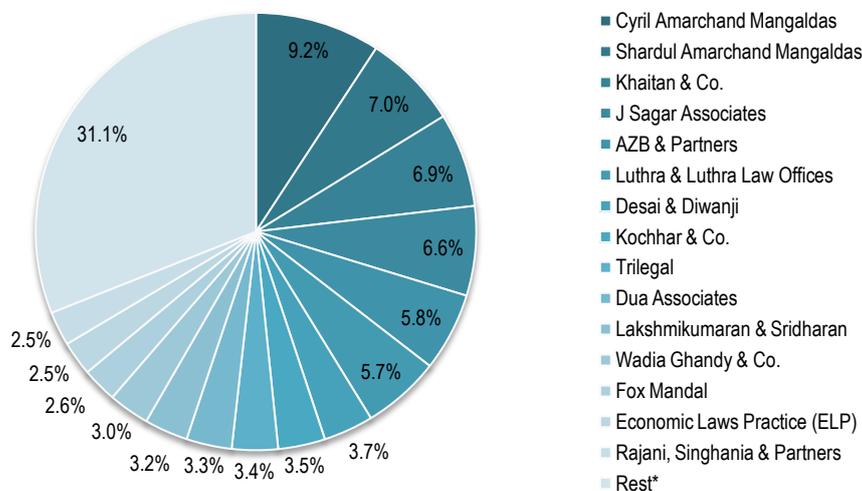
Figure 5
Cross-country comparison of legal density (2011)



Source: Ganz, Kian. (November 2011). *Demystifying India's legal market*. LiveMint. Retrieved from <<http://www.livemint.com/Opinion/7wgxY0tcuLyw2yG2G0HcvL/Demystifying-India8217s-legal-market.html>>

The legal services sector has over 250 law firms⁵⁶ offering more than 500 different legal practices.⁵⁷ The turnover of the top 50 law firms⁵⁸ in 2010 ranged from INR 2.20 crore (USD 500,000)⁵⁹ to INR 181 crore (USD 40 million).^{60,61} Figure 6 highlights the market shares of the top 41 law firms in India, based on the number of lawyers. As can be seen below, Cyril Amarchand Mangaldas is the lead firm with a 9.20 percent market share, followed by Shardul Amarchand Mangaldas (7 percent), Khaitan & Co. (6.90 percent), and J Sagar Associates (6.60 percent).

Figure 6
Market shares of the top 41 law firms in India (by number of lawyers in 2015)



* Rest includes the market shares of the other 25 Indian law firms
Sources: RSG India, *RSG India Report 2015 – Top 40 Ranking 2015*, 2015: 1.

While the overall market for legal services in India has increased over time, the charge out rates for lawyers has gone down – a phenomenon that can to some extent be attributed to the competition in the service provision.⁶² In 2014/15, the average hourly fee charged by a senior partner at an Indian law firm was USD 292,⁶³ 21 percent lower than that charged by a senior partner in 2010/11 (USD 374).⁶⁴ Similarly, a junior partner at a law firm, in 2010/11, charged, on an average, an hourly fee of USD 239.⁶⁵ However, in 2014/15, the average hourly fee for a junior partner was USD 188, a 22 percent drop.⁶⁶ This result is similar to the experience of Singapore, where intense competition in the legal sector has resulted in aggressive pricing by law firms in an attempt to capture the market share.⁶⁷

Regulatory Restrictions on India’s Legal Services Sector

The legal profession in India can trace its origins back to the British rule, with the setting up of the First British Court in India in 1672.⁶⁸ Thereafter, in 1726, the establishment of Mayor’s Courts⁶⁹ resulted in the introduction of legal professionals in the form of an attorney (solicitor), whose role was to protect the rights of his client in front of the courts. Since then, the Indian legal system has operated on the principles of the British Common Law.⁷⁰

After Independence, the Indian Parliament passed the Advocates Act in 1961, which became the apex legislation governing the legal sector in the country.⁷¹ Under the Act, various legal professionals (solicitors, barristers and *vakils*,⁷² pleaders,⁷³ *mukhtars*, and revenue agents) were unified under one umbrella – Advocates.⁷⁴

The Advocates Act, 1961, also mandated the establishment of the Bar Council of India (BCI) – a statutory body with the function of regulating and representing the legal profession in India, along with State Bar Councils (SBCs).⁷⁵ It also stipulated a uniform qualification criteria for admission into the profession⁷⁶ – a law degree from an institution recognized by the BCI and enrolled with an SBC.⁷⁷

The BCI and the Legal Education Committee introduced the All India Bar Examination (AIBE) in 2010 to test the advocates’ capabilities to

practice law in India. The AIBE, however, is only eligible to students who graduated from the academic year 2009/10 onwards, and only once the student has enrolled himself/herself as an advocate with the

Box 2.1

Key Statutory Functions of the Bar Council of India (BCI)

1. Lay down standards of professional conduct and etiquette for advocates;
2. Lay down procedure to be followed by its disciplinary committee and the disciplinary committees of each State Bar Council (SBC);
3. Safeguard the rights, privileges, and interests of advocates;
4. Promote and support law reform;
5. Deal with and dispose of any matter which may be referred to it by an SBC;
6. Promote legal education and lay down standards of legal education. This is done in consultation with universities in India imparting legal education and the SBCs;
7. Recognize universities whose degree in law shall be a qualification for enrolment as an advocate. The BCI visits and inspects universities, or directs the SBCs to visit and inspect universities for this purpose;
8. Conduct seminars and talks on legal topics by eminent jurists and publish journals and papers of legal interest;
9. Organize legal aid to the poor;
10. Recognize on a reciprocal basis, the foreign qualifications in law obtained outside India for the purpose of admission as an advocate in India;
11. Manage and invest the funds of the BCI;
12. Provide for the election of its members who shall run the BCI;
13. Provide financial assistance to organize welfare schemes for the poor, disabled, or other advocates
14. Provide legal aid; and
15. Establish law libraries.

Source: Bar Council of India. About the Council. Retrieved from <<http://www.barcouncilofindia.org/about/about-the-bar-council-of-india/>>

SBC.⁷⁸ **Box 2.1** highlights some of the key statutory functions of the BCI. The establishment of the BCI through the Advocates Act clearly demonstrates the key role of the government in defining the contours of legal service provisions in India.⁷⁹

The Advocates Act also imposes restrictions on advertising of legal service and the entry of foreign lawyers and law firms. Some restrictions also exist in the legal sector because of the interplay of other regulatory laws such as the Partnership Act and the Companies Act. For instance, the erstwhile restriction on the number of partners in a law firm to 20 was mandatory as per the provisions of the Companies Act 1956.

The following section provides a detailed overview on the evolution of regulations governing the legal services sector in India.

Restriction on advertising of legal service

In India, lawyers are prohibited from advertising their services.⁸⁰ According to Rule 36, Section IV, Chapter II of the Bar Council of India Rules [under Section 49(1) (c) of the Advocates Act 1961],⁸¹

An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned.

This restriction originates from the notion that legal service is a 'noble profession', and that permitting legal advertising would be a degradation of the profession as well as the professionals.⁸² The legal profession in India thereby works predominantly on oral referrals or networking.⁸³ The only forms of advertising that were permitted till the late 2000s (and continue till date) were sign-boards, name-plates, or stationery, subject to certain conditions. According to the aforementioned rule,⁸⁴

His sign-board or name-plate should be of reasonable size. The sign-board or name-plate or stationery should not indicate that he is or has been President or Member of a Bar Council or of an Association or that he has been associated with any person or organization or with any particular cause or matter or that he specializes in any particular type of worker or that he has been a Judge or an Advocate General.

However, in view of the globalization of the Indian economy, in 2008, the BCI notified the Supreme Court of India that it had relaxed the rules on legal advertising, permitting lawyers to advertise their services on the Internet, subject to certain conditions.⁸⁵ According to the amended Rule 36, Section IV, Chapter II of the BCI Rules,⁸⁶

This Rule will not stand in the way of advocates furnishing website information as prescribed in the Schedule under intimation to and as approved by the Bar Council of India. Any additional other input in the particulars than approved by the Bar Council of India will be deemed to be violation of Rule 36 and such advocates are liable to be proceeded with misconduct under Section 35 of the Advocates Act, 1961.

Under the amended rule, the advocates can furnish their websites with the following information:⁸⁷ –

1. Name;
2. Address;
3. Telephone Numbers;
4. Email ID;
5. Enrolment Number;
6. Date of Enrolment;
7. Name of the State Bar Council where originally enrolled;
8. Name of the State Bar Council on whose roll name stands currently;
9. Name of the Bar Association of which the Advocate is member;
10. Professional and academic qualifications; and
11. Areas of Practice (civil criminal taxation, labour, etc.)

While many Indian law firms still do not have fully operational websites, the decision to revise the rules marks a significant turnaround in the BCI's views on legal advertising in the sector.⁸⁸

Restriction on organizational forms

1. Restriction on the types of organization

Advocates in India practice law mostly as sole practitioners.⁸⁹ Historically, law firms in India have been allowed to be established solely as general partnerships, established under the Indian Partnership Act 1932. A traditional partnership is structured on principles of unlimited liability of all partners in debts and losses.⁹⁰ In other words, each partner is liable for the actions of other partners.⁹¹

However, recently, this mandatory personal liability inherent in a partnership model has led to an increased interest in an alternative partnership structure called the Limited Liability Partnership (LLP).⁹² In an LLP, no partner is liable for the actions of other partners beyond the extent of his/her share in the LLP.⁹³ In 2006, pursuant to recommendations made by the J J Irani Committee and the Naresh Chandra Committee-II, the Limited Liability Partnership (LLP) Bill was prepared.⁹⁴ After certain revisions, the Bill was approved by the Cabinet in May 2008.⁹⁵ By October 2008, the Bill was passed in the Rajya Sabha⁹⁶ and the Lok Sabha^{97,98} and was notified in 2009 as the LLP Act, 2008.⁹⁹ Major provisions of the Act were brought into force on 31 March 2009; while the LLP Rules were enforced on 1 April 2009.¹⁰⁰

According to the LLP Act 2008, Sections 3(1) and 3(2), Chapter II; and Section 14, Chapter III

*A limited liability partnership is a body corporate formed and incorporated under this Act and is a legal entity separate from that of its partners. A limited liability partnership shall have perpetual succession.*¹⁰¹

*On registration, a limited liability partnership shall, by its name, be capable of – (a) suing and being sued; (b) acquiring, owning, holding and developing or disposing of property, whether movable or immovable, tangible or intangible; (c) having a common seal, if it decides to have one; and (d) doing and suffering such other acts and things as bodies corporate may lawfully do and suffer.*¹⁰²

2. Restriction on the number of partners in a law firm

The Companies Act, 1956, restricted the number of partners in a partnership law firm to 20.¹⁰³ According to Section 11(2), Part II of the Companies Act, 1956

'11. Prohibition of Associations and Partnerships Exceeding Certain Number –

(2) No company, association or partnership consisting of more than twenty persons shall be formed for the purpose of carrying on any other business that has for its object the acquisition of gain by the company, association or partnership, or by the individual members thereof, unless it is registered as a company under this Act, or is formed in pursuance of some other Indian law.

It was debated that this restriction, which has not been observed in any other country considered for the purpose of this study, prevents law firms from having large legal practices, and hence, influences their competitiveness in relation to larger international law firms.¹⁰⁴ In consideration of these concerns raised by law firms and associations, on 29 August 2013, the Companies Act 2013 was created upon receiving the Presidential Assent.¹⁰⁵ This Act relaxed the previously existing restriction on the number of partners in a firm. According to Section 464 (1) and (2), Chapter 29 of the Companies Act, 2013¹⁰⁶

464.

(1) No association or partnership consisting of more than such number of persons as may be prescribed shall be formed for the purpose of carrying on any business that has for object the acquisition of gain by the association or partnership or by the individual members thereof, unless it is registered as a company under this Act or is formed under any other law for the time being in force:

Provided that the number of persons which may be prescribed under this sub-section shall not exceed one hundred.

(2) Nothing in sub-section (1) shall apply to –

(a) A Hindu undivided family carrying on any business; or

(b) An association or partnership, if it is formed by professionals who are governed by special Acts.

3. Restriction on partnerships with non-lawyers

Rule 2, Chapter III, Part VI of the BCI Rules distinctly prohibits an advocate or a law firm from entering into a partnership with a non-advocate.¹⁰⁷ More specifically, according to Rule 2¹⁰⁸

2. An advocate shall not enter into a partnership or any other arrangement for sharing remuneration with any person or legal practitioner who is not an advocate.

While the Rule clearly stipulates that advocates are barred from entering into a partnership with non-advocates, it also seems to imply that law firms established as LLPs would not be able to share remunerations with any non-advocate.¹⁰⁹ This restriction on partnership between advocates and non-advocates can only be relaxed by changing the rules of the BCI.¹¹⁰

Restriction on entry of foreign lawyers and law firms

The legal services sector in India is highly restrictive in terms of the entry of foreign lawyers and law firms. As per the Advocates Act 1961, only citizens of India, who are above the age of 21, have obtained a degree in Law from universities recognized by the BCI, and are enrolled in the SBC are allowed to provide legal services in India.¹¹¹ According to Section 24 of the Advocates Act, 1961¹¹²

24. Persons who may be admitted as advocates on a State roll –

(1) Subject to the provisions of this Act, and the rules made thereunder, a person shall be qualified to be admitted as an advocate on a State roll, if he fulfils the following conditions, namely: –

(a) he is a citizen of India:

Provided that subject to the other provisions contained in this Act, a national of any other country may be admitted as an advocate on a State roll, if citizens of India, duly qualified, are permitted to practise law in that other country;

(b) he has completed the age of twenty-one years;

(c) he has obtained a degree in law

Furthermore, in 2015, the BCI notified the Supreme Court of India, stating that foreign law firms and lawyers would not be permitted even to participate in seminars and conferences organized in India.¹¹³ The BCI claimed that participation in seminars and conferences are a part of the legal practice, which foreign firms are prohibited from carrying out by law.¹¹⁴

There are only two ways by which a foreign lawyer can provide his/her services in the Indian legal services sector. The first way for a foreign lawyer to practice in a court of law in India is the reciprocity condition.¹¹⁵ According to Section 47 (1) of the Advocates Act, 1961¹¹⁶

47. Reciprocity – (1) *Where any country, specified by the Central Government in this behalf by notification in the Official Gazette, prevents citizens of India from practising the profession of law or subjects them to unfair discrimination in that country, no subject of any such country shall be entitled to practice the profession of law in India.*

This means foreign lawyers and law firms would be treated in a manner similar to how Indian lawyers are treated abroad.

Box 2.2

A K Balaji v Government of India & others (W P No. 5614/2010) – ‘Fly in-Fly out’ model

In March 2010, advocate A K Balaji filed a writ petition on behalf of the Association of Indian Lawyers (AIL) against 31 foreign law firms and sought action from the Bar Council of India against foreign law firms practicing ‘illegally’ in India through a ‘fly in-fly out’ basis.

The petition named a selection of the largest and most reputable law firms in the world including Ashurst LLP, Linklaters, Allen & Overy, Clifford Chance, and Slaughter & May. The respondents argued that they did not have an office in India nor did they practice before Indian courts, and were thus not in violation of the Advocates Act, 1961. They also claimed that Mr Balaji did not have the ability to file a petition on behalf of the AIL.

On 21 February 2012, the Madras High Court issued its final decision, upholding the prohibition on practice of law in India by foreign law firms and lawyers under the Advocates Act 1961 and the Bar Council of India Rules. However, it did state that there is no bar to foreign law firms nor lawyers providing legal advice on foreign law on a ‘fly in-fly out’ basis.

The decision, for the first time, legally entitled foreign lawyers and law firms to engage in the temporary practice of foreign and international law in India on a ‘fly in-fly out’ basis.

Source: ‘Law Council of Australia’, *Law Council Review* (March–May 2012): 20.

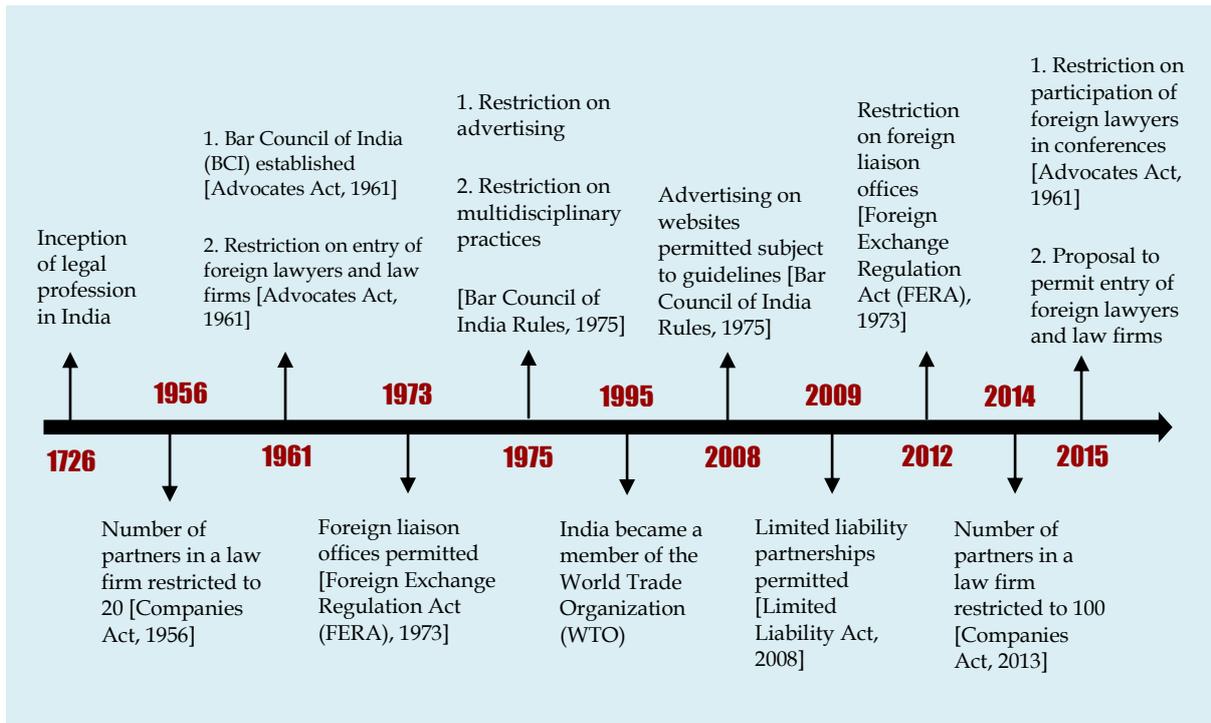
The second way a foreign lawyer can provide his/her services in India is through a 'Fly in-Fly out' basis – wherein a foreign lawyer would visit India for a temporary period and provide legal advice to his/her client in India on foreign or international law.¹¹⁷ In the past, foreign law firms were allowed to establish representative or liaison offices, permitted under Section 29 of the Foreign Exchange Regulation Act (FERA), 1973.¹¹⁸ However, these practices were challenged in a court case at the Madras High Court in 2010 (**Box 2.2**).¹¹⁹

Unhappy with the judgement passed by the Madras High Court, the BCI filed an appeal with the Supreme Court, challenging the High Court's decision. The Supreme Court of India, through Justices R M Lodha and Anil R Dave, in July 2012, passed the order favouring the Bar Council of India. In its interim order, the Supreme Court directed the Reserve Bank of India (RBI) to restrict the opening up and operation of liaison offices by foreign law firms, under Section 29 of the Foreign Exchange Regulation Act (FERA), 1973.¹²⁰

The reluctance towards allowing entry of foreign law firms and lawyers in India is also evident from India's unwillingness to commit towards liberalizing the sector under the WTO's General Agreement on Trade and Services (GATS).^{121,122} The Indian government has argued against scheduling such commitments in the sector by stating that there was a need to tackle internal issues by introducing domestic legal reforms, prior to liberalizing the sector.¹²³

The above discussion sheds light on how regulations governing the legal sector in India have evolved over time. The timeline (Figure 7) summarizes the above-discussed evolution of regulations governing the legal sector in India over time.

Figure 7
Evolution of regulations governing India's legal services sector



Source: Nathan Associates

As can be seen in the timeline, there are some areas of restrictions such as advertising, scale of operations, and permissible organizational forms, which have witnessed some relaxation over the years owing to pressure from domestic and international law firms.¹²⁴ However, there continues to be some ambiguity in these revised laws, which is hindering their active implementation by legal service providers. While there were some relaxations in the restriction on the entry of foreign law firms, they have been fraught with oppression from the BCI. As a result of this, the entry of foreign law firms in India continues to be prohibited.

The next section describes the analysis conducted in this study to determine the costs and benefits of relaxing some of these regulatory restrictions in the legal services sector of the country. This is followed by a discussion on the results of the analysis.

3. A Cost-Benefit Analysis of Reforms

Framework of the Study

Success of any liberalization depends on the perception of stakeholders regarding the expected impact of the change. Therefore, to understand the impact of potential reforms in the legal sector in India, it is important to understand and assess the perception of consumers and providers of legal services regarding these reforms.

We conducted this assessment in two steps. First, we set up the hypotheses to (a) examine whether consumers and providers of legal services perceive that benefits of liberalizing the sector will be higher (or lower) than the costs; and (b) determine the characteristics of respondents such as the firm's size and revenue, which might influence the cost and/or benefit perception of the respondents. We then conducted a survey of consumers and providers of legal services to collect data and relevant information to test our hypotheses.

Approach

The following are the hypotheses that we tested for consumers and providers (collectively referred to as stakeholders) of legal services, respectively:

- *Reforms in the legal services sector generate benefits equivalent to costs; and*
- *Specific characteristics influence the perception of stakeholders regarding costs and benefits of reforms.*

We conducted structured surveys of 299 consumers and 42 providers of legal services in India to collect information to test the above hypotheses. The surveys were designed to understand the respondents' perception of the *ex-ante* costs and benefits of liberalization related to: (a) advertisements by legal service providers; (b) scale and scope of legal service provisions in India; and (c) entry of foreign law firms. For instance, in the questionnaire designed for the consumers of legal services, we asked the respondents, based on their likelihood, to rank the potential benefits of allowing foreign law firms to enter India. The benefits were:

- Reduced costs towards legal services for cross-border transactions (for instance, due to saved transaction costs of travelling);
- Improvement in the quality of service provided by domestic legal service providers (as a result of spill-over effects from the presence of foreign law firms); and
- Improvement in the variety of services offered and the techniques used by legal service providers.

We grouped the ranks as: Unlikely (Rank 1–4); Likely (Rank 5–7); Highly Likely (Rank 8–10). Using these rankings, we conducted statistical analysis to compare the costs and benefits.

To gain a deeper understanding of the responses of various stakeholders, we analysed the perception rankings with the characteristics of the respondents. Specifically, we quantified the relationship between ranks assigned to various costs and benefits of reforms, and characteristics of the respondents that might influence these ranks, such as the number of offices of the respondent firm, engagement in cross-border transactions, or being a full service law firm rather than a specialist. We used econometric models to estimate these relationships.

Data Collection

As the corporate law segment of the sector is likely to be more responsive to liberalization, this study covers the perceptions of stakeholders associated with corporate law advisory services – primarily business enterprises, and law firms practicing corporate law. Corporate advisory law services essentially cover consultation on matters related to company operations, corporate taxation, intellectual property law, compliance with regulations, international and/or domestic transactions, and cross-border mergers and acquisitions, and investments.

Questionnaire

We designed separate questionnaires for law firms and business enterprises (**Annexure C**) to obtain qualitative and quantitative information from the respondents. For instance, the questionnaire for the survey of business enterprises consisted of 56 questions seeking qualitative information on factors such as the firm’s sector of operations (agriculture, services or manufacturing), the type of organization (public, private, multinational, or foreign subsidiary), and whether the firm engaged in cross-border transactions, if any. We collected quantitative information mostly through questions that required respondents to rank their experiences of engaging with law firms, and their perceptions of costs and benefits of reforms with respect to (a) advertising of legal services, (b) scale and scope of legal firms, and (c) entry of foreign law firms. The questionnaire for legal service providers consisted of 40 questions including questions on their operational areas (full service or specialist), main services (litigation or non-litigious), and engagement in cross-border transactions. We collected quantitative information from law firms through questions on the number of offices, lawyers, and partners, and also through ranked questions on their perceptions of costs and benefits from reforms with respect to (a) legal advertising and (b) entry of foreign law firms. We used statistical tools such as regression analysis,¹²⁵ parametric and non-parametric tests, and frequency analysis to analyse this qualitative and quantitative information. Nielsen India conducted the survey for this study.¹²⁶

Survey Design

Keeping in mind the time and budget constraints of the study, we designed a survey of 300 business enterprises and 42 law firms operating in four metropolitan cities of India – Delhi, Mumbai, Chennai, and Kolkata.¹²⁷ In selecting the geographical location of these business enterprises and law firms, our goal was to represent India’s commercial centres, which are most likely to be impacted by legal sector reforms.

We selected law firms for the survey using information provided in law journals, legal guides (*Chamber and Partners Asia-Pacific Guide*), law-related websites (Who's Who Legal, Legal 500, HG.org), and the availability of senior law firm officials to participate in the survey. We tried to represent the legal sector by including law firms with more than 200 lawyers, as well as law firms with less than 10 lawyers. We selected business enterprises using the Prowess database, which provides financial information of Indian companies. From amongst the companies which had incurred legal expenses in the past year, we randomly selected a list of 300 businesses who have their headquarters in the four metros.¹²⁸ This sample size of 300 firms satisfies the necessary parameters of statistical robustness (95 percent confidence interval and 10 percent margin of error)¹²⁹ and also accounts for a possibility of non-response.

Summary Statistics

Table 4 and Table 5 illustrate summary statistics for the surveyed business enterprises and law firms.

Table 4
Summary statistics for the surveyed business enterprises

Parameter	Statistics
Total number of business enterprises surveyed	299
Number of business enterprises surveyed in each city	
Chennai	24
Delhi	80
Kolkata	45
Mumbai	147
Others	3
Number of business enterprises with single and multiple offices	
Single office	103
Multiple offices	192
Number of employees per business enterprise (median)¹³⁰	120
Type of organization	
Private limited company	214
Public limited company	74
Multinational company	3
Branch/subsidiary of a foreign company	1
Sector of operations	
Agriculture	6
Manufacturing	128
Services	154

Note: For some statistics, the responses do not add up to 299 because of missing responses. To avoid influencing the result due to the presence of outliers, we have used the median observation as the sample representative rather than the mean.

Source: Nathan Associates

Table 5*Summary statistics for the law firms*

Parameter	Statistics
Total number of law firms surveyed	42
Number of law firms surveyed in each city	
Chennai	5
Delhi	24
Mumbai	13
Number of offices that the law firm has	
Single office	5
Multiple offices	37
Number of partners in law firms (median)	
Equity partners	4
Non-equity partners	3
Number of lawyers in law firms (median)	25
Practice area of law firms	
Full service	38
Specialist	2

Note: For some statistics, the responses do not add up to 42 because of missing responses. To avoid influencing the result due to the presence of outliers, we have used the median observation as the sample representative rather than the mean.

Source: Nathan Associates

Results of Business Survey

This sub-section discusses the results of the analysis of the business survey data starting with specific reforms, and then, the overall results of the analysis.

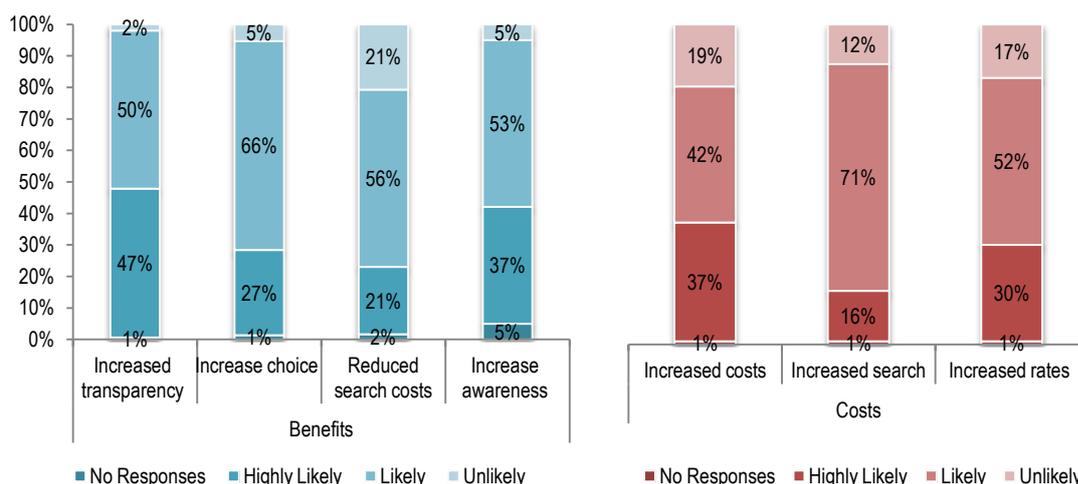
Reform Level Analysis

A. Perception of businesses regarding legal advertising

We analysed the perception of business enterprises regarding the costs and benefits of relaxing restriction on legal advertising in India. Figure 8 shows the responses of business enterprises on the likelihood of benefits and costs from this reform. As can be seen, more than half of the business enterprises surveyed perceive that relaxing restrictions on advertising is likely to generate benefits such as increased choice, transparency, and awareness about legal service providers. On the other hand, more than half of the businesses also perceive that this reform is likely to increase search costs due to greater choice of service providers and also likely to augment the rates of legal services owing to the pass on of advertising costs by service providers to service users.

Figure 8

Potential benefits and costs of allowing legal service providers to advertise in India



Source: Nathan Associates

Figure 8 indicates that according to businesses the reform can have both positive and negative impact. We use statistical analysis to determine whether there is any statistically significant¹³¹ difference between the perceived benefits and costs of this reform. In other words, we test the hypothesis that the perceived benefits from advertising are same as the perceived costs. We used the following methodology to test this hypothesis:

- We used the ranks assigned by the survey respondents to the 'High' likelihood of various potential costs and benefits (highlighted in the chart above), if legal advertising is allowed in India.
- For each respondent, we calculated the average rank assigned to the benefits and costs of legal advertising.
- We then computed the average rank of the potential benefits and costs across all respondents.
- Next, we compared the average rank of benefits and costs across respondents to determine whether the perceived benefit of legal advertising was statistically different from the perceived costs.

Table 6 shows the results of these statistical tests. Business enterprises assigned an average rank of 6.69 (out of 10) to the 'High' likelihood of benefits from legal advertising, while assigning an average rank of 6.31 to 'High' likelihood of costs. The results of the statistical analysis reveal that the ranks assigned to the perceived benefit is *statistically and significantly* greater than the rank assigned to the perceived costs at 1percent level of significance. (In simple terms, 1 percent level of significance implies that there is only 1 percent chance for us to wrongly conclude that the benefits of the reform are greater than the costs when in fact they are same as costs, i.e., there is only a 1 percent chance of rejecting the null hypothesis given that it is true). This indicates that business enterprises ascribe benefits to allowing legal advertising, which outweigh the associated costs.

Table 6
Cost-benefit comparison

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests - Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Potential impact of allowing legal service providers to advertise in India	6.69	6.31	***	***

Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1% level.

Source: Business Survey Data, Nathan Associates

Given that businesses perceive that this reform generates more benefits than costs, we used regression analysis to determine if there were any specific characteristics of the firm that influenced this perception. In other words, we tested the relationship between the rank which a consumer assigned to each potential benefit from legal advertising (dependent variable) and the following firm-specific characteristics (independent variables).

- Operational Factors: Years since the establishment of the business enterprise, number of offices of the firm (indicative of geographical coverage or size of the firm), type of organization (public, private, multinational, and foreign subsidy), and engagement in outbound transactions (indicative of the nature of the firm’s business)
- Economic Factors: Fee paid for legal services (indicating the firm’s past experience of engaging a legal service provider), and expected revenue growth rate of the enterprise (indicative of the aspirations of the firm).

Box 3.1

Potential benefits from legal advertising

1. Increased transparency in the legal service sector
2. Increased choice of legal service providers
3. Reduced search costs
4. Increased awareness about the types of legal services provided

Regression analysis using the ordered probit model¹³² indicates that both operational and economic factors have an impact on the probability of a business reporting ‘Highly’ likely benefits from allowing legal advertising in India. In particular, the analysis shows that:

- Keeping all other factors constant, **the expected growth of a company has a significant and positive impact on the company’s perception regarding benefits from legal advertising.** In fact, every 1 percentage point increase in a firm’s revenue growth rate increases by 2–4 percentage points the chances that the firm will report ‘Highly’ likely benefits from advertising of legal services.
- **A company’s engagement in outbound transactions also has a positive impact on the likelihood of perceived benefits from the reform,** keeping other factors constant. In particular, results show that every new outbound cross-border transaction of a business enterprise increases by 17 percentage points the chances of reporting ‘High’ likelihood of benefits (of reduced search costs) from allowing advertising of legal services.
- The results of our regression analysis also indicate that **the fee charged by legal service providers from business enterprises does not change the perception of benefits from advertising reform.**

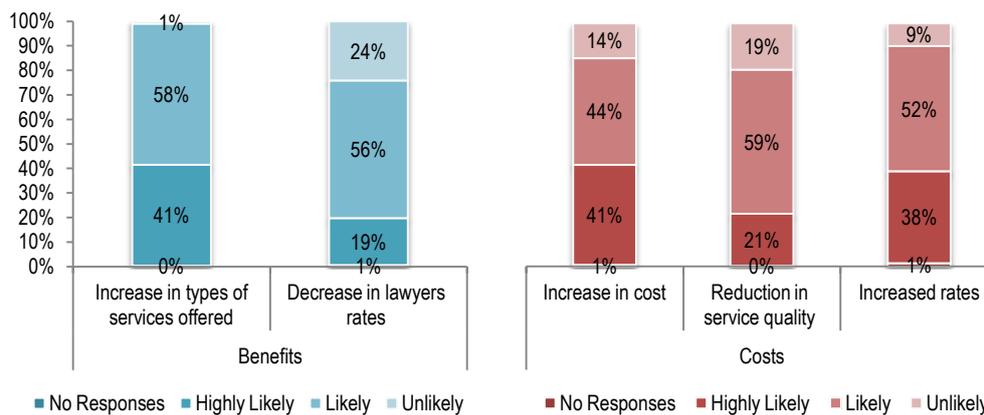
- With respect to the type of organization, the results reveal that **multinational and public organizations are less likely to report benefits of increased awareness and transparency from legal advertising**, compared to foreign subsidiaries operating in India.

The analyses in the above section indicate that the benefits which businesses ascribe to introducing reforms in legal advertising are statistically greater than the costs. Additionally, regression analysis reveals that the perception of firms regarding benefits of the reform is driven by firm-specific characteristics. In particular, firms which engage in outbound cross-border transactions, and / or those expecting high growth rates, are likely to report higher benefits from allowing legal advertising in India.

B. Perception of businesses regarding scale and scope of legal services

Figure 9 shows the responses of business enterprises regarding the likelihood of benefits and costs being realized after relaxing restriction on scale (through number of partners) and scope (through partnerships with other professions) of legal services in India. As can be seen more than half of businesses perceive that this reform is likely to generate benefits such as increased number of services offered and decrease in lawyer rates due to economies of scale. Forty-one percent of respondents believe that it is ‘Highly’ likely that this reform will increase the types of services offered in India. On the other hand, more than 50 percent of business enterprises surveyed also perceive that this reform is likely to increase costs in the form of reduced quality and increased rates of legal services as it might lead to displacement of small-scale law firms.

Figure 9
Potential benefits and costs of relaxing restrictions on scale and scope of legal service providers in India



Source: Nathan Associates

Statistical comparison of the costs and benefits of relaxing this restriction reveals that there is statistically no difference between the perceived benefits and costs of this reform. In other words, the perception of business enterprises regarding benefits from this reform is not different from the perception of costs from the reforms (Table 7).

Table 7
Cost-benefit comparison

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests - Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Potential impact of relaxing restrictions on scale and scope of legal service providers in India	6.41	6.48		

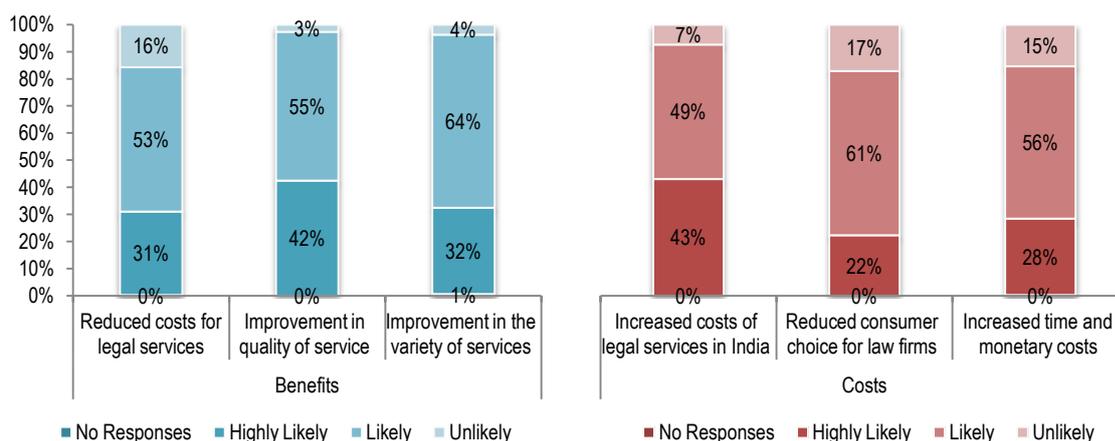
Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1% level.

Source: Business Survey Data, Nathan Associates

C. Perception of businesses regarding entry of foreign law firms

Figure 10 shows the responses of business enterprises regarding the likelihood of benefits and costs being realized from allowing foreign law firms to enter India. A majority of businesses feel that the entry of foreign law firms in India, in all likelihood, will improve the quality and type of services offered in the country, while reducing the cost of these services. Forty-two percent of respondents perceive that it is ‘Highly’ likely that the entry of foreign law firms will improve the quality of legal service in India. However, more than 50 percent of respondents also feel it is likely that the entry of foreign law firms will increase the time and monetary costs of service provision, while reducing the choice of legal service providers in India due to closure of small-scale legal service providers or due to consolidation in the market.

Figure 10
Potential benefits and costs of allowing foreign law firms to practice in India



Source: Nathan Associates

Statistical analysis comparing the ranking of the perceived benefits and costs of the reform indicates that business enterprises perceive that benefits from the entry of foreign law firms in India are statistically and significantly greater than the costs, at 5% level of significance.

Table 8
Cost-benefit comparison

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests - Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Potential impact of allowing foreign law firms to practice corporate advisory services in India	6.76	6.46	**	**

Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1% level.

Source: Business Survey Data, Nathan Associates

As businesses perceive that entry of foreign law firms will generate benefits greater than costs, we used regression analysis to determine whether the characteristics of the responding firms influence this perception. The results of our analysis show that:

- **Keeping other factors constant, the number of offices of a business enterprise (which is an indicator of the size of the company) has a significant and positive impact on the firm’s possibility of reporting highly likely benefits from entry of foreign law firms.** In particular, with every additional office of a business enterprise, the chances of reporting ‘Highly’ likely benefits increases by 0.03 percentage points.
- **While the years since establishment of the firm have no significant impact on its perception of benefits, the expected revenue growth rate of the firm has a significant and positive impact.** Other factors being constant, every 1 percentage point increase in the company’s expected revenue growth rate increases by 2–3 percentage points the chances of the respondent reporting ‘Highly’ likely benefits of reduced costs and improved quality from entry of foreign law firms.
- **A business enterprise’s engagement in outbound transactions also has a positive impact on the likelihood of perceived benefits from the reform, especially with respect to reduced costs.** This is in line with expectations, because the presence of foreign law firms in the country can reduce transaction costs, which accrue to businesses engaging in cross-border transactions, on account of travel expenses.
- **The regression analysis also shows that the fee charged to business enterprises by legal service providers does not change the perception of benefits from the reform.**
- With respect to the type of organization, the results reveal that **multinational organizations are more likely to report benefits of reduced costs of legal services from entry of foreign law firms, compared to foreign subsidiaries operating in India, while public organizations are less likely to report these benefits.**

Box 3.2

Potential benefits from allowing entry of foreign law firms

1. Reduced costs for legal services for cross-border transactions (due to saved transaction costs of travelling).
2. Improvement in the quality of service provided by domestic legal service providers (as a result of spill-over effects).
3. Improvement in the variety of services offered and the techniques used by legal service providers.

The analysis in the above section indicates that the benefits which consumers of legal services (business enterprises) ascribe to introducing reforms by way of opening the legal sector to foreign law firms are statistically greater than the costs. Additionally, regression analysis reveals that the perception of firms

regarding benefits of the reform is driven by firm-specific characteristics. In particular, firms which engage in outbound cross-border transactions, and / or are expecting high growth rates in the upcoming years and have a wider presence, are likely to report higher benefits from allowing foreign law firms to enter India.

Overall Analysis

Statistical analysis, at an overall level of reforms, reveals that the business enterprises perceive greater benefits from reforms than costs. This indicates that at an overall level, businesses are inclined towards introducing reforms in the legal sector.

Table 9

Overall cost-benefit comparison

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests - Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Overall impact of reforms	6.62	6.41	*	*

Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1% level.

Source: Business Survey Data, Nathan Associates

The above analyses for business enterprises or consumers of legal services indicate that:

1. **Business enterprises perceive *ex-ante* benefits of reforms**, with respect to legal advertising and entry of foreign law firms, to be higher than the *ex-ante* costs.
2. **Firm-specific characteristics play a critical role in determining the perception of the businesses regarding *ex-ante* benefits of these reforms.** For instance, firms engaging in outbound transactions (or firms looking to expand globally) are likely to report benefits from entry of foreign law firms and advertising. Similarly, rapidly growing firms are also likely to report benefits from these reforms.

Results of Legal Service Providers Survey

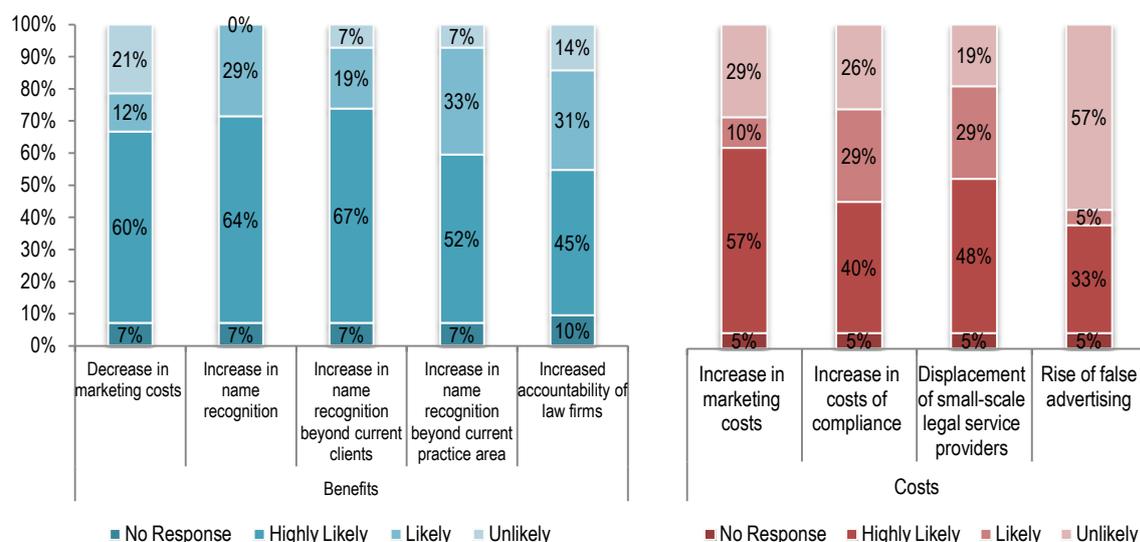
This sub-section discusses the results of the analysis of the data obtained from the survey of providers of legal services. We have primarily used statistical tools such as parametric and non-parametric tests and frequency analysis to analyse this data. We start with the analysis of perception with respect to specific reforms, and then the overall results of the analysis.¹³³

A. Perception of service providers regarding legal advertising

Figure 11 shows the responses of law firms/legal service providers regarding the likelihood of benefits and costs that can be realized by permitting legal advertising. As can be seen, the majority of service providers perceive that relaxing restrictions on advertising is very likely to generate benefits such as decreased marketing costs (for events and conferences), increased name recognition, and increased clientele and practice areas. However, more than half of respondents also feel that advertising will lead to increased

marketing costs for law firms. Forty-eight percent of respondents feel that allowing advertisement of legal services might lead to displacement of smaller law firms, which do not have enough resources to advertise.

Figure 11
Potential benefits and costs of allowing legal service providers to advertise in India



Source: Nathan Associates

The graphical analysis demonstrates that a higher proportion of service providers opine that benefits from legal advertising are 'Very Likely', compared to costs. We also use statistical analysis to compare perceived benefits and costs due to this reform. We used the same method to compute the average rank of perceived benefits and costs of advertising reforms, as in the case of the data analysis for business enterprises. Table 10 shows the results of the statistical tests that compare the benefits of introducing advertising reforms in India's legal services sector with the costs of these reforms, as perceived by providers of legal services. The results reveal that the rank assigned to the perceived benefits is statistically greater than the perceived costs, at 1% level of significance.

Table 10
Cost-benefit comparison

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests - Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Potential impact of relaxing the restriction on advertising for legal service providers in India	7.62	6.56	***	***

Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1% level.

Source: Law Firm Survey Data, Nathan Associates

Given insufficient data in the case of service providers, we used frequency analysis rather than regression analysis to determine if there was any observable trend between the perception of law firms regarding the benefits of advertising reforms and the responding firm's characteristics. The characteristics that we considered for this analysis include operational factors such as the nature of the law firm (full service or

specialist), engagement in cross border transactions, and the number of offices, lawyers, and partners in the firm. Table 11 provides, as an illustration, the cross-frequency tabulation of the characteristics of responding law firms and their responses regarding the benefits of allowing legal advertising. The table shows that majority¹³⁴ of the respondents perceive that benefits of advertising reforms are 'Highly' likely. It is also observed that in the case of the most potential benefit that can be realized from advertising, the respondents reporting 'Highly' likely are full service firms rather than specialists, indicating that the inclination of firms towards advertising depends on the legal services they offer. Additionally, most of these firms are also engaged in cross-border transactions. However, with respect to the factors related to the firm's size (number of offices, lawyers, and partners), no discernible trend can be established.

Table 11
Cross-frequency tabulation of firm characteristics and responses regarding benefits of legal advertising

Parameter	Rank	No. of observations	Full service	No. of cross-border transactions	Median office	Median lawyers	Median partner
Decrease in marketing costs of law firms	Highly likely (score 8–10)	25	21	20	5.0	25.0	7.0
	Likely (score 5–7)	5	5	5	7.0	50.0	4.0
	Unlikely (score 1–4)	10	10	7	5.0	25.0	4.5
Increase in name recognition beyond current geographic market	Highly likely (score 8–10)	27	24	25	5.0	25.0	6.0
	Likely (score 5–7)	13	12	7	5.0	28.0	5.0
Increase in name recognition beyond current clients	Highly likely (score 8–10)	29	27	22	5.0	25.0	6.0
	Likely (score 5–7)	8	6	7	4.0	22.0	5.0
	Unlikely (score 1–4)	3	3	3	5.0	46.5	11.0
Increase in name recognition beyond current practice area	Highly likely (score 8–10)	23	21	17	5.0	27.5	4.0
	Likely (score 5–7)	14	12	12	5.0	25.0	7.0
	Unlikely (score 1–4)	3	3	3	3.0	28.0	5.0
Increased accountability of law firms	Highly likely (score 8–10)	20	16	16	5.0	23.5	7.5
	Likely (score 5–7)	13	13	11	5.0	40.0	6.0
	Unlikely (score 1–4)	6	6	4	5.5	18.0	4.0

Source: Nathan Associates

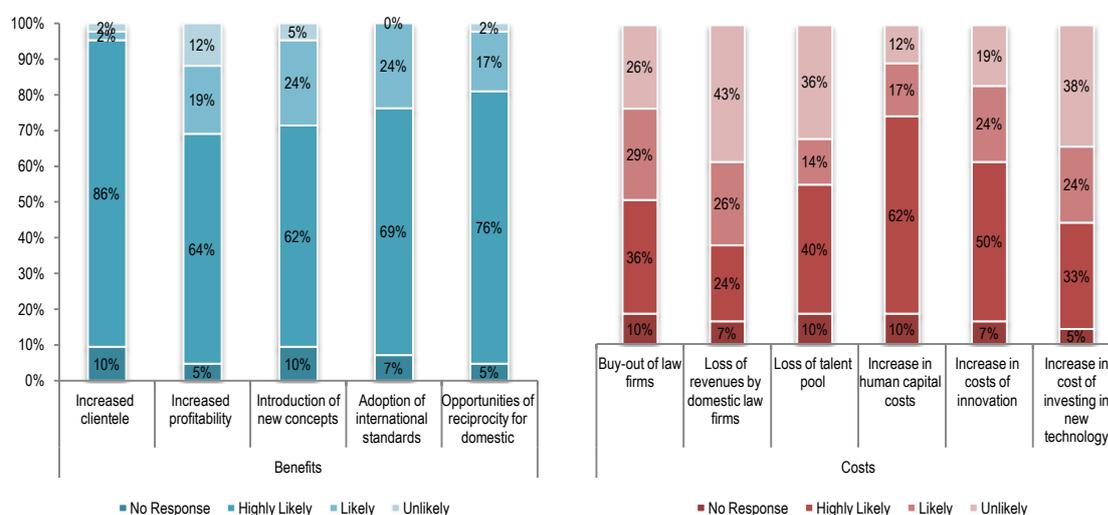
The analysis in the above section indicates that the benefits which providers of legal services ascribe to introducing reforms by way of allowing legal advertising are statistically greater than the associated costs. Additionally, frequency analysis reveals that the perception of firms regarding these benefits may be related to firm-specific characteristics such as nature of service offered (full service or specialist), and the firm's engagement in cross-border transactions.

B. Perception of service providers regarding entry of foreign law firms

With respect to allowing entry of foreign law firms, over half of respondents state that this will increase the human capital costs and the cost of innovation in the sector. Most respondents also believe however that this reform will also result in increased clientele, increased profitability, introduction of new concepts, adoption of international standards, and increased opportunity for reciprocity.

Figure 12

Potential benefits and costs of allowing foreign law firms to practice in India



Source: Nathan Associates

Statistical analysis to compare perceived benefits and costs of this reform show that the providers of legal services in India ascribe a statistically greater rank to the potential benefits from legal advertising, relative to the potential costs.

Table 12

Cost-benefit comparison

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests - Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Potential impact of allowing foreign law firms to practice corporate advisory services in India	8.03	6.72	***	***

Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1% level.

Source: Law Firm Survey Data, Nathan Associates

Table 13 shows the frequency distribution of the ranks assigned by the law firms to the various potential costs and benefits, along with firms' characteristics. In the case of all perceived benefits, majority of respondents opine that the concerned benefit is 'Highly' likely. The analysis also reveals that majority of the firms reporting 'Highly' likely benefits are full service firms, and engage in cross-border transactions. This indicates that law firms which offer services in multiple areas of law and/or are engaged in cross-

border transactions, consider liberalization by way of entry of foreign law firms in India, as beneficial to their professions.

Table 13

Cross-frequency tabulation of firm characteristics and responses regarding benefits of allowing entry of foreign law firms

Parameter	Rank	No. of observations	Full service	No. of cross-border transactions	Median office	Median lawyers	Median partner
Increased clientele	Highly likely (score 8–10)	36	32	30	5.0	25.0	6.0
	Likely (score 5–7)	1	1	1	10.0	18.0	1.0
	Unlikely (score 1–4)	2	2	0	42.5	550.0	3.5
Increased profitability	Highly likely (score 8–10)	27	24	22	5.0	25.0	6.0
	Likely (score 5–7)	9	8	6	5.0	47.5	6.0
	Unlikely (score 1–4)	5	5	5	5.0	50.0	9.0
Introduction of new concepts/techniques/areas of specialization	Highly likely (score 8–10)	27	24	21	5.0	26.5	6.0
	Likely (score 5–7)	10	9	9	6.0	22.0	6.0
	Unlikely (score 1–4)	2	2	2	5.5	54.0	7.5
Adoption of international standards of quality in service	Highly likely (score 8–10)	30	27	24	5.0	25.0	6.0
	Likely (score 5–7)	10	9	8	4.5	28.0	7.0
Opportunities of reciprocity for domestic law firms and lawyers	Highly likely (score 8–10)	33	30	26	5.0	28.0	6.0
	Likely (score 5–7)	7	6	6	5.0	18.0	8.0
	Unlikely (score 1–4)	1	1	1	5.0	22.0	3.0

Source: Nathan Associates

This analysis indicates that the benefits which providers of legal services ascribe to introducing reforms by way of allowing foreign law firms in India are statistically greater than the costs. Additionally, like in the case of advertising reforms, frequency analysis reveals that the perception of firms regarding these benefits can be linked to firm characteristics such as nature of service offered (full service or specialist) and the firm’s engagement in cross-border transactions.

Overall Analysis

At an overall level, statistical analysis of the average ranks across all service providers and reforms indicates that the perceived benefits from reforms are statistically greater than the perceived costs, indicating that law firms are inclined towards introducing reforms in the legal sector.

Table 14**Overall cost-benefit comparison**

Variables	Mean Benefits Score	Mean Costs Score	Non-parametric Tests -Levels of significance [1]	
			Wilcoxon Tests	Kruskal-Wallis
Overall	7.84	6.64	***	***

Notes: [1] Levels of significance: *Significant at the 10% level, **Significant at the 5% level and ***Significant at the 1 % level.

Source: Law Firm Survey Data, Nathan Associates

The above analysis for providers of legal services indicates that:

1. **Legal service providers in India perceive *ex-ante* benefits of reforms with respect to legal advertising and entry of foreign law firms to be higher than the *ex-ante* costs.**
2. **Specific characteristics of the responding firm play a critical role in determining the perception of the legal service providers regarding *ex-ante* benefits of these reforms.** For instance, firms engaging in outbound transactions are likely to report benefits from entry of foreign law firms and advertising. This is similar to the results obtained from the analysis of consumer perceptions.

Thus, the analysis undertaken in this section provides the necessary understanding of India's legal services sector, the relative weightage that stakeholders assign to the potential benefits *vis-à-vis* costs, and the factors that determine this perception.¹³⁵ The results show that while some businesses and providers of legal services are apprehensive about introducing reforms in the sector, most participants believe that benefits of quality and choice will emanate from liberalization of the sector, indicating an inclination towards reforms among the market participants.

4. Conclusions and Recommendations

The legal services sector in India has been governed by a legislation which was passed more than 50 years ago. Over these 50 years, the Indian economy has transitioned into a new cycle of macroeconomic growth driven by the liberalization of various sectors (manufacturing, services, etc.). In recent years, a need for liberalizing India's legal services sector has been echoed by various stakeholders both within and outside the Indian economy - the government's *Economic Survey 2012-13*, domestic and foreign law firms, regulators and various countries providing commitments for opening of the legal services sector under the WTO's General Agreement on Trade in Services.

As part of this study, we spoke to various stakeholders including government ministries, domestic and foreign law firms, and legal educational institutions. We also reviewed the secondary information available on public forums such as journals regarding the views of the industry on liberalizing the sector. Based on this review, we understand that there are two diverging thoughts with respect to liberalizing the legal services sector in India. On one hand are stakeholders who opine that the Indian economy will reap various benefits from liberalization, especially with respect to opening the sector for foreign law firms. These benefits will be accrued in the form of (a) increased growth opportunities for domestic law firms, (b) spill over of international practices and standards of service delivery, (c) increased career opportunities for law graduates, (d) improved discipline in the sector, and lastly, (e) a channel of increased foreign investment as liberalization in any sector invites investment.¹³⁶

On the other hand are the opponents of liberalization who are concerned that liberalization will (a) adversely affect the domestic law firms' revenue and operations in India and (b) provide an advantage to foreign law firms because of their global network and capital strength. These stakeholders feel that India's legal services sector is still plagued with internal, structural, and regulatory issues, which, if the sector is to be opened, would place Indian law firms at a significant competitive disadvantage.

This study undertook a survey of consumers and providers of legal services in the country to understand their perception regarding *ex-ante* impact of reforms. Results of the two-fold surveys indicate that these stakeholders perceive benefits to be realized from reforms. They reveal that market participants ascribe some concerns (or costs) of introducing reforms in India's legal services sector. However, the market's perception of the benefits of introducing these reforms outweighs the costs (statistically and significantly), indicating the inclination of the ultimate service users and providers towards liberalization of the sector. With this in mind, we offer the following recommendations to facilitate liberalization of the sector in India.

Relaxing Regulatory Restrictions

The experience of UK and Singapore indicates the benefits that an economy can reap by liberalizing its legal services sector – whether it is through contribution to the economic GDP, the transformation of their economies into financial and arbitration hubs, or the growth of their domestic law firms into global leaders. Both these countries have liberalized their legal sectors to allow domestic law firms to expand in terms of scale and practice areas and to advertise their work, and have also allowed foreign firms to practice domestic and international law, subject to fulfilment of certain requirements.

Learning from the growth experience of these countries (especially Singapore due to regional and demographic similarities), and in line with India’s vision for the legal services sector (to provide access across the profession, ensure ethical foundations, and modernize the practice in accordance with international standards so as to establish India as a regional legal and arbitration hub),^{137,138} it is important that initiatives be taken to introduce these changes in the Indian economy. We suggest the following phases for introducing these changes.

- Phase I – Introducing liberalization in the domestic sector to allow domestic participants to develop capacity – in terms of scale, coverage, geographic presence, practice areas – to be able to compete globally. This can be done by gradually relaxing restrictions on advertising, the number of partners a law firm can have, and allowing multidisciplinary partnerships. Recently, the Companies Act, 2013, has increased the number of equity partners permissible in a partnership from 20 to 100. While a restriction on the number of partners (hence, the size of the firm) still exists, this revision in the rule is a welcome step towards liberalization of the sector, which will ultimately give domestic firms the wherewithal to compete with global law firms.
- Phase II – Allowing foreign companies to offer corporate advisory services on international law in India (especially on cross-border transactions involving Indian clients). This will benefit consumers by saving them transactional costs related to travel, and offer them proximity to legal service providers. This will also open new channels of capital investment into the Indian economy by foreign investors.
- Phase III – Allowing foreign companies to form joint ventures with domestic law firms to practice domestic law (limited to corporate advisory services). This will confer benefits of increased choice to consumers, besides adoption of international standards in service delivery and quality.
- Phase IV – Allowing foreign companies to practice corporate advisory law in India.

This phased mode of liberalization (in line with Singapore’s experience) will allow India to (a) develop internal capacity to compete with global law firms, (b) incentivize businesses and financial institutions to use Indian law as the governing law of their regional transactions (also being a channel to attract foreign capital in the country), and (c) persuade foreign law firms to recommend the use of Indian law to govern regional transactions, thus stimulating India’s transformation into a regional hub for legal services.

Introducing Changes in the Governance of the Sector

The current regulatory framework governing the legal sector suffers from weak governance, which causes ambiguity in the implementation of various regulations and their amendments. For instance, the introduction of the LLP Act in 2008 allowed law firms to restructure in order to reap the benefits of operating as an LLP, especially the benefit of limited liability of a partner.¹³⁹ However, since its enactment, there has been widespread ambiguity amongst the legal fraternity on whether or not law firms are able to restructure as LLPs. This ambiguity was further intensified in 2011, when the chairman of the Delhi State Bar Council, Mr. Rakesh Tiku, sent out a notice to at least three law firms operating as LLPs, accusing them of violating Sections 29 and 33 of the Advocates Act, 1961; i.e., being registered as an LLP under the LLP Act, without being enrolled as an advocate.¹⁴⁰ In response to this letter, one law firm – Kaden Boriss – shut down its LLP operations and continued to operate as a general partnership.¹⁴¹ Since then, not many law firms are deciding to restructure their firms as LLPs. To rid the sector of this legal ambiguity, the Bar Council of India must engage in stakeholder discussions with law firms and the Ministry of Law and Justice, and take an informed decision on the matter.

Strengthening Capacity of the Sector

For the Indian economy to be a competent provider of legal services in the global market, it is extremely important that the legal service providers in the country are well trained. The current system of legal education in India, however, gives a higher emphasis towards theoretical training of law graduates without providing them with practical exposure to working in corporate law firms. For instance, unlike in the UK, the internship/training programmes are not rigorous enough to train law students in drafting legal documents and undertaking due diligence procedures. It is, therefore, critical that the education and training of a lawyer is done in a holistic manner encompassing theoretical and practical knowledge to ensure that the legal fraternity has members with the requisite knowledge, skills, and experience to serve the needs of the domestic consumers and compete in the global legal landscape. Following are a few recommendations towards this end:

- It is necessary that the legal curriculum be updated regularly, keeping in mind global trends and the changing times. While steps are being taken in this regard by a trend towards offering courses in competition law and intellectual property law, there is enough scope to improve the curriculum to offer such advanced courses since the start of the programme. To substantiate, currently, various law colleges in India offer mandatory courses in history and social sciences for the first year of the undergraduate programme, which might be informative but not relevant to legal training. Hence, keeping these courses short and rather offering other optional courses such as competition law, intellectual property law, and other jurisdictional law courses might expose students to corporate law and allow them to pursue these courses based on their discretion. Additionally, steps can also be taken towards establishing a system of continuing legal education in India, which allows legal professionals and graduates to specialize in specific areas of law such as constitutional litigation, matrimonial adjudication, and commercial law practice.
- It is very important that there be continuous dialogue between industry participants and the academia to ensure that the curriculum and student training (especially with respect to corporate

law) are in line with the demands of the industry. This can be done by organizing conferences in the national law universities and inviting corporate law firms as well as academia to debate on the developments in the legal sector and their reflection in the law curriculum.

- Guest lectures from representatives of international law firms and educational institutions can also open channels of learning and practices for the students. This is gaining traction amongst various private law universities and colleges. However, it is limited due to the costs involved. Agreements between countries to allow exchange of students during the course of their law education as a means of providing exposure to law students can also be used as a means to train them in cross-jurisdictional corporate law, thus preparing them to compete with their global counterparts.

Annexure A: Cross-Country Studies

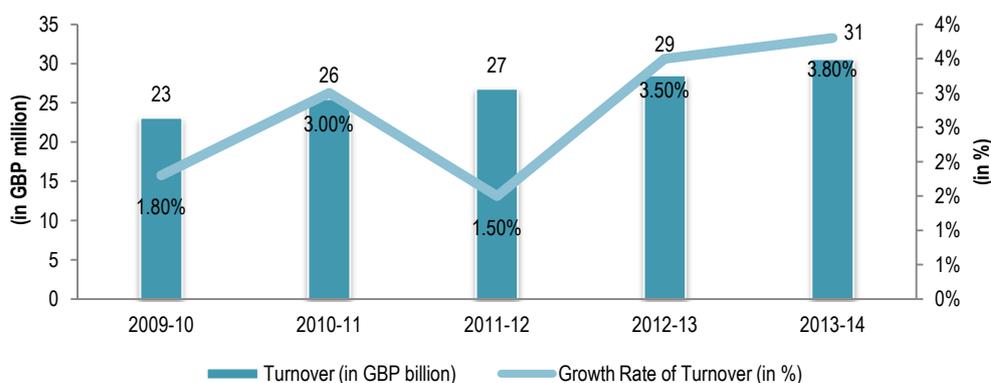
This section provides a more detailed and thorough overview into the legal services sectors of various developed and emerging countries, namely the UK, Australia, Singapore, Malaysia, Israel, China, and Brazil.

The Legal Services Sector in the United Kingdom (UK)

UK¹⁴² is (and has been) one of the world's leading global centres for the provision, practice, and training of legal services.¹⁴³ The use of the English Common Law¹⁴⁴ in 27 percent of the world's 320 legal jurisdictions is evidence of UK's contribution to the field of law.¹⁴⁵

In 2013-14, UK's legal services sector comprised of over 30,000 law firms, and a work force of 316,000. The sector also accounted for around 1.60 percent of UK's economic Gross Domestic Product (GDP),^{146 147 148 149} 1.03 percent of UK's total employment, and around 7 percent (GBP 409 billion¹⁵⁰ or USD 650 billion) of the global legal services fee revenue.^{151, 152} Figure 13 below illustrates the trends observed in the sector's total turnover since 2009-10, demonstrating a compound annual growth rate (CAGR) of 5.78 percent till 2013-14. The financial services sector is the largest purchaser of legal services in the UK, accounting for 43 percent of the total value of deals of UK's top 50 law firms during the period 2009-10 to 2013-14.¹⁵³

Figure 13
Trends in Turnover of Law Firms in the UK



Source: The City UK – UK Legal Services Reports (2011-2015)

Around 66 percent of the total work-force employed in UK's legal sector is comprised of solicitors.¹⁵⁴ Figure 14 below shows trends observed in the number of practising solicitors in UK since 2009-10. As can be seen, this number has increased consistently over the years, barring the year 2012-13, when a technical delay in updating data on the number of practicing solicitors resulted in an artificial decline.¹⁵⁵

Figure 14
Number of practicing solicitors in UK



Sources: *The City UK – UK Legal Services Report 2015; Annual Reports of Law Society of England & Wales.*

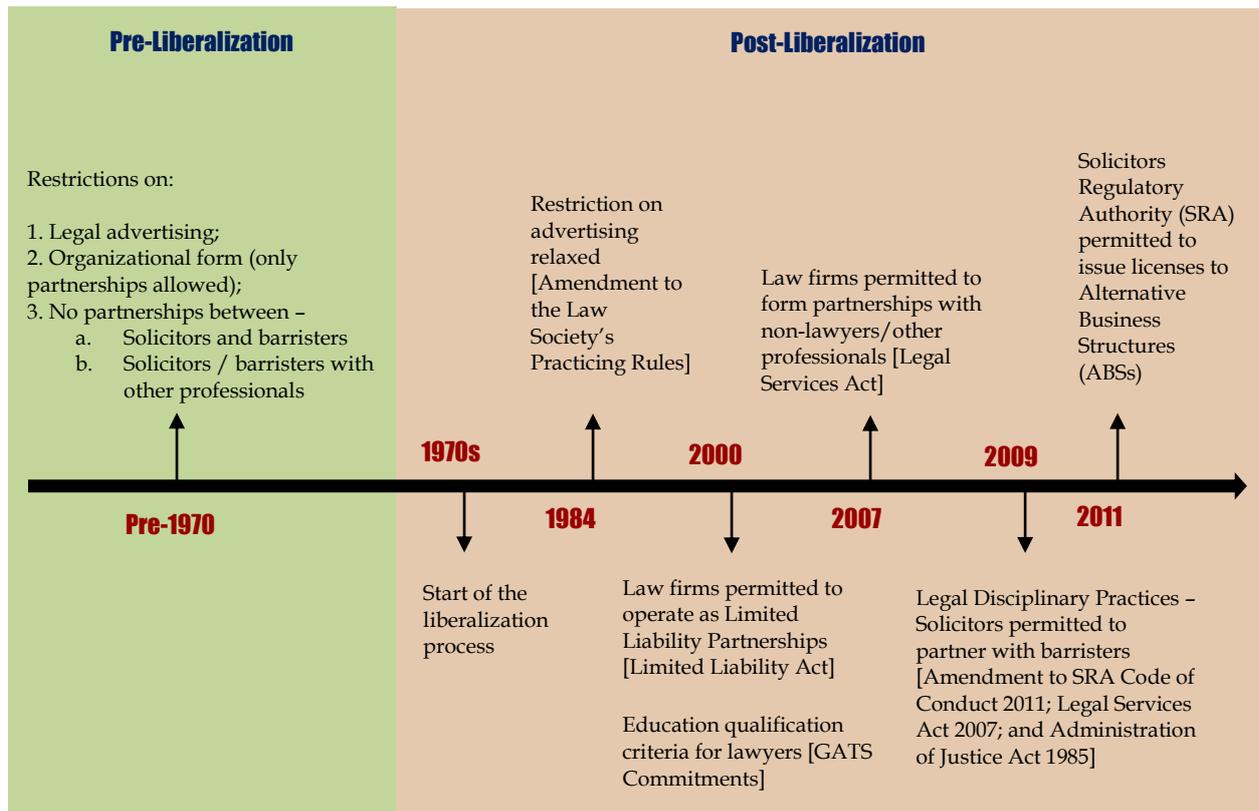
The above facts and figures clearly illustrate the significance of UK's legal services sector to the UK as well as the global economy.

Regulatory Restrictions on UK's Legal Services Sector

The legal services sector in the UK is currently self-regulated.^{156; 157} Solicitors practicing in the UK are regulated by the Law Society of England and Wales, and the Solicitors Regulatory Authority (SRA).¹⁵⁸ Barristers, on the other hand, are regulated by the General Council of the Bar, also known as the Bar Council.¹⁵⁹ In 2010, the Legal Services Board (LSB) was established for the purpose of overseeing the legal regulators in England and Wales.¹⁶⁰

UK is one of the most liberal regulatory regimes in the world¹⁶¹ – a phenomenon attributable to the implementation of several policies by successive governments, to introduce competition in the sector. In January 2000, UK acceded partially to the World Trade Organization's (WTO) General Agreement of Trade and Services (GATS) by allowing legal practitioners from other countries to work in UK's legal sector given they hold a university degree.^{162, 163} The timeline below (Figure 15) and the following paragraphs illustrate the factors influencing the relaxation of various restrictions on UK's law firms since 1970s, when the liberalization process started.¹⁶⁴

Figure 15
Liberalization process in the UK legal services sector



Source: Nathan Associates

Restriction on advertising of legal service -

In the 1970s, UK's Monopolies and Mergers Commission¹⁶⁵ released a series of reports arguing that the restriction on advertising limited the information available to the public on solicitor services.¹⁶⁶ These reports mobilized the need for relaxing this restriction. However, the Law Society permitted legal advertising only in 1984, subject to a Code of Conduct¹⁶⁷ which now dictates and monitors the acceptability and suitability rules on advertising.¹⁶⁸ Accordingly, the UK even allows advertising of fees for legal services, on the conditions of being specific.¹⁶⁹

Restriction on organizational forms -

Prior to reforms, solicitors and barristers were not permitted to form partnerships with each other nor with other professionals. Further, while solicitors were allowed to be organized as a sole practitioner or as a partnership in the ownership of a number of solicitors, barristers were forced to be sole practitioners only.¹⁷⁰

Liberalization on this front started in 2000, when top accounting firms in the UK began campaigning for a change in the legislation regarding partnerships, culminating in the passing of the Limited Liability Partnership (LLP) Act.¹⁷¹ This Act allowed solicitor firms to restructure their organizations into LLPs,¹⁷² so as to limit the partners' liabilities whilst retaining flexibility on matters of taxation and accounting.¹⁷³ The Legal Services Act, 2007 followed, which permitted partnerships of law firms with non-professionals or

other professionals in management or ownership roles in the form of Alternative Business Structures (ABS). This was based on suggestions made in the 2004 Clementi report, which aimed at recommending a regulatory framework that would promote competition, innovation, and public/consumer interest.^{174 175} However, the SRA began issuing licenses to ABSs only in 2011.¹⁷⁶ In 2009, amendments introduced to the Solicitors Code of Conduct 2011, and provisions made in the Administration of Justice Act (AJA) 1985 and the Legal Services Act 2007 (LSA) permitted partnerships between solicitors and barristers (or Legal Disciplinary Practices).¹⁷⁷

Restriction on entry of foreign law firms -

UK does not have any laws or regulations restricting the entry of foreign law firms into the legal services sector. There is no mandatory requirement for foreign law firms to obtain a license in order to set up offices or practice English law, provided that they do not operate in the reserved areas of work¹⁷⁸ and are not engaged in fee sharing with English/Welsh solicitors or barristers.¹⁷⁹ In such cases, firms need to obtain a license as a recognised body or an ABS from the SRA.¹⁸⁰ There is also no limit on the number of branches a foreign firm may have, or the scope of practice for foreign firms, unless these firms are recognized by the SRA and practice reserved areas of work.¹⁸¹ To substantiate, law firms from Switzerland and the European Economic Area (EEA)¹⁸² can set up firms in any of the forms permitted to English solicitors. However, certain specific restrictions exist. For instance, foreign firms have been barred from using the word 'solicitors' in their name, unless the firm comprises of English solicitors and is regulated by the SRA.¹⁸³

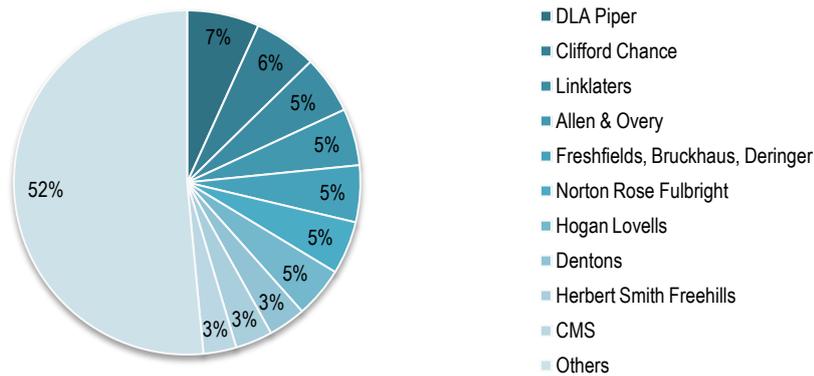
Thus, the relaxation of key restrictions such as on advertising, organizational forms and the entry of foreign firms has propelled UK's legal services sector towards liberalization.

Impact

The market for legal services in the UK is highly competitive.¹⁸⁴ This can be attributed to the liberal regulatory policy governing the sector. Figure 16 below shows the market shares of the top 10 law firms operating in the UK by revenue. As can be seen, the market share of the largest law firm (DLA Piper) is a mere 7 percent, highlighting the high level of competition in the sector.

Various stakeholders have benefitted from the liberalization of UK's legal services sector- domestic law firms, as is evident from the growth and expansion of the Magic Circle (UK's 5 largest law firms in terms of profitability) (Figure 17); international law firms, as is evident from the presence of around 200 foreign law firms in UK from countries such as the United States (US), Europe, Australia and Canada¹⁸⁵; consumers of legal services, as is evident from their satisfaction with the legal services available in UK,¹⁸⁶ and the UK economy, as is evident from the sector's contribution to the economic GDP, the trade surplus (Figure 18), and employment.¹⁸⁷

Figure 16
Market share of top 10 law firms in UK



Note: Others include the rest of the 29,990 law firms operating in the UK.

Figure 17
Annual Revenue of Magic Circle Law Firms in UK (by revenue)

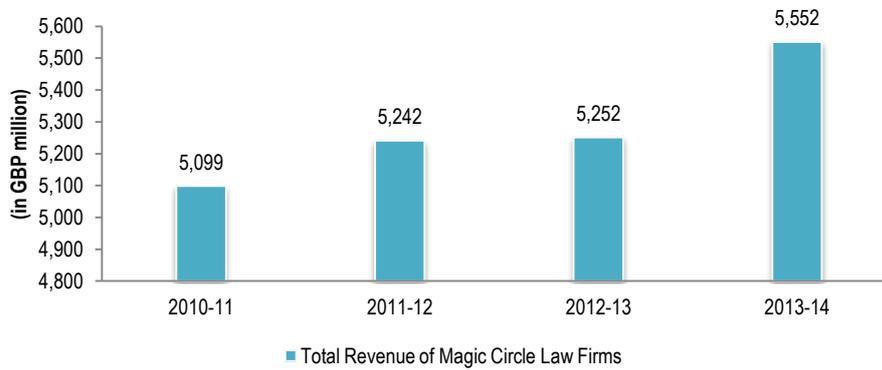
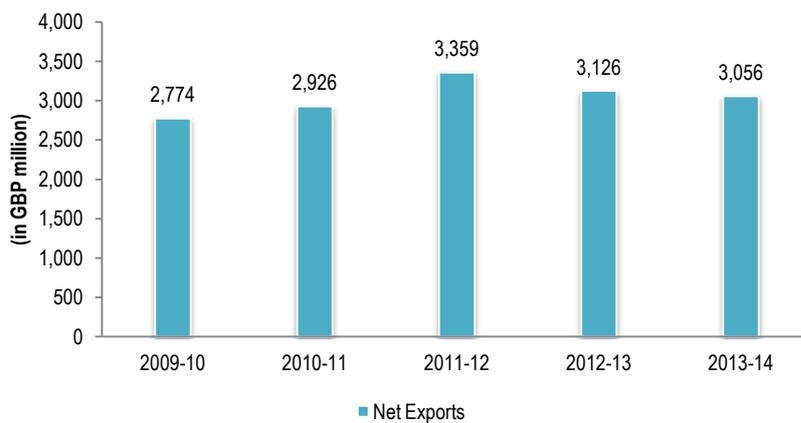


Figure 18
Net Export of UK Legal Services



Sources: CityUK – UK Legal Services Reports (2013–2015)

The following are the impacts that the relaxation of certain key restrictions have had on the sector as well as on the economy as a whole –

Impact of relaxing the restrictions on advertising –

Relaxation of the restriction on legal advertising allowed legal service providers to market their services - type of services, fees charged, and past experiences¹⁸⁸ -through various modes such as newspaper, television, websites, sponsorships, and yellow page directories.¹⁸⁹ Many solicitors have leveraged this relaxation to market their experience. For instance, in 2000, select solicitors began advertising “no win, no fee” services¹⁹⁰ which gradually became dominant on television and other modes.¹⁹¹ The importance of this liberalization is gauged by the fact that by 2011-12, majority (around 64 percent) of the total practicing solicitors in UK were advertising their services¹⁹² with more than half preferring the Internet / website as a mode of advertising.¹⁹³

According to literature, advertising of legal services causes a reduction in the fees charged by solicitors/barristers without adversely affecting the quality of service provided, thus having a positive impact of consumers of legal services.¹⁹⁴ However, a recent consumer survey conducted by LawNet,¹⁹⁵ indicated that in 2013-14, only 3 percent of the 25,000 legal service purchasers (respondents to the survey) were influenced in their choice of a law firm by advertising; with nearly 50 percent still favouring existing relationships and recommendations.¹⁹⁶ This reflects a distinguishing feature of the legal services sector - customers give a high preference to quality of service and their trust with a law firm or a solicitor based on his / her track record. A survey of law firms conducted by Hubbard One,¹⁹⁷ showed that more than half (53 percent) of the law firms spent less than 2 percent of their turnover on advertising. In fact only 11 percent of law firms spent more than 6 percent of their turnover on advertising.¹⁹⁸ This is because law firms are generally less forward thinking when it comes to marketing, and often struggle with the idea of “selling products” as they find it too commercial, like commodities.¹⁹⁹ Thus the overall impact of the relaxation of restrictions on legal advertising in UK has been mixed - it is still actively used by solicitors, indicating its relevance to their field of business, but most consumers still prefer trusted solicitors only.

Impact of relaxing the restrictions on organizational form –

Relaxation of the restrictions on organizational forms in UK’s legal sector gave way to the formation of partnerships between solicitors and barristers, and the creation of limited liability partnerships (LLPs) and limited companies.²⁰⁰ According to literature, these developments opened up new avenues of providing services, areas of expertise, and greater economies of scale.²⁰¹ They also gave small, independent firms an opportunity to increase clientele, if larger firms failed to maintain their standards of work due to restructuring, thereby causing clients to move their business elsewhere.²⁰² As a result of this relaxation, law firms have also been involved in an increasing number of cross-border mergers, overseas expansions, and strategic partnerships with other firms.²⁰³

The relaxation also led to innovation in organizational structures in the form of ABSs. By July 2015, the Law Society and the SRA approved of nearly 400 ABSs.²⁰⁴ Studies have shown that while ABSs could pose potential threat to traditional law firms,²⁰⁵ they are beneficial for purchasers of legal services as they allow for greater client choice, greater opportunities for trainees, improved services, greater convenience (one-stop shopping), and reduction in costs due to economies of scale and efficiencies, without adversely affecting the quality of service provided.^{206,207} Clients have also recognized cost savings through their engagement with innovative law firms such as virtual law firms (where lawyers do not operate from physical offices but deliver services remotely using various forms of technology).^{208,209}

Studies also argue that ABSs help increase opportunities for access to capital by law firms.²¹⁰

For example, in May 2015, a UK-based ABS, Gateley/HBJ Gateley, planned to list itself on the Alternative Investment Market, with a value of GBP 140 million (USD 216 million)²¹¹, in order to gain access to finance.²¹² Further, the separation of management and ownership could reduce the financial pressure on lawyers.²¹³

Impact of foreign law firms -

The UK has always followed a liberal policy towards the entry of foreign law firms, majority of which have entered the market via mergers with UK counterparts in order to expand overseas.²¹⁴ Some of the biggest foreign firms operating in the UK include Baker & McKenzie, Reed Smith, White & Case, and Mayer Brown.²¹⁵ These foreign firms can be segregated into full-service firms, specialist or niche firms, and those who serve clients looking to invest in the UK and continental Europe.²¹⁶

The biggest areas of practice of these foreign firms in the UK include mergers and acquisitions (M&A), international arbitration, litigation, banking and tax transactions, financial restructuring, and insolvency.²¹⁷ According to studies, the rise in the number of arbitration cases in the UK from 19,474 in 2007-08 to 24,224 cases in 2013-14 can be attributed (to some extent) to the presence of foreign firms.²¹⁸ Further, a survey conducted in 2010,²¹⁹ revealed that 30 percent of the respondents (corporate counsel of leading global corporates) stated that they preferred London as a seat of arbitration.²²⁰ Thus, the entry foreign law firms in UK has had an impact on the arbitration activity in the UK.²²¹

Conclusion

The UK has emerged as one of the leading global centres for international legal services. Relaxation of various restrictions on legal practitioners has allowed domestic law firms to expand both, domestically as

Alternative Business Structures (ABS) - Schillings

Established in 1984, Schillings was a traditional law firm specializing in privacy and defamation related matters. In March 2013, Schillings acquired two ABS licenses from the SRA. The procurement of an ABS license transformed the boutique law firm into a multi-disciplinary practice (MDP) specialising in high-tech and legal reputation defence. With the acquisition of cyber-security provider Vigilante Bespoke, Schillings was able to expand its scope of activities and roll out six new service lines by the end of 2013, including risk consulting, and data breach response.

The transformation of Schillings into an ABS has proven profitable for the law firm, which has seen a rise in its revenue by a third in a period of just 3 years. There has also been a change in the type of clientele the firm is able to attract; with an increasing number of clients looking to develop strategies with the firm while building long-term relationships.

Source: Blindman, Dan. (July 2014). Schillings' profits rocket as shift to reputation defence ABS pays off. Retrieved from <<http://www.legalfutures.co.uk/latest-news/profits-rocket-reputation-defence-abs>>

well globally. The entry of foreign law firms has led to increased competition and innovation in the sector – with respect to both the types of services as well as the organizational forms. Increasing net export of legal services²²² from the country over the past decade, is further testament to UK’s reputation for being a leading global centre for international legal services.²²³ Furthermore, these reforms have only propelled the growth of the domestic law firms as evidenced from the fact that 5 out of the 10 largest law firms, based on revenue, have their main base of operations in the UK.²²⁴ Thus, reforms aimed at increasing competition in the legal sector has had an overall beneficial impact on the UK economy.

The Legal Services Sector in China

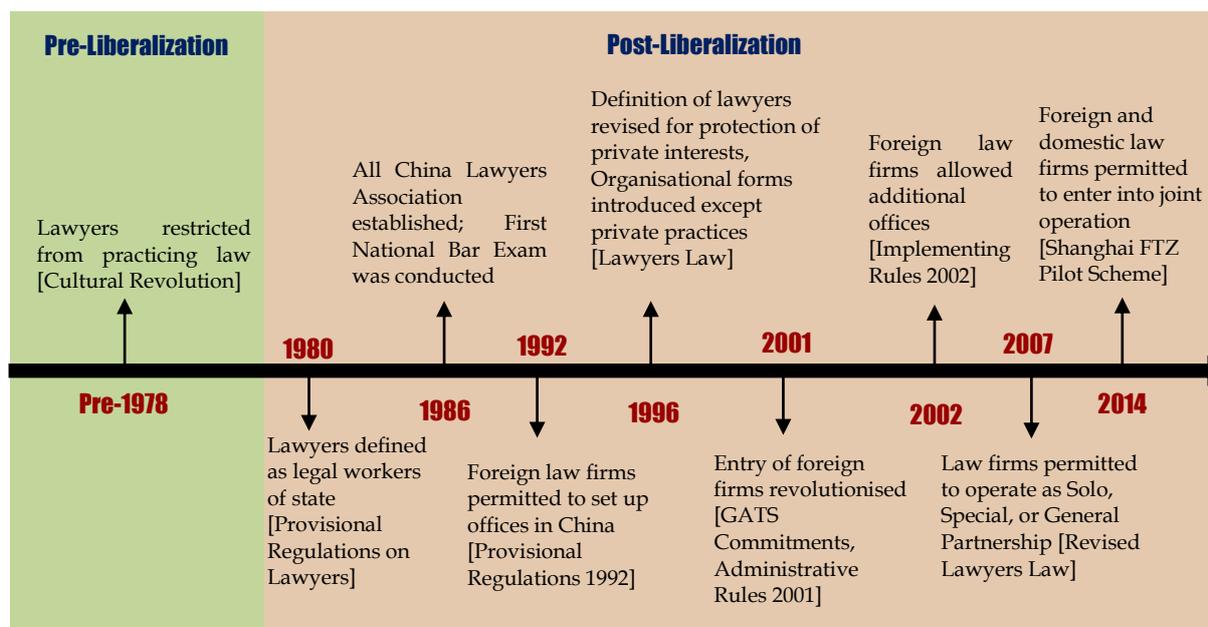
China’s legal services sector today comprises of 267,100 lawyers and 16,647 law firms.²²⁵ Revenues from the sector increased to USD 8.40 billion in 2014 at an annualized growth rate of 9.70 percent since 2009.²²⁶ These figures demonstrate a significant growth in the sector since the Chinese Cultural Revolution (1966-76), during which lawyers and legal professionals (among other intellectuals) were persecuted²²⁷, reducing the sector to a mere 212 practicing lawyers.²²⁸ The Cultural Revolution demotivated people from becoming lawyers and forced them to re-educate themselves.²²⁹ While the situation started improving with the introduction of economic reforms by the government in the late 1970s, the Chinese legal services sector has long endured the impact of its harsh political history. This is illustrated by the sector’s current ratio of one lawyer per 5,132 persons, as compared to the ratio of one lawyer per 248 persons in the United States (US).²³⁰

Regulatory Restrictions on China’s Legal Services Sector

The Chinese government introduced an Open Door Policy in 1978, which paved the way for economic development of society and encouraged growth in foreign trade and investment.²³¹ It also propelled the government to take steps towards liberalization of the legal services sector to create a strong enabling environment for economic growth.²³²

The first step towards liberalization of the legal sector was the passing of the Provisional Regulations on Lawyers in 1980, which reinstated the legal profession in China by defining lawyers as ‘legal workers of the state’ whose duties were to give legal advice to government agencies, enterprises, etc.²³³ Thereafter, the introduction of the Lawyers Law of 1996 revised this definition, and re-defined lawyers as legal professionals whose service, for the first time in Chinese history, were made generally available for the protection of private interests.²³⁴ Gradually, the scope of liberalization of the sector broadened by allowing various organisational forms for domestic law firms and by allowing entry of foreign law firms. The timeline (Figure 19) and the following paragraphs illustrate the factors influencing the relaxation of restrictions on law firms in the Chinese legal sector since the late 1970s, when the liberalization process started.²³⁵

Figure 19
Liberalization process in China's legal services sector



Source: Nathan Associates

Restrictions on organisational forms -

The Provisional Regulations on Lawyers 1980, allowed lawyers to work collectively in state-funded legal advisory offices but restricted their engagement in private practices.²³⁶ In order to abide by the principles of the Open Door Policy and to signal the development of a modern legal profession in China to global investors,²³⁷ the Chinese government (through the Lawyers Law 1996) introduced organizational forms other than the state funded law firms.²³⁸ These were the cooperatives²³⁹ (although abolished in 2007) - not owned nor funded by the State, and partnership law firms²⁴⁰ - borne out of privatization of the legal sector. The Revised Lawyers Law 2007 introduced further liberalization in the permissible organizational forms²⁴¹ - allowing for General Partnerships²⁴², Special General Partnerships²⁴³ and Sole Proprietorship Law Firms (private practice).^{244, 245}

Liberalizing Co-operation between Foreign and Domestic Law Firms - Pilot Scheme by Shanghai Free Trade Zone (FTZ)

In 2014, Shanghai FTZ (2014) officially allowed foreign law firms and Chinese law firms to enter into joint operation or establish agreements to mutually dispatch lawyers as foreign/Chinese legal consultants and provide legal services to Chinese and foreign clients based on relevant laws. This is of course subject to conditions laid down by the Government.

Source:
 China Briefing. (November 27, 2014).
 Shanghai Free Trade Zone Launches Pilot Scheme for Sino-Foreign Law Firms.
 Retrieved from <<http://www.china-briefing.com/news/2014/11/27/law-firms.html>>

Restrictions on entry of foreign law firms -

The Open Door Policy encouraged many foreign law firms to enter China and operate informally in the form of consulting firms and as representatives of their clients, often operating out of hotel rooms in Shanghai and Beijing.²⁴⁶ In 1992, passing of the Provisional Regulations allowed foreign law firms to set up representative offices in China, subject to several restrictions.²⁴⁷ In 2001, China's joining of the World Trade Organization (WTO) and acceptance of the WTO's General Agreement on Trade in Services (GATS)

Commitments,^{248,249} revolutionized the entry of foreign law firms in China. This was however done in a highly conservative manner by the Chinese government, as is illustrated by the restrictions below.

- i. **Restrictions on setting up of Representative Offices (ROs):** China's GATS Commitments in 2001 allowed foreign law firms to open only one office per firm at specific locations in China.^{250,251} The Implementing Rules introduced in 2002, allowed the setting up of additional ROs, subject to:
 - The foreign law firm having set up the most recent RO in China 3 years back; and,
 - The assessment, by the Chinese government, of a need to establish another resident RO by the foreign law firm in China ('genuine need clause').

The Implementing Rules disallowed foreign law firms from establishing joint offices with Chinese Law firms, investing directly or indirectly in Chinese law firms, etc.²⁵²

- ii. **Restrictions on scope of business:** The GATS Commitments restricted the role of foreign law firms to matters on international law and law pertaining to their home country only, while entrusting matters related to 'Chinese legal affairs' to domestic Chinese firms.²⁵³
- iii. **Restrictions on personnel in foreign law firms:** The Chinese rules restricted foreign law firms from hiring Chinese lawyers or sending their personnel to Chinese law firms. Further, they did not allow foreign lawyers to appear for China's law exam and foreign lawyers had to abide by mandatory residency in China for at least six months each year. Also, the regulations did not allow Chinese supporting staff in foreign law firms to provide legal services to clients.²⁵⁴
- iv. **Restrictions on cooperation between foreign law firms and domestic Chinese firms:** The Chinese regulations allowed foreign law firms to enter into long term contracts with Chinese firms for matters related to Chinese legal affairs²⁵⁵, however such contracts did not allow for profit sharing.²⁵⁶

Besides the above, the foreign law firms faced double taxation on profits²⁵⁷ and struggled with some ethical hurdles - as according to China's law on the attorney-client privilege (applicable to all law firms), confidential communication between attorneys and clients is not exempt from disclosure in court.^{258,259}

Impact

According to industry view, the impact of liberalization on China's legal services sector since 1970s reflects from the fact that by 2013, 8 of the top 10 biggest law firms in Asia were Chinese.²⁶⁰ Liberalization (albeit partial) is also evident through the increase in the number of foreign law firms operating in China - from 12 in 1992,²⁶¹ to 170 licensed foreign law offices in 2015.²⁶² However, there still exist several regulatory restrictions on foreign law firms in China, primarily to protect the domestic industry, which might also be responsible for reducing the incentive of many domestic Chinese law firms to build their competitiveness. To substantiate, a study focused on the quality and scope of services of law firms in China reveals that amongst the top 20 domestic law firms in China, the first 3 firms lead by a significant margin compared to the remaining 17, reflecting the relatively small scale and scope of a majority of the domestic Chinese firms.²⁶³

The following are the impacts that the relaxation of certain key restrictions have had on the sector as well as on the economy as a whole.

Impact of relaxing restrictions on organizational forms -

Relaxation of the restrictions on organizational forms in China's legal sector mobilized the evolution of domestic law firms by giving them greater autonomy as they moved from state control to cooperatives and to other forms of partnerships. Over 70 percent of the law firms in China today operate as partnerships.²⁶⁴

Privatization of law firms in the 1990s, allowed domestic firms to expand -in terms of both staff strength as well as geographic presence in China.²⁶⁵ According to industry view, over the years, many of these domestic law firms have set up offices abroad and are competing with foreign law firms on their home ground. For instance, Beijing-based Zhong Lun started operations in London in May 2012, and has now set up offices in New York, Tokyo and Hong Kong. The offshore team not only serves Chinese clients investing in the United Kingdom (UK), but also the British, American and European clients investing in China.²⁶⁶

Thus, liberalization of partnerships in China away from state control, had a positive impact on the domestic law firms.

Impact of liberalization of entry of foreign law firms -

Regulations continue to restrict growth of foreign law firms in China. While China's GATS commitments allowed foreign law firms to enter the Chinese economy, their scope of business is restricted to either advocacy in cross border transactions or mediation between their clients and the Chinese law firms in matters related to Chinese legal affairs.²⁶⁷ Further, their expansion is restricted due to the aforementioned '3 year waiting period' and the 'genuine need clause'.²⁶⁸ These restrictions can be substantiated by a recent study by Law 360,²⁶⁹ which indicated that in a sample of 80 foreign law firms operating in China, the median firm size is 11 lawyers in China, accounting for only 5 percent of the foreign law firm's global revenues.²⁷⁰

Further, often these regulations involve high costs - both in terms of time and money- to be incurred by law firms aspiring to enter China.²⁷¹ Also, the 'genuine need clause' gives weightage to the scale of business of the foreign firm, thus favouring large foreign firms existing in China.²⁷²

However, it is noteworthy that in spite of these regulatory restrictions, many foreign law firms and lawyers would like to establish themselves in China, to capture demand for legal services in the growing and evolving Chinese economy. As pointed out by many foreign lawyers, the evolution in the economy is seen by the fact that in recent years, net Foreign Direct Investment (FDI) inflows have reversed to become net FDI outflows from China, creating a good business opportunity for lawyers to help Chinese investors to go abroad.²⁷³ There is also an emerging trend of mergers of some of the biggest local players (e.g. merger between top tier Jun He and Zhong Lun²⁷⁴) and mergers (though non-profit / revenue sharing) between foreign and domestic firms (e.g. Chinese law firm King & Wood with Australia's Mallesons Stephen Jaques²⁷⁵). According to industry view, such mergers and other forms of cooperation between Chinese and foreign law firms are expected to be the preferred model going forward for firms to establish themselves

and make profits in China as well as abroad by offering complementary services and cross referring clients, given that gradually Chinese firms are also going abroad.²⁷⁶

Conclusion

From the above facts and according to academia, it is observed that while big Chinese law firms have evolved owing to liberalization, majority of the domestic firms remain small and the scope of work of foreign law firms is limited to international law advisory only.²⁷⁷ Increased competition and interaction between domestic and international law firms through further liberalization is a key way to improve quality and delivery of legal services in China. This will also further add to the infrastructure available for China's trade in all goods and services and increased FDI.²⁷⁸

The Legal Services Sector in Australia

In 2015-16, the size of the legal services sector in Australia²⁷⁹ was an estimated AUD 32.24 billion²⁸⁰ (USD 23 billion) – approximately 18 percent of the total revenue of the professional services sector of Australia in 2015-16 (AUD 175.83 billion²⁸¹ or USD 125 billion). The legal services sector in Australia experienced an approximate annual growth rate of 2 percent during the period 2010-15.²⁸²

In 2015-16, the sector was home to an estimated 103,005 legal professionals – approximately 16 percent of the total employment of professional services (625,261).^{283,284} In 2014-15, there existed 66,211 registered practicing solicitors,²⁸⁵ majority of whom were private practitioners (70.20 percent), and 12,483 private law firms in Australia.²⁸⁶ Nationally, between 2011-12 and 2014-15, the practicing solicitors and private law firms have grown by approximately 12 percent and 9 percent respectively.²⁸⁷

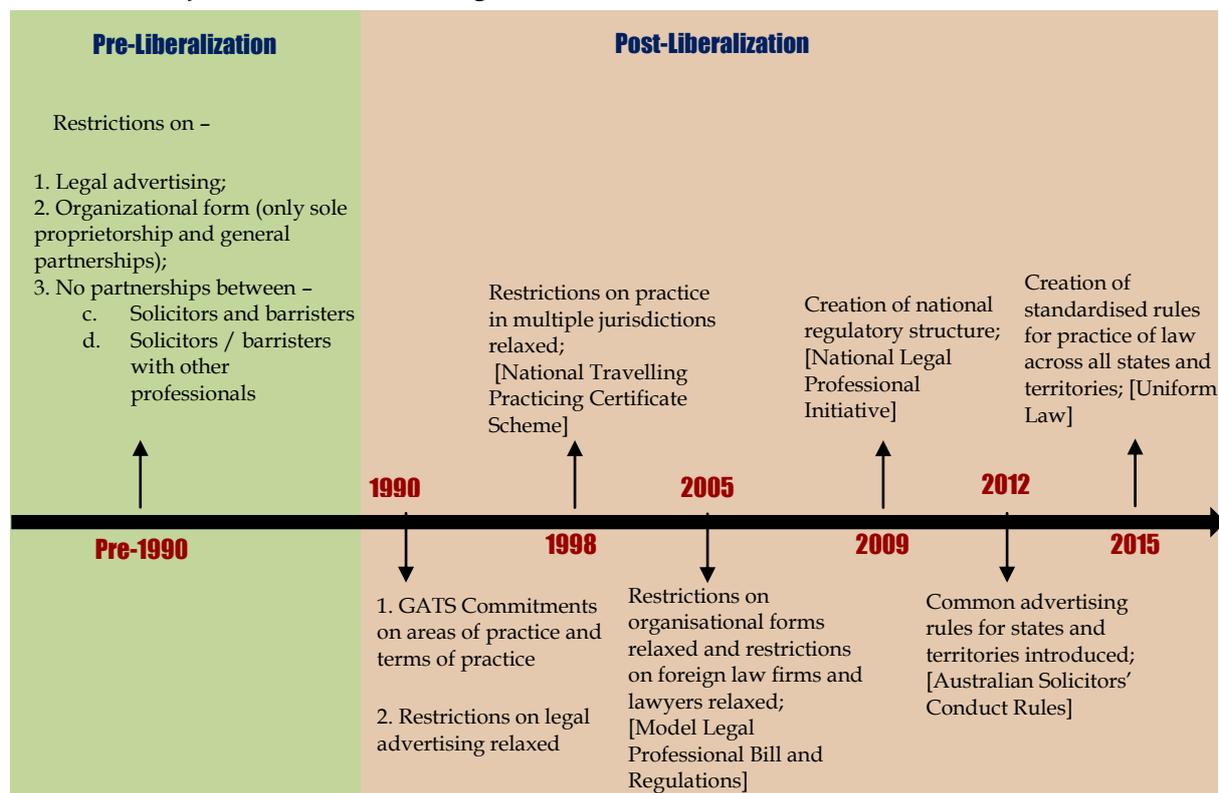
Regulatory Restrictions on Australia's Legal Services Sector

The legal system in Australia is self-regulated²⁸⁸ and derives its principles from the English Common Law.²⁸⁹ The laws governing the sector (in terms of the lawyer's duties and educational qualifications) however differ from state to state.²⁹⁰ At the national level, the sector is regulated by the Law Council of Australia, while barristers and solicitors are accountable to two independent bodies – Bar Associations and Law Societies respectively – present in each state by different names.²⁹¹

It was only in the early 1990s that the Law Council of Australia decided to promote a nationwide regulatory approach and de-construct independent judicial barriers in each state, this was to encourage competition nationally and underpin the competition globally.²⁹² The first step towards this initiative was Australia's commitment²⁹³ under the World Trade Organization's (WTO's) General Agreement on Trade in Services (GATS). This was followed by granting the National Travelling Practising Certificate Scheme (1998), permitting Australian lawyers to practice law in jurisdiction other than the one they were admitted in.²⁹⁴ A further step towards implementing and developing uniform standards for regulation was through the enactment of the Model Legal Professional Bill and Regulations²⁹⁵ in August, 2006-07.²⁹⁶ This bill was implemented in all states and territories (except South Australia).²⁹⁷ With considerable scope for further reform, the National Legal Professional Initiative²⁹⁸ was introduced in 2009-10.²⁹⁹ After several rounds of discussions and debates, Uniform Law³⁰⁰ came into operation on 1st July 2015, with NSW and Victoria

being the only jurisdictions participating in it till date.³⁰¹ The timeline below and the following paragraphs illustrate the process of liberalization in Australia.

Figure 20
Liberalization process in Australia's legal services sector



Source: Nathan Associates

Restriction on advertising of legal service -

The legal services sector in Australia imposed controls on advertising until the 1990s.³⁰² As with the legal sector, advertising rules were relaxed in all Australian states after the 1990s, with each state and territory having its own rules.³⁰³³⁰⁴ In 2011, the Australian Solicitors' Conduct Rules (2011) were adopted which allowed legal advertising subject to certain guidelines. According to the rules, legal practitioners are not permitted to be deceptive, false, offensive, and run advertisements prohibited by law.³⁰⁵

Restriction on organizational forms -

Traditionally, there existed certain restrictions on the organisational forms. For instance, solicitors and barristers were not permitted to form partnerships with each other or with other professionals.³⁰⁶ Further, while solicitors were allowed to work as sole proprietors or in partnerships with other solicitors, barristers were forced to be sole practitioners only.³⁰⁷

Reforms pertaining to the organisational forms were introduced in the 1990s. The Model Legal Professional Bill (2006) has allowed legal practice under alternative business structures (ABS), such as incorporated legal practice (ILP)³⁰⁸ and multi-disciplinary partnerships. Despite this revision in the law, sole proprietorship and partnership still remain the most prevalent mode of practice.³⁰⁹ NSW³¹⁰ was the first jurisdiction in Australia and the rest of the world to permit ABSs.³¹¹

Restriction on entry of foreign law firms –

Prior to the introduction of Model Legal Professional Bill (2006), the regulation of foreign law firms varied between states and territories and were in line with the commitments under GATS.³¹² With the introduction of the Model Bill, the Australian legal sector was liberalised with regards to the entry of foreign law firms.³¹³ Recently, NSW and VIC have come under the purview of the Uniform Law (2015) with the same regulations as stated below.³¹⁴

Currently, foreign law firms have the right to establish office, without any restriction on the number of branches, however practice is restricted to foreign and international law only.³¹⁵ Additionally, foreign lawyers are also entitled to practice on fly-in, fly-out basis for an aggregate of 90 days in any 12 month period without registration.³¹⁶ They are also permitted to enter into commercial association with local practitioners.³¹⁷ Furthermore, foreign law firms are entitled to hire Australian lawyers (and vice versa) and in case they decide to hire an Australian partner, they are permitted to provide advice on Australian law.³¹⁸

The above mentioned relaxations have led to Australia being one of the most liberalised economy for legal services.

Impact

According to industry forums, the liberalization reforms introduced in Australia's legal services sector have resulted in the country becoming one of the most competitive markets in the world.³¹⁹ To substantiate, while foreign law firms have always been permitted in the legal services sector of Australia, it was only in 2006 after the introduction of the Model Bill, that the 'Big-6'³²⁰ law firms and other domestic Australian law firms slowly started to feel the competition from international firms.³²¹ This, in fact, led to many of them entering into mergers with international counterparts.³²²

Rate of growth of exports of legal services has also been growing fast – second only to engineering services amongst professional services – reaching an estimated USD 932 million in 2010-11, a more than 30 percent increase from 2008-09.³²³ Australia has also been able to export legal services across multiple international jurisdictions. Asia is the biggest market for Australian legal exports, accounting for more than USD 320 million, or more than 34 percent of total exports (USD 941.17 approx.), with a continuous increase in growth rate in legal exports to Asia since 2004-05.³²⁴ This is followed by North America with more than USD 270 million of total exports.³²⁵ Other countries of export include UK and New Zealand.³²⁶ Trans-Pacific Partnership (TPP) have also allowed Australian lawyers access to contracts under Australian, international or third party law on a fly-in, fly-out basis.³²⁷ This will further enhance export to TPP countries.³²⁸

Given below is the impact of relaxing restrictions of advertising, organisational forms and entry of foreign law firms.

Impact of relaxing the restrictions on advertising –

The liberalised advertising regime in Australia has led to domestic law firms promoting, interacting, and developing public relations on Facebook, Twitter, MySpace and LinkedIn and other such social media applications.³²⁹ However, online websites still remain the most powerful form of advertising and one of the popular mediums of advertisement.³³⁰

Impact of relaxing the restrictions on organizational form -

With the introduction of new organisational forms, it has been seen that many firms have converted to non-traditional practices such as ILPs, though sole proprietorships and partnerships continue to dominate the market. In Australia, approximately 30 percent of solicitor firms are now ILPs.³³¹ Legal experts have noticed that legal services have become more profitable and better managed with the introduction of such new structures.³³² They have also allowed the legal services sector in Australia to grow at national and international levels.

Liberalization in organizational forms has also encouraged law firms to list themselves publically - Slater & Gordon, a Melbourne, Victoria based law firm was the first law firm to list itself in 2007.³³³ New and innovative ideas have also given birth to virtual law firms. Virtual firms and semi-virtual firms have also been introduced- which enables different

practitioners, located at multiple locations, to share expertise in one common space.³³⁴ Legal outsourcing has also come up in a big way in Australia, services outsourced are legal research, document review, secretarial and paralegal services, drafting of pleadings, due diligence etc. in order to save time and cost.

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Impact of foreign firms -

Australia has, for many years, welcomed foreign law firms to operate with minimal restrictions. Firms such as Allen & Overy, Clifford Chance, Norton Rose, Ashurst, DLA Piper, Holman Fenwick, and Squire Sanders have entered the Australian legal services market either through (a) mergers with domestic firms, such as the one between Blake Dawson (Australia) and Ashurst (U.K.) in 2012 and now operates as Ashurst Australia; or (b) building of entirely new teams such as in the case of Squire Sanders now known as Squire Patton Boggs; and (c) organic expansion such as in the case of Holman Fenwick, headquartered in UK and now has offices in Perth, Sydney and Melbourne .³³⁶

A major factor contributing towards the growth of international firms in Australia is its proximity to Asia. Further, the merger boom in Australia between the domestic and international firms in 2012 helped capitalizing on the opportunities present in the Asia-Pacific region, with future growth attributed to these consolidation and international partnerships.³³⁷ Domestic Australian firms have benefitted from increased market reach, greater employment opportunities and resource support required for transactions overseas.³³⁸ With the much gained experience and solid partnerships, firms in Australia are looking at new emerging economies requiring legal help. According to legal experts in Australia, Australia is thus seen as

Virtual Law Firms - Bespoke Law

In 2009, legal entrepreneur Jeremy Szwider set up Australia's first virtual law firm - Bespoke Law. The law firm provides its clients with a platform for a new third tier of the legal profession. Bespoke Law operates as an "outsourced extension" to in-house legal departments and business units through an Outsourced In-House Counsel Service and alternative fee arrangements.

The new virtual platform has yielded significant benefits to both - customers and the law firm itself. With the availability of electronic devices including Blackberry, iPhones, and laptops, law firms are no longer subjected to the permanency and costs of a formal office.

The luxury of technology fosters communication channels, far superior to traditional law firms, to clients. Clients are able to collaborate and communicate online with lawyers and assistants, irrespective of their physical distance. This, in turn, can result in a 30-50 percent reduction in legal expenditure by clients.

Source: Olsen, David. (August 2010). Virtual Law Firm Bespoke Law Takes Australian Law Online. Retrieved from <<http://www.dynamicbusiness.com.au/entrepreneur-profile/bespoke-law-virtual-law-firm-online-1959.html>>

a critical place to test waters, given that it is an easy place to do business before entering turgid economies such as China and India.³³⁹

Entry of these global law firms in Australia has however led to certain issues for the domestic market, especially with respect to employee retention.³⁴⁰ Given that these firms are global giants with vast networks they provide lawyers with a diverse environment to work in, a steep learning curve and opportunities of short- stints in its worldwide branches.³⁴¹ For instance, Allen & Overy took 14 partners from Clayton Utz and Norton Rose which merged with Deacons has lured more than 12 partners with its entry.³⁴²

Conclusion

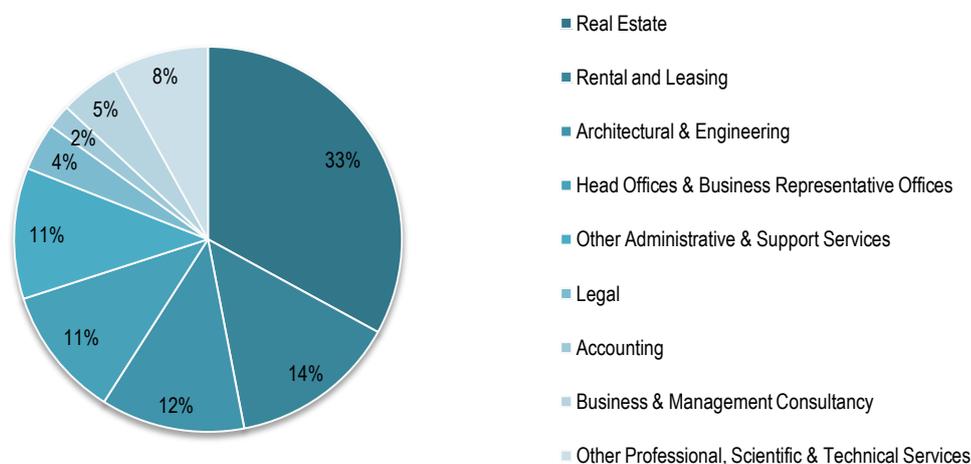
Australia has taken a number of steps to break jurisdictional barriers between states and territories to establish a common regulatory and legal practice structure. Relaxation in the regulations governing the legal services sector has been seen in all fronts – advertising, organisational structure and entry of foreign law firms. With a liberalised regime for the legal services in Australia, the sector has seen entry of international firms and growth of domestic firms. Further an increase in exports of legal services worldwide by Australia has established its reputation as an international legal provider.

The Legal Services Sector in Singapore

Singapore has, over the years, transformed from a small underdeveloped nation into a first-world metropolis.³⁴³ It is the fourth largest financial centre in the world³⁴⁴ and ranks first in the World Bank’s Doing Business Rankings.³⁴⁵ This tremendous growth of the country has been stimulated by a stable and business friendly regulatory structure – also attributing to a burgeoning legal services industry in the country.^{346 347} The figure below (Figure 21) shows the share of legal services in the overall business services sector of Singapore.³⁴⁸

Figure 21

Share of nominal value added to Business Service Sector in Singapore (2014)*



Note: * The total business services sector made a contribution of 15.8 percent to GDP in 2014 in terms of nominal value added
Source: Singapore Economic Survey 2014

The sector accounted for 0.50 percent of Singapore’s GDP in 2012.³⁴⁹ Revenue from the sector grew from an estimated Singapore Dollar (S\$) 1.50 billion to 1.90 billion (USD 1.06 billion to 1.35 billion)³⁵⁰ from 2008 to 2012 – a growth of about 27 percent during the same period.³⁵¹ The value of legal services exported also increased from S\$ 363 million to 551 million (USD 257.45 million to 390.78 million)³⁵² between 2008 and 2011 – a growth of 51.80 percent.³⁵³ In 2014, the sector comprised of about 6,000 practicing lawyers with over 930 law firms.³⁵⁴

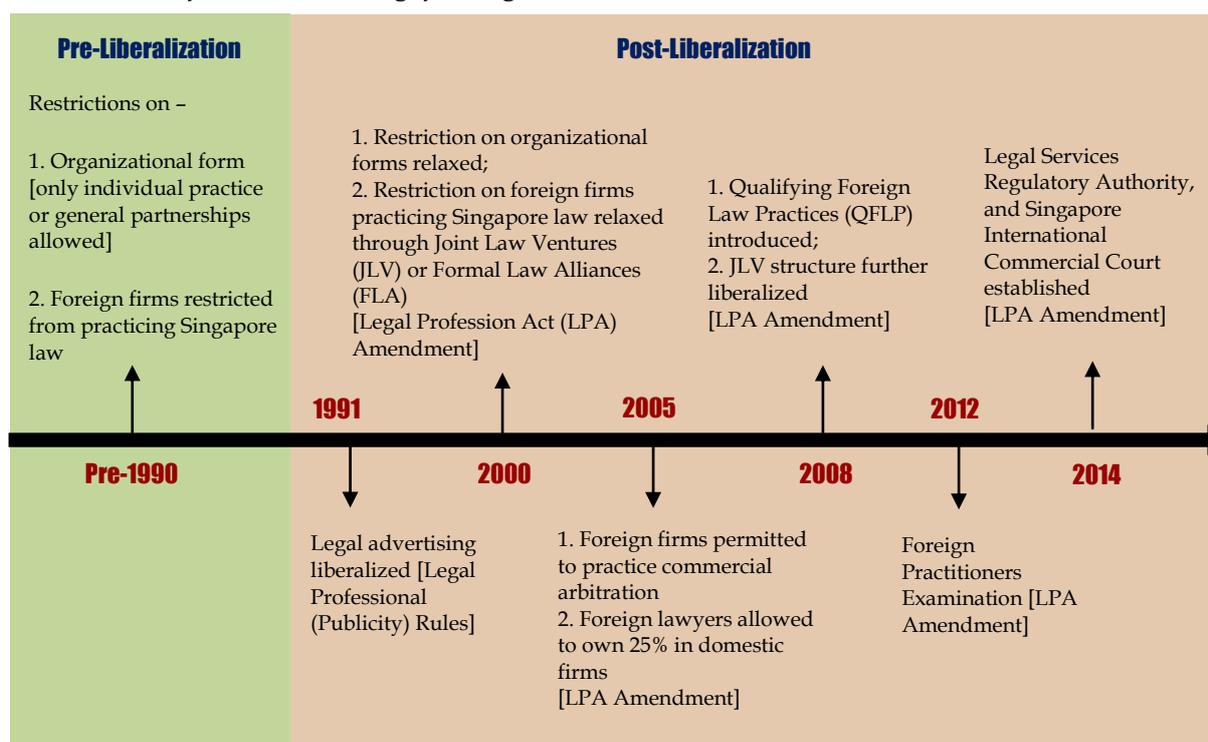
Regulatory Restrictions on Singapore’s Legal Services Sector

Singapore follows the English Legal System of Common Law^{355,356} – a result of the British Colonial rule in Singapore before its independence in 1965.³⁵⁷ Currently, the sector is self-regulatory³⁵⁸ and is governed by the Law Society of Singapore.³⁵⁹ The sector has a ‘fused legal system’, wherein all lawyers are both advocates and solicitors.³⁶⁰ Besides lawyers, the sector also comprises of highly specialised litigators called Senior Counsel.^{361, 362}

Singapore’s legal sector was liberalised with the objective of transforming the country into a ‘key legal services hub’ in the Association of Southeast Asian Nations (ASEAN) region (including international dispute resolution and arbitration), minimizing brain drain, and spurring GDP growth through increased value of off-shore transactions brought by foreign firms.³⁶³

The timeline below and the following paragraphs illustrate the factors influencing the relaxation of various restrictions on law firms in Singapore since early 1990s, when the liberalization process started.³⁶⁴

Figure 22
Liberalization process in the Singapore legal services sector



Source: Nathan Associates

Restriction on advertising of legal service -

In Singapore, advertising of legal services is governed by the Legal Profession (Publicity) Rules which came into effect in 1993³⁶⁵ and was revised several times till 2010.³⁶⁶ According to the amended rules, advocates and solicitors in Singapore were allowed to publicise their practice or the practice(s) of their law firm through an advertisement,³⁶⁷ subject to certain restrictions including prohibitions on publicity of past cases, success rates, comparison or criticism of fees charged, quality of the services provided by others, etc.³⁶⁸ Lawyers were also mandated to comply with the general ethical principles set out in the Publicity Rules including the prohibition against touting³⁶⁹ and the need to maintain the dignity of the legal profession.^{370, 371} In 2001, amendments³⁷² were made to the rules to allow an advocate, a solicitor, a law firm, or a law corporation to participate in any third party or client publicity.^{373, 374} Publicity by domestic advocates / solicitors outside Singapore was also allowed, subject to the laws of that country.³⁷⁵

Restrictions on organizational forms -

Historically, law firms in Singapore were allowed to operate as general partnerships or sole proprietorships.^{376,377} In 2000, amendments to the Legal Profession Act (LPA)³⁷⁸ led to the introduction of a new organisational form - Limited Law Corporations (LLC).^{379,380} In 2005, Limited Liability Partnerships (LLP) started emerging following the enactment of the Limited Liability Partnerships Act.³⁸¹ These regulations limited the liabilities of the shareholders of an LLC or partners of an LLP to their contributions in the business structure and absolved them from losses emanating from the negligence or other wrongful acts of their employees.^{382,383} Although law firms in Singapore are traditionally wholly owned by lawyers, the sector is working towards allowing law firms to restructure into ABSs,³⁸⁴ as accounting firms eye the market as a base from which to provide legal services.³⁸⁵ Singapore is also looking at permitting Legal Disciplinary Practices (LDPs), where non-lawyers will be allowed to own equity³⁸⁶ and/or share in the profits, but the LDP will only be allowed to provide legal services.³⁸⁷

Restrictions on entry of foreign law firms -

Singapore did not have any laws or regulations restricting the entry of foreign law firms into the legal services sector. Since the 1970s, foreign law firms have operated in the country with permission from the Attorney General (AG).^{388, 389} They were, however, not allowed to practice Singaporean law.³⁹⁰ After the Asian Financial Crisis in 1997, Singapore identified legal services as a primary opportunity for future economic growth (especially in the financial services sector) and undertook key liberalisation measures (through Singapore Legal Profession Act amendments in 2000) to attract foreign law firms to the country.³⁹¹ The AG was established as the relevant regulatory authority³⁹² and for the first time all foreign law firms and foreign lawyers were required to register with them.³⁹³ Foreign law firms could only establish representative offices (ROs)³⁹⁴ and undertake marketing work or could also establish their own firm as a licensed foreign law practice.³⁹⁵ Further, foreign law firms were allowed to engage in Singapore Law in partnership with domestic firms by setting joint law ventures (JLVs) and formal law alliances (FLAs).³⁹⁶

A JLV is a partnership between a Singapore law firm and a foreign law firm with shares in the company held by both firms respectively.^{397, 398} An FLA is an alliance between one or more foreign law practices and one or more Singapore law practices,³⁹⁹ where the firms remains as separate entities but practice in cooperation under a single statutory framework.⁴⁰⁰ Both, JLVs and FLAs, were primarily set up to cater to

the legal needs of the banking and financial sectors of the economy, with the domestic constituent providing the services to the clients.⁴⁰¹ They are also allowed to market or publicise themselves as single service providers, bill their clients as if they were a single law firm,⁴⁰² and are allowed to share office premises, profits or client information.⁴⁰³

Foreign law firms' scope of work in Singapore expanded, through amendments in the LPA in 2005, to include international commercial arbitration. Foreign lawyers were also allowed to own and share profits up to 25 percent in Singapore law practices,⁴⁰⁴ which later increased to 33 percent in 2012.⁴⁰⁵ In 2008, the LPA was amended further to allow the establishment of Qualifying Foreign Law Practices (QFLP), which allowed foreign law firms to practice Singapore Law in almost all areas of legal practice⁴⁰⁶, but only through Singapore lawyers as partners or associates.⁴⁰⁷ Through these amendments, the JLV structure was further liberalised, allowing the constituent foreign law practice of a JLV to share up to 49 percent of the constituent Singapore law practices' profits in permitted areas (profit sharing increased to the one-third cap on the profits of the entire JLV in permitted areas of cooperation in 2012⁴⁰⁸), to directly hire Singapore lawyers by the constituent foreign law practices, and to permit partners of the constituent Singapore law practice to concurrently hold partnership and administrative positions in the firm.⁴⁰⁹ However, foreign lawyers were not allowed to obtain management control of the constituent Singapore law practice of a JLV.⁴¹⁰ Further, Singapore lawyers hired by foreign law firms independently (i.e. not JLV or QFLP) were allowed to practice Singapore law in transactions proposed to be solved through arbitration or dispute resolution in Singapore.⁴¹¹

In anticipation of an increase in demand for commercial and financial lawyers by JLVs and QFLPs, the Foreign Practitioners Examination (FPE) was launched after an amendment was introduced to the LPA in 2012. This enabled foreign lawyers, who passed the exam, to practice in those "permitted areas".^{412, 413, 414}

Singapore also entered into three free trade agreements (FTAs) for legal services with Japan (Japan Singapore Economic Partnership Agreement – JSEPA), Australia (Singapore-Australia Free Trade Agreement – SAFTA) and US (US-Singapore Free Trade Agreement - USSFTA) which came into effect in 2002, 2003 and 2004 respectively. Although the Japan agreement was not very impactful, SAFTA and USSFTA gave preferential treatment to Australian and US law firms. For instance, the US and Australian law degrees were awarded to US trained Singapore citizens as "local degrees" for admission to the Singapore bar, etc.⁴¹⁵

Setting up of SIAC, SIMC and SICC to make Singapore a hub of arbitration

In 1991, Singapore International Arbitration Centre (SIAC) was established as a non-profit organization and has transitioned from an organization providing facilities for arbitration to an institution administering arbitration... In 1997, Singapore International Mediation Centre (SIMC) was established for developing Singapore as a hub for mediation and in 2015, the Singapore International Commercial Court (SICC) has been established as an international court with specialist jurists hearing international commercial disputes as well as those governed by foreign law.

Consequently, Singapore has grown as a hub for arbitration in the region. Singapore is presently the most preferred Asian venue for arbitration handled under the International Court of Arbitration (ICC) rules, and the fifth most frequently selected seat in the world. From 2008 to 2012, the number of cases before the Singapore International Arbitration Centre has increased from 99 to 235 cases.

Sources:

Financial Services Bulletin. (November 2014). Report of the Committee to Develop the Singapore Legal Sector. 2007
ASEAN Briefing. (November 2014). Singapore to Become Southeast Asian Legal Hub with Opening of International Commercial Court.
Marialuisa Taddia. (September 2013). Singapore attraction as a hub for western legal expertise creates tension. The Law Society Gazette.
Speech of the Attorney-General V. Rajah S.C. (January 2015).
Pasha, Hsieh, L. (2013). Asean's Liberalization of Legal Services: The Singapore Case. (Page 7).

Impact

Through measures focused on liberalizing the operations of domestic and foreign firms in the market, Singapore is moving towards its goal of establishing a strong legal services sector, which is also expected to spur growth in all other business service sectors in the economy, especially financial services.⁴¹⁶ Recently, services export is showing a robust growth in Singapore, driven primarily by financial services and other business services categories (such as accounting, legal and other professional services), accounting for close to 40 percent of Singapore's services exports, and registering a compound annual growth rate (CAGR) of 12 percent each between 2010 and 2014.⁴¹⁷ Their rapid growth reflects Singapore's increasing attractiveness as a financial and business services hub within the region, as well as the growing external demand for such services.⁴¹⁸

The following are the impacts that the relaxation of certain key restrictions have had on the sector as well as on the economy as a whole.

Impact of relaxing restrictions on advertising –

As a result of liberalisation in advertising, Singapore law firms are able to use various media for their publicity – newspapers, websites⁴¹⁹, law magazines⁴²⁰, etc. Third party publicity is also allowed, enabling law firms to take advantage of the growing trend of referral arrangements for work between law firms and third parties through the internet.^{421, 422}

Impact of relaxing restrictions on organizational form –

Liberalisation of Singapore's legal services sector, especially in organisational forms, has led to the development of strong domestic firms. In 2013, 17 out of the top 25 largest law firms in Singapore (based on number of legal professionals) were domestic players. Thus, in spite of the competition from several international firms, the domestic law firms in Singapore have become increasingly competitive,⁴²³ especially in the ASEAN region.⁴²⁴

Impact of foreign law firms –

Today, many foreign law firms prefer to have headquarters for their ASEAN law practices in Singapore due to the significant liberalisation undertaken in the sector.^{425,426} In 2013, 1200 foreign lawyers, up by about 42 percent since 2007.⁴²⁷ There were 130 international law firms in Singapore in 2013 and 40 out of the top 100 law firms in the world by revenue had a presence in the country.⁴²⁸ Also, over the past few years, the number of foreign lawyers has grown much faster than domestic lawyers.⁴²⁹ Recently, the big accounting firms are also growing their legal practices globally.⁴³⁰ Recognising Singapore's growing importance in the Asian region as a legal and financial hub, PwC strengthened its legal offerings in Asia with a tie-up with Singapore law firm Camford Law in July 2014.^{431, 432}

Although the overall practice of foreign firms in Singapore has grown, the specific organisational forms permitted by the government have not been successful. For instance, JLVs suffer primarily due to difficulties in profit sharing, alignment of management culture and competing financial interests, for instance, individually the constituent Singapore law firm and foreign law firm often have competing clients.⁴³³ JLVs in Singapore have only been successful in few cases such as where the practices of the two constituent firms complement each other (Hogan Lovells Lee & Lee - Hogan Lovells specializes in project

finance and offshore mergers and acquisitions (M&A), whereas Lee & Lee focuses on stock exchanges and employment law), etc.⁴³⁴ In some cases, large foreign law firms have also set up proxy Singapore firms and then made JLVs with them (for example, Baker & McKenzie, Wong & Leow). This is also true for FLAs and such a practice primarily demonstrates misuse of the Singapore laws.⁴³⁵ The QFLP scheme was launched by the Singapore government to address this problem but only 6 of 20 applicant law firms in 2008 and 4 of 23 applicant law firms in 2013 received QFLPs.⁴³⁶ QFLPs are cost efficient⁴³⁷ and encourage foreign firms to grow their regional business in Singapore as demonstrated by the first six QFLPs earning more than S\$ 170 million from offshore transactions.⁴³⁸ Law firms with QFLP licenses are able to gain significantly from providing Singapore law advice⁴³⁹ as part of the entire package of services they offer.⁴⁴⁰ Since then, they have also hired more than 100 Singapore qualified lawyers.⁴⁴¹ Also, QFLPs being awarded selectively help attract attention to the law firms.⁴⁴²

Finally, the increasing importance of Singapore as a legal services market is leading to several major international law firms from US, UK⁴⁴³, Australia, etc. expanding their offices in Singapore and at the same time, the domestic players are also providing head on competition along with their expansion across South East Asia.⁴⁴⁴ While competition is healthy for the growth of any sector in terms of quality, efficiency and price of goods and services offered, there also exist challenges of competition in the market such as significant pressure on fees, difficulty in retaining talent, etc.⁴⁴⁵ In Singapore, excessive competition has often resulted in aggressive pricing behaviour by law firms as an attempt to capture market share or build relationships with clients.⁴⁴⁶ However, according to industry experts, the increasing amount of business in Singapore, given its business friendly environment,⁴⁴⁷ still provides huge opportunities and viability for foreign law firms to enter or grow themselves in the market⁴⁴⁸ with the promise of the free movement of goods, services and labour across a region with 600 million people and a GDP of S\$1.50 trillion.⁴⁴⁹

Conclusion

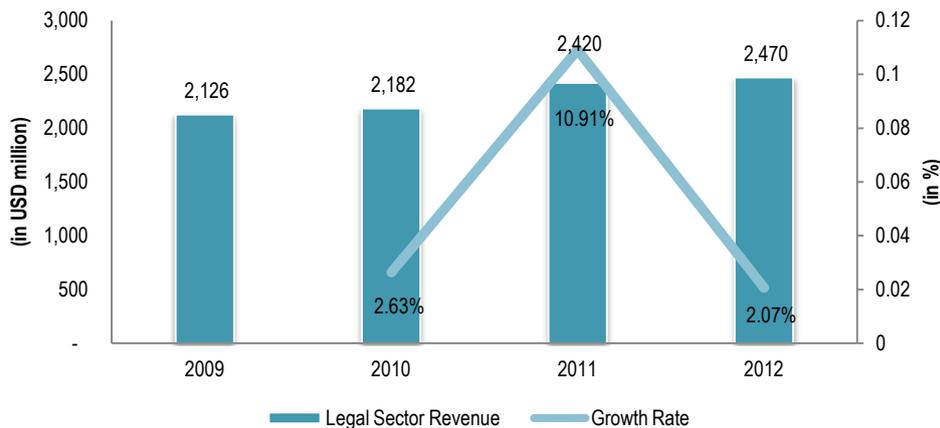
Liberalisation in Singapore's legal service sector has created a strong legal service sector leading to growth in GDP through its trickle down impact on various sectors of the economy. Although the entry of numerous foreign firms has created intense competition in the sector, it was essential for the growth of the domestic firms.⁴⁵⁰ However, the country needs to further strengthen its regulatory framework in terms of improving allowed organisational forms, etc. and addressing loop holes in the current system if it is to compete with hubs like Hong Kong. It has already taken some steps in this regard such as establishing the Legal Services Regulatory Authority (LSRA)⁴⁵¹ in order to streamline the regulatory framework for law firms in Singapore. The LSRA would take over the existing regulatory functions performed by the Law Society of Singapore for Singapore law practices and the Attorney-General for foreign law practices and the registration of foreign-qualified lawyers (FLs).⁴⁵²

The Legal Services Sector in Israel

The legal services sector in Israel has undergone significant transformation over the past two decades.⁴⁵³ Revenue accruing from the sector has increased at a CAGR of 3.82 percent between the period 2009 and 2012 (Figure 23 below). Studies have shown that the growth in the sector can be attributed to the overall growth of the economy (CAGR of 3.21 percent) during the same period,⁴⁵⁴ especially the rapidly

developing technology sector, which has resulted in increased domestic and global demand for its legal services.⁴⁵⁵

Figure 23
Trends in Revenues of Israel's Legal Services Sector (2009-2012)



Source: Statista. Revenue of legal activities (SIC 69.10) in Israel from 2008 to 2018 (in million United States Dollars)

In 2013, Israel's legal services sector comprised of around 53,750 lawyers (1.55 percent of the country's total employment)⁴⁵⁶ – most of who (around 76 percent) worked in law firms.⁴⁵⁷ Figure 24 below illustrates the growth in the number of practicing lawyers in Israel since 2005. According to literature, this increase can be attributed to the increasing recognition that the profession has garnered in Israel's economy – a fact also substantiated by the rising number of law schools and colleges set up by Israel's Council for Higher Education.^{458, 459} These institutions have, over the past decade, graduated an average 2,000 students per annum.⁴⁶⁰

Figure 24
Number of practicing lawyers in Israel (2005-2013)



Sources: BDi Code 2014. (Page 64).

Barzilai, Gad. *The Ambivalent Language of Lawyers in Israel: Liberal Politics, Economic Liberalism, Silence and Dissent*. (Page 256)

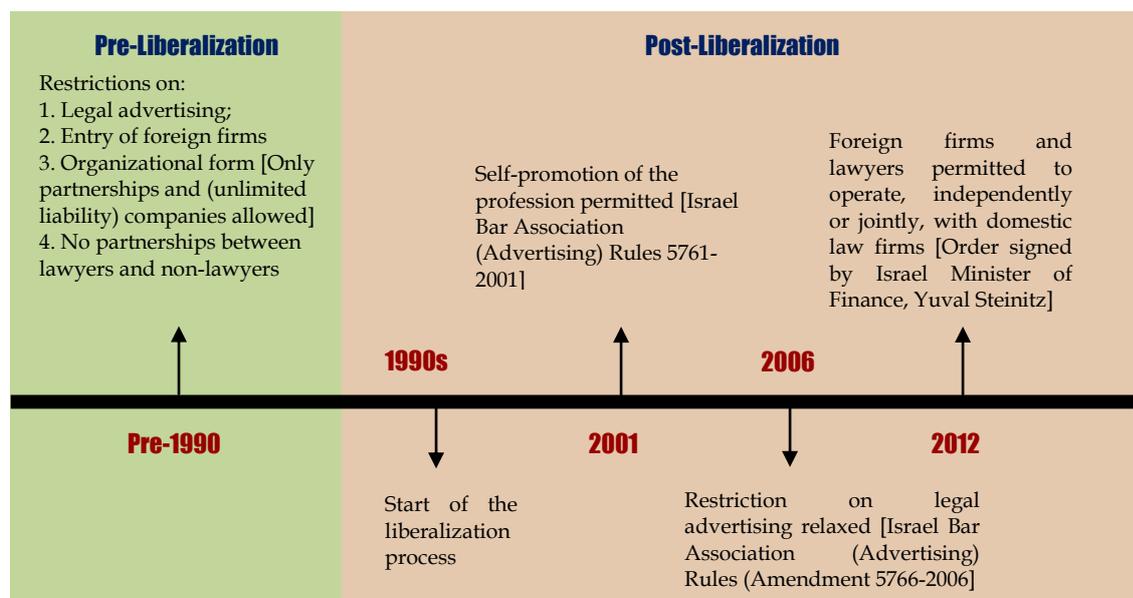
Regulatory Restrictions on Israel's Legal Services Sector

Israel's legal system, unlike most nations', is based on a mixture of traditional Islamic law, modern European laws, and British common law.⁴⁶¹ It comprises of lawyers and judges⁴⁶² who have, for decades,

been regulated by the Israel Bar Association (IBA).^{463,464} The IBA enjoys unparalleled power and control over most aspects of lawyers' practices⁴⁶⁵ in Israel. It is mandatory for lawyers to be members of the IBA, to be able to practice law in Israel.⁴⁶⁶

Over the last two decades, Israel's legal services sector has faced increasing intervention from its government and international trade organizations⁴⁶⁷ - a significant transition from the previously rigid and self-regulatory system.⁴⁶⁸ Liberalization of the sector started in the 1990s through piecemeal initiatives to reform the existing self-regulatory system.⁴⁶⁹ Israel joined the World Trade Organization (WTO) in 1995, however, it has not committed to the WTO's General Agreement on Trade in Services (GATS).⁴⁷⁰ The timeline below and the following paragraphs illustrate the factors influencing the relaxation of various restrictions on Israel's law firms since the 1990s, when the liberalization process started.⁴⁷¹

Figure 25
Liberalization process in Israel's legal services sector



Source: Nathan Associates

Restriction on advertising of legal service -

Prior to 2001, lawyers and law firms operating in Israel were prohibited from engaging in any form of advertising. In 2001, the enactment of the Israel Bar Association (Advertising) Rules, 5761-2001, permitted self-promotion of the profession by lawyers by way of sharing details such as name and his/her registration number with the IBA.⁴⁷² In 2006, these rules were amended [Israel Bar Association (Advertising) Rules (Amendment), 5766-2006], permitting⁴⁷³ lawyers to advertise their expertise.⁴⁷⁴ The newly amended rules also govern the details that lawyers are permitted to advertise through certain stipulated guidelines.^{475,476}

Restriction on organizational forms -

Law firms present in Israel's legal services sector are permitted, to operate as a) General Partnerships (incorporated under the Partnership Ordinance of 1975); or b) Companies (registered under the Companies

Ordinance) as per section 59A of Israel's Bar Association Law, 5721-1961 (Bar Association Law).⁴⁷⁷ The law also mandates that the liability of members in a law firm be unlimited.⁴⁷⁸ Moreover, section 59A prohibits lawyers from becoming a member of more than one company of attorneys.⁴⁷⁹ A lawyer of Israel is also barred from partnering with non-lawyers, according to section 58 of the Bar Association Law.⁴⁸⁰

Restriction on entry of foreign law firms -

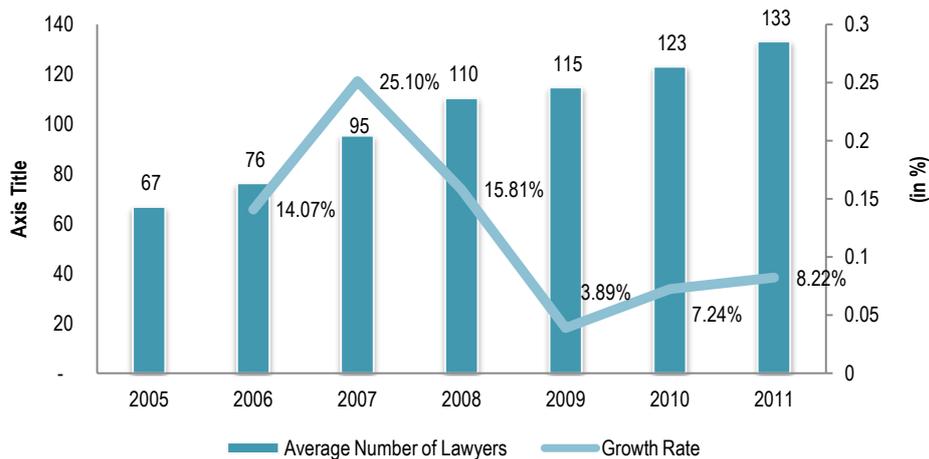
In 2010, the Law and Justice Committee of Israel proposed the opening up of the legal services sector to foreign law firms, as part of the Economic Arrangements Bill and the Budget.⁴⁸¹ A year later, the Foreign Lawyers Law⁴⁸² was passed by the Parliament (Knesset),⁴⁸³ which paved the way for the entry of foreign firms in the sector.⁴⁸⁴ However, it was only in May 2012, when foreign firms were officially permitted to operate in Israel, after the country's Finance Minister signed an order regulating their activity.⁴⁸⁵

A foreign firm is required to obtain a license from the IBA and notify the IBA 30 days prior to setting up an office in Israel.⁴⁸⁶ There is no limit on the number of licenses and branches that a foreign law firm can avail and establish in Israel.⁴⁸⁷ However, there are restrictions placed on the scope of practice as well as the type of organizational form that foreign firms can take.⁴⁸⁸ The scope of service by a foreign lawyer / law firm is limited to providing legal opinion and counselling on foreign laws pertaining to the home country of the lawyer / law firm, and to representing clients in matters relating to drafting legal documents applying to foreign law.⁴⁸⁹ They are barred from representing before Israel's courts.⁴⁹⁰ Moreover, law prohibits foreign law firms from operating as a limited liability organization and mandates that all partners or members of the firm be lawyers.⁴⁹¹ A foreign law firm is also obligated by law to employ at least one lawyer registered with the IBA.⁴⁹²

These recent relaxations introduced in Israel's legal services sector indicate a step closer towards achieving liberalization of the sector.

Impact

The piecemeal reforms in Israel's legal services sector have had varying impacts on stakeholders such as domestic lawyers and law firms, foreign law firms, consumers of legal services, and the economy. As of 2015, the country had the highest ratio of lawyers per-capita in the world - 1 in every 126 citizens is a lawyer,⁴⁹³ suggesting the importance of the profession amongst the people of the country. Domestic law firms have benefited from the aforementioned increase in the number of legal professionals, by hiring more lawyers and thereby expanding in size. (Figure 26) Studies have indicated that surplus in supply of legal services has also caused a decline in the fees charged by lawyers, especially those working in small and medium scale law firms, benefitting consumers.⁴⁹⁴ Foreign law firms - currently exceeding 60 in number - have also set up offices in Israel to understand the contours of this growing economy.⁴⁹⁵

Figure 26**Size of Top 10 Law Firms in Israel Based on Average Number of Lawyers (2005-2011)**

Sources: Zer-Gutman, Limor. (2013). *The Acceleration in the Number of Lawyers in Israel – What have Changed?* (Page 525)

The following are the impacts that the relaxation of certain key restrictions have had on the sector –

Impact of relaxing the restriction on advertising –

Relaxing the restriction on legal advertising has enabled domestic law firms to market their services – name and address of the law firm, the types of services offered, staff details – through various mediums including the Internet (including websites), telephone directories, newspapers and magazines, and books on the legal field.⁴⁹⁶ According to industry analysts, legal advertising is still not a well-accepted concept amongst lawyers and law firms in Israel as the reform in advertising has been recent.⁴⁹⁷ While majority of the law firms operating in the sector are still unaware of the benefits of legal marketing, a few of them have already integrated an in-house legal marketing team to deal solely with marketing.⁴⁹⁸ The reform has thus yet to have a significant impact on the sector.

Impact of the restriction on organizational form –

Restrictions on the choice of organizational forms continue to exist for law firms in Israel. Historically, top domestic law firms offering corporate advisory services would contract smaller, boutique law firms practicing in niche areas such as labour law, litigation, and Intellectual Property Rights (IPR).⁴⁹⁹ However, this trend has, in recent times, started to change. According to legal sector analysts, mergers between top law firms and smaller boutique law firms have resulted in the creation of one-stop law firms.⁵⁰⁰ For instance, the past few years have seen the mergers of many of Israel's law firms. In 2012, Israel law firms, Goldfarb and Seligman, merged to form one of Israel's largest law firms – Goldfarb Seligman & Co. and in 2013, the sector saw the mergers of law firms, Baratz and Pearl Cohen Zedek Latzer, and other such deals.⁵⁰¹ This has been beneficial for both, domestic law firms looking to expand in size and scope of practice and compete globally and consumers who, now, can avail of a wide range of services from one law firm only.⁵⁰² Thus, despite restrictions, domestic law firms in Israel have expanded through alternative means – primarily mergers and acquisitions (M&A)/consolidation amongst domestic law firms.⁵⁰³

Impact of relaxing the restriction on entry of foreign law firms –

Prior to liberalization, foreign law firms were only permitted to set up liaison or representative offices for business development.⁵⁰⁴ With liberalization, Israel witnessed an increasing number of applications from foreign law firms (especially from the UK, the US, and continental Europe) looking to enter Israel by either setting up full-fledged branch offices or merging with local law firms.⁵⁰⁵

In 2012, US-based law firm Greenberg Traurig and London-based Berwin Leighton Paisner (BLP) set up offices in Tel-Aviv.⁵⁰⁶ These mergers are likely to continue in the small and mid-market rather than with large-scale firms⁵⁰⁷ because of the preference of large law firms (such as Herzog Fox & Neeman) to maintain their existing networks with other foreign law firms, rather than jeopardizing the same through competitive rivalries.⁵⁰⁸ As of 2015, more than 60 foreign law firms have a presence in the sector, ranging from a full-fledged office, offering huge international practices, to lesser-known boutiques or even sometimes nothing more than a temporary desk.⁵⁰⁹

One of the major concerns of foreign law firms is the restriction placed by the Bar Association Law on the permissible corporate form.⁵¹⁰ Considering majority of foreign law firms operate as limited liability partnerships (LLPs), which is prohibited under Israel's law, any foreign law firm looking to merge with a local counterpart has to do so either through the setting up of a new entity or via an alliance.⁵¹¹ This proves to be cumbersome for foreign law firms looking to enter the Israel's legal sector. Another issue foreign firms in Israel face is their opinion that Israel's legal services market offers limited economic benefits to them generally in the bandwidth of USD 100 million deal size.⁵¹² Other concerns of foreign law firms include the current political scenario in Israel which many foreign firms may consider as risky.⁵¹³

Given these facts, the impact of the relaxation of restrictions on entry of foreign law firms in Israel is a recent phenomenon (2012), and is yet to be realized.⁵¹⁴

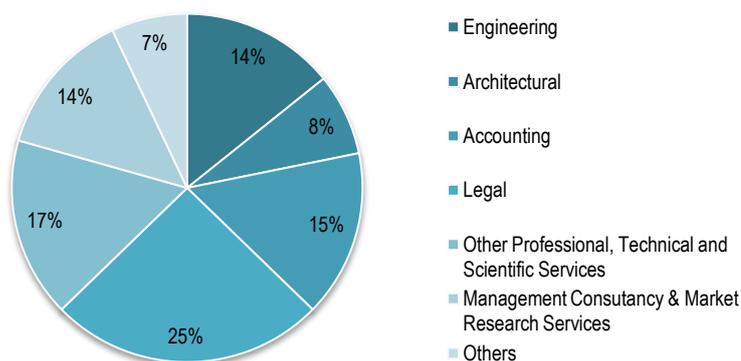
Conclusion

Relaxation of certain restrictions on Israel's legal sector has enabled domestic law firms to expand both, domestically and internationally, as is evident by the number of domestic and foreign consolidation/mergers that have taken place in the legal sector. For example, in 2012, Israel's legal sector witnessed the merger of law firms, Goldfarb and Seligman, which resulted in the creation of one of Israel's largest law firms – Goldfarb Seligman & Co.⁵¹⁵ In 2013, Israel boutique law firm, Eyal Khayat Zolty, Neiger & Co. merged with Beijing-based law firm, Yingke, to form Yingke Israel, resulting in synergies that were non-existent prior to the merger.⁵¹⁶ Israel has, over the years, gradually moved towards liberalizing its legal services sector, however there are certain areas of the sector that can benefit from the introduction of further liberal reforms.

The Legal Services Sector in Malaysia

In 2012-13, the legal services sector of Malaysia⁵¹⁷ accounted for around 25.40 percent of the total establishments (Figure 27) in the country's professional services sector, 27.20 percent of the total workers employed in professional services and 21.60 percent of the total added value contribution (RM 3,100million or USD 754 million)⁵¹⁸ by the professional services sector.⁵¹⁹

Figure 27
Share of Establishments by Professional Services, 2012-13 (in percentages)



Note: Others include Surveying (3.3 percent), Advertising (2.8 percent) and Veterinary (0.9 percent)
 Source: Strategy paper 18 | Eleventh five year plan.

According to industry experts, Malaysia’s legal sector can be categorised largely into retail and corporate, based on their client base.⁵²⁰ Approximately 95 percent of the law firms provide legal services to individual clients or small and medium enterprises (SMEs)⁵²¹ (constituting the retail segment) while only 5 percent (mostly large and mid-sized boutique law firms) serve big corporate firms (constituting the corporate segment).⁵²² An important feature of Malaysia’s legal sector⁵²³ is the provision of services pertaining to International Islamic financial law, which pertains to financial transactions and investment funds which are compliant with Islam – the Shariah.^{524 525} Given the objective of the Malaysian government to transform Malaysia into an International Islamic financial hub, Islamic finance will be an important area of practice for the legal firms in Malaysia.^{526 527}

Regulatory Restrictions on Malaysian Legal Services Sector

Malaysian law has been designed on the principles of the English Common Law system and is applicable across the Peninsular Malaysia and through the states of Labuan, Sabah and Sarawak.⁵²⁸ The legal services sector of Peninsular Malaysia⁵²⁹ and the State of Labuan is regulated by the Malaysian Bar, while the states of Sabah and Sarawak are regulated by the Sabah Law Association and the Advocates' Association of Sarawak respectively⁵³⁰.

Liberalization of legal services was propelled by Malaysia’s central bank, the Bank of Negara, to provide an enabling environment for developing Malaysia as an international Islamic financial hub.^{531 532} It began in 1995 with the country acceding to commitments under the World Trade Organization’s (WTO) General Trade Agreement on Trade in Services (GATS).^{533 534} These commitments led to the liberalization of legal services (a part of services sector) in the Federal Territory of Labuan in 1999.⁵³⁵ Malaysia also committed to 100 percent liberalization of services sector by 2015 under the ASEAN⁵³⁶ Framework Agreement on Services (AFAS).⁵³⁷ Towards this end, in October 2011, the government allowed 100 percent liberalization of legal services in a phased manner.^{538 539}

The timeline below illustrates the liberalization process of legal services in Malaysia.

Restriction on entry of foreign law firms –

In 2011, the Malaysian government decided to allow entry of foreign firms under its liberalization initiatives, albeit through certain rules and channels. The routes through which foreign law firms were allowed entry into Malaysia were stated in the Legal Profession (Amendment) Act 2012,⁵⁵⁰ and are given below –

- i. **Partnerships between foreign and Malaysian law firms⁵⁵¹**: These partnerships are allowed on the condition that the Malaysian law firm has not less than 60 percent stake in the combined entity's equity, voting rights and number of lawyers.⁵⁵² Foreign lawyers working in international partnerships must reside in Malaysia for not less than 182 days in any calendar year. Additionally, such partnerships are granted renewable licences for three years only.
- ii. **Qualified Foreign Law Firms (QFLF)⁵⁵³**: Firms with proven expertise in international Islamic finance would be given a QFLF licence and be allowed to operate in Malaysia, (However, according to the rules, not more than 5 licences would be given) The number of Malaysian lawyers in a QFLF must not be less than 30 percent of the total number of lawyers in the firm⁵⁵⁴ Like in case of partnerships, licences were granted for a period of three years and could be renewed. Similar to partnerships, foreign lawyers working in QFLFs have to abide by 182 days residency clause.
- iii. **Individual foreign lawyer⁵⁵⁵**: A Malaysian law firm wanting to hire a foreign lawyer would be granted a licence for three years. However, the number of foreign lawyers employed by a Malaysian law firm must not be more than 30 percent of the total number of lawyers in that firm.⁵⁵⁶

An additional amendment to the Legal Profession (Amendment) Act 2012, was introduced in 2013, which allowed a foreign lawyer, providing advice on non-Malaysian law, to enter Malaysia for up to 60 days in a calendar year, subject to immigration approval for each period of stay.⁵⁵⁷

While the Legal Profession (Amendment) Act, 2012 laid the foundation for entry of foreign law firms and lawyers in Malaysia, it was only in 2014, when foreign firms were permitted to operate in the country. The Legal Professional Rules 2014, defined the areas of expertise for law firms and permitted foreign law firms to give advisory and consultancy on transactions regulated by Malaysian law and at least one other national law, or solely by any law other than Malaysian law.⁵⁵⁸

Impact

Liberalization of legal services has been a recent move in Malaysia and its impact is yet to be assessed. However, according to market research, liberalization of legal services is expected to have an impact on the legal sector in terms of availability of human resource, technology and branding.⁵⁵⁹ According to industry estimates, demand for legal services (especially in corporate practice) has increased in various sectors in the Malaysian economy, thereby increasing the demand for corporate lawyers. Legally aware consumers have also led to the creation of market for lawyers specialising in certain niche areas of practice.⁵⁶⁰

Impact of relaxing restrictions on advertising –

Relaxation of the restriction on advertising has not introduced significant changes in Malaysia's legal services sector – out of the 7,093 legal firms in Malaysia, only a few law firms have their own websites.^{561,562} Overall the marketing and promotion of legal services through internet is at an infancy level, and much of the restricted advertising is done through the Malaysian Bar, columns in the newspapers, word-of-mouth publicity and lawyer-client relationships.

Impact of relaxing the restrictions on the organisational forms –

Malaysia's liberal policies with respect to organizational forms have allowed many domestic law firms to expand in scale (with some law firms having a pool of over 100 lawyers⁵⁶³) and geography – both domestically and globally. For instance, domestic law firm Lee Hishammuddin and Singapore based firm Allen & Gledhill, merged to form Lee Hishammuddin Allen & Gledhill in 2005.⁵⁶⁴ Further, domestic law firm, Christopher & Lee Ong have set up offices in Singapore, Cambodia, Myanmar, China, Thailand and Lao while Zaid Ibrahim & Co. has presence in 8 out of 10 ASEAN countries.^{565 566} The impact of the LLP regulation on the legal sector is yet to be assessed.

Impact of foreign law firms –

Entry of foreign law firms in Malaysia has been a recent move, but it has created considerable excitement amongst UK and Singapore based law firms.⁵⁶⁷ UK-based firms see this as an opportunity to expand their legal services in Asia given the ease of business regulations, experience in the practice of Islamic finance law and no language barrier.⁵⁶⁸ Notable firms which have taken the first movers advantage include Trowers & Hamlin, a UK-based law firm which operated as a non-trading representative regional office in Malaysia and has recently become the first foreign law firm to be granted a QFLF licence in Malaysia.^{569,570} Well known UK-based firms such as Allen & Overy, Clifford Chance, Herbert Smith Freehills, Linklaters, Shearman & Sterling and Watson, Farley & Williams have also been working with Malaysian clients from their Singapore offices.⁵⁷¹ Given the proximity, many law firms in Singapore are also aggressively trying for international partnerships with their Malaysian counterparts in order to establish themselves in Malaysia.⁵⁷² These include Wong Partnership, Rajah & Tann and Allen & Gledhill amongst others.

Since entry of foreign firms is a relatively recent phenomenon in Malaysia, its impact on the country's legal sector is yet to be ascertained. However, according to experts, foreign firms might not have a significant impact on Malaysia's domestic law firms, given the restrictions facing foreign law firms pertaining to the areas of practice and exclusion from practicing Malaysian Law.⁵⁷³ This protection is likely to keep litigation, in areas such as civil, criminal exclusive for the local lawyers.⁵⁷⁴ Although this maybe the case, some experts also believe that liberalization will bring in positive impact as competition will offer greater choice for the clients. It has also been conjectured that since law firms with QFLPs would not like to restrict their practice solely to Islamic finance, and would like to enter other areas of corporate practice, competition with larger local firms is likely to be intensified.⁵⁷⁵ More so, with a designated percentage share of international lawyers in each of the licenced arrangements (QLPFs, partnerships, and individual foreign lawyers) the law firms and individual lawyers would be exposed to international expertise and knowledge, giving them an opportunity to refine their skills and find a spot in the international space.⁵⁷⁶

Conclusion

Relaxation of certain restrictions in Malaysia's legal services sector has certainly introduced changes in the operations of law firms in the country. However, these changes will demonstrate results only in the coming years as the sector proceeds towards complete liberalization.

The Legal Services Sector in Brazil

The legal services sector in Brazil reached a market size of Brazilian Real (R\$) 14.5 billion (USD 4.08 billion)⁵⁷⁷ in 2012, at a compound annual growth rate (CAGR) of 11 percent for the period 2007 to 2012.⁵⁷⁸ The sector comprised of around 800,000 lawyers in 2014,⁵⁷⁹ and the country's lawyer per-capita ratio stood at one lawyer for every 233 people as compared with UK's ratio of one lawyer for every 400 people.⁵⁸⁰ The country currently has the highest number of law schools in the world.⁵⁸¹ With these statistics, Brazil boasts of the largest legal system in South America and the third largest in the world after the US and India.^{582 583}

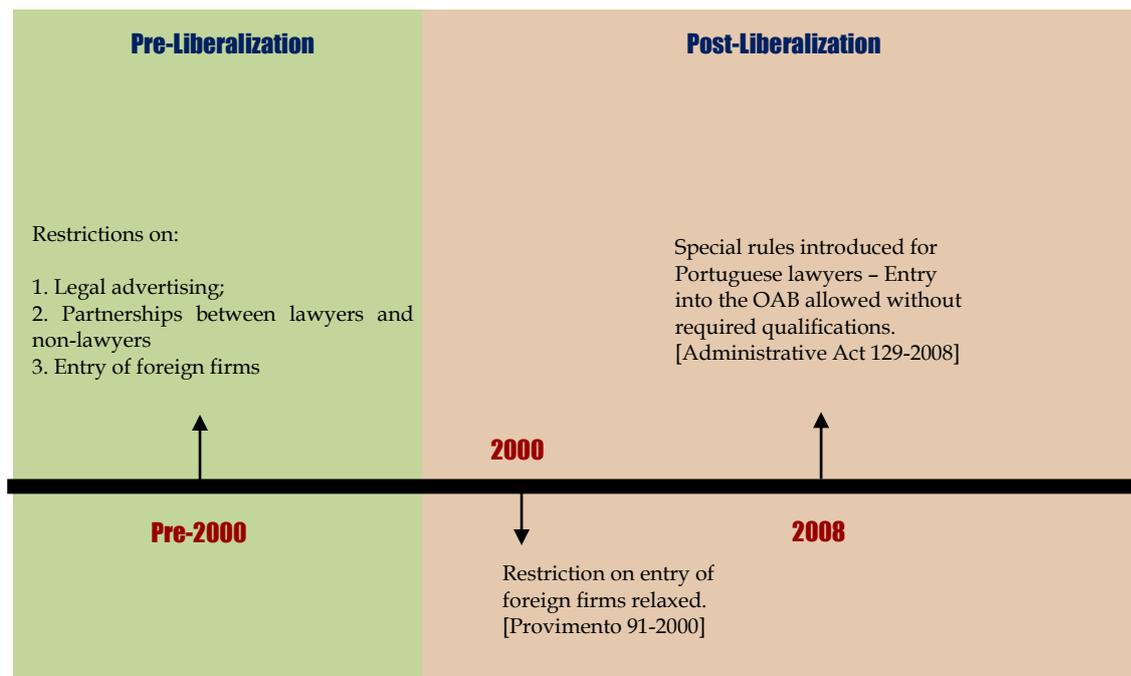
Regulatory Restrictions on Brazil's Legal Services Sector

Brazil's legal system is derived from the Portuguese civil law^{584 585 586} and is governed by the Federal Law 8906, 1994.⁵⁸⁷ This Law regulates the Brazilian Bar Association (also called the *Ordem dos Advogados do Brasil* (OAB)), with every state having an independent regulator housed within the OAB.⁵⁸⁸ The Law also regulates the OAB Code of Ethics and Discipline⁵⁸⁹ instituted in 1994 under Law 8906.^{590,591} The law makes it mandatory for practicing lawyers ('Advogados') in Brazil to have a membership of the OAB, which is granted to a lawyer on passing the Brazilian Bar Examination.⁵⁹²

Brazil became a member of the World Trade Organisation (WTO) in 1995. While Brazil did not make any commitments towards liberalizing its legal services under the WTO's General Agreement on Trade in Services (GATS),⁵⁹³ the sector started to liberalize in 2000, reflecting the liberalization process that was ongoing in the Brazilian economy since the 1990s.⁵⁹⁴ The timeline below (Figure 29) and the following paragraphs illustrate the liberalization process in Brazil.

Figure 29

Liberalization process in Brazil's legal services sector



Source: Nathan Associates

Restriction on advertising of legal service -

Legal advertising in Brazil is restrictive. Rules governing legal advertising were previously stated in the Code of Ethics and Discipline; Provision number 75/1992 of the Federal Council of the OAB; and the resolutions of Ethics and Disciplinary courts of various council sectionals headquartered in each capital of the Brazilian federative units.⁵⁹⁵ These were combined and reintroduced as Provision number 94/2000 in the Code of Ethics and Discipline.⁵⁹⁶ According to these combined rules, a legal advertisement by a lawyer or law firm in Brazil must contain the name, and OAB registration number, while areas of expertise, office hours, and contact details are optional.⁵⁹⁷ Disclosure of fee, size, structure, clientele and quality of services is prohibited.⁵⁹⁸

This advertisement is, however, permissible only via the Internet (websites) or the press media - with restrictions on announcements through television and radio.⁵⁹⁹ The advertisement must also be in Portuguese or in case in a foreign language, should be accompanied by a translation in Portuguese.⁶⁰⁰ Further, the distribution of pamphlets, newsletters and visiting cards by law firms is on the basis of a request or can be given to previous clients.⁶⁰¹ The use of billboards is strictly prohibited, however sign plates are permitted subject to discretion and modesty on content (without mention of any commercial aspects such importance or rankings).⁶⁰²

Restriction on organizational forms -

Historically, sole proprietorships, small partnerships and family-owned law firms existed in Brazil's legal sector and specialised in litigation services.⁶⁰³ In 2002, the new Civil Code was introduced into the sector.⁶⁰⁴ While the Code, under law 10.406,^{605,606} allows law firms to be established as limited liability entities⁶⁰⁷ ('Sociedade Limitada'), it prohibits multi-disciplinary partnerships i.e. the association of lawyers with non-lawyers.⁶⁰⁸ Additionally, an important condition for law firms operating in Brazil is that the term "*escritorio*

de advocacia” or “*sociedade de advogados*” (Portuguese for law firms in South America) must be attached to their firm title.⁶⁰⁹

Restriction on entry of foreign law firms –

Foreign law firms and lawyers have been allowed to practice in Brazil since 2000, as per Provision 91 of the Federal Council of the OAB, provided certain conditions are met.^{610,611} They can work as ‘Foreign legal consultants’ after obtaining approval from the OAB.⁶¹² Their areas of practice are restricted to international law and law from their original jurisdiction,⁶¹³ but lawyers are allowed to participate in arbitral proceedings without a local lawyer as a co-counsel.⁶¹⁴ The licence for foreign lawyers to practice permissible law is valid for three years and can be renewed as per the decision of the Bar.⁶¹⁵ Also, there are no restrictions for short-term visits on ‘fly-in fly-out’ basis, for maximum 90 days for the lawyers.^{616,617}

In addition, foreign lawyers also have options to requalify and practice Brazilian law after passing the Bar exam and proper validation of their foreign law degree by the OAB.⁶¹⁸ Due to close bilateral ties with Portugal, the OAB and Portuguese Bar came into an agreement in 2008, which allows a Portuguese lawyer to register at the OAB without passing the Bar exam and validating their degree of law.^{619,620} The Portuguese Bar reciprocates these special rules.⁶²¹

Additional rules valid for both individual foreign lawyers and foreign law firms include:⁶²²

- a) Restrictions to enter into a partnership with Brazilian law firms or lawyers until they give up their licence to practice Brazilian law
- b) Restrictions to form multi-disciplinary partnerships (MDPs)
- c) Restrictions to appear in the court
- d) Adherence to the OAB code of Ethics and Discipline.

The restrictions have continued to exist since the start of the liberalization process in the legal sector, which took place in the year 2000.

Impact

Brazil’s legal services sector is characterized as complex, large and sophisticated by many.⁶²³ 8 out of the top 10 law firms in Latin America are Brazilian.⁶²⁴ The sector currently offers 48 practice areas including new areas of practice such as entertainment law, infrastructure and technology related laws.⁶²⁵ With internationalization, Brazil is also being viewed as an important exporter of legal services in the US⁶²⁶ with the largest share of increase in import of legal services in 2009.⁶²⁷ The increasing influence of international law firms and legal practices have also given rise to provision of *Pro-bono legal services*⁶²⁸ in Brazil since 2001, just like in jurisdictions such as the US.⁶²⁹ For instance the Instituto Pro Bono⁶³⁰ has been successful in providing free legal aid to 500 civil society organisations.⁶³¹ Liberalization in Brazil is also a critical step towards establishing strong links with other Asian law firms and Portuguese speaking African nations, this reflected by the fact that one Brazilian law firm has presence in Shanghai as of 2011.⁶³²

Impact of restrictions on advertising –

As mentioned in the earlier section, legal advertising in Brazil continues to face certain restrictions, such as on the modes of advertising. While over the years law firms have started advertising through modes such

as websites, blogs and press media (journals, newspaper and magazine articles), the impact of advertising on the stakeholders cannot be assessed due to the limited availability of information.

Impact of relaxing the restrictions on organizational form -

Partial restrictions on organizational structures of Brazilian law firms continue to exist (for instance the forming of MDPs). However, even with these restrictions, external developments such as the influence of international law firms, the increase in the number of lawyers and the diversification of firms' practice areas, led to the gradual emergence on modern law firms in Brazil.⁶³³ These firms are characterised by a hierarchal structure between partners and employed lawyers, and standardisation in provision of highly specialised professional services.⁶³⁴ Noted domestic law firms falling in this group include *Siqueira Castro Advogados*, *TozziniFreire Advogados* and *Pinheiro Neto Advogados*.⁶³⁵ Limited Liability Companies account for 70 percent to 85 percent of all the companies organised in Brazil, including law firms, making it one of the most common forms of business organisation in Brazil.⁶³⁶ Commercialised legal services have also given rise to mid-tier law firms comprising of 50-100 lawyers, practicing in niche areas, with few also having international presence.⁶³⁷ Domestic firms listed in this category are *Pinheiro Guimarães - Advogados* (expertise in finance), *Sergio Bermudes Advogados* (expertise in litigation), *Lefosse Advogados* (Corporate advisory) including others.⁶³⁸

Impact of foreign law firms -

With the entry of foreign law firms being permitted, many foreign law firms have set up their Brazil branch headquarters in São Paulo and have also established regional offices in Rio de Janeiro.⁶³⁹ From the year 2011 to 2014, the number of foreign law firms have increased from 20 to 31,⁶⁴⁰ indicating that foreign firms are looking up to Brazil as an attractive destination for the provision of legal services. The US accounts for most of the foreign law firms entering Brazil, followed by the UK and Spain.^{641 642} A few foreign firms have signed contracts of association with local firms; the first one being between Linklaters (UK-based) and a medium-sized local firm, *Lefosse Advogados*, in 2001.⁶⁴³ Baker & McKenzie, Clifford Chance and White & Case are other most prominent foreign law firms operating in Brazil.⁶⁴⁴ These foreign law firms provide services in the areas of arbitration, antitrust, capital markets, energy, oil & gas, mergers and acquisitions (M&A), project finance, infrastructure, and intellectual property (IPR).⁶⁴⁵ With the given restrictions on scope of practice, foreign law firms have found alternative means of providing legal services to their Brazilian clients. For instance, Spanish law firm, *Cuatrecasas*, has adopted the strategy of outbound investment advice,⁶⁴⁶ whereby it provides Brazilian clients with information on matters related to foreign capital markets and on how to conduct business with other international firms.⁶⁴⁷ In order to attract clientele in the legal sector, the firm has formed a strategic alliance with Brazilian law firm, *Machado Meyer Sendacz & Opice*.⁶⁴⁸ The same strategy has also been adopted by certain other Spanish law firms.⁶⁴⁹ Thus the impact of allowing entry of foreign firms in Brazil has been positive but limited.

Conclusion

Liberalization of legal sector in Brazil has been initiated in a cautious and gradual manner. Experts are of the view that with current pace, a long run perspective of growth by domestic and international firms is necessary to realize full benefits of this liberalization.⁶⁵⁰ Nevertheless internationalisation of the legal sector has positioned competent foreign legal firms into the Brazilian legal system. This has not only introduced

new areas of practice but have also helped to establish strong links with other countries. With international investments on a high in various sectors, the need for legal services will continue to thrive in the coming years in order to support the developing economy of Brazil.⁶⁵¹ Significant impact of these developments on various stakeholders including domestic lawyers and law firms and consumers is however yet to be realized.

Annexure B: Stakeholder Survey Analysis

1. Regression analysis to determine if the perception of business enterprises regarding costs and benefits of reforms is influenced by firm characteristics

In order to test this hypothesis, we used the Ordered Probit Regression model, which is used when the dependent variable in the hypothesis is ordinal, such as ranks. The ordered probit model gives the probability that the dependent variable falls within a specified category in an ordered distribution of cut-offs. To substantiate, in our analysis of the perceived costs and benefits of reforms, these cut-offs were “Highly Likely”, “Likely” and “Unlikely”. The ordered probit model then determines the probability of a respondent assigning a highly likely benefit to a particular proposition as a function of firm characteristics. We hypothesized the following ordered probit model using these cut-offs and the independent variables as the respondent firm characteristics:

Probability (that the “Highly Likely” rank is assigned to benefit of reduced costs for legal services for cross border transactions) = f (Year of establishment of the business enterprise, revenue growth rate, median fee charged by law firm, engagement of a business enterprise in out bound transactions (yes/no) and type of organization – public, private, multinational or branch of a foreign company)

We used the marginal effects approach (provided in table below) to interpret the coefficients of the regression analysis. The results can be interpreted as: keeping all other factors constant, a one unit increase in the office space of the reporting business enterprise increases by 0.03 percentage points (coefficient of the variable, “No of Offices” multiplied by 100), the chances of the respondent firm reporting “Highly Likely” benefits from the allowing entry of foreign law firms, with 1 percent level of significance.

Table 15**Regression Results – Influence of Firm Characteristics**

Dependant Variable	No of Offices	Year of establishment	Revenue Growth Rate	Median Fee	Outbound Yes/No	Type of Organization - Private	Type of Organization - Public	Type of Organization - MNC	No of observations	R ²
Benefits										
A. Potential impact of allowing foreign law firms to practice corporate advisory services in India										
1. Reduced costs for legal services for cross border transactions (due to saved transaction costs of travelling)	0.0003 *	-0.0015	0.0296 ***	0.0000 **	0.1925 **	0.4160	-0.2398 *	0.1980 ***	179	0.1047
2. Improvement in quality of service provided by domestic legal service providers (as a result of spill-over effects)	0.0002	-0.0013	0.0187 **	0.0000	0.1370	-0.2501	-0.1440	-0.2112 **	180	0.0709
3. Improvement in the variety of services offered and the techniques used by legal service providers	-0.0001	-0.0008	0.0275	0.0000	0.0969	0.6784 ***	-0.2489	0.0366	179	0.0828
B. Potential impact of allowing legal service providers to advertise in India										
1. Increased transparency in legal service sector	-0.0003	-0.0010	0.0388 ***	0.0000	-0.0647	-0.2148	-0.2329	-0.1840 **	179	0.1371
2. Increase choice of legal service providers	-0.0001	0.0004	0.0153 ***	0.0000	0.0247	-0.0200	0.1317	-0.0886	177	0.0463
3. Reduced search costs	-0.0002	0.0014 *	0.0192 ***	0.0000 ***	0.1660 **	0.3935	-0.1067	0.0948 **	176	0.1415
4. Increase awareness about types of legal services provided	0.0000	-0.0017	0.0203 ***	0.0000	0.1440	-0.2235	-0.3483 ***	-0.3056 ***	176	0.0987
C. Potential Impact of relaxing restrictions on scale and scope of legal service providers in India										
1. Increase in types of services offered	-0.0001	-0.0019	0.0448 ***	0.0000	0.2126 **	-0.0750	-0.4182 ***	-0.1096	180	0.1776
2. Decrease in lawyers rates due to economies of scale	0.0000	0.0000	0.0120 ***	0.0000 ***	0.0915	0.3650	-0.0417	0.1085 ***	180	0.1005

Dependant Variable	No of Offices	Year of establishment	Revenue Growth Rate	Median Fee	Outbound Yes/No	Type of Organization - Private	Type of Organization - Public	Type of Organization - MNC	No of observations	R ²
Costs										
A. Potential impact of allowing foreign law firms to practice corporate advisory services in India										
1. Increased costs of legal services in India (due to increase in rates charged by domestic law firms in response to rates charged by foreign law firms)	0.0002	0.0003	0.0306 ***	0.0000	0.0984	0.0981	-0.2363	0.1077	180	0.0730
2. Reduced consumer choice for law firms due to closure of small scale legal service providers or due to consolidation amongst legal service providers	0.0001	-0.0014	0.0128	0.0000	0.1184	-0.1393 ***	0.0921	0.0953	180	0.0867
3. Increased time and monetary costs of resolving language/cultural barriers facing foreign lawyers	-0.0001	-0.0007	0.0101	0.0000	0.1403	0.7170 ***	-0.0429	0.1478	179	0.0389
B. Potential impact of allowing legal service providers to advertise in India										
1. Increased costs (due to pass on of advertising expenditures by legal service providers)	0.0002	-0.0007	0.0314 ***	0.0000	0.2216 **	0.4098	0.0182	0.3556 ***	178	0.1150
2. Increased search / transaction costs due to greater choice and due to increased dubious advertising	0.0001	0.0015 *	0.0131 ***	0.0000	0.1848 **	0.1530	-0.0584	0.0065	178	0.1005
3. Increased rates due to displacement or closure of small scale legal service providers of corporate advisory services (who cannot advertise and lose business) thereby forcing businesses to reach out to only larger firms which might charge relatively higher rates	0.0002	0.0000	0.0174	0.0000	0.1761	0.6588 ***	0.0240	0.2389	178	0.0660
C. Potential Impact of relaxing restrictions on scale and scope of legal service providers in India										
1. Increase in costs of legal service (due to pass on of expansion expenditures by law firms)	0.0001	-0.0009	0.0334	0.0000	0.2589	0.4282	0.5755 ***	0.4147	180	0.1517
2. Reduction in service quality due to management issues with large scale of service providers	-0.0002	0.0015 *	0.0167 ***	0.0000	0.1093	0.2869	-0.1355 ***	0.0720	180	0.0865
3. Increased rates due to displacement or closure of small scale legal service providers of corporate advisory services	-0.0001	-0.0002	0.0149 **	0.0000	0.1465	0.0194	-0.2199	0.0971	178	0.0306

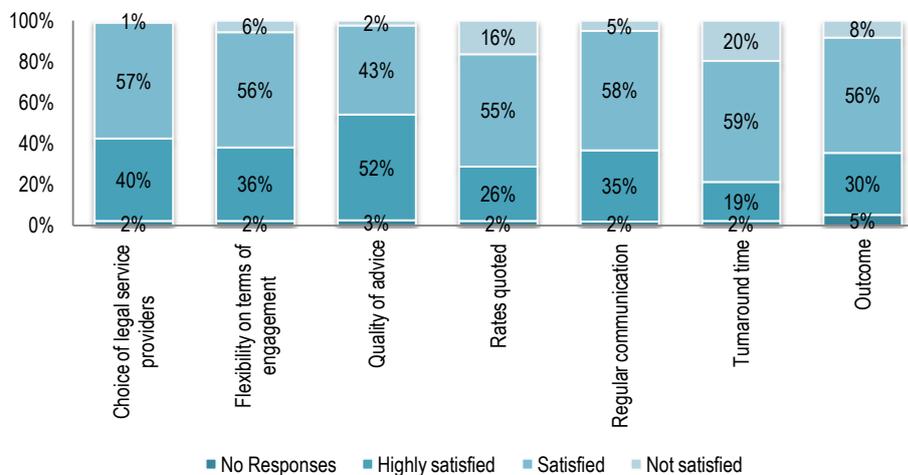
Source: Nathan Associates

2. Additional results demonstrating behaviour of consumers and providers of legal services

Following results stimulate our understanding of the demand for legal services in India.

52% of respondents reported that they were highly satisfied with the quality of legal service provided to them in the past. Figure 30 shows the level of satisfaction of the consumers of legal services with respect to the exercise of identifying and engaging legal service providers for their legal engagements in the past. Various parameters were used to assess this satisfaction - choice of legal service providers, flexibility on terms of engagement, quality of advice shared, rates quoted, level of communication, turnaround time and the final outcome. More than 50% of respondents were highly satisfied with the quality of advice provided. For all other parameters, majority respondents claimed that their experience was only satisfactory. Respondents were not satisfied in their experience with legal service providers in terms of the turnaround time and rates quoted.

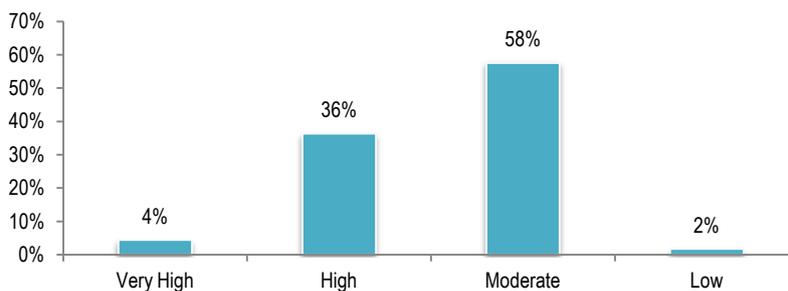
Figure 30
Experiencing of Identifying and Engaging Legal Service Providers



Source: Nathan Associates

36% respondents reported that the rates of legal services quoted to them were high: As can be seen in the figure below, most respondents - 58% - thought the rates were moderate, 36% of the respondents felt that the rates quoted by the legal service providers were high.

Figure 31
Consumer Perception Regarding Range Quoted by Legal Service Providers



Source: Nathan Associates

We used regression analysis to determine any observable pattern with respect to the characteristics of business enterprises and the rates charged to them for legal services. We used Ordinary Least Squares regression analysis to determine the above following model:

Log (Median Fee for Legal Matters charged to businesses) = f (Log (number of employees in the business enterprise), Log (expected profit range for the next 5 years), Dummy (Type of Organization – public, private, multinational, foreign subsidiary), Dummy (Sector of Operation) Dummy (Type of Legal Consultancy – IP related, international law related, company organization related, taxation related or regulatory compliance related))

Explanatory Factors	Coefficient Value	Standard Error	t-value	Significance
Constant	11.37	0.573	19.87	<.0001
Log Total Employment of the Legal Sector	0.17	0.076	2.19	0.03
Log Profit Range in Legal Sector	0.4	0.228	1.64	0.10
Type of organization MNC	0.2	0.917	0.16	0.870
Type of organization Private	(0.8)	0.275	-2.99	0.003
Type of organization Public	-	.	.	.
Sector 1	-0.03	0.666	-0.05	0.959
Sector 2	(0.4)	0.198	-2.12	0.035
Sector 3	-	.	.	.
_3_A_IP 0	(0.3)	0.233	-1.37	0.171
_3_A_IP 1	-	.	.	.
_3_A_International 0	(0.4)	0.204	-1.85	0.066
_3_A_International 1	-	.	.	.
_3_A_Operation 0	(0.2)	0.205	-0.77	0.444
_3_A_Operation 1	-	.	.	.
_3_A_Corp_tax 0	0.3	0.383	0.88	0.383
_3_A_Corp_tax 1	-	.	.	.
_3_A_Regulation 0	0.1	0.347	0.23	0.818
_3_A_Regulation 1	-	.	.	.
Regression Diagnostics				
N		299		
R-square		21.93%		
F - Value		4		

Source: Nathan Associates

The results revealed that keeping fixed factors such as the sector of operation of a business enterprise, the type of organization and the expected growth rate of the firm's profit, the rates charged to a business enterprise for legal services were positively related to the size of the respective businesses, where the number of employees of the firm was used as proxy variable for the size of the business enterprise. A similar relationship was observed between the rates charged to a business and its projected profit growth rate, keeping employment and other factors as fixed. Thus, while secondary research indicates that the charge out rates for legal services in India have gone down over the years, the results of this analysis indicates that rates are higher for bigger business enterprises.⁶⁵²

The number of legal matters a business enterprise engages in, depends on the nature of the firm's operations: Regression analysis reveals that keeping factors such as the number of offices and the type of organization as constant, there is a significant and positive relationship between the number of legal matters a business enterprise has engaged in and the business enterprise's involvement in outbound cross border transactions. We used Ordinary Least Squares regression analysis to determine the above following model:

$$\text{Log (Number of Legal Matters of a Business)} = f(\text{Log (Number of Offices), Dummy (Sector of Operations - services, manufacturing, agriculture), Dummy (Engagement in Inbound Transaction), Dummy (Engagement in Outbound Transaction)})$$

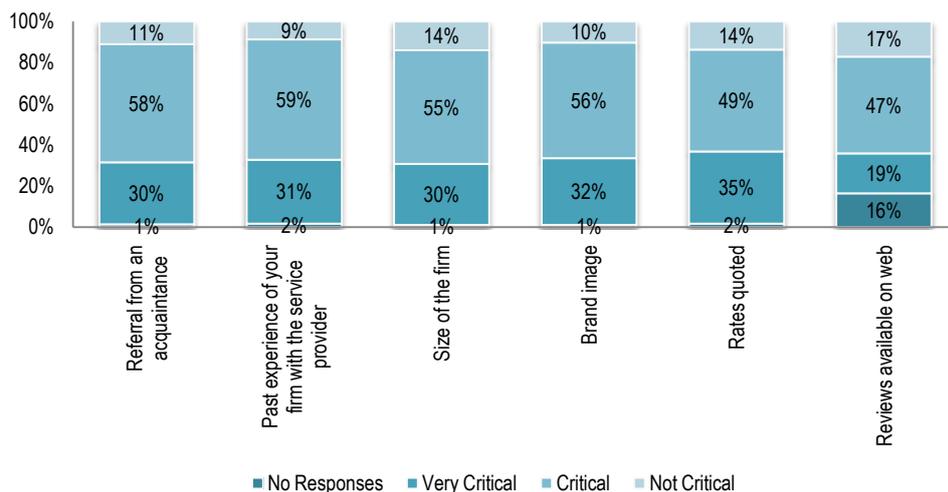
Explanatory Factors	Coefficient Value	Standard Error	t-value	Significance
Constant	1.09	0.212	5.16	<.0001
Log Number of Offices	0.15	0.042	3.66	0.0003
Sector 1	1.1	0.358	3.14	0.002
Sector 2	-0.05	0.112	-0.43	0.67
Sector 3	-	.	.	.
Inbound 0	0.1	0.180	0.28	0.78
Inbound 1	0.00	.	.	.
Outbound 0	(0.4)	0.169	-2.19	0.03
Outbound 0	-	.	.	.
Regression Diagnostics				
N	299			
R-square	12.94%			
F - Value	6.21			

Source: Nathan Associates

Hence, in line with expectations, a firm's engagement in outbound cross border transactions is likely to entail a higher use of legal services. Interestingly, this was not the case for businesses involved in inbound cross border transactions. ⁶⁵³

59% respondents relied on their past experience to engage a service provider for their legal matters: Figure 32 shows the importance that the respondents gave to various additional factors while choosing a legal service provider. These factors included referrals from an acquaintance, past experience of the responding firm with the service provider, size of the law firm (legal service provider), its brand image, rates quoted, and the reviews available on web. Consumers were asked to rank the factors as 'Very Critical' to their decision of choosing a legal service provider if the rank of the factor was in the range of (8-10), 'Critical' if the rank was in the range of (5-7) and 'Not Critical' if it was in the range of (1-4). As can be seen from the figure, majority of the respondents felt that referrals from an acquaintance, their past experience with the law firm, its size and brand image were critical in their decision to choose a legal service provider. Respondents also thought that rates quoted were very critical to their decisions.

Figure 32
Factors used to choose a legal service provider

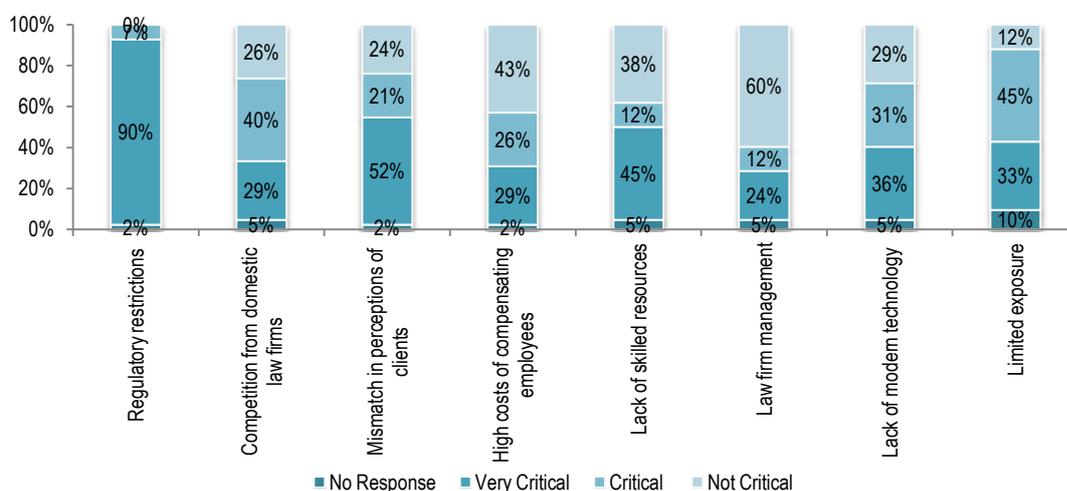


Source: Nathan Associates

Following results strengthen our understanding of perceptions the supply of legal services in India.

90% respondents reported that regulatory restrictions are the biggest challenge facing India's legal services sector: Figure 33 shows the perception of the law firms regarding the challenges facing India's legal services sector. The challenges included regulatory restrictions, competition from domestic law firms, mismatch in perception of clients, costs of compensating employees, lack of skilled resources, lack of modern technology and limited exposure. As can be seen from the figure, 90% of respondents felt that regulatory restrictions played a very critical role in hindering the growth of the legal sector in India. Further, more than half the surveyed law firms felt that the mismatch between the perceptions of law firms and clients (mostly with respect to rates) also hindered the growth of the sector. According to the law firms, management of law firms and the costs of compensating staff was not a very critical challenge facing the sector.

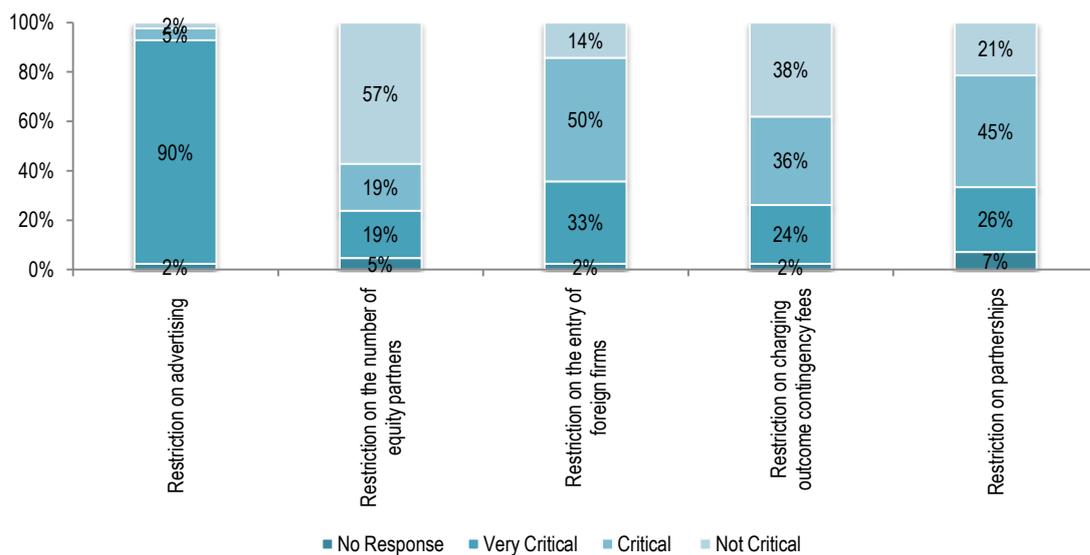
Figure 33
Challenges facing India's legal services sector



Source: Nathan Associates

90% respondents reported that restrictions on advertising hindered growth of India's legal services sector: Figure 34 shows the perception of the law firms regarding the specific regulatory restrictions facing India's legal services sector – restriction on advertising, on number of equity partners, on entry of foreign law firms, on charging fee contingent on outcomes, and lastly the restriction on partnerships. As can be seen from the figure, 90% of the law firms feel that restrictions on advertising play a very critical role in hindering the growth of the sector in India. 50% felt that restrictions on the entry of foreign law firms were critical to hindering the growth of the sector. Driven from the recent revision in the restriction on the permissible number of equity partners (from 20 to 100), around 57% partners felt that the restriction on the number of equity partners was not critical.

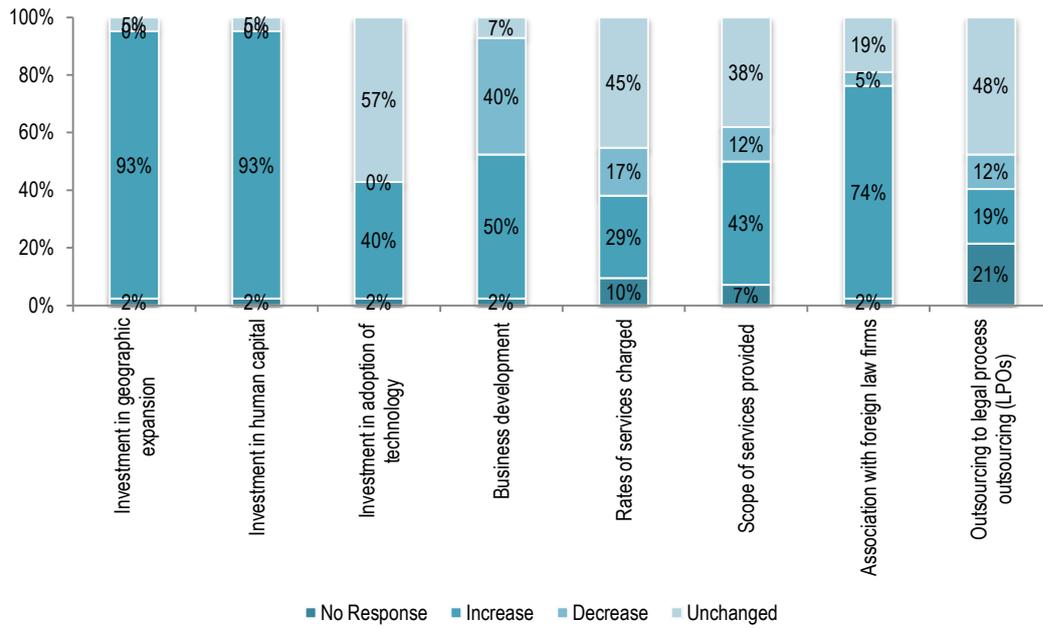
Figure 34
Regulations facing India's legal services sector



Source: Nathan Associates

74% respondents were open to associations with foreign law firms to tackle potential competition in future: Figure 35 shows the perception of the law firms regarding their response to tackle increased competition in future. As can be seen from the figure, 93% of the law firms feel that they will make investments in geographic expansion and human capital expansion in order to fight potential competition in future. 74% of the respondents also felt that they will associate with foreign law firms in response to increased competition.

Figure 35
Response to increased competition



Source: Nathan Associates

Annexure C: Business Enterprise and Law Firm Questionnaires

Questionnaire for Business Enterprises

Questionnaire for Business Enterprises		
	Company Details	
1.A	Name and address of the company	
1.B	Year of establishment	
1.C.1	Your company has	
	One office	
	Multiple offices/branches.	
1.C.2	If Multiple, How many?	
1.D	Number of employees	
1.E	Type of organization	
	Private Limited Company	
	Public Limited Company	
	Multinational Company	
	Branch / subsidiary of a foreign company	
1.F	Sector of operations:	
	Agriculture	
	Manufacturing	
	Services	
1.G	Sub sector of operations	
	Textiles and textile products	
	Machinery and mechanical appliances	
	Transportation equipment	
	Chemical products	
	Leather and leather products	
	Pharmaceuticals	
	Information Technology and Information Technology Enabled Services	

	Construction	
	Agriculture and Allied Activities	
	Other services (Financial, Telecommunication, Education, Social Service, Real Estate, Knowledge Process Outsourcing Units (KPOs), Business Process Outsourcing Units (BPOs))	
	Others. Please specify.	
1.H.1	Has your firm engaged in inbound cross border transactions over the past 5 years?	
	Yes.	
	No	
1.H.1 a	If Yes, Approximately how many transactions.	
1.H.1 b	Please also name the countries. Country 1	
	Country 2	
	Country 3	
	Country 4	
	Country 5	
I.H.2	Has your firm engaged in outbound cross border transactions over the past 5 years?	
	Yes.	
	No	
1.H.2 a	If Yes, Approximately how many transactions.	
1.H.2 b	Please also name the countries. Country 1	
	Country 2	
	Country 3	
	Country 4	
	Country 5	

2	Financial Information	
2. A	According to you, what is the expected annual growth rate of revenue for your company over the next 5 years?	
2. B	According to you, what is the expected annual growth rate of costs for your company over the next 5 years?	
2. C	According to you, what is the expected annual growth rate of profits for your company over the next 5 years?	

3	Information on Corporate Advisory Legal Services Availed	
3.A	What type of corporate advisory service has your firm availed from legal service providers over the past 5 years?	
	Consultation on matters related to the company operations and structure: formation, registration, restructuring, contractual agreements (including licenses, purchasing agreements, employee agreements, research and development agreements, service and other related contracts)	

	Consultation on corporate taxation			
	Consultation on intellectual property law and rights			
	Consultation on compliance with regulations			
	Consultation on international and / or domestic transactions: cross border mergers and acquisitions, investments, strategic alliances, tender offerings			
	Any other. Please specify.			
3.B	Approximately, how many such corporate advisory legal matters has your firm engaged in over the past 5 years?			
	<5			
	5 to 10			
	10 to 20			
	20 to 30			
	>30			
3.C	Does your firm have an in-house legal department? If yes, proceed to 3.C.1.1, if no proceed to 3.C.2.1			
3.C.1.1	What is the percentage of total cost of your firm (including salaries) which is attributed to the operations of the legal department?			
	0-5%			
	5 - 10%			
	10 to 20%			
	20 to 30%			
	>30%			
3.C.1.2a	Has your in firm ever contracted an outside legal service provider (firm or individual lawyer) for advisory services?			
	Yes.			
	No.			
3.C.1.2b	If yes, how many times in the past 5 years and for what kinds of matters (in general)?			
3.C.2.1	How many outside legal service providers have you engaged with, for your corporate advisory legal matters in the last 5 years?			
3.C.2.2	Please rate your experience of identifying and engaging a legal service provider, across the following parameters. (Highly satisfied (8-10), satisfied (5-7), dissatisfied (1-4))			
	Parameter	Highly satisfied (score 8-10)	Satisfied (score 5-7)	Not satisfied (score 1-4)
	Choice of legal service providers			
	Flexibility on terms of engagement / scope of work			
	Quality of advice			
	Rates quoted			
	Regular communication / feedback			
	Turnaround time			

	Outcome			
3.C.3	How would you rate the importance of the following factors while choosing a legal service provider for your firm's corporate legal matters			
	Parameter	Very Critical (score 8-10)	Critical (score 5-7)	Not Critical (score 1-4)
	Referral from an acquaintance			
	Past experience of your firm with the service provider			
	Size of the firm (in terms of number of lawyers, partners)			
	Brand image			
	Rates quoted			
	Reviews available on web - forums, networking sites (LinkedIn)			
3.C.4	Approximately how much time has your firm spent on identifying a legal service provider for corporate advisory matters?			
	< 1 week			
	1 to 2 weeks			
	2 to 3 weeks			
	> 1 month			
3.C.5	Approximately, what is the fee range charged by legal service providers for following categories of corporate advisory matters?			
	Consultation on matters related to the company operations and structure			
	Consultation on corporate taxation			
	Consultation on compliance with regulations			
	Consultation on international and / or domestic transactions			
3.C.6	What is your perception of the rates charged by legal service providers?			
	Very high			
	High			
	Moderate			
	Low			
	Very low			
3.C.7	Would you consider setting up/strengthening an in-house legal department?			
	Yes			
	No			
	May be			
3.C.8	Has your firm availed legal service from foreign law firms in other countries?			
	If yes proceed to 3.C.8.1. below, else proceed to next section			
3.C.8.1	What type of service have you availed from foreign law firms?			
	Consultation on inbound cross border transactions / investments / alliances			

	Consultation on outbound cross border transactions / investments / alliances		
3.C.8. 2	Which countries do these law firms belong to?		
	Country 1		
	Country 2		
	Country 3		
	Country 4		
	Country 5		
3.C.8. 3a	Did these law firms also provide multidisciplinary services (for example accountancy, finance)?		
	Yes.		
	No		
3.C.8. 3b	If Yes. What service?		
3.C.8. 4a	How did the turnaround time compare with the turnaround time for domestic firms providing similar service?		
	Service not provided by domestic law firms		
	0% (same)		
3.C.8. 4b	If the change is more than 0%, how much is the difference?	Higher	Lower
	1-5%		
	6-10%		
	10-15%		
	15-20%		
	More than 20%		
3.C.8. 5a	How did the rates charged by foreign law firms compare with domestic law firms providing similar service?		
	Service not provided by domestic law firms		
	0% (same)		
3.C.8. 5b	If the change is more than 0%, how much is the difference?	Higher	Lower
	1-5%		
	6-10%		
	10-15%		
	15-20%		
	More than 20%		
3.C.8. 6	Did the foreign law firm also charge an additional fee contingent on the outcome of the matter?		
	Yes		
	No		
	Not sure		
3.C.8. 7	How did the quality of service provided by foreign law firms compare with domestic law firms?		
	Service not provided by domestic law firms		

	Same			
	Higher			
	Lower			
4	Perception regarding current and future status of India's legal services sector			
4.1	<i>Entry of foreign law firms</i>			
4.1.A	Are you aware that there is a restriction on the entry of foreign law firms, barring them from practicing law in India?			
	Yes			
	No			
4.1.B	According to you, what is the potential impact of allowing foreign law firms to practice corporate advisory services in India? Please rate the following potential benefits and costs based on their likeliness.			
	Parameter	Highly likely (score 8-10)	Likely (score 5-7)	Unlikely (score 1-4)
	Benefits			
	Reduced costs for legal services for cross border transactions (due to saved transaction costs of travelling)			
	Improvement in quality of service provided by domestic legal service providers (as a result of spill-over effects)			
	Improvement in the variety of services offered and the techniques used by legal service providers			
	Any other benefit. Please specify.			
	Costs			
	Increased costs of legal services in India (due to increase in rates charged by domestic law firms in response to rates charged by foreign law firms)			
	Reduced consumer choice for law firms due to closure of small scale legal service providers or due to consolidation amongst legal service providers			
	Increased time and monetary costs of resolving language/cultural barriers facing foreign lawyers			
	Any other cost. Please specify.			
4.1.C. 1	According to you, by what percentage will costs of legal services change as a result of entry of foreign law firms?			
	No change			
	Change			
4.1.C .2	If change How much?	Higher	Lower	
	1-5%			
	6-10%			
	10-15%			
	15-20%			

	More than 20%			
4.2	Restrictions on domestic firms			
4.2.A 1	Have you seen advertisements by law firms?			
	Yes.			
	No			
4.2.A 2	If Yes, What form?			
4.2.B	Are you aware of restrictions facing legal services sector with respect to advertising of their services through platforms such as websites?			
	Yes			
	No			
4.2.C	According to you, what is the potential impact of allowing legal service providers to advertise in India? Please rate the following potential benefits and costs based on their likeliness.			
	Parameter	Highly likely (score 8-10)	Likely (score 5-7)	Unlikely (score 1-4)
	Benefits			
	Increased transparency in legal service sector			
	Increase choice of legal service providers			
	Reduced search costs			
	Increase awareness about types of legal services provided			
	Any other benefit. Please specify.			
	Costs			
	Increased costs(due to pass on of advertising expenditures by legal service providers)			
	Increased search / transaction costs due to greater choice and due to increased dubious advertising			
	Increased rates due to displacement or closure of small scale legal service providers of corporate advisory services (who cannot advertise and lose business) thereby forcing businesses to reach out to only larger firms which might charge relatively higher rates			
	Any other cost. Please specify.			
4.2.D. 1	According to you, by what percentage will costs of legal services change as a result of relaxing restrictions on advertising by legal service providers?			
	No change			
	Change			
4.2.D. 2	If change How much?	Higher	Lower	
	1-5%			
	6-10%			
	10-15%			

	15-20%			
	More than 20%			
4.2.E	Are you aware of restrictions facing legal services sector with respect to expansion of scale (number of partners) and scope of services (partnership with professionals other than advocates)?			
	Yes			
	No			
4.2.F	According to you, what is the potential impact of relaxing restrictions on scale and scope of legal service providers in India? Please rate the following potential benefits and costs based on their likeliness.			
	Parameter	Highly likely (score 8-10)	Likely (score 5-7)	Unlikely (score 1-4)
	Benefits			
	Increase in types of services offered			
	Decrease in lawyers rates due to economies of scale			
	Any other benefit. Please specify.			
	Costs			
	Increase in costs of legal service (due to pass on of expansion expenditures by law firms)			
	Reduction in service quality due to management issues with large scale of service providers			
	Increased rates due to displacement or closure of small scale legal service providers of corporate advisory services			
	Any other cost. Please specify.			
4.2.G. 1	According to you, by what percentage will costs of legal services change as a result of relaxing restrictions on scale and scope of legal service by providers?			
	No change			
	Change			
4.2.G. 2	If change How much?	Higher	Lower	
	1-5%			
	6-10%			
	10-15%			
	15-20%			
	More than 20%			

Questionnaire for Law Firms

Questionnaire for Law Firms	
Company Details	
1.A	Name and address of the firm
1.B	Year of establishment
1.C. 1	Your firm has
	One office
	Multiple offices
1.C. 2	If multiple, how many?
	Domestic offices
	Foreign offices
1.D	Please provide the number of partners in your firm
	Equity partners
	Non-equity partners
1.E	Please provide the number of lawyers in your firm (including both full time and part time)
1.F	Type of organization (multiple choices allowed) -
	Unlimited liability partnership where majority partners are from a single family
	Limited liability partnership where majority partners are from a single family
	Unlimited liability partnership where majority partners are not from a single family
	Limited liability partnership where majority partners are not from a single family
1.G. 1	How would you classify your firm's area of practice? -
	Full service
	Specialist.
1.G. 2	If specialist, please specify area of specialization.
1.H. 1	What is the nature of the main service provided by your law firm:
	Non-litigation service (non-litigious corporate advisory)
	Litigation service (litigious)
	Both.
1.H. 2	If both, what is division of total revenues between the two services (litigation to non-litigation)
	10-90
	20-80
	30-70
	40-60
	50-50
	60-40
	70-30

	80-20	
	90-10	
	Any other. Please specify.	

2	Law Firm Practices	
2.A	Please rank the following priorities for your firm from 1 to 7 (1 being the most important and 7 being the least important) -	
	Growing the firms' revenue	
	Enhancing the brand name	
	Skill acquisition / capacity expansion	
	Costs management	
	Improving scope (areas of practice) of services provided	
	Client performance management and ensuring client satisfaction	
	Geographic expansion	
2.B	Regarding your current leverage ratio (partner to non-partner ratio), do you believe the firm is optimally resourced to provide quality client service while also growing firm business?	
	Yes	
	No	
	Not sure	
2.C. 1a	Which is the most important business development strategy which has helped bring work to your firm in the past 18-24 months?	
2.C. 1b	According to you, are there any regulatory restrictions that hinder the firm's ability to get more work?	
	Yes.	
	No	
2.C. 2	Please specify the restriction.	
2.D	Have you been involved in any inbound or outbound cross-border transaction? (If "Yes", Continue with 2.E.1. If "No" continue with Section 3)	
	Yes	
	No	
2.E. 1	If yes, please list the countries of these foreign law firms with which your firm has been engaged with.	
	Country 1	
	Country 2	
	Country 3	
	Country 4	
	Country 5	
2.F	What percentage of your firm's total non-litigious revenue do the following kinds of cross border transactions account for?	
	Inbound cross border transactions	
	Outbound cross border transactions	

2.G	How do rates charged for the following kinds of cross border transactions compare with domestic non litigious cases?		
2.G. 1a	Inbound cross border cases :		
	0% (rates are same)		
2.G. 1b	If change is more than 0%, how much is the difference?	High er	Low er
	1-5%		
	6-10%		
	10-15%		
	15-20%		
	More than 20%		
2.G. 2a	Outbound cross border cases:		
	0% (rates are same)		
2.G. 2b	If change is more than 0%, how much is the difference?	High er	Low er
	1-5%		
	6-10%		
	10-15%		
	15-20%		
	More than 20%		

3	Competition and regulations in India's legal services sector			
3.A	According to you, what is the level of competition in India's legal services sector -			
	Intense			
	Competitive			
	Not competitive			
3.B	How many law firms, in your current geographic location, do you consider to be your competitors? Please specify the number for each of the following parameters:			
	Geographic presence			
	Primary areas of practice			
	Size in terms of number of lawyers			
	Experience in terms of number of cases			
3.C	Please rate the following challenges facing India's legal services sector based on their role in hindering the growth of the sector.			
	Parameter	Very Critical (score 8-10)	Critical (score 5-7)	Not Critical (score 1-4)
	Regulatory restrictions			
	Competition from domestic law firms / undercutting by competitors			

	Mismatch in perceptions of clients and legal service providers with respect to cost of legal service			
	High costs of compensating employees			
	Lack of skilled resources			
	Law firm management			
	Lack of modern technology such as legal software			
	Limited exposure to handling cross border transactions			
3.D	Please rate the following regulations facing India's legal sector based on their role in hindering growth of the sector:			
	Parameter	Very Critical (score 8-10)	Critical (score 5-7)	Not Critical (score 1-4)
	Restriction on advertising of legal services			
	Restriction on the number of equity partners in a law firm.			
	Restriction on the entry of foreign firms and lawyers (especially in corporate advisory services)			
	Restriction on charging outcome contingency fees to clients			
	Restriction on partnerships / profit sharing arrangements with non-advocates (for instance chartered accountants, foreign law firms)			
3.E.1	Are there any other challenges which you think hinder the growth of law firms in India?			
	Yes.			
	No			
3.E.2	If Yes, Please specify the challenges.			

4	Law firm perceptions on future competition			
4.A	In future, how would you respond to increased competition? Please tick the appropriate box based on relevance to your firm.			
	Parameter	Increase	Decrease	Unchanged
	Investment in geographic expansion			
	Investment in human capital			
	Investment in adoption of technology			
	Business development through seminars, presentations			
	Rates of services charged			
	Scope of services provided			
	Association with foreign law firms (in case they are allowed entry into the corporate advisory services sector)			
	Outsourcing to legal process outsourcing (LPOs)			
4.B	In future, how do you think you will change talent acquisition and retention techniques in response to increasing competition (increase, decrease, remain unchanged)			

	Parameter	Increase	Decrease	Remain Unchanged
	Staffing of first year associate hires from law schools			
	Staffing of lateral lawyers / partners from other law firms			
	Salaries of existing lawyers			
	Salaries of non-equity partners			

5	Law firm perceptions on costs and benefits			
5.A	Do you think removing the restriction on advertising will change the way your firm markets itself?			
	Yes.			
	No			
5.B	According to you, what is the potential impact of relaxing the restriction on advertising for legal service providers in India? Please rate the following potential benefits and costs based on likeliness.			
	Parameter	Highly likely (score 8-10)	Likely (score 5-7)	Unlikely (score 1-4)
	Costs			
	Increase in marketing costs of law firms			
	Increase in costs of compliance with regulations covering advertising by legal service providers			
	Displacement of small scale legal service providers who cannot afford advertising costs			
	Rise of false advertising			
	Any other costs. Please specify.			
	Benefits			
	Decrease in marketing costs of law firms (on account of cost savings from alternate promotional activities)			
	Increase in name recognition beyond current geographic market			
	Increase in name recognition beyond current clients			
	Increase in name recognition beyond current practice area			
	Increased accountability of law firms			
	Any other benefits. Please specify.			
5.C	Do you think liberalization by way of entry of foreign law firms (in non-litigious services only) will benefit			
5.C. 1	Law firms in India? -			
	Yes			
	No			
5.C. 2	Lawyers in India? -			
	Yes			

	No			
5.D	According to you, what is the potential impact of allowing foreign law firms to practice corporate advisory services in India? Please rate the following potential benefits and costs based on their likeliness.			
	Parameter	Highly likely (score 8-10)	Likely (score 5-7)	Unlikely (score 1-4)
	Costs			
	Buy-out of law firms			
	Loss of revenues by domestic law firms to foreign law firms			
	Loss of talent pool / employment diversion to foreign law firms			
	Increase in human capital costs to retain employees			
	Increase in costs of innovation in service provision			
	Increase in cost of investing in new technology			
	Any other costs. Please specify.			
	Benefits			
	Increased clientele			
	Increased profitability (due to higher rates comparable with foreign law firms)			
	Introduction of new concepts/techniques/areas of specialization			
	Adoption of international standards of quality in service (improvement in leverage ratio)			
	Opportunities of reciprocity for domestic law firms and lawyers			
	Any other benefits. Please specify.			
5.E	Do you think the restriction on partnership of legal service providers with non-advocates (such as chartered accountants) be removed? Please specify the reason.			
	Yes			
	No			

END NOTES

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- Legal advisory and representation services in the different fields of law:
 - Legal advisory and representation services concerning criminal law: including both the pleading of a case in court and out of court legal work, such as research, interviews with witnesses, etc.
 - Legal advisory and representation services concerning other fields of law: including both the pleading of a case in court, and out of court legal work in relation to law other than criminal law, such as research, review of policies, etc.
- Legal advisory and representation services in statutory procedures of quasi-judicial tribunals, boards, etc.: including both the pleading of a case in front of authorized bodies other than judicial courts (such as an administrative tribunal)³, and the related legal work
- Legal documentation and certification services: including provision of advice, execution of various tasks necessary for drafting or certification of documents such as wills, marriage contracts, commercial contracts, business charters, etc.
- Other legal services: including advice related to clients' legal rights and obligations and providing information on legal matters not elsewhere classified. This includes services such as escrow services³ and estate settlement services

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- 125 Regression analysis is "concerned with the study of the dependence of one variable (the dependent variable) on one or more other variables, the independent or explanatory variables." It helps quantify the relationship between the variable of interest (the dependent variable) and other independent explanatory variables that are chosen a priori based on economic theory.
- 126 Nielsen India Pvt. Ltd. is one of the largest multi-disciplinary research outfits in India engaged in consultancy services including development research, market research, social systems research as well as B2B, industrial and project consultancy services.
- 127 Out of 299 surveys, 3 were conducted in cities other than these 4. Also, law firms in Kolkata were unavailable to participate in the survey.
- 128 The following steps were taken to prepare a sampling frame for the survey of business enterprises.
1. Using the Prowess database, we selected a population of business enterprises which had availed of legal services. (In Prowess, fees paid for providing legal advice and related services to legal advisors, law firms etc. is captured in the indicator 'Legal charges'. So we selected firms which had borne legal charges in the past).
 2. After this step, samples were generated using stratified random sampling where the city was chosen as the stratum. Only the businesses in the Delhi, Mumbai, Chennai and Kolkata were selected.
 3. The sample size within each stratum was selected based on the proportion of businesses under the strata relative to the total population.
 4. The businesses to be surveyed within a sample city were then selected using the systematic random sampling procedure (SYS), whereby a random numbered business enterprise was selected for the survey using a statistical program.
 5. Based on the above steps, a sample size of 300 businesses was selected. Using the same procedure a list of 300 substitute business enterprises was also prepared in case of non-response from the first list. In the event of non-response from both the lists, Nielsen India approached business enterprises with a profile similar to the concerned business enterprise from the lists, for the purpose of the survey. Nielsen managed to complete 299 surveys within the stipulated time frame.
- 129 A confidence interval provides a range of numbers, in which the true parameter of the underlying population is expected to lie. The interval is centered at the estimated value, and the width around the estimated value is the margin of error which is essentially an appropriate multiple of the standard error.
<[http://people.stern.nyu.edu/churvich/MBA/Handouts/10-CI\(1\).pdf](http://people.stern.nyu.edu/churvich/MBA/Handouts/10-CI(1).pdf)>
- 130 We are using median as the relevant statistic to avoid skewness due to outliers in the business enterprise dataset.
- 131 A statistically significant relationship at 1 percent level of significance implies that we can say with 99 percent confidence that a relationship between the variables has not been estimated when none existed.
- 132 Results provided in **Annexure B (1)**

- 133 Based on the results of a pilot survey of law firms, we revised the questionnaire for law firms to seek perceptions of law firms with respect to 2 reforms only – advertising and entry of foreign law firms.
- 134 (defined as the scenario when the number of respondents reporting “Highly Likely” is greater than the combined respondents reporting “Likely” and “Unlikely”)
- 135 Additional results have been provided in **Annexure B (2)** of the report
- 136 <https://books.google.co.in/books?id=Nsjz-DHNR28C&pg=PA76&lpg=PA76&dq=liberalization+of+a+sector+invites+investment&source=bl&ots=O1BM0-hXdp&sig=XsJxF6r7QZGn8r8vJeZAVi1M3fQ&hl=en&sa=X&ved=0ahUKEwik8vuOmczKAhWBv44KHUYiBnAQ6AEITDAJ#v=onepage&q=liberalization%20of%20a%20sector%20invites%20investment&f=false>
- 137 Dey, Sudipto. (April 2015). *Liberalising legal services*. *Business Standard*. Retrieved from < http://www.business-standard.com/article/opinion/liberalising-legal-services-115042600776_1.html>
- 138 A regional legal hub is one: (a) where lawyers are qualified to provide advice on the laws of different jurisdictions from around the world; (b) which supports a broad range of international business transactions within the region; and (c) where local laws and lawyers are involved in regional business transactions.¹³⁸ These factors are prominent in various regional legal hubs such as London, New York, Hong Kong, and Singapore, wherein low barriers to entry into the domestic market by foreign lawyers and law firms, and the existence of a substantial market for commerce has contributed to the growth of the sector globally.¹³⁸
- Closely related is international commercial arbitration, a method adopted for resolution of business disputes as it offers the advantage of saving time from not appearing in front of the courts.¹³⁸ The current regulatory regime restricting the entry of foreign lawyers on ground discourages foreign companies wishing to enter into business contracts with Indian companies from choosing India as the preferred destination for dispute resolution, and rather go to London, Singapore, Hong Kong, Geneva, or New York for such matters.¹³⁸
- 139 In a general partnership model, all partners are personally liable for all business debts, that is, each partner is liable for the actions of the other partners. However in an LLP, no partner is liable for the actions of other partners beyond the extent of his/her share in the LLP. Sachdeva, Amit; and Sachdeva, Sachin. *The Indian LLP Law: Some Concerns for Lawyers and Chartered Accountants*. (Page 3)
- 140 Ganz, Kian. (December 2011). *Law firms still unsure about LLPs*. LiveMint. Retrieved from <<http://www.livemint.com/Politics/VXBB3O5b4m8YsXdFWNTCrj/Law-firms-still-unsure-about-LLPs.html>>
- 141 Ibid
- 142 The United Kingdom (UK) comprises of three countries, namely England, Wales, Scotland and one constituency, Northern Ireland. For the purpose of this study, we will be focusing only on England and Wales.
- 143 TheCityUK. (February 2015). *UK Legal Services 2015*. (Page 5).
- 144 The common law originated in the feudal England in the middle ages (approximately 1000 to 1453). As a body of law, the common law consisted of all the rules that could be generalized out of judicial decisions. In simpler words, common law is generally uncodified and is based on judicial decisions that have already been made in similar cases.
< <https://www.law.berkeley.edu/library/robbins/pdf/CommonLawCivilLawTraditions.pdf>
< http://www.fd.unl.pt/docentes_docs/ma/wks_MA_22856.pdf>
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- 149 The Law Society of England & Wales. (August 2014). *Legal services boost predicted for 2015*. Retrieved from <<https://www.lawsociety.org.uk/news/press-releases/legal-services-boost-predicted-for-2015/>>
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- 154 Historically, legal practitioners in UK have been divided into two separate professions – Barristers, who specialize in court-based advocacy; and Solicitors, who specialize in providing legal advice to clients.
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- 162 Gupta, Pralok. (2013). Regulatory Framework for Legal Services Sector in Selected EU Member States: Implications for Indian Legal Professionals. (Page 9)
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- 167 The Solicitors' Code of Conduct 2011 specifies 10 mandatory, all-pervasive principles which define the fundamental ethical and professional standards that all firms/individuals are expected to abide while providing legal services. <<http://www.sra.org.uk/solicitors/handbook/code/content.page>>
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- 170 Stephen, Frank H.; Burns, Christopher. (2008). *Liberalization of Legal Services*. (Pages 15-16)
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- 181 International Bar Association. (November 2013). *United Kingdom (England and Wales) International Trade in Legal Services*. Retrieved from <http://www.ibanet.org/PPID/Constituent/Bar_Issues_Commission/ITILS_United_Kingdom_England_and_Wales.aspx>
- 182 The European Economic Area (EEA) states include the European Union, Norway, Iceland, and Liechtenstein.
- 183 International Bar Association. (November 2013). *United Kingdom (England and Wales) International Trade in Legal Services*. Retrieved from <http://www.ibanet.org/PPID/Constituent/Bar_Issues_Commission/ITILS_United_Kingdom_England_and_Wales.aspx>
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- 193 Pleasence, Pascoe; Balmer, Nigel J.; and Moorhead, Richard. (July 2012). *A Time of Change: Solicitors' Firms in England and Wales*. (Page 15)
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- 239 **Cooperative Law Firms** are set up lawyers voluntarily with assets owned equally by all lawyers. It assumes limited liability for the debts of the firm with all its assets, and all the qualified lawyers working in the firm are equal members of the firm.
- 240 **Partnership law firms** are set up voluntarily by partners and they bear unlimited liability and joint liabilities for the debts of the firm. They may hire other lawyers to work for them and the relationship between partners and hired lawyers is governed by contracts between them.
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http://www.npc.gov.cn/englishnpc/Law/2009-02/20/content_1471604.htm
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- 243 **Special General Partnership:** Min 20 full time lawyers, shields co-partners from liabilities due to the willful misconduct or gross negligence of one partner or a group of partners.
- 244 **Sole Proprietorship Law Firms:** Min requirement of 5 years of experience, Unlimited liability for the debts of the firm
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- 274 Legal Era. (May 27, 2014). *Two magic circle firms, Jun He and Zhong Lun, in China set to merge*. Retrieved from <<http://www.legalera.in/news-deals/law-firms/foreign-law-firm-news/item/12954-two-magic-circle-firms-jun-he-and-zhong-lun-in-china-set-to-merge.html>>
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- 276 Taddia, Marialusia. (2013). *China: a tough market to penetrate*. The Law Society Gazette. Retrieved from <<http://www.lawgazette.co.uk/practice/china-a-tough-market-to-penetrate/5038107.fullarticle>>
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- 281 Exchange rate(USD to AUD) as on 11/18/2015
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<http://www.ibisworld.com.au/industry/default.aspx?indid=560>>
- 283 Legal services in Australia: Market Research Report. June 2015. IBIS World. Retrieved from<
<http://www.ibisworld.com.au/industry/default.aspx?indid=560>>
- 284 Professional services in Australia: Market Research Report. September 2015. IBIS World. Retrieved from <
<http://www.ibisworld.com.au/industry/default.aspx?indid=1750>>
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- 286 2014 Law Society National Profile .Urbis. <<http://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/1005660.pdf>>
- 287 2014 Law Society National Profile .Urbis. <<http://www.lawsociety.com.au/cs/groups/public/documents/internetcontent/1005660.pdf>>
- 288 A self-regulation model is where the legal profession is regulated by a professional association.
- 289 As a body of law, the common law consisted of all the rules that could be generalized out of judicial precedent.
- 290 Akpet, Koli Ori. "Australian Legal System: The Legal Profession and the Judiciary." Ankara B. Rev. 4 (2011): 71.
- 291 Akpet, Koli Ori. "Australian Legal System: The Legal Profession and the Judiciary." Ankara B. Rev. 4 (2011): 71.
- 292 Foreign Lawyers and Practice of Foreign Law in Australia. Law of Australia
<<http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/Foreign-Lawyers-and-the-practise-of-foreign-law.pdf>>
- 293 Under Australia's GATS commitments, a foreign lawyer or law firm may provide legal services in Australia in relation to the laws of their home country and international law with limited restrictions on partnership, employment of local lawyers and revenue sharing.
- 294 Assuring Competence in a Changing legal services market-The New regulatory Structure. July 2012. The Office of the Legal services Commissioner. <http://www.olsc.nsw.gov.au/Documents/assuring_competence_changing_legal_services_market_letr_july20121.pdf>
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- 296 Joe Catanzariti. The Future of the National Legal Profession. February 2013. <<http://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/speeches/TheFutureoftheNationalLegalProfession.pdf>>
- 297 Glenn Ferguson. Freeing the legal landscape - Baby steps or bullet-train: Legal services market liberalisation in Australia. November 2010 Australia. <<http://www.lawcouncil.asn.au/lawcouncil/images/LCAPDF/speeches/20101104Freeingthelegallandscapebabystepsorbullet-train.pdf>>
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- 301 Victorian Legal services board. Retrieved from <http://lsbc.vic.gov.au/?page_id=568>
- 302 Legal services. Chapter 7.<<http://ncp.ncc.gov.au/docs/AST4As-008.pdf>>
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<http://www.liv.asn.au/PDF/Practising/Ethics/2008WAConductRules.aspx>
- 304 Legal services. Chapter 7.<<http://ncp.ncc.gov.au/docs/AST4As-008.pdf>>
- 305 Australian Solicitors' Conduct Rules <<https://www.lawcouncil.asn.au/lawcouncil/images/LCA-PDF/a-z-docs/AustralianSolicitorsConductRules.pdf>>
- 306 Akpet, Koli Ori. "Australian Legal System: The Legal Profession and the Judiciary." Ankara B. Rev. 4 (2011): 71.
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- 311 Mark, Steve, et al. "Preserving the Ethics and Integrity of the Legal Profession in an Evolving Market: a Comparative Regulatory Response." *Regulating and Deregulating Lawyers in the 21st Century* (2010): 3-4.
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- 314 Victorian legal services board website<http://lsbc.vic.gov.au/?page_id=568>
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- 368 Legal Profession (Publicity) Rules
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- 653 Results of the regression analysis provided in **Annexure B (2)** of the report.



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