

From: Richard Zorzas Access to Justice Blog <comment-reply@wordpress.com>
Subject: [New post] Does the Concept of “Entity Regulation” Provide an Entry Point for Access Contribution Requirements
Date: April 2, 2016 at 11:20:20 AM EDT
To: richard@zorza.net
Reply-To: "Richard Zorza's Access to Justice Blog" <comment+eg51cwk4_jkqpnlnj-v1dqe@comment.wordpress.com>

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New post on Richard Zorza's Access to Justice Blog

[Does the Concept of “Entity Regulation” Provide an Entry Point for Access Contribution Requirements](#)

by [richardzorza](#)

The ABA Commission on the Future of Legal Services has just released for comment an [Issues Paper Concerning Unregulated LSP Entities](#). The basic idea is that currently unregulated legal services provider entities, such as online document assembly services, might be subject to regulation at the entity level, rather than, as law firms are, at the lawyer level.

The idea is that such groups are very different from law firms, indeed almost by definition they are not providing traditional lawyer services, and that it would be easier and fairer, and help create better internal conduct incentives, to regulate the entity itself, as the real actor. (In this post I am setting aside for now the real risk that such regulation could provide a fig leaf for much more aggressive and anti-competitive behavior by some bar associations of activities that are far from appropriate regulation by the bar.)

One of the interesting potentials is for such regulation to make imposition of real access to justice requirements on such entities, and then perhaps ultimately on the traditionally regulated profession of lawyers themselves. I have [previously blogged](#) both about the craziness of how little we expect from lawyers in return for the highly valuable monopoly professional membership they enjoy, and about the idea of granting a limited practice license to tech-based entities, but only in return for concessions such as highly reduced pricing for low and middle income people.

Lets play this out a bit more. As the Issues Paper puts it:

. . . [W]e know that these unregulated LSP entities offer a range of services, including automated legal document assembly for consumers, law firms, and corporate counsel; expert systems that address legal issues through a series of branching questions and answers; electronic discovery; legal process outsourcing; legal process insourcing and design; legal project management and process improvement; knowledge management; online dispute resolution; data analytics; and many others.

To the extent that these entities feel constrained or at risk by current regulatory structures, they might be willing to accept access to justice conditions in return for regulatory authorization and protection. Given that many of these services are delivered at essentially zero marginal cost, this might be only a small burden on these entities.

While the conditions might vary with the type of service, here are some examples:

Free or very reduced cost access to services such as document assembly and expert systems.

Development those tools in areas that many entities might avoid because of lower demand or return.

Making available to access to justice organizations that serve poor and middle income people, pro bono capacities such as those listed above, that are not zero marginal cost.

Transparency in certain data analytics perceived as needed for full access to justice for all.

Use of data and inter connectivity standards so that these systems can integrate seamlessly with courts, with each other, and both community-based nonprofit and traditional lawyer providers.

Provider taxes dedicated to access to justice equalization.

All in all, an opportunity to explore broader solutions for access to justice. And, indeed, the possible intellectual structure for such a direction is there in the [proposed](#) ABA Regulatory Objectives, which explicitly includes access to justice.

[richardzorza](#) | April 2, 2016 at 10:20 am | Categories: [100% Access Strategy and Campaign](#), [ABA](#), [De-Regulation](#), [Document Assembly](#), [Incnetives](#), [Metrics](#)

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www.srln.org is the central source of information and networking on self help support programs for courts, legal aid and community practitioners.

Personal medical updates here:

<http://www.caringbridge.org/visit/richardzorza>.

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Richard Zorza

richard@zorza.net

Main Number 202-549-1128 (work and mobile)

Home: 202-362-3715

Skype for Richard: richardzorza; Skype for our home: zorza-dc (Software, at www.skype.com)

Snail mail: 10450 Lottsford Rd, #5014

Mitchellville MD 20721

Webpage: www.zorza.net