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OCCASIONAL
PAPER

Innovations in the Provision of Legal Services in the United States

An Overview for Policymakers

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Summary

Over the past 20 years, globalization, consolidation, information technology, and litigation financing have begun to change the way that many legal services are provided in the United States. The innovations that have occurred have often been influenced by experiences elsewhere, as in the case of traditional prohibitions on litigation financing, for which the United Kingdom and Australia have led the way in relaxing rules. The same globalization and offshoring of information services that have occurred in accounting, product support, and medical transcription have begun to occur in legal services. Yet numerous restrictions on the provision of legal services—from traditional restrictions on litigation and firm financing to the requirement that a legal provider be a licensed attorney in a particular state—limit the kinds of innovation that are permissible.

In this paper, we present a framework for examining recent and ongoing innovations in legal services in the United States. Our goal is to provide a framework that can aid policymakers in understanding the likely effects of innovations and the role of policy in promoting or deterring innovation, and to provide criteria that policymakers might use to decide whether the advantages of an innovation justify loosening existing restrictions.

Having set out our framework, we then consider a number of recent or potential examples of innovation in legal services. These relate to the way that services may be supplied in the future (in particular to their unbundling and to offshore outsourcing), the onset of multidisciplinary partnerships (linking attorneys to other professional service providers), the potential for new methods of funding both litigation and classes of legal services (through new sources of capital), new pricing strategies, and potential roles for information technology (both to lower production costs and to enhance consumer information). In the process, we provide a series of research questions that we believe would help in understanding these factors as potentially beneficial sources of innovation in legal services. We then end by discussing the role of regulation in promoting or impeding innovation.