

Innovation and entry by entrepreneurs is a powerful force for change. [Joseph Schumpeter](#) saw these forces as the primary engine for long-term growth, even as the process of creative destruction destroyed existing wealth, including monopoly rents associated with established regulatory regimes. The forces of creative destruction seemingly have their sights squarely on the legal profession, promising greater access to legal services while simultaneously threatening licensed lawyers' monopoly over legal services.

The traditional market for legal services is breaking down in the face of increased competition from numerous sources. One of the biggest threats comes from new technologies that enable clients to perform many tasks formerly performed by lawyers. For example, large clients now use sophisticated search algorithms to substitute for hours of manual document search and selection formerly performed in large law firms. As technology improves, it is not hard to imagine the expansion of tasks performed by computers rather than lawyers. At the low end, legal software products allow unsophisticated consumers competently to perform a wide variety of legal tasks with little or no additional input from legal professionals. These and other legal information products allow the seller of such information and services to take advantage of technology as well as economies of scale and scope that were not captured by the traditional market.

The speed and extent to which such legal information products transform the supply of law legal services depends upon the extent to which innovation and entry by entrepreneurs, especially by those outside the traditional legal sector, occurs. In our forthcoming [article](#), Larry Ribstein and I discuss two important impediments to such entry. The first is the current system of legal regulations, especially those that forbid non-lawyers from practicing law, which directly suppresses legal innovation.

The current system of legal regulation is based upon the assumption that legal advice is conveyed through one-to-one agency relationships in which an uninformed client depends on her lawyer's judgment and independence. This assumption supports the system of attorney ethical rules designed to reduce the agency costs of this one-to-one relationship by promoting lawyers' loyalty to clients. It also supports licensing laws to ensure lawyer quality.

However, these regulations are costly. They constrain the supply of legal services by suppressing the use of legal information products and services that would directly compete with traditional legal services. These rules further inhibit innovation by preventing use of private contractual arrangements that limit organizational flexibility and increase the cost of collaboration between lawyers and non-lawyers. Moreover, it is far from clear that such rules would serve much of a beneficial purpose outside of the traditional model of legal advice. For example, if consumers of legal services instead could use legal information products traded in a broad and transparent market, the underlying rationale for ethical rules and licensing would be greatly diminished. Market competition would reduce consumers' reliance on the traditional agency relationship and market-based mechanisms could help ensure quality. Thus, one effect of the current system of legal regulations is to

suppress the development of a robust market for legal information products that, left unimpeded, would likely threaten both the viability and underlying rationale of the current regulatory system.

How this struggle comes out in equilibrium will depend upon how much pressure is placed on the existing system by the amount of innovation and entrepreneurial entry that occurs. This in turn will depend upon the returns to such investments, which will in turn depend upon the ability of the entrepreneur to capture the returns from his investment. This brings us to the second impediment we identify, a system of relatively weak intellectual property right protection for legal information that reduces the incentives for legal innovation. I will take up this issue in my second post.