

Should will writing be a reserved legal activity?

The following slides are modified from a presentation given by the OFT on 26th July 2010.

The slides have been modified to reflect comments made during and after the presentation.

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Background to OFT's interest

- **The Scottish Government are introducing a regulatory framework for non-lawyer will-writers.**
- **The OFT responded to the consultation saying regulation should only be considered if evidence existed to show that:**
 - There is current consumer detriment from will writers that are not members of professional bodies.
 - The current tools, such as self regulation, consumer education and consumer enforcement, are insufficient to protect consumers
 - Reserving is the most efficient means of correcting the detriment
 - Any negative impact from reserving is offset by benefits.
- **Without this evidence, the OFT felt regulation would be disproportionate.**

In what circumstances should will-writing be reserved?

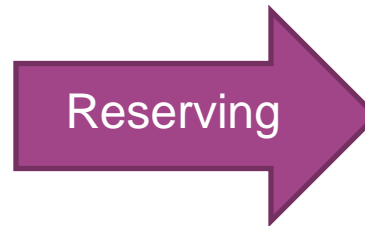
- Where the evidence shows that reserving will-writing will create greater benefits than costs:
 - **Benefits**
 - Will reserving prevent harmful cross selling?
 - Tackle pressure selling?
 - Increasing the quality of service?
 - Help to prevent high prices?
 - Increasing take-up of wills by consumers?
 - **Costs**
 - Will reserving push prices up? (both for consumers and suppliers).
 - Will this result in lower take up by consumers?
 - Push reputable supplier out of the market?
 - Result in reduced access from fewer suppliers?

In what circumstances should will-writing be reserved?

- Where the evidence shows where the problems are coming from and what effect reserving will-writing will have on these:

Where are the problems coming from?

- Solicitors
- Will writers with Trade Association (TA)
- Will writers with no TA
- Others will writers e.g. banks



What effect?

In what circumstances should will-writing be reserved?

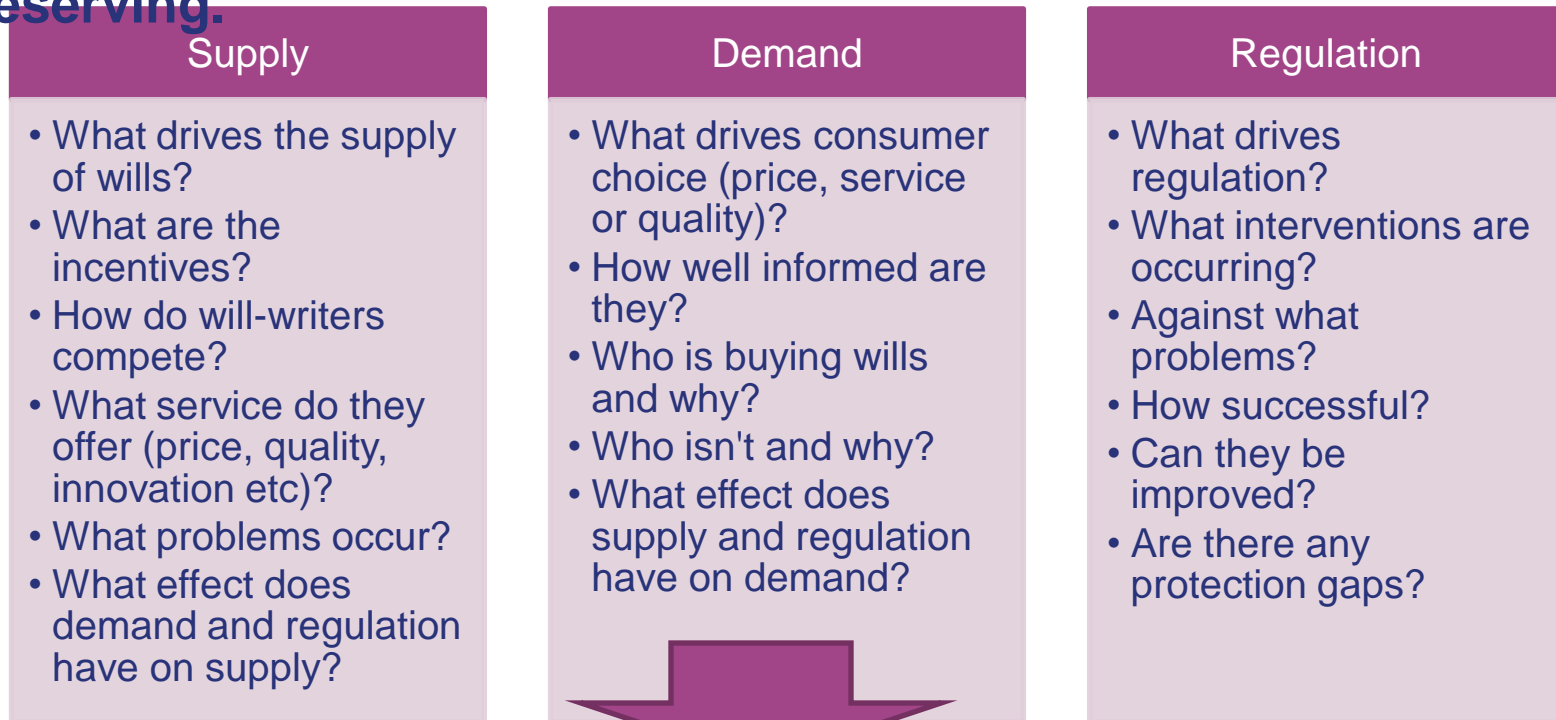
- Where the evidence shows that reserving will-writing will create greater benefits than the alternative tools on offer.
 - For example, how effective are existing tools at addressing these concerns?
 - Reserved entity regulation (e.g. Solicitors Regulation Authority)
 - Government Approved self regulation (Consumer Codes Approval Scheme e.g. Institute of Professional Will-writers)
 - Independent self regulation (e.g. The Society of Will-writers Fellowship of Professional Will-writers)
 - Consumer Enforcement (e.g. Consumer Protection Regulations and Trading Standards)
 - Consumer education campaigns.

What research would be required for a cost/benefit analysis?

- **Two complementary pieces of research could be conducted:**
 1. **Snapshot of the Scottish market now and in 4 years:**
 - A before and after evaluation to see whether reserving the activity has brought improvements; and
 2. **A static analysis of the market in England and Wales looking at the drivers for:**
 - Supply
 - Demand, and
 - Regulation.



- Only by understanding the actions and incentives of suppliers, consumers and regulators can you understand the impact of reserving.



Analyse costs and benefits?

- Reserving
- More effective usage of current tools
- Increased consumer education.

In conclusion

- **The OFT is not against reserving will writing, but is against extending regulation in this area without a costs, benefit assessment.**
- **A cost benefit analysis should consider:**
 - What problems exist in the market?
 - Who is causing them?
 - How effective is the current consumer protection?
 - Can it be improved?
 - What effect, if any, would reserving have on the market (both positive and negative).
- **The OFT would be willing to assist in this research.**