

CONSUMER PERCEPTIONS OF ONLINE LEGAL SERVICE PROVIDERS

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ABSTRACT

Due to the bespoke nature of traditional legal service delivery and the credence nature of legal services, the quality and value of legal services can be difficult to ascertain. As a result, society has relied upon strict gatekeeper regulations to ensure that only appropriately qualified persons are able to practice law. However, concerns remain that the social contract between the legal profession and society does not necessarily protect consumers from unprofessional service delivery. Access to legal services has also been raised as a concern. Legal services are commonly viewed as too expensive and beyond the reach of the 'ordinary' consumer. The advent of low-cost, high-volume online legal services has the potential to increase the cost efficiency of legal service delivery and improve access to justice. However, this potential will only be met if consumer confidence in the value and quality of online legal service delivery is justified. Notably, legal service value (whether online or otherwise) has been described as a mystery. Indeed, many questions arise in relation to the capacity of online legal services to deliver effective access to justice. Numerous quality indicators, such as peer review, should be investigated; however, user experience provides an excellent starting point for examining the quality of online legal services. Drawing on a combination of data from online consumer review sites and literature that models service quality, this study aims to provide a clearer picture of the factors leading to either a positive or a negative consumer experience of online legal service delivery. The findings of this study can be used to better inform consumers and regulators of the standards that might be applied to discriminate between poor quality and good quality online legal services.

I INTRODUCTION

As a result of the low start-up costs and overheads, online legal services are proliferating in Australia.¹ Their growth rates are strong. In November 2019, after reporting a doubling of revenues year on year, the online Australian law firm, Lawpath, announced a \$4.4 million capital raise to fund expansion into Asia.² Robust growth in online legal services has also been reported in the United States('US'),³ where it is expected that the percentage of legal services conducted

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¹ Law Council of Australia, 'Futures Summit' (Background Paper, 13 September 2018) [22]–[26]; John Grimley, 'Why the Future Looks Bright for Online Legal Services in Asia', *Asia Law Portal* (5 November 2016) <<https://asialawportal.com/2016/11/05/why-the-future-looks-bright-for-online-legal-services-in-asia/>>.

² Stephanie Palmer-Derrien, "'A Household Name": Lawpath Raises \$4.4 million in Quest to Bring Better Legal Services to SMEs' *Smart Company* (6 November 2019) <https://www.smartcompany.com.au/startupsmart/news/lawpath-funding-legal-advice-smes/>.

³ Dan Cook, *Online Legal Services in the US* (Report No OD5638, IBISWorld, June 2019) 9.

online will grow to 23.2% by 2024.⁴ Similarly, an increase in the use of online legal services is also occurring in England and Wales.⁵ The global growth in the delivery of online legal services has been fuelled by a convergence of factors common to many knowledge-based professions currently undergoing digital disruption. These factors include increased demand for accessible and affordable legal services, the development of new low-cost business models designed to standardise and thus commoditise legal service delivery, improvements in technological capabilities and market liberalisation.⁶

Due to the growth in low-cost online legal services, many low-to-middle income and small business consumers who formerly could not afford legal advice can now have their legal needs met.⁷ In the online environment, legal services have not only become more affordable but also more accessible and more comparable. Online legal services enhance client choice and client control by providing the means for packaging or unbundling legal services more easily. Clients may opt for simple automated documentation or for a range of generic or bespoke advisory services generally at flat fees.⁸ The flat fee structure provides greater transparency in relation to each component of the legal services they purchase.

Online legal services vary in the scope of services offered. Some providers, such as the Australian firms, LegalVision⁹ and Virtual Legal¹⁰ and the Hong Kong firm, Zegal,¹¹ operate as virtual law firms and offer a catalogue of user-friendly legal information, automated legal documentation, workflow solutions and customised legal advice across a range of property and commercial matters. Using artificial intelligence, Australia-based Adieu¹² and United Kingdom ('UK') -based Robot Lawyer, LISA¹³ offer legal support services that help parties reach a settlement. Other firms specialise in legally related services, such as intellectual property management, conveyancing and company registration¹⁴ or confine their operations to generic

⁴ Ibid 11.

⁵ Law Society of England and Wales, *The Future of Legal Services* (Report, January 2016) 14, 17

<<https://communities.lawsociety.org.uk/law-management-news/the-future-of-legal-services-report-published/5053389.article>>.

⁶ Qian Hongdao et al, 'Legal Technologies in Action: The Future of the Legal Market in Light of Disruptive Innovations' (2019) 11(4) *Sustainability* 1015; Richard Susskind and Daniel Susskind, *The Future of The Professions: How Technology will Transform the Work of Human Experts* (Oxford University Press, 2015) Ch 2; Joan C Williams, Aaron Platt and Jessica Lee, 'Disruptive Innovation: New Models of Legal Practice' (2015) 67(1) *Hastings Law Journal* 1, 59-78.

⁷ Benjamin H Barton and Deborah L Rhode, 'Access to Justice and Routine Legal Services: New Technologies Meet Bar Regulators' (2018) 70(4) *Hastings Law Journal* 955, 960-2.

⁸ See Charlotta Kronbald, 'Digital Innovation in Law Firms: The Dominant Logic Under Threat' (2020) 29 (3) *Creativity and Innovation Management* 515, 4.2.1; Cook (n 3) 19-20.

⁹ Home Page, *LegalVision* (Web Page, 2020) <<https://legalvision.com.au/>>.

¹⁰ Home Page, *Virtual Legal* (Web Page, 2020) <<https://www.virtuallegal.com.au/>>.

¹¹ Home Page, *Zegal* (Web Page) <<https://zegal.com/en-au/home/>>.

¹² Home Page, *Adieu* (Web Page, 2020) <<https://www.adieu.ai/>>.

¹³ Home Page, *Robot Lawyer LISA* (Web Page, 2019) <<https://www.robotlawyerlisa.com/>>.

¹⁴ See, eg, Home Page, *EasyCompanies* (Web Page, 2020) <<https://easycompanies.com.au/>>; Home Page, *Myplace Conveyancing* (Web Page, 2016) <<https://myplaceconveyancing.com.au/>>.

advice and automated legal documentation.¹⁵ Some providers also run ‘on-demand’ platforms that match independent lawyers with clients in much the same way that Uber matches drivers with passengers.¹⁶

This paper focuses on online firms that provide legal documentation *and* bespoke advisory services, such as LegalVision in Australia, and online legal service providers, such as Rocket Lawyer,¹⁷ LegalZoom¹⁸ and LegalShield in the US.¹⁹ Drawing on a combination of data from online consumer review sites and literature that models service quality, this paper seeks to outline the factors that lead to either positive or negative reviews of online legal service delivery. In doing so, this paper seeks to identify the critical and sub-critical dimensions of service quality for this category of online legal service provider. As the digital transformation of the legal profession escalates, the identification of consumer perceptions of online legal service quality will not only assist legal service providers to better respond to client requirements but will also assist regulators to better understand how to address an increasingly commoditised legal services market.

This paper commences by examining the current regulatory framework for legal service delivery, including online legal service delivery, and considers how that framework relates to legal service quality. The authors identify gaps in the framework with reference to legal service quality and consider how consumer perceptions of legal service quality might be used to address that gap. Next, the authors outline the methods that they used to conduct a content analysis of consumer reviews of online legal service providers in the US and Australia. The results from the analysis are presented and discussed. Service quality dimensions are then identified and ranked in terms of their importance. The authors also examine the relationship between consumer perceptions of quality with consumer perceptions of value. Finally, the authors discuss the implications of their findings for online legal service providers and regulators.

¹⁵ See, eg, Home Page, *Ausdocs Online* (Web Page, 2020) <<https://ausdocsonline.com/>>; Home Page, *Lawlive* (Web Page, 2020) <<https://lawlive.com.au/>>.

¹⁶ See, eg, Home Page, *Contact Law* (Web Page, 2020) <<https://www.contactlaw.co.uk/>>; Home Page, *Compare Legal Costs* (Web Page, 2014) <<http://www.comparelegalcosts.co.uk/>>; Home Page, *Avvo* (Web Page, 2020) <<https://www.avvo.com/>>; Home Page, *Lawpath* (Web Page, 2020) <<https://lawpath.com.au/>>. See further Nicole Billett, ‘The Gig Lawyer in the Gig Economy’, *Lawyers Weekly* (7 December 2017) <<https://www.lawyersweekly.com.au/sme-law/22395-the-gig-lawyer-in-the-gig-economy>>.

¹⁷ Home Page, *Rocket Lawyer* (Web Page, 2020) <<https://www.rocketlawyer.com/>>.

¹⁸ Home Page, *LegalZoom* (Web Page) <<https://www.legalzoom.com/>>.

¹⁹ Home Page, *LegalShield* (Web Page, 2020) <<https://www.legalshield.com/>>.

II THE REGULATION AND QUALITY OF LEGAL SERVICES

Economic theorists have identified two major sources of market failure in the delivery of legal professional services: 1) information asymmetry and; 2) adverse selection.²⁰ Information asymmetry relates to clients' inability to benchmark the quality of the law firm that they approach *ex ante* and their inability to measure the quality and value of the legal advice and representation that they receive *ex post*. This derives from clients' limited access to comparative information about law firm performance and the nature of the legal services market. Clients are similarly hampered by their lack of technical legal knowledge. Many clients regard the law and its processes as an unknowable 'black box',²¹ which makes it impossible to determine whether their interaction with a legal service provider has led to an optimal legal outcome. Information asymmetry also arises due to the heterogeneous nature of many legal problems, the array of strategies and practices that law firms may adopt in relation to similar legal issues and the significance of the role played by clients in providing information and instructions to law firms. No one legal matter is likely to be resolved in precisely the same way by different law firms or by the same firm representing different clients;²² thus, it is difficult to compare the quality of legal service providers.

Information asymmetry creates moral hazard and adverse selection problems. Due to the inability of clients to assess the quality of the legal services that they receive, lawyers may behave opportunistically and over-serve their clients or cut corners and over-charge clients for poor quality services.²³ Opportunistic lawyers, in turn, enjoy an unfair competitive advantage over diligent lawyers whose corresponding quality of work cannot be ascertained and whose hard work cannot be observed. Consumers may be able to shop around in relation to the price of legal services;²⁴ however, it is unlikely that they will be able to map the price paid against the value

²⁰ Camille Chaserant and Sophie Harnay, 'The Regulation of Quality in the Market for Legal Services: Taking the Heterogeneity of Legal Services Seriously' (2013) 10(2) *European Journal of Comparative Economics* 267.

²¹ Solicitors Regulation Authority, *Research on Consumers' Attitudes towards the Purchase of Legal Services* (Research Report, October 2010).

²² George N Kenyon and Kabir C Sen, *The Perception of Quality Mapping Product and Service Quality to Consumer Perceptions* (Springer, 2016) 215. For more on the potential of third parties who may be in dispute with a client to also affect the nature and scope of the legal services, which in turn may also lead to heterogeneity see: Heather M Stewart, Christine A Hope and Alan P Muhlemann, 'Service Quality in the Legal Profession: a Review' (2000) 2(3) *International Journal of Management Reviews* 261, 263.

²³ Richard Moorhead, 'Precarious Professionalism: Some Empirical and Behavioural Perspectives on Lawyers' (2014) 67 *Current Legal Problems* 447, 454-5, summarising three studies on the variable quality of legal services provided by lawyers.

²⁴ Legal Services Consumer Panel, *Tracker Survey 2018 Briefing Note: How Consumers are Choosing Legal Services* (Briefing note, 1 August 2018).

received. As a result, poor performing lawyers with lower costs may well drive diligent lawyers out of the market, which in turn could create adverse selection problems.²⁵

In part, the potential for such market failures establishes the rationale for the regulation of legal services.²⁶ Other regulatory rationales include, the need to protect third parties, such as the beneficiaries of a trust or a will, who might be adversely affected by poor lawyering,²⁷ the need to ensure that lawyers properly perform gatekeeping roles to discourage their clients from engaging in serious wrongdoing²⁸ and the need to support the rule of law ('ROL') and the proper administration of justice.²⁹ In most common law countries, the regulatory framework comprises a system of licensure (which in some cases incorporates ongoing obligations related to governance and risk management), the monitoring and enforcement of professional standards and safeguards related to the use of client funds.³⁰ Liability for legal malpractice exerts further control over lawyers' conduct.³¹

However, the very presence of regulatory schemes may lull consumers into a false sense of security. Many assume that licensure and the regulation of professional conduct guarantee the delivery of high-quality legal services;³² however, this is not always the case. There is a high degree of variability in the competence and professionalism of lawyers and law firms.³³ Thus, while licensure and the regulation of professional conduct serve to ensure basic thresholds of competence, they cannot help consumers discriminate between levels of legal professional service quality above entry-level minimums.³⁴

Additionally, it is important to note that the regulatory schemes do not provide ubiquitous coverage of the legal services market. For example, firms in England and Wales that provide

²⁵ Chaserant and Harnay (n 20) 270.

²⁶ Andrew Boon (ed), *International Perspectives on the Regulation of Lawyers and Legal Services* (Hart Publishing, 2017) 2-3; Noel Semple, *Legal Services Regulation at the Crossroads: Justitia's Legions* (Edward Elgar Publishing, 2015) 1.1.1; Benjamin Hoorn Barton, 'Why do we Regulate Lawyers: An Economic Analysis of the Justifications for Entry and Conduct Regulation' (2001) 33(2) *Arizona State Law Journal* 429.

²⁷ Semple (n 26) 28.

²⁸ John C Coffee Jr, *Gatekeepers: The Professions and Corporate Governance* (Oxford University Press, 2006) 192.

²⁹ Boon (n 26) 3-5.

³⁰ *Ibid* 15.

³¹ Herbert M Kritzer, 'Lawyers' Professional Liability: Comparative Perspectives' (2017) 24(2) *International Journal of the Legal Profession* 73.

³² Legal Services Consumer Panel, *Quality in Legal Services* (Report, November 2010).

³³ Moorhead (n 23) collated the findings of three studies that demonstrated that one in four clients receive substandard legal work; Richard A Posner and Albert H Yoon, 'What Judges Think of the Quality of Legal Representation' (2011) 63(2) *Stanford Law Review* 317, 319-20, 326 in which it was found that judges perceive substantial disparities in the quality of legal representation in 20-40% of criminal cases. For further discussion, see Avrom Sherr, 'The Value of Experience in Legal Competence' (2000) 7(2) *International Journal of the Legal Profession* 95, 106 that notes the variability in the ability of lawyers to conduct an effective client interview; 22-24% of lawyers in the study failed to obtain a clear history of legal proceedings in a client's matter.

³⁴ Diego d'Andria, 'The Economics of Professional Services: Lemon Markets, Credence Goods, and C2C Information Sharing' (2013) 7(1) *Service Business* 1, 8.

non-reserved legal services do not need to be regulated by the Solicitors Regulation Authority.³⁵ Reserved legal activities include appearing before a court, conducting litigation, undertaking reserved instrument work,³⁶ probate activities, notarisation and the administration of oaths. That leaves a broad swathe of legal service activities that are regulated by other means³⁷ or not regulated at all (e.g., the provision of advice in non-litigious commercial, intellectual property and information technology related matters and the provision of financial and estate planning advice).

The scope of non-regulated legal services in Australia and the US is far narrower. However, professional regulatory coverage is still not universal. Both jurisdictions define the practice of law widely and stipulate that any party practicing law must be authorised by a relevant body such as a Bar Association³⁸ or a statutory entity.³⁹ In the US, unlicensed activity that constitutes the provision of advice regarding legal rights, obligations and privileges will attract this prohibition.⁴⁰ Similarly, without admission to the bar, the drafting of legal documentation⁴¹ and the conduct of litigation will be unlawful. However, as the provision of generic online legal forms is unlikely to constitute the practice of law, it will not be captured by professional regulatory schemes.⁴² Australian jurisprudence as to what constitutes the unauthorised practice of law is analogous (albeit relatively more liberal). Australian courts also distinguish between the provision of bespoke legal advice and generic legal information⁴³ and between the drafting of legal documentation and the clerical completion of pre-prepared legal templates.⁴⁴ The provision of legal services is thus broader than engaging in the practice of law. Consequently, not all legal

³⁵ *Legal Services Act 2007* (UK) c 29, ss 12, 13, sch 2 ('*Legal Services Act*').

³⁶ *Ibid* sch 2, s 5; reserved instrument activities include the preparation of conveyancing documentation or court-related documentation.

³⁷ For example, barristers are regulated by the Bar Standards Board and patent attorneys are regulated by the Intellectual Property Regulation Board.

³⁸ In the United States ('US'), attorneys are admitted to the bar on a state-by-state basis. Various state laws prohibit the unauthorised practice of law. See *Judiciary Law*, New York, ch 30, art 15 ('*Judiciary Law*'), §478; *Business and Professions Code, California Business and Professions Code*, ch 4, art 7 ('*Business and Professions Code*'), §§6125-6126; and *Revised Judicature Act 1961*, Michigan Compiled Laws, ch 600, ch 9 ('*Revised Judicature Act 1961*'), §600-916. See also, American Bar Association, Standing Committee on the delivery of legal services, *Model Rules of Professional Conduct*, r 5.5.

³⁹ In Australia, where lawyers are also admitted on a state-by-state basis, the unauthorised practice of law is a criminal offence. See, eg, *Legal Profession Uniform Law 2015* (NSW) s 10; *Legal Profession Act 2007* (Qld) s 24; *Legal Profession Act 2008* (WA) s 12; *Legal Practitioners Act 1981* (SA) s 21; and *Legal Profession Act 2007* (Tas) s 13(1).

⁴⁰ See, eg, *In re Rose*, 314 BR 663 (Bankr ED Tenn, 2004) ('*In re Rose*'); *Unauthorized Practice of Law Committee v Jansen*, 816 SW 2d 813 (Tex Ct App, 1991) ('*Unauthorized Practice of Law Committee v Jansen*').

⁴¹ See, eg, *McKeage v TMBC, LLC*, 847 F 3d 992 (8th Cir, 2017) ('*McKeage v TMBC, LLC*'); *Greenspan v Third Federal Savings and Loan*, 894 NE 2d 1250 (Ohio Ct App, 2009) ('*Greenspan v Third Federal Savings and Loan*'); *Franklin v Chavis*, 640 SE 2d 873 (2007) ('*Franklin v Chavis*').

⁴² See, eg, *Janson v LegalZoom.com Inc*, 802 F Supp 2d 1053 (WD Mo, 2011) 1063 ('*Janson v LegalZoom.com Inc*'). However, it is notable that in this case the Court found that the online service provider, LegalZoom, had engaged in the unauthorised practice of law because its interactive online forms supported by non-lawyer employee assistance went beyond blank self-help forms.

⁴³ *Australian Competition and Consumer Commission v Murray* (2002) 121 FCR 428, [94] ('*Australian Competition and Consumer Commission v Murray*').

⁴⁴ *Legal Practice Board v Girardo* [2010] WASC 4, [12]-[13] ('*Legal Practice Board v Girardo*'); *Cornall v Nagle* [1995] 2 VR 188, 204-5 ('*Cornall v Nagle*').

services delivery is subject to licensure and professional conduct regulation. Conversely, research demonstrates that consumers do not readily differentiate between regulated and non-regulated legal service providers.⁴⁵ Thus, consumers may be unaware that the non-regulated legal service providers that they deal with do not have to abide by professional conduct rules or carry mandatory practice insurance.

III WEB-BASED REVIEW AND RATING SERVICES

Web-based review and rating services can help to address problems associated with the lack of transparency and comparability faced by consumers when trying to discriminate between legal service providers. Users may anonymously post reviews to review sites about the quality of the legal services they have received. Users can also rate their legal services based on a star-rating scheme that aggregates users' responses according to pre-defined criteria using a 5- or 10-point scale. For example, consumers using US rating site Martindale-Hubbell are asked to rate their attorneys on the following criteria: 1) communication ability; 2) responsiveness; 3) quality of service; and 4) value for money.⁴⁶ Alternately, users may use such sites to search for and vet potential legal service providers to reduce the risk and uncertainty associated with their purchase of legal services. Small- to medium-sized businesses typically use review sites to obtain comparative quotations and advice on commercial matters, such as leases, data protection and company formation.⁴⁷ Review sites are also used by a growing number of in-house legal teams to help manage their external law firm legal spend.⁴⁸ Notably, the evidence indicates that while very few consumers use review sites when searching for legal advisors,⁴⁹ a small number of consumers

⁴⁵ Economic Insight Ltd, *Better Information in the Legal Services Market* (Report, June 2018) 1.3. As a result, from 25 November 2019, regulated law firms have been required to display an SRA digital badge on their websites: Solicitors Regulation Authority, *SRA Transparency Rules* (Web Page, 30 May 2018) 4.1 <<https://www.sra.org.uk/solicitors/standards-regulations/transparency-rules/>>.

⁴⁶ A Consumer's Guide to Peer and Client Review Ratings, *Martindale* (Web Page, 2020) <<https://www.martindale.com/ratings-and-reviews/consumers/>>.

⁴⁷ Examples include the United Kingdom's Law Superstore: Business: Home Page (Business), *Lawsuperstore* (Web Page, 2020) <<https://www.thelawsuperstore.co.uk/business>> and the US UpCounsel: Home Page, *UpCounsel* (Web Page, 2020) <<https://www.upcounsel.com/>>.

⁴⁸ See, eg, Crowd One, *Crowd and Co* (Web Page) <<https://crowdandco.com/mp/crowdone>>, which offers rate and review applications.

⁴⁹ Legal Services Consumer Panel, *Comparison Websites* (Report, February 2012) 2.9. See also, American Bar Association, *Perspectives on Finding Personal Legal Services: The Results of a Public Opinion Poll* (Report, February 2011) 14 in which it was found that about 3.5% of the respondents that would use online searches to find a lawyer would refer to review and rating sites.

do so when searching for information on simple legal issues, such as those related to wills, estates and conveyancing.⁵⁰

By supporting client choice, these TripAdvisor-style sites have the potential to strengthen competition between law firms and drive down the price of legal services.⁵¹ Consequently, the UK's Legal Services Consumer Panel has characterised them as a useful tool for building consumer capacity to demand more from legal service providers and for ensuring that the benefits of market-based reforms introduced by the *Legal Services Act 2007* are fully realised.⁵² The support of these services in the UK mirrors other efforts to promote increased market transparency; for example, the Solicitors Regulation Authority introduced a mandatory price and service information provision for regulated law firms engaged in conveyancing, probate, motoring offences, employment claims, immigration, debt recovery and licensing matters.⁵³ Even in the US, which has not seen the microeconomic reform of the legal services market experienced in the UK and Australia,⁵⁴ review and rating sites are viewed as an important tool to help shift the power imbalance that often exists between law firms and clients in favour of a more empowered and better informed clientele.⁵⁵ Indeed, consumers' rights to provide honest reviews about products or services are now enshrined in the US *Consumer Review Fairness Act*,⁵⁶ which limits the ability of any business (including law firms) to prohibit or restrict consumers from providing reviews.

Consumer feedback about service quality not only assists consumers to make better choices, it also provides information to legal service providers to help them improve the quality of their services. Evidence of how legal service providers use consumer ratings is limited; however, evidence from other service sectors, such as the hospitality sector, shows that online reviews drive managers to improve staff training, adjust staffing levels and increase or enhance amenities.⁵⁷ For similar reasons, responding to client feedback is frequently recommended as a

⁵⁰ See, for eg, Home Page, *LawSuperstore: Personal Services* (Web Page, 2020) <<https://www.thelawsuperstore.co.uk/>>.

⁵¹ Legal Services Consumer Panel, *Comparison websites* (n 49) 1.5. See also, Barton and Rhode (n 7) 962.

⁵² Legal Services Consumer Panel, *Comparison websites* (n 49) 2.2.

⁵³ Solicitors Regulation Authority, *SRA Transparency Rules* (n 45).

⁵⁴ Noel Semple, *Legal Services Regulation at the Crossroads: Justitia's Legions* (Edward Elgar, 2015), ch 4.

⁵⁵ Barton and Rhode (n 7) 962.

⁵⁶ 15 USC § 45b (2016).

⁵⁷ Edwin N Torres, Howard Adler and Carl Behnke, 'Stars, Diamonds, and Other Shiny Things: The Use of Expert and Consumer Feedback in the Hotel Industry' (2014) 21 *Journal of Hospitality and Tourism Management* 34.

means of retaining clients and legal practice building.⁵⁸ Consumer reviews and ratings can also provide valuable information and support to regulators.⁵⁹

Despite their potential to increase transparency and facilitate more dynamic competition, concerns have been expressed that review sites for legal services do not necessarily operate in consumers' best interests.⁶⁰ If true, this suggestion would mean that such sites may not provide good evidence of legal service provider quality. These concerns, which undermine consumer trust in the sites, relate to: a lack of transparency regarding commercial relationships that might influence reviews and ratings;⁶¹ limited market coverage that results in cherry picking rather than the meaningful comparison of law firms; misleading information regarding how the reviews are obtained or the ratings calculated; data integrity; and misleading claims about the ratings sites themselves.⁶² For example, US lawyer rating and review site, Avvo, has been subject to a number of legal claims that reflect these concerns. In *Davis v Avvo Inc*⁶³ a class action alleged that more favourable ratings and designations were attributed to attorneys who paid Avvo for advertising and related services compared to attorneys who did not enter into any commercial relationship with Avvo. The suit alleged that the attorneys who paid Avvo thus falsely appeared to be more qualified than non-paying attorneys. The suit was dismissed on the basis that Avvo's reviews and ratings were protected free speech and that the designations used by Avvo, including labels such as 'Pro', constituted non-actionable puffery.⁶⁴ Other problems with the suit related to the paucity of evidence that any consumers had actually been misled or that the lead plaintiff had suffered reputational harm as a result of the positive ratings received by the site's paying attorneys. A similar outcome arose in earlier proceedings that sought to challenge the accuracy and veracity of Avvo's numerical ratings.⁶⁵ In that instance, the Court dismissed the suit because the ratings constituted an abstraction of subjective reviewers' opinions and were not presented as statements

⁵⁸ For example, Anonymous, 'Defining Key Competencies for Business Lawyers' (2016) 72 (1) *The Business Lawyer* 101, Behavioural Competencies of Business Lawyers § 10; Nancy Byerly Jones, 'Face Your Fear of Client Feedback—and Reap the Benefits' *Massachusetts Lawyers Weekly* (4 June, 2014); Nancy Byerly Jones, 'Commentary: Progressive Lawyers Seek Client Feedback' *Lawyers USA* (30 June, 2008).

⁵⁹ For example, the US Consumer Financial Protection Bureau maintains a publicly available data base of consumer complaints about financial services that are analysed by the regulator to assist its supervisory and rule-making activities: How we use complaint data, *Consumer Financial Protection Bureau* (Web Page) <<https://www.consumerfinance.gov/complaint/data-use/>>.

⁶⁰ Legal Services Consumer Panel, *Comparison Websites* (n 49) 2.12. See further, Kate Mathews Hunt, 'Gaming the System: Fake Online Reviews v Consumer Law' (2015) 31(1) *Computer Law and Security Review: The International Journal of Technology Law and Practice* 3; Justin Malbon, 'Taking Fake Online Consumer Reviews Seriously' (2013) 36(2) *Journal of Consumer Policy* 139.

⁶¹ See, eg, *Australian Competition and Consumer Commission v Trivago* [2020] FCA 16 in which it was found that Trivago had misled consumers by promoting its best advertisers rather than providing consumers with impartial advice on accommodation availability and pricing.

⁶² Legal Services Consumer Panel, *Comparison Websites* (n 49) 3.30–3.31.

⁶³ *Davis v Avvo Inc*, 345 F Supp 3d 534 (SD NY, 2018) ('*Davis v Avvo Inc*'). See also, *Vrdolyak v Avvo Inc* 206 F Supp 3d 1384 (ND Ill, 2016).

⁶⁴ *Davis v Avvo Inc*, 345 F Supp 3d 534, 541–542.

⁶⁵ *Browne v Avvo Inc*, 525 F Supp 2d 1249 (WD Wash, 2007) ('*Browne v Avvo Inc*').

of objective fact. Again, the claims in that case were hampered by a lack of evidence regarding harm to the plaintiff attorneys' reputations. Accordingly, except for cases of sites knowingly publishing vociferously negative reviews amounting to defamation and harassment,⁶⁶ it appears that private proceedings in the US attacking the business models of legal services rating sites may be difficult to successfully advance.⁶⁷ However, the difficulties that arise in challenging the way in which consumer reviews are collected and ratings are calculated raise questions about the capacity of the sites to engender stronger competition.

In Australia, where free speech is not constitutionally entrenched and where businesses are able to initiate proceedings for misleading and deceptive conduct,⁶⁸ liability for promoting the ratings of law firms that pay more for advertising than those that do not or engaging in other forms of data manipulation is likely to be easier to establish. Thus, for example, in *Australian Competition and Consumer Commission v Trivago NV*, Trivago was held liable for misleading and deceptive conduct because, despite advertising to find consumers the best value hotel accommodation, Trivago elevated the position of hotels in consumer internet search results where those hotels had paid for clicks.⁶⁹ Thus, in Australia, business entities that suffer detriment as a result of platforms granting themselves or competitors an unfair commercial advantage can seek redress. As well as misleading and deceptive conduct emanating from the platforms themselves, this right of redress may also derive from law firms writing or importuning fake positive reviews about their own services or writing or commissioning fake negative reviews about their competitors' services. However, causation and loss may remain difficult matters for individual law firms to prove, as they would have to show that as a result of the manipulation of ratings that clients were diverted from their firms to the firms that benefitted from the manipulation.⁷⁰ Despite the difficulties, the potential for privately initiated redress in conjunction with the activities of regulators discussed in the paragraph below suggests that there is a reasonable level of deterrence against fake reviews and thus there is some basis for confidence in the assertion that such sites provide a good indication of consumer perceptions of quality.

⁶⁶ See, eg, *Law Society v Kordowski* [2011] EWHC 3185 (*'Law Society v Kordowski'*), addressing the 'Solicitors from Hell' review website and in which it was found that the website should be shut down because it was libellous, constituted harassment and breached data protection laws. See also *Cheng v Lok* [2020] SASC 14 (*'Cheng v Lok'*) in which a lawyer subject to false and defamatory review on the Google My Business review site was awarded damages of \$750,000 for loss of business.

⁶⁷ However, the Federal Trade Commission may initiate proceedings for unfair competition *Federal Trade Commission Act*: 15 USCA §45. However, there is no private right of action for breach of s 5: *Holloway v Bristol-Myers Corporation* 485 F 2d 986 (1973). The activities of regulators are considered in the next paragraph.

⁶⁸ *Australian Consumer Law*, ss 18 and 236.

⁶⁹ (2020) 142 ACSR 338.

⁷⁰ *Australian Consumer Law* s 236 allows claimants to pursue damages where they suffer loss because of a breach of s 18. See eg *Janssen-Glag Pty Ltd v Pfizer Pty Ltd* (1992) 37 FCR 526.

Globally, regulators are responding to the need to ensure that review and rating websites avoid misleading consumers. For example, the Australian Competition and Consumer Commission ('ACCC') has issued guidelines for managing online reviews that require the disclosure of commercial relationships, such as paid endorsements and include a prohibition against omitting or selective editing of reviews and a prohibition against the use of reviews by persons who have not used a product or service.⁷¹ Similar guidance is provided by the UK's Competition and Markets Authority ('CMA')⁷² and by the International Consumer Protection and Enforcement Network at the international level.⁷³ Further, regulators routinely publish material to demonstrate that their guidelines are enforced. Examples include case studies published on the ACCC website,⁷⁴ the CMA website,⁷⁵ and the Federal Trade Commission ('FTC') website.⁷⁶ The regulatory guidelines are often reflected in the published policies of rating sites.⁷⁷ Consequently, while robust verification of consumer posts may be hard to substantiate, there is some basis for assuming that care is taken by the review and rating websites to avoid fraudulent ratings and reviews.⁷⁸

Apart from the potential manipulation of consumers, others are concerned that the quality of online legal services cannot be accurately portrayed by online review and rating sites because consumers are not sufficiently placed to judge their quality. As noted above, consumers assume that lawyers are adept and that their services are audited by regulators. Consequently, as they lack expert knowledge of the law, consumers tend to focus on their service experience and the price of the service rather than on whether the technical content of the legal advice they

⁷¹ 'Managing online reviews', *Australian Competition and Consumer Commission* (Web Page, 2013) <<https://www.accc.gov.au/business/advertising-promoting-your-business/managing-online-reviews>>.

⁷² Competition and Markets Authority, 'Giving a Balanced Picture: Do's and Don'ts for Online Review Sites', *Online reviews and endorsements: advice for businesses* (Web Page, 4 March 2016) <<https://www.gov.uk/government/publications/online-reviews-and-endorsements-advice-for-businesses>>.

⁷³ International Consumer Protection and Enforcement Network, 'ICPEN ORE Guidance for Traders and Marketers', *ICPEN: Initiatives* (Web Page, 2020) <<https://icpen.org/industry-guidance>>.

⁷⁴ Australian Competition and Consumer Commission, 'Removalist Admits Publishing False Testimonials' (Media Release, 9 November 2011) <<https://www.accc.gov.au/media-release/accc-removalist-admits-publishing-false-testimonials>>. See also Citymove infringement notice: Australian Competition and Consumer Commission, *Citymove Pty Ltd - Infringement notice* (Web Page, 27 July 2015), <<https://www.accc.gov.au/public-registers/infringement-notices/citymove-pty-ltd-infringement-notice-2>>.

⁷⁵ Competition and Markets Authority, 'CMA takes Enforcement Action Against Fake Online Reviews' (Media Release, 4 March 2016) <<https://www.gov.uk/government/news/cma-takes-enforcement-action-against-fake-online-reviews>>. In one of the cases, Total SEO agreed to provide the CMA with undertakings not to design or prepare fake reviews, see: *CMA Online Fake Reviews* (Web Page, 8 December 2015) <<https://www.gov.uk/cma-cases/potential-fake-online-reviews-search-engine-optimisation-company>>.

⁷⁶ Federal Trade Commission, 'FTC Brings First Case Challenging Fake Paid Reviews on an Independent Retail Website' (Press Release, 26 February 2019) <<https://www.ftc.gov/news-events/press-releases/2019/02/ftc-brings-first-case-challenging-fake-paid-reviews-independent>>. See also *Federal Trade Commission v Cure Encapsulations Inc and Nafula Jacobowitz* (2019) WL 1598135 (Eastern District New York).

⁷⁷ See, eg, *Trustpilot, Guidelines for Reviewers* (Web Page, April 2020) <<https://legal.trustpilot.com/for-reviewers/guidelines-for-reviewers>> and *Sitejabber, Terms of Service* (Web Page, 1 January 2020) <<https://www.sitejabber.com/terms>>.

⁷⁸ Hunt (n 60) 4 in which it is contended that 'present consumer protection laws, guidelines and industry codes do appropriately regulate fake reviews, albeit enforcement actions and consumer education in the area has lagged until recently'.

receive has best served their interests.⁷⁹ This focus on service experience and price tends to mask issue complexity and differences in law firm capacity. From a consumer's perspective it may be unclear whether the reviews and ratings they are perusing relate to an established commercial firm comprised of a cadre of lawyers with high levels of specialised expertise, a micro-firm of one or two generalist lawyers or a call centre staffed by large numbers of paralegals.⁸⁰ As a result, other than simple routine matters that lend themselves to commodification, with their emphasis on service experience and price, online review and rating sites may actually encourage lower standards of legal service.⁸¹

Finally, even on the best review and rating sites, malicious individuals may post negative reviews that do not genuinely reflect the quality of their experience. *Al Muderis v Duncan (No 3)*⁸² exemplifies this problem. The case arose after Dr Al Muderis performed a hip arthroscopy on one of the defendants. After the operation, the defendant complained that Dr Al Muderis had damaged his pudendal nerves. The defendant initiated a lawsuit alleging negligence against Dr Al Muderis and complained about his surgery to the Health Care Complaints Commission. Both the lawsuit and the complaint were dismissed because there was no evidence of any nerve injury. Subsequently, the defendant and another party began an online campaign against Dr Muderis, including vitriolic posts on Facebook, YouTube and Pinterest in which they claimed among other things that Dr Al Muderis was a 'butcher'. As a result of the vicious and totally unfounded campaign against him, Dr Al Muderis was awarded \$480,000 in damages.

Fortunately, it appears that only a small percentage of online reviews are malicious.⁸³ Additionally, subject to regulatory requirements regarding the improper manipulation of online reviews, service providers exposed to malicious or vexatious reviews can take steps to remove them from the online review platform⁸⁴ to ensure a more accurate account of their consumer experiences.

Notwithstanding the difficulties of attributing online reviews and the quality of legal service experience, the authors of this paper are of the view that evidence gleaned from review

⁷⁹ d'Andria (n 34) 9; Legal Services Consumer Panel, *Quality in Legal Services* (n 32) 3.1.

⁸⁰ Law Society of England and Wales, *Applying the comparison web site model to legal services* (Research Report, September 2011) 34.

⁸¹ London Economics and You Gov, *Consumer Behaviour Research: A Report by London Economics and YouGov for the Law Society* (Research Report, November 2017) vi.

⁸² [2017] NSWSC 726. See also *Cheng v Lok* (n 66), as it is a similar case involving a lawyer (see discussion further below).

⁸³ See Michael Luca and Georgios Zervas, 'Fake It Till You Make It: Reputation, Competition, and Yelp Review Fraud' (2016) 62(12) *Management Science* 3412, 3414 in which it was found that only 1% of Yelp reviews submitted between 2004-2012 breached Yelp's terms of service (e.g., were reviews that contained offensive or discriminatory language), but in which it was also noted that 16% of Yelp reviews are classified as 'fake'.

⁸⁴ Nina Hendy, 'Negative Review? Now You Can Just Delete It', *Sydney Morning Herald* (1 July 2019) <<https://www.smh.com.au/business/small-business/negative-review-now-you-can-just-delete-it-20190613-p51x8q.html>>.

and rating sites provides a valuable measure that forms part of and complements other measures indicative of legal service quality.⁸⁵ As Hagan emphasises, there is an inextricable link between users' experiences and the effectiveness of the legal services that they receive. Poor service quality can deter users and hamper their ability to access or understand legal materials and advice.⁸⁶ Conversely, a good user experience can facilitate greater levels of user comprehension and involvement and thus better align the legal outcomes that flow from users' legal service encounters with their wants and needs.⁸⁷ Failing to take account of consumer reviews and ratings is not only inconsistent with law firm and in-house counsel practice that depends on consumer feedback to sustain continuous service improvement,⁸⁸ but also contradicts general trends in professional service delivery towards more client-empowered service relationships.⁸⁹ At the very least, resorting to consumer review and rating sites provides an indication of the factors that consumers consider when using legal services.

By conducting a computer-assisted content analysis, our exploratory research of consumer perceptions of online legal services aims to create a conceptual framework that marries findings from the e-service and legal professional service quality literature with consumer feedback about online legal services.

IV METHODOLOGY

A Background

Partly because the online delivery of legal professional advisory services has lagged behind the growth of e-commerce in other areas, such as in retail goods, banking, insurance and travel, very few studies have attempted to measure consumer perceptions of their quality. Hagan's mixed-methods study, which undertook a content analysis of consumer complaints and administered a small sample user needs survey, is one of the pioneering studies in this field.⁹⁰ Hagan's study focused on online legal service websites as a source of information and guidance rather than as a

⁸⁵ Noel Semple, 'Measuring Legal Service Value' (2019) 52(3) *University of British Columbia Law Review* 943, 966-8; Margaret Hagan, 'The User Experience of the Internet as a Legal Help Service: Defining Standards for the Next Generation of User-Friendly Online Legal Services' (2016) 20(2) *Virginia Journal of Law and Technology* 394, 402-4; Legal Services Consumer Panel, *Quality in Legal Services* (n 32) 3.19-3.26; Chaserant and Harnay (n 20) 283.

⁸⁶ Nigel J Balmer et al, 'Law—What is it Good For? How People see the Law, the Courts and Lawyers in Australia' (Research Report, 2019) 44-5, which links previous negative experiences of legal services with perceptions of access to justice.

⁸⁷ Hagan (n 85) 403.

⁸⁸ Semple (n 85) 963.

⁸⁹ Richard Susskind, *Tomorrow's Lawyers: An Introduction to your Future* (Oxford University Press, 2nd ed, 2017) 47.

⁹⁰ Hagan (n 85).

source of advisory services and developed the following constructs for the quality of users' experiences: 1) the clarity of the value proposition, purpose and navigation; 2) the authority and reliability of jurisdiction specific content; 3) accessibility and a lack of paywalls or upselling; 4) the comprehensiveness and coherency of the information flow and resources; 5) the appealing nature of the website design; and 6) the dialogue and narrative (users prefer a more informal and anecdotal styles of information delivery).

Rather than drawing on existing quality scales set out in the information systems, marketing and business management literature, Hagan adopted a bottom-up, primary research approach to identifying her quality criteria.⁹¹ The advantage of Hagan's bottom-up approach is that it provides a clear focus on consumer interactions with law-related websites. Previously, concerns have been raised in the literature about the merit of a one-size-fits-all approach across different forms of online service delivery that does not distinguish between industry sectors or the nature of the delivered services.⁹² Further, it has been suggested that the use of pre-existing broad-based scales can bias researchers and mask important context specific considerations.⁹³ Conversely, Hagan's study focused on website quality and was limited by its small sample of survey respondents (35) and the use of three self-help legal information sites during the survey. Similarly, the content analysis of consumer complaints was limited to 102 consumer reviews and did not appear to use tools⁹⁴ that facilitated the quantitative analysis of the material. Finally, as will be gleaned from the discussion below, most of the constructs identified by Hagan in fact align with those in pre-existing scales.

Together with their variations, the two most established scales for measuring service quality and online service quality are SERVQUAL and E-SERVQUAL, respectively.⁹⁵ The SERVQUAL scale is designed to measure the quality of services provided to clients at the service provider's premises, while the E-SERVQUAL scale aims to measure the quality of the firm's digital services.

⁹¹ Hagan (n 85), 409–11.

⁹² Audrey Gilmore and Rosalind McMullan, 'Scales in Services Marketing Research: A Critique and Way Forward' (2009) 43(5/6) *European Journal of Marketing* 640, 646.

⁹³ Prateek Kalia, 'Service Quality Scales in Online Retail: Methodological Issues' (2017) 37(5) *International Journal of Operations and Production Management* 630, 645.

⁹⁴ Standard tools for undertaking content analysis include NVivo and Leximancer. For a discussion of these tools and their uses see, Popi Sotiriadou, Jessie Brouwers and Tuan-Anh Le, 'Choosing a Qualitative Data Analysis Tool: A Comparison of NVivo and Leximancer' (2014) 17(2) *Annals of Leisure Research* 218.

⁹⁵ B Palese and A Usai, 'The Relative Importance of Service Quality Dimensions in e-Commerce Experiences' (2018) 40 *International Journal of Information Management* 132, 134 in which it is asserted that SERVQUAL is the most used instrument to assess service quality. See also Kalia (n 93) 645 in which it is noted that in a review of studies into online retail service quality, 50% of the studies used SERVQUAL in its original or an adapted form.

Based on findings derived from focus groups, SERVQUAL was developed in 1985 by Parasuraman, Zeithaml and Berry⁹⁶ and was subsequently tested, re-tested and refined.⁹⁷ SERVQUAL proceeds on the basis that service quality equates to the difference between expected and perceived service performance. Initially, SERVQUAL comprised 10 determinants of service quality; however, later, the dimensions were reduced to five (see Table 1).

Table 1. SERVQUAL—Dimensions of Quality

Quality Dimensions	Definition
Reliability	The degree to which the service is performed accurately and consistently
Assurance	The level of the service provider's expertise and its ability to convey trust and confidence
Tangibles	The service provider's profile, including its range of services, physical facilities, tools, equipment, personnel and clientele
Empathy	Demonstrated concern for client interests and the capacity to provide individualised attention
Responsiveness	Readiness and willingness to flexibly respond to a client's needs promptly

Subsequently, Parasuraman, Zeithaml and Malhotra developed the E-SERVQUAL scale to evaluate online service quality.⁹⁸ This scale was also widely adopted in original or adapted form by researchers in other fields, such as internet banking,⁹⁹ web-based university services,¹⁰⁰ airline ticketing¹⁰¹ and e-government services.¹⁰² With a focus on retail-oriented websites like Amazon, Parasuraman, Zeithaml and Malhotra proposed and later validated a seven-dimension scale broken into two parts. As Table 2 below shows, Part One is a core service dimension scale and Part Two is a service recovery dimension scale that measures how service providers address customer problems or requests for assistance.

⁹⁶ Anantharanthan Parasuraman, Valarie A Zeithaml and Leonard L Berry, 'A Conceptual Model of Service Quality and its Implications for Future Research' (1985) 49(4) *Journal of Marketing* 41.

⁹⁷ See, eg, Ananthanarayanan Parasuraman, Valarie A Zeithaml and Leonard L Berry, 'Servqual: A Multiple-Item scale for Measuring Consumer Perceptions of Service Quality' (1988) 64(1) *Journal of Retailing* 12; Valarie A Zeithaml et al, *Delivering Quality Service: Balancing Customer Perceptions and Expectations* (Simon and Schuster, 1990) ; Arun Parasuraman, Leonard L Berry and Valarie A Zeithaml, 'Refinement and Reassessment of the SERVQUAL scale' (1991) 67(4) *Journal of Retailing* 420; Leonard L Berry and Anantharanthan Parasuraman, *Marketing services: Competing through Quality* (Simon and Schuster, 2004).

⁹⁸ Ananthanarayanan Parasuraman, Valarie A Zeithaml and Arvind Malhotra, 'ES-QUAL: A Multiple-Item Scale for Assessing Electronic Service Quality' (2005) 7(3) *Journal of Service Research* 213.

⁹⁹ Farnaz Beheshti Zavareh et al, 'E-Service Quality Dimensions and their Effects on e-Customer Satisfaction in Internet Banking Services' (2012) 40 *Procedia Social and Behavioral Sciences* 441; Charles Dennis et al, 'E-retailing by Banks: E-service Quality and its Importance to Customer Satisfaction' (2009) 43(9-10) *European Journal of Marketing* 1220.

¹⁰⁰ Nemat Babak et al, 'Analyzing e-Service Quality in Service-based Website by E-SERVQUAL' (2012) 2(2) *Management Science Letters* 727.

¹⁰¹ Naeimeh Elkhani, Sheida Soltani and Mir Hadi Moazen Jamshidi, 'Examining a Hybrid Model for e-Satisfaction and e-Loyalty to e-Ticketing on Airline Websites' (2014) 37 *Journal of Air Transport Management* 36.

¹⁰² M Soledad Janita and F Javier Miranda, 'Quality in e-Government Services: A Proposal of Dimensions from the Perspective of Public Sector Employees' (2018) 35(2) *Telematics and Informatics* 457.

Table 2. E-SERVQUAL—Dimensions of Quality

E-SERVQUAL Core Scale	
Quality Dimensions	Definition
Efficiency	Ease of access, speed and navigability of the organisation's website
Fulfilment	The extent to which the site delivers what is ordered
System Availability	The technical reliability of the organisation's website
Privacy	The level of security afforded to client information
E-SERVQUAL Recovery Scale	
Quality Dimensions	Definition
Responsiveness	Management of problems and complaints
Compensation	The degree to which the organisation compensates clients when problems arise
Contact	Access to assistance through telephone, online help

Other studies have suggested that bifurcating between traditional service dimensions and e-system quality does not fully reflect current business models for the delivery of professional services or the holistic user experience.¹⁰³ Modern service industries, including legal, accounting and financial services, no longer operate as purely traditional or purely digital industries. It has also been suggested that there are significant analogies between traditional service dimensions and digital quality dimensions in any event.¹⁰⁴ For example, responsiveness, which is defined as the readiness and willingness to assist clients in the traditional scale, is replicated in the online scale as the degree to which the digital service provider manages problems and complaints. Similarly, privacy and assurance tend to cover similar ground, at least insofar as the security and integrity of client data are concerned. Accordingly, successive scholars have adopted a more integrated approach.¹⁰⁵

B Our Quality Dimensions

We also decided to adopt an integrated approach that combines aspects of Hagan's quality criteria, SERVQUAL and E-SERVQUAL. The themes we explored and their inter-relationship with Hagan's work, SERVQUAL and E-SERVQUAL are set out in Table 3.

Table 3. Our Research Themes

¹⁰³ See, eg, Abhishek Vashishth and Ayon Chakraborty, 'Measuring the Service Quality of Services: TRADONIC SERVQUAL Model' in Norman Gwangwava and Michael Mutingi (eds), *E-Manufacturing and E-Service Strategies in Contemporary Organizations* (IGI Global, 2018) 219, 227; Zhilin Yang and Xiang Fang, 'Online Service Quality Dimensions and their Relationships with Satisfaction: A Content Analysis of Customer Reviews of Securities Brokerage Services' (2004) 15(3) *International Journal of Service Industry Management* 302, 308.

¹⁰⁴ Kalia (n 93) 651.

¹⁰⁵ See, eg, Jing Fan and Wenting Yang, 'Study on e-Government Services Quality: The Integration of Online and Offline Services' (2015) 8 (3) *Journal of Industrial Engineering and Management* 693; Dennis Herhausen et al, 'Integrating Bricks with Clicks: Retailer-Level and Channel-Level Outcomes of Online-Offline Channel Integration' (2015) 91 (2) *Journal of Retailing* 309; and Riza Casidy, 'Brand Orientation and Service Quality in Online and Offline Environments: Empirical Examination in Higher Education' (2014) 35 (3) *Services Marketing Quarterly* 236.

Our theme	Hagan's theme	SERVQUAL	E-SERVQUAL
Client care—identified and met need; courtesy and responsiveness	N/A	Empathy, responsiveness	Responsiveness
Competence/professionalism	Authority and reliability of jurisdiction specific information	Assurance/tangibles	Fulfilment
Ease of use	Clarity of value proposition, purpose and navigation; accessibility; appealing nature of website design	N/A	Efficiency
Effective communication	Dialogue and narrative	Empathy, responsiveness	Contact
Efficiency	Comprehensiveness and coherency of information flow and resources	Reliability	Efficiency, fulfilment, system availability
Security	N/A	Assurance	Privacy
Value for money	Clarity of value proposition	N/A	N/A

We also wanted to gauge the relative importance to users of price/affordability, integrity, reliability and accuracy and the overall quality of the user's experience. In addition to the themes above, the expression of users' relative weightings of these factors was also analysed.

C Our Data

Our research used a non-participatory 'netnography' approach to data collection and analysis.¹⁰⁶ Netnography is a qualitative research method that uses publicly available information provided by members of online communities. It emerged as a research method in the US during the 1990s as the use of the internet became more widespread.¹⁰⁷ With the advent of Web 2.0 and the explosion of social media communications, the use of netnography research methods grew and extended to fields such as education, marketing, sport and tourism.¹⁰⁸ Netnography has significant advantages, including its cost effectiveness and unobtrusive and non-influencing nature.¹⁰⁹ However, like any research method, netnography also has disadvantages that need to be borne in mind, as these factors may limit the application of our study's findings. These disadvantages

¹⁰⁶ Shirin Alavi, 'Netnography: An Internet Optimized Ethnographic Research Technique' in Amandeep Takhar-Lail and Ali Ghorbani (eds), *Market Research Methodologies: Multi-method and Qualitative Approaches* (IGI Global, 2015) 71; Leesa Costello, Marie-Louise McDermott and Ruth Wallace, 'Netnography: Range of Practices, Misperceptions, and Missed Opportunities' (2017) 16(1) *International Journal of Qualitative Methods* 1; Yang and Fang (n 103) 310.

¹⁰⁷ Costello, McDermott and Wallace (n 106) 2-3; Robert v Kozinets, 'Marketing Netnography: Prom/ot(Ul)gating a New Research Method' (2012) 7(1) *Methodological Innovations* 37, 39.

¹⁰⁸ Costello, McDermott and Wallace (n 106) 3.

¹⁰⁹ Ibid.

include netnography's limited focus on text supplied by self-selected online users,¹¹⁰ user anonymity, concerns related to the reliability and integrity of the reviews and netnography's dependence on researchers to interpret and analyse user communications.¹¹¹

The netnography method we adopted mirrors that of Yang and Fang, who examined online customer feedback about digital securities brokerage services from online review and rating sites.¹¹² Yang and Fang postulated that customers who expend time and effort voicing their views about their online experiences were likely to reveal the service quality attributes of most concern to them and that such feedback would thus provide insights into customers' perceptions of service quality. We agree.¹¹³

We identified two leading consumer review sites (i.e., Sitejabber¹¹⁴ and Trustpilot Australia¹¹⁵) as sources of data. Sitejabber is a US-based consumer review site that collects and curates consumer reviews of over 100,000 businesses. Since its foundation in 2008, over 100 million consumers have accessed the site.¹¹⁶ It uses software, manual spot-checking and community involvement to detect and minimise the risk of fake reviews. Reviewers are also required to certify that their reviews are based on their own personal experiences. Submission of proof of purchase is not mandatory but it is encouraged. Trustpilot Australia is part of the larger global Trustpilot group that houses 65 million reviews of over 300,000 websites. It employs measures similar to those employed by Sitejabber to deter fake reviews. In each instance, reviews are voluntarily supplied for public dissemination by site users and all rights to use and publish the reviews are assigned to the review sites.

After receiving permission from Sitejabber and Trustpilot, the researchers obtained ethics approval to download and analyse consumer reviews related to online legal services generated by the sites. To avoid outlier legal service providers, the downloaded material was confined to online legal services sites that had received more than 15 reviews. In total, 2,292 reviews were downloaded from Sitejabber and 131 reviews were downloaded from Trustpilot Australia.

¹¹⁰ Nan Hu, Paul A Pavlou and Jie Zhang, 'On Self-Selection Biases in Online Product Review' (2017) 41(2) *MIS Quarterly* 449.

¹¹¹ Alavi (n 106) 75; Andukuri Raj Shrivanthi and Moghana S Lavanya, 'Netnography: A Qualitative Research Tool' (2012) 2(6) *International Journal of Management Research and Reviews* 903, 909.

¹¹² Yang and Fang (n 103) 310.

¹¹³ See further Hagan (n 85) 422.

¹¹⁴ Home Page, *Sitejabber* (Web Page, 2020) <<https://www.sitejabber.com/>>.

¹¹⁵ Home Page, *Trustpilot* (Web Page, 2020) <<https://au.trustpilot.com/>>.

¹¹⁶ About Us, *Sitejabber* (Web Page, 2020) <<https://www.sitejabber.com/about-us>>.

The downloaded material was then subjected to manual content analysis using NVivo software incorporating the themes and analytical factors outlined above. All reviews were downloaded into an Excel spreadsheet in their historical order. However, due to time and resource constraints, the researchers were not able to analyse every single review; rather, every fifth review as it appeared in the excel spreadsheet uploaded to Nvivo was analysed, resulting in an analysis of 485 posted reviews.

D Summary

In summary, we analysed 485 randomly selected reviews of online legal service providers where 15 or more reviews had been posted to the Sitejabber or Trust Pilot Australia review sites. The themes analysed were:

1. Client care
2. Competence/professionalism
3. Ease of use
4. Effective communication
5. Efficiency
6. Security
7. Value for money

V FINDINGS

A General

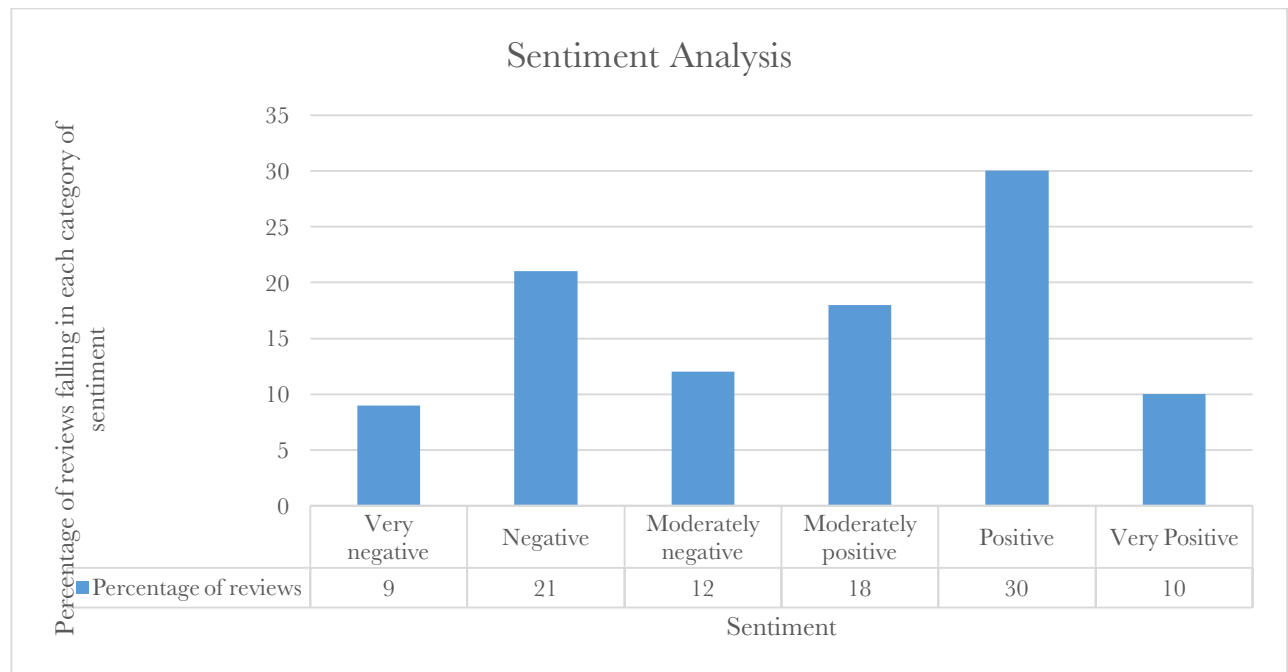
Consistent with other studies examining consumer reviews and rating sites,¹¹⁷ the first finding of note is that positive reviews generally outnumbered negative reviews. Automated sentiment analysis¹¹⁸ across all files uploaded to Nvivo revealed approximately 58% positive references and 42% negative references. Of the total number of positive sentiment references, 60% were rated as moderately positive and 40% as very positive. Similarly, of the total number of negative

¹¹⁷ Hu, Pavlou and Zhang (n 110) A2; Wendy Moe and David Schweidel, 'Positive, Negative or Not at All? What Drives Consumers to Post (Accurate) Product Reviews?' (2013) 5(2) *GfK Marketing Intelligence Review* 9.

¹¹⁸ Sameerchand Pudaruth et al, 'Sentiment Analysis from Facebook Comments using Automatic Coding in NVivo 11' (2018) 7(1) *Advances in Distributed Computing and Artificial Intelligence Journal* 41.

sentiment references, 55% were rated as moderately negative and 45% were rated as very negative. The distribution is represented in Figure 1 below.

Figure 1. Sentiment Analysis



The distribution of sentiment in Figure 1 is inconsistent with previous studies that have examined the relationship between consumers' positive and negative ratings and various dimensions of service quality. These studies have typically found proportionally more polarisation resulting in either U- or J-shaped rating distribution patterns.¹¹⁹ It has been postulated that the typical U- or J-shaped distribution of rating sentiment is due to reviewer self-selection bias, whereby reviewers are more likely to post reviews of their extremely positive or negative experiences.¹²⁰ Reinforcing reviewer self-selection bias, it appears that review audiences find polarised reviews and ratings more useful and entertaining.¹²¹

It is unclear why the sentiment analysis of the reviews of online legal services selected in our study did not match the typical patterns of distribution. However, we note that in other research that has used sentiment analysis algorithms applied to text like those built into NVivo,

¹¹⁹ Palese and Usai (n 95) 137; Verena Schoenmueller, Oded Netzer and Florian Stahl, 'The Drivers and Downstream Consequences of the J-Shaped Distribution of Consumer Online Reviews' (2017) 45 *Advances in Consumer Research* 302, 302.

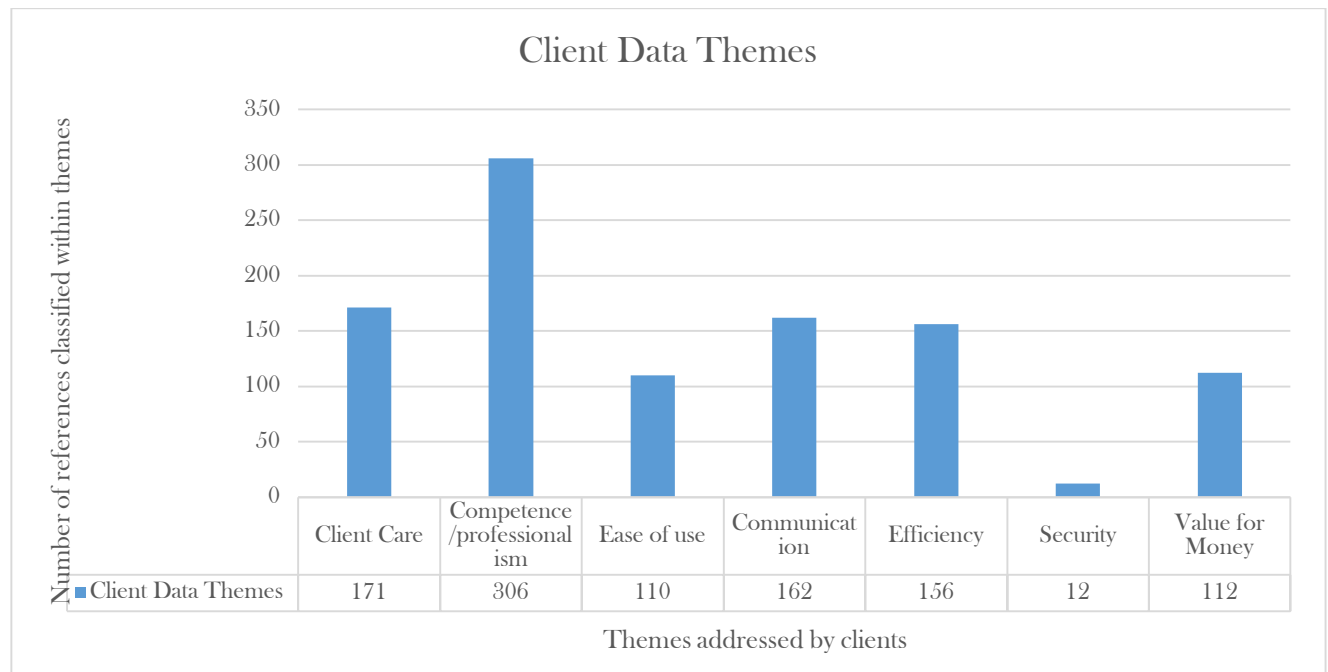
¹²⁰ Schoenmueller, Netzer and Stahl (n 119) 303; Hu, Pavlou and Zhang (n 110) 450.

¹²¹ Sangwon Park and Juan L Nicolau, 'Asymmetric effects of online consumer reviews' (2015) 50 *Annals of Tourism Research* 67.

the results are less polarised than where sentiment is assessed only by reference to ratings.¹²² It appears that the language used in the review texts is likely to be more neutral in tone and more nuanced in effect than that reflected in the star rating.¹²³

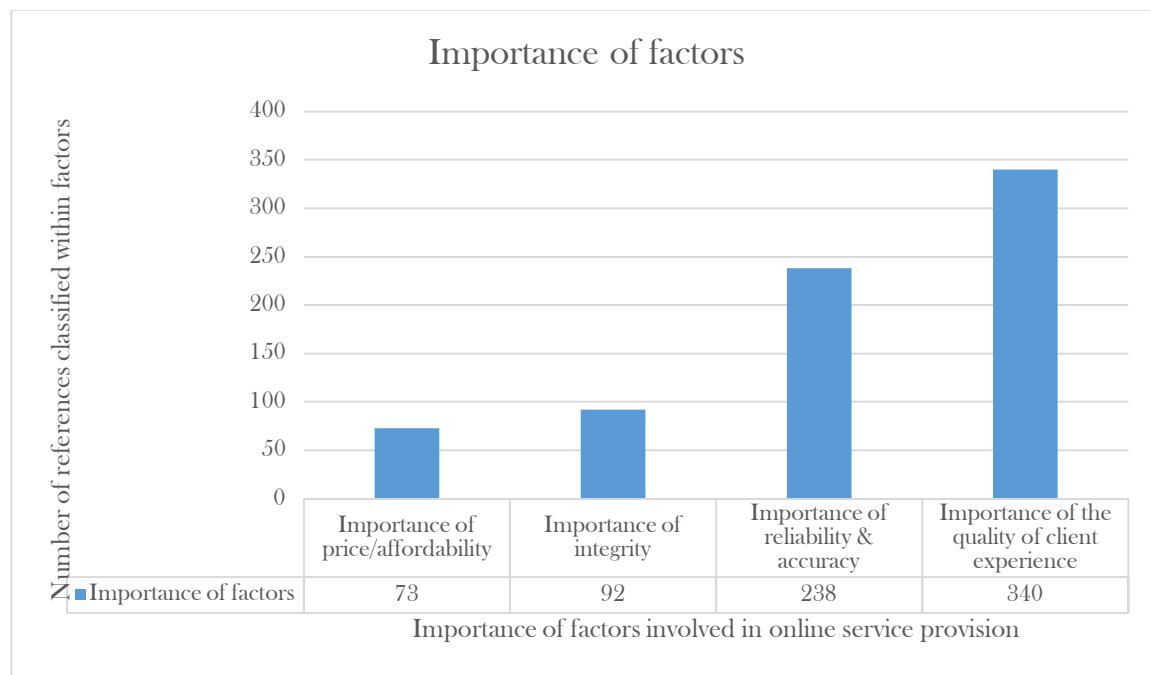
Our aggregated data across each theme and node of analyses are summarised in Figures 2 and 3 below.

Figure 2. Client Data Themes



¹²² See, eg, Wu He, Zuopeng Zhang and Vasudeva Akula, 'Comparing Consumer-produced Product Reviews Across Multiple Websites with Sentiment Classification' (2018) 28(2) *Journal of Organizational Computing and Electronic Commerce* 142.

¹²³ Parisa Lak and Ozgur Turetken, 'Star Ratings versus Sentiment Analysis –A Comparison of Explicit and Implicit Measures of Opinions' (Conference Paper, Hawaii International Conference on System Sciences, January 2014) 796, 801.

Figure 3. Importance of Factors in Client Assessments

Reflecting the characterisation of legal services as a form of credence good,¹²⁴ the data indicate that consumers rate the quality of their experience more highly than factors that require a more objective assessment of credence attributes, such as value for money, or factors that are not easily ascertainable such as professional integrity or data security. In other words, reviewers are more likely to speak to the experience attributes of online legal services than the credence attributes of online legal services.¹²⁵

Consistent with Yang and Fang's study of online brokerage firms,¹²⁶ the data also showed that professionalism, reliability and accuracy are important factors in the minds of consumers. A selection of both positive and negative comments related to the subset of professionalism, reliability and accuracy (see Table 4 below) illustrates consumer sentiment on these matters.

¹²⁴ Chaserant and Harnay (n 20) 283–5; Frank H Stephen, 'Regulation of the Legal Professions or Regulation of Markets for Legal Services: Potential Implications of the Legal Services Act 2007' (2008) 19(6) *European Business Law Review* 1129, 1130 in which it is noted that consumers of legal services are generally unable to determine whether the legal service they received was appropriate or that they were charged an appropriate fee. Thus, legal services are 'credence' services, as their quality is not verifiable.

¹²⁵ Palese and Usai (n 95) 136; Shannon Lantzy, Katherine Stewart and Rebecca Hamilton, 'Naive or Savvy: How Credible are Online Reviews for Credence Services?' (2013) 41 *Advances in Consumer Research* 117, 118.

¹²⁶ Yang and Fang (n 103) 315.

Table 4. Select Positive and Negative Sentiments

Positive	Negative
<ul style="list-style-type: none"> • Very professional and problem solving orientated. Customer driving quality service and fast results. Highly recommended. • Professional, very efficient, concise and professional assistance concerning my request for printing a document. • She responded quickly and professionally, and resolved my issue to my satisfaction, going above and beyond to do so. • Wonderful & very professional & high level of listening skill even though it's through chatroom • He was professional and knowledgeable and a pleasure to work with. • Their process is so straight forward and exceptionally good value for money. 	<ul style="list-style-type: none"> • This is a clear rip-off but they don't seem to care. A supposed legal firm is deserving of a class action lawsuit through sheer negligence • [W]as the worst answer ever, the guy didn't understand anything I was asking, which I partly blame on their limit of 700 characters and partly on the fact that the guy didn't seem like he really even read the whole thing. This company is awful, don't waste your time. • Templates that don't apply to everyone!, My experience was NEGATIVE. • Very slow and not responsible service. • They promise you something, give you misleading information, and NEVER take accountability of their mistakes.

To better understand the relationship between service quality and consumer satisfaction, we cross-tabulated the sentiment analysis outlined in Figure 1 across our themes and analysis factors to determine which aspects of service quality that consumers rated as either positive or negative in relation to their online legal service experiences. The results of these analyses are set out in Tables 5 and 6.

Table 5. Sentiment and Theme

Sentiment	Client Care	Competence/ professionalism	Ease of use	Effective communication	Efficiency	Security	Value for money
Positive	130	217	101	114	127	6	73
Very positive	75	115	67	63	69	4	38
Moderately positive	83	133	58	67	66	5	44
Negative	58	119	13	63	41	8	49
Moderately Negative	28	52	5	30	19	2	14
Very negative	26	62	6	36	21	6	29

Note: The numbers refer to the number of comments that were made on the rating sites that were positive/negative in relation to the themes applied by the authors in classifying the online legal service delivery data.

Table 6. Sentiment and Analytical Factors

Sentiment	Importance of price/ affordability	Importance of integrity	Importance of reliability and accuracy	Importance of the quality of the client experience
Positive	55	38	172	256
Very positive	24	20	89	145
Moderately positive	33	25	99	146
Negative	25	66	85	114
Moderately negative	7	25	32	49
Very negative	16	31	41	62

Note: The numbers refer to the number of comments that were made on the rating sites that were positive/negative in relation to the classification of the importance of factors in online legal service delivery.

These tables demonstrate that online legal service clients expressed stronger positive and negative sentiments about the level of professionalism and competence they received and the quality of their experience than they do about affordability and value for money. As noted above, clients are not well placed to determine whether the advice they receive is comparable to the amount of money they spend or even appropriate in their circumstances. Similarly, in the absence of information about the mean or median cost of legal services, consumers are not able to easily make cost comparisons. Reinforcing the characterisation of legal services as a credence good, in assessing online legal services, consumers views about price and value tend to be more neutral than their views about their service experience. However, it should not necessarily be concluded that value for money is unimportant to consumers. When surveyed about perceptions of lawyers and their accessibility, consumers cite value for money, complexity, the overuse of technical language and slowness to respond as negative considerations that affect their decisions about whether they will approach a law firm.¹²⁷ Further, a majority of Australian consumers believe that law firms should always inform them of their costs in writing irrespective of the complexity of their legal problems at the commencement of the retainer.¹²⁸

It is also crucial to note that consumer views about service quality may be contingent upon perceived value. Studies have suggested that despite high levels of service quality, consumers' overall satisfaction may be moderated if they perceive that the professional services are relatively expensive.¹²⁹ Interestingly, the moderating effect of perceived value for money varies according to whether the service is presented to consumers as a 'low-cost—no-frills' model or a 'full-service—high-touch' model. Thus, consumers of budget airline services place less importance on perceived quality and more importance on value for money, while consumers of full-cost airline services are driven by both value for money and service quality.¹³⁰ A study of consumers of high-end tertiary education services also found that cost has less effect on overall satisfaction than perceptions regarding the quality of the education received.¹³¹ Accordingly, if

¹²⁷ Balmer et al (n 86) 37.

¹²⁸ Legal Services Council, *Legal Services Council Consumer Survey 2017* (Research Report, 2017) 7.

¹²⁹ Albert Caruana, Arthur H Money and Pierre R Berthon, 'Service Quality and Satisfaction—The Moderating Role of Value' (2000) 34 (11-12) *European Journal of Marketing* 1338, 1348.

¹³⁰ Rajesh Rajaguru, 'Role of Value for Money and Service Quality on Behavioural Intention: A Study of Full Service and Low Cost Airlines' (2016) 53 *Journal of Air Transport Management* 114, 120.

¹³¹ SE Leonard, 'Perceived Service Quality, Perceived Value for Money, Satisfaction and Repurchase Intention: An Evaluation on Private University Services' (2018) 4(1) *International Journal of Commerce and Finance* 40.

consumers expect to receive ‘full-service–high-touch’ legal services, the effect of cost on perceived service quality is likely to be small and negative in effect.¹³² Thus, to some extent, we were surprised by the findings in the present study that ‘value for money’ is not as important to consumers when they review online legal services, as these services are typically presented as a quicker, cheaper and simpler way of obtaining legal advice than traditional services.¹³³ Even so, of the negative comments that focused on value for money, most reflected that the service received was ‘cheap and nasty’. These sentiments are summarised in the following quotations:

- ‘*Caveat emptor*, you get what you pay for, but in this case, you get even less!’;
- ‘He overbilled and overcharged me, all he and his legal assistant care about is taking your money. They don’t care about your outcome’;
- ‘You can do everything they say they can do by yourself, with less cost and headaches’.

B *Positive Aspects of the Client Experience*

Clients who rated their experience with online legal service providers positively referred to several common aspects, including 1) the speed and responsiveness of the service received; 2) their perceptions of expertise; 3) perceived trustworthiness; and 4) courtesy, patience and kindness. A selection of quotations from clients that illustrate these views can be found in Table 7.

Table 7. Select Positive Client Experiences.

Positive Client Experiences
‘It’s always a great experience when you have representatives that are courteous, prompt and extremely professional.’
‘Juan helped me resolve a couple of questions and was very professional and considerate.’
‘They are knowledgeable, smart, and very courteous.’
‘Heather was very clear and very prompt in her answers and provided exactly the information I required!’
‘Perfect service, You answered my question and gave me options to resolve my issue.’
‘absolutely professional and trustworthy, I am very pleased that I have selected LegalZoom.’

The above findings align with quality indicators used by the UK’s Legal Services Consumer Panel to assess consumer satisfaction with legal services (whether online or face-to-face). The Panel found that of the consumers surveyed, 87% were satisfied with the outcome of

¹³² Caruana et al (n 129) 1348; Haemoon Oh, ‘Service Quality, Customer Satisfaction, and Customer Value: A Holistic Perspective’ (1999) 18(1) *International Journal of Hospitality Management* 67, 77.

¹³³ Benjamin H Barton and Stephanos Bibas, *Rebooting Justice: More Technology, Fewer Lawyers, and the Future of Law* (Encounter Books, 2017) 71–3.

their legal matter, and that there was a positive relationship between consumer perceptions of outcomes and the quality of services received.¹³⁴ The quality indicators assessed included clarity of information, clear explanation, ongoing communication and timeliness.¹³⁵

C Negative Aspects of the Client Experience

Common negative aspects of the client experience included: 1) a failure to provide useful answers to the problems posed; 2) a failure to communicate promptly or at all; 3) rudeness; and 4) perceptions of dishonesty and sharp practices. Examples of these negative views are set out below.

Table 8. Select Negative Client Experiences

Negative Client Experience
'Customer Service was un-helpful very dismissive',
'Misleading scam. What ever you do, don't even think about using live chat on their site. It's a robot survey disguised as chat to get your contact information and offer no live assistance.'
'This is not a professional organization by any stretch of imagination. Every interaction with these people was painful, and utterly unproductive.'
'They offer NO support after you pay them and even give wrong information! I don't trust them.'
'worst customer service, long wait for documents, rude manager.'
'Unprofessional & lacks integrity. Completely unreliable.'

The significance of these factors accords with the types of complaint made about traditional legal service delivery to legal services regulators. Delay, failing to comply with instructions and failing to advise are typically the most significant categories of complaint levelled against legal service providers.¹³⁶

VI DISCUSSION

As the delivery of legal services moves online, particularly for routine consumer and small business matters, online review sites will continue to grow in importance.¹³⁷ Negative client

¹³⁴ Legal Services Consumer Panel, *Consumer Impact Report* (Research Report, March 2020) 27.

¹³⁵ *Ibid* 31.

¹³⁶ See, eg, South Australia, Legal Profession Conduct Commissioner, *Legal Profession Conduct Commissioner Annual Report 2019* (Report, October 2019) 12 in which it was noted that approximately 50% of investigations relate to poor handling, overcharging, delay and failing to comply with instructions. See further Solicitors Regulation Authority, *First Tier Complaints Report* (Report, July 2019) in which the UK Solicitors Regulation Authority notes that the most common complaints are delay, failure to advise and excessive costs.

¹³⁷ Cassandra Burke Robertson, 'Online Reputation Management in Attorney Regulation' (2016) 29 *Georgetown Journal of Legal Ethics* 97, 104.

assessments will likely lead to loss of clients,¹³⁸ as prospective clients tend to weigh negative views more heavily than positive ones when processing information and making decisions. Prospective clients also tend to regard negative reviews as more accurate, helpful and trustworthy.¹³⁹ *Cheng v Lok* illustrates the potential effects of online reviews.¹⁴⁰ Mr Cheng was a respected lawyer practising in Adelaide. Most of his clients came from the Chinese community in Australia and from overseas and were referred to his practice by word of mouth. Between 2018 and 2019, Mr Cheng's practice lost 80% of his clients. Mr Cheng later learned that the loss of clientele and subsequent retrenchment of staff at his practice were due to negative reviews posted to *Google My Business* in English and Chinese by a person who had never been his client. Subsequently, Mr Cheng sued the reviewer in defamation. During the trial, evidence was adduced that the goodwill of Mr Cheng's practice had been damaged by 86.28% as a result of the negative reviews originating from a single person, which led to a loss of income of \$631,229. Damages were ultimately awarded against the defendant in the sum of \$750,000.

At the same time, the use of the internet as a means for client recruitment and the use of online review sites to facilitate clients' choices of legal service providers are also becoming increasingly important. Approximately 90% of consumers report that online reviews directly influence their purchasing decisions.¹⁴¹ The use of comparator websites for legal services is currently low;¹⁴² however, it is anticipated that the use of such websites will increase as the price and quality of services become more transparent due to regulatory innovations, such as mandatory price disclosure and the growing prevalence of consumer ratings. Thus, while our findings show that there do not appear to be many differences between client perceptions of service quality and value for money in the online environment compared with face-to-face delivery, we envisage that escalation in online delivery will facilitate the increasing commoditisation of simple legal services and that value for money may become more critical to the success of firms.

Meanwhile, the growing importance and influence of online review sites continue to pose challenges to law firms that largely rely on the goodwill generated by their clientele's word-of-mouth referrals. We have argued that the electronic word of mouth provided by review and rating sites reduces the inherent information asymmetry that exists between law firms and

¹³⁸ Ibid 106.

¹³⁹ Sai Wang, Nicole R Cunningham and Matthew S Eastin, 'The Impact of eWOM Message Characteristics on The Perceived Effectiveness Of Online Consumer Reviews' (2015) 15(2) *Journal of Interactive Advertising* 151, 152.

¹⁴⁰ *Cheng v Lok* (n 66).

¹⁴¹ Wang, Cunningham and Eastin (n 139) 151.

¹⁴² Legal Services Consumer Panel, *Consumer Impact Report* (n 134) 14.

consumers of legal services regarding legal service quality and empowers consumers by arming them with the ability to provide reputational feedback. However, we also acknowledge that consumer benefits and the salutary lessons provided to law firms that fail to focus on legal service quality will only be attained if the review and rating sites faithfully convey that quality. Generally, review sites, such as those for law firms, are in the business of ‘trust trading’, so they try to do their best to ensure (or at least improve) the reliability of reviews.

However, as noted there is evidence that reviews and ratings have been manipulated in some cases by fake or malicious reviews. This problem is compounded where the methods used to construct the reviews and ratings employed by the review sites lack transparency. Ideally, rating and review sites should provide users and the subjects of review with fair, accessible and easily understood information regarding how their online reviews are solicited and processed. Reviews should never be accepted or rejected simply because of their sentiment. Thus, one would expect to see clear rules regarding the rejection of unlawful material such as hate speech or clearly defamatory matter and rules preventing undue harassment. To avoid the kinds of problems experienced in *Cheng v Lok*, reviews should only be published following a confirmed engagement between a client and a law firm. Where that is not possible, reviews should only be accepted from registered users who can be easily traced. Law firms themselves can assist in this process by inviting their clients to write a review about their services with a unique link that confirms that the reviewer is a genuine client. Finally, to ensure fairness, review subjects should be provided with a right of reply that gives them the opportunity to refute biased or deceitful reviews.¹⁴³

As noted above, where such guidelines are not followed, action may be taken to protect consumers by regulators such as the ACCC, FTC or the CMA. Further, in Australia, at least, individual law firms may also commence private action if they have been subjected to misleading or defamatory reviews. We have noted the difficulties faced by individual law firms in establishing causation and agree that regulators are not sufficiently resourced to police every infringement; however, it is our view that the threat of regulatory and/or law firm scrutiny should be sufficient to deter the egregious manipulation of law firm reviews. Consequently, we continue to advance the view that consumer rating sites provide insights into consumer perceptions of legal service quality.

¹⁴³ See also Christoph Busch, ‘Crowdsourcing Consumer Confidence: How to Regulate Online Rating and Review Systems in the Collaborative Economy’ in Alberto De Franceschi (ed) *European Contract Law and the Digital Single Market: The Implications of the Digital Revolution* (Intersentia, 2016).

VII CONCLUSION

For the moment, law firms should cultivate and project the same levels of professionalism, client care and effective communication online that would be expected of them in the traditional face-to-face setting. Clients clearly want legal services that will help them resolve their legal problems and/or produce good legal outcomes efficiently. They expect to be treated with courtesy and will react negatively to any suggestion that the firm is engaging in misleading practices.