

# **CMA's work in legal services in England and Wales**

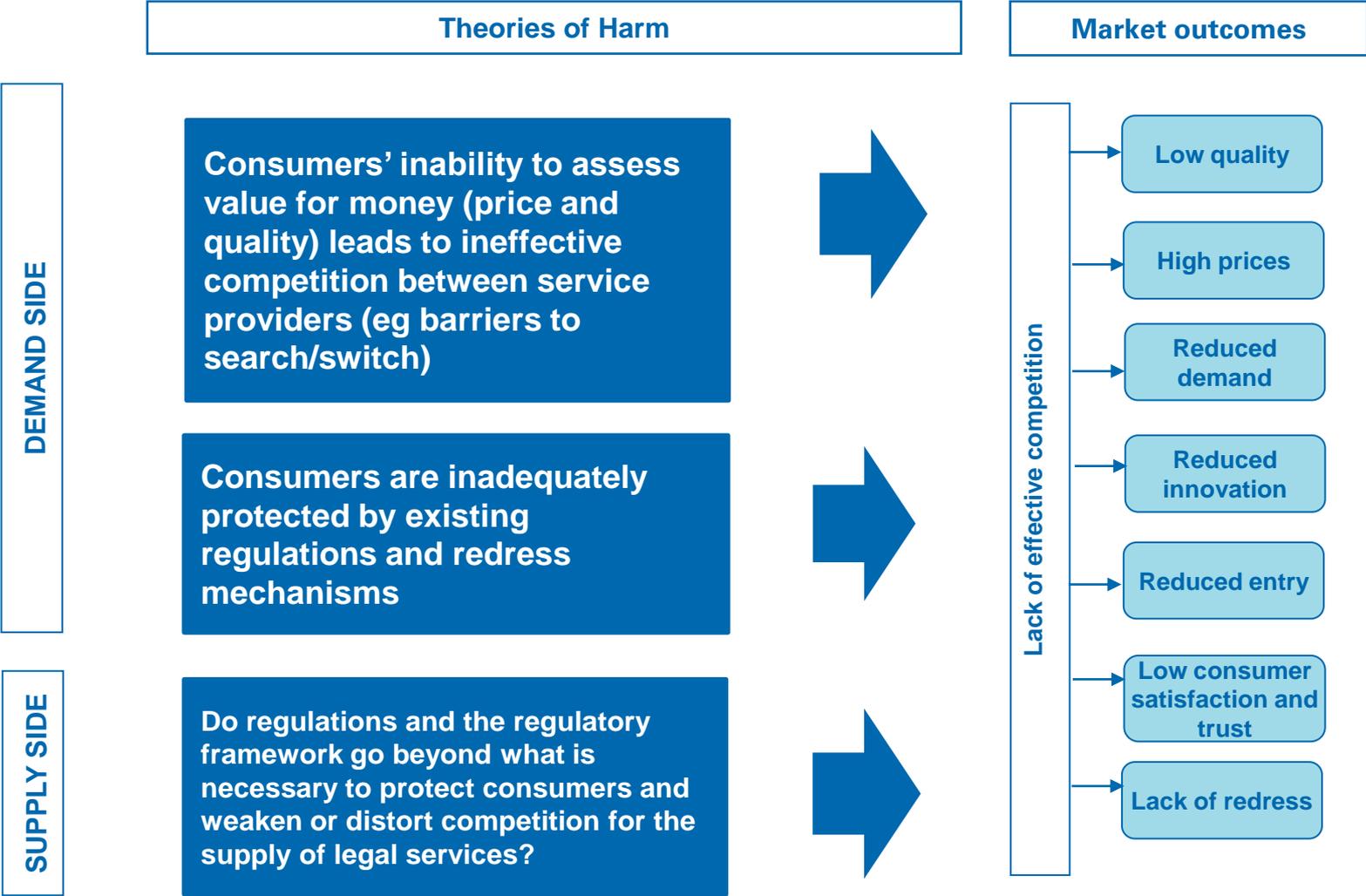
**2016: Market Study**

**2020: Review of the 2016 study**

# 2016 Market Study (MS)

- **We launched a market study in January 2016 because of concerns raised by stakeholders about**
  - Perceptions of ‘unmet’ legal needs and concerns around affordability
  - Concerns about service standards
  - Concerns about the impact of regulations on competition
  - Concerns about the effectiveness of redress mechanisms
- **Scope for market study was broad: ‘legal services’ including regulated and unregulated services**
  - Market study excluded criminal legal services
  - Focussed on individual consumers and small businesses (in particular businesses up to 10 employees)
  - Geographic scope: England and Wales

# Issues examined in MS



- **Lack of transparent information (price, quality, service) limited consumers' ability to drive effective competition**
  - May lead to consumers believing they cannot afford legal advice and resorting to doing nothing or resolving issues themselves.
  - High level of price dispersion: consumers were likely to be paying more than needed.
  - Lack of shopping around: difficult for new providers to attract consumers and gain market share.
  - Innovation in the sector was limited.
- **Need for better information to help consumers identify if they have a legal need, and what options are available**

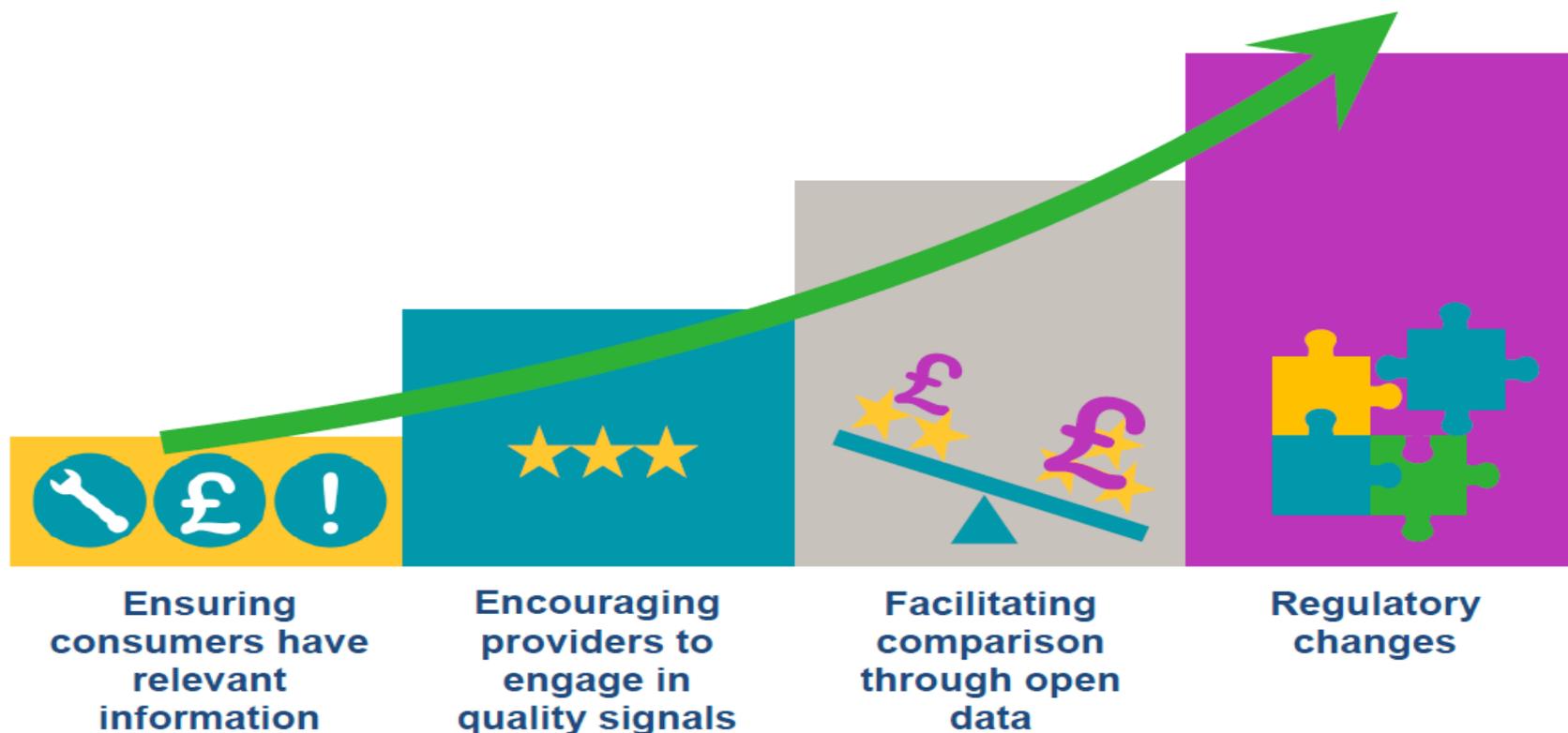
# MS findings: Consumer protection

- Lack of evidence on the unauthorised sector, but limited evidence available did not suggest unauthorised providers raise greater quality concerns than authorised providers.
- However, concerns that customers of unauthorised providers do not benefit from the redress mechanisms enjoyed by customers of authorised providers.

- **Existing regulatory framework was not a major barrier to competition at the time BUT:**
  - the current regulatory structure cannot prioritise and implement proportionate, risk-based regulation that can respond effectively to changes over time. In the long run, it may therefore not be sustainable.
- **Multiplicity of regulatory bodies did not have a significant impact on market outcomes at the time but a reduction in number may be appropriate in the future.**
- **Ensuring full independence of the regulator from the providers it regulates is a key principle.**

# MS outcomes

- Package of recommendations, anticipated to have a complementary and cumulative effect over time



- Commitment to review the implementation and impact of these recommendations several years later

# 3-month Review, ending Dec 2020: Key findings

## Significant positive change:

- All of the regulatory bodies had taken steps to introduce minimum levels of price and service transparency, mostly by way of new regulatory requirements.
- Leading to a substantial increase in the availability of such information.
  - Eg the proportion of providers displaying price information online increased from 11% (2017) to 73% (2020) (LSB pricing research).

## But also still more to do:

- The impact on competition had so far appeared limited:
  - Consumer Panel tracker survey showed little change in shopping around;
  - LSB research found no evidence yet of a significant change in the level of price dispersion.
- With the new requirements having been implemented only from late 2018 onwards (and mainly in 2019), we expected the current measures to have greater impact over time.
- However to ensure the success of the transparency measures, we concluded that the LSB and regulatory bodies needed to build on these reforms.

# Review: recommendations

- **Focusing on ‘next stage’:**
  - Building on progress to date
  - Addressing potential improvements to current implementation and other factors which may be limiting market impact, eg
    - Lack of data on quality
    - Consumers accessing data to limited extent (although evidence on this was mixed)
    - Flexible principles-based rules or high level guidelines; relatively low level of full compliance
    - Limited engagement by digital comparison services
- **Five overarching recommendations framing a range of possible further actions**
  - Addressed to the LSB, working with the regulatory bodies.
  - LSB to set direction and agree regulatory programme of work

# Framework recommendations

Recommendation	Specific actions
Ensure that there are high levels of compliance with the minimum standard of transparency across the legal services sector	<ul style="list-style-type: none"><li>• Take action to ensure compliance with the current rules on minimum standards of transparency</li><li>• Review the scope of services covered by the minimum level of transparency</li><li>• Review the effectiveness of a guidance approach and introduce rules if levels of transparency are low</li></ul>
Improve the clarity, comparability and prominence of disclosures on providers' websites in relation to price, service, redress and regulatory status	<ul style="list-style-type: none"><li>• More actively promote best practice in meeting the regulatory rules</li><li>• Develop monitoring and compliance within the current rules</li><li>• Enhance the rules for price and service transparency</li><li>• Drive improvements in product standardisation and pricing</li></ul>

# Framework recommendations (continued)

Recommendation	Specific actions
Improve the provision of information on quality of legal services providers to consumers	<ul style="list-style-type: none"><li>• Identify, design and implement effective quality indicators</li><li>• Measures to improve engagement with customer reviews</li></ul>
Develop initiatives to help consumers engage actively with information on price, service and quality	<ul style="list-style-type: none"><li>• The introduction of triggers or prompts to encourage shopping around</li><li>• Improving access to regulatory information, including through the development of a single digital register</li><li>• Further development of the Legal Choices site</li><li>• Encouraging participation by DCTs</li></ul>
Develop an ongoing programme of consumer research and testing to determine the information on price, service and quality that is most useful for consumers	<ul style="list-style-type: none"><li>• Testing of best practice guidance and formats for price and service transparency to consumers</li><li>• Testing consumers' understanding of questions and prompts used to gather feedback</li><li>• Testing to measure the impact of interventions</li><li>• Testing with vulnerable consumers</li></ul>

# Regulation: review findings and recommendations

- **The issues we identified in the Market Study largely remain.** There remains a strong case for wholesale reform and, if anything, it is stronger than at the time of the Market Study
  - Signs unauthorised sector has continued to grow through lawtech, accelerated by remote service provision driven by COVID-19
- **We recommended that the MoJ should undertake a wholesale review of the current framework for legal services (per the Market Study).**
- **As part of developing the long-term strategy for the regulation of legal services, we recommended in the short term that:**
  - The MoJ create, or empower the creation of, a mandatory public register for unauthorised providers and mandate that these providers offer redress options for consumers.
  - The LSB should carry out a review of the reserved activities.
  - The LSB should evaluate the impact of the revised Internal Governance Rules (addressing independence concerns) before deciding on further action.

# Next steps – with LSB and Government

- **LSB Board has formally agreed in principle to coordinate, monitor and lead work on the CMA's recommendations**
  - Progressing with regulatory programme of work.
- **Government is considering CMA recommendations on the regulatory framework – response to follow.**