



481 Law Centre
Edmonton, Alberta, Canada T6G 2H5
Tel: 780.492.5590
Fax: 780.492.4924
deanoflaw@ualberta.ca
<http://lawschool.ualberta.ca/>

Market Modifier Proposal

October 15, 2014

Summary

The Faculty of Law at the University of Alberta is requesting consideration of a market modifier adjustment to rectify a clear market anomaly. Using a list of eleven Canadian law schools agreed upon with the Law Students' Association ("LSA") as appropriate comparator institutions, a recent market assessment evaluating tuition and operating budgets showed that the annual tuition for U of A's Faculty of Law was third lowest among the twelve for the 2014-15 academic year. At \$10,121, U of A's current tuition is well below the current \$15,802 average of these institutions, \$21,415 less than the University of Toronto's current \$31,536, and \$12,551 below Osgoode Hall Law School (York University's) current \$22,672, two of our key competitor schools.

The proposed market modifier, if approved, would result in annual tuition of \$15,995 for first year students in the 2015-16 academic year. This is a level just below the \$16,103 current market competitor average adjusted for COLA (at 1.9%). Tuition increases would be phased in for second and third year students at approximately \$2000/year, reflecting the fact that these students will benefit from some but not all of the investments to be made in student support from the increased market modifier. As the attached letter from the LSA notes in its first paragraph, the LSA believes that the increase is "necessary" and that the proposed phase-in is "fair and equitable."

The proposal has been developed in consultation with the LSA and through outreach with the undergraduate Students' Union ("SU") in 2013 and 2014. It is the result of dialogue with the LSA since 2010 about the need for adjustment and since 2013 about LSA priorities for investment in expanding experiential learning opportunities, significantly enhancing career services supports, increasing scholarship and bursary support to ensure access, maintaining class size and an academic program competitive with our market peers. It has been changed to reflect LSA input and feedback both from the LSA Executive and from an October 2014 LSA survey of the law student body mandated by the Students' Union and developed in consultation with the SU Executive.

As detailed below, both the LSA and the Dean of the Faculty have engaged the broader Students' Union in the question of the challenges facing the law school, the unique situation for law students both in terms of the competitive market for law faculties in Canada and the legal profession, and the steps both taken and proposed to ensure continuing reinvestment in scholarships and bursaries to ensure access for low-income students, students with dependents, and students from historically disadvantaged groups. On October 14, 2014, SU Council approved a motion that would allow for LSA to advocate for the Faculty's market modifier proposal notwithstanding SU political policy opposing tuition increases. The Dean has also consulted widely, including meetings with or presentations to the Law Society of Alberta benchers, the Canadian Bar Association – Alberta Branch executive, members of the judiciary, alumni, law firms and other interested stakeholders. The LSA's letter of support is attached.

Background and Context – The Competitive Market

The Faculty of Law's JD program is a three-year, full-time course of study leading to the Juris Doctor (JD) degree. The Faculty currently enrolls 525 total FLE and admits approximately 185 students to the first year (1L) program from approximately 1500 applicants. In Fall 2013, the Faculty admitted 176 entering students from an applicant pool of 1425. The Faculty's entering admission standards place it amongst the highest in Canada and it traditionally has been amongst the top-ranked law schools in Canada. Recently it slipped in Maclean's 2014 Law School Rankings to eighth place [*see slide 8*] of sixteen common law programs in the country.

The Canadian Bar Association's Legal Futures Task Force Report, released in August 2014, noted that the "legal profession is entering a period of major change. The combined forces of globalization, technology and market liberalization are creating new services, new delivery mechanisms, and new forms of competition... At the same time that the demand from existing clients is changing, there are still many individuals and communities in Canada with inadequate access to any type of legal services." The Report also noted: "In this dynamic future environment, it will be important for lawyers to obtain lifelong education and training. This will require more flexibility and choice in the way new lawyers are educated and trained, as well as innovative models and courses of study for pre-call training and development." [*see slides 3-4*]

The Report's Recommendation #16 (Education) emphasized the need for experiential learning opportunities in law school, offering an "integrated, practical approach" that would permit students to "turn critical knowledge of legal concepts, regulatory processes, and legal culture into actual problem-solving ability in practice." [*see slide 6*] This accords both with Faculty research into revising and updating its curriculum as investments permit, and with student demand for increased experiential learning opportunities during their JD studies.

The competitive market for law schools in Canada has been intensified since 2010 with the addition of two new law schools (Lakehead University in Thunder Bay, Ontario, and Thompson Rivers in Kamloops, British Columbia) as well as the proposed law school for Trinity Western University in British Columbia. While these three schools have not been used for purposes of market comparison, we note that Thompson Rivers charged \$17,828 in tuition for 2013-14.

In consultation with the LSA, a list of eleven comparator law schools was developed for purposes of market analysis. [*see slide 9*] This list includes the top twelve law schools on the 2014 Maclean's rankings. While three of those (Victoria, Calgary, and Saskatchewan) have traditionally not had similarly competitive entering requirements or been competitors for graduate placement with the University of Alberta, their inclusion reflected both their regional impact as well as a balanced approach to arriving at the appropriate market average for tuition. Leaving them out would have raised the tuition average considerably.

In addition, the evaluation of operating budgets, tuition rates, and student/FTE ratios [*see slides 10-12*] for the broader comparison pool of U-15 schools plus Osgoode Hall (York) showed that the University of Alberta's Faculty of Law tuition rates and operating budgets were out of line with the top competitors. In addition, tuition at the University of Calgary has been greater than at the University of Alberta through this period, and currently sits at \$12,023 versus \$10,121.

The proposal for a market modifier [*see slide 27*] is therefore based upon the 2014-15 average of published tuition at eleven competitor law schools, adjusted at Alberta COLA (1.9%) for implementation in 2015-16. [*see slide 9*] That average of \$16,103 is slightly above the proposed \$15,995 for the Faculty of Law at the University of Alberta.

Implementation, Benefits and Revenue Allocation

The attached proposed rate analysis [*see slide 27*] shows implementation of the new tuition rate for the entering 1L class in 2015-16 at \$15,995, as well as a gradual phasing in at approximately \$2000/year for current 1L and 2L classes. This phase-in reflects discussions and consultations with the LSA, which has deemed the proposal “fair and equitable”.

The proposed rate analysis also shows the revenue allocation in accordance with the current 20/60/20 Student Support Allocation/Faculty Allocation/University Administration allocation formula.

The LSA and the Faculty have identified a number of concerns created by the current situation: the Faculty’s operating budget is less in real dollars than it was in 2010-11; there has been a reduction in the full time faculty complement from 36.5 FTEs in 2008-09 to 29 in 2014-15, with retiring professors not being replaced and faculty/student ratios negatively affected; staff cuts have resulted in a significant reduction of support services to students at a time when additional investments are required to ensure quality is maintained and competitiveness sustained or improved; and the law library has been closed through the summer months, restricting access both for students, for self-represented litigants who access its services, and for the legal community. Class sizes have been increased, with first year Property Law (a core course) being taught now in one section of 180 students rather than in three sections of 60 or the historical class size of four sections of 45; and upper year optional courses have been deferred or cancelled. [*see slides 13-14 and the LSA letter*]

The LSA independently identified a number of priority areas for support [*see slide 17*], including a moratorium on increasing the entering 1L class size; hiring of up to 7.5 additional professors to restore faculty complement to 2009 levels, curriculum reform with a strong emphasis on experiential learning opportunities; the elimination of a \$50 Faculty Membership Fee currently used to support career services; and tuition waivers for low income students, students with dependents and students from historically disadvantaged groups.

If granted, additional revenue from the market modifier proposal would permit a four-year moratorium on the 1L class size; increased scholarship and bursary investment support to ensure access; the expansion of experiential learning opportunities; the elimination of the \$50 Faculty Membership Fee; and significant investments in career services supports for students. [*see slide 18*] Through further consultations in September at two Town Halls, continued dialogue with the LSA executive, and a survey of current students, this list of commitments was further refined and precise investments articulated. [*see slide 28*]

A survey of law students conducted from October 7-9, 2014 with a participation rate of 192 students or approximately 36% of the student body evenly distributed over 1L, 2L and 3L classes strongly supported the market modifier proposal. 58% voted for the modifier, 26% voted against, and 16% abstained; of those voting yes or no, 69% voted in favor, and 31% against. With respect to the particular items in the detailed proposal, students most strongly supported the following:

- Hiring of up to 7.5 additional professors, which would restore faculty complement to 2009 levels;
- Hiring of 2 additional career services officers;
- Dedicating 20% of the increased funding to scholarships and bursaries;
- Hiring of an academic director, a staff advisor, and an assistant to run an enhanced experiential learning program for JD students

In addition, students offered solid support for two additional proposals:

- The creation of graduating student bursaries for individuals committing to a period of service in public service/rural/underserved markets;
- Hiring of 2 teaching fellows to assist professors in improving student learning outcomes in first year classes

Students offered more limited support for other items identified by the LSA and the Dean as other areas for significant possible investment:

- Hiring of a part-time psychologist or mental health and wellness officer;
- Hiring of a financial services officer to assist in counselling law students on funding opportunities, debt management and financial counselling;
- Opening of the law library during the summer;
- Hiring of a director of student services to ensure better coordination and facilitation of student service supports;
- Hiring of an additional admissions officer

The LSA VP Academic reported that in reviewing the survey results, “it is clear that students would like to primarily see funds flowing to areas of immediate effect to them. This includes academic improvements in increased faculty hiring, experiential program funding, and potentially, a teaching fellow program.” Additional career services supports were highlighted as a priority, and students were “not opposed” to funds being used to support students in the form of scholarships and bursaries.

To implement all proposed investments would exceed additional revenue from differential fees to the faculty from the proposed market modifier by approximately \$981,000/year. [*see slide 28*] This both reflects a reduction from the original tuition rate proposed by the Dean and rejected by the LSA in early August, and the need to prioritize the investments through further consultation with the LSA and others should the request be approved.

Ensuring Affordability and Access, and Graduate Opportunities/Market Salary Information

As part of this assessment, the Faculty considered financial support for students and financial impact as a key priority. In the past three years, law students who have qualified for financial aid support according to provincial criteria have received it. Data from three years of the independent Law School Survey of Student Engagement of University of Alberta Faculty of Law students shows that ***approximately 20-25% of students expect to graduate from law school with no student debt from attending law school***; approximately 40% of students expect to graduate from law school with less than \$20,000 in student debt. [*see slides 23-25*]

The Faculty has managed through development and fundraising to increase the funds it dedicates to student prizes and awards from \$1.021M in 2009/10 to \$1.12M in 2013/14. [*see slide 22*] Investing in additional scholarship and bursary support as proposed will continue to ensure access for students and to ensure graduating student opportunities across practice areas. If approved, 20% of revenue to the Faculty from the additional differential fee will be allocated to scholarships and bursaries, with particular emphasis on low income (including rural) students, students with dependents and students from historically disadvantaged groups.

Further, as the Maclean's ranking identified the University of Alberta Faculty of Law as ranking second in elite firm hiring, and as approximately half of the recent graduating class headed to law firms in Calgary, Edmonton, Vancouver and Toronto, we surveyed 2013/14 salary information for large, midsize, and small firms in Edmonton, Calgary, Vancouver and Saskatoon, with particular focus on the 1-3 year experience group. That information [*see slides 19-21*] demonstrates that despite an increasingly competitive market for lawyers, graduate salary opportunities for lawyers in firms of all sizes remains robust and room for the market modifier proposed to be sustainable without a disproportionate effect on student debt load. Unlike other law schools in Canada, the University of Alberta Faculty of Law in recent years has placed nearly all of its students on graduation into articling positions that are prerequisites to qualification and employment as a lawyer.

History of Consultation

As the attached letter from the LSA notes, the LSA supported a proposal for a market modifier in 2010 that was not deemed qualified by the Ministry at that time. Since 2010, the LSA and the Faculty of Law administration have been engaged in consultation about student needs and priorities as well as the support for a market modifier proposal. The consultations included an April 2013 Town Hall, an August 2013 presentation by the LSA to the University of Alberta Student Union Council, a September 2013 LSA consultation email to law students, and surveys by the LSA in 2013-14 about student needs and priorities. [*see slide 16 and LSA letter*] Extensive consultation with the LSA over the spring and summer of 2014 was key for identifying student priorities for quality investments and improvements in the faculty, and the detailed list of investment priorities to which we are committed should the modifier be approved.

Further consultations were also undertaken with the SU. The Dean and the LSA President met with the SU Executive on August 10, 2014 to discuss SU concerns. In an unprecedented move, the Dean of the Faculty of Law was the first Dean to present jointly with a faculty student body executive to the SU, at an SU Council meeting on August 19. The presentation and substantial question period with both the Dean and the LSA President were designed to demonstrate an open and transparent process. That process continued in September. The Dean hosted a Town Hall on September 10 for law students and others interested, materials from which (including a webcast) were posted on the Faculty of Law website. The LSA hosted its own Town Hall on September 17 to which the Dean was invited for the first 15 minutes and at which members of the SU Executive were in attendance. The Dean and the LSA President met again with the SU President on October 8.

As noted above, based on the LSA Town Hall and SU input, the LSA conducted a survey of law students both about the general proposal and about its component parts between October 7 and October 9. A total of 192 responses (from a student population of about 520) represented approximately one-third of students voting. On the key question, 58% of students supported the proposal, 25.6% opposed it, and 16% abstained. Of those taking a position, 69% supported the proposal and 31% opposed it. The LSA Executive presented this information and additional feedback from the survey and consultations to SU Council on October 14, 2014. After a lengthy discussion and debate, the majority of SU Council approved a motion that would allow for the LSA to advocate in favor of the Faculty of Law's market modifier proposal notwithstanding (and in contravention of) SU and CAUS political policies that oppose any tuition increases. The engagement between the SU and LSA has been unprecedented and underscores the breadth of consultation both with law students and with the broader undergraduate student representatives about the importance of this proposal to the future of the Faculty of Law.



Conclusion

The proposed market modifier reflects a documented market anomaly and, if granted, would permit a robust response to and investments in student needs and priorities proposed by and developed in extensive consultation with law student representatives over a period of years. It would permit the Faculty to address current and expected market needs for our students through the expansion of experiential learning opportunities and significant investments in student supports, while ensuring that access is preserved through enhanced scholarship and bursary support. It is the product of an unprecedented level of consultation with student representatives whose thoughtful feedback and input have been directly incorporated; should the proposal be approved, this consultation will continue in order that priority investments reflect student priorities, enhance the quality of their legal education, and directly support their career success.

Please let me know if you require additional information. Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink, appearing to read "Paul D. Paton".

Paul D. Paton
Dean of Law
Wilbur Fee Bowker Professor of Law

Enclosure