# The Rise of Multidisciplinary Practices in Europe and the Future of the Global Legal Profession Following *Arthur Andersen v. Netherlands Bar Ass'n*

G. Ellis Duncan

*Multidisciplinary Practice (MDP) has suitably been referred to as the most important issue facing the modern legal profession. MDP, however, is not an entirely new concept—the idea of having a "Wal Mart" type of professional services firm, providing many different kinds of professional services under one roof (theoretically at a lower cost), has been contemplated in most countries. However, bar associations around the world continue to oppose the formation of MDPs, fearing that combining lawyers in an association with nonlawyers will compromise the ethical duties owed to the client in favor of the MDP's bottom line.*

*In Europe, member state bar associations remain divided. Some bar associations allow MDPs in their "fully integrated" form, while others have outright prohibited their formation. In the Netherlands, where the national bar has prohibited attorneys from practicing with accountants, the most significant debate on MDPs has recently emerged, as Arthur Andersen and PriceWaterhouse Coopers have asserted that the regulation violates European Union law and have appealed the Dutch prohibition on MDPs all the way to the European Court of Justice. The decision in the case will have far-reaching effects on the global legal profession, as it will likely influence the position that national bar associations take toward MDPs and, consequently, the way legal services around the world will be provided in the twenty-first century.*

## I. INTRODUCTION

The decision expected in late 2001 from the European Court of Justice in the case of *Arthur Andersen v. Netherlands Bar Ass'n (NOVA)* may be the most important case to affect the global legal profession. Multidisciplinary practices (MDPs) have been accepted in parts of Europe since the end of World War II,[1] and have risen in popularity recently due to the establishment of the European Union, the movement of legal services across international borders, and the growth of the "Big Five."[2] Consumers of business, consulting, accounting, and legal services now demand "one-stop shopping" for all of their professional service needs. Proponents of multidisciplinary practices believe that MDPs have the potential to offer consumers in virtually all income brackets a number of incentives or benefits including increased service options and convenience at a lower price.

The European Union has traditionally left regulation of the legal profession to the individual member states.[3] The European Court of Justice, however, has never considered whether a member state's ban on MDPs violates community competition law, the right to establishment, or the freedom to provide services under articles 81 and 82 of the Treaty of Amsterdam.[4] The regulation of MDPs varies greatly among member states, leading to the argument that there should be a community-wide standard to govern the provision of legal services. The future of the MDP debate will likely depend upon the outcome of *Arthur Andersen v. Netherlands Bar Ass'n*.[5] If the European Court of Justice upholds the Dutch ban on MDPs, the debate on MDPs in Europe may decelerate, as the Big Five and other multidisciplinary service providers put less pressure on member state bar associations to amend their ethical rules. If the Court of Justice rejects the Dutch ban on MDPs as a violation of Community law under articles 81 and 82 of the Treaty of Amsterdam,

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1. *See* Ward Brower, *The Case for MDPs: Should Multidisciplinary Practices be Banned or Embraced?*, L. PRAC. MGMT. MAG. (July/Aug. 1999), *available at* http://www.abanet.org/lpm/magazine/mdp-bowe995.html.

2. *See generally* David M. Trubek et al., *Global Restructuring and the Law: Studies of the Internationalization of Legal Fields and the Creation of Transnational Arenas*, 44 CASE W. RES. L. REV. 407 (1994).

3. *See generally* Council Directive 98/5, 1998 O.J. (L77) 33 [hereinafter Establishment Directive] (permitting member states of the European Union to refuse to allow a lawyer to practice under his home-country title as a member of a grouping if the grouping includes non-members of the legal profession).

4. TREATY OF AMSTERDAM AMENDING THE TREATY ON EUROPEAN UNION, THE TREATIES ESTABLISHING THE EUROPEAN COMMUNITIES AND CERTAIN RELATED ACTS, Oct. 2, 1977, O.J. (C340) 1 (1997) [hereinafter TREATY OF AMSTERDAM].

5. *Arthur Anderson v. NOVA* is expected to be decided by the European Court of Justice in late 2001.

multidisciplinary practice may soon become the universal method of providing legal services in the European Union. This will in turn put pressure on the American Bar Association (ABA) in the United States to amend its current position on MDPs out of the fear that Europe will become the hub for international legal services.[6] Consequently, the decision in *Arthur Andersen* will ultimately impact the way legal services are provided in the United States.

This Comment will first explore the rise in popularity of MDPs in Europe, the different forms of multidisciplinary practice, and the activities of the Big Five accounting firms in Europe, who have been the driving force behind the MDP phenomenon in recent years. Second, this comment will look at the activities of Community bodies with respect to MDPs, including the Establishment Directive and the positions of the European Bar Council (CCBE) and European Bars Federation (ECB), the European Union's primary bodies for the regulation of lawyers. Third, this Comment will explore the activities of the national bars in France, the United Kingdom, and Germany, whose activities will have a significant impact on the future of MDPs in Europe due to the strength of the economic and legal markets in these countries. Fourth, this Comment will address the current state of the law on MDPs in the Netherlands and the litigation leading up to the decision in *Arthur Andersen*, and will give a prediction of how the European Court of Justice will reach its decision later this year. Finally, this Comment will consider the law on MDPs in the United States and how the decision by the European Court of Justice will likely affect the way legal services are provided in the United States.

## II. THE RISE OF MDPS IN EUROPE

Multidisciplinary practice, in one form or another, has existed in Europe for over half a century.[7] Because an MDP can take many different forms and encompass literally hundreds of different industry professionals, it becomes difficult to precisely define the term "MDP." In most MDP arrangements, lawyers join with other nonlawyer professionals to provide services beyond traditional "legal" services. The ABA's Commission on MDPs defines a multidisciplinary practice as:

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6. *See* John S. Dzienkowski & Robert J. Peroni, *Multidisciplinary Practice and the American Legal Profession: A Market Approach to Regulating the Delivery of Legal Services in the Twenty-First Century*, 69 FORDHAM L. REV. 83, 123-24 (2000) (arguing that U.S. clients will continue to seek legal services abroad if U.S. ethics rules continue to prohibit multidisciplinary practice).

7. *See* Brower, *supra* note 1.

> [a] partnership, professional corporation, or other association or entity that includes lawyers and nonlawyers and has as one, but not all, of its purposes the delivery of legal services to a client other than the MDP itself, or that holds itself out to the public as providing nonlegal, as well as legal services. It includes an arrangement by which a law firm joins with one or more professional firms to provide services, and there is a direct or indirect sharing of profits as part of the arrangement.[8]

The CCBE,[9] the European Union's regulatory agency for lawyers, further defines MDPs as organizations that exhibit the three following characteristics: (1) they provide more than one professional service (including legal services); (2) members of more than one profession share the profits from these services; and (3) they include lawyers as partners, directors, share owners, or employees.[10]

A multidisciplinary practice may include countless different professionals from a multitude of industries producing a wide array of services for a single client. For example, an MDP may include a lawyer, a social worker, and a certified financial planner who work together to counsel older clients about estate planning, nursing home care, and living wills.[11] A law firm might also join with an accounting firm to ensure that a corporate client complies with legal and audit regulations.[12] Further, a lawyer may join with a personal investigator to provide criminal investigative and legal services.[13] A client can use an MDP and literally achieve "one stop shopping" for all of its professional needs without hiring separate professional firms to accomplish the same task.

Professionals in a multidisciplinary practice may choose to unite in any number of ways. The ABA Commission on Multidisciplinary Practice identified five different "models" under which MDPs typically operate.[14] Under the first model (the Cooperative Model), lawyers retain

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8. *Report to the House of Delegates*, ABA COMM. ON MULTIDISCIPLINARY PRACTICE, app. A5 (1999) [hereinafter Commission Report], *available at* http://www.abanet.org/cpr/mcpappendixa.html.

9. The CCBE consists of national delegates from eighteen European countries of the European Economic Area who represent their respective legal professions in a common bar association. The CCBE studies issues affecting the legal profession in the European Union and formulates solutions designed to harmonize and coordinate professional practice. *See Written Comments of Ramon Mullerat, Report on Multidisciplinary Practices in Europe* (Apr. 1999) [hereinafter *Comments of Ramón Mullerat*], *at* http://www.abanet.org/cpr/mullerat1.html (last visited Apr. 13, 2001).

10. *See id.*

11. *See* J. Nick Badgerow, *A Profession on the Threshold: The Bar Considers Multiple Discipline Practices*, 69 MAR. J. KAN. B.A. 12, 14 (2000).

12. *See id.*

13. *See id.*

14. *See* ABA Commission on Multidisciplinary Practice, Hypotheticals and Models (Mar. 1999), *at* http://www.abanet.org/cpr/multicomhypos.html (last visited Mar. 15, 2001).

nonlawyer professionals on their staffs to assist them in advising clients instead of sharing fees or forming partnerships with these professionals.[15] Under the second model (the Command and Control Model), lawyers share fees with nonlawyers in a partnership whose primary purpose is the provision of legal services.[16] Under the third model (the Ancillary Business Model), a law firm owns and operates a separate business that provides professional services for clients.[17] Under the fourth model (the Contract Model), a law firm contracts with another professional services firm and typically enters an arrangement where each firms agrees to refer business to the other.[18] Finally, under the fifth model (the Fully Integrated Model), no freestanding law firm exists; rather, there is a single professional services firm with organizational units such as accounting, business consulting, and legal services.[19]

Though multidisciplinary practice is not a recognized method of providing legal services in the United States, MDPs have existed in Europe since the end of World War II.[20] The idea of a multidisciplinary practice originated in Germany, where the German bar originally allowed lawyers and accountants to practice together because the accounting profession was considered to maintain high professional and ethical standards.[21] Multidisciplinary partnerships were not prevalent in other European nations until the growth of the European Community, as loosened trade restrictions led to a greater demand for legal services across European borders.[22]

The growth of the "Big Five" accounting firms (and the subsequent rise in popularity of consulting services) is the single largest factor behind the rise in popularity of MDPs in Europe. Accounting firms, who

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15. *See id.*

16. *See id.* The "Command and Control" Model is similar to the District of Columbia's Model Rule 5.4, allowing lawyers to share fees with nonlawyers in a partnership or other organization only if: (1) the partnership or organization has as its sole purpose providing legal services to clients, (2) nonlawyers holding a financial interest or managerial authority in the organization abide by the rules of professional conduct for lawyers, (3) lawyers with managerial authority exercise the same amount of control over nonlawyers as they would over lawyers, and (4) all of the foregoing conditions are set forth in writing. *See* D.C. CT. REV. ANN. Rule 5.4(b) app. A (1999) [hereinafter D.C. Rules of Professional Conduct].

17. *See* ABA Commission on Multidisciplinary Practice, *supra* note 14. For example, under the Ancillary Business Model, a law firm might own a majority interest in an ancillary business that engages in economic forecasting and offers consulting services to Fortune 500 companies. *See id.*

18. *See id.* For example, in a typical contract, a law firm and a professional services firm might agree to refer clients to one another or identify their affiliation on letterhead and business cards.

19. *See id.*

20. *See* Bower, *supra* note 1.

21. *See* Dzienkowski & Peroni, *supra* note 6, at 113.

22. *See id.* at 113-14.

have traditionally offered numerous services, including tax services,[23] were able to use their expertise in tax as a base to expand their claims of legal expertise in business matters.[24] Accounting firms, who offered a variety of services, were better able to compete on price as economies of scope[25] allowed the Big Five to produce larger amounts of services for a single client.[26] Furthermore, European clients, who have traditionally viewed such professional services as interrelated, usually make little distinction between services provided by accountants and those provided by lawyers, and became ideal consumers of multidisciplinary services.[27]

The Big Five have built extensive legal networks across Europe, currently providing legal services in Spain, France, Italy, Germany, the United Kingdom, Switzerland, Sweden, and Austria, and are continuing to expand their operations. In Spain and France, for example, three of the five largest law firms are the local offices of Big Five accounting firms.[28] KPMG Fidal, an independent law firm servicing the Big Five accounting firm, is currently the largest law firm in Europe.[29] The success of the Big Five in Europe can be attributed to numerous competitive advantages over traditional law firms, including size, brand name recognition, availability of capital, and international capabilities.[30] Though the European national bar associations have, to some degree, limited the operations and associations of accounting firms, the Big Five have created their own law firms across Europe[31] and continue to provide legal services.

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23. Some commentators believe that accounting firms have almost a monopoly on tax services provided in Europe because European law firms have traditionally emphasized litigation and many have strayed away from tax work altogether. *See* Gianluca Morello, *Big Six Accounting Firms Shop Worldwide for Law Firms: Why Multidisciplinary Practices should be permitted in the United States*, 21 FORDHAM INT'L L.J. 190, 193 (1997).

24. *See* Mary C. Daly, *Choosing Wise Men Wisely: The Risks and Rewards of Purchasing Legal Services from Lawyers in a Multidisciplinary Partnership*, 13 GEO. J. LEGAL ETHICS 217, 231 (2000).

25. Economies of scope occur when the total cost of producing a group of products or services is less when those products or services are produced by a single integrated firm than when produced by a set of independent firms. Coordination among various professionals results in cost savings to both producers of the services and to the client. *See* Dzienkowski & Peroni, *supra* note 6, at 120.

26. *See* Daly, *supra* note 24, at 231.

27. *See* Morello, *supra* note 23, at 193-94.

28. *See* Nicholas J. Zoogmar, *If Lawyers Practice in MDPs Anticipate Profound Effects on Malpractice Insurance Policies*, 225 N.Y.L.J. 5 (Jan. 8, 2001).

29. *See* Morello, *supra* note 23, at 202.

30. *See* Daly, *supra* note 24, at 233.

31. *See Comments of Ramón Mullerat*, *supra* note 9.

## III. THE POSITION OF THE COMMUNITY BODIES

### *A. The Establishment Directive*

The European Union has traditionally allowed member states to regulate their own legal professions. On February 16, 1998, the Council of Ministers issued the Establishment Directive, which legitimized a member state's competency to regulate its own legal profession.[32] Specifically, article 11, clause 5 of the Establishment Directive provides:

> A host member state, insofar as it prohibits lawyers practising under its own relevant professional title from practising the profession of lawyer within a grouping in which some persons are not members of the profession, may refuse to allow a lawyer registered under his home-country professional title to practice in its territory in his capacity as a member of his grouping. The grouping is deemed to include persons who are not members of the profession if the capital of the grouping is held entirely or partly, or the name under which it practises is used, or the decision-making power in that grouping is exercised, de facto or de jure, by persons who do not have the status of lawyer within the meaning of Article 1(2).[33]

As a result of the Establishment Directive, member states can regulate all organizations in which attorneys practice, including multidisciplinary practices. The most recent position by the Council infers that member state regulation of MDPs, including complete prohibition, is consistent with Community law.

### *B. The European Bar Council (CCBE)*

During a plenary session in Athens on November 12, 1999, the CCBE recommended that national bars not permit the formation of MDPs.[34] In reaching its decision, the CCBE weighed the European Community's interest in promoting freedom of economic activity, including the freedom to provide services, against the legal profession's interest in protecting professional independence, maintaining client

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32. *See* Establishment Directive, *supra* note 3. The European Council approved the Establishment Directive to facilitate transborder practice of the legal profession and European lawyers in member states other than those in which a lawyer's professional qualifications were obtained. *See Comments of Ramón Mullerat*, *supra* note 9.

33. *See* Establishment Directive, *supra* note 3, art. 11, cl. 5. The Establishment Directive also provides that in the event of a conflict between the rules governing lawyers in two different countries, the rules of the host member state shall prevail insofar as compliance with them is justified by the public interest or the protection of third parties. *See id.*

34. *See* Position of CCBE on integrated forms of cooperation between lawyers and persons outside the legal profession, adopted in Athens on Nov. 12, 1999, *at* http://www.abanet.org/cpr/ccbe.html (last visited Apr. 13, 2001).

confidentiality, and avoiding conflicts of interest.[35] The CCBE noted that the lawyer's ability to provide independent, professional judgment is jeopardized when the lawyer is tied to an organization or managed by others with competing loyalties.[36] The CCBE resolved that a lawyer's duty to maintain client confidentiality is at risk when that lawyer works with other professionals who have conflicting duties of confidentiality, (e.g., accountants who have a duty of disclosure to the public).[37] The CCBE noted that when a professional organization has multiple objectives, such as when an MDP provides both legal and auditing services to the same client, professional requirements of the legal and accountancy professions create significant conflicts regarding rules of confidentiality.[38]

The CCBE further recognized the legitimacy of the Establishment Directive allowing member states to regulate the formation of multidisciplinary practices within their jurisdictions.[39] The CCBE noted that because the Establishment Directive was prescribed differently into each member state's law, it would be especially problematic to permit multidisciplinary practices.[40] The CCBE concluded that there are overriding interests for not permitting forms of integrated cooperation between lawyers and nonlawyers with relatively different professional duties and correspondingly different rules of conduct.[41] Finally the CCBE remarked that, in those countries that permit cooperatives between lawyers and other professionals, the member states must establish rules to safeguard the lawyer's independence, protect client confidentiality, and prevent conflicts-of-interest.[42]

### *C. The European Bars Federation (EBF)*

The EBF, an association that unites the local bars of Europe, also found multidisciplinary practice to be contrary to the core values of the European legal profession.[43] In a resolution approved by the General Assembly in Berlin on May 3, 1997, the EBF first declared that the participation of third parties in the capital of groupings of lawyers, insofar as such associations are permitted, is neither necessary nor

35. *See id.*
36. *See id.*
37. *See id.*
38. *See id.*
39. *See id.*
40. *See id.*
41. *See id.*
42. *See id.*
43. *See Comments of Ramón Mullerat*, *supra* note 9.

appropriate.[44] Second, the EBF resolved that organizations that provide legal services alongside other professional services must take precautions to ensure that the ethical principles of the legal profession are properly safeguarded.[45] Finally, the ECB concluded that lawyers should not be allowed to partner with nonlawyers in a multidisciplinary practice.[46] In sum, the EBF found multidisciplinary practice to be inconsistent with the ethical rules governing attorneys in the various European jurisdictions, and encouraged all local bar associations to prohibit their formation.[47]

## IV. THE POSITION OF THE NATIONAL BAR ASSOCIATIONS

### *A. France*

Though the French National Bar Association was generally opposed to multidisciplinary practice in the 1990s, recent actions taken by the Prime Minister of France and the Paris Court of Appeals suggest that France will soon accept MDPs as a legitimate form of providing legal services. Prior to the Reform Act of 1992,[48] France was perhaps the European nation most open to multidisciplinary practice. For centuries, France has had several distinct legal professions, including the *avocat* (courtroom attorney) and *conseil juridique* (transactional or business law attorney).[49] Attorneys who performed transactional functions (*conseil juridiques*) could form partnerships with other professionals because they did not function as "officers of the court," whereby ethical obligations to the justice system would interfere with commitments to their legal practice. However, maintaining different titles for lawyers who performed different functions led to a public perception that lawyers bearing a certain title were not competent in all legal matters (e.g., *avocats* were not competent in business law).[50] In an effort to strengthen and unify the French legal profession, the French Parliament enacted the Reform Act of 1992, merging the *avocat* and *conseil juridique*

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44. *See id.* (citing Resolution adopted by the General Assembly of the EBF in Berlin on May 3, 1997).

45. *See id.*

46. *See id.*

47. *See id.*

48. The Reform Act of 1992 eliminated the distinction between *avocats* (courtroom attorneys) and *conseil juridiques* (legal and tax consultants). *See Report: Preserving the Core Values of the American Legal Profession: The Place of Multidisciplinary Practice in the Law Governing Lawyers*, New York State Bar Ass'n Special Comm. on the Law Governing Firm Structure and Operation 192-98 (2000) [hereinafter NYSBA Report], *available at* http://www.law.cornell.edu/ethics/mdp/mdptoc.htm. *See id.* (citing Reform Act of 1992).

49. *See id.* at 193.

50. *See generally id*. at 192-98.

into a single legal profession.[51] By virtue of the Reform Act, all persons who were *conseil juridiques* on December 31, 1991 became *avocats* on January 1, 1992.[52]

The unified National Bar Council, as well as the various local bar councils, soon became concerned with the concept of multidisciplinary practice after the Reform Act took effect.[53] Though the Big Five were still allowed to use a "captive" law firm arrangement,[54] article 67, paragraph 2 of the Reform Act limited the ability of certain law firms to advertise their affiliation with their accounting firm counterparts.[55] The French National Bar Council also adopted a decision on MDPs requiring all lawyers in an MDP to use a firm name distinct from the name of the MDP.[56]

Economic difficulties in the 1990s prompted the National Bar Council to reconsider its position on MDPs.[57] On March 14, 1998, the French National Bar Council took its first step toward permitting MDPs by officially allowing all *avocats* to form associations and partnerships with nonlegal professionals subject to certain restrictions, namely that the MDP would be subject to regulation by both local bar associations and the National Bar Council.[58] Though the National Bar Council's official recognition of MDPs ultimately moved the Big Five closer to their goal of fully integrated multidisciplinary practice in France, the Big Five were not altogether satisfied with the restrictions placed on the formation of MDPs and put pressure on the national government.[59] As a result of this

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51. *See Comments of Ramón Mullerat*, *supra* note 9.

52. *See id.*

53. *See generally* NYSBA Report, *supra* note 48.

54. Though the Reform Act does not permit fully integrated MDPs, it still allows accounting firms to use a "captive" law firm arrangement, whereby the accounting firm remains separate in structure but shares the same client base with a local law firm, often providing services in an indistinguishably unified manner. *See* Dzienkowski & Peroni, *supra* note 6, at 115.

55. *See* NYSBA Report, *supra* note 48, at 201-04 (citing Reform Act of 1992).

56. *See id.* at 204.

57. *See id.* at 207. The primary concern of the National Bar Council in the 1990s was that young lawyers, having passed the bar examination, were unable to find law firms to hire and train them during their required two-year legal internship. The Big Five, with sufficient capital and job openings, could provide an additional source of employment and training for these attorneys. *See id.*

58. *See id.* at 208. The Decision by the National Bar Council required that: (1) attorneys of an MDP cannot represent clients who are clients of an auditor of that MDP, (2) avocats affiliated with an MDP must practice under a name different from that MDP, (3) conflicts of interest rules for attorneys must apply to all professionals in the MDP, and (4) each MDP is obligated to disclose to its local bar association and to the National Bar Council substantial information concerning the structure of the MDP and relationships between the different bodies and professionals in the MDP. *See id.* (citing *Décision á Caractère normative*, CONSEIL NATIONAL DES BARREAUX 45-46 (1999-2001)).

59. *See id.* at 209.

and other political pressure, the Prime Minister of France requested a report to study if and how considerations of legal ethics could be reconciled with the variety of professionals and types of services provided by an MDP.[60] This study, the *Nallet Report*,[61] emphasized that it was not in France's best interest to altogether prohibit multidisciplinary practice.[62] Though the *Nallet Report* is seen as a step toward the progressive authorization of multidisciplinary practice in France, the report has been criticized because it does not give the National Bar Council any guidance for resolving the conflict between *avocats* and MDP lawyers.[63]

While the Paris Bar Council discussed the *Nallet Report* and approved many of its provisions, the bar still placed demanding restrictions on an MDP's ability to share fees and the captive law firm's use of the MDP's name.[64] In a landmark decision from the Paris Court of Appeals in February 2001, the court decided that the Paris bar can no longer lay down an ethical code of conduct for MDPs.[65] This ruling by the Paris Court of Appeals has removed a major obstacle to the Big Five in France, bringing them yet another step closer to providing integrated multidisciplinary services.

### *B. United Kingdom*

Though multidisciplinary practice in the United Kingdom was at one time flatly prohibited, the Bar Council of England and Wales recently amended its position to allow MDPs on a limited basis.[66] Because of London's importance as a financial, economic, and legal center of Europe, the willingness of the Bar Council of England and Wales to recognize and permit multidisciplinary practice, even on a limited basis, signifies an enormous victory for the Big Five.

In England and Wales, the legal profession is functionally divided between *solicitors* (transactional attorneys) and *barristers* (courtroom

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60. *See id.* at 211.

61. *See id.* at 211 (citing *Collection des rapports officials, La Documentation Français*, ISBM 2-11-004360-1, Paris (1999) [hereinafter *Nallet Report*]).

62. *See id.* at 214.

63. *See id.* at 211-15.

64. *See* Laurel S. Terry, *A Primer on MDPs: Should the "No" Rule Become a New Rule?*, 72 TEMP. L. REV. 869, 888-89 (1999).

65. *See PWC Triumphs Against Paris Bar in Landmark MDP Ruling*, LAW., Feb. 5, 2001, at 2. In an action brought by Landwell and Associates, the legal arm of PriceWaterhouseCoopers, against the Paris Bar Council, the Paris Court of Appeals ruled that the Paris bar had acted beyond its powers by requiring a captive law firm to comply with special ethical standards. *See id.*

66. *See Time Is Running Out for Ban on 'One-Stop Shops,'* LONDON TIMES, Jan. 9, 2001, at 23.

attorneys).[67] The National Bar Council, the division of the bar that regulates barristers, prohibits barristers from entering into a partnership or association with any person who is not a barrister.[68] The Law Society of England and Wales (Law Society) has similar regulations for solicitors.[69] Specifically, Practice Rule 7 prohibits solicitors from sharing fees, forming partnerships, or sharing ownership in an incorporated practice with nonsolicitors.[70] Furthermore, Practice Rule 4 provides that a solicitor employed by a nonsolicitor may (generally) have only his or her employer as a client.[71]

The Law Society reaffirmed its objection to MDPs in 1998 in its consultation paper entitled "Multidisciplinary Practices, Why? . . . Why Not?"[72] The consultation paper remarked that MDPs would threaten the independence and separate identity of the profession and reduce the public's access to justice.[73] The report concluded that multidisciplinary practices were inconsistent with the ethical rules governing the legal profession in the United Kingdom.[74]

Following the issuance of the consultation paper, the Law Society formed a Working Party on Multidisciplinary Practice to further study the feasibility of MDPs in England and Wales.[75] In late 1999, the Working Party concluded that solicitors should have the freedom to provide legal services through any type of organization so long as the core values of independence, confidentiality, and conflicts of interest are adequately protected.[76] The Working Party proposed two interim models for multidisciplinary practice.[77] Under the first model, called "Linked Partnerships," an independent firm of solicitors would be permitted to link with another professional services firm and share fees.[78] Under the second model, known as "Legal Practice Plus," a firm of solicitors would

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67. *See* NYSBA Report, *supra* note 48, at 216.

68. *See Written Remarks of Alison Crawley, The Law Society of England and Wales: Solicitors, Accountants and Multi-Disciplinary Practice the English Perspective* [hereinafter *Remarks of Alison Crawley*], *at* http://www.abanet.org/cpr/crawley.html (last visited Apr. 13, 2001).

69. *See id.*

70. *See Multidisciplinary Practice: Is It the Wave of the Future, or Only a Ripple?*, 66 DEF. COUNS. J. 460, 465 (1999).

71. *See id.*

72. *See* NYSBA Report, *supra* note 48, at 217 (citing *The Law Society of England & Wales Consultation Paper, Multi-disciplinary Practices: Why? Why Not?* (Oct. 1988)) [hereinafter Consultation Paper].

73. *See id.*

74. *See generally id.*

75. *See id.* at 218.

76. *See id.* at 219.

77. *See id.* at 220.

78. *See id.*; *see also Remarks of Alison Crawley*, *supra* note 68.

be permitted to have a minority of nonsolicitor partners if their partners further agreed to be regulated by the Law Society and follow the professional rules of conduct for solicitors.[79]

In December 2000, the Law Society finally adopted the "Legal Practice Plus" model for multidisciplinary practice in England and Wales.[80] This new model permitting MDPs is expected to take effect by the end of 2001.[81] Given the strategic importance of London's legal market, it is likely that England and Wales' authorization of multidisciplinary practice will have a major influence on the positions of the other European bar associations in the coming months.[82]

### *C. Germany*

Subject to certain restrictions, German law allows "fully-integrated" multidisciplinary practice. Attorneys have the right to form partnerships with other professionals pursuant to the German code and article 12 of the German constitution.[83] In 1994, the German Parliament revised the German Lawyers' Act and adopted new provisions allowing lawyers to form multi-city partnerships and multidisciplinary partnerships with auditors, tax advisors, and patent attorneys.[84] The legislation permits members of each of the legal, accounting, and tax advisory professions to share offices or to form a partnership, limited-liability partnership, or professional limited-liability company with members of the other two professions.[85] The German Lawyers' Act, however, limits the classes of professionals with whom lawyers are allowed to partner.[86] Attorneys may not share fees or partner with financial consultants, engineers, architects, environmental experts, insurance agents, or real estate brokers.[87] Similarly, the *Berufsordnung für Rechtsanwalte* (Professional Rules of Conduct for Lawyers) permits a lawyer to work in an MDP with

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79. *See Remarks of Alison Crawley*, *supra* note 68.

80. *See Time Is Running Out for Ban on 'One-stop Shops,' supra* note 66, at 23.

81. *See id.*

82. *See Comments of Ramón Mullerat*, *supra* note 9. The author argues that the future of MDPS in Europe will depend on the Law Society of England and Wales, as it is the largest legal center in Europe. *See id.*

83. *See* GG art. 12 (Ger.); Bundesrechtsanwaltsverordnung, v. 1.8.1959 (BGB) I.S.565; [hereinafter German Lawyers Act]; *see also* ABA Commission on Multidisciplinary Practice Presentation at the Public hearing on Feb. 4, 1999 in Los Angeles by Dr. Hans-Jurgen Hellwig, Germany [hereinafter Hellwig Presentation], *at* http://www.abanet.org/cpr/hellwig1.html (last visited Apr. 13, 2001).

84. *See* German Lawyer Act, supra note 83; *see also* NYSBA Report, *supra* note 48, at 229.

85. *See* NYSBA Report, *supra* note 48, at 229.

86. *See* German Lawyer Act, *supra* note 83, § 59(a), (e).

87. *See* Hellwig Presentation, *supra* note 83.

members of other professions if the other professionals within the MDP also comply with the Professional Rules of Conduct for Lawyers.[88] Lawyers, however, are only subject to the Professional Rules of Conduct if they are members of the German bar.[89]

Though German law essentially permits MDPs in their fully integrated form, structural and cultural difficulties in combining large numbers of lawyers and accountants into one organization have led the Big Five to provide legal services through a captive law firm arrangement.[90] The captive law firm usually identifies itself with the accounting firm (i.e., uses the name and logo of the accounting firm), but remains separate from the accounting firm's organizational structure.[91] There are two reasons for this phenomenon: First, fees for legal work are higher than for accounting work, and by statute higher fees can only be charged by the law firm and not the accounting firm.[92] Second, there is still a perception in Germany that a separate law firm is more attractive to recruit top quality associates.[93] The Big Five have therefore found it easier to recruit associates if they provide legal services through a captive law firm arrangement.

Multidisciplinary practice has for years been an acceptable method of providing legal services in Germany. Germany, as a result, is commonly viewed as a test case for the acceptability of MDPs in Europe. The experience of multidisciplinary practice in Germany shows that even if individual bar associations were to permit MDPs in their "fully-integrated" form, the Big Five, who have been the driving force behind the recent MDP phenomenon, may initially choose to continue providing legal services through a captive law firm arrangement. It is possible that the Big Five will see the captive law firm arrangement as a way to ease the transition into fully-integrated multidisciplinary practice, as consumers may not yet be willing to purchase legal services directly from an accounting firm.

## V. THE NETHERLANDS AND THE *NOVA* LITIGATION

The Netherlands has become the center of the most heated debate on multidisciplinary practice. Currently, Dutch law prohibits lawyers

88. *See* Hellwig Presentation, *supra* note 83 (citing Professional Rules of Conduct for Lawyers, § 30).
89. *See id.*
90. *See id.*
91. *See id.*; *see also Comments of Ramón Mullerat*, *supra* note 9.
92. *See* Hellwig Presentation, *supra* note 83.
93. *See id.*

from forming partnerships with accountants.[94] In 1993, the Netherlands Bar Association (*Nederlandse Orde van Advocaten*) (NOVA) adopted a partnership regulation (Cooperation Regulation) that prohibits lawyers from partnering with any financial advisors associated with a legal auditor of accounts.[95] The Dutch Bar announced that the purpose of the regulation is to prevent lawyers from incurring obligations prejudicial to the independence of legal practice.[96] An exception to the Cooperation Regulation permits lawyers to enter into an "integrated cooperation" if the primary purpose of the partnership is the practice of law, and only if the nonlawyer members of the cooperation are members of a profession officially provided for by the General Council.[97] Further, if an attorney or law firm wishes to enter into an "integrated cooperation," it must wait until the General Council has determined that the partnership complies with the regulation.[98]

In 1995, Price Waterhouse[99] attempted to form a partnership with the Dutch law firm J.W. Savelbergh.[100] Arthur Andersen attempted to form a similar partnership with the law firm J.C.J. Wouters.[101] Both Price Waterhouse and Arthur Andersen filed applications with the General Council of NOVA.[102] The General Council found each of the contemplated integrations incompatible with the 1993 Cooperation Regulation.[103] In February 1996, Price Waterhouse and Arthur Andersen initiated separate legal actions against NOVA for two alleged breaches of the Treaty of Rome.[104]

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94. *See* NYSBA Report, *supra* note 48, at 223 (citing *Samenwerkingsverordening* (Sept. 23, 1993) [hereinafter Cooperation Regulation]).

95. *See id.* at 224-25.

96. *See id.* at 224.

97. *See id.*

98. *See id.*

99. *See id.* at 223. After a merger with Coopers and Lybrand LLP, the combined organization is now known as PriceWaterhouseCoopers.

100. *See id.*

101. *See id.*

102. *See Comments of Ramón Mullerat*, *supra* note 9; *see* NYSBA Report, *supra* note 48, at 223.

103. *See* NYSBA Report, *supra* note 48, at 223. The Cooperation Regulation and the General Council do not recognize accountants as members of a profession with which lawyers may enter into an "integrated cooperation." The primary reason for not permitting this integrated cooperation is that the auditing function of the accountant is a public function calling for an objective assessment of the financial situation made in the interest of third parties other than the client and does not involve the right of confidentiality and independence that is required by the ethical rules for lawyers. NOVA maintains that the regulation was enacted to assure the independence of members of the legal profession in the Netherlands. *See id.*

104. *See id.*

In February 1997, a district court in Amsterdam rejected the claims brought by Price Waterhouse and Arthur Andersen.[105] Price Waterhouse and Arthur Andersen asserted that the Cooperation Regulation was an unfair restriction on trade in violation of articles 85[106] and 86[107] of the Treaty of Rome.[108] Price Waterhouse and Arthur Andersen further argued that by passing the Cooperation Regulation, NOVA had abused its dominant position.[109] The Amsterdam court upheld the decision of the Dutch Bar and further ruled that the decisions adopted by NOVA did not infringe on Dutch law, the Convention on Human Rights, or Community competition law.[110] The court upheld the Cooperation Regulation as a valid exercise of authority by NOVA because the regulation protected the "partiality and independence" of lawyers and the interests of those who use the services of lawyers.[111]

Following the district court's ruling, Price Waterhouse and Arthur Andersen appealed the decision to the Netherlands Council of State.[112] The Council of State upheld the district court's decision on issues of Dutch law, but made a preliminary reference to the European Court of Justice asking nine questions of European Union law.[113] Specifically, the questions currently pending before the European court involve issues of Community competition law and law on the right of establishment and freedom to provide services.[114] In the area of competition law, the Council of State has asked the European Court of Justice whether the Cooperation Regulation is legislation enacted in violation of articles 81 or 82 of the Treaty of Amsterdam.[115] In order to be found as an invalid restriction on trade, the European Court of Justice will consider whether the regulation acts unlawfully to prevent, restrict, or distort competition within the European Union in a matter affecting trade between the member states (article 81), and whether the Dutch Bar Association has abused its dominant position within the European Union.[116] The Court

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105. *See* Case Nos. 96/1283 and 96/2891 WET 29 (decided Feb. 7, 1997) [hereinafter Nos. WET 29]).

106. Article 85 of the EC TREATY as in effect in 1997 is now article 81 of the Treaty of Amsterdam.

107. Article 86 of the EC TREATY as in effect in 1997 is now article 82 of the Treaty of Amsterdam.

108. *See* Nos. WET 29, *supra* note 105.

109. *See id.*

110. *See id.*

111. *See id.*

112. *See NYSBA Report*, *supra* note 48, at 223 (citing Decision by the Dutch Council of State on Aug. 10, 1999).

113. Case C-309/99, 1999 O.J. (C229) 15-16.

114. *See id.*

115. *See id.*

116. *See* NYSBA Report, *supra* note 48, at 226.

of Justice, however, will not find that the Cooperation Regulation violates articles 81 and 82 if it is exempt under one or more "public policy" exceptions and can be justified as legislation enacted to protect the public interest in safeguarding the legal profession.[117]

The preliminary reference also asks the Court of Justice whether the Cooperation Regulation impedes on the right to freedom of establishment and the freedom to provide services within the European Union.[118] First, the court will ask whether the provisions in the Treaty of Amsterdam apply to an internal regulation.[119] The Plaintiffs, PriceWaterhouseCoopers and Arthur Andersen, will most likely argue that the regulation has cross-border effects that concern the freedom of establishment and the freedom to provide services within the European Union.[120] Assuming the Court of Justice accepts this argument, the court will likely refer to its 1995 ruling in *Gebhard v. Consiglio della'Ordine degli Avvocati di Milano*,[121] which dealt with the right of establishment of a German lawyer in Italy.[122] In *Gebhard*, the court held that if a regulation impedes the exercise of the four "fundamental freedoms"[123] within the European Community, the regulation can be justified only if it is: (1) applied in a nondiscriminatory manner; (2) justified by imperative requirements in the general interest; (3) suitable for securing the attainment of the objective which the regulation pursues; and (4) does not go beyond what is necessary in order to attain the objective sought.[124]

If the Cooperation Regulation is found to be in violation of articles 81 and 82 of the Treaty of Amsterdam, it must pass all four prongs of the test laid out in *Gebhard*. Although the Establishment Directive allows a member state to regulate its own legal profession, certain forms of regulation may not be permitted under the *Gebhard* test.[125] It is possible that the court will find that the Netherlands Bar Association could protect the legal profession through less restrictive means. It is also possible that prohibiting all types of partnerships between attorneys and accountants goes beyond what is necessary to protect the Netherlands' interest in its own legal profession. If the Cooperation Regulation fails any of these

117. Case C-309/99, 1999 O.J. at 15-16.

118. *See id.*

119. *See id.*

120. *See* NYSBA Report, *supra* note 48, at 227.

121. *See* Case 55/94, Gebhard v. Consiglio dell'Ordine degli Avvocatie Procuratori di Milano, 1995 E.C.R. 4186.

122. *See id.*

123. The freedoms that recognized within European Union law are the freedom of goods, services, persons, and capital.

124. *See Gebhard*, 1995 E.C.R. at 4186.

125. *See generally* Establishment Directive, *supra* note 3.

prongs, the court will find the regulation to be incompatible with Community law on freedom to provide services and freedom of establishment within the European Union.

The effects of the decision in *Arthur Andersen v. Netherlands Bar Ass'n* are far-reaching. If the court finds that the Cooperation Regulation is a valid exercise of authority under articles 81 and 82 of the Treaty of Amsterdam, private organizations (including the Big Five) may retreat somewhat from forming partnerships with law firms in Europe. Likewise, the decision may serve as a basis for the European Court of Justice to sustain future actions by member state bar associations. If the court finds the Dutch regulation to be incompatible with Community law on competition, the freedom of establishment, or the freedom to provide services, it is likely that similar private organizations, including the Big Five, will bring suits against other European bar associations who either prohibit or fundamentally restrict the formation of multidisciplinary practices. The threat of similar lawsuits may convince other European bars to take a softer stance on MDPs, as the pending litigation was most likely a factor in the recent decision by the Law Society of England and Wales to accommodate MDPs. In sum, this summer's decision may pave the way for multidisciplinary practices across Europe.[126]

## VI. MULTIDISCIPLINARY PRACTICE IN THE UNITED STATES

The decision in *Arthur Andersen v. Netherlands Bar Ass'n* has the potential to revolutionize the way legal services are provided in the United States. Currently, the ABA remains opposed to multidisciplinary practice in all forms.[127] Model Rule 5.4 of the ABA Model Rules of Professional Conduct, in the form in which it has been adopted in all jurisdictions except the District of Columbia, prohibits U.S. attorneys from forming partnerships or sharing fees with nonattorneys.[128] The rise of multidisciplinary practices in Europe, however, recently prompted the ABA to reconsider its position on MDPs.[129] For the most part, this reconsideration was motivated by fear among American attorneys that if the ABA does not accommodate multidisciplinary practices, Europe will become the century's hub of legal services, as multinational and U.S. corporations seek firms that can address all of the issues that their

126. *See Dutch Bar's MDP Veto 'Illogical,'* INT'L ACCT. BULL., Sept. 29, 2000, at 1.

127. *See* MODEL RULES OF PROF'L CONDUCT R. 5.4 (1999) [hereinafter ABA MODEL RULES].

128. *See id.*

129. *See* ABA Commission on Multidisciplinary Practice's Background Paper: Issues and Developments [hereinafter ABA Background Paper], *available at* http://www.abanet.org/cpr/multicomreport0199.html.

problems entail.[130] The decision expected from the European Court of Justice in *Arthur Andersen*, if favorable to multidisciplinary practice, will put additional pressure on the ABA to amend its current position. The likely result of the decision could ultimately lead to some sort of allowance for partnerships between attorneys and other professionals in the United States.

### *A. The Majority Rule for MDPs*

Legal ethics rules continue to block the development of MDPs in the United States. Rule 5.4 of the ABA Model Rules of Professional Conduct remains the largest, albeit only, barrier to MDPs in the United States.[131] Specifically, Rule 5.4(a) prohibits lawyers from sharing of fees with nonlawyers.[132] Rule 5.4(b) prohibits lawyers from forming partnerships with nonlawyers if any of the activities of the partnership involve the practice of law.[133] Rule 5.4(c) states that a lawyer shall not permit a person who recommends, employs, or pays the lawyer to render legal services for another to direct or regulate his professional judgment in rendering such legal services.[134] Finally, Rule 5.4(d) prohibits a lawyer from joining a nonlawyer in a professional corporation or association to practice law "for a profit."[135] Simply put, Rule 5.4 forbids multidisciplinary practices in the United States. The rule aims to protect the professional independence of a lawyer and to guard against problems that may arise when nonlawyers assume positions of authority.[136] Although the Model Rules are not inherently binding on states,[137] every jurisdiction except the District of Columbia has adopted a rule similar to Model Rule 5.4 and forbids multidisciplinary practice in all forms.[138]

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130. *See* John H. Matheson & Edwin S. Adams, *Not "If" but "How": Reflecting on the ABA Commission's Recommendations on Multidisciplinary Practice*, 84 MINN. L. REV. 1269, 1300-01 (2000).

131. *See* ABA MODEL RULES, *supra* note 127, R. 5.4.; Jennifer R. Garcia, *Multidisciplinary Practices: What Is Wrong with the Legal Profession's Ethics Rules?*, 44 ST. LOUIS U. L.J. 629, 649 (2000).

132. *See* ABA MODEL RULES, *supra* note 127, R. 5.4(a).

133. *See id.* R. 5.4(b).

134. *See id.* R. 5.4(c).

135. *See id.* R. 5.4(d).

136. *See generally* ABA Comm'n on Ethics and Prof'l Responsibility, Formal Op. 95-392 (1995).

137. *See* Gary R. McBride, *Wake Up ABA: CPA-Attorney Partnerships Are Coming*, 69 CAL. CPA (2000).

138. *See* Elijah D. Farrell, *Accounting Firms and the Unauthorized Practice of Law: Who Is the Bar Really Trying to Protect?*, 33 IND. L. REV. 599, 619 (2000).

### *B. The District of Columbia Rule on MDPs*

The District of Columbia permits multidisciplinary practices under limited circumstances and does not allow the kind of MDPs that exist in other countries. D.C. Rule 5.4 allows lawyers to form partnerships and share fees with nonlawyers in a multidisciplinary practice subject to four noteworthy limitations: First, partnerships and the sharing of legal fees must be confined to organizations that provide only legal services;[139] second, all professionals involved in a multidisciplinary practice must agree to be bound by the rules of professional conduct for lawyers;[140] third, lawyers with managerial authority must exercise the same amount of control over nonlawyers as they would over lawyers;[141] and fourth, all requirements must be in writing.[142] A limited number of multidisciplinary practices have emerged in the District of Columbia as a result of its very progressive model rule,[143] but the requirement set forth in Rule 5.4(b)(1), that the primary purpose of the MDP must be the provision of legal services, has created a significant barrier to firms wishing to take advantage of the rule.[144] Even though the District of Columbia allows multidisciplinary practices, MDPs have yet to become an accepted form of providing legal services.

### *C. ABA Commission on Multidisciplinary Practices*

Motivated by fear that multinational companies will choose European MDPs as their source for international legal services, the ABA formed a special Commission in August 1998 to study the concept of multidisciplinary practice in the United States.[145] The ABA asked the Commission to study the potential effects of multidisciplinary practices in conjunction with the Model Rules of Professional Conduct.[146] If the Commission found MDPs to be feasible, the ABA wanted the

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139. *See* D.C. Rules of Professional Conduct, *supra* note 16, R. 5.4(b)(1) app. A.

140. *See id.* R. 5.4(b)(2).

141. *See id.* R. 5.4(b)(3).

142. *See id.* R. 5.4(b)(4).

143. D.C. Rule 5.4 has led to a number of "strategic alliances" between Big Five accounting firms and Washington, D.C.-based law firms. For example, Ernst and Young formed an alliance with a D.C. law firm, now known as McKee, Nelson, Ernst & Young LLP. McKee Nelson focuses mainly on tax-related legal work with plans to expand to a full service law firm. In addition, PriceWaterhouseCoopers has announced an alliance with the Washington, D.C. law firm of Miller & Chevalier. KPMG has announced a similar alliance with members of SALTNET, a network of state and local tax attorneys. *See* Jack Baker, Randall K. Hansen & James Smith, *Multidisciplinary Practice: Big Changes Brewing for the Accounting Profession*, 70 CPA J. 1418 (2000).

144. *See* Dzienkowski & Peroni, *supra* note 6, at 159.

145. *See id.* at 127.

146. *See id.*

Commission to propose changes to the Model Rules.[147] In its investigation, the Commission first identified three "core values" of the legal profession, namely independent attorney judgment, client confidentiality, and client loyalty through the avoidance of conflicts of interest, that the Model Rules must protect if the ABA were to permit MDPs.[148] After extensive research, the Commission concluded that it is possible for multidisciplinary practices to satisfy the interests of clients and lawyers without compromising the "core values" that are essential for the proper maintenance of the client-lawyer relationship.[149]

The Commission further recommended alterations to the Model Rules that would permit MDPs subject to certain requirements.[150] Specifically, the Commission proposed adding a new Model Rule 5.8 to govern certification and audit requirements for MDPs.[151] Under Rule 5.8, an MDP would be required to provide to the state's highest court written statements signed by the CEO (or a similar official) agreeing: (1) not to interfere with an attorney's exercise of independent professional judgment; (2) to establish, maintain, and enforce procedures designed to protect an attorney's exercise of independent professional judgment free from interference by the MDP or anyone associated with the MDP; (3) to establish procedures to protect an attorney's professional obligation to segregate client funds; (4) to require its members (attorneys and nonattorneys) to abide by the rules of professional conduct when they are engaged in the delivery of legal services; (5) to respect the unique role of the attorney in society and acknowledge that attorneys in an MDP have the same obligation to render pro bono legal services as do those in a law firm; and, (6) to annually review the procedures established in [Model Rule subsection 2] and annually certify its compliance with [subsections 1-6] with the state's highest court.[152]

Vigorous debate at an August 1999 ABA meeting led the Commission on MDPs to withdraw its proposal and to support further study.[153] Concerned that the Commission's proposal would not adequately protect the core values of the legal profession, the ABA House of Delegates did not support any attempt to accommodate

147. *See id.*
148. *See* ABA Background Paper, *supra* note 129.
149. *See* Commission Report, *supra* note 8, at 14.
150. *See* McBride, *supra* note 137, at 3.
151. *See* Commission Report, *supra* note 8, at A6-A7.
152. *See id.*
153. *See* Dzienkowski & Peroni, *supra* note 6, at 146.

multidisciplinary practices.[154] The Commission issued a second set of recommendations in February 2000 that placed even more stringent requirements on MDPs.[155] In July 2000, the House of Delegates rejected the second set of recommendations and any attempt to accommodate multidisciplinary practices.[156] The House of Delegates then altogether disbanded the ABA Commission on Multidisciplinary Practices.[157] Given the actions of the ABA House of Delegates in July 2000, it appeared that the ABA was unlikely to modify the Model Rules to accommodate MDPs or to recommend that states accommodate MDPs in the immediate future.[158] Therefore, if a state bar wishes to accommodate MDPs, it will have to develop rules without any formal input at the national level by the ABA.[159] Not unsurprisingly, most states appear reluctant to do so.

### *D. The Potential Effects of* Arthur Andersen v. Netherlands Bar Ass'n *on the American Legal Profession*

Because the Committee on Multidisciplinary Practices was formed, in part, by the threat of losing international legal business to MDPs abroad,[160] the decision from the European Court of Justice, if favorable to Arthur Andersen and PriceWaterhouseCoopers, will likely persuade the ABA to reconsider its position. The ABA took the wrong course of action by failing to take a formal position on multidisciplinary practices. While preserving the "core values" of the legal profession is certainly an important objective of the ABA, the ABA must also consider the future of U.S. legal jobs. If it is cheaper and more convenient for consumers of international legal services to have all of their professional service needs provided by one firm, these consumers might begin to employ European MDPs at the expense of U.S. law firms.

Indeed, the ABA will soon realize that multidisciplinary practices are here to stay. If the rise of multidisciplinary practices in parts of Europe motivated the ABA to consider the issue of MDPs, a uniform standard, or at least a standard that requires the European national bars to accommodate MDPs, will likely force the ABA to take a more favorable position toward multidisciplinary practices in the United States.

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154. *See id.* (citing ABA Commission on Multidisciplinary Practice, Updated Background & Informational Report & Request for Comments (posted Dec. 15, 1999), *available at* http://www.abanet.org/cpr/febmdp.html).

155. *See id.* at 146-47.

156. *See id.* at 147-48.

157. *See id.*

158. *See id.* at 149.

159. *See id.* at 89.

160. *See* ABA Background Paper, *supra* note 129.

## VII. CONCLUSION

The decision in *Arthur Andersen v. Netherlands Bar Ass'n* has the potential to change the way legal services are provided around the world, including in the United States. Recent developments in Europe, namely in France and the United Kingdom, demonstrate that some European bars that were once opposed to multidisciplinary practice have begun to realize the inevitability of MDPs in the new global economy and, as a result, have made strides to accommodate multidisciplinary practice. The ABA, on the other hand, dissuaded by its concern for legal ethics and by economic protectionism, still refuses to address the issue of MDPs in the United States. In doing so, the ABA has failed to recognize that as long as consumers of professional services want "one-stop shopping," the debate surrounding MDPs will continue as long as there is demand.

The decision expected by the European Court of Justice in late 2001 will be followed by legal professionals and consumers around the world, as it has the potential to shape the way legal services are provided in the twenty-first century.