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Institutionalization And Interorganizational Cognition: Two Perspectives On The Development And Persistence Of The 'Magic Circle' Of United Kingdom Law Firms

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INSTITUTIONALIZATION AND INTERORGANIZATIONAL COGNITION: TWO PERSPECTIVES ON THE DEVELOPMENT AND PERSISTENCE OF THE 'MAGIC CIRCLE' OF UNITED KINGDOM LAW FIRMS

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ABSTRACT

This paper examines how and why a professional elite – the so-called "Magic Circle" of UK law firms – has become a taken-for-granted, legitimate, and extremely durable categorization of the most highly-reputed firms in the UK legal profession. Using both interview and documentary data, this study examines the process of institutionalization and belief formation in the context of two previously unresearched, and unconnected, models - the discursive model of institutionalization proposed by Phillips, Lawrence & Hardy (2004), and the model of industry belief systems described by Porac, Ventresca, & Mishina (2002). The study traces the historical evolution of this elite group, finding evidence to confirm the status of the Magic Circle categorization as both an institution, and as part of a cognitive belief system about the structure of the UK legal market. In particular, the study presents evidence to suggest that the business and professional media are important institutional actors in the field, with a significant ability to create, propagate, and shape the necessary industry discourse required for the institutionalization of a category or idea, and the establishment of shared industry beliefs about firms, competitors, products, cultures, legitimate organizational behaviours, and reputations. The paper goes on to suggest an amalgamation of the two models, proposing that discourse, and its interactions with cognitive processes, should be given more attention in theories of institutionalization.

Institutionalization and interorganizational cognition: two perspectives on the development and persistence of the 'Magic Circle' of United Kingdom law firms.

> *"Magicians' societies unite their members in honest deception: a very decent ambition to share. We members of The Magic Circle don't take blood oaths or have the motto tattooed on our chests as an initiation rite. But we work hard in sticking together in maintaining the standard of our deception and smoothing the rough edges off each others' lives".*
> **Wade, J. (1974) The Trade of the Tricks: The Story of Magic, Magicians and the Magic Circle. (p.114)**

INTRODUCTION

The contemporary trend in institutional research has been to examine and explain how organizational change occurs in the context of pressures for comparable institutions to develop towards similarity (e.g. DiMaggio & Powell, 1983). Isomorphic forces – coercive, mimetic, and normative – have been the traditional explanation as to why organizational characteristics remain stable and similar over time, acting as a pressure upon organizations to conform to accepted norms and values in order to achieve legitimacy. Another contemporary explanation for change focuses on the 'transplantation' of institutional logics from one institutional field to another, or from society more broadly (Friedland & Alford, 1991). However, this paper looks at institutional durability – why some institutions stay the same – where the traditional institutional explanations do not fit.

In this study I use an approach grounded in studies of institutions, and in the area of cognition and mental modelling, to examine the creation and stability of a reputational label attaching to an elite segment of the UK legal profession. The so-called "Magic Circle" of UK solicitors' firms is a long standing and widely held categorization of five large, profitable, mainly international, legal practices, which are almost universally regarded as the most prestigious firms in the UK legal profession. The universal understanding of the term "Magic Circle" amongst lawyers, clients and other industry insiders suggests that the label has become an institution in the field, as well as an idea which forms part of a collective cognitive model of the UK legal profession. The Magic Circle is a description of an organizational and market reality, an institutionalized label, and the embodiment of a certain set of shared beliefs about the structure of the legal profession and the relevance of competitors (Porac & Thomas, 1995). It is also the apex of a status hierarchy which has remained stable for many years. It appears almost immune to the forces which normally adjust and allow movement in status ranks: although industry ratings based on various criteria appear from year to year, this select group remain as enduring members of a perceived elite.

This paper examines the process of institutionalization – the "social process by which individuals come to accept a shared definition of social reality" (Scott, 1987: 496) – of the Magic Circle, drawing comparisons with the social construction process of industry belief systems suggested by Porac, Ventresca & Mishina (2002) whereby industries are "enacted fields bound together by collective beliefs about …market structures, appropriate ways of doing business, and the relative quality of member firms".

By examining how the Magic Circle was created, sustained, and gained sufficient legitimacy to segment and insulate a group of premier law firms from forces for change, this paper will contribute to the discussion begun by Phillips, Lawrence & Hardy (2004), who submit that (i) the processes underlying institutionalization have not been sufficiently investigated, and (ii) that institutions are created by an interaction between action, texts, and discourse. It will also contribute to ongoing research in the area of cognition and the mental modelling of organizational communities by examining how the processes which have created and sustained the Magic Circle fit with contemporary views of interorganizational cognition and interpretation. The work of Porac and others (e.g. Porac & Thomas, 1995; Porac et al., 2002) offers an interesting complement to contemporary views of institutionalization and the strategic choices of industry actors. In particular, there is an interesting link between the two in terms of the significance each attaches to industry discourse. This paper examines the main source of, and influence upon, industry discourse in the UK legal profession – the business and professional media.

In the first section of this paper, I develop the theoretical concepts central to the framework of institutionalization and interorganizational cognition upon which this study is based. I propose that both processes occur by way of an interaction between textual discourse and action, mediated in this instance by the media. In the second section, I describe the research methods used in a case study of the formation of the "Magic Circle" of UK law firms. The third section presents the results of an analysis of interview and documentary data and discusses how these relate to the emerging theory relating to the discursive model of institutionalization (Phillips et al. (2004), and of industry belief systems (e.g., Porac & Thomas, 1995; Porac et al., 2002). This section also sets out the detailed history of the emergence and institutionalization of the "Magic Circle" term. The paper concludes with a discussion of the implications of the study for institutional theory and interorganizational cognition research.

THEORETICAL BACKGROUND

Professional Elites

A number of the major professions have reputational hierarchies which are category based rather than continuous, forming clear segments in the minds of industry insiders, clients, and outside observers. In law, the most prestigious firms in the UK are a London-based group known as the 'Magic Circle', whilst their competitors in New York are referred to as 'white shoe' firms or, echoing their British rivals, the 'Charmed Circle'. In accounting, the labelling of the 'Big Four' indicates the distinctive quality of their services as well as their difference from the rest of the industry in terms of size and coverage. The top tier of US investment banks are called 'Wall Street' firms, yet the label designates their prestige rather than their location (virtually all can be found in midtown Manhattan).

Another interesting example of an enduring elite segmentation is the "Ivy League" of prestigious US universities. The term "Ivy" derives from the English pronunciation of the Roman form of the number 4 – "iv" – which was used to describe the four original league members – Yale, Princeton, Harvard and Columbia Universities – who formed a sports league with Pennsylvania, Brown, Dartmouth and Cornell during the 1950s (since then, two more prestigious universities, Stanford and MIT, have been added, to form a grouping known as "Ivy League plus"). Thus the "Ivy League"

began as a sports league comprised of well-established undergraduate universities in the north-east United States, but has become associated with academic prestige to an extent which is almost insurmountable. It is not clear how this transformation came about.

As with the professions, this elite segmentation remains stable year-on-year, despite the emergence of qualified rivals or new market entrants. The groups tend to become associated with a memorable label, which becomes their brand or marque; this group and its tag then becomes 'set' – with some exceptions - within the minds of industry actors and those beyond. They appear to be exempt from the 'rules' which normally apply to status hierarchies.

There have been very few studies of professional elites, and none examining how they were formed, established and become persistent characteristics of an organizational field. Friedson (2001) proposed a "stratification hypothesis", claiming that a division will emerge in the professions whereby expert, innovative work will become the domain of a professional elite, whilst the rank and file will undertake the routine, less-technically-demanding tasks. However, this theory does not account for emergence of an über-elite who have become associated with high prestige beyond the norm of an already prestigious group engaged in expert advice.

The sociological view of reputations is that they are created by signals broadcast from firms, and intermediaries such as the media, which are then received and interpreted by multiple stakeholder audiences (Fombrun & Shanley, 1990). These signals combine and congeal in stakeholders' minds to form status orderings of firms in organizational fields (DiMaggio & Powell, 1983). Stratification can be the result, as in the UK legal market, but the Magic Circle – as in other professions where a layer of firms has risen to the top - seems to be immune from the forces which normally adjust and allow movement in status hierarchies. It is possible to argue that the Magic Circle is an anachronism, as it may not currently reflect the best, or even the biggest, law firms in the UK. The label may have once been an accurate reflection of the UK solicitors' profession, but the influx of new entrants into the market, principally from the USA, along with myriad mergers and the organic growth of some pre-existing firms, may render the labelling irrelevant. However, the term persists.

The Magic Circle as an Institution
This paper proposes that the Magic Circle has become an institution within the institutional field of the United Kingdom legal profession. According to neo-institutional theory, a behaviour, event, concept or process becomes an institution when it receives substantial social support through the accumulation of past practices and understandings which "gradually acquire the moral and ontological status of taken-for-granted facts which, in turn, shape future interactions and negotiations (Barley & Tolbert, 1997:99). Thus, institutions are social constructions, produced through meaningful interaction (Meyer & Rowan, 1977).

Institutionalization
The development of institutions has been defined as a "social process by which individuals come to accept a shared definition of social reality" (Scott, 1987: 496), or "the processes by which social processes, obligations, or actualities come to take on a rule-like status in social thought and action" (Meyer & Rowan, 1977).   However,

such definitions do not explain how institutions become established. Indeed, there has been a distinct failure to explain the manner by which institutions are created and reproduced, since most institutional research has only examined the *effects* of institutionalization, not the process itself, which has been described as a 'black box' (Zucker, 1991). Indeed, there has been repeated criticism of institutional theory's failure to explain the processes of institutionalization (Barley & Tolbert, 1997; Greenwood & Hinings, 1996; Hoffman, 1999).

However, recent proposals by Phillips, Lawrence & Hardy (2004) offer a linguistic perspective on institutionalization, claiming that language is crucial to institutionalization and that institutions become established through the production of texts which describe and communicate an ongoing discourse about patterns of action. They claim that texts are the primary means through which information about actions gets to be distributed and influences the actions of others. To illustrate their point, Phillips et al. (2004) refer to Palmer, Jennings & Zhou's (1993) study of the adoption of the multidivisional form by US companies during the 1960s. This paper demonstrated how the institutionalization of this structural form occurred through normative, mimetic and coercive pressures for similarity amongst organizations (DiMaggio & Powell, 1983), but did not happen because individuals and organizations observed and imitated it in other organizations. They suggest that the process occurred through the production and use of texts, creating industry discourse: there was an "accumulation of business, professional, and academic texts that explained, legitimated, validated, and promoted it" (639). As a widespread understanding and acceptance of the multidivisional form was propagated through books, articles, conferences, editorials, conversations, etc., the costs of not adopting the form increased: the legitimacy of those firms who did not embrace it was questioned, and other organizations became unwilling to invest or collaborate with companies who failed, or refused to adopt the form (Phillips et al. 2004: 639). The authors propose that there is a mutually constitutive relationship between action, texts, discourse, and institutions. A combination of talking, writing, interacting and the like contributes to an ongoing shared sense of existence and the establishment of institutions, which in turn impacts upon behaviour, and this in turn influences the discourse shaping institutions. They illustrate this process using the diagram shown in Figure 1.
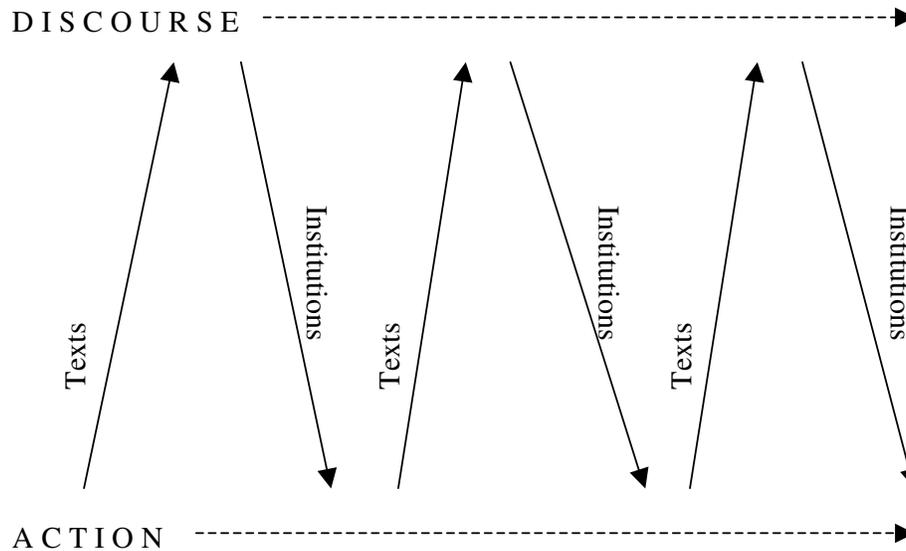
Figure 1. The Relationship between Discourse and Action.
From Phillips, Lawrence & Hardy, 2004

Phillips et al.'s (2004) hypothesis is that institutions are social constructions created through discourse, primarily through the construction of texts, rather than actions. Texts "allow multiple readings by multiple individuals that are necessary if ideas for organizing are to be transmitted across space and time" (638). This idea is applied in the present study, and as far as the author is aware, it is one of the first to apply it to a real-world institutionalization story. The hypothesis is appealing in terms of the process which may have institutionalized the Magic Circle, since it is clearly difficult to account for its establishment through isomorphic processes. For a start, the group is a stand-alone institution, with no similar or identical equals. There are no norms or standard behaviour patterns which the group or labelling might conform to, and which would create the standardizing isomorphic pressures so beloved of institutionalists.

A discursive model of the mechanisms of institutionalization is sketched out by Phillips et al. (2004), and is summarized in Figure 2, below.
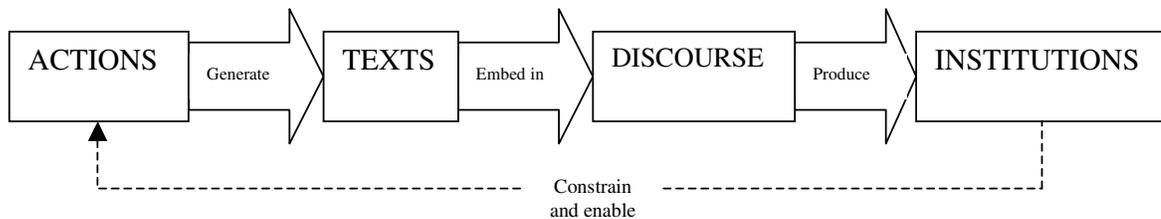

Figure 2. A Discursive Model of Institutionalization.

Adapted from Phillips, Lawrence & Hardy, 2004

However, the model has some weaknesses in terms of accounting for the foundation of some types of institution, and clearly does not include all the factors operating on

institutionalization. In particular, it does not clearly elaborate on how actions generate texts, or how texts become embedded in discourse. Indeed, there is some confusion as to what is text, and what is discourse, since "discourses cannot be studied directly – they can only be explored by examining the texts which constitute them" (636). It also claims that texts include talk, written documents, artwork, symbols, buildings and pictures (636), but it is difficult to imagine that the ephemeral quality of the spoken word, or the obscure symbolism of architecture, could produce institutions. This is particularly so given that their paper claims that "texts allow thoughts and actions to transcend 'the essentially transitory character of social processes'" (Smith, 1990: 168) (638). When is 'talk' an action or transitory social process, and when is it a text? In addition, as this paper will go on to argue, Phillips et al. (2004) hint at, but do not fully explore, the influence of particularly powerful institutional actors in the creation and dissemination of texts and discourse.

The Magic Circle as Part of a Cognitive Model
Another potential perspective on the Magic Circle of UK law firms comes from the field of cognitive organizational theory. It is proposed that the Magic Circle is a cognitive representation of external stimuli – a mental model, frame of reference, or knowledge structure which is formed in the minds of market participants by external stimuli (March & Simon, 1958). This cognitive modelling helps "shape the environmental spaces in which organizations exist…[and]…play[s] a fundamental role in the dynamics of organizational communities" (Porac, Ventresca & Mishina, 2002). This categorization and labelling forms part of a collective cognitive structure for the UK legal profession, which is an important influence on law firms' relationships with their internal and external constituencies. At the micro-level, it plays a role in structuring the legal organizational field for key participants – lawyers, clients, journalists, support staff etc. – influencing their perceptions, interpretations, and behaviour.

As in neo-institutional theory, most of the existing work on interorganizational cognition assumes that market beliefs are social constructions formed over time through the actions, shared assumptions and frames of reference evolving from the interplay of market populations, particularly the 'producer' (i.e., law firm) and 'buyer' (i.e., client) communities (Porac, et al., 2002; White, 1981; 1992; 2001). In essence, this model proposes that industry belief systems (cognitive structures) develop from the activities and artefacts of these two communities: these produce informational cues which attach to taken-for-granted definitions and interpretations, which then become an explicit and articulable market nomenclature and categorization of how the market works, its competitive regime, and the actors involved (Porac et al., 2002).

This paper proposes that the Magic Circle operates as a type of category within an industry belief system, indicating the prestige of its members. A category is a grouping of similar things into a distinct class or type, based on common features. This sorting by shared characteristics allows us to make rapid, simplified judgements about complex individual pieces of information (Rosch & Lloyd, 1978), and creates collective representations, or shared understandings, about various aspects of the world (Carruthers & Stinchcombe, 1999; Douglas, 1986; Zerubavel, 1997). In essence, categories group similar items together so that they take on a meaning to, and between, individuals.

The use of categories to make rapid judgements about a complex world is akin to some conceptualizations of reputation. Organizations can become known for a particular attribute or attributes, whether it be product/service/employee quality; their culture; their celebrity CEO; or some other distinction - and this defines them in the minds of stakeholder groups or the general public – forming categories or segments in terms of rankings or public opinion which provide a convenient simplification of quality which is useful in making quick, effortless (sometimes misleading) judgements about complex issues (Nisbett & Ross, 1980). The Magic Circle could be seen as a categorization of firms based on indicators of quality, such as profit, size, numbers of blue chip clients, and/or industry rankings.

Porac et al. (2002) propose a model of interorganizational cognition whereby product categories form from market discourse, providing the basis for shared mental models or a "cognitive taxonomy" which defines those firms who are competitors or participants in a market (Porac & Thomas, 1990) A number of studies have shown that individuals parse their industry on the basis of product attributes, shaping their 'mental map' of the industry through the formation of frames of comparison and inter-firm rivalry. Reger & Huff (1993) asked executives in the Chicago banking community to specify similarities and differences between 18 regional banks; the executives tended to group the banks into three groups, thereby segmenting the industry into firms according to their business strategies. Porac et al. (1995) found a similar stratification in the Scottish knitwear industry, where producers classified their own firms within one or more of seven product categories, such as "mass market contract knitters", or "hand knitters making traditional knitwear". This classification allowed them to identify, and focus their attention on, a restricted range of rivals within a given product category, forming a stable cognitive ordering of competitors.

Porac, Ventresca & Mishina's (2002) model of industry belief systems (see Figure 4 below) claims that product definitions - or "ontologies" - encourage categorization of products and services, which in turn promote "boundary beliefs" about market space and who competes with whom (Porac et al., 2002). These inter-firm comparisons spawn so-called "industry recipes" - industry specific logics for action which set the rules, norms and expectations about how the market operates in terms of strategy and competitive behaviour, including the fads and fashions of management. Some organizations do better than others at putting these recipes into action, which leads to the formation of formal and informal opinions held by firms, the industry media, market analysts and rating agencies, and the like. These form the basis of reputational rankings (Elsbach & Kramer, 1996; Fombrun, 1996; Zuckerman, 1999; Greve & Taylor, 2000).

Porac, Ventresca & Mishina (2002) claim that each of the four elements is shared and propagated in the market by way of public or private discourse (or "industry rhetorics"), which externalizes internal cognitions as public interpretations of industry events or conditions. This suggests that industry belief systems may be dynamic, constantly evolving, schemes of sense-making which reflect new contingencies, entrants and discourses transplanted from other spheres of life.

Reputational rankings

Industry recipes

Boundary beliefs

Product ontologies

Reciprocal
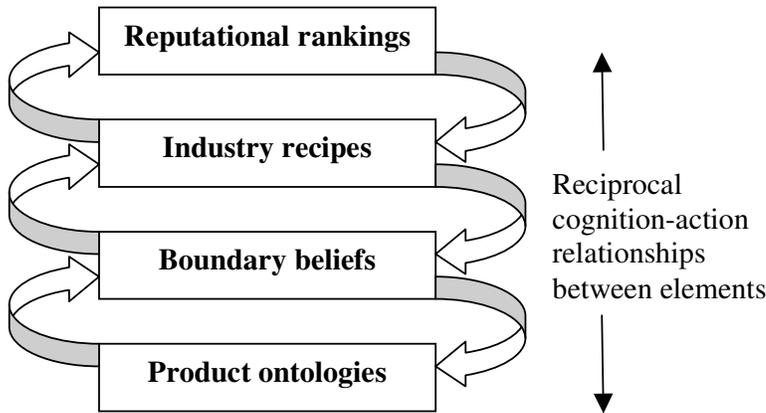cognition-action
relationships
between elements

Figure 4: A model of industry sense-making. Taken from Porac, Ventresca, and Mishina (2002).

Porac et al. (2002) have suggested that categorization processes in the context of industry belief systems are reasonably accessible to organized study, and have called for further research into their proposed model. This paper adds to those studies which have attended to this call (e.g. Lounsbury & Rao, 2004), by attempting to examine the process whereby five international law firms have become categorized as market leaders and rivals, creating part of a cognitive structure of an industry, a reputational order, and an institution.

Linking the Institutional and Cognitive Perspectives: Discourse
As well as sharing a social constructionist approach to sense-making, the cognitive and institutional approaches have some interesting intersections. Categorization has been identified in institutional approaches as a process which influences imitation and restricts variety (DiMaggio & Powell, 1983; Powell, 1991), and as a fall-back mechanism for imposing sense on the world (e.g., DiMaggio, 1997; Scott, 2001). However, this attention to the consequences of categorization has largely ignored how categories become institutionalized beliefs, despite repeated calls for research into their creation and durability (e.g., Clemens & Cook, 1999; DiMaggio, 1986; Oliver, 1991; Tolbert & Zucker, 1996).

A significant link between the 'institutionalization as discourse' and the cognitive interpretation models is the role of discourse. As already explained, Phillips et al.'s (2004) linguistic approach sees institutions as social constructions created by the combination of discourse in texts and actions. In the model of industry sense-making espoused by, *inter alia*, Porac et al. (2002), categories and 'industry rhetorics' are created by both public and private discourse, which externalizes internal cognitive representations, influences the strategic choices of industry actors, and becomes embedded in the resource patterns of an industry.

Phillips and his colleagues put forward the proposition that texts are more likely to influence discourse when they originate from powerful actors with 'discursive legitimacy' (Hardy & Phillips, 1998), involving recognizable genres of documents, and drawing on existing legitimate discourses and texts. Although this is a logical and persuasive proposition, Phillips et al., (2004) fail to explicitly acknowledge the influence of the press or industry media as legitimate institutional actors with the power to produce powerful, persuasive texts which promote and disseminate

discourses throughout an organizational field. Such media actors have legitimacy, use a genre of documentation which is accessible and understood by all, and which integrates broader discourses from both inside and outside the field which could be significant in shaping behaviours and institutions. Indeed, they refer to the media as merely a vehicle through which other institutional actors speak (Phillips et al., 2004: 643).

Porac et al. (2002) also refer to discourse amongst industry actors such as firms, the media, market analysts and rating agencies, which helps to build 'stories' within the industry about product categories, competitors, normative practices, and reputations. This storytelling, they claim, fashions, maintains and transforms industry belief systems in a dynamic way as new interpretations, market participants and organizational achievements impact on the existing sense-making scheme. However, the model has little to say about the power relationships amongst these actors, i.e. which of them has the legitimacy and capacity to structure and propagate the industry discourse which leads to new cognitive structures or belief systems.

This paper proposes that the link between the cognitive and institutionalist approaches to the formation of taken-for-granted categories, belief systems and behaviours is industry discourse. Further, the agenda for this discourse is heavily influenced by the media, and that the power of the media as an institutional actor and shaper of cognitive beliefs has been underplayed in accounts of discursive processes of institutionalization and cognitive interpretation.

Theories of Media Influence
A number of researchers have acknowledged the importance of the business news media as a forum in which corporate information is presented to consumers and other stakeholders. One of the earliest investigations of media influence found that firms with either positive or neutral news coverage rated higher in the *Fortune* magazine reputational rankings (Fombrun & Shanley, 1990). However, they found that intensive media visibility - whether positive or negative - had a strong negative influence on firms' reputations (although diversified firms were found to benefit from non-negative news stories). Deephouse (2000) has also claimed that the media both convey information, as well as make and present reputational assessments to their audiences. He found that favourable news media reputations were linked to enhanced financial performance among investment banks in the American mid-West.

These studies suggest that the news media affect public or industry perceptions of organizations. A number of theories relating to the influence of the media on organizational perceptions have been proposed, but there have been few studies addressing the process through which impressions and beliefs in market contexts are formed.

Media as legitimator of organizations and their behaviour
The first perspective on the role of the media is as an authoritative voice, legitimizing organizations and their behaviours. Mass communication research has found that the tone of media reports (positive or negative) is accepted by audiences as a legitimate expression of approval or disapproval of firms and/or their actions (Elsbach, 1994). Opinion leaders, such as journalists and media industry experts, express their judgement, thereby allowing others to deal with uncertainty by imitating them.

Some studies have focused on legitimation processes at the firm or field or industry level (DiMaggio, 1991; Rao, 1994), but there has been little attention given to *how* third parties such as the media create legitimacy. Lounsbury & Glynn (2001) suggest that research is needed to understand how individual firms benefit from positive or negative media coverage. Fombrun (1996) suggests that the media's influence on legitimacy is one which should be actively managed as a strategic concern. Phillips et al.'s (2004) proposal that influential texts with impacts on discourse are more likely to come from powerful actors with 'discursive legitimacy' also raises questions as to the source of the media's legitimacy.

Pollock & Rindova (2003) examined the legitimating power of the news media in their analysis of 225 firms conducting initial public offerings. They found that media reports affect investor choices by influencing stakeholders' sense-making and their impressions of firms. They claim that the media plays an important role in firm legitimation through its control of the amount of exposure given to firms, and the positive or negative tone of such coverage. This affects how firms are perceived by stakeholders, with some firms being seen as more desirable or legitimate than others. This, they suggest, affects these firms' access to resources (Suchman, 1995, as cited in Pollock & Rindova, 2003). In particular, they found that the press were able to create a positive "buzz" about certain firms (Dye, 2000) - an increased perception of a firm's value - which drove up its stock price. The study controlled for the effects of firm-produced information such as press releases, finding that these did not have any effect on market outcomes: the authors thus tentatively suggest that only media produced information has the necessary credibility or range to influence investor behaviour.

Media as category setter
Rosa et al. (1999) found that the media can, and do, create, codify and maintain product categories, sometimes ranking or rating products in a taken-for-granted manner. This hints at the creation of institutional categories – like the Magic Circle of law firms. Anand & Peterson (2000) suggest that, by publishing product categories, listings or groupings of organizations, the media encourage comparisons, and facilitate sense-making for market actors.

The role of industry media in the formation of categories was examined by Lounsbury & Rao (2004). They looked at how product categories in the American mutual fund industry were changed or reconstituted during the period 1944-1985. Previous research in the institutional tradition had suggested that categories would be edited or reconstituted where there was intra-category ambiguity (Rosa et al., 1999; Weick, 1995). This ambiguity might be the result of intra-category performance variability (Carruthers & Stinchcombe, 1999; Meyer, 1994), or perhaps a growth in new entrants to the industry (Aldrich, 1999). Using both quantitative and qualitative techniques, they found that decisions about redrawing the boundaries of categories, or to maintain existing categories despite evident forces for change, were not just practical, technical decisions to resolve ambiguity, but were influenced by market politics and the social power of field level actors such as states, firms, professions and the media. In their study, Lounsbury & Rao found that this social power to redefine or maintain categories was divided between different actors, an interplay of interests among the media and producers. In particular, the media's recategorization of product

boundaries was influenced by incumbent, dominant, firms who benefited from the status quo, but upon whom the media relied for information, support, and revenue. Such firms use various strategies, including lobbying, to stabilize themselves and reproduce their position so that product categories "are implicated in a system of power…[and]…last as long as dominant producers can compel industry media to maintain them".

Media as agenda setter
The ability of the news media to shape stakeholders' attention to, and comprehension of, topics and images has been called "agenda setting theory" (McCombs & Reynolds, 2002). This theory proposes that media attention to people, issues, and their respective attributes, influences who or what the public - or other sub-group - regard as important, as well as their opinions about it. Media attention transforms an item into a matter of public interest and priority, which is "the initial stage in the formation of public opinion" (Carroll & McCombs, 2003: ??). By calling attention to some matters, and ignoring others, the news media influence the criteria by which organizations are judged, and set the 'agenda' of public (or industry) discourse (McCombs, 1981).

Although agenda setting theory has yet to be fully investigated in respect of organizations and the general or industry media, Carroll & McCombs (2003) propose that positive media coverage results in positive public opinion, and that corporate efforts to influence the media through press releases etc. correspond to the amount of media coverage it receives. They also propose that those companies which are included in ranking lists are likely to be more prominent on the media agenda, and hence also the public's agenda. The reverse is true of those companies who fail to get onto ranking lists.

Pollock & Rindova (2003) reviewed three ways by which media exposure creates a positive impression of organizations (and legitimacy benefits among stakeholders):
(i)   repeated exposure in the press increases stakeholder familiarity, and tends to lead to increased liking (Harrison, 1977; Zajonc, 1968).
(ii)   repetition of information increases audiences' acceptance of it as truth (Hawkins & Hoch, 1992); and
(iii)   the volume of available information about a thing reduces perceptions of its riskiness (Heath & Tversky, 1991).

There are a number of variables or "contingent conditions" which need to be taken into account:
• the size and age of organizations affect which ones the media see as newsworthy (Schultz, Mouritsen & Gabrielsen, 2001). Older organizations are more likely to be recalled by the public because they have had more accumulated exposure to these firms than to newer firms.
• diversified firms may generate more news coverage across different news outlets and thus may be better known to the public. It is not known whether this has a positive or negative effect on reputation and identity
• the relationship between an organization and a news source can influence its coverage. For example, Deephouse et al. (2001) found that corporate-owned newspapers were more neutral towards the businesses covered in the newspaper than independently-owned newspapers. Danowski et al. (1988)

also found that firms owning media (e.g. AOL Time Warner, General Electric) get positive consideration from media they own. In addition, news media have a fascination with elites and celebrity status (Hayward & Hambrick, 1997; Meindl, Ehrlich & Dukerich, 1985), thus well-known CEOs or personalities can influence the coverage given to their organizations.

A New Approach to the Role of the Media
Studies tend to view industry media such as trade journals and magazines as objective purveyors of news and reasoned comment, the content of which is largely shaped by producers and consumers. As already discussed, Phillips et al. (2004) fail to acknowledge the media as anything other than a conduit for the voices of other institutional actors. A number of other studies have taken a view of the media as a passive upholder of industry-agreed product categories (e.g. Rosa et al., 1999), or merely reflective of the norms and values established within it. As Lounsbury & Rao (2004) note, this perspective sees the media as "an arena rather than an actor within an organizational field".

However, some recent studies - including those of Rindova & Pollock (2003), and Lounsbury & Rao (2004) discussed above - have adopted the production-of-culture perspective (Hirsh, 1972; Peterson, 1977), which treats the media as a powerful meaning-making, and sense-making, force at the field level, a significant organizational actor with the ability to shape the symbolic environment of industries (Fombrun, 1996). This paper takes that same perspective, exploring institutionalization and sense-making in the UK legal industry, with a particular focus on the role of the industry media in these processes. In so doing, this examination looks for confirmation of the discourse link between the models proposed by Phillips et al. (2004), and Porac et al. (2002), proposing that the processes of each might be usefully combined.

This paper proposes that the media – particularly the journals and magazines of an industry's press – are the agenda setters and shapers of industry discourse, playing a crucial role in categorization and institutionalization processes through their shaping of cognitions within the market, devising nomenclatures and reputational rankings, and influencing the behaviour of market actors. Whilst Lounsbury & Rao (2004) focused on the social forces influencing the redrawing of category definitions, the present case study examines how categories become durable. Either there are powerful forces at work which resist forces for change, or the change forces are non-existent, or too weak, to bring about a transformation. This study focuses on industry media as a powerful institutional actor in its own right.

Research questions
The key issues to be addressed in this paper are concerned with examining whether a professional elite - the Magic Circle of UK law firms - is an institution, and/or a category or part of an industry belief system. In so doing, this analysis intends to investigate how institutions, and categories or beliefs within an industry, develop, with an eye to advancing existing theory explaining both processes. The paper then goes on to examine the role of discourse – particularly the significance of industry media - in these processes, and to comment on the implications for cognitive and institutionalist explanations of how ideas develop and persist.

METHODS

Research context

UK legal profession
The UK legal profession provides a powerful example of an organizational field stratified by reputation; in particular it demonstrates a segmentation of elite solicitors' firms whose reputations for quality, size, profitability, and range of international and domestic "blue chip" clients, have gained widespread recognition and understanding within the legal industry and beyond. This research is a field-level analysis of this elite segment of UK legal profession – the so-called "Magic Circle" of English law firms - with a focus on the role of business and professional media sources in the establishment and maintenance of this segmentation by reputation.

The Magic Circle is generally acknowledged to encompass five firms: *Allen & Overy, Clifford Chance, Freshfields Bruckhaus Deringer, Linklaters and Alliance,* and *Slaughter & May*. The term 'Magic Circle' is so frequently used – by lawyers, clients, legal journalists and other relevant stakeholder groups – that most will know what it means and who is in it. This near-ubiquity of understanding reaches as far as mainland Europe, Australasia, and the US. The term has become a brand name, a "basis for differentiation and value creation…[which]…may favorably affect staff, suppliers, business partners, the trade, regulators and providers of capital" (Haigh & Knowles, 2004). Penridge (2004) claims that "the magic circle brand in the legal world is equivalent to the 'Nike' of the sports world or indeed the 'Coca-Cola' of the drinks industry".

The Magic Circle law firms are amongst the largest in the British legal profession, which makes them atypical of law firms in England and Wales generally. UK law firms have traditionally been very small, and this remains so for the majority of firms today. In 1902, the average law firm had 2.5 partners (Sugarman, 1993; 1996), and 75% of all firms had fewer than five partners (Abel, 1988). Today, 84.7% of all English and Welsh law firms have 4 partners or less, and only 1.6% have 26 partners or more (The Law Society, 2004). However, small partnerships make up only a tiny percentage of all solicitors in private practice. Large partnerships – 81 partners or more (0.4% of the total number of firms) – are significant employers, containing just over one-fifth (21.9%) of all solicitors (The Law Society, 2004).

Indeed, the expansion of the 'mega firms' - such as those in the Magic Circle - over the past quarter century has been one of the most significant development in the UK legal market. For example, in 1937, *Linklaters & Paines* (now *Linklaters & Alliance*) was the biggest law firm in the country, with just eleven partners (Slinn, 1987), and for many years the legal maximum size of a partnership was 20. Indeed, by the early 1960s, legal practice was equated with sole practice or partnership with a few others, often family members (Sugarman, 1993; 1996). It was only in 1961 that a UK firm – *Slaughter & May* - reached the legal limit of 20 partners. Although this legal restriction was removed in 1967, law firm size did not increase significantly until the early 1980s.

Over the last twenty years, the proportion of qualified solicitors working in small and medium sized firms has been declining, whilst there has been substantial growth in the size of the largest practices. Today, more than a third (37.3%) work for the very largest firms (those having more than 25 partners) and more than half (53.4%) are in firms with more than 10 partners (The Law Society, 2004). Clearly, the legal profession, in England and Wales at least, is becoming concentrated in large organizations.

The very biggest firms are monsters indeed. Firms such as *Clifford Chance*, *Freshfields*, and *Linklaters,* employ thousands of lawyers and support staff across a network of offices spanning many jurisdictions and continents, and bringing in millions of pounds worth of revenues. *Clifford Chance* is the biggest law firm in the world, employing 2945 lawyers in 28 international offices, 636 partners and having a turnover of £950 million in 2004[1]. The smallest of the Magic Circle firms is *Slaughter & May*, which ranks eighth largest (by turnover), and twelfth largest (by number of lawyers)[2].

Industry media
Until 1988, only a few practice-oriented periodicals were available to legal practitioners. The *New Law Journal*, first published in 1822, has a long-established reputation for providing a serious exposition of case law and legislation through its coverage of recent judicial hearings, changes and developments in statute law, and relevant practice issues for solicitors, barristers, academics and legal executives. *Solicitors' Journal*, first published in 1858, is also a practice-based publication, covering a wide variety of legal topics and practice points for lawyers. In addition, The Law Society, the professional body for solicitors in England and Wales, publishes an in-house journal which is sent *gratis* to all solicitors holding a practice certificate, called *The Law Society's Gazette*. It is the most widely read of all legal publications, with an audited circulation of 106, 172 in the year to June 2004, reaching 83% of all solicitors, 81% of all partners (Law Society, 2004).

A long standing restriction on the advertising and marketing of legal services was lifted in 1988 when The Law Society amended its advisory code, *The Professional Conduct of Solicitors*, to allow lawyers to advertise in any way they chose, provided that their advertising was "legal, decent, honest and truthful" (Law Soc ref please). Whether the lifting of the restriction was seen by publishers as an opportunity to establish new publications in which law firms could market themselves, or law firms were looking for an arena in which to do so, it is clear that since then there has been an explosion in the number of industry newspapers and magazines in the legal market. These range from publications like *The Lawyer* (from March 1987), and its offshoot, *Legal Week* (from Sept 1999), which chart the ups, downs and gossip of the legal world, to specialist publications like *Practical Lawyer* (from October 1989), a monthly law and practice update for small to medium-sized firms. *Legal Business* magazine, also founded in 1989, is a monthly publication targeted at senior legal professionals – principally partners – and is one of the most prestigious and widely read, reaching an audience of some 25,000.

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[1] *Legal Business* magazine, September 2004
[2] ibid.

In addition, a number of legal directories have been established, listing law firms and lawyers according to their reputations by work category. Two are ubiquitous and widely-acknowledged as the definitive analysis of the legal industry: *The Legal 500: The Clients' Guide to the UK Legal Profession* and *Chambers & Partners: A Guide to the Legal Profession.*

Data Collection
Data was collected over a three month period. As this study is a pilot for a doctoral thesis, the information obtained is considered preliminary only and will be supplemented in the future. The primary form of data collection was a series of recorded, semi-structured interviews with individuals within the legal industry, both within and beyond the Magic Circle group of law firms: lawyers (both current and former), a legal consultant, a training manager, public relations and marketing heads, the editor of a prestigious and widely-read legal magazine, and a head of graduate recruitment. The interviews focused on the interviewees' perceptions of the Magic Circle in terms of its meaning, significance, origins, persistence and future prospects. The interviews also addressed questions of media influence: the purpose and effect of media rankings and awards, the relationship between the legal press and law firms, and the power of the media to influence clients, employees, law graduates, and other relevant market actors. The interviews also covered more general issues, including lawyers' institutional and professional contexts; the topics covered were not limited strictly to issues of reputational labels and the media. Moreover, the analytical framework used in this study emerged in the analysis of data during and after the interviews were completed.

Interview data was collected using a 'purposive' sampling design (Glaser & Strauss, 1967; Lincoln & Cuba, 1985), a strategy which involves choosing successive subjects based on information already obtained. Interviews lasted about 45 minutes on average, and ranged from 35 minutes to 75 minutes. Each interview was recorded and subsequently transcribed.

Along with these interviews, documentary and historical data were also collected. These included organizational documents such as law firm brochures, as well as articles, rankings, and editorial comment from legal newspapers, legal magazines, and a legal directory - *The Legal 500: The Clients' Guide to UK Law Firms* (Pritchard, 1988-2004) - which has been published every year since 1988. In addition, data from books and on-line sources were used to provide additional information about the origin of the term "Magic Circle".

Data Analysis
The qualitative data analysis followed an iterative approach of traveling back and forth between the emerging theory, the existing literature, and the data (Glaser & Strauss, 1967; Eisenhardt, 1989). As there were a manageable number of interviews, the method used to analyze the interviews was a subjective approach to form categories or themes of significance. A theoretical focus on issues of institutionalization, categorization, and media influence emerged.

RESULTS AND DISCUSSION

Magic Circle as an Institution
The primary research question guiding this analysis asked whether a professional elite – a segmentation of prestigious law firms – has become an institution, and if so how such institutionalization has occurred.

The data uncovered in this study reveal that the UK Magic Circle of highly reputed London-based law firms has become established over time by an interplay of value-laden communications between institutional actors, who have drawn the boundaries of its services, membership, reputation and position within the field of the UK legal profession. As a label or categorization, the Magic Circle has become a "taken-for-granted fact" (Barley & Tolbert, 1997: 99), which is commonly understood and widely used. Interviewees were completely familiar with the term as an "everyday", customary description of the elite, and none required clarification or explanation. They were unanimous in their understanding of which firms were members of the Magic Circle, who were the "wannabe" firms such as *Herbert Smith, Lovells*, and *Norton Rose*, and which were neither. These facts alone probably qualify the term as institutionalized. In addition, it was clear that membership of the Magic Circle has resulted in material consequences for those firms. In particular, the categorization is perceived to have influenced Magic Circle firms' ability to attract clients and employees, due to their enhanced reputations for, *inter alia*, quality of client service, calibre of personnel, superior extrinsic and intrinsic rewards, preferential access to clients, expertise in multiple jurisdictions, and sheer scale of operation:

> "It's mainly, well from my perspective it's mainly a reputational thing... the blue chip reputation of the Magic Circle was such that various instructions would go to them almost by default and that it was therefore the case that the best quality work would automatically go to the Magic Circle, and anybody not seen within the Magic Circle would be, kind of picking the crumbs, if you like?" (Former lawyer at a 'wannabe' firm, now Senior Training Manager at a "wannabe" firm).

> "There is a certain quality assumed but more particularly it's the scope, the depth and quality which is partly a function of size and partly a function of where they operate and the way they've been set up and so on" (Global Head of PR, Magic Circle firm)

> "In terms of what it means to me is a section, which I think now is becoming more and more redundant of, high quality, slightly snobby, very expensive, hugely profitable, law practices that would claim, or would be perceived as having, some degree of intellectual firepower, city connections and capability of getting things done…it's those sorts of positives and negatives that come together to define what I see as the Magic Circle" (Former Head of Marketing at a non-Magic Circle firm).

> "I think it's a virtual circle of elite firms that helps keep their reputations strong and pricing levels high… I'd say it's a combination of an elite cream rising to the top and the first mover advantage that's tied with the rise of the global investment bank, and the UK's dominant role as an international trading centre …Now what distinguishes it from Lovells, Herbies, Norton Rose? They didn't do quite so well at that, you know" (Editor of legal magazine).

> "…I clearly see that those five firms as the leading firms… I think it's about…the breadth and depth of service of the different practice areas that those five firms can offer more depth, more breadth of experience in the leading areas of commercial practice" (Partner, Magic Circle firm).

These responses demonstrate that the Magic Circle fulfills Barley & Tolbert's (1997:99) definition of an institution, revealing that it has become taken-for-granted,

and has a status whereby it shapes interactions and negotiations between institutional actors.

Magic Circle as a Category within an Industry Belief System
The second element of this study considered whether the Magic Circle of UK law firms has become cognitive category – part of a mental model, frame of reference, or knowledge structure which is formed in the minds of market participants by external stimuli (March & Simon, 1958). Interviewees' responses, along with media reports, rankings and internal law firm documents, firmly establish the Magic Circle as a category shaping the way market actors – clients, suppliers, employees, the media – mentally structure their organizational community.

As a categorization, the members of the Magic Circle share characteristics in common, such as size, product markets, blue chip clients, international operations, and a reputation for large scale, quality legal work. They offer a range and scale of services which are beyond the capacity or expertise of small, 'high street', or even 'mid-size' practices. In this sense, the Magic Circle is a group of specified rivals offering similar products and thus competing in the same market (Porac et al., 1995), or at least at the very top of it. In the same way, some 'niche' law firms claim to specialize in, e.g., shipping law, entertainment, aviation finance, criminal law, etc., thus differentiating themselves on the basis of product category and, to some degree, specifying their rivals in those product markets. Similarly, 'high street' law practices deal with non-corporate clients and their legal issues – the low-budget, everyday concerns of the common man, such as house purchases, probate, divorce, and criminal law – which are hardly ever undertaken by the Magic Circle or other large firms.

In terms of the UK legal market, the data suggests that the Magic Circle is but one piece of the cognitive geography forming a collective industry map in the minds of market participants - a map which is at least partially shared with others in the legal community. White (1981; 1992; 2001) suggests that these shared assumptions and reference frames formed by categorization are a stabilizing influence on a market, becoming commonly accepted and taken for granted, and creating an explicit market nomenclature. Espeland & Stevens (1998) claim that product categories are an example of commensuration, the "transformation of different qualities into a common metric" (Lounsbury & Rao, 2004:??).

This cognitive shaping has clearly been beneficial in terms of preferential access to clients, work types, and employees, but there is some evidence that the categorization has also been a mental limitation. An internal Allen & Overy document (2003) claims "The Magic Circle tag carries with it a sense of London-centricity and a slightly smug feel to it, which is not the way we think about ourselves". Some interviewees had a similar view:

> "it's not enough for us just to compare ourselves to the British Magic Circle…it is a London-centric term." (Global Head of PR, Magic Circle firm).

It is interesting to note how this categorization is perceived as limiting the perceptions of both lawyers and clients because of its association with London. Clearly, the segmentation of these elite firms is more than just a reputation or quality designation, but also one of location. Since the category is ubiquitous, and the rules of

membership well known, any challenge to the connotations and associations of such membership is perceived as very difficult to mount.

Porac et al. (1995) put forward the view that stable cognitive orders or clusters – mental groupings of firms - were indicative of intra-industry rivalry networks and thus part of the thought processes which structured competition within an industry. There is clear evidence from the interviewees, and in the legal press, that the Magic Circle firms are considered to be competitors, particularly on large-scale commercial or finance transactions. This is particularly true of domestic legal advice, since there is some argument that Slaughter & May does not have true international capabilities because it lacks its own network of foreign offices (it operates on a "best friends" basis with a number of other prestigious non-UK firms). Some participants had other justifications for the grouping: the firms were all large, or international, or had strength in depth across all their work departments. An interesting "belief" held by some of the study's interviewees was that the Magic Circle firms were qualified to claim their prestigious designation because they were the most profitable of all UK firms,

> "… my guess is the Magic Circle are more profitable and therefore more successful businesses" (Magic Circle partner).

> "If you think of firms that started off, you know, in London, I can't think of, and if you look at the numbers...I can't think of any that just by revenue alone should be in there, because the Magic Circle firms are the top five or so in terms of revenue…" (Head of PR, Magic Circle firm)

> "I would have thought that on profitability and indeed on turnover – other than Slaughter and May – the Magic Circle would be the most profitable" (Magic Circle partner).

However, an examination of turnover and profitability figures reveal this is not the case: Table 1 compares the Magic Circle firms on a number of financial and population variables for 2004. The bracketed values show the firm's rank on these variables amongst the top 100 law firms in the UK in 2004.

2004	*Clifford Chance*	*Freshfields Bruckhaus Deringer*	*Linklaters*	*Allen & Overy*	*Slaughter & May*
Turnover	£950m (1st)	£785 (2nd)	£720m (3rd)	£652m (4th)	£245.4m (8th)
Net Income	£226.5 (3rd)	£348.3m (1st)	£227.2m (2nd)	£196m (4th)	£108m (6th)
Revenue per lawyer	£323k (4th)	£330k (3rd)	£300k (6th)	£284k (11th)	£339k (2nd)
Profit per equity partner	£562k (7th)	£675k (4th)	£674k (5th)	£609k (6th)	£837k (1st)
Total partners	636 (1st)	516 (2nd)	500 (3rd)	421 (4th)	129 (18th)
Total lawyers	2945 (1st)	2377 (3rd)	2400 (2nd)	2293 (4th)	724 (12th)

Table 1: A comparison of Magic Circle firms on a number of variables. Figures taken from *Legal Business* magazine, September 2004.

On most criteria, the Magic Circle are amongst the top ten firms, but it is interesting to note that there is no single measure – other than on reputation alone - for which

they occupy the top spots. The perception within the legal industry appears to be otherwise.

Institutionalization of the Magic Circle
Given that the Magic Circle term is so widely understood and used today, the second aspect of this study was to investigate the process by which it became established as a "shared definition of social reality" (Scott, 1987: 496), with a particular focus on the role of discourse and textual influences.

The results here suggest that the emergence of the Magic Circle group of law firms as an institutionalized category, and as part of a cognitive industry belief system, has occurred over an extended time frame, and that the establishment of the term was largely "set" by the legal media. This study finds first evidence of the term, and its association with a group of elite law firms, in 1993, but there are some indications that it may well have been in existence for many years before that.

Most interviewees were generally unclear about the origin and dating of the expression "Magic Circle". Many felt that it had become omnipresent, but were aware that it had not been around when they entered the legal profession, or in some other distantly remembered time. Interestingly, there was a widespread perception that the press – *Legal Business* magazine in particular - had coined the term and subsequently propagated its use:

> "It could be, you know it could be *Legal Business*. It could be *Legal Business* who made it up." (Global Head of PR, Magic Circle firm)

> "Um, I need to dig back into a little bit of ancient history as it were, in that I think the expression Magic Circle was originated by, I think it was *Legal Business* magazine." (Head of Marketing at a 'Big 4' Accountancy firm, and Former Head of Marketing at a non-Magic Circle firm)

> "I don't think the Magic Circle is seen as something you can apply to join, or indeed that was created by lawyers: so far as I can tell, it was coined by the *Legal Business* magazine. But they have a habit of picking things up from various places, so I'm not sure where the true origin and credit lies!" (Legal Consultant)

However, some interviewees remembered a 'proto-Magic Circle', consisting of a group of London firms who had consented to a 'no-poaching' pact whereby partners agreed not to move to other firms within the club. It also appeared to operate as a cartel, setting salary rates for associates and trainees:

> "I think it predates the founding of *Legal Business*, which was founded fifteen and a half years ago, and was an informal referral to a cartel which met to discuss and agree on salaries for assistants" (Editor of legal magazine).

> "It is rumoured that those firms had a no-poaching agreement amongst themselves. I have no idea whether that rumour is true or not…it may well have been *Stephenson Harwood* who were then ejected from it, from the club, and because they breached that etiquette…" (Non-Magic Circle lawyer).

For these interviewees, the club was unnamed, an 'urban legend' of sorts, or a 'gentleman's agreement' between a group of large firms. Its membership was also unknown. However, one interviewee did remember a reference to the "Magic Circle" in the early 1990s, and a hazy recollection of its membership:

> "I saw a reference to the Magic Circle in a partnership document I was not meant to see, in an office cupboard in [……]. That must have been about 1992 or 1993. The Magic Circle it referred to was about eight firms, *Allen & Overy* were in it but I remember that *Clifford Chance* were not". (Legal consultant and former Magic Circle lawyer)

This finding is backed up by an analysis of the legal media, which reveals that the term 'Magic Circle' was not used by *Legal Business* magazine until 1998, and that the first use of the expression in the media was by *The Lawyer* on 23 July 1996[3]. It refers to a "secret information-sharing 'Club of Nine' City firms", a "rarely publicly acknowledged but widely known grouping of senior partners from nine major City firms…[which]…has met twice yearly for many years with a formal written agenda to discuss matters of mutual interest". The Club is referred to as a "magic circle", and was "believed to be" the firms of *Stephenson Harwood*, *Slaughter & May*, *Linklaters & Paines*, *Allen & Overy*, *Norton Rose, Herbert Smith, Ashurst Morris Crisp,* and *Lovell White Durrant*. The nature of the Club was so secretive that the ninth member was not known. Both *Freshfields* and *Clifford Chance* are missing from the quoted list.

The article quotes a senior partner from one of the 'Magic Circle' group: "the grouping is 'constantly shifting in its membership'". In addition, Robin Smith, the senior partner at *Dibb Lupton Broomhead*, was quoted as saying "'I know of the Club of Nine I only wish they'd make it the Club of 10 my invitation always seems to get lost in the post!'"

Media reports reveal that *Stephenson Harwood* was asked to leave the Club/Magic Circle because it was smaller than most of the other firms, and had been moving away from the corporate business most of the others concentrated on. *The Lawyer* noted the secret nature of the Club/Magic Circle, claiming that "[m]ost of the senior partners in the club are nervous about talking about the group. In the past it is believed it have operated a non-poaching pact in a bid to keep salaries down."

By January 1997, the Club/Magic Circle was showing signs of further breakdown. *The Lawyer*[4] reported that a finance partner at *Herbert Smith* had "defected" to *Linklaters*, a move which breached the "no-poaching" agreement between the Magic Circle firms. However, the partner was "being allowed to join *Linklaters*", and the arrangement had been "gentlemanly". In addition, the partner had approached *Linklaters* independently, and was being taken on as an assistant rather than a partner, which meant that an argument could be made "that this was technically not a 'poaching'".

On 6 May 1997[5], The Lawyer headlined that the Club/Magic Circle had broken up following a breakdown in salary information sharing between the Club firms. However, the copy quotes a personnel partner, who predicts a super-league of firms: "I think the club has been whittled down to five: *Slaughter and May, Linklaters and Paines, Freshfields, Clifford Chance* and *Allen and Ove*ry"

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[3] The Lawyer, 23 July 1996: "Stephensons quits City's Club of Nine"
[4] The Lawyer, 6 January 1997: "Club of nine's magic circle breaks down"
[5] The Lawyer, 6 May 1997: "Salaries spiral as club breaks up"

The fact that the Magic Circle existed in 1993 or before, but was not mentioned in the legal press until 1996, attests to the secretive, anti-competitive nature of the group. Its name, its membership, and its existence at all, were virtually unknown beyond the higher partnership levels of a group of select law firms. In this sense, the normative rules of the club – which undoubtedly incorporated an understanding of the illegality of cartel negotiations – deterred public discourse, particularly in the press. Texts - sources of information about the group - which, according to the model of institutionalization proposed by Phillips et al. (2004), could create the discourse necessary for the establishment of an institution, were clearly lacking in the period up to 1996. Although there may have been some industry stories, gossip, or rumour about the club, these were not enough, or not legitimate enough, to establish the concept of the Magic Circle in the minds of the majority of market actors. It was not yet an institution.

The Magic Circle of Magicians

Only one interviewee referred to the link between the Magic Circle of law firms, and The Magic Circle club of magicians, which is the more familiar use of the expression and from which the legal market term is clearly derived:

> "I think it was Legal Business magazine that coined the expression the Magic Circle as it applies to law firms and there's immediately been a whole load of grief coming out of The Magic Circle, that guild of magicians, who every time it gets used in print you get a little letter from their lawyers saying, by the way, The Magic Circle is a trademark… its one of those expressions that people transpose over." (Former Head of Marketing, non-Magic Circle firm).

The choice of "Magic Circle" as the name of an enigmatic cartel of top London-based law firms who shared salary information (but not partners), whose members were not known, and who met in secret to discuss matters of mutual interest, is no coincidence.

The Magic Circle club of magicians was formed in July 1905, its initials a secret homage to a young professional magician, Martin Chapender, who had recently died (Wade, 1974). The club has a covert, surreptitious theme characterizing much of its history and character, including a motto in Latin (itself an opaque language, limiting comprehension of the masses) of '*indocilis private loqui*, meaning "not apt to disclose secrets". It used to take great pride in the fact that its headquarters in Chenies Mews, London were difficult to find and fronted by an anonymous door. Even today, its new premises in Stephenson Way, near Euston railway station in London, are still proclaimed to be 'secret', and can only be made known to those who contact the club direct[6]. Apparently, "[f]ew are lucky enough to enter the House of 10,000 Secrets"[7], yet it produces regular magic shows, has a museum which is open to the public, and is "an award winning venue for corporate functions and conferences"[8].

There are approximately 1500 members of The Magic Circle club, both amateur and professional magicians[9], as well as an "Inner Magic Circle", formed by invitation only, about which there is little publicly available information. White (1974:4) claims that "The Magic Circle is not a Secret Society – it is a society which keeps its

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[6] www.themagiccircle.co.uk/index2.shtml, accessed 5 April 2005
[7] www.themagiccircle.co.uk/mtmc.shtml, accessed 5 April 2005
[8] www.themagiccircle.co.uk/index2.shtml, accessed 5 April 2005.
[9] ibid

secrets!" All members sign a declaration that they will not divulge any secrets of magic – the method of performing tricks or illusions – to outsiders, and to do so results in immediate expulsion from the club (Wade, 1974).

There is also some insight to be had by considering the symbolism of the circle, and its connections with magic. A circle is a symbol of infinity, without beginning or end, perfect, the ultimate geometric symbol. It is also a symbol of democracy, the preferred configuration for an assembly of equals, such as the campfire circle, or King Arthur's round table[10]. It is a setting where no one has a more prominent position than anyone else.

The circle has many interesting associations – such as the halo, the rainbow, the ring, the stone circle, and the wheel - and appears in art in a number of forms. It has a prominent role in Pagan and magical rites, being considered a sacred place where all ceremonies are carried out, and a doorway to the Gods[11]. In ancient times, circles were drawn around sick people to protect them against demons[12].

As a symbol of eternity, rings are used for betrothal and marriage, and are also a symbol of authority or status, as with Papal, regal and Masonic rings. Rings have been traditionally associated with magic. The Koran says Solomon had a magic ring which could give him power over his enemies; Romans wore rings dedicated to the goddess Salus to ensure good fortune; rings made of nails from coffins or church doors were popular talismans in the Middle Ages, and of course, we have Tolkiens's *Lord of the Rings*[13].

The symbolism of the circle suggests perfection, equality, power, status, protection, and impenetrability – all of which could be considered appropriate descriptors for the Magic Circle of law firms. As well as being a handy media 'tag' to attach to a group of rivals, the term is laden with associations of prestige which have probably influenced the perceptions of those who coined it, as well as those who read or hear of it.

Media Discourse

Once established in the legal press, the term quickly came to prominence. An analysis of the frequency distribution of the term during the years 1996 – 2004 (see Figure 5) shows a sharp rise in the use of the expression during from 1998, peaking in 2000, and a continuing high usage thereafter. It is proposed that once the legal media discovered the term, it became the legitimating, textual arena in which it became established, widely known, propagated and taken-for-granted.

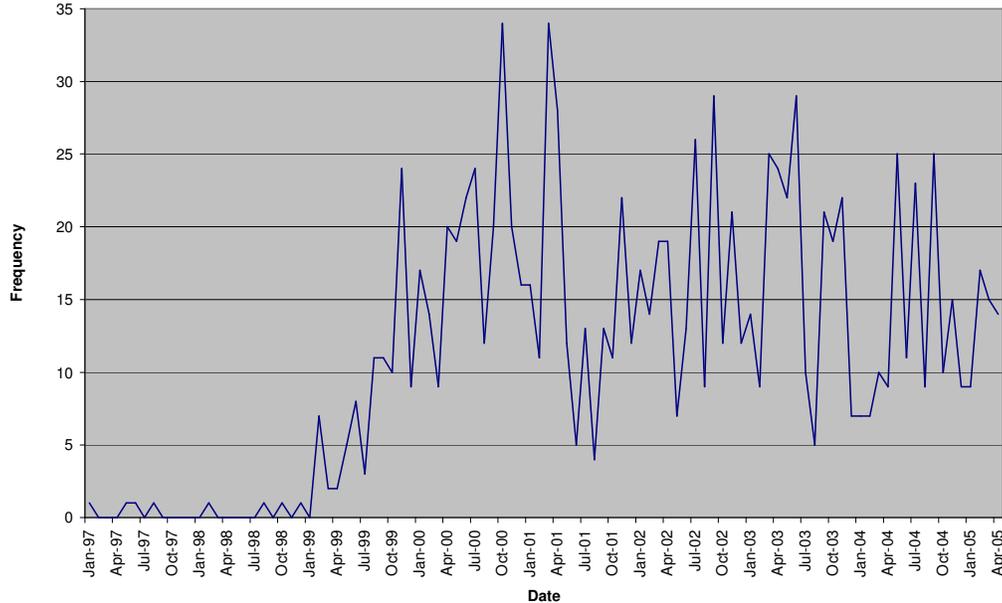[10] http://math.dartmouth.edu/~matc/math5.geometry/unit9/unit9.html, accessed on 19 April 2005.
[11] http://www.paralumun.com/witchcircle.htm, accessed on 19 April 2005.

[12] ibid.
[13] http://math.dartmouth.edu/~matc/math5.geometry/unit9/unit9.html, accessed on 19 April 2005.

Figure 5: Frequency of the Magic Circle expression in The Lawyer 1997-2005

Another perspective on the origin and category-shaping of the Magic Circle label can be found in the industry-leading directory of lawyers and law firms, *The Legal 500: The Clients' Guide to UK Law Firms* (Pritchard, 1988-2004). First published in 1988, its business model was to exploit law firms' new freedom to engage in marketing activity. All firms in 'The 500" are described on a quarter page in an A-Z section at the back of the book. However, firms are able to increase the size of their entry – at a price. Many choose to do so, perhaps seeing the potential of the publication as a kind of "Yellow Pages" of UK solicitors' firms. The main purpose of the directory is to be "an introductory guide to the leading law firms" (Pritchard, 1988: 5). In order to achieve this, Pritchard and his huge editorial staff mix factual information – such as numbers of partners, total staff, foreign offices or gross fees – with opinions about firms gathered from a huge survey of UK solicitors and other industry actors. No lawyer is able to nominate themselves or their firm.

The appearance of reputational rankings in a number of other legal publications –such as *Legal Business* and *The Lawyer* - followed in the wake of *The Legal 500*, and its rival directory, *Chambers & Partners: A Guide to the Legal Profession*. The innovative nature of Pritchard's survey, coupled with the almost-universal participation of UK law firms, means that the *The Legal 500* has become a legitimate, valid forum in which reputations are assessed and recorded, a discourse on the status of individuals and firms within the legal profession. It is a text in which industry beliefs and shared constructions of social reality may form according to the model of Phillips et al. (2004), and is considered to be very significant by law firms:

> "…the directories are enormously important, in law firms...they have managed to sell this extremely profitable service which takes an awful lot of work from each firm to compile the information, build up a relationship with the directory editors. And it's good discipline in a way but, people may say they don't really mind but when they're published they do because, as you know, there are leagues and these are the top, this is the top, probably the top person or the top firm and this is the second one, um so it's unrelentingly table driven, and it is taken seriously." (Global Head of PR, Magic Circle firm).

Following the fortunes of today's Magic Circle firm through this historical record of reputations is an intriguing insight into the rise of the 'mega-firm' and the segmentation of the legal market into a number of categories. It is also provides further data on the origin of the Magic Circle label. In 1988, the largest firms (by total staff) were a mix of firms who, today, form the Magic Circle and the 'wannabes'.

1. *Clifford Chance*
2. *Linklaters & Paines* (now *Linklaters & Alliance*)
3. *Slaughter & May*
4. *Freshfields*
5. *Norton Rose Botterell & Roche* (now *Norton Rose*)
6. *Simmons & Simmons*
7. *Herbert Smith*
8. *Allen & Overy*
9. *Lovell White & King* (now *Lovells*)
10. *McKenna & Co.*

However, Pritchard (1988) was dismissive of size, claiming that figures "are fairly meaningless – it is reputations that count" (53). Over the years of *The Legal 500*, it is the editorial comment of the Company and Commercial law section that has been seen as the most important, since this type of work is the 'bread and butter' of every large firm. In 1988, this section was merely a paragraph in length, but it listed a wide range of recommended firms. *Linklaters & Paines* were considered the best firm, followed by *Slaughter & May* and *Ashurst Morris Crisp*. Other firms highlighted as having good reputations were, inter alia, *Travers Smith Braithwaite, Herbert Smith, Gouldens, Ince & Co., Macfarlanes, Norton Rose Botterell & Roche*, and *Theodore Goddard*. Of today's Magic Circle, all but *Allen & Overy* were mentioned.

Another section, entitled "London firms going from strength to strength", listed those expected to do well in the next 5 -10 years. Although *Slaughter & May*, and *Linklaters & Paines*, were picked out as "the most respected and highly valued names in the legal profession" (1988:62), five firms were tipped for future greatness: *Clifford Chance* ("unquestionably the firm in London (and indeed, nationally) that is tipped for the future" (1988:63)); *Travers Smith Braithwaite; Lovell White King; Herbert Smith*; and *S J Berwin & Co*. It is interesting to note the London-centric nature of the predictions, with a small nod to *Clifford Chance*'s possible *national* impact. There was no consideration of an international presence at this time.

The 1989 edition of *The Legal 500* continued in its aim to provide fact and informed opinion on the UK's leading law firms, as well as to "open up some of the secrecy and mystique that surrounds the legal profession" (Pritchard, 1989:7). In terms of size and reputation, the five firms which would eventually form the Magic Circle were lining up in the "Top 10" of UK law firms, but at this time it was still difficult to predict which would emerge as the market leaders. Only *Slaughter & May*, and *Linklaters*, were consistently identified as the premier firms. A number of firms, including *Travers Smith Braithwaite, Ashurst Morris Crisp, Norton Rose*, and *Herbert*

Smith, were as large as the Magic-Circle-to-be firms, and one of them – *Denton Hall Burgin & Warrens* – was tipped by *The Legal 500* as one of the future elite, claiming that "within the next few years, [it will] break through into some of the areas of work that are still jealously guarded by the select band of top City firms, and then be regarded as a leading City practice in its own right" (Pritchard, 1989).

Entering the 1990s, *The Legal 500* recognized the international ambitions of the largest firms, who were beginning to establish foreign correspondent, or affiliate, offices in Europe and beyond. Although the future Magic Circle firms were all part of the Top Ten firms by size, they were not the largest practices. Their reputations were not fully formed either: although *Slaughter & May* continued to be lauded as the pre-eminent firm, *Clifford Chance, Linklaters,* and *Ashurst Morris Crisp* were ranked behind them, and *Freshfields* and *Allen & Overy* were identified as part of a following pack of 21 "premier firms" (Pritchard, 1990). By 1991, the field was stratifying somewhat, with *Slaughter & May* and *Linklaters* at the top, *Clifford Chance, Freshfields* and *Ashurst Morris Crisp* in the next tier, and *Allen & Overy* amongst a group of four firms below that.

This hierarchy continued into the early 1990s: *Ashurst Morris Crisp* remained in third place until 1996, the cuckoo in the nest of future Magic Circle firms, and *Allen & Overy* trailed in eighth, and sixth, place respectively. Although only the nineteenth largest law firm in London, *Ashurst Morris Crisp* was perceived to be a strong boutique commercial firm, the most admired by other lawyers for its quality, adaptability and strength in depth (Pritchard, 1993; 1994; 1995). Some doubt about *Allen & Overy*'s potential as part of the elite was expressed: it "is poised at a turning point: it can remain in the middle of the Top 10, or – with inspired management (and a little luck) – it can push itself into the top half of the Top 10" (1993: A180). Similarly, in 1994, Pritchard notes "as the recession comes to an end, the question will be whether the firm can continue to be as successful as it has been in previous years" (1994:A208).

By 1995, *The Legal 500* talked in terms of "The Top Ten", a prestigious, relatively static hierarchy of firms. However, there was an acknowledgement of the future Magic Circle firms as "an elite grouping of (probably) five firms that stand out as having genuinely international practices" (1995:A258). Pritchard (1995) claimed that although other firms - such as *Lovell White Durrant, Herbert Smith, Simmons & Simmons*, and *Norton Rose* - would argue that their practices were the equal, at least, of *Allen & Overy*, they were "perceived as having failed to reach that elite top group". This assessment may reveal one of the sources of the Magic Circle label – those practices which were judged to be credible international law firms.

1996 was the first year of *The Legal 500* in which the Magic Circle firms lined up in the top positions of the directory's rankings. However, *Ashurst Morris Crisp* and *Herbert Smith* were also ranked alongside *Allen & Overy*, who continued to bring up the rear of the five Magic Circle firms we know today. Pritchard (1996) notes that "the Top Ten (and in particular the Top Five) remains relatively static. The chances of any outsiders breaking into those elite groupings remains remote, other than by merger" (Pritchard, 1996:A6). However, there is no clear indication of who the "Top Five" are. *Ashurst Morris Crisp* are clearly not in the top rank because, despite having "credibility and reputation that is unparalleled for a firm of its size", it is

perceived as being too small to compete for the "mega work", and needs a "credible international presence" (A7) in order to be seen as part of the Top Five. However, the editorial does not indicate whether it is *Allen & Overy*, or *Herbert Smith*, who should be in fifth position in the "Top Five". In addition, the label "Magic Circle" has still not yet been used to describe this Top Five.

The same rankings appeared in 1997, with *Herbert Smith* and *Allen & Overy* still neck and neck in terms of reputation, but by 1998 *Allen & Overy* had pulled away from its rival, and for the first time the term "Magic Circle" was used and its five firms clearly lined up in positions 1 to 5 of the Commercial rankings in *The Legal 500.* Pritchard (1998:50) acknowledged the fragility of the new label, claiming that "[d]ebate continues over the existence and pre-eminence of a 'Magic Circle' of five City law firms". However, Pritchard (1998:50) claims "a top five does exist and what distinguishes these firms is their FTSE 100 clients, unparalleled corporate finance capability and international reach".

In subsequent years of *The Legal 500*, the term Magic Circle has been used with an easy familiarity. The firms within the Circle are described as having "pulled away" from the rest of the top ten (Pritchard, 1999:52), "competing head-on with the very best firms on Wall Street" (Pritchard, 1999:52), and "secure in their market dominance" (Pritchard, 2000:59). By 2001, the editors could not separate the five firms into a hierarchy, giving them all equal top spot, and have continued this segmentation ever since. A summary of the Magic Circle firms' trajectory to the top of the reputational rankings in shown in Figure 6.

Figure 6: The Magic Circle: a journey to the top of *The Legal 500* rankings
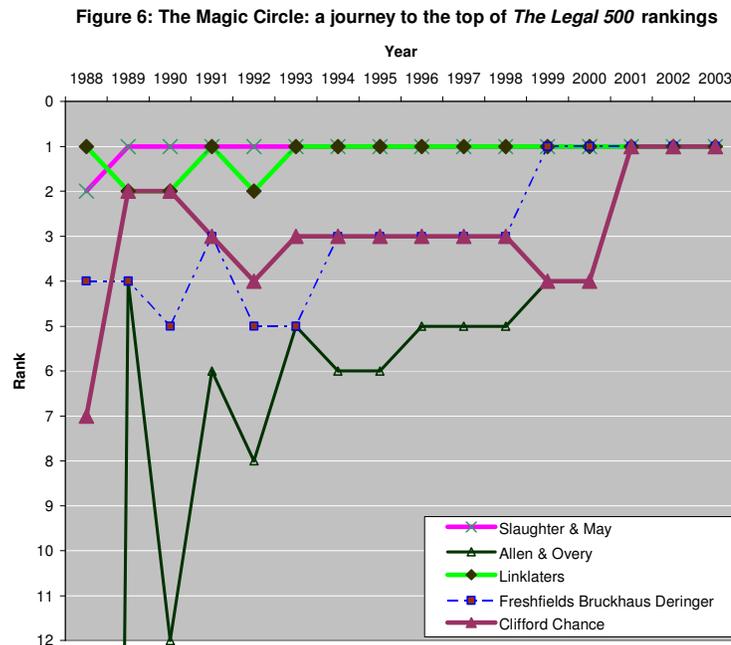
Herbert Smith are described as "snapping at the heels of the Magic Circle" (Pritchard, 2001: 20), and "boasting many of the credentials to be in the UK's Magic Circle" (Pritchard, 2002:22), but remain outside the Circle because "it has some way to go in developing its finance practice and expanding its work for, and reputation with, investment banks" (Pritchard, 2002:22).

This analysis reveals that Magic Circle concept was in existence for many years, but was not an 'institution' beyond the higher partnership echelons of a small number of top law firms. In the manner of its namesake, it was "all smoke and mirrors", a somewhat apocryphal secret society acting outside the law of fair competition in its attempts to set salaries and maintain the integrity of the most prestigious partnerships. It was neither familiar to, nor taken for granted by, most industry actors. In addition, its membership appears to have been fluid, and it was a self-regulating network of organizations with established, normative 'rules' and sanctions for those who were part of it. One can imagine that its genesis may have been a group of friends (or rivals), who set the rules, kept the details of membership confidential, and were able to arrange clandestine meetings.

By the time the legal media had picked up on the term 'Magic Circle', the group had been in existence for at least 4 years, and probably much longer than that. The press were unclear about the group of firms who were part of it, or the remit of the group. Like the majority of lawyers at the time, they had been unaware of it, or had very little solid information about its members or sphere of activity. Texts and industry discourse about the group was lacking, and hence the industry-wide process of institutionalization had yet to begin. However, the term was clearly a gift to headline writers, and appears to have been adopted by the press as a shorthand term for an emerging group of five highly prestigious firms. At this time during the mid-1990s, today's Magic Circle were gaining size, international offices, legitimacy and reputation. In addition, increasing numbers of mergers were leading to the breakdown of traditional bonds of partnership loyalty. Firms became willing to recruit partners (sometimes even whole departments) from rival practices – "something that would have been considered unforgivable a decade before" (Pritchard, 1991). At the same time, a tranche of US law firms entered the London market, sparking a 'war for talent' in respect of trainees and new associates; salary rates began to spiral upwards for these employees and the old rules of the Magic Circle began to be broken.

Just as the 'old' Magic Circle was beginning to disintegrate in the wake of these rule breaches, the Magic Circle label was discovered by the press, appearing in *The Legal 500* around the same time as its first appearance in *The Lawyer*. It began to be applied exclusively to a group of five top-ranked firms (although other firms were similarly ranked), but it is not clear whether these five firms were even part of the 'original' Magic Circle cartel. The label was used tentatively at first, and its longevity was in doubt, but once it was taken up in the weekly/monthly legal press, its meaning gathered momentum and quickly spread through the market. It is suggested here that the 'discursive legitimacy' (Phillips et al., 2004) of the legal press was the crucial element in establishing, propagating and maintaining the term within the field. The press is the medium through which many field actors are exposed to news, gossip, ideas and opinions, moulded by the agenda-setting, category-setting tendencies of journalists. The repetition of the term, and the legitimating power of the press, have conspired to embed the term in the minds of market actors, creating socially constructed market beliefs about individuals, firms, the legal profession, and the behaviours thereof.

Applying the results of this study to the discursive model of institutionalization proposed by Phillips et al. (2004), Figure 7 illustrates how actions, texts and discourse may have interacted in the institutionalization of the Magic Circle.

ACTIONS	Generate →	TEXTS	Embed in →	DISCOURSE	Produce →	INSTITUTIONS

- Formation of 'Club of Nine'
- 'No poaching' agreement
- Salary setting
- Rankings

- Press articles
- Internal documents
- Legal 500
- Rankings

- Most profitable firms
- International
- Blue chip clients
- Highest reputations
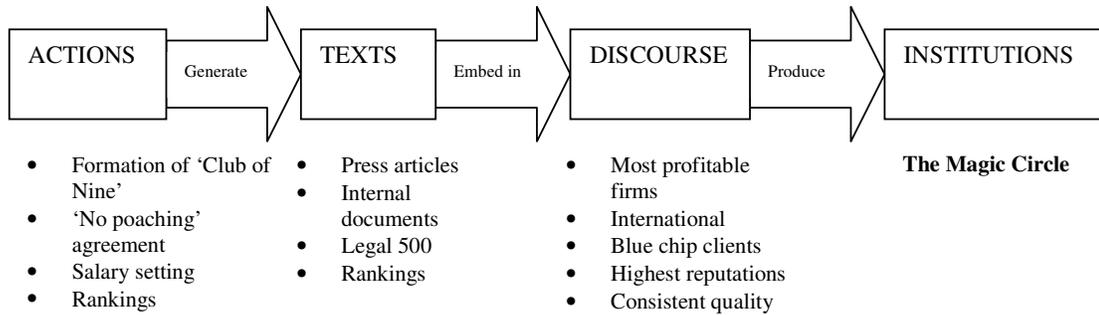- Consistent quality

The Magic Circle

Figure 7: A discursive model of the institutionalization of the Magic Circle. Adapted from Phillips et al. (2004).

The media have helped to shape the actions, shared assumptions, and frames of reference of the various market actors, being the vehicle through which comparisons and other industry discourse takes place, and labels and categorizations are coined for sense-making and efficiency purposes. In terms of Porac et al.'s (2002) model of industry belief systems, Figure 8 illustrates the emergence of the Magic Circle as a part of an industry-wide cognitive model, with discourse, or market stories, playing a key role in propagating the categories, beliefs, recipes and rankings which form the model. The product (or, more accurately 'service') ontology or categories undertaken by Magic Circle firms are mainly commercial or banking transactions (including a number of instructions whose scale and complexity can only be attempted by the 'mega firms' within and around the Magic Circle).

These legal services form the basis for boundary beliefs, the shared cognitive frameworks which segment firms into networks of competitors. These form a "frame of comparability" (Leifer, 1985), defining who is a member of the segment, and who is not. As Porac et al. (1995) suggest, boundary beliefs may be shared with others in the same organizational community, creating a collective "industry model". The Magic Circle would appear to be a component of a widely-held, collective representation of the UK legal market. The "beliefs" which draw the boundaries of the Magic Circle might include, *inter alia*, portrayals of the firms in terms of their size, age, commercial orientation, and London headquarters.

Industry recipes are the shared beliefs within the legal profession about strategic behaviour, the nature of work relationships, and the justification for organizational behaviours (Porac et al., 2002). In the case of the UK legal profession, many of these 'recipes' are enshrined in traditional practices and professional regulations, such as the organization of lawyers into partnerships, the conflict of interest rules, and the normative behaviour patterns applying to the acquisition and treatment of clients. These recipes can also be the result of management fashions generated by, for example, the media, consultants, and academics (Abrahamson, 1991; 1996; 1997; Abrahamson & Fairchild, 1999); these create industry discourse and the subsequent take up of new processes, behaviours or techniques. According to Phillips et al.'s (2004) model, such discourse may result in the institutionalization of these so-called

'fashions'. Law firms' adoption of marketing and public relations experts, and their current interest in management techniques and practices (Pinnington & Morris, 2001) are recent examples of the adoption of new industry recipes. In the case of Magic Circle firms, it is suggested that their organizational recipes might include, *inter alia*, strategies relating to size, an international network of offices, a prestigious client base, and a consistent quality of service.

Reputational rankings
- Formal and informal opinions
- Media legitimated hierarchy
- Persistence through institutionalization

Industry recipes
- International office network
- Profitability
- Blue chip clients
- Consistent quality

Boundary beliefs
- London-based firms
- Commercial practices
- Large firms
- Traditional firms

Product ontologies
- Company and commercial
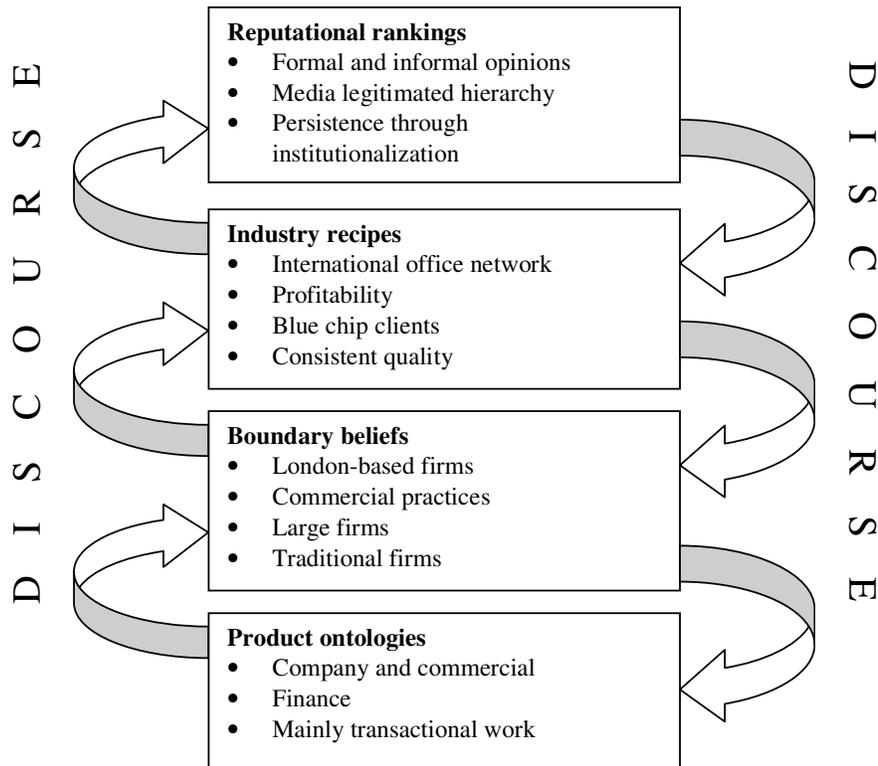- Finance
- Mainly transactional work

Figure 8: A model of industry sense-making creating the Magic Circle of UK law firms. Adapted from Porac, Ventresca, and Mishina (2002).

Successful implementation of industry recipes, it is suggested (Porac et al., 2002), leads to inter-firm, and inter-segment comparisons. Opinions about service quality and reputation form within the industry, based on the relative success of organizations in implementing strategic recipes. Informal opinions create discourse-led "insider" hierarchies, but formal status rankings also emerge to serve the broader public of clients, potential employees, suppliers and other interested parties. The UK legal profession is a good example of this: a huge assessment and ranking infrastructure has developed in conjunction with the emergence of the news-based, personality-focused legal media. Lists of top lawyers and firms by work speciality, location, prestige, associate satisfaction, or a variety of other criteria, are a familiar feature of many legal publications. In addition, there are a number of annual directories, claiming to provide objective opinion on the industry, as well as a clutch of lawyer-specific award ceremonies, hosted by the legal media

Power and Influence of the Legal Media
The final part of the investigation carried out in this study was to examine how influential the legal media are in the legal industry, and in particular, their role in

creating, establishing and promoting industry discourse. There was a clear indication from interviewees that the legal media were a phenomenon, or force to be reckoned with:

> "It's just I think it's amazing that the profession sustains so many trade papers. I've never come across anything like it. There's so many of them. Legal Week was formed by a break away group from The Lawyer which is one of the reasons they're so competitive … it raises the temperature in this profession much more than in accountancy or in other sectors I've worked in" (Global Head of PR, Magic Circle firm)

> "I'd say that it certainly is much more intrusive and aggressive than any other trade press that I know, I mean, you know, way beyond accountancy, you're right, it is quite staggering" (Head of PR, Magic Circle firm).

There was also recognition by a journalist that the legal media create and perpetuate categories:

> "The legal media prop up all communications, and encourage the labeling of Magic Circle and other labels…we're journalists, so always looking for ways to help the reader see a clear message or structure, where often obfuscation and murky shadows or gossip have sufficed in the past." (Editor, legal magazine).

When asked about the power of the legal press to shape reputations, create categories of competitors, and give legitimacy to firms and their behaviours, many of the interviewees were of the opinion that the press held a great deal of power:

> "I think it's enormous, I think it's enormous. I think they have enormous responsibility. They often get a lot of things wrong which is very frustrating. They don't know the full story and they will often, I wouldn't say willfully, but they will just negligently misrepresent what's happening. Every firm thinks it gets a bad press, you know, and nobody else does kind of thing so that's not the case. And I think that they are, I think they are very, very powerful." (Head of PR, Magic Circle firm).

> "It has influence, sure. It is a partner readership, and it deals in analysis. Communication was in short supply and at a nascent stage in law; we've been a part of changing that." (Editor, legal magazine).

> "If you have a series of stories that appear before almost anybody knows about it internally it looks as if they're [the press] running you. And it doesn't matter, it's just an irritation and it makes, senior people don't take much notice of it, but it makes us think it's funny they all seem to get the news and then we get the announcement internally" (Global Head of PR, Magic Circle firm).

The potential of the legal press to break sensitive, reputation-damaging stories was seen as something to be managed strategically by the marketing and public relations staff of law firms:

> "…I think that, it might be good news for me but I think that, you know, the whole managing of the press, the working of the press – let's call it that – is going to become a much more critical part of how a firm sees itself and how they're portrayed in the market and you know, mud sticks as we know, and perception is reality. In other words if they say there's a real problem here within, you know, your banking department then there is, that's the reality of it …" (Head of PR, Magic Circle firm).

A journalist interviewee was also clear about the influence of the legal press, but refused to acknowledge it as "power":

> "… because we write, and part of our remit is to expose bad practice, and people who take the piss, then there are certain responsibilities that are part of it….I mean if we're being read then I think, you know, we've got a responsibility that we are dealing with people's reputations. But I think power is the wrong word, I really do."

However, this "responsibility" for reputations is not always the priority of legal journalists:

> "…if we were just passively reporting what we were told it would soon become very boring, you know, so we have to be, you know…Do we write sensationalist headlines? Yes, of course you do, of course you do. I mean, that's…we've got to. You think, you've three to five words to write, something to catch a reader's interest."

> "Interviewer: But do you think you fuel that sort of phenomenon [interest in celebrity firms and lawyers].
> Editor: Yes definitely, yes. Absolutely, you can have me on that. Absolutely, of course we do, we're the media, and we thrive on personalities and awards, and events, and all that."

Lounsbury & Rao (2004) see the power of the press quite differently. In their study of the reconstitution of product categories in the post-war American mutual fund industry, they claim that the media's decisions about categories and understandings are influenced by incumbent firms who currently benefit from, and take active steps to maintain, the existing order. Their study concluded that firms were in a powerful position because the media depended upon them for cooperation in terms of news gathering and advertising revenue.

However, this sort of power relationship does not appear to exist in the UK legal profession. The media are not puppets of the big firms; indeed, they may be the puppet masters. Through their sophisticated public relations and marketing departments, large law firms attempt to place stories in the legal and national press in order to promote their expertise in particular legal specialities, and to gain status through their association with highly reputed clients. The firms are more than willing to cooperate with the media and will actively attempt to do so:

> "… the important thing is that since they want to report it anyway, try and be helpful to them and build the relationship better, and 'I knew you'd be interested in so-and-so'…deals, yes and people joining, and developments in offices around the world and so on, yes" (Global Head of PR, Magic Circle firm).

In addition, although firms buy space in annual directories such as *The Legal 500* and *Chambers'*, they do not normally advertise in the weekly or monthly legal press. These publications obtain most of their advertising revenue from legal recruitment agencies. One interviewee was clear that any editorial bias in favour of advertisers was unthinkable:

> "I would say I don't think any industry would admit that there is a relationship between advertising and good coverage. No publication would admit that… Um, and certainly working from on the editorial client point of view you would never suggest to anybody in a publication there was any link whatsoever. It's not done. It would be an incredible faux pas" (Global Head of PR, Magic Circle firm).

The power of the press over the firms is neatly encapsulated in an anecdote told by one of the journalist interviewees. In the early days of *Legal Business* magazine, one

interviewee recalled that John Pritchard, the founder of the magazine, was planning to publish the gross fee figures of all the large London firms:

> "…the Senior Partner of one of those firms told me that collectively the Magic Circle firms would unite to boycott Legalease and put us out of business if we went ahead and published. Pritchard told him that would be fantastic, please do it and we can use the publicity to make our magazine an overnight success".

There is no evidence in the legal profession that the business media are constrained, or influenced, by the incumbent large firms who benefit from their Magic Circle designation. If the press really were reliant on the information and revenue received from large firms, one wonders whether unfavourable stories would ever be written, or journalistic integrity retained. The legitimacy of the press would surely have been questioned if there was any hint of manipulation by influential firms. Indeed, the press appear to be actively seeking negative stories which challenge the reputations of Magic Circle and other highly-reputed firms:

> "What actually happens is that people get complacent and other firms get ideas above their station and for something like the Herbert Smith-Magic Circle it's very good to give other firms, to provoke and, you know, write evocative copy and present an argument and that's what we did..." (Editor, legal magazine).

Lounsbury & Rao's (2004) conclusions do not appear to hold here. However, they did accept that their study might not be typical, since it examined "a situation with only one media actor editing multiple product categories, and was dependent on producers for brokerage business" (pg?). The legal profession may itself be an idiosyncratic field in which to examine legitimacy and power relationships between organizational actors, thus there is a need for further research within other industries in order to fully investigate the press-industry relationship. It is likely that categories are the subject of negotiation between numerous organizational and field actors, but this study appears to suggest that because of its central role in text and discourse creation, the legal press hold a disproportionate amount of power to create product ontologies, set boundary beliefs, propagate industry recipes, produce authoritative firm rankings, and establish social constructions as institutions.

The Persistence of the Magic Circle
The Magic Circle, as a group of large, prestigious UK law firms, has been in existence for at least 12 years, and probably much longer. Interviewees were prepared to consider the possibility of changes to the Magic Circle, but there was some support for the view that it had become stable, or an institution.

> "I think its less likely that others would join the MC than, I guess, the possibility of, maybe three of those becoming real ,true, market leaders by becoming a smaller group…I guess it becomes difficult to change" (Partner, Magic Circle firm)

> "Interviewer: It's been set, you think?
> Editor: Yes.
> Interviewer: It's become institutionalized?
> Editor: Yes, of course. Yes…It's extant. It exists, and it'll carry on until there's a good top level of UK-US merger".

Others thought that the term was "old fashioned", or that it would eventually be replaced by a new term, such as the "global elite", to include American firms. Some

interviewees mentioned the existence of a new expression in the media: "the global quartet", to describe the all the Magic Circle firms except *Slaughter & May*, which does not have the international presence of the others. There were also some references to a recent attempt in the press to include *Herbert Smith* in the Magic Circle of firms, an attempt which was considered to have failed:

> "someone like *Herbert Smith*, who some people say is in or not in the Magic Circle, depending on what day of the week it is, and…what tribute has been bestowed in that particular month, um, I think they are in a position where they are strong, not challengers to the crown of Magic Circle" (Former Head of Marketing, non-Magic Circle firm).

> "It was a success in that it made headlines, and drove Herbies' rivals nuts" (Editor, legal magazine).

The attempt to include *Herbert Smith* in the Circle demonstrates that the press believe it is within their power to influence categorization, or change institutions. This study found that their inclusion was proposed by *Legal Business* magazine, but that *The Lawyer* responded by deciding to:

> "scrap the Magic Circle altogether and kick Slaughters out of it and just say that, the other four, you know, were [the 'Global Quartet']" (Editor, legal magazine).

It is proposed that the failure of these actions to amend or destroy the Magic Circle grouping shows that contradictory texts did not create sufficient legitimacy, or "critical mass" in terms of disseminating a logical organized idea to be transmitted to multiple individuals across the field.

Commentators and researchers have frequently noted the stable and inert qualities of institutions, which resist change as long as they remain functionally viable (Hodgson, 1999; Offe, 1996). The Magic Circle term has this characteristic, since it is a "good enough" categorization. By choosing one of its five members, clients, employees and the like will be associated with a large firm with an excellent reputation. In this sense it is reliable, a factor which can contribute to its legitimacy. Since clients and employees do not always have access to up-to-date and reliable information about the quality of UK firms, the Magic Circle label is a convenient simplification of their decision making process, expectation, and belief. Institutions reduce uncertainty in everyday life (North, 1990: 3), and even when they are not perfect, they remain useful. The Magic Circle is a convenient label for a group of good law firms. Others may be better in some instances, but people have limited time to focus on the minutiae of life, and will settle for this legitimated reputational label, which provides a coherent structure for a highly complex industry with many niche firms and experts in all sorts of different practices. The Magic Circle is a convenient summary label for firms which can just about do it all, and do it all very well. It reduces uncertainty by providing a conceptual framework for understanding a complex world.

The unchanging nature of institutions can be attributed to influence of the institution itself, which affects the cognition of its participants who, as well as being only partially aware of what the institution actually consists of, find it hard to imagine alternatives (DiMaggio & Powell, 1991:11). Institutions or categorizations may persist because the customs and norms they represent are deeply embedded within a society in which each member uses, and relies upon, the shared sense of meaning they represent. Even if a modification or eradication of an institution, or the customs

attaching to it, could be conceptualized, any change would require a coordinated, widespread effort throughout, and beyond, the legal industry. As this paper has attempted to demonstrate, the press - the only widespread forum for industry discourse - has the power to do this. Even then, there is no guarantee that the shift will be seen as legitimate and take root. Old habits die hard.

Another factor contributing to its durability may be that various individuals have invested in career strategies which depend on the institution's continued existence. There are clearly many lawyers who have chosen to work in Magic Circle firms because of the prestige such an association gives them, both intrinsically, and as a future asset in finding future employment. There are probably also clients who engage Magic Circle firms to enhance their own reputations (status by association), as well as individuals who employ these firms in the expectation that these are safe engagements which are beyond criticism by their superiors or colleagues. The Magic Circle firms themselves have a vested interest in retaining the label, given its high prestige brand identification, the association it creates with other high-status members of the Circle, and the enhanced media coverage the label generates. The organizations who are members of the Magic Circle, along with their partners, associates, support staff, clients, suppliers and potential recruits, all have a vested interest in the continuation of the institution, and it would be nearly impossible to negotiate a change in it that would preserve the value of the investments they have made in it.

SUMMARY AND CONCLUSIONS

This paper began by asking why professional elites endure. The question is a worthy one for investigation because it has not previously been explored, and there are no apparent explanations in contemporary institutional theory to explain their persistence. Institutional research has mainly concerned itself with explaining why organizations tend towards similarity or, given this tendency, how they change. However, this paper has heeded the call of institutional scholars to study the durability of institutional beliefs such as categories (e.g. Clemens & Cook, 1999; Tolbert & Zucker, 1996), and the process of institutionalization (e.g. Greenwood & Hinings, 1996; Hoffman, 1999). In addition, this paper has attempted to examine the theory and practice relating to interorganizational cognition and modelling of organizational communities, in order to uncover other insights into how institutions form and persist.

This examination of institutionalization and cognition was set in the context of two previously unrelated models – the discursive model of institutionalization proposed by Phillips, Lawrence & Hardy (2004), and the model of industry belief systems described by Porac, Ventresca, & Mishina (2002). Neither of the models has previously been explicitly applied in a research setting.

The former attempts to explain how institutions form from the interaction of actions, texts and discourse, whilst the latter describes how market discourse creates and reinforces market beliefs about product and competitor categories, legitimate organizational behaviours, and reputational rankings. Both models emphasise the role of discourse in the processes they depict. It was noted that neither appears to consider the role of the media in discourse development, despite the fact that some

researchers have requested that the media be given a more explicit role in institutional accounts (e.g. Pollock & Rindova, 2003; Lounsbury & Glynn, 2004), and Phillips et al. (2004) explicitly discuss the concept of 'discursive legitimacy' in the propagation of texts and discourse. This paper proposed that the business and professional media are an important part of the proposed models of institutionalization and cognition examined in this study. To ignore the influence of this significant institutional actor is to dismiss its power as a judge, informer, legitimator, category-setter, and opinion leader.

Using interview, documentary, and historical data relating to the Magic Circle of English law firms, this study was a pilot attempt at examining the processes of institutionalization, industry beliefs, and the role of discourse in both, with a particular emphasis on the influence of industry media. Evidence was presented to confirm the status of the Magic Circle categorization as both an institution and as part of a cognitive belief system about the structure of the UK legal market. It is a shared, socially-constructed, taken-for-granted description of an organizational and market reality, as well as a descriptor for a set of shared beliefs about law firm competitors, and the UK legal industry.

The story of the Magic Circle is an illustration of the power of the media to create and promote an idea. What appears to have occurred is that the term was a long established one, known only to a select group of partners and personnel managers, denoting a loose alliance of large law firms with a mutual interest in controlling labour rates and movements in the legal market. The 'rules' of this coalition began to be broken, creating news stories which were taken up by a newly-emerging type of legal newspaper. The legal press, unsure of the connotations of the Magic Circle term, adopted it as a category label, subverting the former meaning of the expression. No longer a secret society – like its magicians' namesake - the tag became a badge of honour, a phrase denoting prestige, yet its original connotations remained: that of a closed, impenetrable group, with special powers or skills beyond the norm. These firms were 'magicians' in respect of their abilities to attract blue chip clients and star employees, turn an enormous profit, and produce work of an exceptional quality.

This transformation of the Magic Circle term by the press demonstrates their power to influence or even create the necessary industry discourse for the institutionalization of a category or idea. They are also instrumental in shaping the market discourse which leads to the establishment of shared industry beliefs about firms, competitors, products, cultures, legitimate organizational behaviours, and reputations. It is interesting to note that in the years since the UK Magic Circle term was first used in the press, it has gained isomorphic powers of its own, spawning a number of media references to legal "magic circles" in Spain, Holland, Italy, Germany, Scotland, Canada, and at the UK Bar.

This study suggests that that as a "thing" the Magic Circle exists because lawyers, their clients, and the legal press say it does. As a segment or category of law firms it does not have a physical form beyond the discourse and texts which document it, and is thus an abstraction. It is only real because certain people interact and come to a social agreement to treat it as real. Its ontology sits between "subjectivity" (existing only in the minds of institutional actors and not independent of them) and "objectivity" (able to be seen, recognized, or understood by non-participants), but this

conceptualization also places if firmly within the emerging theory relating to industry belief systems.

Institutional theorists have tended to suggest that industry stratification is the result of the greater legitimacy, power and access to resources which reside in the central field actors relative to their competitors. However, this was not the case in the formation of the top reputational layer of the UK legal profession. A large number of law firms were candidates for the top, yet the boundaries were eventually drawn around a group of five, a drawing which appears to have been largely presided over by the press. The durability of this elite group of firms also appears to be the result of continuing endorsement of the term and its members by a powerful, legitimizing media, which has created and maintained industry discourse about the group, along with other types of industry discourse such as talk, presentations, firm publications and the like. This discourse has not only legitimated the term, but has also shaped the definitions of the services, strategies, personnel, profits and rankings that a Magic Circle firm is expected to conform to. These criteria delimit the range of firms who might be eligible for membership of the Magic Circle, and currently exclude the so-called 'wannabe' firms. This shaping and categorizing is part of industry members' mental representations of the UK legal market.

However, it is possible that these definitions may have changed over time in order to exclude potential new members, or to maintain the status quo. If so, this suggests opportunities for further research to investigate the impact of power in institutionalization processes (Phillips, 2003), and the influence of so-called 'institutional entrepreneurs' (Lawrence, 1999), who act in ways intended to structure their institutional environment to their advantage, which may include "producing convincing texts that become part of the central and enduring discourses in the field" (Phillips et al., 2002:648). The firms themselves may have been involved in such a process, or there may be reasons why the media continues to promote its viability.

The Magic Circle concept has also remained stable because, at least in the years since it became a shorthand for the very best law firms, the advantages which have accrued to its members in terms of legitimacy and access to resources have become very significant. It is likely that Magic Circle firms, the individuals who constitute them, and other actors who benefit from the designation, act strategically to reinforce the existing order and resist forces for change. There is more work to be done on examining interesting patterns of relationships. The relationship between the media as discourse-propagator and belief maker, and other institutional actors, is one which would be fruitful area for further research. In addition, there is clearly much scope for further investigations using formal discourse analysis methods to uncover the processes through which social constructions such as categorizations, institutions, and belief systems are created.

The discourse link between the two models examined in this paper naturally encourages an amalgamation of the two (see Figure 9), which is presented here as a tentative attempt at contributing to the development of institutional theory. In particular, it is suggested that an appreciation of the cognitive elements of institutionalization be incorporated into future research, and that discourse processes be given greater attention. Although this study began with the intention of discovering why professional elites persist despite forces for change, it may also

provide new insights into the processes of institutionalization, categorization and industry sense-making which may have a broader application. The amalgam model places discourse at the heart of the institutionalization and belief-forming processes. Indeed, one can argue that the beliefs themselves can, and do, become institutions. These beliefs are part of the process through which new institutions are formed, or existing institutions maintained.

The many customs, practices, artefacts, ideas and behaviours which are part of the formation and enactment of an institution might be thought of as a network of interlinking concepts (and some will be institutions themselves), which are acquired and understood in the minds of participants. This interconnectedness may not even be apparent, but each connection will tend to reinforce the others, and thwart attempts to remove an institution, or replace it. A shared sense of reality, forged through discourse, emerges so that ideas, processes, beliefs and the dynamics of organizational communities are perceived and constructed in the minds of most, if not all, institutional actors.

Drawbacks of the study
This paper is a pilot study for a doctoral thesis and as such it is based on interviews with a relatively small number of individuals, along with a limited review of documentary, media and other textual sources. In addition, the UK legal profession may not be representative of other professional service firm industries, or indeed any other industry. Certainly there are indications from the results of this study that the media influence on institutionalization and category formation is far more intense than in other industries. The author intends to gather more data and to expand on the themes discussed in this paper.

Figure 9: A model of institutionalization and industry sense-making, combining the models of Phillips et al. (2004), and Porac et al. (2002)

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