UNPROFESSIONAL PRACTICES AND THE PUBLIC INTEREST

Advertising specialities and why not?

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In the home of the Common Law, advertising was frowned upon for the Professions. In *Hughes v Architects Registration Council* [1957] 2 QB 550, 559 Lord Goddard CJ said:

> 'There are rules of conduct which all professional man must observe. Refraining from advertising would, I think, clearly be one.'

In regard to the legal profession Scott LJ said in *Re A Solicitor* [1945] 2 All ER 445, 447:

> 'Touting for clients is, like advertising, fundamentally inconsistent with the interest of the public and with the honour of the profession. The function of a solicitor is to advise or negotiate or fight for a client, but only if retained. The client may seek him but he must not seek the client.'

The professional view is also opposed to advertising. This is set out in the codes of conduct. A consulting engineer:

> 'shall not either by himself or through any person or firm canvass, advertise for or solicit professional employment.'

An architect must 'not advertise or solicit professional employment'. A medical practitioner:

> 'should not sanction or acquiesce in anything which commends or directs attention to his professional skill, knowledge, services or qualifications — or be associated with those who procure or sanction such advertising or publicity.'

It is contrary to professional etiquette for a barrister:

> 'to do or cause or allow to be done anything with the primary motive of personal advertisement or anything calculated to suggest that it is so motivated.'

The General Dental Council say that it is:

> 'contrary to the public interest and discreditable to the profession of dentistry for any registered dentist to advertise or canvass, whether directly or indirectly, for the purpose of obtaining patients or promoting his own professional advantage.'

Even a solicitor (despite his title):

> 'shall not directly or indirectly apply for or seek instructions for professional business or do or permit in the carrying of his practice any act or thing which can reasonably be regarded as touting or advertising or as calculated to attract business unfairly.'

The Royal Institute of Chartered Surveyors summed up the position in their evidence to the Monopolies Commission when they said that the rule:

> 'is believed to be a fundamental rule of all the professions and the profession of the land inherited it from the accepted practice and tradition of the older professions.'

One reason for the rule might have been the disreputable history of the advertising industry. The peddling of quack remedies through advertisement caused mistrust and disgust in the medical profession dating back to the days of the Great Plague in London in 1665. Daniel Defoe in his *Journal of the Plague Year* described how there appeared in the streets of London a rash of posters proclaiming:

> 'Infallible preventive pills against the Plague.

> Never failing preservatives against the Infection. Sovereign Cordials against the corruption of the Air.'

Patent remedies and sovereign specifics are still advertised even today but advertising has lost much of its former disrepute.

In their evidence before the Royal Commission the Law Society stated that the special relationship of trust between the lawyer and his client required the lawyer to refrain from some of the practices acceptable in the market place:

> 'In particular while professional men constantly compete with one another for ability they do not compete by way of advertisement and other methods familiar and unobjectionable in the business world. The society believes that self-advertisement by individual solicitors is wholly inconsistent with the proper relationship between solicitor and client.'

Another objection to support the non-advertising rule relates to the cost of advertising. As the Bar Council said:

> 'If barristers were permitted to advertise, the advantages would go, not to the best qualified, but to the barrister with the longest purse and the least scruples. If the choice of barristers came to be made by the general public on the strength of advertisement, the choice would tend to be more ill-informed and the public not so well served as at present. If it became common for barristers to advertise and all were compelled to fall in with the practice, the costs of a barrister's services would inevitably go up.'

The strict rules against advertising in the legal profession have been somewhat relaxed in England. Rule 1 of the Solicitors' Practice Rules forbids the inviting of instructions for work, advertising and touting. In the past this meant for instance that a solicitor who appeared on radio or television or wrote an article in the lay press could give his name or profession but not both. This rule has now been abolished. In the past a solicitor was not permitted to accept work where he knew he had been specifically named by a lay-referral agency; the client had simply to be shown a list of names of local practitioners and left to make his own inevitably uninformed choice. This rule has likewise been abolished. A solicitor may still not advertise in the lay press the opening of a new office and may place only one advertisement in the lay press of a change of address of an existing office. Until recently a solicitor's entry in a directory or law list had to be confined to his name, address and description. Now he may also state the work he undertakes (or does not undertake) provided that this does not amount to a statement that the solicitor or firm specialises in any particular type of work.

The Law Society in England has also done a great deal to inform the public about the services that the lawyers can provide. It has produced film strips, wall-charts and a book for use in schools, paper back books in a series 'It's Your Law' designed for the man in the street and a set of free leaflets under the general title 'See a Solicitor'. It has a Senior Officer responsible for professional and public relations and a chief press officer with supporting staff. Advertising has also been used to make legal aid better known to the public. In 1976 the Law Society permitted another form of advertising through its publication of the referral or Solicitor's Lists to indicate the firms that undertake legal aid work.

It is inevitable that this trend of liberalising the rules against advertising will continue. Restrictions on advertising by solicitors were the subject of two reports by the Monopolies Commission in England. That in 1970 (cmnd 4463) suggested that restrictions on advertising should not be such as to prevent:

> 'publicity by individual practitioners that is informative in the sense that primarily it provides information about the availibility of services.'

In 1976 the Commission went further. It remarked that advertising was also valuable for the purpose of promoting competition and found that the present restrictions on advertising by solicitors were against the public interest on the grounds that —

> (a) they prevented the public, and potential new entrants to the profession, being given information about the services offered by individual solicitors or firms of solicitors;
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> (b) they were likely to have a disadvantageous effect on the competitiveness and efficiency of the profession generally, on the introduction of innovatory methods and services, and on the setting up of new practices;
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> (c) they might in some degree enhance the importance of other less open and challengeable methods of attracting business and detract from the public confidence in the profession.

The Monopolies Commission recommended that the current rules prohibiting advertising and touting should be replaced by a rule which permitted any solicitor in England and Wales to use such publicity as he might think fit, provided that —

(a) no advertisement, circular or other form of publicity used by a solicitor should claim for his practice superiority in any respect over any or all other solicitors' practices;

(b) such publicity should not contain any inaccuracies or misleading statements;

(c) while advertisements, circulars and other publicity might make clear the intention of the solicitor to seek custom, they should not be of a character that could reasonably be regarded as likely to bring the profession into disrepute.

The findings of the Monopolies Commission have been strongly criticised by the profession on a number of grounds. Chief among these are the following —

(a) Individual advertising might have an adverse effect on the relationship of trust between solicitors and their clients and between solicitors themselves; it might also have a prejudicial effect on the discharge by solicitors of their duties to the court.

(b) Solicitors are not free agents in their choice of working methods. Much of what they do is governed by rules of the court and the prices that they may charge are subject to independent review and taxation. The scope for innovation and cost saving is therefore limited; in consequence, the effect of competition, enhanced by advertising, would not be to raise standards but to increase overhead costs to the detriment of the smaller practice, the newcomer and the client.

(c) If advertising led to excessive competition with undercutting and unrealistic offers as to form of the service or the time it would take, there would follow a deterioration in standards and in the reputation of the profession as a whole.

Meanwhile in June 1977 the United States Supreme Court held in *Bates and Osteen v State Bar of Arizona* 53 L Ed 2nd 810 that American lawyers could undertake some forms of advertising. In that case two lawyers had opened what they called a legal clinic in Phoenix, Arizona, aiming to provide legal services at moderate fees to persons of moderate income who did not qualify for legal aid. They accepted only routine cases such as uncontested divorces for which costs could be kept down by use of para-legal workers, automatic typewriters and standardized forms and office procedures. After operating for two years they advertised in a local newspaper that they were offering 'legal services at very reasonable fees' and listed their fees for uncontested divorces, uncontested non-business bankrupties and other matters. Disciplinary proceedings were brought against them but the United States Supreme Court (by a majority) held that the blanket suppression of advertising by lawyers violated the Free Speech clause of the First Amendment and that lawyers might constitutionally advertise their prices for routine legal services. The majority expressly rejected all the well-known traditional arguments against advertising by members of a profession — that such advertising would have an adverse effect on professionalism, would be inherently misleading, would have bad effects on the administration of justice, would produce undesirable economic effects, would have an adverse effect on the quality of legal services and would be difficult to police. It did hold however that such advertising if false, deceptive or misleading, could continue to be restrained and that it could be made subject to reasonable restrictions on the time, place and manner of such advertising. The court expressly did not deal with advertising relating to the quality of legal services nor with personal solicitation of business by lawyers or their agents, for instance in hospitals or on the site of an accident. The minority opinion was that advertising of professional services differed from the advertising of tangible products in that it had greater potential for deception and was more difficult to control effectively.

The Royal Commission on Legal Services in England has re-examined all the arguments for and against individual advertising by solicitors. They stressed that the more important argument is the interest of the client. Prospective clients should be provided with the fullest information about the availability of legal services that is consonant with the maintenance of high standards of professional work and probity. In their report they state:

> 'In our view, the present rule prohibiting all personal advertising by solicitors is too restrictive. There are circumstances in which advertising by individual solicitors is appropriate. Among the examples we have in mind are the newly-established firm or the recently qualified specialist. It is in their potential clients' interests as well as their own that they should make themselves

known in their locality. A solicitor who is in direct competition with non-solicitors, such as banks who are themselves permitted to advertise, should be enabled to compete on equal terms. The freedom of a client's choice should lead to competition among solicitors in offering high standards and reasonable prices; the effects are not the same as those of competitive advertising.

We have already acknowledged the value of referral lists and corporate advertising, and the steps recently taken by the Law Society to enable and encourage local law societies to publish in the press the names and addresses of local solicitors and the types of work they undertake. Two members of the Commission would prefer in this way to channel all advertising, including advertising on behalf of individual firms, through local law societies. We are also aware that the Law Society now permits solicitors to announce in the press the establishment of new practices and branch offices, amalgamations, retirements, changes of address, changes of opening hours and telephone numbers and that the number of announcements permitted has recently been increased. Furthermore, the Law Society has recently allowed solicitors opening new or branch officers to send a circular letter to, and establish personal contact with, the agencies who receive copies of a legal aid solicitors list, thereby enabling the agencies to keep the list up to date. We welcome all these developments, which have occurred since this Commission was first established; they will undoubtedly increase the flow of information that is available to advisory agencies and to the public. Nevertheless, despite these improvements, we are not convinced that these arrangements provide all the information that is required by members of the public at the time when it is most needed.

A proper balance may be struck between the need for the public to be adequately informed and the need for the standards of the profession to be maintained, provided that the primary purpose of advertisements by solicitors is to inform the client about the availability of legal services. We are aware that the purpose of advertising is to attract business and of the difficulty in distinguishing informative advertising from that which promotes the services of one solicitor at the expense of others. Nevertheless, the good sense of the profession, combined with detailed regulations as to the form and content of advertisements, should ensure that there is no abuse. We consider that, with the restrictions which we discuss below, a limited amount of personal advertising will be of benefit to the public.

In order that all advertising by individual solicitors or firms shall be properly conducted, advertisements should conform with the principles enunciated in 1976 by the Monopolies Commission. Furthermore, the information contained in such advertisements should be restricted to:

(a) the name, address, telephone and telex numbers, the telegraphic address and the description of the firm as "solicitors";

(b) the names, professional and academic qualifications and recognised specialisms (if any) of the partners and the dates of their qualification as solicitors;

(c) any other addresses from which the firm carries on practice;

(d) the hours of opening;

(e) the types of legal work which the firm is willing and not willing to undertake and whether it is prepared to accept legal aid work;

(f) details of any fixed charges including charges based on an ad valorem scale;

(g) knowledge of foreign languages including languages of ethnic minorities;

(h) if appropriate, the statement that a brochure of a factual type is available on request.

In order to avoid claims of superiority and to forestall excessive competition, solicitors should not be permitted to advertise publicly the quality of their service, or the numbers of staff other than partners, the fee income or case load of their firms. The same prohibition should also apply to information about fees charged, unless these are of a fixed amount. There should also be prohibited, to preserve the ethical standards of the profession and the confidentiality which clients are entitled to expect from their legal advisers, any reference to other clients of the firm and the work undertaken on their behalf or any mention of reduced fees in consideration of the solicitor being given other work.

The principles we have stated above carry the implication that advertising by individual firms of solicitors should be limited in scale and aimed specifically at the public in their

particular locality. An appropriate medium for such advertisements is, therefore, the local press. Some of us would define this term to include London evening newspapers and also would see no reason why advertising on local radio and television should be excluded; others of us would prefer to tread more cautiously. A large majority of us consider that the public interest would not be served by the use of forms of advertising of which the cost could be borne only by wealthy firms.

All existing methods of control over advertising would apply in the case of solicitors, but the additional detailed regulation and monitoring required in the case of professional advertising would have to be undertaken by the Law Society. We recommend, therefore, that the Law Society should formulate and introduce regulations concerning such things as the contents of the advertisements, the form of text and type face, the frequency with which they may appear and the amount that may be expended on advertising in any year. The Law Society should also lay down regulations concerning the style and contents of the brochures referred to below. We appreciate that detailed guidelines of this type may take some time to evolve; accordingly, we recommend that, until firm and authoritative rules can be established in the light of experience, all proposed advertisements and brochures should be submitted to the Law Society for approval as conforming with the guidelines we have suggested.

The Law Society should have the right to monitor the claims made in advertisements by solicitors. When a firm advertises the kinds of work that it is willing to undertake, it must be prepared to satisfy the Law Society, on request and at any time, that it has a partner or partners and staff who are competent to carry out such work. If such claims are found to be inaccurate or exaggerated, the Law Society should take appropriate disciplinary action. If a solicitor claims in an advertisement to be a specialist when he has not been so designated by the Law Society this also should be treated as a disciplinary matter.

The Law Society permits solicitors to make available to clients or potential clients, in their waiting rooms or on request factual brochures giving the names of partners and senior staff, with a brief description of their departments, and also containing guidance for a client showing how he can assist the firm to deal promptly with his business, for example by completing a questionnaire. Such brochures are valuable and should be widely used, but the information contained in them should be subject to the same controls by the Law Society as public advertisements. The availability of information of this kind should be more widely publicised in order that potential clients may confidently shop around and make an informed choice of solicitor.'

In regard to barristers the Royal Commission said:

> 'The amount of information about individual barristers that is available to solicitors was considered by the Monopolies Commission in its report published in July 1976. The Commission concluded that:
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> > "In view of the special relationship between solicitors and barristers, solicitors are likely from their experience to have adequate information about barristers, or to have the means of obtaining it readily. Although we recognise that such information cannot be complete we are satisfied that the restrictions on advertising by barristers do not deprive solicitors of useful information which might otherwise be made available to them or prevent them readily obtaining information. We conclude therefore that the restrictions are not harmful in respect of the availability to solicitors of information about barristers."
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> All practising barristers are listed, along with their date of call, in the Bar List which is revised annually. There have recently been introduced "practice codes" which enable barristers, if they so wish, to indicate the categories of work which they are willing to undertake. Certain other indications may be given in the Bar List about barristers' specialisations; for example, there is a list of members of the Central Criminal Court Mess, and a list of barristers conversant with foreign laws. We welcome the introduction of the practice codes; they have increased the amount of information available to solicitors. We recognise that an entry in the Bar List indicates a barrister's willingness to undertake certain kinds of work and not the level of his experience or competence. We see no objection to this because of the specialist

knowledge that is available to solicitors about the quality and experience of counsel whom they may brief. A barrister who holds himself out to do work that he is not capable of handling will rapidly be detected. In serious cases the appropriate disciplinary sanctions should be applied.

For the reasons stated above, we do not think that there is at present any need for the Bar formally to designate any of its members as specialists. Nevertheless, if it is found desirable to do so in the future we see no objection, provided that the Senate makes itself responsible for identifying appropriate subjects for specialisation, for laying down criteria and for granting recognition.

Barristers are prohibited from advertising their services, with certain exceptions. For example, barristers who form a new set of chambers, or whose chambers change address, are permitted to send a circular letter to existing clients and to issue a general advertisement in legal journals which state merely the change of address. There is at present no means of making known in what departments of the law the members of a set of new or existing chambers practise, save by the use of the practice codes in the Bar List. We believe it reasonable that information giving the general character of the work undertaken by the members of the chambers be included in circulars or advertisements relating to new chambers or to changes or address. It is also reasonable to allow a barrister of standing who joins a set of chambers in a new locality or who returns to private practice after a period elsewhere to indicate the type of work he is willing to undertake. We agree with the conclusions of the Monopolies Commission that information about the services provided by individual barristers may be obtained by those who require it without resort to individual advertising. As to the services provided by the Bar as a whole, we can see no objection to these being advertised, should the Senate so desire.'

There has been a trend towards recognising specialist skills among certain professions including the legal profession. The increasing complexity of legislation and case law means that no longer can a lawyer be competent in handling every kind of problem. In the United States this trend was seen in the legal profession in the seventies. In the first half of the decade, plans were developed and installed in California, Texas, New Mexico and Florida. The first two States' plans — in California and Texas — stressed competence and measured that competence by examinations. The second two States — New Mexico and Florida — sought to grant access to the public though self-designation or designation plans. Then came the decision in *Bates v State Bar of Arizona*, from which it was deduced that lawyers have a constitutional right to tell the public truthfully what they do and the public has a correlative right to know truthful information that will assist the public in finding a suitable lawyer. The American Bar Association has adopted a Model Plan 'to assist in the delivery of legal services to the public by (1) providing greater access by the public to appropriate legal services (2) identifying and improving the quality and competence of legal services (3) providing appropriate legal services at reasonable cost.'

A Board of Legal Specialization of nine members is established by the State Supreme Court. One member is the Chairman of the Advisory Commission and all the others are lawyers. The right of a recognised specialist to practice is not to be limited. A lawyer who is not a recognised specialist is not to be prevented from practising in a specialist field. Individuals not firms are to be recognised.

Participation in the programme shall be on a completely voluntary basis. A lawyer may be recognised as a specialist in more than one field of law. The limitation on the number of specialities in which a lawyer may be recognised as a specialist shall be determined only by such practical limits as are imposed by the requirements of substantial involvement and such other standards as are established by the Board as a prerequisite to recognition as a specialist. Any lawyer recognised as a specialist under the Plan shall be entitled to advertise that he or she is a 'Board Recognised Specialist' in his or her speciality to the extent permitted by the Code of Professional Responsibility of the State. A Speciality Committee is established for each speciality to make recommendations to the Board as to standards and to vet applicants. An Advisory Commission of five laymen is established to advise the Board.

An applicant for recognition must show a substantial involvement in a speciality in the immediately proceeding three years. An applicant must demonstrate participation in Continuing Legal Education accredited for the speciality. An

applicant must satisfy a peer review requirement and recognition must be renewed after five years. Examinations may be required. Recognition may be suspended or revoked, subject to a right to appeal to the Supreme Court.

In their report the Royal Commission on Legal Services have expressed the view that:

> 'the formal introduction of specialization into the solicitor's profession will in the long term, prove to be of significant benefit to the public'.

In their report they stated:

> 'We consider therefore, that a move should be made in this direction and that initial action by the Law Society might proceed on the following lines. It will first be necessary to define the categories of legal work which are suitable for specialisation. We think that the number of topics chosen should, initially, be small; progress thereafter should be in stages and the list should be extended in the light of experience. Particular attention should be paid to areas of work in which there is, at any given time, a shortage of solicitors with specialist knowledge and experience, such as juvenile work.
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> We suggest that the following criteria should be satisfied.
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> (a) Designation should be granted to an individual and not to a firm. The solicitor concerned should have held a full practising certificate for at least five years immediately preceding his application.
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> (b) The solicitor should have devoted at least one-quarter of his time to the subject in question during each of the last five years.
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> (c) No solicitor should be designated as a specialist in more than two subjects at any one time.
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> (d) The claim to be designated as a specialist should be by written application to the Law Society which should satisfy itself that the work carried out by the applicant has been such as to justify the designation of specialist. The names of referees should be provided if requested by the Law Society.
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> (e) The applicant should be interviewed by a panel of three experienced practitioners who should investigate in confidence the professional record and work of the applicant in order to determine whether the designation of specialist would be justified.
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> Applicants satisfying these criteria would be entitled to describe themselves as specialists in the appropriate category of work on their firm's writing paper, in the Solicitors' Directory, in the legal aid solicitors' lists and other referral lists and in advertisements. A solicitor who has been recognised as a specialist should certify on every successive application for an annual practising certificate that he has devoted at least one-quarter of his normal working time to his specialism. A solicitor who ceases to meet this requirement should not longer be entitled to claim to specialise in it. In the event of a complaint being upheld against a solicitor's conduct or competence in his specialism, his designation as a specialist should be reviewed.'

In a country where public awareness of legal rights and resources are lacking, it can be presumed that there is also lacking an awareness of the availability and location of legally qualified personnel and of the nature of work in which they specialise.

In England, this problem was recognised by the Royal Commission on legal services who reported that:

> 'Among the causes of unmet needs are lack of knowledge that particular problems required legal advice and lack of knowledge about the availability and location of solicitors and about the type of work they are willing to undertake.'

In countries like Malaysia where the literacy rate is even lower than in England, it can be assumed that a similar problem exists, perhaps in a more acute form.

One manner in which public awareness of the availability and range of legal services may be enhanced is through the means of advertising. There is little doubt that an increase in the awareness of the availability of legal services is desirable as it would enable the public to selèct an advocate and solicitor who would be able to serve their needs in the best possible manner.

Another possible advantage of advertising is that it may encourage the public to seek legal advice on their problems. This would help them to identify their legal problems and to take the necessary steps to obtain legal redress if they so desire.

Closely related to advertising would be the question of specialisation. With the increasing abundance and complexity of legislation, it is desirable that advocates and solicitors are given the opportunity to specialise as this would enhance

the quality of legal services which they are capable of providing. By permitting practitioners to advertise, they would be given greater opportunities to specialise as it would enable them to be more selective of the type of work which they are willing to undertake.

Undoubtedly, the public would also benefit from specialisation by advocates and solicitors. As it stands at the present moment, the public are generally indiscreet in their choice of legal representatives. More often than not, such services are procured through the recommendations of friends who may not even be aware that the practitioner whom they recommended may not even be familiar with the particular area of law for which legal services is required. Another popular manner in which legal services are procured is through recalling the name of an advocate and solicitor whose name may have appeared often in the newspapers in conjunction with his involvement in legal matters or in relation to his political exploits. These common methods of selecting a lawyer may well be deficient as the practitioner so retained may be unsuitable to handle the particular problem.

The arguments for the adoption of a system of recognition of specialist status may be summarised as follows. If a practitioner is to pursue studies and practical training in a speciality he should be recognised as a specialist and permitted to hold himself out as such. This will be in his interest and in the interest of the public. A system of recognition of specialist status will encourage specialised study and training and thus help to improve the effeciency of the profession and assist in the development of the law. Recognition of specialist status will lead to quicker, more efficient and cheaper work in the specialist field. It will assist the legal profession in resisting incursion by others into the traditional fields of practice of the profession and may open up new areas.

Recognition of specialist status is necessary to cope with the ever growing complexity of the law and will lead to greater work satisfaction. A greater volume of work in a field would enable a practitioner to organize himself better to do better work. The recognition of specialist status will encourage the setting up of a better system of specialist training in place of the present system of experience and random private study.

The danger of specialization is that there will be concentration on specialities at the expense of general practice. There is a danger too that in the pursuit of specialization the purpose of law to serve the need of society including the poor and the needy might be forgotten or ignored. Law will became a speciality and lose its place as an instrument for achieving social harmony and public welfare.

APPENDIX

Legal Profession (Practice and Etiquette) Rules, 1978, Malaysia

37. Advocate and solicitor writing for press not to describe himself as advocate and solicitor. Subject to rule 38, an advocate and solicitor writing for the press or for publication except in his professional capacity shall take reasonable steps to secure that no description of him as an advocate and solicitor or of his legal work appears in connection with his article.

38. Exceptions. Rule 37 does not apply to the following:

(a) Where an advocate and solicitor publishes a legal text-book (whether or not jointly with a person who is not an advocate and solicitor) upon the cover or title page thereof his name, qualification and references to other text-books he may have written may appear therein or in advertisements about it;

(b) An advocate and solicitor who has retired from practice may write the memoirs of his experiences at the Bar, but he shall not betray the confidence which his clients have reposed in him;

(c) Where an advocate and solicitor writes an article for a legal journal.

39. Advocate and solicitor not to describe himself as advocate and solicitor without consent of Bar Council. An advocate and solicitor undertaking to give a lecture or a broadcast on a legal or quasi-legal subject may not without the consent of the Bar Council permit himself to be described by name as a member of the Bar.

40. Advocate and solicitor not to stand surety. An advocate and solicitor shall not stand as a surety or bailor for his client required for the purpose of any legal proceedings.

41. Advocate and solicitor who has advised Arbitrator cannot appear in arbitration proceedings. An advocate and solicitor who has in an arbitration acted for the Arbitrator in advising him on points of law shall not advise or appear for one of the parties in any proceedings relating to the arbitration or award.

42. Advocate and solicitor not to communicate with a person represented by another advocate and solicitor. An advocate and solicitor shall not communicate with a person upon any matter in respect of which to his knowledge that person is represented by another advocate and solicitor except with the other's express consent.

43. Advocate and solicitor not to stir up strife and litigation. No advocate and solicitor shall volunteer advice to bring an action or to stir up strife and litigation.

44. Advocate and solicitor not to actively carry on any trade. (a) An advocate and solicitor shall not actively carry on any trade which is declared by the Bar Council from time to time as unsuitable for an advocate and solicitor to engage in or be an active partner or a salaried officer in connection therewith.

(b) An advocate and solicitor shall not be a full-time salaried employee of any person, firm (other than advocate and solicitor or firm of advocates and solicitors) or corporation so long as he continues to practise and shall on taking up any such employment, intimate the fact to the Bar Council and take steps to cease to practise as an advocate and solicitor so long as he continues in such employment.

45. Advocate and solicitor not to advertise. (a) An advocate and solicitor shall not solicit work or advertise either directly or indirectly, whether by circular, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or procuring his photographs to be published in connection with cases in which he has been engaged or concerned.

(b) No advocate and solicitor shall display outside his office facing a public road or public thoroughfare, a nameplate larger than in size 2½ feet by 2 feet.

(c) No advocate and solicitor shall indicate in his signboard, nameplate or stationery that he is or has been a member of the Bar Council or of any association or that he has been associated

with any person or organisation or with any particular cause or matter or that he specialises in any particular type of work.

46. No personal advertisement. An advocate and solicitor shall not do or cause or allow to be done anything with the primary motive of personal advertisement, or anything calculated to suggest that it is so motivated.

47. Advocate and solicitor not to give interview. An advocate and solicitor shall not give an interview or supply information to the press concerning his life, practice or earnings at the Bar.

48. Advocate and solicitor not to publish photograph. An advocate and solicitor shall not take steps to procure the publication of his photograph as a member of the Bar in the press or any periodical.

49. Advocate and solicitor not to solicit reporting. It is contrary to etiquette for an advocate and solicitor to solicit the reporting of any matter in which he has been professionally engaged, but he may consider and revise reports of cases in which he has been professionally engaged so as to ensure the correctness of the Report.

50. Advocate and solicitor not to advertise address. It is contrary to etiquette for an advocate and solicitor —

(a) to advertise his address or the address of his firm in any book, pamphlet, newspaper, periodical or other publication, or

(b) to sanction the publication either in the press or elsewhere of notices or articles referring to his professional qualifications or merits.

Provided that this rule shall not apply to the printing of the name and address of any advocate and solicitor of any firm of advocates and solicitors in the Law List, Law Directories, legal Diaries and such other Directory as the Bar Council may from time to time sanction, or in any telephone directory in Malaysia, including that part reserved for advertisements and currently known as the "yellow pages" or in ordinary legal notices published in the press or elsewhere. In so printing his or their name and address an advocate and solicitor or firm of advocates and solicitors shall give no undue prominence thereto either by the use of large print or enlarged space and in every case the publication shall comply with any restrictions, guidelines or rules laid down from time to time or at any time by the Bar Council in respect of the publication in issue.

51. Advocate and solicitor not to do or cause touting. An advocate and solicitor shall not do or cause or allow to be done, anything for the purpose of touting directly or indirectly, or which is calculated to suggest that it is done for that purpose.