

Rule 7.2. Advertising.

- (a) Subject to the requirements of Rules 7.1 and 7.3, a lawyer may advertise services through written recorded or electronic communication, including public media
- (b) If the advertisement uses any actors to portray a lawyer, members of the law firm, or clients or utilizes depictions of fictionalized events or scenes, the same must be disclosed.
- (c) All advertisements disseminated pursuant to these Rules shall include the name and office address of at least one lawyer or law firm responsible for their content.
- (d) Every advertisement indicating that the charging of a fee is contingent on outcome or that the fee will be a percentage of the recovery shall set forth clearly the client's responsibility for the payment of costs and other expenses.
- (e) A lawyer who advertises a specific fee or range of fees shall include all relevant charges and fees, and the duration such fees are in effect.
- (f) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising permitted by these Rules and may pay the usual charges of a lawyer referral service or other legal service plan.

Comment

[1] To assist the public in learning about and obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of moderate means who have not made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching.

[2] This Rule permits public dissemination of information concerning a lawyer's name or firm name, address, email address, website and telephone number; the kinds of services the lawyer will undertake; the basis on which the lawyer's fees are determined, including prices for specific services and payment and credit arrangements; a lawyer's foreign language ability; names of references and, with their consent, names of clients regularly represented; and other information that might invite the attention of those seeking legal assistance.

[3] Questions of effectiveness and taste in advertising are matters of speculation and subjective judgment. Some jurisdictions have had extensive prohibitions against television and other forms of advertising, against advertising going beyond specified facts about a lawyer or against "undignified" advertising. Television, the Internet and other forms of electronic communication are now among the most powerful media for getting information to the public, particularly persons of low and moderate income; prohibiting television, Internet, and other forms of electronic advertising, therefore, would impede the flow of information about legal services to many sectors of the public. Limiting the information that may be advertised has a similar effect and assumes that the Bar can accurately forecast the kind of information that the public would regard as relevant. But see Rule 7.3(a) for the prohibition against a solicitation through a real-time electronic exchange initiated by the lawyer.

[4] Neither this Rule nor Rule 7.3 prohibits communications authorized by law, such as notice to members of a class in class action litigation.

Paying Others to Recommend a Lawyer

[5] Except as permitted by Paragraph (f), lawyers are not permitted to pay others for recommending the lawyer's services or for channeling professional work in a manner that violates Rule 7.3. A communication contains a recommendation if it endorses or vouches for a lawyer's credentials, abilities, competence, character, or other professional qualities. Paragraph (f), however, allows a lawyer to pay for advertising and communications permitted by this Rule, including the costs of print directory listings, on-line directory listings, newspaper ads, television and radio airtime, domain-name registrations, sponsorship fees, Internet-based advertisements and group advertising. A lawyer may compensate employees, agents and vendors who are engaged to provide marketing or client-development services, such as publicists, public-relations personnel, business-development staff and website designers. Moreover, a lawyer may pay others for generating client leads, such as Internet-based client leads, as long as the lead generator does not recommend the lawyer,

and any payment to the lead generator is consistent with the lawyer's obligations under these rules. To comply with Rule 7.1, a lawyer must not pay a lead generator that states, implies, or creates a reasonable impression that it is recommending the lawyer, is making the referral without payment from the lawyer, or has analyzed a person's legal problems when determining which lawyer should receive the referral. See Rule 5.3 (duties of lawyers and law firms with respect to the conduct of non-lawyers); Rule 8.4(a) (duty to avoid violating the Rules through the acts of another).

[6] A lawyer may pay the usual charges of a legal service plan or a lawyer referral service. A legal service plan is a prepaid or group legal service plan or a similar delivery system that assists prospective clients to secure legal representation. A lawyer referral service, on the other hand, is an organization that holds itself out to the public to provide referrals to lawyers with appropriate experience in the subject matter of the representation. No fee generating referral may be made to any lawyer or firm that has an ownership interest in, or who operates or is employed by, the lawyer referral service, or who is associated with a firm that has an ownership interest in, or operates or is employed by, the lawyer referral service.

[7] A lawyer who accepts assignments or referral from a legal service plan or referrals from a lawyer referral service must act reasonably to assure that the activities of the plan or service are compatible with the lawyer's professional obligations. See Rule 5.3. Legal service plans and lawyer referral services may communicate with the public, but such communication must be in conformity with these Rules. Thus, advertising must not be false or misleading, as would be the case if the communications of a group advertising program or a group legal services plan would mislead the public to think that it was a lawyer referral service sponsored by a state agency or bar association. Nor could the lawyer allow in-person, telephonic, or real-time contacts that would violate Rule 7.3.

[8] For the disciplinary authority and choice of law provisions applicable to advertising, see Rule 8.5.

[8a] This Rule differs from the ABA Model Rule in that it defines "advertisement" and places some limitations on advertisements. Utah Rule 7.2(b)(2) also differs from the ABA Model Rule by permitting a lawyer to pay the usual charges of any lawyer referral service. This is not limited to not-for-profit services. Comment [6] to the Utah rule is modified accordingly.