The professions work within the framework of governing bodies which are vested with the power to regulate and exercise supervision over the respective professions. The exercise of these powers has significant impact on the economy, the interests of consumers, and the society in general and particularly where a profession has exclusive rights to supply certain services.

Almost all the professions all over the world have, to start with restriction/ban on advertisement of professional attainments or services. The idea behind this is that advertisement by professionals is incompatible with the qualities of integrity and independence which a professional is expected to possess, especially when these acts are motivated by a desire for personal gain.

RESTRICTIONS ON THE PROFESSIONS AND COMPETITION

Markets generally work best for consumers when there is unrestricted competition between existing suppliers, and unrestricted potential competition from new suppliers and from new forms of supply, whereas in the markets for professional services there are numerous restrictions on what existing suppliers can do, who can supply, and allowed forms of supply. These restrictions stem from statute/rules formulated by the Govt., professional bodies, and custom and practice. It is argued that restrictions on supply in the case of professional services tend to drive up costs and prices, limit access and choice and cause customers to receive poorer value for money than they would under properly competitive conditions. Such restrictions also tend to inhibit innovation in the supply of services to the detriment of the public. The rationale behind regulating professions is that their customers, or consumers, are generally not in a position to assess the quality of the professional services they buy. By the very nature of professional services there is an asymmetry of information between suppliers and consumers. In order to protect consumers from exploitation of their position of relative weakness, some restrictions on supply may be justified. These may be classified into following categories:

(i) entry to a profession, including indirect restrictions through limiting the permissible structures within which professionals may provide their services;
(ii) members’ conduct; and
(iii) demarcation, limiting how far members of one profession should be allowed to compete in offering services usually supplied by members of another profession or another part of the same profession.

REPORT OF MONOPOLIES AND MERGERS COMMISSION (UK)

The Monopolies and Mergers Commission in the year 1970 reported on the general effect on the public interest of certain restrictive practices in relation to the supply of professional services. One of the practices covered was restrictions on advertising, and the report showed that most professions had a general rule against advertising with a proliferation of sub-rules which allowed certain specified forms of publicity.

The Commission in its report concluded that the advertising restrictions are a material restriction on competition and that they generally might be expected to have some adverse effects on efficiency and innovation. The restrictions could only be justified if they also have the compensating effect of eliminating risks or disadvantages of equal or greater substance. A close relationship between price restrictions and restrictions on advertising might
often be expected. Where restriction on price competition is against the public interest it would also be against
the public interest if the practitioner is not allowed to provide any public information about his prices.

The Commission also concluded that there may be professions where complete freedom to advertise would
involve to an exceptional degree of danger of clients falling into the trap of incompetent service provider or
confidence being lost between clients and practitioners generally and practitioners’ sense of responsibility to
society being impaired. Unless there are exceptional dangers in relation to services of a particularly personal
nature or whose quality the public are generally incapable of judging, restrictions on advertising, including publishing
information about prices, are likely to be against the public interest except where they resulted in the avoidance
of such consequences. The report further recommended that the restrictions on advertising should not be such
as to prevent:

(i) informative publicity by a professional body collectively on behalf of all its members, including information
    about individual practitioners offering the service, or
(ii) publicity by individual practitioners that is informative in the sense that primarily it provides information
    about the availability of services.

DISADVANTAGES OF RESTRICTIONS ON ADVERTISING

The Commission in its report lists out the following possible disadvantages of the restrictions on advertising:

(a) Restrictions deprive the public of helpful information;
(b) Restrictions reduce the stimulus to efficiency, cost saving, innovation, new entry to professions and
    competition within the professions;
(c) Restrictions enhance the more undesirable effects of less open methods of self promotion; and
(d) Restrictions could also give a false image to a profession.

The Commission, therefore, recommended that the existing restrictions should be replaced by a rule whereby
any member of the profession concerned would be permitted to use, whenever he thought fit, such methods of
publicity as he thought fit. However, it should be provided that —

(i) No advertisement, circular or other form of publicity used by the member should claim for his practice
    superiority in any respect over any or all of the practices of other members of the profession.
(ii) Such publicity should not contain any inaccuracies or misleading statements.
(iii) While advertisements, circulars and other publicity or methods of soliciting may make clear the intention
    of the individual member to seek customer, they should not be of a character that could reasonably be
    regarded as likely to bring the profession into disrepute.

IMPACT OF RELAXATION OF ADVERTISING RULES IN THE UNITED KINGDOM AND UNITED STATES

The studies on the effects of the removal of advertising restrictions in different professions in the United
Kingdom and the United States show that where restrictions were removed or relaxed, advertising led to lower
prices to the consumer while maintaining quality standards.

In the year 1986, the Office of Fair Trading undertook a review of the literature on regulation and deregulation
of advertising in the professions. The review pointed to the growing body of evidence that deregulation in the
United States has brought benefits in the prices of the services covered by the review. Studies in the United States
have supported the case that advertising in the professions leads to reduction in prices and that quality in the
provision of services is maintained or improved.

PROFESSIONAL ADVERTISING IN POST LEGALISATION ERA

Publicity aims to provide objective factual and accurate information without claims of superiority over others
through direct or indirect comparison and is permitted subject to certain guidelines. In some instances, publicity
is even required by law in the form of petitions or notices as in the case of accountants acting in the capacity of
trustee, liquidator or receiver. The type of information which can be publicised in business cards, directories and
brochures varies for different professions but in general, only basic details like names of practitioners, professional
qualifications, practice address, telecommunication numbers and services provided are allowed. Whereas doctors
can state their principal area of practice or speciality, lawyers and accountants are not permitted to do so. Professionals involved in the building industry like engineers, architects and surveyors may have their company names listed on project signboard and sales brochures of projects they are involved in. However, they are not allowed to place congratulatory messages in newspapers or endorse any project.

Advertisements in the lay press are not permitted for all professions except the medical profession which allows healthcare establishments to place newspaper advertisements pertaining to their commencement of operation or change of address provided that they do not appear more than once every six months.

After the legalization of advertising for professional services in the 1970s, research studies on advertising have also grown along the advertising itself, focusing on three issues — what are the attitudes of professionals, and their customers, towards advertising? how much do professionals advertise, and why? and how has advertising of professional services affected their price and quality?

A substantial body of empirical research on attitudes towards professional advertising shows that with remarkable regularity across all the professions, the attitudes of both customers and professionals became more positive towards advertising.

The attitude of professionals towards advertising appears to be correlated with three factors. First, number of years in practice. Younger practitioners are more positive towards advertising, perhaps because they entered the profession after the formal ban was lifted and advertising became normal. Second, specialists tend to be more negative towards advertising than are “general practitioners”, probably because specialists feel less need to advertise. Third, those who advertised were more favorable to advertising than those who did not - perhaps because they liked the effects of their own advertising, or because they could not admit, even to themselves, that they had done something objectionable.

How much do professionals advertise now? It is estimated that more than half of all professionals use some form of advertising and the most popular form is the Yellow Pages. Other print media are next most popular, with electronic media now becoming more popular.

In a study titled ‘Professional Advertising : Who, How and Why, published by Boris W Becker  College of Business, Oregon State University, the researcher divided the practitioners into the following four groups :

1. There were practitioners who spent little on advertising and still had many new patients. They were mostly specialists.
2. There were practitioners who both advertised a good deal and had many new patients. They may have been dentists whose practices had high turnover or specialists, but those who appeal directly to potential customers. Either kind of dentist is likely to be both younger than the average dentist and have a practice in need of advertising to grow.
3. There were practitioners spending significant sums on advertising, but not attracting many new patients. These were likely to have had the newest practices and to be convinced that advertising works, although it may not have done much for them yet.
4. There were practitioners with few new patients and little or no advertising. These were probably older dentists, winding down their practice, or those who do not believe in the effectiveness of advertising or are satisfied with their current level of business.

The researcher, however, concluded that these findings cannot be extrapolated to all professionals but the data is highly suggestive.

**PROFESSIONAL ADVERTISING UNDER THE COMPANY SECRETARIES ACT, 1980**

Clause (5) of Part I of the First Schedule to the Company Secretaries Act, 1980 provides that a Company Secretary in practice shall be deemed to be guilty of professional misconduct, if he — “secures, either through the services of a person not qualified to be his partner or by means which are not open to a Company Secretary, any professional work.”

This clause frowns upon discreditable practices in securing professional work. The clause precisely covers instances of obtaining professional work by unethical means. The clause, in addition, also speaks of securing professional work by means which are not open to a Company Secretary. These refer to means, other than
through circular, personal communication, advertisement, etc. which in any case are obviously prohibited under clauses (6) and (7). Thus, this clause prohibits unethical ways to secure professional work.

Clause (6) of Part I of the First Schedule to the Company Secretaries Act, 1980 provides that a Company Secretary in practice shall be deemed to be guilty of professional misconduct, if he “solicits clients or professional work, either directly or indirectly, by circular, advertisement, personal communication or interview or by any other means.”

This clause further fortifies the proposition under clause (5) supra in regard to securing clients or professional work. Solicitation of clients or solicitation of professional work or both, are prohibited. Such a solicitation may be direct or indirect and such a solicitation may further be by means of a circular, advertisement, personal communication or interview or any other means. The bedrock of this rule is that a professional should gain recognition by rendering expert services, to a few though in the beginning, who would themselves lead others to him. The purpose of this clause is, to ensure that a professional secures work by quality of service and not by advertisement affecting the image of the profession.

The word ‘solicit’ has various shades of meaning. According to Legal Thesaurus, it means bait, (lure) desire, importune, inquire, lobby, petition, plead (implore), apply (request), pray, pressure, pursue (strive to gain), urge. ‘Solicit’ means ‘ask for’ or ‘seek’.

The means of solicitation may be a circular, advertisement, personal communication or by any other means. The phrase ‘by any other means’ used in this clause would perhaps exhaust other means like telephonic conversation, mail or even third party solicitation.

The word ‘indirectly’ used in this clause suggests that even innuendos would not be tolerated under this clause. If the overall message of the alleged act is solicitation of clients or professional work, though this lurks or lies beneath what has apparently been done, clause (6) would stand attracted.

It would not be possible to exhaustively provide for all situations where it can be said there was solicitation of clients or professional work. But the following may be cited as illustrative examples where the Council of the Institute was of the opinion that clause (6) may get attracted:

(1) Circular or advertisement in newspapers indicating the range of services offered by him.
(2) A circular letter offering secretarial services and professional work.
(3) Any circular, advertisement or communication which creates an impression that certain professional work would be done much more expeditiously than is normally the case.
(4) Circular, advertisement or personal communication highlighting any provision of any law to person other than existing clients which provides for certification/ authentication by a Company Secretary in practice of any form/return/application/document.
(5) Issuing hand bills covering matters in (1) to (4) above.
(6) Publication in the telephone directory, name and address in extra bold typeface or opting for more than one listing. However, where separate sections are devoted in the telephone directory (yellow pages, for instance) for a classified list, publishing the name and address by a member in such sub-section also in the directory would not be treated as misconduct.
(7) Communicating or holding out, as being prepared to provide professional services at fees that are less than reasonable and appropriate in the circumstances, in order to obtain professional work.
(8) Communicating or describing himself as a ‘specialist’ in any branch of law/work or knowingly permitting himself to be so described.
(9) A member allowing a company to carry in its prospectus or other circular letters that ‘Mr. X a specialist in corporate laws is the adviser to the company’ would offend clause (6). However printing the name of Practising Company Secretary as Secretarial Auditor in Annual Report will not violate the provisions of the Act.
(10) Requesting his client(s) to recommend his/their acquaintances to him for professional work.
(11) Frequent press announcements or circulars about his not being available for professional work for a certain period at the place whereat he normally has his office.
(12) Highlighting or causing to be highlighted in public interviews over the television, AIR, etc. his professional attainments, more than just necessary or warranted by the circumstances of such an interview. However sending bio data to organizers of the programmes/seminars, etc., where he has been invited as a faculty, is not violative of this clause.

(13) Writing to any institution/agency that though, he is in the panel, no work has been allotted to him. Even approaching through a third person is violative of this clause.

(14) Responding to advertisements in the media for appointment as Company Secretary for attending to, say, Annual Return Certification work.

(15) Responding to circulars/tenders from a prospective client seeking quotations for professional services restricted to Company Secretaries in practice.

(16) Responding to roving enquiries from prospective clients (in the nature of shopping around) for quotation of fees for undertaking any certification work.

(17) Approaching any trade association/chamber of commerce, communicating his ready availability for rendering any professional service to the constituents of any association or chamber.

(18) Including his name as an associate professional in the profile of others circulated to various persons.

(19) Sending his profile to persons/companies/firms without any requisition for the same.

(20) Including names of other professionals in his profile circulated to various persons.

The Professional Development Committee of the Council of the Institute has opined that listing of services by a Company Secretary with a group for creation of network of affiliates which is non-professional and not a group of company secretaries would amount to commercialization of the profession and therefore such listing would amount to violation of the Code of Conduct.

However, the following would not fall into the mischief of clause (6):

(1) publishing in the journal of the Institute or newspaper any change in the professional address;

(2) publishing in professional journals, newspapers and magazines in any classified column, any advertisement for recruitment of staff without in any way giving an impression about the services that he can render, or in other manner smacking of solicitation of work;

(3) publishing information regarding changes in the constitution of firm, provided the information contained therein is limited to bare facts and consideration given to appropriateness of the area in which the newspaper or magazine is circulating and the number of insertions;

(4) sending New Year or any other seasonal greetings without narrating the list of services;

(5) appearance in AIR, TV or any stage in private capacity as a speaker, actor or otherwise on programmes having no nexus with his profession. Any reference to him as a Company Secretary simpliciter and nothing beyond in such programmes would not offend clause (6);

(6) appearance or participation in professional capacity in the AIR/TV or other forums where a reasonable amount of biographical material may be given without in any way referring to the member as specialist in any branch of work;

(7) editing/publishing any professional journal, newspaper and magazines;

(8) writing articles/comments in professional journals, magazines and newspapers;

(9) associating with charitable, other welfare associations and trade associations without in any way using such position to solicit clients/professional work;

(10) writing to his clients about implications/interpretations of any law or amendments thereof by way of any circular, newsletter or any personal communication.

(11) the Council of the Institute in a case held that the Conduct of the member in practice by mentioning against his name ‘Company Secretary’ in the issue of ‘Secretarial Aid’ a journal edited by him was violative of Clause (6) of Part I of First Schedule of the Act. It was observed that the words ‘for further clarification please contact the Editor’ was an indirect attempt to solicit professional work.

(12) Responding to a specific letter or a follow up of personal discussions and sending a profile of a firm/individual to specific addresses is not prohibited.
(13) Issuing advertisement in Chartered Secretary for opening branch or seeking partnership with other members.

Clause (7) of Part I of the First Schedule to the Company Secretaries Act, 1980 provides that a Company Secretary in practice shall be deemed to be guilty of professional misconduct, if he — “advertises his professional attainments or services, or uses any designation or expression other than Company Secretary on professional documents, visiting cards, letterheads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute or of any other institution that has been recognised by the Central Government or may be recognised by the Council.”

The ban under this clause in regard to advertisement of professional attainment or services is total. The clause does not provide for any relaxation whatsoever either by the Council or by any other authority. What amounts to advertisement of professional attainments or services is to be decided on a case to case basis having regard to the attendant facts. For instance, where in the visiting card or name board or letterhead, a member in practice mentions that he is a specialist in company law, tax law, etc. it would amount to advertisement of professional attainments or services. Where a member in practice furnishes upon a specific request by a prospective client, a list of companies for whom he is a consultant/retainer or writes his specific subjects of specialisation, it is not objectionable. Where in the letterhead or visiting card, a member in practice mentions that he was or is holding directorships in any company, it would be offending this clause.

Advertisement by a practising member for staff for his office in the press should in no way savour of any advertisement of professional attainments or services. The use of certain adjectives like “a reputed firm”, “a well-known firm”, etc. may be treated as inconsistent with the spirit of this clause.

Circulars or announcement regarding change of address, or change in the constitution of the firm should be very cautiously worded to tell just the minimum facts.

Where a Company Secretary in practice has been appointed as retainer/consultant by certain companies, it would not be proper to either list the names of such companies in letterheads, visiting cards or signboards or to circulate the list among prospective clients by way of circular. Sending individual profile in response to a specific enquiry is permitted.

Where a Company Secretary in practice takes up the position of a director in a company, it is incumbent on his part to exercise great care in regard to references in any explanatory statement in notice of the general meeting reappointing the Practising Company Secretary, brochure or circular brought out in connection with an issue of securities of the company. The member concerned is to ensure personally that laudatory statements in such literature about his professional competence, while highlighting the Board’s competence as a whole, are avoided. Otherwise liability under clause (7) would attract.

The Institute has allowed the practising members to display their specified particulars on websites in the prescribed manner and subject to the Guidelines for Display of Particulars on Website by Company Secretaries in Practice.

PROFESSIONAL ADVERTISING IN SELECT PROFESSIONAL BODIES – GLOBAL POSITION

1. American Institute of Certified Public Accountants

   Advertising and Other Forms of Solicitation

   Rule 502 — Advertising and other forms of solicitation. A member in public practice shall not seek to obtain clients by advertising or other forms of solicitation in a manner that is false, misleading, or deceptive. Solicitation by the use of coercion, over-reaching or harassing conduct is prohibited.

   Advertising and Other Forms of Solicitation

   502-2 — False, misleading or deceptive acts in advertising or solicitation. Advertising or other forms of solicitation that are false, misleading, or deceptive are not in the public interest and are prohibited. Such activities include those that —
   1. Create false or unjustified expectations of favorable results.
   2. Imply the ability to influence any court, tribunal, regulatory agency, or similar body or official.
3. Contain a representation that specific professional services in current or future periods will be performed for a stated fee, estimated fee or fee range when it was likely at the time of the representation that such fees would be substantially increased and the prospective client was not advised of that likelihood.

4. Contain any other representations that would be likely to cause a reasonable person to misunderstand or be deceived.

502-5 — Engagements obtained through efforts of third parties. Members are often asked to render professional services to clients or customers of third parties. Such third parties may have obtained such clients or customers as the result of their advertising and solicitation efforts.

Members are permitted to enter into such engagements. The member has the responsibility to ascertain that all promotional efforts are within the bounds of the Rules of Conduct. Such action is required because the members will receive the benefits of such efforts by third parties, and members must not do through others what they are prohibited from doing themselves by the Rules of Conduct.

2. Institute of Chartered Accountants in Australia

The Rules of Ethical Conduct address advertising, publicity and solicitations and generally require that this must not be false, misleading or deceptive. The ICAA’s statement identifies forms of unacceptable advertising, publicity and solicitation contemplated to include those that:

— Create false or unjustified expectations of favourable results;
— Belittle others;
— Imply the ability to influence any court, tribunal, regulatory agency or similar body or official thereof;
— Consist of self-laudatory statements that are not based on verifiable facts;
— Contain unidentified testimonials or endorsements;
— Contain any representation that would be likely to cause a reasonable person to misunderstand or be deceived.

In addition, the statement requires that members in public practice must ensure that follow-up communications are terminated when the recipient has so requested it either directly to the member or through the ICAA. Any continued contact is regarded as harassment which is considered to be unethical conduct.

3. The Institute of Chartered Accountants of Ontario

Advertising and promotion

A member or firm may advertise or seek publicity for the member’s or firm’s services, achievements or products and may seek to obtain new engagements and clients by various means, but shall not do so, directly or indirectly, in any manner

(a) which the member or firm knows, or should know, is false or misleading;
(b) which contravenes professional good taste or brings disrepute on the profession;
(c) which makes unfavorable reflections on the competence or integrity of the profession or any member or firm; or
(d) which includes a statement the contents of which the member or firm cannot substantiate.

Solicitation

A member or firm shall not, either directly or through a party acting on behalf of and with the knowledge of the member, solicit, in a manner that is persistent, coercive or harassing, any professional engagement.

4. Maryland Lawyer’s Rules of Professional Conduct

Rule 7.1 Communications Concerning a Lawyer’s Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer’s services. A communication is false or misleading if it:

(a) contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading;
(b) is likely to create an unjustified expectation about results the lawyer can achieve, or states or implies that
the lawyer can achieve results by means that violate the Rules of Professional Conduct or other law; or
(c) compares the lawyer’s services with other lawyers’ services, unless the comparison can be factually
substantiated.

Rule 7.2 Advertising
(a) Subject to the requirements of Rules 7.1 and 7.3(b), a lawyer may advertise services through public
media, such as a telephone directory, legal directory, newspaper or other periodical, outdoor, radio or
television advertising, or through communications not involving in person contact.
(b) A copy or recording of an advertisement or such other communication shall be kept for at least three
years after its last dissemination along with a record of when and where it was used.
(c) 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 or written communication permitted by this rule
and may pay the usual charges of a not-for-profit lawyer referral service or other legal service organization.
(d) Any communication made pursuant to this rule shall include the name of at least one lawyer responsible
for its content.
(e) An advertisement or communication indicating that no fee will be charged in the absence of a recovery
shall also disclose whether the client will be liable for any expenses.
(f) A lawyer, including a participant in an advertising group or lawyer referral service or other program
involving communications concerning the lawyer’s services, shall be personally responsible for compliance
with the provisions of Rules 7.1, 7.2, 7.3, 7.4, 7.5 and shall be prepared to substantiate such compliance.

Rule 7.3 Direct Contact with Prospective Clients
(a) A lawyer may initiate in person contact with a prospective client for the purpose of obtaining professional
employment only in the following circumstances and subject to the requirements of paragraph (b):
(1) if the prospective client is a close friend, relative, former client or one whom the lawyer reasonably
believes to be a client;
(2) under the auspices of a public or charitable legal services organization; or
(3) under the auspices of a bona fide political, social, civic, fraternal, employee or trade organization
whose purposes include but are not limited to providing or recommending legal services, if the legal
services are related to the principal purposes of the organization.
(b) A lawyer shall not contact, or send a communication to, a prospective client for the purpose of obtaining
professional employment if:
(1) the lawyer knows or reasonably should know that the physical, emotional or mental state of the
person is such that the person could not exercise reasonable judgment in employing a lawyer;
(2) the person has made known to the lawyer a desire not to receive communications from the lawyer;
or
(3) the communication involves coercion, duress or harassment.

Rule 7.4 Communication of Fields of Practice and Certification
A lawyer may communicate the fact that the lawyer does or does not practice in particular fields of law,
subject to the requirements of Rule 7.1. A lawyer shall not hold himself or herself out publicly as a specialist.

Rule 7.5 Firm Names and Letterheads
(a) A lawyer shall not use a firm name, letterhead or other professional designation that violates Rule 7.1. A
trade name may be used by a lawyer in private practice if it does not imply a connection with a government
agency or with a public or charitable legal services organization and is not otherwise in violation of
Rule 7.1.
(b) A law firm with offices in more than one jurisdiction may use the same name in each jurisdiction, but
identification of the lawyers in an office of the firm shall indicate the jurisdictional limitations on those not licensed to practice in the jurisdiction where the office is located.

(c) The name of a lawyer holding a public office shall not be used in the name of the law firm, or in communications on its behalf, during any substantial period in which the lawyer is not actively and regularly practicing with the firm.

(d) Lawyers may state or imply that they practice in a partnership or other organization only when that is the fact.

5. Malaysian Institute of Accountants - By-Laws on Professional Conduct and Ethics

**By-Law A-9 : Advertising, Publicity and Solicitation**

A-9.1 Any advertisement, publicity or solicitation by a member or by a member firm whether by that member or the firm or otherwise shall -

(a) be conducted in manner consistent with the good standing and reputation of the accountancy profession and not contain anything that is likely to bring discredit to the member, to the Institute or to the accountancy profession;

(b) contain only matters of fact which are true, and the manner of notification must not be misleading or deceptive;

(c) be in good taste and professionally dignified;

(d) not contain exaggerated claims of the services offered, the qualifications possessed or the experience gained.

**By-Law B-3 : Advertising, Publicity and Solicitation**

Subject to by-law A-9 and the following provisions, members in public practice may seek publicity for their services and achievements and may advertise their services and products.

B-3.1 (1) Promotional material issued by member firms whether directly or indirectly may contain any factual statement, the truth of which a member is able to justify, but it shall not make unflattering references to, or unflattering comparison with, the services of others.

(2) Any solicitation or promotional activity by a member in public practice or his agent or the member firm, shall be carried out without coercion or harassment.

A member in public practice, being the partner or proprietor is responsible for -

(1) the form and the content of any advertisement or publicity, whether by the member personally, by his firm or any other person on behalf of the member or his firm; and

(2) any solicitation or promotional material which is expressly or impliedly authorised by the member or his firm.

B-3.3 Where a member in public practice, being the partner or proprietor is aware of any impropriety in any advertisement or publicity relating to him and/or his firm, he shall use his best endeavours to procure the rectification or withdrawal of the advertisement or publicity.

B-3.4 A member in public practice, being the partner or proprietor is responsible for any infringement of by-law B-3 or by-law A-9 by a firm or a company affiliated to his firm practising under the same or similar name unless the member of that firm, being the partner or proprietor, can prove that -

(1) he has taken all reasonable steps to ensure compliance with the form as well as the substance of by-law B-3 and by-law A-9; and

(2) the infringement was beyond his control in the first place.

B-3.5 (1) A member in public practice shall not respond to advertisements to tender for professional work
except for proposals for nonrecurring professional or specialist work (including management consultancy services).

(2) The prohibition in by-law B-3.5(1) above does not extend to assignments or projects undertaken for or on behalf of the Government, government departments and/or agencies and statutory bodies.

(3) In reply to a public advertisement or an unsolicited request to make a submission or submit a tender, the member in public practice shall -

(a) if the appointment may result in the replacement of another member in public practice, state in the submission or tender that before acceptance, the opportunity to contact the other member in public practice is required so that inquiries may be made as to whether there are professional reasons why the appointment should not be accepted; and

(b) if the submission or tender is successful, contact the existing accountant in accordance with the applicable provisions of by-law B-8.

6. Code of Professional Conduct - Actuarial Standard Board, Canada

An actuary shall not engage in any advertising or business solicitation activities in respect of professional services that the actuary knows or should know are false or misleading. An actuary shall make use of those membership titles and designations of an actuarial organization only where that use conforms to the practices authorized by that organization.

An actuary with knowledge of a material violation of the Code shall disclose such suspected violation to the appropriate counseling and discipline body of the profession, except where the disclosure would divulge confidential information or be contrary to law.

7. Code of Ethics - Australian Psychology Society

(1) Public statements include, but are not limited to, communication by means of periodical, book, circular, brochure, list, directory, business card, television, radio, facsimile, or electronic transmission such as e-mail or the Internet.

(2) Public statements made by members in announcing or advertising the availability of psychological products, publications or services, must not contain:

(i) any statement which is false, fraudulent, unfair, misleading or deceptive or likely to mislead or deceive;

(ii) solicited testimonials or endorsements concerning the member or the member’s service;

(iii) any statement claiming or implying superiority for the member over any other members;

(iv) any statement intended or likely to create false or unjustified expectations of favourable results;

(v) any statement intended or likely to appeal to a client’s fears, anxieties or emotions concerning the possible results of failure to obtain the offered services;

(vi) any claim unjustifiably stating or implying that the member uses exclusive or superior apparatus, methods or materials;

(vii) any statement which is vulgar, sensational or otherwise such as would bring, or tend to bring, the member or the profession of psychology into disrepute.

(3) When announcing or advertising professional services, members may list the name, postal and email addresses, telephone and facsimile numbers, consultation hours, languages spoken, appropriate information concerning fees, relevant academic qualifications earned from accredited institutions of higher learning, and a brief simple statement of the type of psychological services offered.

(4) In announcing or advertising the availability of psychological products, publications or services, members must not present their affiliation with any organisation in a manner that falsely implies sponsorship or certification by that organisation.
(5) Members must not offer or provide inducement to representatives of the press, radio, television, or other communication medium in anticipation of or in return for professional publicity in a news item. A paid advertisement must be identified as such, unless it is apparent from the context that it is a paid advertisement. If communicated to the public by use of radio or television, an advertisement must be prerecorded and approved for broadcast by the member, and a recording of the actual transmission must be retained by the member.

(6) Members must not participate for direct personal gain in commercial announcements or advertisements recommending to the public the purchase or use of proprietary or singlesource products or services when that participation is based solely upon their identification as members.

(7) Members may participate in any lecture, talk, public appearance, transmission, or publication on any subject and be identified therein by name, academic qualifications and the fact that they are members provided that:

(i) where the subject matter or part of the subject matter thereof concerns a matter in which the member is or has been professionally engaged, the member has the express consent of the client concerned and it is not contrary to the interests of the client to do so;

(ii) where the subject matter thereof concerns psychological or a related professional subject the member shall not (except in the context of a lecture or talk given in the education of psychologists) claim or imply pre-eminence in that or any other psychological subject;

(iii) they are competent to express a view on the subject.

CONCLUSION

Total prohibition on advertising by professionals is neither in favour of the professionals nor users of services. Clients should be made aware the range of services which a professional can provide and details of those providing particular services so that clients can have various options of making a choice of the professionals to whom he can entrust his assignment. On the other hand advertising by professionals subject to certain restrictions provides an equal opportunity to all professionals to offer their services.

The market for professionals has widened in view of changes in the information technology and scope is not limited to a particular area or society. Thus time has come that advertising by professionals which is not damaging or causing harm to users of services should be allowed.