

Law on lawyers advertising their work in India

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In news— Recently, the Supreme Court lawyers have condemned a 'legal powerlist' published by Forbes India. Bar Council of India Rules prohibit lawyers from advertising themselves, but that's not the case in other countries.

Law on lawyers advertising their work-

- **In India, lawyers and legal practitioners are not allowed to advertise their work.**
- **Section 49(1)(c) of the Advocates Act, 1961 empowers the Bar Council of India (BCI) to make rules with respect to "the standard of professional conduct and etiquette to be observed by advocates".**
- **Rule 36** in Chapter II ("Standards of Professional Conduct and Etiquette") of Part VI ("Rules Governing Advocates") of the BCI Rules published in 1975 **prohibits lawyers from advertising their work.**
- **The Rule reads: "An advocate shall not solicit work or advertise, either directly or indirectly, whether by circulars, advertisements, touts, personal communications, interviews not warranted by personal relations, furnishing or inspiring newspaper comments or producing his photographs to be published in connection with cases in which he has been engaged or concerned."**
- **Rule 36 also requires that an advocate's signboard or nameplate "should be of a reasonable size".**
- It further states that the signboard/ nameplate or stationery should not indicate that he is or has been President or Member of a 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 or that he has been a Judge or an Advocate General.

- **An advocate who violates this rule can face punishment for professional or other misconduct under Section 35 of the Advocates Act.**
- **This section empowers the State Bar Council to refer the case to a disciplinary committee** that can, after giving the advocate an opportunity to be heard, suspend him for some time, remove his name from the state's roll of advocates, or reprimand him – or dismiss the complaint altogether.

What is the basis for having such a rule?

- **In a 1975 ruling, Justice Krishna Iyer of the Supreme Court in 'Bar Council of Maharashtra vs. M V Dabholkar'** provided the rationale for this: **"Law is no trade, briefs no merchandise,** and so the leaven of commercial competition or procurement should not vulgarise the legal profession."
- **In 1995, in 'Indian Council Of Legal Aid & Advice vs Bar Council Of India & Anr',** the SC said that the functions of the Bar Council include the laying down of standards of professional conduct and etiquette which advocates must follow to maintain the dignity and purity of the profession.
- Law, the SC said, was a "noble profession", and those engaged in it have certain obligations in society as the practice of law has a "public utility flavour".

Changes in 2008-

- Following a **challenge in the SC to the constitutional validity of Rule 36 in 'VB Joshi vs Union of India',** the restrictions were somewhat relaxed.
- In 2008, Rule 36 was amended, and **advocates were allowed to provide their names, contact details, post qualification experience,** enrollment number,

- specialisation, and areas of practice on their websites.
- A provision to Rule 36 inserted in 2008 said the rule “will not stand in the way of advocates furnishing website information as prescribed in the Schedule under intimation to and as approved by the Bar Council of India”.
 - With the proliferation of web portals and apps offering legal services on the Internet, legal practitioners have been finding indirect and more subtle ways to advertise themselves while staying within the confines of Rule 36.
 - Many of them post about their work on LinkedIn, organise and speak at webinars and seminars, write columns for newspapers, and appear on TV programmes and debates.

What is the situation in other countries?

- **Lawyers can legally advertise their services in the United States, the United Kingdom, Australia, and the European Union.**
- **UK: Rule 7 of the Solicitors Code of Conduct 2007, allows lawyers in the UK and Wales to advertise their practice, business or firm as long as it's not done in a “misleading” or “false” way. Rule 7 reads: “You are generally free to publicize your firm or practice, subject to the requirements of this rule.”**
- **US: The American Bar Association's Model Rules of Professional Conduct (MRPC) issued in 1908 prohibited advertising for lawyers.** Ordinance 27 reiterated the prohibition by construing “soliciting” as unprofessional. However, after the US Supreme Court's landmark 1977 decision in ‘Bates vs Arizona’, lawyers can advertise their services. Bar associations of states are free to make laws in this regard
- **EU: Section 2.6 of the Council of Bars and Law Societies of the Europe Code of 2006 discusses the aspect of “Personal Publicity”.** Section 2.6.1 allows a lawyer to

inform the public about his services as long as the information is accurate and not misleading, respectful of confidentiality obligations and other core values of the legal profession.