

## INFORMATION SHEET

### Producing a TVC which promotes Legal Services

The following points need to be considered when producing a television commercial promoting legal services:

#### General

A lawyer may advertise a legal practice provided the content of the commercial is not false, misleading or deceptive.

#### Claims to be a specialist

A lawyer may not advertise as a specialist in a particular area of practice unless they hold the appropriate qualifications.

Under the Legal Profession Uniform Law Australian Solicitors' Conduct Rules 2015<sup>1</sup>, which apply in NSW, Victoria and the ACT, and under conduct rules that apply in WA<sup>2</sup>, QLD<sup>3</sup> and SA<sup>4</sup>, advertising that uses the words "accredited specialist" or a derivative of those words must only be used by solicitors who are accredited in the relevant specialty by their relevant professional association.

There are no specific rules relating to the advertising of specialists in Tasmania<sup>5</sup>.

#### Personal Injury services

- There is no prohibition on the advertising of personal injury services in the ACT, NSW, SA, Tasmania and Victoria. The position in NSW and Victoria is governed under the new Legal Profession Uniform Law across NSW and Victoria.
- Advertising of personal injury services is prohibited in Queensland and restricted in WA and NT:
  - a) In Queensland, under the *Personal Injuries Proceedings Act 2002*, a lawyer or another person must not "advertise personal injury services"<sup>6</sup> on television.
  - b) In Western Australia, under the *Civil Liability Act 2002* a lawyer or a person acting for a lawyer must not "publish or cause to be published a statement that may reasonably be thought to be intended or likely to encourage or induce a person to make a claim under any Act or law for compensation or damages for a personal injury" or to use the services of any lawyer or firm of lawyers in connection with such a claim.<sup>7</sup>

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<sup>1</sup> Rule 36.2

<sup>2</sup> Rule 45(2)

<sup>3</sup> Rule 36.2

<sup>4</sup> Rule 36.2

<sup>5</sup> *Legal Profession Act 2007* (Tas)

<sup>6</sup> A legal practitioner or any other person "advertises personal injury services" by publishing a statement or statements that may be reasonably thought to be intended or likely to encourage or induce a person:

(a) to make a claim for compensation or damages under any Act or law for a personal injury; or

(b) use the services of the practitioner, or a named law practice, in connection with the making of a claim.

<sup>7</sup> Note that limited exceptions to this restriction apply in relation to print advertising, but not to advertising on television.

- c) In the Northern Territory, under the *Legal Profession Act* a lawyer must not publish or cause to be published a statement with the intention that a person make a personal injury claim<sup>8</sup> and engage a legal practice named in the statement for making a claim.<sup>9</sup>

### **Workers Compensation services**

- There is no prohibition on the advertising of work injury legal services in the ACT, NSW, SA, Tasmania, and Victoria. The position in NSW and Victoria is governed by under the new Legal Profession Uniform Law across NSW and Victoria.
- In relation to NSW, the prohibition on advertising work injury legal services by lawyers in the *Workers Compensation Regulation 2010* has been repealed. Please note s 79 of the Regulation restricts advertising work injury agent services. Agent is defined as a person who acts, or holds himself or herself out as willing to act, as an agent for a person for a fee or reward in connection with a claim, but does not include a legal practitioner. The note to Part 16 of the Regulation lists the activities considered to constitute acting as an agent for a person in relation to a claim.
- In Queensland, while there is no specific legislation restricting the advertising of work injury legal services, the restrictions on personal injury advertising in the *Personal Injuries Proceedings Act 2002*, outlined above, will apply equally to the advertising of workers compensation services. Advertisements will be considered personal injury advertisements when they say or suggest or imply that a lawyer or law firm provides services by using words or images that refer to injuries or accidents or slips and trips and falls or worker's compensation or work related illnesses or other like words and images.
- In Western Australia, while there is no specific legislation restricting the advertising of work injury legal services, such services will be covered by the prohibition on the advertising of personal injury services in section 17 of the *Civil Liability Act 2002*, outlined above.
- Similarly, in the Northern Territory, workers compensation services will fall within the definition of "personal injury" for the purposes of the *Legal Profession Act* and be subject to the same restrictions.

Refer: Individual State Legal Practitioners Acts, Regulations and Professional and Conduct Guidelines

**For further information please contact CAD on 02 8968 7200 or email us at [cad@freetv.com.au](mailto:cad@freetv.com.au)**

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<sup>8</sup> A claim is defined as "a claim for compensation or damages under an Act or other law for a personal injury".

<sup>9</sup> Note that limited exceptions to this restriction apply in relation to print advertising, but not to advertising on television.