



How 'legal' are law firm websites?

Despite press reports to the contrary, Indian law firms are still barred from having websites ... for now at least

Ben Frumin explains

In late January, the *Hindustan Times* published a story that began with the line: "Lawyers can now have their own websites."

Well, that's not quite true. At least not yet. But the story did serve to publicize calls for change, which have been wide and loud. It also highlighted evidence that change, at last, may be forthcoming.

In a recent interview, the Bar Council of India chairman, S Gopakumaran Nair, said that a joint conference with state bar councils had agreed unanimously to allow Indian lawyers to post simple authentic information on websites.

"We have viewed it from the angle of the clients," he said, emphasizing that it was client needs, rather than overwhelming demand from the legal profession, that led the Bar Council to reconsider its position.

The timing of any change isn't yet certain. The issue wasn't on the Bar Council's agenda when it agreed to move forward on it, and it will therefore need to be raised again. A formal vote must also be held on whether to amend Bar Council rules – most likely at a meeting in mid-April. Assuming that the motion is passed, Nair said it will probably take at least a month for the government to register and publish the amendment, and only then will the new rules take effect.

Under the rules being considered, lawyers will be allowed to post their name, contact information, standing, qualifications and specialty on the internet. "We thought that this sort of elementary information can be passed on to the client through the website," explained Nair.

"The change would certainly be a step forward in the

process of creating a level playing field in the legal sector,” says Neeraj Dubey of PSA Legal in New Delhi.

Indeed, with foreign law firms likely to gain some form of access to the Indian market in the foreseeable future, the need to create a “level playing field” between them and their domestic counterparts has been stressed forcefully by many Indian lawyers. And since it would be virtually impossible to impose India’s website restrictions on international firms, many of which have a highly sophisticated online presence, the only solution, it is argued, is to lift the restrictions in India.

Deep-rooted resistance

The restrictions, however, are deeply rooted in a long-standing set of Bar Council rules relating to advertising. They state that “no advocate shall 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.”

The rules also state that a lawyer’s “sign-board or name-plate should be of a reasonable size” and that his stationery “should not indicate that he is, or has been, president or member of a bar council or of any association, or that



DRAWING A BLANK: Prospective clients struggle to find information about Indian law firms.

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Vishal Ahuja

Partner

Mallesons Stephen Jaques



he has been associated with any person or organization or with any particular cause or matter or that he specialized in any particular type of work or that he has been a judge or an advocate general”.

Although the rules make no specific reference to websites, the Bar Council has held its ground in the face of overwhelming demand from corporate law firms, and continued, until very recently, to view member websites as unethical advertisements.

Such a rigid position can be explained in part by the make-up of the Bar Council itself. “The Bar Council is a self-regulatory body ... and the office bearers of this council mostly comprise not partners in corporate law firms, but advocates and counsels who argue in court,” explains Vijaya Sampath, group general counsel and company secretary at Bharti Enterprises.

Unlike corporate lawyers, who worry that their practices may suffer in the face of inequitable competition from abroad, independent court advocates are unlikely to feel the impact of foreign firms. As a result there has been a strong resistance to change, and as Sampath explains, “reforms have been very tardy and slow”.

“The pace of liberalization in the legal profession has been much slower than other industry sectors,” agrees Vishal Ahuja, a partner in the Melbourne office of Mallesons Stephen Jaques.

Cautious optimism

Sampath, however, is optimistic that greater change may be forthcoming: “With increasing pressure on the Indian government to open legal services to foreign firms, it is likely that the pace of reform within the legal fraternity will pick up to ensure that its members are equipped to deal with competition from foreign law firms when they are allowed to set up in India,” she says.

And her cautious optimism is shared by others: “Although no recent changes have been effected in the law relating to advertisements by legal professionals, there is hope that such changes may not be too distant,” says Anirudh Mukherjee of Economic Laws Practice in Mumbai.

Sampath notes that it’s up to the Bar Council, not the government, to reform the rules on advertising and websites, and in this regard, the Bar Council’s apparent change of heart has been widely welcomed.

“The ability for Indian lawyers to use websites is a welcome step,” says Ahuja. “Without a word of mouth recommendation, it can be difficult to identify suitable Indian counsel for certain types of work or to find information about a certain law firm,” he continues.

Mukherjee agrees: “Consumers are finding it increasingly difficult to make an informed choice since the information relating to the services that are provided by lawyers and law firms is not available to them.”

“It’s daft to have a situation where lawyers cannot advertise at all. You’ve got to be able to have a website,” says another lawyer.

Small steps

While Mukherjee, like many other corporate lawyers, welcomes the Bar Council’s “abrupt turnaround” on the issue of websites, he is concerned that the changes won’t go far enough. The Bar Council’s “view on all other advertising options in print, television, radio, internet, etc, remains unchanged,” he says.

“The changes will allow only websites and the information that can be made available is also highly restricted,” agrees Sampath, adding that “advertising in any other form will not be allowed.”

Even if the proposed changes are implemented, Ahuja points out that Indian law firms will still face much heavier restrictions on promoting their services than their international counterparts do.

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S Gopakumaran Nair
Chairman
Bar Council of India



Nair, for example, has made it clear that if an Indian lawyer includes information on his website about a sensational deal or case on which he has worked, a common practice for international lawyers, he might still be reprimanded for misconduct.

Websites with extensive details – even true ones – and all other advertisements, it seems, will still be off limits to Indian firms.

“We still stick to our view [and to] the rules of our professional ethics and professional conduct regarding a ban on advertising,” says Nair. “We should not dilute the principle behind it, but at the same time, minimum information being passed on to the clients [should be allowed via websites].”

“We don’t call it an advertisement,” Nair continues. “It is information.” ■



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