



**Submission to the Legal Services Regulatory Authority regarding the draft
LEGAL SERVICES REGULATION ACT 2015 (ADVERTISING) REGULATIONS 2020.**

The Alliance for Insurance Reform thanks the Legal Services Regulatory Authority (LSRA) for the opportunity to provide final feedback on the draft Legal Services Regulation Act 2015 (Advertising) Regulations 2020 on behalf of our members (see Appendix 1) all of whom represent insurance policyholders and many of whose organisations are currently threatened by unsustainable insurance costs.

The Alliance notes that “the advertising regulations to be issued by the Authority are not allowed to restrict the advertising of legal services unless the restriction is necessary for the protection of the independence, dignity and integrity of the legal profession, or where an overriding reason exists relating to the public interest and where the restriction is non-discriminatory and proportionate”.

As with our previous submissions, this submission focuses on regulation necessary in the public interest in the area of personal injury claims and in the context of *“Ireland’s present system of personal injury compensation (which) permits, not merely the bringing of claims in the hope of large payments for small injuries, but also the resorting to fraud, the exaggeration of minor injuries, and collusion in putting forward fraudulent claims”* as outlined by the Personal Injuries Commission.¹

We note that the Irish legal system is a common law system which is much more closely aligned with those of Australia, Canada, Hong Kong, India, New Zealand, and the United Kingdom than it is with the civil law system used in most other EU states.

As a result, the personal injury claims process in Ireland is substantially more adversarial and costly than that in other EU countries and as such and in the interest of the common good, it requires substantially more elaborate and more restrictive advertising regulation than might be the case in other EU jurisdictions.

Within these parameters, we seek the following regulations to “restrict the publication by or on behalf of a legal practitioner of any advertisement which in the opinion of the Authority expressly or impliedly solicits, encourages or offers any inducement to any person or group or class of persons to make claims for personal injuries or seek legal services in connection with such claims” per the original LSRA Invitation for Submissions.

Reference 1: SECOND AND FINAL REPORT OF THE Personal Injuries Commission July 2018 P.6 <https://dbei.gov.ie/en/Publications/Publication-files/Second-and-Final-Report-of-the-Personal-Injuries-Commission.pdf>

In addition to the regulations included in the draft Legal Services Regulation Act 2015 (Advertising) Regulations 2020, we would request the following, which we believe to be legitimate and proportionate:

- An advertisement published or caused to be published by a legal practitioner including a personal injuries element shall not include more than:
 - (i) the name, address (including any electronic address) telephone number, facsimile number, place or places of business of the legal practitioner and any reference to the location of information provided by the legal practitioner that is accessible electronically;
 - (ii) particulars of the academic and professional qualifications and legal experience of the legal practitioner;
 - (iii) factual information on the legal services provided by the legal practitioner and on any areas of law to which those services relate;
 - (iv) particulars of any charge or fee payable to the legal practitioner for the provision of any specified legal service; and
 - (v) Information relating to the legal practitioner's practice or service concerning any one or more of the following:
 - a. hours of business;
 - b. closure for annual holidays;
 - c. appointment of a new partner or associate or assistant or consultant;
 - d. staff promotions, appointments and retirements;
 - e. qualifications of legal practitioners and other members of staff;
 - f. job descriptions of members of staff;
 - g. membership of, or affiliation to, named associations or organisations (national or international);
 - h. references to entries in, and accreditations by, named generally recognised legal directories (national or international);
 - i. details of premises, including the opening of new premises;
 - j. merger with, or acquisition of, another practitioner's practice;
 - k. authorship of publications or details of public appearances where relevant to the legal services provided by the practitioner;
 - l. the identity of the practitioner by means of a photograph; or
 - m. other existing clients or transactions in relation to which the practitioner has provided legal services, with the clients' express permission per Regulation 5

- For the sake of clarity, we request the reinstatement of the requirement that an asterisk (*) should be placed after the words “personal injuries” or other similar words or phrases that would notate the presence of the following words that should be shown adjacent thereto: “(* In contentious business, a legal practitioner may not calculate fees or other charges as a percentage or proportion of any award or settlement)”.
- Prohibit the creation of expectations with regard to outcomes in personal injury cases
- Prohibit any attempt to ‘guide’ or ‘coach’ in any way, potential clients, particularly with regard to the development or enhancement of potential claims. For example, issues such as the management of personal social media accounts or the modification of behaviour to account for the potential use of private investigators.
- Prohibit the offering of advice outside the direct area of expertise of legal practitioners. The following is an example of what we have in mind in this regulation, e.g. *“In the majority of cases it can take – at a very minimum – 12 months for symptoms to fully settle down and in a lot of cases the symptoms may take a lot longer, or worse, have permanent effects”*: <https://www.tipperarylive.ie/news/clonmel/488641/tipperary-s-lynch-solicitors-guide-to-taking-a-personal-injury-case.html>
- Prohibit the use of emotive or dramatic language or imagery.
- Prohibit a practitioner’s advertisement from stating that they could secure a higher award for a client than that offered by PIAB; or otherwise undermining PIAB.
- Prohibit advertising indicating a willingness to make home visits, or visits to clients or potential clients in hospital, doctors’ clinics or other venues where a client or potential client might be vulnerable.
- Regulations 9(a) and 9(b) should take account of media other than books such as leaflets, videos and all online media.

Peter Boland
 Alliance for Insurance Reform
 13th November 2020.

Appendix 1



The Alliance brings together 39 civic and business organisations from across Ireland, representing over 55,000 members, 690,000 employees, 599,000 volunteers and 374,000 students in highlighting the negative impact of persistently high premiums and calling for real reforms that will quickly reduce liability and motor insurance premiums to affordable levels and keep them that way. Our members include:

- AOIFE Ireland (Association of Irish Festival Events)
- Car Rental Council of Ireland
- Childminding Ireland
- Coach Tourism & Transport Council of Ireland
- Community Reuse Network Ireland
- Convenience Stores and Newsagents Association
- Cork Business Association
- Early Childhood Ireland
- Family Business Network Ireland
- Federation of Irish Sport
- Galway Chamber
- Galway City Business Association
- Galway County Public Participation Network (PPN)
- Ireland Active
- Ireland's Association for Adventure Tourism
- Irish Caravan and Camping Council
- Irish Concrete Federation
- Irish Hotels Federation
- Irish Road Haulage Association
- Irish Showman's Guild
- Irish Street Arts, Circus and Spectacle Network
- Irish Travel Agents Association
- ISME
- Licensed Vintners Association
- Motorsport Ireland
- Nursing Homes Ireland
- Play Activity and Leisure Ireland
- Quick Service Food Alliance
- Restaurants Association of Ireland
- Retail Excellence
- RGDATA
- Sligo PPN
- Society of the Irish Motor Industry
- South Dublin County PPN
- Sport Ireland
- Union of Students in Ireland
- Vintners Federation of Ireland
- Volunteer Ireland
- The Wheel (Ireland's national association for community, voluntary and charitable organisations)