

## RETHINKING THE LEGAL PROFESSION (PUBLICITY) RULES 2001: A CONSULTATION PAPER

### EXECUTIVE SUMMARY

1. This consultation paper canvasses the amendments to be made to the Legal Profession (Publicity) Rules 2001 ("**LPPR**"), and to obtain the views of the members of the Kuala Lumpur Bar in respect of the proposed changes.
2. The LPPR is intended to regulate the manner in which advocates and solicitors in Malaysia would publicise and/or advertise their practice. Since its inception, Malaysia adopts a distinctive set of publicity rules from other Commonwealth jurisdictions such as the UK, Singapore and Hong Kong.
3. The LPPR sets out a largely restrictive hold on publicity by legal practitioners by:
  - (a) limiting the types of information to be disseminated, such that only the 18 specified "approved information" would make its way in any publication; and
  - (b) restricting the scope of persons to whom publications may be sent, which in practice does not allow legal practitioners to publicise to the public at charge.
4. The changes proposed in this consultation paper aims to balance the interests of the public against safeguards for the dissemination of credible information. The objectives of the proposed amendments are two-folds:
  - (i) **expansion of the scope** to allow law firms to provide as much information as possible; and
  - (ii) **ensuring credibility** of all information provided by requiring law firms to justify any statement, claim or source of fact.
5. We propose the LPPR adopt a principle-based approach coupled with a prescriptive approach in limited circumstances. The underlying principle would be based on the long-standing rationale that a solicitor owes a fiduciary duty to his client, such that:

*An advocate and solicitor must act with integrity, act in the best interest of each client; and act in a manner that would uphold the trust and confidence place by a client and the public in the advocate and solicitor. Any publicity by an advocate and solicitor must not affect the dignity and standing of the legal profession.*
6. This principle-based approach would be supplemented by prescriptive rules which would serve as the parameters by which an advocate and solicitor can publicize his/her practice. To illustrate, we propose that an advocate and solicitor should be allowed to make claims to specialisation, but that such claims must be justifiable having regard to among others, academic qualifications, experience and complexity of the area of practice, as set out within this consultation paper.
7. Publicity should be allowed so long as it is accurate, not misleading and is not likely to diminish the trust the public places in the advocate and solicitor and in the provision of his legal services. The public is better served if there is a freer dissemination of information that will enable them to make an informed choice of counsel. The changes proposed would recognise that the legal profession has reached a level of maturity that does not require the professional body/association to regulate to the minutiae in respect of publicity materials.