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LEGAL SERVICE ADVERTISING: WYOMING ATTORNEY ATTITUDES COMPARED WITH WYOMING CONSUMER ATTITUDES

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and

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Currently both the American Bar Association (ABA) and the Association of Trial Lawyers of America (ATLA) are considering ethical codes which would drastically liberalize present legal advertising restrictions.¹ The ABA's Commission on Evaluation of Professional Standards (known as the Kutak Commission because it is chaired by Robert J. Kutak) presented a proposal called the Model Rules of Professional Conduct at the 1981 annual convention of the ABA. The final draft of the proposed code addresses several controversial issues, including legal advertising. In contrast to previous ABA canons the new code prohibits only "false or misleading advertising" regarding a lawyer or legal services.² Taking a

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1. For a more thorough discussion of the proposed ethical codes see Murdock and Linenberger, *Legal Advertising and Solicitation*, 16 LAND & WATER L. REV. 627 (1981).

2. Part 9 of the Model Rules which is relevant to advertising is as follows:

9. INFORMATION ABOUT LEGAL SERVICES

Introduction: To assist the public in obtaining legal services, lawyers should be allowed to make known their services not only through reputation but also through organized information campaigns in the form of advertising. Advertising involves an active quest for clients, contrary to the tradition that a lawyer should not seek a clientele. However, the public's need to know about legal services can be fulfilled in part through advertising. This need is particularly acute in the case of persons of

very similar stance, the ATLA has published a public discussion draft of a document entitled *The American Lawyer's Code of Conduct*. It encourages lawyers to advertise "subject only to restrictions relating to false and misleading representations, harassment, violation of reasonable time and place regulations, and inducing violations by others of contractual or other legal obligations."³

moderate means who have not previously made extensive use of legal services. The interest in expanding public information about legal services ought to prevail over considerations of tradition. Nevertheless, advertising by lawyers entails the risk of practices that are misleading or overreaching. Regulation is therefore necessary. The Rules governing advertising and solicitation permit public dissemination of truthful information about legal services, while prohibiting misleading communications and restricting direct solicitation.

9.1 Truthfulness

A lawyer shall not make any false, fraudulent, or misleading statement about the lawyer or the lawyer's services to a client or prospective client. A statement is false, fraudulent, or misleading if it:

(a) Contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not misleading;

(b) Is likely to create an unjustified expectation, or states or implies that the lawyer can achieve results by legally improper means; or

(c) Compares the quality of the lawyer's services with that of other lawyers' services, unless the comparison can be factually substantiated.

9.2 Advertising

(a) A lawyer may advertise services through public communications media such as a professional announcement, telephone directory, legal directory, newspaper or other periodical, radio, television, or general direct mailing, subject to the requirements of Rules 9.1 and 9.3.

(b) A copy or record of an advertisement in its entirety shall be kept for one year after its dissemination.

(c) A lawyer shall not give anything of value to a person for recommending the lawyer's services, except that a lawyer may pay the reasonable cost of advertising permitted by this Rule.

3. The relevant sections of the *Code of Conduct* are as follows:

7.1. A lawyer shall not knowingly make any representation that is materially false or misleading, and that might reasonably be expected to induce reliance by a member of the public in the selection of counsel.

7.2. A lawyer shall not advertise for or solicit clients in a way that violates a valid law imposing reasonable restrictions regarding time or place.

7.3. A lawyer shall not advertise for or solicit clients through another person when the lawyer knows, or could reasonably ascertain, that such conduct violates a contractual or other legal obligation of that other person.

7.4. A lawyer shall not solicit a member of the public when the lawyer has been told by that person or someone acting on the person's behalf that he or she does not want to receive communications from the lawyer.

7.5. A lawyer who advertises for or solicits clients through another person shall be as responsible for that person's representations to and dealings with potential clients as if the lawyer acted personally.

Comment

Access to the legal system is essential to the exercise of fundamental rights, particularly those rights relating to personal autonomy, freedom of expression, counsel, due process, and equal protection of the laws. Yet members of the public are frequently unaware of their need for legal assistance and of its availability. It is therefore important for lawyers to provide members of the public with information regarding the availability of lawyers to serve them, the ways in which legal services can be useful, and the costs of legal services. Lawyers are therefore encouraged to advertise and to solicit clients, subject only to restrictions relating to false and misleading representations, harassment, violation of reasonable time and place regulations, and inducing violations by others of contractual or other legal obligations.

The controversial issues surrounding advertising will more than likely be before the Wyoming Bar Association again in the near future. It is for this reason that the survey reported herein was undertaken. A questionnaire which dealt with the major issues of advertising legal services was mailed to members of the Wyoming Bar Association who have Wyoming addresses and to a sample of randomly selected Wyoming residents. Following a brief discussion of the background of legal service advertising the survey methodology and findings will be presented.

I. BACKGROUND

A. *The Bates Decision*

The ability of individual states to restrict the advertising of legal services was dramatically limited by the United States Supreme Court in the landmark decision of *Bates v. State Bar of Arizona*.⁴ The *Bates* court held that the public's interest in maintaining the free flow of information outweighed the state bar association's justifications for prohibition of advertising. The bar association's justifications which were rejected by the Court included the following: (1) Advertising would have an adverse effect on professionalism because it would cause commercialism, erode the client's trust in his attorney, and affect the attorney's reputation in the community.⁵ (2) Attorney advertising would be inherently misleading because lawyers' services are too unique and individual to allow comparison by consumers, clients don't know their exact legal needs until they consult a lawyer and irrelevant factors are likely to be emphasized in advertisements.⁶ (3) Advertising of legal services would adversely affect the administration of justice by stirring up groundless litigation.⁷ (4) Undesirable economic effects such as increased fees and added expenses would be created by legal advertising and would pose a barrier for young attorneys entering the profession.⁸ (5) Advertising would adversely affect the quality of legal services because undesirable packaging of services at a set price would result.⁹ (6) Because of their inability to assess the quality of legal services consumers would

4. 433 U.S. 350 (1977).

5. *Id.* at 368.

6. *Id.* at 372-73.

7. *Id.* at 375.

8. *Id.* at 377-78.

9. *Id.* at 378.

be susceptible to deceptive advertising.¹⁰ Following a thorough analysis and discussion of the bar association's arguments, the Court stated "In sum, we are not persuaded that any of the proffered justifications rise to the level of an acceptable reason for the suppression of all advertising by attorneys."¹¹

The Court specifically stated, however, that its opinion did not totally foreclose state regulation of lawyer advertising.¹² State bar associations may reasonably restrict the time, place and manner of advertising, false, deceptive or misleading advertisements, or advertisements concerning illegal transactions.¹³ The Court's holding was narrow; it said that a state may not "prevent the publication in a newspaper of . . . truthful advertisement concerning the availability and terms of routine legal services."¹⁴

B. The Code of Professional Responsibility

Anticipating the decision in *Bates*, the ABA established a task force¹⁵ which produced two proposals to amend canon two of the Code.¹⁶ Proposal A, the most restrictive, listed the specific types of information which could be provided in lawyer advertising.¹⁷ Proposal B was much more liberal in allowing publication of all information which was not "false, fraudulent, misleading or deceptive."¹⁸ It only provided guidelines to aid state bar associations in determining what would constitute improper advertisement. Both proposals were circulated to the state associations and the individual states were free to adopt, amend or reject either or both proposals as they chose. Proposal A was adopted as DR 2-101 of the ABA Model Code of Professional Responsibility as a suggested model.

The Wyoming Bar Association followed the ABA by adopting what is in substance a Proposal A rule.¹⁹ One commentator has criticized the ABA and states such as Wyoming who

10. *Id.* at 379.

11. *Id.*

12. *Id.* at 383.

13. *Id.* at 383-84.

14. *Id.* at 384.

15. *Supreme Court Holds Lawyers May Advertise*, 63 A.B.A.J. 1093, 1097 (1977).

16. ANDREWS, BIRTH OF A SALESMAN: LAWYER ADVERTISING AND SOLICITATION 91 (1980).

17. *Id.* at 93.

18. *Id.*

19. *Proceedings of the Wyoming State Bar Convention, 1977*, 13 LAND & WATER L. REV. 653, 659-67 (1978).

have adopted Proposal A as giving "a grudging response" to the *Bates* decision.²⁰ He stated "Even if that version could withstand constitutional scrutiny, it is certainly not openly responsive to the public's interest in the full, free flow of information, as expressed by the Supreme Court."²¹ As originally written and adopted by the ABA, Proposal A permitted advertising on radio but excluded television. In August, 1978, the ABA amended canon two also making television a permissible advertising media.²² Although most states included the amendments in their rules, Wyoming still follows the original version of Proposal A, specifically allowing radio, but not television advertising.²³

C. Previous Attitudinal Studies

Several surveys have been conducted to determine both professional and consumer attitudes toward legal advertising.

Attorney Attitudes. Similar findings resulted from each of five lawyer attitudinal surveys. The first study was conducted in Ohio prior to the *Bates* decision.²⁴ The general conclusion reached from the results of the survey was that "the majority

20. Shador, *The Impact of Advertising and Specialization on Professional Responsibility*, 61 CHI. B. REC. 324, 325 (1980).

21. *Id.*

22. On August 9, 1978, the ABA House of Delegates approved the following amendments to Canon 2 of the Code of Professional Responsibility. (Additions are in italics):
EC 2-8

Selection of a lawyer by a layperson should be made on an informed basis. Advice and recommendation of third parties—relatives, friends, acquaintances, business associates, or other lawyers—and disclosure of relevant information about the lawyer and his practice may be helpful. A layperson is best served if the recommendation is disinterested and informed. In order that the recommendation be disinterested, a lawyer should not seek to influence another to recommend his employment. A lawyer should not compensate another person for recommending him, for influencing a prospective client to employ him, or to encourage future recommendations. Advertisements and public communications, whether in law lists, telephone directories, newspapers, other forms of print media, *television or radio*, should be formulated to convey only information that is necessary to make an appropriate selection. . .

DR 2-101(B)

In order to facilitate the process of informed selection of a lawyer by potential consumers of legal services, a lawyer may publish or broadcast, subject to DR 2-103, the following information in print media distributed or over *television or radio* broadcasted in the geographic area or areas in which the lawyer resides or maintains offices or in which a significant part of the lawyer's clientele resides, provided that the information disclosed by the lawyer in such publication or broadcast complies with DR 2-101(A), and is presented in a dignified manner. . .

DR 2-101(D)

If the advertisement is communicated to the public over television or radio, it shall be prerecorded, approved for broadcast by the lawyer, and a recording of the actual transmission shall be retained by the lawyer.

23. Andrews, *supra* note 16, at 144-45.

24. Shimp, *Ohio Lawyers' Attitudes Toward Legal Service Advertising*, 4 OHIO N.U.L. REV. 576 (1977).

of Ohio attorneys are opposed to legal service advertising."²⁵ More specifically the study indicated that:

1. Ohio attorneys believe that existing informational sources are inadequate, but they also feel that the lawyer-client relationship is personal and unique and advertising is an inappropriate means of consummating the relationship.
2. The majority of Ohio attorneys strongly reject the claim that ethical canons prohibiting advertising are protectionist in nature and anti-competitive. But a plurality of respondents do feel that advertising, if implemented, will favor large firms to the detriment of small practices.
3. Although a slight majority believe advertising will increase the demand for legal services, a large majority of Ohio attorneys do not believe that advertising will augment employment opportunities in the profession.
4. Ohio attorneys do not feel that advertising will force prices of legal services downward nor do they believe that advertising will improve the quality of those services.
5. A large percentage of Ohio attorneys believe that advertising would provide potential clients with useful information and heighten the public's understanding of when legal assistance is needed. An even greater percentage do not feel that this information will assist potential clients in selecting a lawyer.
6. The majority of respondents feel that public confidence in the legal profession will be impaired by advertising and that the public would be confused by the information contained in legal service ads and not regard it as credible.
7. A large majority of Ohio attorneys apparently fear that other lawyers will engage in deceptive and misleading advertising practices. Most respondents believe stringent regulations will have to be imposed to prevent such practices.

²⁵ *Id.* at 592.

8. According to the majority view, areas of specialization and qualifications should be permitted in advertising and price information should be restricted.
9. Yellow pages and law directories are regarded as acceptable media for legal service ads, but print media, law journals, and electronic media, particularly, are considered inappropriate.
10. The dominant view of Ohio attorneys is that in the eventuality of advertising, ads should be placed by bar associations rather than by individual lawyers or law firms.
11. The majority of Ohio attorneys do not welcome advertising, and they feel they will be able to maintain their present level of success without advertising.²⁶

The author concluded that a large majority of Ohio attorneys would oppose attempts to relax the ethical canons restricting advertising.²⁷

Shortly after the *Bates* decision was announced, the ABA conducted two random telephone surveys of its members. The first ABA poll in August, 1977, consisted of 602 interviews.²⁸ Briefly summarized, the findings indicated that 46% of those polled approved of the *Bates* decision and 44% disapproved.²⁹ Of the attorneys earning less than \$50,000 per year most approved³⁰ while a majority of those living in population centers less than 250,000 disapproved.³¹ There was also found to be a positive correlation between age and disapproval³² (older attorneys expressed a stronger disapproval). Most of the attorneys polled believed that advertising would mislead the public and would not result in competitive pricing.

26. *Id.* at 592-93.

27. *Id.* at 593.

28. *Law Poll*, 63 A.B.A.J. 1541, 1541 (1977).

29. *Id.* at 1542.

30. *Id.*

31. *Id.*

32. *Id.*

The second survey, conducted less than a year later, found that only 3% of the attorneys polled had advertised in the nine months immediately following the *Bates* decision.³³ Of those advertising, most advertised in the yellow pages or newspapers. While a few used magazines or radios, none had used television.³⁴ Approximately 9% expressed an intent to advertise in the future.³⁵

Two studies have been conducted to assess the attitudes of private practitioners in Iowa. The first, in the fall of 1977, concluded that "Iowa lawyers did not have nearly as negative an attitude toward legal service advertising as the other literature indicated."³⁶ In addition, the results of the study indicated no significant relationship between attitudes toward legal advertising and length of practice or area of specialization.³⁷ However, there was a correlation between the attitudes and size of firm.³⁸ As the size of the firm increased the attitudes toward advertising became less adverse.

The second study attempted to parallel the first and to determine if there was an attitude change in the intervening year.³⁹ It revealed that the general attitude of Iowa lawyers toward advertising was still negative although not as "highly negative."⁴⁰ The attitudes differed significantly based on the number of years in practice and the size of the community: the longer the years in practice, the more negative the attitude, and the larger the city, the less negative the attitude.⁴¹ As with the earlier study, the area of specialization appeared to have no effect on attitude.⁴²

The five studies viewed together indicate that the lawyers surveyed are not as negative as had been expected by the surveyors, but still personally preferred not to engage in legal advertising themselves.

33. *Law Poll*, 64 A.B.A.J. 673, 673 (1978).

34. *Id.* at 674.

35. *Id.*

36. Cavanaugh, Advertising in the Legal Profession: An Attitudinal Survey of Attorneys in Iowa (unpublished graduate business paper), cited in Comment, *Legal Advertising—An Attitudinal Study of Iowa's Private Practitioners*, 28 DRAKE L. REV. 473, 480 (1978-1979).

37. *Id.* at 480-81.

38. *Id.* at 480.

39. *Id.* at 483.

40. *Id.* at 490.

41. *Id.*

42. *Id.*

Consumer Attitudes. A number of surveys have also been made to assess consumer attitudes toward legal advertising. Two of the earliest surveys which studied consumer attitudes toward advertising were conducted by state bar associations. The Ohio State Bar Association found that in a random sampling of 250 adults, by a 6 to 1 margin those surveyed liked, rather than disliked, the bar's advertising.⁴³ In addition the survey revealed that there was a decline in consumers' negative attitudes toward lawyers during the time the advertising campaign was run.⁴⁴ The Illinois State Bar Association also instituted a program to promote selected legal services and to improve the consumer image of Illinois bar members.⁴⁵ The three week newspaper, radio and television advertising campaign was designed to encourage consumers to see an attorney to have wills prepared. The results of the campaign were impressive. The consumers studied had exceptionally high recall and comprehension rates and exhibited a positive effect in their confidence in lawyers in general.⁴⁶

A third survey indicated that consumers feel that legal advertising will aid them in their decision-making process because they desire more information when choosing attorneys.⁴⁷ Consumers were dissatisfied with previous attorney selections which were made with limited information. Forty-eight percent of the consumers surveyed who had previously employed an attorney said they would have liked to have been able to make a choice based on additional information.⁴⁸

Two other studies were designed to compare consumer and attorney attitudes toward legal advertising. One study, which used hypothetical advertisements, showed that potential clients had more positive views towards the advertisements than did lawyers.⁴⁹ The consumers viewed the advertisements as more believable, clearer, more important, more helpful, more convincing, more imaginative and generally more

43. This study was part of an evaluation of two television commercials. *Ohio State Bar Association Consumer Awareness and Attitude Study Wave III, April 1979*, prepared by the Marketing Research Dept., Fahlgren & Ferriss, Inc., May 10, 1979, #7162.

44. *Id.* at 4.

45. *Illinois Bar Tests Legal Services Ads*, ED. & PUBLISHER, Jan. 14, 1978, at 20.

46. *Id.* at 22.

47. Smith & Meyer, *Attorney Advertising: A Consumer Perspective*, 44 J. OF MKT. 56, 56-63 (1980).

48. *Id.*

49. Dyer & Shimp, *Reactions to Legal Advertising*, 20 J. OF ADVERTISING RESEARCH 43 (1980).

likeable than did the lawyers.⁵⁰ The survey also tended to indicate that consumers are capable of evaluating legal services notwithstanding attorneys' arguments that the services are too important, sophisticated and varied in quality to be accurately evaluated by consumers.⁵¹ The attitude differences were confirmed by a study conducted in the metro Detroit area.⁵² Almost twice as many consumers as lawyers thought that legal advertising would be truthful, but they also believed that advertising would increase the cost of legal services.⁵³ Consumers were less likely than lawyers to believe that advertising would lower the quality of professional services.⁵⁴

These studies viewed together tend to support two conclusions: (1) Attorneys' attitudes toward advertising vary with their length of time in practice and the size of the firm and community in which they practice, and (2) attorneys and consumers have very different attitudes toward legal advertising. The survey reported in the next sections of this article attempts to determine if these conclusions hold true in Wyoming.

II. THE SURVEY METHODS

In an attempt to determine the attitudes of Wyoming attorneys and consumers toward legal advertising and to compare the attitudes of the two groups, a questionnaire survey was sent to 910 Wyoming attorneys and 1000 randomly selected Wyoming residents. The questionnaire was constructed to include questions pertaining to the major issues in the controversy over legal advertising. The first twenty questions sent to the attorneys and consumers were identical. Both groups were questioned as to their (1) general philosophical attitude toward legal advertising, (2) opinions as to the effects of advertising, and (3) evaluation of the present situation. The second part of the attorneys' questionnaire asked for personal characteristics of the responding attorney such as length of time in practice, areas of specialization, size of firm, average

50. *Id.* at 46.

51. *Id.*

52. Bernacchi & Kono, *The Perceived Effects of Professional Service Advertising and Attitudes Toward Its Regulation* (unpublished paper presented at the Midwest Business Conference, Chicago, Ill. 1978).

53. *Id.* at 2.

54. *Id.*

yearly income, and size of community. In addition, the attorneys were asked if they had advertised, were planning to advertise and what effect advertising would have on them personally. The second part of the consumers' questionnaire included questions regarding personal characteristics such as sex, income level and age. Consumers were also asked if they had used legal services recently, if they were satisfied, if they knew how to find a lawyer and what was the general reputation of lawyers in their community.

Of the 910 questionnaires sent to the Wyoming attorneys, 401 useable responses were received. The universe was limited to attorneys who were members of the Wyoming Bar Association and who had Wyoming addresses. The 1000 consumers were randomly selected from Wyoming telephone books. An attempt was made to have a geographic distribution of questionnaires that reflected the latest census data on the state of Wyoming. Of the 1000 questionnaires mailed, 186 useable questionnaires were returned.

Likert-scale questions were used to develop attitudinal scores which could be used to compare the responses of the survey segments. Statements were made concerning legal advertising to which the participants were requested to select one of the following seven responses:

Strongly	Moderately	Slightly	No	Slightly	Moderately	Strongly
Agree	Agree	Agree	Opinion	Disagree	Disagree	Disagree

Depending upon how the statement was worded, selection of one of the responses would reflect a positive or negative attitude toward legal advertising. In the second part of the surveys, open-ended or essay type questions were also included. Attorneys were asked why they had never used legal service advertising and both groups were asked to make general comments.

The questionnaire was mailed the first of July, 1981 with self-addressed stamped envelopes for convenience in responding. All questionnaires received by the fifth of August, 1981, were included in the data analysis. The responses were coded in a form suitable for computer processing. The computer program, the Statistical Package for Social Sciences,⁵⁵ was

55. NIE, HULL, JENKINS, STEINBRENNER, & BENT, STATISTICAL PACKAGE FOR THE SOCIAL SCIENCES (2d ed. 1975).

employed for statistical analysis. The attitude scores were condensed into the broad categories of "agree" and "disagree" to facilitate cross-tabulation.

III. LIMITATIONS

The findings of all surveys are subject to limitations. This survey is no exception even though much attention was devoted to the questionnaire design, administration and analysis. Most limitations on survey data can be categorized as relating to either validity or reliability problems. Validity refers to whether the survey actually measures what it purports to measure. Reliability refers to the consistency and ability to generalize the results of the measures. The following discussion presents some of the validity and reliability limitations associated with this study of consumer and attorney attitudes in Wyoming.

Validity Limitations. One of the limitations of this survey is its ability to measure attitudes. One might argue that it is difficult to measure attitudes (either consumer or attorney) toward advertising of legal services unless such advertising is familiar to the respondent. That is, attitudes toward a specific advertisement (attorney, price, etc.) can be measured more accurately than attitudes toward the more vague and abstract concept of "attorney advertising". Also prior knowledge and experiences might affect some attitudes causing consumers and attorneys who have experienced attorney advertising to possess different attitudes than those who have not. These factors were not accounted for in the present study.

A few attorney comments indicated a need to define questionnaire terms more fully. Attorneys were not sure what media (radio, television, newspapers, etc.) were implied when the questionnaire referred to "advertising". Some attorneys felt the questions were frequently leading, vague, or poorly stated. Consumers expressed virtually no comments or problems with the questions. Also consumers in general seemed to be able to accept and respond to the questions more readily than attorneys. An additional validity problem is the possibility of different respondents placing different interpretations on both questions and answers.

Reliability Limitations. A misconception in judging the reliability of survey data is to assume that sample size is directly related to the total size of the universe population. The sample size necessary for estimating the proportion of consumers and lawyers who have the given characteristic of agreeing or disagreeing with a particular attitudinal statement is not directly influenced by either the population of Wyoming or the number of Wyoming Bar members. The target sample size for both groups was 200 respondents. The 401 useable attorney responses far exceeded this target and the 186 useable consumer responses were only slightly below the desired sample size. The sample size required for an estimation of the proportion of consumers or attorneys (the size is the same) who possess the characteristic of agreeing (or disagreeing) with an attitudinal statement is 96 respondents. This sample size would allow one to be 95 percent confident that the estimated proportion is within 10 percent of the universe population proportion.⁵⁶ The sample sizes in the present survey exceed those necessary for generalizing to the total populations. However, because of assurances that responses would be treated confidentially there was no check to see if respondents differed significantly from nonrespondents. This is an important limitation on the reliability of the results.

Another important limitation on the reliability of the results stems from the purpose of the study. The study was designed to investigate Wyoming consumer and attorney attitudes and can not be generalized to other states or regions. The ability to generalize the consumer responses to the state of Wyoming seems to be fairly good because of the wide geographic, age, sex and income distribution of consumer respondents.⁵⁷ The distribution of attorney responses is skewed toward those making less than \$60,000, who are private practitioners or in small firms with less than 15 years of experience.

56. COCHRAN, *SAMPLING TECHNIQUES* 74 (2d ed. 1963).

A maximum population variance was assumed, i.e., that 50% of attorneys and consumers would agree with the statements and 50% would disagree.

57. The sex, age and income distributions of consumer respondents are given later in this paper. The geographic distribution of consumer respondents was as follows: 31 Casper; 28 Cheyenne; 14 Sheridan; 10 Lander; 9 Laramie and Green River; 8 Riverton and Cody; 7 Gillette; 5 Buffalo and Douglas; 4 Powell and Torrington; 3 Rawlins, Wheatland, and Lyman; 2 Newcastle, Saratoga, Lusk, Shoshoni, Basin, Worland, Evanston; 1 Hulett, Clearmont, Upton, Sinclair, Elk Mountain, Hanna, Glenrock, Glendo, Pine Bluffs, Pavillion, Jeffrey City, Deaver, Lovell, Lingle, Ft. Laramie, Sundance, Ten Sleep, Pinedale, Mountain View, Kemmerer, and Hudson.

In spite of these limitations on the validity and reliability of this survey, the authors feel it offers a useful and high quality overview of the attitudes of Wyoming consumers and attorneys toward advertising.

IV. FINDINGS

The survey results are presented in three general categories. First, attorney responses to the first twenty questions in Part I of the questionnaire will be compared with consumer responses. Second, the attorney personal characteristics will be compared with attitude responses from Part I of the questionnaire. Third, consumer personal characteristics and general attitudes of consumers regarding Wyoming attorneys will be discussed.

A. Attorney-Consumer Attitudes Compared

Although the twenty questions in Part I of the questionnaire were placed in a random order, they will be discussed here in three groups—a) philosophical views, b) effects of advertising and c) evaluations of the present situation. Following the discussion of the general conclusions and interpretations in each section, the relevant statements are presented in the Likert statement format in which they appeared on the questionnaire. Each statement is numbered as it was on the questionnaire. The responses to each statement are provided as a percent of the total sample in each category of attorneys and consumers. A cross tabulation⁵⁸ was performed to compare the attorney attitudes with the consumer attitudes. The chi-square test was used to analyze the cross tabulation to discover whether a significant difference existed between the responses of each category.⁵⁹

58. Cross tabulation involves a two-way table where one classification is broken down in terms of another.

59. The chi-square test determines if the distribution of responses in the table of actual cross tabulations varies significantly from the distribution of responses that could have occurred simply by chance. The computer program used for data analysis in this study automatically calculates the chi-square statistic for each cross tabulation. The results of this calculation are expressed as a probability that the actual distribution occurred by chance as opposed to occurring due to some systematic relationship among the variables. Thus, a .99 probability indicates that there is nearly a 100% surety that the cross tabulations distribution occurred by chance rather than as a result of variable relationships. Conversely a .00 probability indicates nearly a 100% assurance that the distribution reflects a systematic relationship among the variables. For this study if the probability of the distribution occurring by chance was a .05 or lower, it was said that a significant relationship among the variables was present.

Philosophical Views. Responses to five statements which attempted to bring out fundamental attitudes which favor or oppose legal advertising indicate a considerable diversity of opinion between attorneys and consumers. The responses to three out of the five statements exhibit a statistically significant difference.⁶⁰ Nearly 90% of the consumers agreed that attorneys should be allowed to advertise, but only a little over half the attorneys agreed. While many attorneys (48.1%) are apparently reluctant to endorse advertising because they believe advertising restrictions are necessary to protect the public, according to this survey, the public does not feel such protection is needed. Attorneys and consumers also differed in their opinions of attorneys who do advertise. A large majority of the consumers surveyed did not indicate a bias against lawyers who advertise, but almost half of the responding lawyers did not believe that an attorney who advertises is just as good as one who does not.

Although there was still a difference of opinion, consumers and lawyers did not significantly disagree in their responses to the statement "The attorney-client relationship is personal and should not be the result of advertising." A plurality of lawyers (44.1%) agreed with the statement (38.7% disagreed), but a plurality of consumers (48.3%) disagreed with the statement (30.7% agreed). Even though consumers overwhelmingly agreed that attorneys should be allowed to advertise (statement one), a large number evidently felt that the professional relationship should not result from advertising alone. Another area of basic agreement between attorneys and consumers was with the concept that it is difficult to advertise the competence of an attorney and the quality of the legal services offered.

Statement: 1. Attorneys should be allowed to advertise.

Responses:

Attorneys		Consumers
20.3%	Strongly Agree	47.8%
17.5%	Moderately Agree	28.0%
17.8%	Slightly Agree	14.0%
4.3%	No Opinion	2.7%
8.8%	Slightly Disagree	1.6%
14.0%	Moderately Disagree	1.6%
17.3%	Strongly Disagree	4.3%

⁶⁰. *Id.*

Statement: 13. Restrictions on advertising by attorneys are necessary to protect the public.

Responses:

Attorneys		Consumers
20.3%	Strongly Agree	6.2%
16.2%	Moderately Agree	3.4%
11.6%	Slightly Agree	5.6%
11.4%	No Opinion	11.3%
17.0%	Slightly Disagree	16.9%
9.9%	Moderately Disagree	18.1%
13.7%	Strongly Disagree	38.4%

Statement: 5. An attorney who advertises is just as good as one who doesn't.

Responses:

Attorneys		Consumers
8.1%	Strongly Agree	39.5%
7.3%	Moderately Agree	17.8%
9.6%	Slightly Agree	8.6%
29.5%	No Opinion	17.3%
13.1%	Slightly Disagree	5.4%
13.6%	Moderately Disagree	3.2%
18.7%	Strongly Disagree	8.1%

Statement: 14. The attorney-client relationship is personal and should not be the result of advertising.

Responses:

Attorneys		Consumers
21.3%	Strongly Agree	14.8%
11.0%	Moderately Agree	8.5%
11.8%	Slightly Agree	7.4%
17.2%	No Opinion	21.0%
15.6%	Slightly Disagree	14.2%
10.5%	Moderately Disagree	12.5%
12.6%	Strongly Disagree	21.6%

Statement: 12. It is difficult to advertise the competence and quality of an attorney's services.

Responses:

Attorneys		Consumers
74.2%	Strongly Agree	35.4%
16.9%	Moderately Agree	24.7%
4.5%	Slightly Agree	15.7%
1.0%	No Opinion	6.2%
1.3%	Slightly Disagree	5.6%
.5%	Moderately Disagree	6.7%
1.5%	Strongly Disagree	5.6%

Effects of Advertising. Eleven of the twenty questions in Part I were concerned with the perceived effects of advertising. Statements regarding effects on clients, legal fees, the image of the profession and new lawyers were all included in the survey. As with the previous group of statements, attorneys

and consumers again disagree with each other. There was a statistically significant difference of opinion on over half the statements. Probably the most important difference lies in the perceptions of the effects advertising would have on the public image of attorneys. The majority of attorneys (56.8%) agreed with the statement "Advertising by attorneys would create a bad public image for the profession." In contrast, nearly 80% of the consumers disagreed with the statement. Since the image of the profession *as viewed by the public (consumers)* is at issue here, it can be argued that the consumer response is the most significant. The consumer responses indicate that the legal profession may be misperceiving the effect legal advertising will have on public image.

Over eighty percent of the consumers agreed with the statements "Advertising would make the public more aware of the services offered by attorneys," and "Advertising could help clients make more informed choices among attorneys." Again, there was a wide difference of opinion between the responses of consumers and lawyers. Fifty to sixty percent of the responding attorneys disagreed with each of these statements. Since the statements relate to perceived effects on consumers, it can again be argued that consumers' responses are more significant and should be given more weight or consideration.

Lawyers and consumers disagreed in their responses to four other statements in this section although the differences were not as great as with the three statements discussed immediately above. A majority of consumers agreed that "Advertising by attorneys would increase the kinds of services offered," and "Advertising by attorneys would improve the quality of services offered to clients," while a majority of the lawyers disagreed with both statements. The differences in attitudes, although still present, are very small with regard to the following statements. A majority of consumers, but only a plurality of lawyers disagreed with the statement "Advertising by attorneys would raise client expectations and result in greater client dissatisfaction." Lawyers clearly disagreed with the statement "Advertising would decrease some of the criticism of the legal profession." Consumers appeared to have

no definite opinion about this statement; 48.9% agreed while 33.1% disagreed.

A majority of both lawyers and consumers agreed that: (1) Advertising costs would be passed on to consumers as higher prices, (2) if fees were advertised the public would not necessarily pick the lowest priced attorney, and (3) new lawyers would have a greater opportunity to begin practice because of advertising. Both groups basically disagreed that "Advertising would stir up unnecessary legal actions (suits)."

Statement: 8. Advertising by attorneys would create a bad public image for the profession.

Responses:

Attorneys		Consumers
20.5%	Strongly Agree	6.7%
19.7%	Moderately Agree	2.8%
16.7%	Slightly Agree	6.7%
8.3%	No Opinion	4.5%
14.9%	Slightly Disagree	13.5%
11.6%	Moderately Disagree	25.3%
8.3%	Strongly Disagree	40.4%

Statement: 2. Advertising would make the public more aware of the services offered by attorneys.

Responses:

Attorneys		Consumers
12.3%	Strongly Agree	47.8%
14.8%	Moderately Agree	29.6%
22.8%	Slightly Agree	12.4%
7.8%	No Opinion	2.2%
12.0%	Slightly Disagree	.5%
13.5%	Moderately Disagree	2.7%
16.8%	Strongly Disagree	4.8%

Statement: 3. Advertising could help clients make more informed choices among attorneys.

Responses:

Attorneys		Consumers
7.0%	Strongly Agree	46.2%
11.3%	Moderately Agree	19.4%
14.3%	Slightly Agree	17.2%
3.3%	No Opinion	3.2%
13.8%	Slightly Disagree	4.8%
19.6%	Moderately Disagree	3.8%
30.7%	Strongly Disagree	5.4%

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Statement: 19. Advertising by attorneys would increase the kinds of services offered.

Responses:

Attorneys		Consumers
2.5%	Strongly Agree	16.2%
3.3%	Moderately Agree	23.8%
8.5%	Slightly Agree	19.5%
12.8%	No Opinion	17.3%
16.0%	Slightly Disagree	9.2%
26.3%	Moderately Disagree	8.1%
30.6%	Strongly Disagree	5.9%

Statement: 18. Advertising by attorneys would improve the quality of services given to clients.

Responses:

Attorneys		Consumers
.8%	Strongly Agree	17.3%
4.0%	Moderately Agree	25.4%
6.5%	Slightly Agree	17.8%
11.3%	No Opinion	12.4%
16.8%	Slightly Disagree	13.0%
22.6%	Moderately Disagree	6.5%
38.1%	Strongly Disagree	7.6%

Statement: 16. Advertising by attorneys would raise client expectations and result in greater client dissatisfaction.

Responses:

Attorneys		Consumers
5.7%	Strongly Agree	5.4%
10.0%	Moderately Agree	4.9%
16.5%	Slightly Agree	10.3%
25.7%	No Opinion	15.8%
19.8%	Slightly Disagree	28.3%
13.5%	Moderately Disagree	22.3%
8.8%	Strongly Disagree	13.0%

Statement: 15. Advertising would decrease some of the criticism of the legal profession.

Responses:

Attorneys		Consumers
.5%	Strongly Agree	12.4%
4.5%	Moderately Agree	16.9%
13.1%	Slightly Agree	19.7%
18.4%	No Opinion	18.0%
14.6%	Slightly Disagree	12.9%
19.2%	Moderately Disagree	10.7%
29.5%	Strongly Disagree	9.6%

Statement: 6. Advertising costs would be passed on to consumers as higher prices.

Responses:

Attorneys		Consumers
32.2%	Strongly Agree	27.4%
20.9%	Moderately Agree	16.1%

14.6%	Slightly Agree	15.1%
13.8%	No Opinion	9.1%
9.5%	Slightly Disagree	9.1%
5.3%	Moderately Disagree	10.2%
3.8%	Strongly Disagree	12.9%

Statement: 9. If fees were advertised the public would not necessarily pick the lowest priced attorney.

Responses:

Attorneys		Consumers
17.7%	Strongly Agree	29.5%
25.6%	Moderately Agree	38.1%
23.8%	Slightly Agree	17.0%
16.5%	No Opinion	4.5%
5.6%	Slightly Disagree	4.5%
6.3%	Moderately Disagree	2.3%
4.6%	Strongly Disagree	4.0%

Statement: 20. New lawyers would have a greater opportunity to begin practice because of advertising.

Responses:

Attorneys		Consumers
13.2%	Strongly Agree	35.7%
21.2%	Moderately Agree	25.9%
26.2%	Slightly Agree	22.2%
9.2%	No Opinion	9.7%
10.2%	Slightly Disagree	5%
8.2%	Moderately Disagree	4.3%
11.5%	Strongly Disagree	1.6%

Statement: 17. Advertising by attorneys would stir up unnecessary legal actions (suits).

Responses:

Attorneys		Consumers
5.5%	Strongly Agree	6.0%
8.0%	Moderately Agree	8.2%
18.2%	Slightly Agree	8.7%
18.2%	No Opinion	14.8%
19.5%	Slightly Disagree	16.9%
15.5%	Moderately Disagree	24.6%
15.0%	Strongly Disagree	20.8%

Evaluations of Present Situation. Four questions attempted to elicit opinions on the present situation including factors such as competition between attorneys, the reasonableness of fees and available information sources for choosing an attorney. Lawyers should be aware that Wyoming consumers are not nearly as satisfied with the present situation as lawyers apparently think they are. For example, the results of this survey indicate that three-fifths of the responding consumers do not consider attorneys' fees to be "generally reasonable." In regard to this issue, it is significant to note

that consumers see a relationship between fees and advertising. First, they believe that the control of advertising lessens competition among attorneys. Second, they believe that restrictions on advertising limit competition and result in higher prices. Additionally, consumers are dissatisfied with existing information sources. They do not agree that yellow pages, friends and referral services alone (and without advertising) provide adequate information to choose an attorney.

On all of these issues (fees, competition and existing information sources), the majority of attorneys disagreed with the consumers. Considering the fact that consumers are the purchasers of legal services, their opinions are of obvious significance. Lawyers should be aware that apparently Wyoming consumers are somewhat dissatisfied with the status quo.

Statement: 10. Attorney's fees are generally reasonable.

Responses:

Attorneys		Consumers
18.2%	Strongly Agree	2.3%
34.2%	Moderately Agree	11.9%
23.3%	Slightly Agree	10.2%
8.9%	No Opinion	15.3%
8.4%	Slightly Disagree	12.4%
4.6%	Moderately Disagree	20.9%
2.5%	Strongly Disagree	27.1%

Statement: 4. The control of advertising lessens competition among attorneys.

Responses:

Attorneys		Consumers
7.3%	Strongly Agree	30.8%
8.6%	Moderately Agree	17.3%
9.6%	Slightly Agree	9.7%
13.9%	No Opinion	11.9%
16.1%	Slightly Disagree	7.6%
16.1%	Moderately Disagree	9.7%
28.5%	Strongly Disagree	13.0%

Statement: 7. Restrictions on advertising limit competition and result in higher prices.

Responses:

Attorneys		Consumers
5.8%	Strongly Agree	27.0%
7.1%	Moderately Agree	21.9%
12.1%	Slightly Agree	15.2%
7.8%	No Opinion	11.2%
15.9%	Slightly Disagree	8.4%

19.4%	Moderately Disagree	7.9%
31.8%	Strongly Disagree	8.4%

Statement: 11. Existing information sources (yellow pages, friends, referral services) provide adequate information to choose an attorney without having advertisements.

Responses:

Attorneys		Consumers
20.5%	Strongly Agree	7.9%
21.3%	Moderately Agree	10.1%
15.9%	Slightly Agree	7.9%
5.3%	No Opinion	4.5%
17.5%	Slightly Disagree	21.3%
10.1%	Moderately Disagree	25.3%
9.4%	Strongly Disagree	23.0%

The survey responses illustrate the vastly different attitudes of consumers and attorneys on a number of fundamental issues. There is disagreement on philosophical views, the effects of advertising and evaluations of the present situation. In the following sections of the article, the attitudes of the responding attorneys and consumers will be compared with selected personal characteristics of the respective groups.

B. Attorney Responses and Personal Characteristics

In order to forecast possible attitude changes, it may be helpful to investigate the personal characteristics of the responding attorneys and to compare these characteristics with the attitude responses. Part II of the attorney questionnaire is discussed in this section of the article. All reported percentages have been adjusted to exclude missing data.⁶¹

There appeared to be a definite correlation between attitudes toward advertising and two personal characteristics: (1) years of practice, and (2) income level. Attorneys in their early years of practice and those with lower incomes are more likely to perceive personal benefits from advertising. They more frequently indicated a positive response to the statements "Advertising my *fees* would be beneficial to me personally" and "Advertising my *services* would be beneficial to me personally." As years of practice and income level increased, the responses became more negative. Attorneys with fewer years of practice and lower incomes also indicated more frequently that they would advertise and would use the less conventional media of newspapers and radio.

61. Not all attorneys answered all questions. Questionnaires which were less than 80% complete were omitted from the results.

Generally, there was little correlation between professional specialties and attitudes toward advertising. However, attorneys practicing in two areas, tax law and domestic law, appeared to be more favorably disposed toward advertising. Most of the specialists in these two areas believed attorneys should be allowed to advertise and expected such advertising to produce benefits for consumers. They indicated that (1) advertising their services would be personally beneficial, (2) they had used legal service advertising, and (3) they intended to use it in the future. It should be noted, however, that only ten attorneys (7 tax and 3 domestic lawyers) in these areas responded.

There was slight correlation between attorneys' attitudes and the size of the population center in which they practice. As the size of the attorneys' communities increased, the belief that existing information for consumers to choose attorneys is inadequate and that new attorneys would benefit from advertising also became more pronounced. (This is of course an easily understood and logical relationship.)

There was no correlation between advertising attitudes and (1) form of practice, (2) ownership of the practice, or (3) familiarity with the ethical considerations regarding advertising. Because of space limitations the large number of cross tabulations between the attorneys' personal characteristics and their attitudes have been omitted and only the percentages giving a particular response to the question or possessing a given personal characteristic are reported.

Statement: 1. I am in favor of furnishing information on the prices I charge to prospective consumers without getting involved in the advertising of my services.

Responses:

Strongly Agree	38.4%
Moderately Agree	21.6%
Slightly Agree	13.1%
No Opinion	10.7%
Slightly Disagree	6.7%
Moderately Disagree	6.4%
Strongly Disagree	3.2%

Statement: 2. Advertising my *fees* would be beneficial to me personally.

Responses:

Strongly Agree	5.9%
Moderately Agree	4.5%
Slightly Agree	10.9%
No Opinion	24.5%
Slightly Disagree	14.4%
Moderately Disagree	16.0%
Strongly Disagree	23.9%

Statement: 3. Advertising my *services* would be beneficial to me personally.

Responses:

Strongly Agree	11.4%
Moderately Agree	10.3%
Slightly Agree	17.2%
No Opinion	14.6%
Slightly Disagree	13.0%
Moderately Disagree	12.7%
Strongly Disagree	20.7%

Statement: 4. I am familiar with the specific ethical (canon 2) considerations regarding advertising (as amended).

Responses:

Strongly Agree	42.9%
Moderately Agree	23.3%
Slightly Agree	17.3%
No Opinion	10.8%
Slightly Disagree	2.6%
Moderately Disagree	1.7%
Strongly Disagree	1.4%

Question: 5. Have you used legal service advertising at any time?

Responses:

Yes	29.3%	No	70.7%
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Question: 6. If yes, which media?

Responses:

11.9% Yellow Pages only	5.1% Yellow Pages & Newspaper
4.2% Newspaper only	41.5% Yellow Pages & Law Directory
0.0% Journal/Magazine	6.0% Yellow Pages, Newspapers & Law Directory
19.5% Law Directory only	11.8% Other Combinations
0.0% Radio only	

Question: 7. If no, why not? (relating to previous question "Have you used legal service advertising at any time?")

Responses:

Since this was an open-ended question it was difficult to neatly categorize the individual remarks. An effort will nevertheless be made to group responses by their similarity, and to note the frequency of the statements thus categorized. By far the most frequent reason for not advertising was that, "It was not necessary to increase or sustain the business."

Typical remarks included: "My work product and reputation

are advertisement enough," and "We have more work than we can handle."

The second most frequent reason given was that the employment situation of particular attorneys made advertising unnecessary or unfeasible. Attorneys serving as justice of the peace, employed by other attorneys or not in private practice indicated that they found it unnecessary to advertise. Attorneys practicing in small communities have refrained from advertising because it is not financially feasible. Several attorneys reported that they just couldn't afford to advertise.

The opinion that advertising is unprofessional was stated as the third most frequent reason for not advertising. Several respondents specifically commented that they would not want to be classified in the same group as attorneys who do advertise. Statements exemplifying such a position included the following: "The ads I see are generally placed by the most incompetent attorneys. Advertising is used only by the young, struggling lawyer, generally the dregs of the legal profession;" "Most good firms don't use it." The view of advertising as unprofessional was summed up by this statement:

If I would have wanted to become involved with image promotion and snapping up the public's dollars, I would have purchased a McDonald's franchise. I simply have a negative gut reaction to advertising.

As a fourth reason for not advertising, many Wyoming attorneys stated that they have had an adverse reaction to the type and method of advertising they have seen. One attorney said:

Based upon media advertising I have observed in cities such as Denver, Los Angeles and Chicago, I feel advertising generally denigrates the legal profession in many respects and has a tendency to mislead consumers with regard to fees, work product and professional competence.

Another was more succinct, "I saw the want ad section of a city daily; the attorneys ads were in the Massage Parlor section."

Rather than answer the specific question asked, many attorneys chose to comment upon their attitudes about advertising in general. Because the authors wish to report the survey results as accurately as possible, these additional responses will be summarized below, regardless of their relevance to the specific question asked.

Thirteen lawyers were concerned about the effect advertising could have on consumers. They felt that advertising misleads the public because there is no adequate way to advertise the qualities which make a good lawyer. However, one attorney stated a personal belief that advertisements have little or no effect on the general populace because lawyers are usually selected by "flipping coins or drawing straws."

One lawyer was adverse to liberalizing advertising regulations because of a concern about increased competition from other states:

The attorneys worried about advertising are primarily in the large cities. If allowed in Wyoming (by Canon or custom) we will have multi-state firms advertising here. These large firms already established do a great deal of work at the present time in Wyoming, from N.Y., etc.

A small number of Wyoming lawyers expressed support for the concept of limited advertising. They are in favor of advertising by an institution such as a bar association. Generally they would support advertising which has an informational purpose, i.e., informing consumers of their rights, or even of advertising particular specialties, but would not condone fee advertisements. Several suggested the use of a lawyer referral service administered by the local or state bar.

Only three of the participating lawyers indicated positive attitudes toward unfettered advertising. One responded as follows:

Advertising that is truthful, fair and tasteful will encourage high volume low cost legal clinics, which will help serve the needs of the poor and low middle income people for routine legal services. This kind of help for the poor and low income will be increasingly necessary

All consumer respondents were asked to rate the reputation of the lawyers in their community. Fifty-four point eight percent rated the reputation as good or excellent. Since 23.5% had "no opinion", only 21.8% felt that the lawyers' reputations were poor or very bad.

Only three questions identified personal characteristics of the consumers. Two-thirds were male, and there was a fairly even distribution among age and income level.

Response Data

1. Have you used the services of a lawyer within the past two years?

Yes	52.2%
No	47.2% (Skip to question 5)

2. Were you satisfied with the lawyer's services?

Very Pleased	16.1%
Satisfied	59.1%
No Opinion	1.1%
Not Satisfied	16.1%
Very Disappointed	7.5%

3. Did you feel the fees charged by the lawyer were reasonable?

Very Reasonable	7.5%
Reasonable	62.4%
No Opinion	6.5%
Unreasonable	20.4%
Very Unreasonable	3.2%

4. Would you use the same lawyer again for other services? (Skip to question 7)

Definitely	23.3%
Probably	47.8%
No Opinion	3.3%
Probably Not	15.6%
Definitely Not	10.0%

5. Have you felt like you needed to consult a lawyer within the past two years?

Definitely	16.3%
Probably	29.1%
No Opinion	5.8%
Probably Not	24.4%
Definitely Not	24.4%

6. Do you know how to find a lawyer if you needed one?

Definitely	49.4%
Probably	34.5%
No Opinion	.%
Probably Not	13.8%
Definitely Not	2.3%

7. What kind of reputation do most lawyers have in your community?

Very Bad	2.2%
Poor	19.6%
No Opinion	23.5%
Good	53.1%
Excellent	1.7%

The following questions are for statistical purposes only and will *never* be associated with individuals themselves.

1. Are you (65.7%) MALE or (33.7%) FEMALE?

2. What is your age?

.6% Under 20	24.0% 31-40	14.5% 51-60
26.3% 21-30	13.4% 41-50	21.2% Over 60

3. What is your approximate income before taxes?

Less than \$9,999	9.4%
\$10,000-\$19,999	27.6%
\$20,000-\$29,999	28.8%
\$30,000-\$39,999	24.1%
\$40,000-\$49,999	5.3%
Over \$50,000	5.7%

Few consumers made comments at the end of their questionnaires. The comments that were received can be grouped into three categories. The largest category consists of those who feel legal fees are too high. Typical statements included: "Fees are four times too high," and "The medical and legal professions are the chief causes of inflation." Some indicated that they were living in a fixed income and could not afford a lawyer even when advice was needed. "Fancy office buildings" were criticized by one social security recipient.

The second largest group of comments exhibited favorable attitudes toward legal advertising. The reasons stated included the following: (1) It would better inform the public and assist them in making choices; (2) Lawyers could inform the public areas where they wish to specialize; (3) Lawyers could offer flat rates for basic services; (4) It would weed out the bad lawyers and make the profession more reputable.

The third largest group of comments exhibited negative attitudes toward legal advertising. One respondent was concerned that the elderly and disadvantaged would be victims if advertising was not regulated. He/she also believed that unnecessary lawsuits would be promoted by advertising. Another respondent stated:

I feel the best way to get a suitable lawyer is by a personal recommendation. Seeing an advertisement would give the lawyer no particular merit. Competence and quality would be impossible to advertise.

Although it was not supported by other consumer comments, one comment raised an interesting proposition.

I believe the law profession needs to become more publicly visible for accountability purposes. They serve the people and should not be able to conceal their dealings behind the guise of confidentiality (locked doors). Hoping not to present a radical viewpoint, there seems to be a growing interest in some sort of open forum legal counseling in which the public could become better educated on legal issues and in which the attorney would be totally accountable to his client and the public for his transaction with his client. Open Forum—Lawyer counseling his client in front of an audience (either lay or professional).

V. SUMMARY AND CONCLUSIONS

With the likelihood that issues surrounding the advertising of legal services will again be before the Wyoming Bar Association, it is important that members of the Wyoming Bar have some feel for attitudes within the profession as well as the attitude of the Wyoming public toward legal advertising. This survey, even with its limitations, represents the best available assessment of such attitudes.

Generally, consumers feel that attorneys should be allowed to advertise and that such advertising would increase their awareness of legal problems and aid them in their choice of an attorney. A slight majority of attorneys feel that advertising should be allowed. Attorneys are divided on the issue of whether such advertising would make the public more aware and attorneys seem to feel that advertising would not help consumer choices.

Consumers, in contrast with attorneys, feel that control of advertising tends to limit competition. Perhaps related to this difference in attitudes is a feeling by consumers that fees are generally unreasonable (attorneys disagree) and that existing

information sources are inadequate (attorneys disagree). Insight into why attorneys don't advertise is provided by the belief of a substantial number of attorneys that an advertising attorney is not as good as a non-advertising attorney and that advertising will create a bad image for the profession. These attorney attitudes came out strongly in both the scaled and the open-ended questions. Consumers, however, are not likely to agree with this rationale for avoiding advertising as they do not characterize advertising attorneys as bad or feel that advertising would create a bad image for the profession.

Consumers also felt that restrictions on advertising were not necessary for their protection and that advertising might even improve the quality of services offered (attorneys disagree). The idea that consumers feel capable of evaluating advertisements is reinforced by strong agreement among consumers that they would not simply pick the lowest priced attorney. Attorneys agreed that price would not always be the primary motivation in choosing an attorney.

What are the implications of these attitudinal differences? Certainly the findings of this study are subject to a number of interpretations, but at least one conclusion seems clear: Attorneys and clients do not always share the same attitudes toward advertising of legal services. The implication of this conclusion is that any decisions regarding the scope and regulation of advertising by attorneys should recognize these differences in attitudes. Decisions on the issue of advertising by attorneys in Wyoming must attempt to consider consumer needs and desires as well as the desires and ethical standards of the profession.