

ATTORNEYS' ADVERTISING COMMISSION (AAC or the Commission) FAQs

- **DO I HAVE TO SEND MY ADVERTISEMENT TO THE ATTORNEYS' ADVERTISING COMMISSION?**

You must only submit advertisements if you request an Advisory Opinion; however, even if you do not request an Advisory Opinion, the advertisement must comply with all advertising Rules and Regulations.

- **WHY SHOULD I SUBMIT AN ADVERTISEMENT FOR AN ADVISORY OPINION?**

See **(SCR 3.130(7.03))**(3). If the AAC issues an advisory opinion that an advertisement complies with the Advertising Rules and Advertising Regulations, you will not be disciplined for any use of that advertisement, unless an advertisement is false, misleading or deceptive, or information provided to the Commission in connection with the submission later becomes false, misleading or deceptive after the Commission has issued its advisory opinion.

- **HOW LONG DOES IT TAKE TO GET AN ADVERTISEMENT REVIEWED?**

Pursuant to **(SCR 3.130(7.03))**, the AAC will review the advertisement and provide an Advisory Opinion regarding compliance with the Rules and Regulations within 30 days of receipt of the submission.

- **HOW DO I SUBMIT AN ADVERTISEMENT FOR AN ADVISORY OPINION?**

Each request for an Advisory Opinion must:

- be made in writing signed by an attorney,
- state the rule number **(SCR 3.130(7.03))** or specifically request an Advisory Opinion,
- specify the type of advertisement(s),
- where and how the advertisement(s) will be used/published, and
- include any supplements further required by applicable Rules and/or Regulations (i.e., substantiation of any claim, verdict or settlement, any monetary award or recovery, or description of the services provided for routine fee(s) as advertised).

Additionally, the submission must include:

- a check for \$75.00 payable to the Kentucky Bar Association, but if the advertisement is more than 100 pages or the individual audio and/or video is longer than 10 minutes in length, an additional filing fee of \$100.00 is required; and
- 3 copies of a fair and accurate representation of the advertisement:
 - For an advertisement that will be published by broadcast media (e.g., radio, television), this means 3 copies of a typed transcript in addition to 3 copies of the audio or video.
 - For a website this means 3 copies of the printed pages or 3 copies of the data disc in continuous Portable Document Format (PDF). If submitted in paper, the pages should be numbered consecutively from beginning to end to assist with the review as violations are often cited by page number.
 - For an electronic advertisement on a website (e.g., Craigslist) or Facebook, 3 copies of the advertisement may be submitted on paper.

Acceptable media includes CD, DVD, or Flash Drive. Multiple video and audio advertisements may be submitted on a single CD, DVD, or Flash Drive, provided the order of the advertisements is clearly marked and each advertisement is saved separately. The video and/or audio advertisement saved on a CD, DVD, or Flash Drive should be saved in a format which permits

downloading for review. See **AAC Regulation No. 11** for more details. Fax or emailed files of the media are not accepted with initial submission of the advertisement.

- **HOW DO I SUBMIT AN ADVERTISEMENT OF A PROMOTIONAL ITEM?**

When submitting a promotional item advertisement (e.g., hat, mug, calendar, pen, T-shirt, etc.), you may submit 3 copies of the actual item, but pictures or drawings, and/or descriptions are permitted.

- **MAY I SUBMIT AN ADVERTISEMENT BY FAX OR EMAIL?**

No. Your advertisement must be accompanied by the filing fee. However, because there is no fee to submit a revised advertisement, you may submit corrections by fax or email. Contact the AAC Paralegal for further information.

- **MAY I OBTAIN PRELIMINARY APPROVAL BEFORE PRODUCING A RADIO OR TELEVISION ADVERTISEMENT?**

Yes. You may receive preliminary approval based upon scripts and storyboards prior to production. However, the preliminary opinion will not cover any elements in the finished advertisement that were not indicated in the scripts and storyboards.

- **DO I HAVE TO SUBMIT A FINAL AUDIO OR VIDEO RECORDING IF I SUBMITTED A TRANSCRIPT FOR PRELIMINARY APPROVAL?**

No. Final submission is only required if you want to receive a Notice of Compliance for the finished advertisement. A preliminary compliance notice for the transcript of an audio or video recording is **NOT** binding on the finished advertisement. There is no additional fee to submit the final audio or video recording for review.

- **HOW CAN I SUBMIT A LIVE RADIO OR TELEVISION PROGRAM FOR AN ADVISORY OPINION?**

You may run a live radio or television program and then submit it for an Advisory Opinion. SCR 3.130(7.03) no longer requires a 30-day waiting period to publish an advertisement when seeking an Advisory Opinion. Of course, the program should comply with the Rules of Professional Conduct and AAC Regulations when aired. Furthermore, if found noncompliant, the advertisement should not be aired again until it is revised and resubmitted.

- **HOW DO I SUBMIT UPDATES TO MY WEBSITE?**

You may submit the entire website or only the new or revised website pages for an Advisory Opinion.

- **HOW DO I SUBMIT AN ADVERTISEMENT DISPLAYED ON FACEBOOK, TWITTER, LINKEDIN OR OTHER SOCIAL MEDIA NETWORKING SITES?**

You may submit the "Information" or "About" page for an Advisory Opinion.

- **DO I HAVE TO CORRECT AND RESUBMIT A NONCOMPLIANT ADVERTISEMENT?**

No. You must only submit advertisements if you request an Advisory Opinion; however, the AAC records will continue to show the advertisement as noncompliant. Moreover, you will not receive a Notice of Compliance for your advertisement, which may be used as a means of defense should a complaint be filed against the lawyer for using the advertisement.

- **HOW DO I RESUBMIT CHANGES TO A NONCOMPLIANT ADVERTISEMENT?**

You may correct a noncompliant advertisement and resubmit it to the AAC without paying the filing fee again.

When resubmitting an advertisement, the cover letter must:

- identify the Advertisement ID number assigned to the advertisement and
- include 1 copy of the corrected advertisement.

If the resubmission is for a radio or television commercial, 1 copy of the revised transcript and 1 CD or DVD or Flash Drive must be resubmitted. If resubmitting a website and changes are required on just a few specific pages, 1 copy of only the changed/corrected pages needs to be resubmitted. If the entire website is resubmitted, it is subject to a complete review again.

Noncompliant advertisements that are corrected and resubmitted are subject to a new 30-day review period. During that time, the corrected advertisement may be used pending receipt of a Notice of Compliance.

- **IF MY ADVERTISEMENT WAS APPROVED, CAN I USE IT IN A DIFFERENT FORMAT?**

An approved advertisement may be used as long as you want, in any format you want, as long as **SCR 3.130(7.10)** is not violated and there are no changes. However, a previously approved advertisement, when used in a different format (such as direct mail), must comply with any requirements of that format (See **SCR 3.130(4.5)**). When using an older previously approved advertisement, the Commission encourages the advertisement be updated to comply with new rule and/or regulation requirements.

Radio and TV advertisements use disclaimers in different ways (e.g., audio vs. visual). If using a previously approved advertisement in a new format, then any earlier Advisory Opinion may not apply, and a new request should be made. When submitting, the cover letter should reference the Advertisement ID number assigned to the previous advertisement.

- **WHAT ARE THE MOST COMMON OVERSIGHTS IN AN ADVERTISEMENT?**

1. "Advertising Material" **[SCR 3.130(4.5)]**
2. Location of firm **[SCR 3.130(7.20)(3)]** and/or **AAC Regulation No. 1(C)**
3. Services may be performed by others **[SCR 3.130(7.20)(5)]**

For additional questions relating to the content of an advertisement, please see the Kentucky Supreme Court's Attorneys' Advertising Rules located [here](#), the Advertising Regulations located [here](#), or contact your Ethics Hotline Representative.

For additional questions relating to how to submit an advertisement for review by the Attorneys' Advertising Commission, please call 502-564-3795 to speak with the Attorneys' Advertising paralegal at the Kentucky Bar Association.

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