

STATEWIDE GRIEVANCE COMMITTEE

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OPINION 95-1

Recent Southern New England Telephone Company ("SNET") yellow page directories for various parts of Connecticut contain in the Guide for Attorneys section, inserts called "SNET Consumer Tips." The Consumer Tips inserts state that "free information" is available for different listed legal issues from a toll free telephone number. Upon dialing the toll free number and entering the four digit code for the indicated topic, one is connected to a recorded message indicating that the free consumer tip was "sponsored" by a particular lawyer or law firm (different lawyers and law offices sponsor the various topics contained in each practice area Consumer Tip). This is followed by a fairly standard message indicating that the recording to follow is for general informational purposes, is not intended to serve as legal advice and that anyone wishing legal advice should consult a lawyer. This in turn is followed by a recorded message describing in general terms the indicated topic, approaches that Connecticut or federal courts take with regard to certain issues, and stages in the legal process. As the Consumer Tips are offered for a number of separate topics, the general information messages vary considerably. Often the final statement is that the issues involved are complex and further consultation with a lawyer is recommended. The informational recording is then followed by a further reminder that the Consumer Tip was sponsored by an indicated lawyer or law firm, the telephone number for that lawyer is given, and the caller is given the option of pressing "zero" on their touch-tone telephone for immediate connection with that lawyer or firm. Several of the recorded messages indicate that the initial telephone call or office visit with the sponsoring lawyer will also be free. A number of them do not.

The Consumer Tips constitute communications concerning a lawyer's services in view of the recorded information indicating that each Consumer Tip is "sponsored" by a lawyer. Accordingly, the printed information contained in the Yellow Pages and the recorded information accessed by dialing the toll free number and the topic code must comply with Rule 7.1 of the Rules of Professional Conduct.

The premise behind the Consumer Tips is that they provide individuals with general information on specific legal topics. The inclusion of the printed statement "Free Information" below each heading implies that all of the information obtained by following the printed directions and the following recorded message will be provided without charge. Those recorded messages which indicate that anyone contacting the sponsoring lawyer will receive a free initial consultation do not violate Rule 7.1 (a). However, if it is not clearly stated in the recorded message that the initial consultation will be free, or that further legal advice provided by the sponsoring lawyer will be provided on a fee-paying basis, these communications will violate Rule 7.1 (a), as there

is an implication from the printed information in the Yellow Pages that all information derived through this consumer service will be free. Conforming all of the recorded messages to comply with this standard is, therefore, required.

The current form of this advertising violates Rule 7.2 (c) of the Rules of Professional Conduct. The Consumer Tips structure is different from traditional Yellow Pages advertising in that an individual calling for a "free" Consumer Tip is likely to believe that SNET has selected the sponsoring lawyer based on specialized expertise in the indicated practice area rather than solely because the sponsoring lawyer was willing to pay a fee. More troubling is that a caller to a Consumer Tips recorded message can be connected more or less automatically to the sponsoring lawyer or law firm. This seems to serve as a further recommendation by SNET of the sponsoring lawyer. In order to comply with Rule 7.2 (c), the initial recorded message must clearly indicate that the sole basis for selection of the sponsorship lawyer was the payment of a fee by that lawyer, and that it is not intended to serve as a recommendation by SNET of any lawyer. With such a preliminary message, the Consumer Tips would not serve as a recommendation by SNET any more than the inclusion of a full-page advertisement by a lawyer in the Yellow Pages would serve as such a recommendation.

The Statewide Grievance Committee acknowledges with appreciation the efforts of the Connecticut Bar Association Committee on Professional Ethics in the formulation of this opinion.
