editorial

Professional Advertising

A further major breach has opened up in the prohibitions on advertising by members of the professions. From October 1 chartered and certified accountants will be permitted to advertise their services. The institutes concerned have reluctantly agreed to the relaxation of the prohibition under pressure from the Monopolies and Mergers Commission. They recognise that "it is difficult to justify a complete ban on practice information being published".

Advertising will only be permitted in the local press, must not contain "knocking copy" regarding other available professional services and must not be misleading. Fee levels may not be advertised and only services general to the profession, rather than just the individual firms' specialisms, may be the subject of the advertisement. Advertising must be "of a style and content appropriate to the profession".

It will be interesting to see how this will work out in practice. Clearly in some areas of their work, eg tax advice, solicitors will now be placed at something of a disadvantage where they are in competition with accountants. Solicitors already experience a relative disadvantage in some areas where competitors such as bank trustee companies are free to advertise. The Law Society clearly prefers to concentrate on corporate advertising of the services of the profession as a whole. This approach led to the much derided "Mr Whatsisname" advertising campaign – though in fairness the current, more factual, campaign seems more effective and appropriate.

It may well be that this move by the accountants will cause further pressure to be applied to the Law Society to permit local advertising by individual solicitors' firms. In our view there are now no sustainable arguments of principle against the Law Society permitting such advertising.

Finance Bill

In last month's editorial we welcomed the "business start-up" scheme announced in the Budget. The recently published Finance Bill, which contains the details of the new relief, shows, however, that the scheme is even more restrictive than was anticipated. The relief is particularly hedged about as regards the investors and businesses which qualify. The investor must hold not more than 30 per cent of the share/loan capital or voting rights of the company and must not be an employee or paid director of the company or be associated with any such persons. The business must be a bona fide new venture and must have been started not more than three years prior to the issue of the shares to the investor. The business must not consist, inter alia, of dealing in goods, commodities, land or financial assets; "service companies" for professional firms are also made non-qualifying.

These conditions would seem to render any investment which would qualify for the relief at least unattractive and very possibly hazardous. The provisions are thus likely to be of little practical use. Hopefully the clauses will be amended into a more realistic form as the Bill is considered in Committee.

More helpfully for small businesses, the existing provisions (s 37, Finance Act 1980) allowing income tax relief to individuals for losses on investments in "qualifying" trading companies are to be extended to give similar relief where the investor is an investment company. This should encourage the formation of more specialist investment trust vehicles for channelling investors' capital into small businesses.

A further helpful development is the extension of consortium loss relief so that consortium members may surrender an appropriate proportion of their losses against the profits of the consortium company; hitherto, surrender was only possible in the opposite direction. This will remove an artificial constraint on this type of business structure.