



By Kassie James

There is little for an Australian plaintiff lawyer to be thankful for. But perhaps we should be grateful for advertising restrictions that prevent us from abandoning all sense and taste and advertising in the same vein as some UK law firms: 'Did the doctor or nurse make you worse? We can get you compensation'; 'Turn your crash to cash'; or (my personal favourite) an ad depicting a woman looking at a sports car saying, 'I've always wanted one of these and now I have had an accident I can get one.' Then, of course, there is the US, where New York attorney Jim ('The Hammer') Shapiro advertised: 'I get money from imbeciles ... I want to get YOU the biggest, fattest cash award I can, as fast as I can, from as many defendants as I can find. Just call me! Day or night, I'll talk to you free.' (Shame he actually lived in Florida ... and had never tried a case.) Classy stuff.

These types of ads deserve taking out and shooting ... but surely we have sufficient taste to differentiate between advertisements that promote the law, lawyers and legal rights in a manner befitting professionals and those that beg for censorship (a hint: if it rhymes or includes your nickname,

particularly one that you share with a WWF wrestler, it probably falls into the latter category).

There is no doubt advertising restrictions hurt plaintiff lawyers, but the restrictions aren't designed to hurt us – that is just a fortunate by-product for Mr Carr et al. The restrictions are designed to limit the number of claims by ensuring that people don't go to lawyers and so

remain ignorant of their legal rights – with a bit of luck a few people with valid claims and serious injuries might miss their (shortened) limitation periods. His Honour Justice Kirby puts it beautifully: 'This is a regulation which specifically singles out and targets the effective access to the courts of ordinary citizens of modest means who otherwise do not know about their rights or are afraid that if they exercise them they will be far too costly.'

Capping damages and imposing thresholds is unpalatable but at least it is overt; reducing claims by stealth – now that's tasteless. ■

**Note:** 1 *APLA Ltd & Ors v Legal Services Commissioner of NSW & Anor* [2004] HCA Trans 373 (5 October 2004) In the High Court of Australia.

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