Expectations and concerns regarding medical advertisements via large commercial medical platform advertising companies: a legal perspective

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Advertising in the medical and legal fields, which are among Korea’s leading professions, has increasingly utilized major advertising platforms such as LawTalk and UNNI—two of the most prominent and contentious platforms in their respective fields. While it is generally unproblematic for professionals like lawyers and doctors to promote public interest through advertising on these commercial platforms, the creation of a profit-driven structure has the potential to undermine their professional ecosystems. This article explores the issues associated with advertising in the medical field through large commercial platforms, drawing on notable examples from the legal and medical fields in Korea. Specifically, we analyze two of the most popular yet controversial platforms in these sectors, LawTalk and UNNI. In Korea, the format and method of advertising are legal as long as they do not involve referring or soliciting clients, thereby making platform advertising lawful when used solely for that purpose. Nevertheless, it is crucial to prevent medical advertising platforms from establishing market monopolies by skirting various profit regulations and laws. In response to these concerns, the Korean Bar Association has prohibited all advertisements by platform companies. The medical community should closely examine the rationale and process behind this decision. Given the significant social influence of large corporate platforms and the unique social responsibilities of the medical and legal professions, future platform advertising should be subject to distinct legal and institutional regulations that differ from those applied to general services.

Keywords: Advertisement; Ethics; Jurisprudence; Lawyers; Medical staff

INTRODUCTION

We live in the era of digital platforms, which have made various aspects of our lives more convenient, including those in the medical and legal domains [1–4]. The increased sharing and accessibility of information have led to better health care and greater access to legal services [5,6]. Law-Talk (Law&Company Co Ltd; https://www.lawtalk.co.kr/) was developed to integrate the legal market into a single, large online platform service [7]. It was created with the goal of providing a platform where customers could easily find a lawyer and receive legal advice. Through LawTalk, users can conveniently access the information needed to resolve legal issues, such as consultations with lawyers. Additionally,
users can view lawyers' profiles, which include their history, cases handled, and fees. Due to these features, the platform became an effective means for individual lawyers to advertise their services. However, as the platform's usage rapidly grew, the Korean Bar Association (KBA) determined that LawTalk's advertising was in violation of the prohibition against partnership principle [8]. Consequently, the KBA amended the existing Advertising Regulation of Attorneys to prevent lawyers affiliated with the KBA from using LawTalk. In response, the company and 60 lawyers filed a constitutional petition, arguing that the KBA's actions infringed upon the lawyers' freedom of expression and work, as well as the property rights of platform companies. In 2022, the Constitutional Court of Korea ruled that this prohibition was unconstitutional [9].

A controversy similar to that involving LawTalk also emerged in the medical field with UNNI (Healing Paper Co Ltd; https://unni.global/), a medical advertising platform that provides information on cosmetic procedures, including plastic surgery and dermatological treatments [10]. The Seoul Central District Court found a doctor guilty of referring a patient through the UNNI platform and receiving a fee for the referral, coordination, and persuasion of the patient [11]. Following this, the platform's revenue model was discontinued, and the Court noted that the legal dispute had been resolved. Despite this, the UNNI platform continues to operate.

The medical field has long been striving to integrate digital healthcare [12–14]. However, the emergence of LawTalk in the legal sector and UNNI in the medical sector has sparked debates over the use of large professional platforms. Courts have ruled that there is no issue with physicians or lawyers using these platforms for self-promotion [9–11,15]. Nevertheless, the courts have taken issue with the practice of these platforms charging professionals to recommend them to potential clients. Specifically, the courts have determined that the exchange of patient referrals for payment between physicians or lawyers and these platforms falls under the category of introductions or referrals prohibited by Article 27 of the Medical Service Act [11,16] and Article 34 of the Attorney-at-Law Act [9,17]. The LawTalk case, which came to light prior to the UNNI controversy, presents several considerations that the medical community must reflect upon.

SOCIAL CONTROVERSY SURROUNDING THE USE OF ADVERTISING PLATFORMS IN THE LEGAL FIELD

Conflicting stances between KBA and platform companies

In 2015 and 2016, the Seoul Bar Association and the KBA declared that the services provided by LawTalk were in violation of Article 34 of the Attorney-at-Law Act [8,17]. Subsequently, they lodged a complaint with the Prosecution Service of Korea. However, the Prosecution Service of Korea concluded the matter with a non-prosecution disposition [8]. Later, in 2020, the Korean Ministry of Justice issued an authoritative interpretation stating that the activities of LawTalk did not contravene Article 34 of the Attorney-at-Law Act [8,17]. As a result, merely advertising on the platform was recognized as a legal activity.

Pursuant to Article 23(2)(vii) of the Attorney-at-Law Act [17], the KBA revised its Advertising Regulation of Attorneys in 2021 [8]. The revision encompassed several prohibitions, including the introduction, referral, or solicitation of lawyers for a fee, the advertising or promotion of legal services, and the offering of free consultations by lawyers. It effectively barred the exchange of benefits such as referral fees, membership fees, subscription fees, and advertising costs, and it also fundamentally restricted the use of legal platforms for such purposes. The central issue at hand was whether the KBA's Advertising Regulation of Attorneys infringed upon the freedom of expression and the right to work. In this context, the regulation could be seen as prohibiting the practice of providing economic incentives for advertising that offers a direct link between lawyers and potential clients.

Therefore, it is challenging to categorize the provision of a platform that connects lawyers and consumers as illegal solely based on the platform's existence. While the platform may derive some economic benefits from this service, it is not readily subject to regulation, as the act of connecting lawyers with consumers does not constitute a reward in itself [9]. This perspective aligns with Article 34 of the Attorney-at-Law Act [17], which implies a direct interaction between lawyers and consumers. The Constitutional Court of Korea's stance is consistent with a ruling by the Supreme Court of Korea, which we will examine later [15]. Advertising is considered part of the protected realm of freedom of expression and is presumed harmless unless it is illegal, false, or deceptive. The premise is that individuals are capa-
ble of discerning their best interests when provided with adequate information about attorneys. The underlying principle is that open communication is the most effective means to this end. In a free market economy, the importance of freedom of expression lies in ensuring that consumers are well-informed, enabling them to make informed decisions. This principle was at the core of the 2003 Hun-ga3 decision [18].

Regarding the Constitutional Court of Korea’s decision on partial unconstitutionality, the positions of the KBA and platform companies diverged. The KBA imposed a fine of approximately KRW 3 million on nine lawyers who had joined LawTalk [8]. As the lawyers and platforms subjected to this disciplinary action are anticipated to lodge protests as a form of objection, the decision on whether to continue advertising through the platform will hinge on the judgment of the Korean Ministry of Justice’s Disciplinary Committee. Should there be dissatisfaction with the outcome, it appears that a definitive resolution will be sought through the court’s ruling, a protracted legal process.

KBA’s disciplinary action and its validity for advertising through the platform

The disciplinary actions of the KBA extend to the realm of professional advertising. While some contend that the KBA’s disciplinary measures are a necessary step to preserve market order, others maintain that such actions may be unconstitutional. The crux of the debate lies in the Advertising Regulation of Attorneys, which essentially prohibits advertising on platforms, potentially infringing upon the Principle of Proportionality. The KBA’s disciplinary action prohibiting platform advertising for its members aligns with the Principle of Proportionality by aiming to curb illegal and unethical business practices by platform companies. Although this regulation does impose certain limitations on the freedom of expression for platform companies and the professional autonomy of attorneys, it also serves to safeguard significant public interests. These include upholding fair market practices and preventing harm to the public’s well-being and health [19,20].

The KBA does not unconditionally ban all internet advertisements. This policy aims to prevent platform companies from creating monopolies in the market by skirting various regulations and laws in pursuit of profit. It is essential to protect consumers from haphazard referrals or enticements and to ensure they can make informed decisions based on the unique nature of the lawyer-client relationship, which is often founded on personal trust. Ultimately, the decision to prohibit all advertisements via platform companies was deemed a necessary measure.

Comparison of the Medical Service Act and Attorney-at-Law Act on platform advertising

Article 1(1) of the Attorney-at-Law Act [17] stipulates that the mission of lawyers is to uphold basic human rights and realize social justice. Furthermore, Article 2 of the same Act [17] defines a lawyer as a legal professional with a public nature (which applies to medical lawyers [21]). Similarly, physicians, who are often seen as representative professionals alongside lawyers, have been designated as members of a public profession [22]. Therefore, due to the public nature of medical practices and the unique professionalism required, physicians are strictly prohibited from advertising under the Medical Service Act [16,18].

The Medical Service Act [16] and the Attorney-at-Law Act [17] share several similarities (Table 1) [16,17]. For instance, Article 27(3) of the Medical Service Act [16] prohibits the introduction, referral, or enticement of patients to medical institutions or physicians, as well as instigating such actions. Similarly, Article 34(1) of the Attorney-at-Law Act [17] prohibits any promise to receive money, valuables, entertainment, or other benefits in advance in connection with a legal case, as well as directing a party or another related person to an attorney by means of introduction or referral.

SOCIAL CONTROVERSY SURROUNDING THE USE OF ADVERTISING PLATFORMS IN THE MEDICAL FIELD

Ambiguous boundary between consumers’ right to know about medical staff and introductions or referrals

In the UNNI case, the primary concern was whether facilitating a medical contract between patients and physicians via a platform and charging a fee for this service constituted enticement, which is prohibited under Article 27(3) of the Medical Service Act [16]. The Supreme Court of Korea clarified that enticement pertains to the act of inducing a treatment entrustment contract between a patient and a
**Table 1.** Similarities and differences between legal and medical laws of Korea

<table>
<thead>
<tr>
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</thead>
<tbody>
<tr>
<td>Shared feature</td>
<td>Article 34 of the Attorney-at-Law Act and Article 27 of the Medical Act: It is prohibited to introduce or mediate for the purpose of money, entertainment, or profit based on a prior agreement, or to demand benefits in return for inducing mediation. Article 26 of the Attorney-at-Law Act and Article 19 of the Medical Act: Obligation to not divulge confidential information obtained in the course of performing duties.</td>
</tr>
<tr>
<td>Year of establishment</td>
<td>November 7, 1949</td>
</tr>
<tr>
<td>Purpose of enactment</td>
<td>Lawyers must uphold basic human rights and realize social justice.</td>
</tr>
<tr>
<td>Registration refusal</td>
<td>In accordance with the provisions of Article 8, the Korean Bar Association may refuse to register as a lawyer.</td>
</tr>
<tr>
<td>Disqualification</td>
<td>Declaration of bankruptcy, suspension from office while in office, dismissal by impeachment or disciplinary action, and dismissal are all grounds for disqualification (Article 5). The degree and level are more difficult than the grounds for disqualification under the Medical Service Act, Article 8.</td>
</tr>
<tr>
<td>Permanent expulsion</td>
<td>Permanent expulsion is described as a form of discipline in Article 90(i). Except for the objection under Article 97-5, it is difficult to dispute disciplinary procedures or decisions.</td>
</tr>
<tr>
<td>Roles and duties of ethics committees</td>
<td>Article 88 contains a provision on the Legal Ethics Council. Pursuant to Article 89-9, the Legal Ethics Council shall report operational matters related to the performance of duties to the National Assembly every year.</td>
</tr>
<tr>
<td>Duty to designate public interest activities</td>
<td>Article 27 stipulates the obligation to volunteer for a certain number of hours per year and the handling of designated tasks, which is mandatory.</td>
</tr>
<tr>
<td>Duty to restrict accept affairs</td>
<td>Those who have passed the bar examination cannot accept the duties individually or jointly without going through a 6-month training period (Article 31-2)</td>
</tr>
<tr>
<td>Duty to limit concurrent positions</td>
<td>Without the permission of a functional organization, including public officials who receive remuneration pursuant to Article 38, they cannot operate business for commercial or profit-making purposes, or become employees, general partners, or directors.</td>
</tr>
<tr>
<td>Duty to maintain dignity</td>
<td>Article 24 contains a provision on the duty to maintain dignity.</td>
</tr>
</tbody>
</table>

particular physician or hospital [15].

According to the Supreme Court of Korea’s interpretation of the lower court’s judgment and the evidence presented, the act of brokering a medical treatment contract between a patient and physicians, and then charging a fee for this service, falls outside the definition of medical advertising as stipulated in Article 56 of the Medical Service Act [15,16]. Furthermore, this practice was deemed illegal as it could be considered profit-driven, which is in violation of Article 27 of the Medical Service Act [15,16]. While this ruling does not
outright ban physicians from advertising due to the principles of occupational freedom and the consumer’s right to information, it does establish that physicians are not permitted to receive any form of compensation for advertising. Despite this decision, the platform company merely altered its revenue model; numerous medical advertisements continue to be targeted at potential consumers.

It should be noted that the primary objective of the Supreme Court of Korea and the Constitutional Court of Korea rulings was to curb the practice of referral or enticement in platform advertisements, which is legally prohibited. The rulings acknowledge that while advertising by legal and medical professionals is permissible, it must be regulated to preserve fair market order within each profession. This regulation is designed to protect consumers while also upholding the rights to free speech and professional practice. The judiciary has clarified that referral or enticement is considered a form of brokerage, which involves connecting lawyers with clients or physicians with patients and receiving a fee for this service. Despite these rulings, there remain significant concerns regarding the premature implementation of remote medical consultations [14, 23].

**DISSEMINATION OF NON–FACE-TO-FACE MEDICAL SERVICES BY MEDICAL ADVERTISEMENT PLATFORMS**

The need for telemedicine has increased since the onset of the COVID-19 pandemic [24, 25]. In response, the National Assembly of Korea enacted Article 49-3 of the Infectious Disease Control and Prevention Act [26]. This legislation was aimed at protecting patients, physicians, and hospitals from the risk of COVID-19 and other infectious diseases. Consequently, information and communication technologies—including wired and wireless methods, video communication, and computers—were temporarily employed to deliver health consultations and services to patients remotely [3, 25]. Medical care and prescriptions were provided through these means. Telemedicine was allowed under specific legal provisions and was facilitated by platforms that served as professional intermediaries between doctors and patients. During this period, platforms focusing on beauty, cosmetics, and plastic surgery experienced particularly rapid growth [27]. Concerns arose regarding the use of telemedicine, which was temporarily permitted for special circumstances such as the pandemic. Questions were raised about whether it was being utilized based on patient discretion or convenience.

The issue of allowing physicians to advertise their services through medical advertising platforms remains unresolved. Specifically, the temporary permission for telephone counseling due to COVID-19 [25, 28] has led to concerns about indiscriminate medical advertising on these platforms, which could disrupt the balance of the medical market. Currently, it is important to recognize that the majority of non-face-to-face medical services advertised on these platforms are concentrated in the fields of beauty, cosmetics, and plastic surgery [29]. This trend is not driven by a genuine and pressing need to substitute in-person treatments in the context of an infectious disease outbreak. Instead, it is the result of medical services that are highly publicized and professional, which have contributed to national health by enabling patients to make choices based on convenience or preference.

The KBA’s ban on all platform advertisements led to the prohibition of lawyer advertisements, even those with general and mundane content. Critics have argued that this contravenes the intent of the judicial precedents set by the Constitutional Court of Korea and the Supreme Court of Korea. Nevertheless, the KBA has not forbidden all forms of advertising via internet networks. The restriction was deemed necessary to preserve a healthy market environment and to safeguard consumers’ right to make informed choices, particularly in response to platforms that exploited legal loopholes and grew unchecked. Thus, it can be concluded that the KBA’s actions were a practical and necessary response. There are significant differences between platforms for legal and medical advertising (Table 2). It is now time for the Korean Medical Association to take into account the KBA’s precedent and to weigh the various freedoms and responsibilities that arise (Fig. 1).

**LEARNING FROM GERMANY’S CASE: THE FUTURE OF PLATFORM ADVERTISING IN KOREA**

The example of telemedicine platform advertising in Germany is noteworthy. Under Article 9 of the Drug Advertising Act (Heilmittelwerbegesetz – HWG) [30], there is a prohibition on advertising treatments for pain or physical injuries that do not involve in-person consultations with doctors. This ban extends to advertisements that promote non-
Table 2. Comparison between typical legal and medical advertisement platforms

<table>
<thead>
<tr>
<th>Category</th>
<th>General legal platform</th>
<th>General medical platform</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purpose</td>
<td>Providing services that overcome the constraints of time and space.</td>
<td>Telephone consultation.</td>
</tr>
<tr>
<td></td>
<td>Resolving information asymmetry to expand consumers’ right to know and choose.</td>
<td>Video consultation.</td>
</tr>
<tr>
<td></td>
<td>Expanding access to the general public.</td>
<td>No time limit or minimum requirement.</td>
</tr>
<tr>
<td></td>
<td>Relative cost savings compared to traditional approaches.</td>
<td>Diagnosis and prescription.</td>
</tr>
<tr>
<td>Consultation</td>
<td>Phone consultation for a certain amount of time.</td>
<td>Drug delivery.</td>
</tr>
<tr>
<td></td>
<td>Video consultation for a certain amount of time.</td>
<td>Disease monitoring.</td>
</tr>
<tr>
<td>Service content</td>
<td>Basic consultation for case acceptance.</td>
<td></td>
</tr>
<tr>
<td>Price</td>
<td>Hourly consultation fee disclosed.</td>
<td>Full disclosure including non-salary.</td>
</tr>
<tr>
<td></td>
<td>The unit price of the legal service itself is not disclosed.</td>
<td></td>
</tr>
<tr>
<td>Event</td>
<td>None.</td>
<td>Events are often held.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>In some cases, additional medical services can be converted into monetary value if the patient obtains information through the platform.</td>
</tr>
<tr>
<td>Prediction of outcome</td>
<td>No system exists to predict a sentence (penalty).</td>
<td>Based on artificial intelligence, there is a real-time prediction system for progress after cosmetic surgery.</td>
</tr>
<tr>
<td>Transparency of information provision</td>
<td>The lawyer’s academic background, profile, and successful cases are fully disclosed.</td>
<td>In some cases, the information of the medical staff is known, but often it is not.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>There is no objective indicator to judge the quality of medical care other than user reviews.</td>
</tr>
<tr>
<td>Ethics</td>
<td>It does not cause irreparable harm to the life or body of an individual.</td>
<td>May cause irreparable harm to the life or body of an individual.</td>
</tr>
<tr>
<td></td>
<td>If the lawyer’s judgment is wrong, the customer may suffer temporary physical and property disadvantages, but there is a way to receive relief later.</td>
<td>If the physician’s judgment is wrong, it may result in permanent physical, life, and property disadvantages, and there is no right remedy other than monetary compensation.</td>
</tr>
</tbody>
</table>

Fig. 1. The emergence of large platforms and the future of professional advertising.
face-to-face treatments over those that require direct patient-doctor interaction. Prohibited activities under this regulation include advertising a doctor’s response to a patient inquiry, submitting a written description of one’s illness to a doctor, and seeking a doctor’s consultation on the issue. Furthermore, doctors are not allowed to provide counseling openly over the phone regarding a patient’s specific disease or to offer medical information via telephone. The rationale behind these restrictions is to prevent patients from misunderstanding that non–face-to-face treatments are possible through phone calls or the internet.

Owing to these problems, Fair Trade Act violations by private health insurance companies are frequently reported to the German Center for the Prevention of Unfair Competition [31]. One notable case involved a private insurance company that offered non–face-to-face consultations through a partnership with a platform operator based in Switzerland [31]. This practice breached Article 9 of the German Drug Advertising Act [30], prompting the German Center for the Prevention of Unfair Competition to file a civil lawsuit seeking damages and an injunction against the advertisements [31]. Additionally, the action contravened Article 3 of the German Act Against Unfair Competition [32]. In defense, the accused private insurance company contended that it had not broken any relevant laws, as non–face-to-face treatment is permissible in Switzerland.

After proceedings in the Munich District Court and a subsequent appeal in the Munich Court of Appeal, the German Federal Court of Justice rendered a final decision [31]. The German Federal Court of Justice referenced claims for damages and injunctions brought by the German Center for the Prevention of Unfair Competition against private insurance companies pursuant to Article 9 of the Drug Advertising Act [30].

Notably, Germany’s highest court has determined that above regulations serve to prohibit advertising for non–face-to-face medical care, rather than telemedicine itself. This distinction clarifies that non–face-to-face treatment is, in fact, legally permissible within Germany. In its decision, the Court emphasized that the restriction on advertising for remote care is intended to safeguard public and individual health interests. The Court recognized that non–face-to-face treatment carries unique risks to individual health when compared to traditional in-person treatment, and as such, it can be considered a fundamentally flawed approach to care if used indiscriminately. Therefore, advertising that promotes remote interaction should be limited to prevent the potential for it to encourage patients to forgo necessary in-person treatment. Advertisements that focus solely on the benefits of non–face-to-face treatment pose a risk by potentially serving as a justification for patients to avoid seeking in-person medical care.

Article 9 of the German Drug Advertising Act [30] vaguely outlines the potential risks associated with telemedicine, leaving the question of whether remote treatment is permissible or prohibited fundamentally unrelated to the prohibition of advertising. The primary objective of advertising bans is to safeguard public health. However, it is important to note that the Germany’s highest court took into account the unique nature of medical care—its public and professional aspects—and recognized the constraints of remote treatment [31]. While advertisements for telemedicine services are permitted, their scope is limited.

Consequently, despite the practical need for non–face-to-face treatments, their clinical efficacy must be proven through additional technological developments. In addition, until a social consensus is reached that non–face-to-face treatment should not replace face-to-face treatment, it is desirable to minimize the scope of platform advertising itself, as was done in Germany.

**CONCLUSIONS**

Considering that medical care, similarly to legal services, involves a high degree of public engagement and professionalism, it is essential to permit medical advertising on large platforms, albeit within the narrowest possible scope. Professional medical organizations must also acknowledge the public dimension and social responsibility inherent in physicians’ work. There is a strong likelihood that remote treatments will become widely adopted in the future. Consequently, the Korean Medical Association should take a more decisive stance on advertising on major platforms to safeguard its members and ensure fair market competition.

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**Author contributions**

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