

# 11 myths against foreign law firm entry countered (as presented at INBA-Ministry liberalisation conference)

INBA conference aimed to move forward currently-stalled debate around liberalisation

MYTH	REALITY
<p><b>(I) Advertisement by law firms Prohibited as per the Bar Council of India Rules</b></p>	<p>All major law firms in India advertise in India and abroad by sponsoring the conference, paid listing in directories, -hosting networking events, sponsored content in legal article per etc.</p> <p><b>Law firms – their directory listings and publications:</b></p> <ul style="list-style-type: none"> <li>• <i>Legal 500</i> – over 75 law firms</li> <li>• <i>Chambers and Partners</i> – over 75 law firms</li> <li>• <i>IBLJ</i> – over 20 law firms</li> <li>• <i>Asia law</i> – over 50 law firms</li> </ul> <p>Also, almost all major law firms have their website showcasing respective firm profile, area of practice, team profiles , etc.</p>

Myths and realities surrounding foreign law firm entry, debunked

On Saturday, 11 November, the Indian National Bar Association (INBA) had held the “Bar Leadership Summit on Reforms in the Indian Legal Sector” conference to discuss the future and liberalisation of the legal profession, and to bring together leaders of the bar and the government.

The event at the Scope Convention Centre in Delhi was organised by the Indian National Bar Association (INBA) in collaboration with the Department of

Commerce, Ministry of Commerce and Industry, and the Centre for Trade and Investment Law (CTIL), Indian Institute of Foreign Trade.

There [Lex Favios](#) partner Sumes Dewan made a presentation, arguing that the legal services liberalisation debate was currently mangled in certain myths.

Chief amongst the myths surrounding liberalisation, according to his presentation (see full copy below), were:

- the Bar Council of India (BCI) bans on law firm advertisements in India are effective:

All major law firms in India advertise in India and abroad by sponsoring the conference, paid listing in directories, hosting networking events, sponsored content in legal article etc. Law firms – their directory listings and publications:

- Legal 500 – over 75 law firms
- Chambers and Partners – over 75 law firms
- IBLJ – over 20 law firms
- Asia law – over 50 law firms

Also, almost all major law firms have their website showcasing respective firm profile, area of practice, team profiles , etc.

- there are restrictions on Indian law firms setting up overseas offices:

As we know various major law firms have offices and are indeed operating from offices, outside India in jurisdictions like – London, USA, Dubai, Singapore. Firms and their respective overseas offices:

Kochar & Co. - has offices in Dubai, USA and Singapore.

Singhania & Co. has offices in London and USA.

**Nishith Desai & Associates has offices in USA, Singapore and Germany.**

- foreign law firms don't hire Indian lawyers:

Yes. Various major global law firms have hired Indian lawyers in jurisdictions like – Singapore, London, Dubai, etc. Infact, for the reason foreign law firms are not allowed to set up their offices in India, therefore they have setup India desks in jurisdictions outside India.

- foreign law firms would steal jobs of Indian lawyers:

If foreign law firms set up offices in India, they would be hiring Indian lawyers. As rightly put by Mr. Harish Salve in an [interview](#): "If 20 global law firms hire 2,000 youngsters from India, whose future are we stealing?"

- foreign law firms are not interested in setting up Indian offices,

- a majority of Indian lawyers oppose legal sector liberalisation in India:

As records show, only few are against and that too on the basis of the Myths as also discussed here. Else, majority of Indian law firms

/ Lawyers and Judges are in favour of liberalising the Indian legal industry and allowing foreign law firms to set up their offices in India.

- **foreign firm entry will hinder the Indian legal industry:**

All in all, the entry of foreign law firms into India will benefit the Indian legal industry in many ways, inter-alia: Better employment opportunities for the law graduates; Global / broader exposure for the lawyers in the legal industry; Vast / global range of legal services for the clients.

- **foreign lawyers aren't currently in India:**

As a matter of fact, in many cross-border transactions, the foreign lawyers / team of lawyers visit and stay India for a substantial period of time to work on such transactions, resulting in inter-alia: no accountability as such on part of the foreign lawyers / team of lawyers; loss of revenue to the Indian tax authorities given their source of income remains their home/workplace country.

Also, many Indian law firms have either hired or have had foreign lawyers on secondment basis to work on their cross-border transactions and also for the purposes of expanding their cross-border business. Hence, this sector / entry of foreign law firms / foreign lawyers practicing in India must be regulated in all aspects.

- **the entry of foreign law firms would hurt litigation lawyers:**

Given the proposed restricted liberalisation safeguarding interests of individual litigation lawyers, the same will rather result in maintaining exclusivity of Indian litigation lawyers / so to say 'of lawyers duly registered with the Bar Council of India and practicing in Indian courts' as they will be briefed by Indian offices of foreign law firms. Also to note that this would also let the individual litigation lawyers be exposed to international space in the legal industry.

- **only lawyers provide legal opinions:**

Additionally, in many instances, it is seen that not only lawyers are rendering legal opinions, but also the respective fields' consultants are rendering legal service / legal opinions, such as in case of issue arising with respect to import-export policies, consultants specialising in import-export matters, though not being a lawyer are rendering services much like legal services. Likewise is the case with respect to labour law compliances, corporate compliances, and so on, where non-lawyers render services much like legal services. This sector also calls for some checks and to be regulated.

## Summit highlights

At the summit, the government highlighted the need for increased adoption of alternate dispute resolution (ADR), an impartial judiciary with increased victim sensitivity, expanding the size of the legal sector and the specific importance of this sector in improving India's overall performance in services.

Union minister for commerce and industry Suresh Prabhu encouraged lawyers to make the shift to ADR, while minister of state for HRD Satya Pal Singh noted the importance of an impartial judiciary with victim sensitivity. Union law secretary Suresh Chandra said there was a huge potential to expand the size of the legal sector from its current \$9bn through reform.

Supreme Court Bar Association (SCBA) president RS Suri stressed that the "gulf of understanding between the Bar Council of India, state bar councils and the government needs to be bridged". Suri said that frequent consultations on reforms are the way to go.

The INBA itself heavily stressed on liberalisation in legal services with its president Subhash C Kashyap and secretary general Kaviraj Singh echoing the sentiment that discussions on reform and liberalisation need to be initiated.

CTIL president Prof James Nedumpara advised law schools to evolve their curriculum according to "glocal" legal practice trends to promote foreign law firms hiring Indian lawyers.

As we had re-reported last week, Luthra & Luthra senior partner [Mohit Saraf](#) alongside Society of Indian Law Firms (SILF) chairman Lalit Bhasin and Jyoti Sagar, the retired founder of J Sagar Associates (JSA), had [pressed the commerce ministry](#) - which has led the way in opening the Indian legal market to foreign firms - to only allow foreign law firms' entry if they were also stopped from hiring Indian lawyers.

At that same meeting INBA was also present and had dissented with SILF's views, voicing its stand consistently before the ministry [since July](#).