

ADVERTISEMENT, RELATED COUNCIL GUIDELINES, CASES, FAQ'S AND RECENT FEES RELATED DISCLOSURE OF THE ICAI.



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In first Part of this article we will deal with Clause (6) and Clause (7) of Part-I of First Schedule of Chartered Accountants Act, 1949 which states as under:

A chartered accountant in practice shall be deemed to be guilty of professional misconduct, if he / she:

Clause 6: Solicits clients or professional work either directly or indirectly by circular, advertisement, personal communication or interview or by any other means:

Provided that nothing herein contained shall be construed as preventing or prohibiting –

- (i) any chartered accountant from applying or requesting for or inviting or securing professional work from another chartered accountant in practice ; or
- (ii) a member from responding to tenders or enquiries issued by various users of professional services or organisations from time to time and securing professional work as a consequence;

Clause 7: Advertises his professional attainments or services, or uses any designation or expressions other than chartered accountant on professional documents, visiting cards, letter heads or sign boards, unless it be a degree of a University established by law in India or recognised by the Central Government or a title indicating membership of the Institute of Chartered Accountants of India or of any other institution that has been recognised by the Central Government or may be recognised by the Council:

Provided that a member in practice may advertise through a write up setting out the services provided by him or his firm and particulars of his firm subject to such guidelines as may be issued by the Council;

Preamble:

We Chartered Accountants are subjected to ethical guidelines and professional standards set by The Institute of Chartered Accountants. These guidelines are designed to ensure the integrity, objectivity, and professionalism of the accounting profession. One of the reasons why CAs are often prohibited from advertising their services in certain ways is to maintain the public's trust in the profession and to uphold the reputation of the accounting profession.

Here are some key reasons behind such restrictions:

Objectivity and Independence: Accounting professionals need to maintain objectivity and independence in their work. Excessive or misleading advertising might compromise these principles by creating expectations or perceptions that could influence the professional judgment of the accountant.

Confidentiality: Accountants often deal with sensitive financial information about their clients. Excessive advertising could inadvertently disclose details about specific clients or their financial situations, violating confidentiality requirements.

Professionalism: Restricting advertising helps to promote a level playing field among professionals. It ensures that clients choose accountants based on their qualifications, experience, and reputation rather than on the strength of their marketing efforts.

Avoidance of Unfair Competition: Professional bodies often seek to prevent accountants from engaging in aggressive or misleading marketing tactics that could harm the reputation of the profession. By establishing guidelines on advertising, they aim to maintain a high standard of professionalism across the industry.

Focus on Competence and Quality: Professional standards emphasize the importance of competence and quality of service. Prohibiting certain types of advertising encourages accountants to compete based on their skills, expertise, and the quality of their work rather than on flashy marketing strategies.

Most rules/ restrictions are in Clauses (6) and (7) of Part-I of First Schedule of Chartered Accountants Act, 1949. As per Clause (6), **professional work cannot be secured either by advertisement or by circulars or by solicitation.**

It can only be obtained by a member gradually building confidence in his ability and integrity. The service rendered by Chartered Accountant is of a personal and intimate nature and its value can be appraised only by personal contact and experience. A public advertisement is likely to lead to an impression that the professional person is overanxious to win confidence, which however will have the opposite effect. The satisfaction of clients would be the best advertisement, which would lead to other clients. Unabashed advertisement would affect the public esteem in which the profession is held and would act to the disadvantage of its members. An advertisement is not a key to success in the profession. It is the quality service which attracts and retains the clients.

Important Extracts of Council Guidelines:

Lets see few important council guidelines on what is allowed and what are the restrictions-

| Form of advertisement | What is allowed? | Specific Restrictions |
|---------------------------------------|---|---|
| Communication between CAs in practice | <ul style="list-style-type: none"> A CA can apply or request for or inviting or securing professional work from another CA in practice | <ul style="list-style-type: none"> But a CA in practice should not claim superiority over other firm. He/ she should not disclose the names of his clients in the communications as well. |

| Form of advertisement | What is allowed? | Specific Restrictions |
|---|---|--|
| Responding to tenders | <ul style="list-style-type: none"> • A CA is allowed to respond only in following conditions: <ol style="list-style-type: none"> a) Tender relates to areas NOT exclusively reserved for CA or b) Tender relates to areas exclusively reserved for CA and minimum fees to be quoted is prescribed in the tender ("minimum fee" for this purpose should be such that it commensurate with size, value, volume, manpower requirement and nature of work .) Also allowed to pay security or earnest deposit as a part of terms of tender | <ul style="list-style-type: none"> • He/she should not respond to tender in any other case • A CA must maintain cost sheet about the work involved in tender |
| Note in the press | <ul style="list-style-type: none"> • To advertise changes in partnerships or dissolution of a firm, or of any change in address of practice and telephone numbers | <ul style="list-style-type: none"> • Should be limited to bare statement of fact. • The number of insertions should be limited • Keep appropriate area of distribution as per your professional address • Firm name should not be bolder than the substance. • Advertisement should not involve any other promotional |
| Journal/ newsletter of the ICAI | <ul style="list-style-type: none"> • Permitted to issue a classified advertisement (info for sharing work, seeking partnership, vacancies etc.) • Allowed to state factual position of experience and area of specialization, relevant to seek response to the advertisement. | <ul style="list-style-type: none"> • Other details in such advertisement • Article should only contains the accountant's name, address or telephone number, fax number, e-mail address and address(es) of social Networking sites of members |
| Publication of Books, Articles or Presentation. | <ul style="list-style-type: none"> • CA can use designation 'Chartered Accountant.' • Can mention the name of the firm | <ul style="list-style-type: none"> • CA cannot mention professional attainment of the member or firm |

| Form of advertisement | What is allowed? | Specific Restrictions |
|--|---|---|
| Advertisement for Silver, Golden, Platinum or Centenary celebrations | <ul style="list-style-type: none"> Advertisement may be published in newspaper or newsletter | - |
| Sharing Firm Profile with prospective Client | <ul style="list-style-type: none"> Only if it is a response to a proposed client's specific | <ul style="list-style-type: none"> In any other case not allowed |
| Giving Public Interviews | <ul style="list-style-type: none"> CAs are allowed to give such interviews | <ul style="list-style-type: none"> The interview should not result in publicity Details about the members or their firms should not be given in a manner highlighting their professional attainments. Any detail which is given must be given only as a response to a specific question, and of factual nature only. |
| Advertisements under Box numbers in newspaper | - | Not allowed |
| Educational Videos | <ul style="list-style-type: none"> Educating videos may be uploaded on the internet by CA members | <ul style="list-style-type: none"> No reference to CA firm, contact details or website address |
| Application for empanelment for allotment of audit and other professional work | <ul style="list-style-type: none"> Where the existence of such a panel is within the knowledge of a member, he is free to write to the concerned organization with a request to place his name on the panel. to quote fees on enquiries being received from such bodies, which maintain such panel. | <ul style="list-style-type: none"> A CA member is not allowed to make roving enquiries by applying to any such organization for having his name included in any such panel. |

| Form of advertisement | What is allowed? | Specific Restrictions |
|--|---|---|
| Sponsoring Activities | <ul style="list-style-type: none"> A CA may sponsor an event conducted by a Programme Organizing Unit (PoU) of the ICAI with prior approval of Continuing Professional Education (CPE) Directorate of the ICAI. activities relating to CSR may mention their individual name with the prefix "CA" | <ul style="list-style-type: none"> CSR activities sponsoring should not mention the Firm name or CA Logo. Not permitted to sponsor any other event. |
| Representation made by auditor u/s 140(4) of Companies Act, 2013 | <ul style="list-style-type: none"> It is the right of the auditor as per Companies Act, 2013 A CA is Allowed to write how he has been acting independently. He/she are allowed to write his willingness to continue as auditor if reappointed by the | <ul style="list-style-type: none"> The representation should not lead directly or indirectly to canvassing or soliciting for his continuance as an auditor. |

Website Related Guidelines

It is very important to know website related guidelines of the ICAI.

There is no standard format, color or design prescribed by the ICAI. The Website should mention the information which is not at material variance from the information as per the ICAI's records. No Advertisement in the nature of banner or any other nature will be permitted on the Website. The details in the Website should be so designed that it does not amount to soliciting client or professional work. Details of what is allowed/restricted/subject to conditions are given below:

| Allowed | Conditions/Restrictions |
|---|---|
| Pull model | Not push model |
| To mention their website address on their professional stationery and email. | Not allowed to issue any circular or any other advertisement or any other material of any kind whatsoever by virtue of which they solicit people to visit their website |
| Allowed to mention Member/Trade/Firm name | - |
| Year of establishment. | - |

| Allowed | Conditions/Restrictions |
|---|---|
| Member/Firm's Address (both Head Office and Branches), Tel no, Fax no, Email ID | - |
| Nature of services rendered | To be displayable only on specific "pull" request |
| Partners' name, year of qualification, other qualification, Tel No (office, resi, mobile), Email ID | Area of Experience can be mentioned (displayable only on specific "pull" request) |
| Details of Employees- professional, others, name, Designation. | Area of Experience can be mentioned (displayable only on specific "pull" request) |
| Job vacancies including articleship | - |
| No. of articled assistants | To be displayable only on specific "pull" request |
| Nature of assignments handled | To be displayable only on specific "pull" request |
| Display of photograph of the member | Passport Style only |
| Articles, professional information, bulletin boards, professional updation and other matters of larger importance or of professional interest. Educational videos on topics of professional relevance are permissible. | - |
| Chat rooms can be provided which permit chatting amongst members of the ICAI and between Firms and its clients. | The confidentiality protocol would have to be observed. |
| Can provide document management facility with distinct log in and password facility to the clients to access copies of their documents on the Firm website | - |
| Can provide link of its page on Social Networking site | Members should not solicit people to visit or like their respective page(s) on such social Networking site. |
| Can provide online advice to their clients | Who specifically request (pull model) for the advice whether free of charge or on payment |

| Allowed | Conditions/Restrictions |
|--|---|
| May provide a link to the Website of ICAI, its Regional Councils and Branches and also the Website of Govt./ Govt. Departments/Regulatory authorities/other Professional Bodies. | - |
| Website address should be as near as possible to the individual name/trade name, firm name | It should not amount to soliciting clients or professional work |

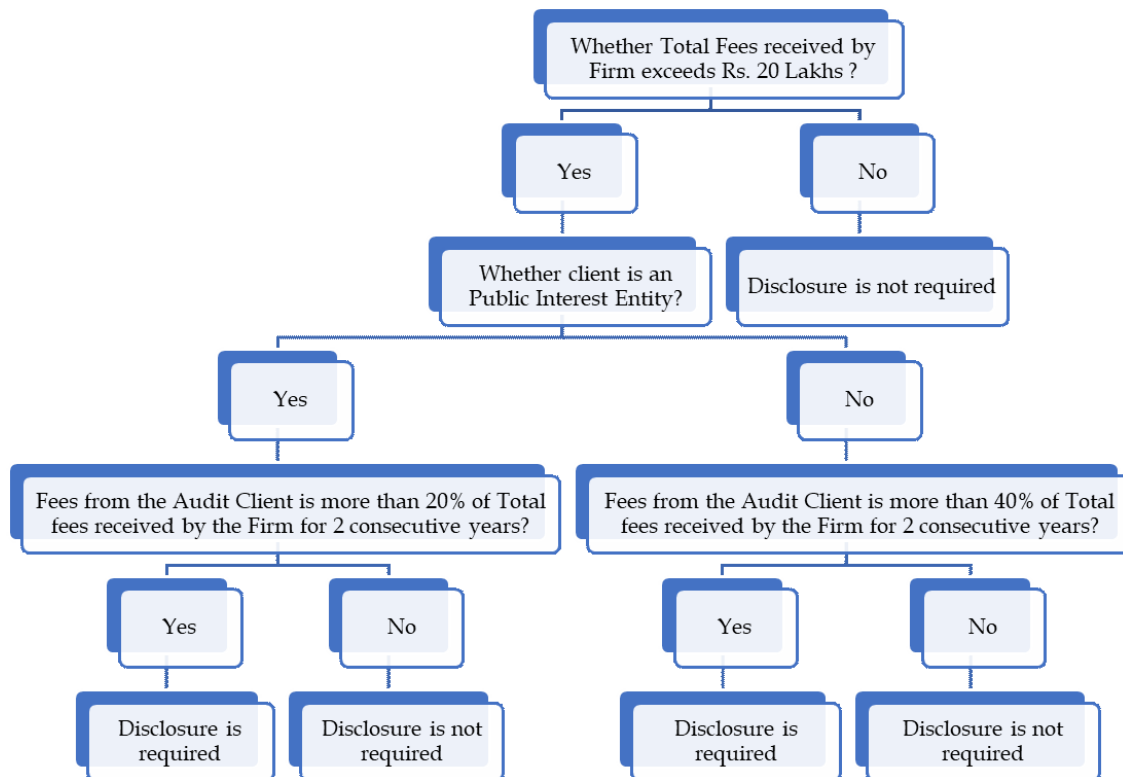
Few Important FAQs:

Over the period of time, based on queries of members and DC cases ICAI has published FAQs which are available at the website of The ICAI, however following are few FAQs which are commonly not known and are important in nature-

| Questions | Answers |
|---|---|
| Can a Chartered Accountant in practice also practice as an Advocate? | Yes, the Council direction states that eligible Chartered Accountants can practice as Advocates with Bar Council permission, but should not use the designation 'Chartered Accountant' for Advocate matters. Instead, they should use 'Chartered Accountant' for other matters. |
| Whether a Chartered Accountant in practice can use expression like Income Tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant? | No, Council direction prescribes that it is improper for a CA to state on his professional documents that he/she is an Income-tax Consultant, Cost Accountant, Company Secretary, Cost Consultant or a Management Consultant. |
| Can a Chartered Accountant in practice accept original professional work emanating from the client introduced to him by another member? | No, A member should not accept original professional work from a client introduced by another member and should request the client to contact the other member dealing with the original work. |

| Questions | Answers |
|---|--|
| <p>Can a Chartered Accountants firm give advertisement in relation to Silver, Diamond, Platinum or Centenary celebration of the firm?</p> | <p>Yes, considering the need of interpersonal socialization/relationship of the members through such get-together occasions, the advertisement for Silver, Diamond, Platinum and Centenary celebrations of the firms has been permitted to be published in any newspaper or in the newsletters.</p> <p>Advertisements for Silver, Diamond, Platinum, and Centenary celebrations of firms can be published in newspapers or newsletters to foster interpersonal socialization and relationship among members.</p> |
| <p>Whether sponsorship or prizes can be instituted in the name of Chartered Accountants or a firm of Chartered Accountants?</p> | <p>Yes, an Individual CA or CA firms can institute or sponsor prizes, as long as the "Chartered Accountant" designation isn't added and advertising and publicity provisions are followed.</p> |
| <p>Whether members in practice can list themselves with online Application based service provider Aggregators?</p> | <p>No, Code of Ethics prohibits members in practice to list themselves with online Application based service provider Aggregators, wherein other categories like businessmen, technicians, maintenance workers, event organizers etc. are also listed.</p> |
| <p>Which designation(s) can be mentioned by a member in practice empanelled as Insolvency Professional on his visiting cards, letter heads and other communication?</p> | <p>Yes, CA who is an Insolvency Professional can use "Insolvency Professional" on his/her card, letterheads, and communication, as recognized by the Central Government, but other nomenclatures or IPA membership are not allowed.</p> |
| <p>Whether the members in practice can print their photograph on their visiting cards?</p> | <p>No, it is not permissible for the members in practice to print their photograph on their visiting cards.</p> <p>However, CA members are allowed to give their passport style photograph on website.</p> |

Reporting requirements pertaining to Fees related disclosure to Institute under the revised requirements in Code of Ethics



If the Fees related regulation is applicable, member has to fill up the prescribed questioner and submit the same to ICAI.

Disciplinary Cases

There are many matters which have come before Disciplinary committee, however a summary of few are given below wherein people casually circulate information on the social media in the manner in which it is not allowed-

Case 1

Circulation of Pamphlets on Social Media Platform

A booklet advertising the professional's services in accounting, taxation, returns, GST, auditing, and new carriers was **circulated on WhatsApp**, leading to the charge of professional misconduct against the chartered accountant. The board discovered that the brochure contained the respondent's name and contact information, suggesting an attempt to convey control. The board further stated that since it is deemed advertising, sending letters or circulars to prospective customers is prohibited. In accordance with Clauses (6) and (7) of Part I of the First Schedule to the Chartered Accountants Act, 1949, the board determined that the respondent was guilty of engaging in professional misconduct.

Case 2

Propagating services through SMS

Where a Chartered Accountant allegedly propagating his services subsequent to demonetization, an objective of Government of eradicating black money, through **mass SMS alongwith his mobile number offering his services towards conversion of cash with minimum tax liability**. Held guilty of Professional Misconduct falling within the meaning of Clause (6) & (7) of Part I and "Other Misconduct" falling within the meaning of Clause (2) of Part IV of First Schedule read with section 22 of the Chartered Accountants Act, 1949. (Kailash Shankarlal Mantry in Re: [PPR/392/2016 /DD/135/INF /2016/BOD/240/17] Judgement delivered on 30th May 2017).

Case 3

Use of Logo

Where a Chartered Accountant as an in-charge of TIN Facilitation Centre of National Securities Depository Limited (NSDL) had **accepted part of the profits of the professional work of a person who was not a Member of the Institute**. He was acting as CEO of the said facilitation centre and had written on public platform and sought work from an undisclosed person. He responded to a mail soliciting the job. In his resume, he advertised his professional attainments, and which was like a circular and the same was sent to stranger. In addition, he used the logo on his visiting card and in the resume of the firm. Held guilty of "professional misconduct" falling under Clause (7) of Part I of First Schedule to the Chartered Accountants Act, 1949.

Closing Remarks:

It is observed that in most of cases before the DC, errors are done by CAs unknowingly and presuming certain act as allowed, Hence it is important to know the regulations and adhere to the restrictions as given in code of ethics.

It's important to note that the specific restrictions on advertising may vary by jurisdiction and by the professional body overseeing the accountants. While there are general principles that guide the accounting profession globally, the implementation of these principles can vary based on local regulations and professional standards.

As such, In India, Chartered Accountants should be aware of and adhere to the specific rules and guidelines set forth by The ICAI.

Wishing you all, a very Diligent, Ethical Happy New Year...

