



**Institute of
Certified Public Accountants
of Kenya**

GUIDELINE 1/2010

ETHICAL MARKETING AND PUBLICITY PRACTICES IN THE ACCOUNTING PROFESSION

Guidelines on Ethical Marketing & Publicity practices by Professional Accountants

Preamble

The issue of marketing & publicity of professional Accounting Practice remains a contentious and challenging issue to the Accountancy Profession in Kenya and beyond. The Accountants Act No. 15 of 2008 in Section 30 (e) allows the Institute's Council to promulgate and publish guidelines on advertising which comply with the IFAC code of ethics on the same.

In reviewing the subject, the following observations have been made:-

- (a) The Accountants Act in section 30 (1) (e) requires members soliciting clients or professional work either directly or indirectly, and/or advertising professional attainments or services to use means that adhere to the guidelines published by Council.
- (b) The code of ethics allows publicity given to members' activities (both professional and otherwise) and the professional activities of a firm.

In view of the above issues, the Institute has deemed it necessary to draw the attention of its members to the subject and guide them in their marketing and publicity activities.

The approach taken is:-

- (i) To review the purpose of marketing and advertising to professional accountants.
- (ii) To make recommendations on acceptable and unacceptable practices.

The purpose of marketing and advertising

It is generally accepted that while marketing, which is the process of identifying client needs and making the product to satisfy these, is acceptable, advertising which is the communication to the public of the services that a professional accountant has to offer is limited by law, custom and the code of Ethics. Publicity on the other hand can be a communication intended to solicit clients or professional work or a communication that does not solicit for professional work. The guidelines are therefore primarily aimed at setting boundaries for marketing practices within the Accountants Act and the code of Ethics. While it is not possible for the Institute to envisage all the possible situations in which an accountant can promote him/herself or their capabilities, the guidelines are intended to act as a compass of the general considerations that a member should have in mind when putting out a communication that is not a direct solicitation of professional work.

A. General Guidelines

1. A firm shall not seek to obtain clients by any communication or advertising (written, oral, or electronic), or other forms of solicitation: (i) in a manner that is false, fraudulent, misleading, deceptive, unfair, tends to promote unsupported claims, or (ii) which is accomplished or accompanied by the use of coercion, duress, compulsion, intimidation or vexatious or harassing conduct.

A false, fraudulent, misleading, deceptive, unfair, unsupported statement or claim includes (but is not limited to) those that:

- (a) create false or unjustified expectations of favorable results;
 - (b) contain a misrepresentation of fact;
 - (c) imply the ability to influence any court, tribunal, regulatory agency or similar body or official;
 - (d) consist of statements that are self-laudatory and that are not based on verifiable facts;
 - (e) make incomplete comparisons with other firms;
 - (f) contain testimonials or endorsements;
 - (g) is likely to mislead or deceive because in context it makes only partial disclosure of relevant facts;
 - (h) relate to fees or a range of fees not fully disclosing all variables and other relevant facts; or
 - (i) contain any other representations that would be likely to cause a reasonable and ordinary prudent person to misunderstand or be deceived.
2. A CPA shall not on behalf of himself, his partner or associate, or any other individual affiliated with him or his firm, use or participate in the use of any form of public communication containing a false, fraudulent, misleading, deceptive or unfair statement or claim, or advertising which the Council considers to be self-serving rather than in the public interest. Publicity not in the public interest shall include, but not be limited to, advertising or marketing that:
 - (a) is false, fraudulent, deceptive, or misleading;
 - (b) Guarantees any service based on discretionary decisions of regulatory authorities;

- (c) makes any claim relating to professional services or products or the cost or price thereof which cannot be substantiated by the firm, who shall have the burden of proof;
 - (d) makes claims of professional superiority which cannot be substantiated by the firm, who shall have the burden of proof; or
 - (e) offers inducements in any form for a professional service or product.
3. Giving information on a CPA firm within the guidelines specified herein above in a website is acceptable. A CPA firm offering to perform professional services via the internet must include the following information on the internet:
- (a) CPA business or CPA firm name;
 - (b) principal place of business;
 - (c) business telephone;
 - (d) Partners' registration numbers; and
 - (e) Partners' practicing certificate numbers.

B. Specific Guidelines

Publicity

- 4. Publicity on a member's professional and corporate social responsibility activities is acceptable.
- 5. Publicity is desirable for the appointment of members to positions of national or local importance, as well as to the boards of companies, and there is no restriction on the provision of such information to the press, general or professional.
- 6. Articles and communications in the press by a member to educate the public on taxation, audit and general financial matters is acceptable.
- 7. A Certified Public Accountant (CPA) can be the source of a story about himself in the print or electronic media but should not be the reporter and the story should adhere to the guidelines specified herein above.
- 8. Sponsoring Institute activities and publicizing the fact in the media

9. Sponsoring charitable events/ organizations that engage in social welfare e.g. health organizations, sports clubs and availing of firm brochures during such events.
10. Giving firm, promotional material in their firms' office. The material can have the firm's name and the slogan.
11. Paid announcements when opening a new office, changes in the membership of a firm and changes in the name or address of a firm.
12. Putting a signpost giving directions to the firm's offices at the nearest junction to the firm's offices.

Advertising

13. Members can seek professional work by means of non-comparative and non-laudatory advertising. Any advertising materials should follow the samples given in schedule I of this guideline and any major deviation should be referred to the Institute for approval.

Articles and letters in the press

14. Member submitting articles, letters or other contributions of public interest to the press, may use their professional designation and/or designatory letters. In practice, they may also mention the name of their firm, except that they should issue appropriate disclaimers regarding the views expressed in situations where such views can be contested.

Radio and television programmes

15. Members participating in radio or television programmes may do so under their own name and may use their professional designation or designatory letters. In the case of relatively isolated appearances, reference to the member's firm may be allowed, but if the member is participating in a series, no such reference should be made.

Authorship of books

16. A member writing a book, monograph, pamphlet, etc, may quote therein his designation and/or designatory letters, together with such other personal particulars, as are usual, viz, education, hobbies and interests, other qualifications and previous publications.

Appointments

17. Publicity is desirable for the appointment of members to positions of national or local importance, as well as to the boards of companies, and there is no restriction on the provision of such information to the press, general or professional.

Appointments to trade and similar associations

18. A member appointed to an office with a trade or similar organisation must ensure that he does not take advantage of his position to acquire professional work. In particular, where the trade association offers for the benefit of members an advisory service on accountancy, taxation, etc, which is serviced by a member of the Institute, the latter should ensure that:-
- a). there is no reference to the member by name in literature issued by the organisation;
 - b). there is no direct contact between the member of the Institute and the individual member of the trade or other organisation requiring advice;
 - c). where, on very rare occasion, such direct contact is essential, the professional adviser retained by the member of the organisation is informed;
 - d). advice is given to the trade or other organisation and not to any individual member thereof.

Booklets

19. A member in practice may prepare a booklet specifying the services he provides and the name and address of his firm. Circulation of booklets should be restricted to clients and to those who have requested them. Booklets should not be circulated to the general public or to any section thereof unless in an event organized by the member where the booklets can be availed at one point to be picked by interested participants.

The contents should be, as far as possible, factual and objective. Technical literature produced for the information of clients and others may also be displayed in the waiting room.

Names, descriptions and addresses on envelopes

20. The name, description and address of a member or his firm (either printed or produced by franking machine) may appear on business envelopes, provided that the inscription conforms both in size and otherwise to the normal standards of professional good taste.

Changes in partnership or address, commencement in practice etc.

21. Changes such as the retirement or admission of a partner, change of address, merger

with another firm and the like should normally be notified to clients and business associates by letter. Such information may also be published in the press as paid announcement provided that the member's name or firm name is not given undue prominence and that the content of the announcement is appropriate in size and presentation. Announcements of commencement in practice are permitted on the same conditions.

Advertisements for sub-contract work

22. Advertisements for sub-contract work may be inserted in the Institute's Journal or any other suitable media. A member may also make direct approach to another member of the profession informing him of the services he offers. This approach may be made by letter or circular provided that in the latter case the circular is, in content and presentation, in conformity with this guideline. Members seeking sub- contract work must hold a practicing certificate.

Advertising for partnership or salaried employment

23. A member is free to advertise for partnership or salaried employment either in the professional or non-professional press.

Advertising for staff/Clients staff

24. Particular care is necessary in preparing advertisements for staff which are to appear in the non-professional press, otherwise such notices can often be criticised as constituting a laudatory advertisement of the member or his firm and/or of the professional services he provides.

The following guidelines should therefore be observed:-

- a) The name of the member or firm should not appear with undue prominence or frequency.
- b) The duties to be performed may be described in reasonable detail but should not be capable of being regarded as constituting an unfair advertisement of the services by the member or his firm.

Advertising relating to property or business

25. A member or firm who is acting for a client in the buying or selling of property or a business may advertise in this connection provided that his name, description and address is not given undue prominence. The same applies when a member advertises

property, etc., in the course of professional work as a trustee, liquidator, receiver, etc.

Member as an election candidate

26. A member who is a candidate at a national or local election may quote his designation and/or designatory letters in any election literature. A member who is in practice may give whatever details he likes regarding his employment as long as it is in conformity with this guideline.

Entries in directories

27. The name and addresses of practising members and/or of their firms may appear in directories, whether local or national, general or specialised. Such entries must not either by reference to size or presentation be capable of being construed as a direct advertisement and should not normally contain more than the member's name, address and professional description, together with telephone, telex or similar information.

Use of a member's name by a client

28. If a company or other client wishes to make use of the name and description of their auditor in any business document or literature other than their financial statements for which the auditor accepts responsibility, the member should make it clear that his approval must be obtained.
29. It is only rarely that such permission can be justified. In those cases, the member should ensure that his name is not given undue prominence in the document. In the same way, member's name and description, either as auditor or in some other professional capacity, should not be permitted to appear on a client's note paper.
30. Audit reports on headed notepaper in facsimile form should not be included in published accounts.
31. The above applies only where the member is acting in some professional capacity. It does not apply to a member who is appointed chairman, director, treasurer, secretary or other officer of a company or as an employee, in which case his name and designatory letters may appear in any document issued by the organization.
32. A member making for publication a report on, for example, net sales or newspaper circulation figures, should be careful to ensure that his report deals only with ascertained facts. If this report is quoted in any literature by the organisation or in the press, it should not be presented in such a way, either as to size or presentation, as to

be capable of being regarded as an advertisement for the member and should not include his practising address.

Solicitation

33. A member should not in any circumstances obtain or seek professional work for himself or another member in any unprofessional manner. Former employees of practising accountants leaving to become independent practitioners should avoid the initiation of communication with clients of former employers telling them of their new activities. In particular members should observe the following:
 - (a) A member, who is an employee, other than an employee of a Certified Public Accountant, should not, on behalf of his employer, carry on in his own name, any business which is normally carried on by a Certified Public Accountant.
 - (b) A member, who is employed by another member or by a firm of Certified Public Accountants engaged in public practice, should not undertake professional work on his own account or in partnership with another member(s) without consent of his employer.
 - (c) There may be cases in which members in practice are retained by organizations, which in their turn, offer advice to their members on accountancy matters. The member retained by the organisation may, in relation to matters referred to him by the organisation, deal only with the organisation itself and not directly with any of its members. The member should ensure that in any relevant literature issued by the organisation neither his name nor the name of his firm is given undue publicity.

C. Prohibited activities by members

34. Making exaggerated claims on services that one is able to offer, qualifications possessed or experience gained. This can be in quotations, firm's profiles or other communication to current and prospective clients who have requested for such information.
35. Making disparaging reference or unsubstantiated comparisons to the work of others.

36. Allowing clients to make use of the name and description of their auditor in business document or literature other than financial statements.
37. Publishing audit reports on headed notepaper
38. Using logos which have slogans or mottos which are not factual or objective in nature in the firm's materials, correspondence or literature.

D. Remedies available to members when publicity is given without their consent

39. Where a member alleges that an advertisement in print or electronic media that is in contravention of this guideline was placed without their consent the following remedies will be required to be undertaken in mitigation of the offence as soon as the offence is realized:
 - (i) The member/s will be ordered by the Institute to place an advertisement of similar size and/or prominence either denying or dissociating themselves from the assertions made in the initial advertisement.
 - (ii) A member/s may in addition be required to obtain an apology from the media house with a copy of such apology being sent to the Institute.
40. The above remedies will serve as mitigation in determining whether or not the offence will be referred for disciplinary inquiry but shall not in themselves be sufficient to terminate the investigations in the circumstances surrounding the advertisement.

SCHEDULE I (paragraph 13)

A. SAMPLE SUPPLEMENT

1. Message from the Chairman and Group Chief Executive

It is with great pride that **ABC** and **XYZ** Consulting Ltd announce their admission as full member firms of **BMS** International.

ABC becomes only the third full member firm from Africa to be admitted to this growing network of leading independent professional services firms, often ranking within the top ten in their own locality, who are united by a common desire to provide the highest quality of services to clients.

We pay tribute to all our staff for the true dedication and unstinting commitment to upholding professional values and standards and to our clients and business associates for their trust and support without which this milestone would not have been possible. We are also appreciative of the support and co-operation extended by **BMS** International during our tenure of membership with them.

Name:
Chairman, **ABC**

Name:
Group Chief Executive, **ABC**

2. Message from BMS International CEO

I am delighted to welcome **ABC** and **XYZ** Consulting Ltd into our ever-increasing global network. **BMS** International already has representation in seven other African countries and **ABC** becomes the third full member in the continent.

All firms admitted into **BMS** International must meet our strict membership criteria. Equally as important to this is that **BMS** member firms share our commitment to providing high quality client services and supporting their clients to grow and develop their businesses.

ABC and **XYZ** Consulting Ltd are progressive and ambitious firms and we look forward to working with them in the future as they become part of the **BMS** global family. We will continue to build our presence in the important African economies in the future.

Name:
CEO, **BMS** International

3. Brief History

ABC was founded in --/--/---- with a staff force of __, headed by an executive partner. In ____ (Month) of the same year, the firm acquired the **TLB**

International affiliation. In --/--/---, the firm spread its wings to _____ in _____, and in --/--/--, partnered with _____ to establish a practice in _____, _____ (Town and Country). In --/--/----, the firm joined the BMS International network after having successfully completed BMS's comprehensive due diligence and quality control review process.

At ABC, with a partner / director strength of ___ (number) and a staff complement of over ___ (Number), our clients work with professional service advisers who share their values, fit seamlessly into their working culture and have an in-depth understanding of their business. We work exceptionally hard to understand our clients' needs, and in adherence with the firm's motto "**firm's motto**", provide perfect-fit solutions that will achieve your short and long-term ambitions.

About BMS International

BMS International is the ___th largest worldwide network of independent accounting and consulting firms with:

- ___ independent member and correspondent firms operating in over ___ offices and ___ countries
- Over ___ professionals including ___ partners
- A combined fee income of US\$ _____

BMS is a member of the Forum of Firms (FOF). FOF is an association of international networks of accounting firms that perform audits of financial statements that are or may be used across national borders, with an objective to promote consistent and high quality standards of financial reporting and auditing practices worldwide.

The strong relationships between BMS member firms are a key factor in enabling them to deliver exceptional customer services to cross-border clients. BMS operates a 'Centres of Excellence' structure in each of the four main operating areas of audit, tax, risk assurance and transaction support. With their strong international language capability, effective global communication and resource sharing, BMS member firms maintain a strong position to service clients in diverse business sectors with a common brand the world-over.

4. Vision and Mission

Vision

Our vision is to be a leading Pan-African professional services firm, with international affiliation, recognised for its ethics, values and professionalism with a strong culture of personalised and partner-led quality service, supported by investment in its human capital and technology.

Mission

- ➔ To provide a wide range of personalised and partner-led professional services in the true spirit of our motto "We Deliver".

- To equip and invest in our staff thereby empowering them to provide optimal business solutions tailored to meet the diverse needs of our clients and also make a useful contribution to the profession and the society at large.

5. Contacts

ABC - Kenya

Nairobi

Office Building:

State:

Country:

Tel:

Fax:

E-mail:

Website:

Contact person:

BMS International

Executive Office

Office Building:

State:

Country:

Tel:

Fax:

E-mail:

Website:

Contact person:

B. SAMPLE - APPOINTMENTS

Mr. Anyotha - Anyotha joins the firm as the Managing Partner of our Mombasa office. Anyotha is a Fellow of the Institute of Certified Public Accountants of Kenya (ICPAK) and Institute of Chartered Accountants of England and Wales (ICAEW). He also holds a Bachelors Degree in Economics, Law and Accounting from the University of Wales. He is also a member of the Institute of Certified Public Secretaries of Kenya (ICPSK). Anyotha joined Delloite in 1968 and spent 10 years, managing the Mombasa Branch, prior to starting his own practice in Mombasa.

Mr Anonymas - Anonymas joins the firm as a Partner at our Nairobi office. Anonymas is a Fellow of ICPAK and ICAEW and a member of the Institute of Certified Public Accountants of Uganda. He has 24 years experience in audit and assurance with PricewaterhouseCoopers at the partner level. He has extensive

expertise in International Financial Reporting Standards and International Standards on Auditing, and has been a member of the Professional Standards Committee of ICPAK for several years. Over the last few years at PricewaterhouseCoopers, Anonymas was responsible for Risk Management and Quality Assurance for East, Central and West Africa. He has handled audits of clients in the sectors spanning financial services, manufacturing and agriculture including listed companies.

Ms A.O.B – AOB is our partner in Tanzania will join the firm as a regional partner after completion of her registration formalities with ICPAK. AOB has over sixteen years professional experience, fourteen of which were with PricewaterhouseCoopers in Tanzania and United Kingdom. She has extensive experience in the sectors of banking, insurance, manufacturing and not for profit organizations. She holds a Bachelor of Commerce Degree in Accounting, a Post Graduate Diploma in Financial Management and is a Fellow Certified Public Accountant, Tanzania.

C. SAMPLE - PROMOTIONS

Ms. Achievement – Achievement has been promoted as a senior Audit Manager at our Tanzania practice. Achievement has over seven years professional experience in audit and assurance services. Her experience in assurance services spreads to various sectors having handled clients in telecom, trading and manufacturing, insurance, donor funded and retirement benefits schemes. Prior to joining the firm, she worked with PricewaterhouseCoopers for six years, rising from an Associate to a Manager. Achievement possesses a Bachelors degree in Business Administration and is a member of the Association of Chartered Certified Accountants (ACCA).

D. SAMPLE - NEW RECRUITMENT

Mr. Recruit - Recruit joins the firms as a Manager - Corporate Finance. Recruit has over seven years professional experience in business and financial advisory services in both private and public sectors. His experience in transaction advisory services includes financial and operational due diligence, business valuation, project feasibility studies, business plans, risk assessment reviews etc. He holds Bachelor of Commerce degree specialisation in finance and is a member of ICPAK. He is currently pursuing an MBA in Finance at the University of Nairobi.

E. SAMPLE - ADVERT FOR MARKET PRESENCE

To be preferably in the business daily or business segments of the newspaper.

“ The Firm of XYZ wishes to notify members of the public that they are now located on XYZ plaza...for more information on our products and services visit www.xyz.com.”

F. SAMPLE - ADVERT FOR STAFF

We are a rapidly expanding firm of accountants based in Nairobi with branches in Nairobi, Mombasa and Kisumu. In order to facilitate our further expansion, we need to recruit two audit managers. This is a challenging and highly rewarding role with very good short term promotion and medium term partnership prospects. Ideally, applicants should possess the following qualifications, experience and skills:

- CPA (K) and membership of ICPAK.
- strong technical abilities in A,B, & C.

To apply please send a C.V. with a brief cover letter outlining interest and suitability to recruitment@cpa.com

G. SAMPLE - ADVERT FOR SPECIALISED SERVICES

“Looking for corporate financial advisory services? Invest a moment to find out more.....”

Experienced corporate finance advisors can be found at the click of a button. Just visit www.xyz.com”

H. SAMPLE – NORMAL ADVERTS ON BILL BOARDS/TAGLINE

“Looking for an Accountant? Turn Left at this Junction.....”

XYZ CPA’s – AUDIT. TAX. CONSULTING