

## APPENDIX 1

*(referred to in paragraphs 46, 51, 104 and 123)*

### **The Institute of Chartered Accountants in England and Wales 'Extracts from section E of the members' handbook relating to restrictions on advertising'**

#### **'Professional Accountancy Services**

##### **'Publicity aspects of members' conduct**

'1. The Council wishes to draw the attention of members to certain aspects of professional conduct including publicity, advertising, and solicitation, and for their guidance has prepared the following notes:

##### **'General**

'2. It is in the interests of the public and the Institute that any appointment or other activity of a member in a matter of national or local importance, or the award of any distinction to a member, should receive publicity and that membership of the Institute should be mentioned.

'3. On the other hand it is a recognised principle that a member should not advertise or circularise, or in any other way solicit or seek to acquire professional business or bring his name to the notice of the public in a manner which would bring discredit to the profession or lower the esteem in which the profession is held in the eyes of the public.

'4. A member is expected to carry out this principle in the spirit as well as the letter. He must use his own judgment in determining for himself whether a particular course of action could be held to amount to advertising or solicitation. As, however, circumstances may arise in which guidance in the proper exercise of that judgment would be helpful, the statements in the following parts of this section have been prepared in the hope that they may be of assistance for this purpose. The statements should not be regarded as a comprehensive guide and any member who remains in doubt as to his proper conduct in a particular situation is advised to seek the advice of the Secretary of the Institute.

'5. In all cases where a member's name and description may be used the Council may on application decide that a reference to the firm concerned should be made in the interests of the profession as a whole or the general public.

'6. Except where the context shows them to be applicable exclusively to practising members the statements apply in principle to non-practising as well as to practising members.

### **'Advertisements by members seeking employment or professional work**

'7. A member should not advertise for work of an accountancy nature unless he is seeking salaried employment, whether full-time or part-time, which is to be the sole occupation from which he derives income.

'8. A member should not advertise for agency work or in any other manner which could be interpreted as offering to undertake professional work. (See paragraph 82.)'

*Paragraphs 9-14 [deleted in June 1969 and replaced by paragraphs 75-80 in January 1972].*

### **'Advertisements for the disposal or acquisition of a business or property**

'15. The name and address of a member (or firm) with the description to which he is entitled as a member of the Institute may be included in:

- (a) an advertisement inserted on behalf of a client wishing to acquire or dispose of a business or property;
- (b) an advertisement for the sale of a business or property where the member is acting in a professional capacity as trustee, liquidator or receiver.

The name, description and address of the member should not, however, be given undue prominence.'

*Paragraphs 16 and 17 [deleted in June 1969 and embodied in paragraphs 88-90. Paragraph 18 below should be read in conjunction with paragraphs 88-90].*

### **'Notices in the Press (change in partnership, address, etc)**

'18. To avoid misunderstanding, a notice should be marked "Not for publication" if it is sent to a client who is a proprietor of, or known to be otherwise associated with, a newspaper, trade journal or other publication (except the accountancy Press).

### **'Notices in the Press (examination successes)**

'19. Notices in the Press relating to the examination success of an individual candidate should not contain any element of undesirable publicity, either in relation to the clerk or the member or firm with whom he has served. The following details may be included:

- (a) candidate's name and residential address;
- (b) examination passed with details of any prize or place gained;
- (c) name of principal and/or firm;
- (d) name of town in which principal practices (but not the full address);
- (e) photograph of candidate;
- (f) names of parents;
- (g) school and local background.

### **'Notices in the Press (appointment as auditor)**

'20. A member should not sanction the publication in the Press of a notice relating to his (or his firm's) appointment as auditor unless it appears as a part of or comment on the annual report, or a report of the formal proceedings of a company or other body.

### **'Publicity for members' appointments and other activities**

'21. Publicity for the appointment of a member of the Institute to a position of national or local importance, including to the board of a company, is to be encouraged, as is publicity for the views of members on matters of national or local importance. It is desirable that any such publicity should mention membership of the Institute but, in the case of a practising member, the name of the firm should not (in so far as this is within the member's control) be included.

'22. Mention may also be made of any other appointments or directorships of importance previously or currently held and a photograph may be provided.

### **'Member standing as an election candidate**

'23. A member who is standing as a candidate in a national or local election may state his description and designatory letters in the election address which he issues or in other election literature.

'24. A member in practice may state the name of the town in which he practises but should not give his firm's name. A member employed in an accountancy practice may state that he is employed by a member of the Institute if this is the case, but he should not give the name and address of his employer. Any other member may give any details relating to his employment.

'25. If the election address includes a short personal history, there should be no reference to the name of any professional firm.

'26. Any publicity should not, so far as professional details are concerned, go beyond what is permitted in election literature.

### **'Articles and letters in the Press**

'27. A member who writes an article or letter or other contribution to the Press may use his name and the description or designatory letters to which he is entitled as a member of the Institute.

'28. Frequent contributions to the Press, which could be deemed likely to attract accountancy work, could in certain circumstances render a member liable to disciplinary action.

'29. A member:

- (a) who is in practice; or
- (b) who, though not in practice, is associated with a firm or business which offers accountancy services;

should not (other than in the accountancy journals) disclose the names of his firm or business.

'30. A member who is not in practice and who is not associated with a firm or business which offers accountancy services may, if he so wishes, add the name of the organisation by whom he is employed.

#### **'Radio and television**

'31. It is considered to be in the interests of the public and of the Institute that a member appearing on radio or television should be described as a chartered accountant.

'32. A member who takes part in a radio or television programme may give his name, the name of the town or district in which he lives or works and the description "chartered accountant", "practising accountant" or "practising chartered accountant". No reference should be made, in the case of a practising member, to the name or address of his firm. Particulars may be given of any special qualification or specialised knowledge directly relevant to the subject-matter of the programme.

#### **'Authorship of books and pamphlets**

'33. A member who is the author of a book or pamphlet for general publication may state therein his name with the description or designatory letters to which he is entitled as a member of the Institute and may also provide for publication the following further particulars:

- (a) reasonable personal details (including details of education);
- (b) other qualifications and bodies of which he is a member;
- (c) other publications;
- (d) hobbies;
- (e) photograph.

'34. There should be no mention, however, in the book or pamphlet or in publicity relating to it of the name or address of any practising firm.'

*Paragraphs 35 and 36 [deleted and replaced by paragraph 84].*

#### **'Directories and similar publications**

'37. The name, description and address of a member (or firm) may appear in any directory or list of members of a particular body in which the names are listed alphabetically.

'38. For a specialised directory or a publication such as a *Who's Who* (including those compiled on a purely local basis) a member should use his discretion as to the information which he supplies bearing in mind the nature and purpose of the publication. In addition to his name, description and address and those of his firm, a member may give, where appropriate, directorships held and reasonable personal details and may state his outside interests. He should not, however, give the names of any of his clients or details of the services offered by his firm.

'39. The name, description and address of a member should not appear in a directory in which the names are classified by occupation unless inclusion in the directory is open to all members of the Institute in the area covered by the directory.

'40. A member should not have an entry in any directory or similar publication in leaded type or in any other form if it is thereby distinguished from other entries in the same directory except that an entry in a telephone directory may if the member so wishes be in small leaded type. (See paragraph 85.)

'41. The above applies whether the entry is paid for or not.

#### **'Inclusion of a member's name, description and address on envelopes**

'42. If a member uses envelopes bearing his name, description and address, or that of his firm (whether by printing or by franking machine) he should ensure that such printing or franking conform to a high standard of professional good taste.

#### **'Inclusion of a member's name on a document issued by a client**

'43. Some concerns adopt the practice of including the name and description of their auditors not only on documents which include accounts on which the auditors have reported or documents where the name of the auditor appears pursuant to a statutory requirement but also on brochures and other literature.

'44. The use of a member's name in this way is capable of being interpreted (and may be intended to be so interpreted) as an indication that the concern is financially sound and well conducted. The public does not always appreciate that judgment on such matters requires study of the concern's accounts and the terms of the auditor's report thereon.

'45. Accordingly any member who learns that a client wishes to use his name as auditor in this manner should inform the client that his permission must first be obtained. The use of a member's name can be justified only in restricted circumstances, for example where the client is a concern which invites the public to place funds in its hands by way of deposit, investment, charitable contribution or otherwise. In every such special case the member should satisfy himself as far as practicable:

- (a) that the concern is properly conducted; and
- (b) that a concern which invites investment or deposit, is in a sound financial position; and
- (c) that the auditor's name will not be given undue prominence.

'46. The considerations in paragraph 45 above apply also where a member is not the auditor but acts in some other independent professional capacity, and the client wishes to use the member's name and describe his capacity, for example "accountant" or "consulting accountant". A description which implies special ability or experience should not be permitted.

'47. Paragraphs 45 and 46 above should be considered in conjunction with the Council statement (Section V7) on the acceptance of agencies for financial organisations and the Council statement (see paragraphs 52 to 54 of this section E3) on members' reports.

'48. A member acting in an independent professional capacity should not permit a client to show the member's name on the client's notepaper, whether as auditor or otherwise. Subject to the considerations stated in paragraphs 45 and 46 however a member may if he thinks fit allow his name to appear on notepaper specially printed for the purpose of a charitable appeal.

'49. This statement is concerned only with the position of members who act in an independent professional capacity for a concern. It does not apply to an appointment as chairman, director, member of committee, treasurer or secretary or in some other capacity in which the member is acting as a member or officer or employee of the committee or organisation nor does it apply to an appointment such as chairman of a committee of enquiry or similar body. In such case a member's designatory letters may appear on the concern's notepaper or on any document issued by the concern.

#### **'List of names and addresses**

'50. Some firms find it convenient to prepare for their own use and the use of their associated firms or correspondents a list of their various offices and the offices of associated firms and correspondents.

'51. A list of this nature may be issued to a client or on a specific request to a non-client for his own use but it should never be so issued if it contains details beyond the names, addresses and telephone numbers of firms, branches, associated firms or correspondents, and of the partners and/or staff therein, or if, in giving this information, it includes descriptions which indicate the nature of the services provided.

#### **'Audit reports**

'52. Audit reports on headed notepaper in facsimile form should not be included in the published accounts of public companies in the United Kingdom.

### **'Reports on net sales and other facts**

'53. When a member (or firm) makes, for publication, a report on net sales (or other facts such as the results of a football or similar pool) he should:

- (a) ascertain in advance and be satisfied with the form and context of intended publication;
- (b) satisfy himself that the organisation is properly conducted;
- (c) ensure that his report deals only with ascertained facts.

'54. In any Press announcement or any document distributed by the organisation, the report should be printed in type of a reasonable size in relation to the rest of the announcement or document and should be in facsimile form on headed paper.

### **'Building societies**

'55. A member in practice, appointed as agent of a building society, may permit his name, description and address to appear in any literature issued by the society or in any advertisements provided that the appointment is not referred to or used in such a way as might be considered to be advertising the qualification of the member for accountancy work, and provided that the particulars are not given undue prominence in relation to the rest of the advertisement (see paragraph 86).

### **'Trade associations and other organisations**

'56. Where a member holds an office in a trade association or other organisation, he should be careful not to misuse or appear to misuse his position for the purpose of seeking other professional work.

'57. Similar considerations also apply in the following circumstances:

- (a) where a member (or his firm) is instructed by a trade association or other organisation to make a report on a matter of concern to the members of that body with the intention or possibility that copies of the report will be circulated to those members; or
- (b) where an organisation operates through its trade journal or otherwise an advisory service inviting its members to submit enquiries if they have any particular accountancy problems on which they require advice and where a member of the Institute (or his firm) has an arrangement with the organisation under which he agrees to supply the accountancy advice required. In the circumstances outlined in this sub-paragraph the member should have regard to the following points in particular:
  - (i) there should be no direct contact between the member and the individual members of the organisation. The advice given by the member should be sent to the organisation so that it may be passed to the enquirer without disclosing the name of the member who gave the advice;

- (ii) in exceptional circumstances the nature of the advice given may necessitate some contact between the member and an individual member of the organisation. In such case the member should, before giving advice, notify the existing professional advisers retained by that member of the organisation;
- (iii) there should be no reference by name in this connection to the member in any literature issued by the organisation or in any journal published by it.

#### **'The issue of booklets by members**

##### **'Booklets descriptive of services provided by members**

###### **'A. Institute Booklet**

'58. The Institute booklet *See a Chartered Accountant* indicates the nature of the services provided by members of the Institute. The purpose of the booklet is to draw those services to the attention of persons who have not so far used them and also of persons who already obtain accountancy or taxation services from members without realising the wide range of additional services which they could obtain. Publicity for the services which are available to the public from chartered accountants is highly desirable, subject to the important reservation that care is needed to avoid the issue of any document in circumstances which could be considered unethical as being an attempt by a member or firm to attract professional work from persons other than their clients or to obtain publicity for themselves to an extent and in a manner closely akin to advertising. Accordingly, when the booklet *See a Chartered Accountant* was issued to members in March 1963 they were advised as follows:

'A member may of course send the booklet to any of his clients. That is one of the purposes for which it has been prepared. Copies so issued should be accompanied by a suitable letter addressed to the client. The booklet may also be displayed in a member's waiting room for clients to take away.

'It is to be expected that some copies issued to clients will find their way into the hands of non-clients. This would be to the advantage of the Institute, but members will appreciate the importance of ensuring that the booklet does not publicise a particular member or firm.

'The following restrictions must therefore be observed:

- (a) neither a member's name or address, nor the name or address of his firm, should be marked on or affixed to any copy of the booklet
- (b) the member should not send the booklet to any person who is not a client, except in response to an unsolicited request.

'59. The announcement set out above makes clear that the booklet *See a Chartered Accountant* may properly be sent with a suitable letter by a member to any of his clients. This booklet describes the range of services available to clients from practising members of the Institute. When, therefore, a member or firm sends a copy to a client there is a clear implication that, except so far as the covering letter indicates otherwise, the sender is prepared to provide the services described in the booklet.

## *'B. Member's Booklet*

'60. If the issuing member so prefers there is no reason why he should not prepare his own document using, if he so wishes, the information provided in the Institute's booklet, with any appropriate additions (see paragraph 87).

'61. Except in response to an unsolicited request such a document should not be issued to a person who is not the issuer's client, a member of the issuer's staff or a partner or member of the staff of a firm which is associated with the issuer in the sense that it takes responsibility to its clients for the performance by the issuer of services described in the booklet. Such a document should be issued with a covering letter addressed to the client or other person to whom it is issued which should emphasise that it is for the use of that person and should not be passed on to others, except that a firm associated with the issuer in the sense described above may re-issue the document in the same way as the issuer himself. If desired the reason for this restriction may be given, namely that failure on the part of the recipient to comply may involve the issuer in allegations of contravention of the Institute's ethical requirements.

'62. A document of this kind should be objective in tone and presentation. It should not be expressed in terms which evaluate or appraise the quality of the services nor should it include information about the nature and extent of services which the member or firm has already undertaken for specific companies, trade associations or other clients. Such information may however be included in a private letter addressed to a client or sent as a reply to a specific and unsolicited enquiry by some other person.

### **'Booklets and documents containing technical information**

'63. From time to time enquiries are received by the Institute as to the rules which govern the issue by members and firms of booklets and other documents bearing their names which have been prepared to give technical information for the assistance of their clients on matters other than services which the members or firms are prepared to render and are not addressed to a particular client. Examples are booklets which give particulars of new legislation or regulations; descriptions of accounting techniques and machines; and information about the conditions and methods of carrying on business in particular industries or countries.

'64. There is no reason why such documents or booklets should not be issued to clients or staff of the issuer or to any other firm of accountants. They should not be issued to other persons except in response to an unsolicited request, and undue prominence for the name of the member or firm is to be deprecated as being detrimental to the status of the profession in the public esteem (see paragraph 87).

### **'Considerations applicable to both classes of documents**

'65. Any booklet or document issued in accordance with this statement should be dignified in content, manner of presentation and form of production whether printed, duplicated or typewritten; flamboyance should be avoided as being inconsistent with the dignity and standing of the profession.

'66. The references to clients in the foregoing paragraphs are exclusively clients who retain the services of the issuing member or firm in the field or one of the fields of public accountancy to which the document concerned relates; or if they do not retain them in any one of those fields, do not, to the issuer's knowledge, retain therein the services of another professional adviser.

'67. Where a document is issued in response to an unsolicited request from a person who is not a client and the request is not made through a professional accountant:

- (a) the member or firm should first ascertain whether the person is already using the services of a professional accountant (including, where applicable, his auditors); and
- (b) the member or firm as a matter of courtesy should write to such other accountant, if any, enclosing a copy of the booklet and informing him that the request has been received and complied with.

'68. A member or firm acting in a professional capacity for a trade association is not thereby in a client relationship with the individual members of the association but there is no reason why copies of any report made at the request of the association should not be circulated to its members.

'69. A member could be liable to disciplinary action if he or his firm should fail to observe the foregoing considerations or should achieve unnecessary and avoidable publicity by reason of either:

- (a) not taking reasonable steps to exercise proper control over the issue of a booklet; or
- (b) issuing a booklet on a scale or in a manner which could be interpreted as indicating a desire to publicise to non-clients the services of the member or firm.

'70. It is recognised that in isolated cases a client, not knowing of the ethical considerations set out in this statement, may pass on to another person a booklet which he has found of interest. Such an isolated instance would not necessarily reflect adversely on the conduct of the member issuing the booklet but the Council wishes to emphasise that a member who issues any booklet of the kind referred to in paragraph 60 must accept full responsibility for proper control over its distribution.

#### **'Replies to Press Advertisements**

'71. It is well established that members should not advertise for professional work. Enquiries have been received as to whether members may reply to advertisements offering such work.

'72. The Council wishes to advise members that there is no reason why they should not reply to advertisements for professional services. If, however, an advertisement is clearly designed to attract full-time staff, a practising member who replied and offered professional services, other than on a full-time salaried basis, could render himself liable to disciplinary action.

### **‘Advertising for staff in directories**

‘73. The Council advises practising members that it is in order for them to place suitable advertisements for staff in *The Directory of Opportunities for Graduates, Careers for School Leavers* and similar publications.

‘74. Such advertisements should conform with the general principles of the Council’s statement on “Advertisements for staff” (see paragraphs 75 to 80).

### **‘Advertisements for staff**

‘75. The Council has reviewed, in the light of current practice, its guidance on “Advertisements for Staff”.

‘76. The Council recognises that the attraction of suitably qualified staff may require description of the duties to be performed and of the facilities and benefits which are offered and that, bearing in mind the intense competition for accountancy staff by organisations not subject to the Institute’s ethical requirements, advertisements for staff need to be in a modern and attractive format.

‘77. The guiding principles are that advertisements for staff for a professional practice or for a client:

- (a) should conform to a high standard of good taste;
- (b) should not appear to be attempts, through the contents in association with the visual impact of the advertisements, to bring the activities of the practice, or of any associated firm, to the notice of the public with a view to obtaining professional work.

‘78. In drafting advertisements it is important to bear in mind the media and context in which they are to appear. Substantially greater latitude would be allowed in a directory dealing solely with opportunities for employment or in a section of a newspaper devoted to staff advertisements, than would be allowed for an advertisement appearing in a prominent position elsewhere in a newspaper on the grounds that it would be most unlikely that a potential client would use such media to select his professional adviser.

‘79. As an elaboration of the principles in paragraph 77, the Council gives the following guidance on points of detail:

- (a) The name and address of the member may be inset but should not be given undue prominence. It should not appear more than once in the advertisement and should not be in larger or bolder type than the main body of the advertisement;
- (b) Any heading should not be open to the interpretation that it is designed to advertise any of the services offered by the firm;
- (c) Pictorial illustrations, designs or emblems (including combinations of the initial letters of the firm’s name) are permissible provided that they do not portray the nature or scale of the firm’s activities;
- (d) There should be no suggestion that the services offered by the firm advertising are superior to those offered by other firms.

'80. In his own interest a member is advised to ask for a proof of a proposed advertisement in display form before issue so that he can ascertain whether his instructions have been followed.'

81. [This is an introductory paragraph].

**'Sub-contract work (Paragraphs 8 and 9)**

'82. Advertisements in classified form in the professional press for sub-contract work are permitted. A member may make a direct approach to a member in practice offering his services. The form of the approach is not now specified; under the old ruling a letter was allowed but not a circular.'

*Paragraph 83 [deleted and replaced by paragraphs 88 to 90].*

**'Talks, lectures, attendances at conferences**

'84. The name of the member's firm may be given. There should, however, be no undue publicity before, during or after the conference for the services offered by the firm.

**'Directories (Paragraph 40)**

'85. A member firm may have entries in telephone directories, including the "Yellow Pages", or in Kelly's Directories in the standard bold faced type. Display entries are not permissible.

**'Building Society Agencies (Paragraph 55)**

'86. An illuminated sign in connection with a building society agency is permitted provided it refers only to the building society and is not given undue prominence.

**'Issue of booklets by members (Paragraphs 60 and 64)**

'87. The name and address of the issuing firm may appear anywhere on a booklet or other publication prepared by a firm provided that it is not given undue prominence, and a copy of the booklet may be displayed in the member's waiting room.

**'Notices of changes in partnership and changes of address**

**'Council statement, 7th November 1972**

**'Information to clients**

'88. Clients and business associates will normally be notified by letter of changes such as the appointment or retirement of a partner, the amalgamation of firms, changes of address, etc.

**'Announcements in the accountancy press**

'89. Notification of such changes may be given in the accountancy press, whether paid for or not.

*'Announcements in the non-accountancy press*

'90. Notices in the non-accountancy press, whether paid for or not, should be limited to changes in partnership, including amalgamations or changes of name. Such notices should be confined to a statement of the facts. It is not intended that publicity for changes of address or the opening of a new office should be allowed in the non-accountancy press.'

**'Advertisements for staff—television, cinemas, use of colour**

**'Council statement, 3rd May 1971**

- '91. (a) The Council recognises that the attraction of suitably qualified staff may be assisted by the appearance of staff advertisements on television or cinema screens in colour or black and white. Provided such advertisements are under a box number and neither identify the firm nor give any greater description of the service it offers than is necessary to describe the duties to be performed there is no objection to such advertising.
- (b) The Council has no objection to an advertisement for staff, which otherwise conforms with the Institute's requirements, appearing in colour in the press provided the rest of the content of the page on which it appears is also in colour.
- (c) The above should be read in conjunction with paragraphs 75 to 80 section E3 and paragraph 4(j) of section E6.'

**'Members' Handbook—Section E6 Consultancy**

**'Management consultancy**

'1. The restrictions on publicity hitherto governing members of the Institute have prevented members from playing their full part in the development of management consultancy services. This has resulted in a loss of work to management consultancy organisations which are not bound by the same ethical restrictions. It has also resulted in a loss to the community as a whole since chartered accountants are especially well-equipped to provide these services.

'2. The function of the accountancy profession is to make available to the public the best professional and technical advice and services. In this respect the client's interest are paramount. The chartered accountant in public practice should be able to obtain for his client the best advice available from within the profession if he does not have the specialised knowledge and experience to enable him to undertake some particular assignment. He should be able to do this without fear of thereby losing to the consultant, or to a firm associated with the consultant, the audit or other services already provided.

'3. The Council's guidance to members is set out in paragraph 4 below. It is designed to meet the problems referred to in paragraphs 1 and 2 above by:

- (a) liberalising restrictions on the provision and publicising by members of management consultancy services; and

- (b) strengthening the position of practising members as regards referrals to consultants (in this connection particular attention is invited to paragraphs 4(h) and 4(i) below).
4. (a) A member or firm in which a member is a partner (hereinafter referred to as "the member's firm") may, with the approval of the Council, operate, in accordance with the provisions of this paragraph, a limited or unlimited company or separate firm (hereinafter referred to as 'the consultants') whether or not associated with non-members, to provide management consultancy services.
- (b) The consultants may have the same, or a similar, name and operate from the same address as the member's firm.
- (c) The consultants may use the description "management consultants" or other appropriate description (but *not* the description "chartered accountants") and will not be bound by the present restrictions on publicity.
- (d) The consultants should not advertise or solicit for work, but publicity for the consultants in the Press, or on radio or television, for assignments carried out or to be carried out is permitted. The issue of a brochure to a non-client in response to an unsolicited request is also permitted.
- (e) A partner in the member's firm may be a director or partner of the consultants.
- (f) A member who is a director, partner or employee of the consultants may describe himself personally as a chartered accountant and use the designatory letters to which he is entitled; he may mention the name of the consultants in connection with any articles in the Press or any lectures which he may be asked to write or deliver.
- (g) Before accepting an assignment the consultants should communicate, as a matter of professional courtesy, with the auditor or accountant concerned, except in cases where the client advances valid reasons to the contrary (cases of doubt may be referred to the Institute) and thereafter should keep such auditor or accountant informed as to the general nature of the work which the consultants are doing.
- (h) Consultants called upon to render management consultancy services to the client of an accountancy practitioner who is continuing in his relationship with that client have not merely the negative duty of refraining from soliciting any work which is being performed by that other practitioner but the positive duty of taking all steps reasonably open to them to support the other practitioner in retaining his relationship. The latter has an equivalent duty to his professional colleagues to support the relationship between the client and the consultants.

- (i) The consultants should not be used to attract audit or conventional accountancy work to the member's firm. In the event of a complaint the onus would be on the consultants to satisfy the Institute that they had not been instrumental in attracting work from an existing accountant. If the consultants are unable so to satisfy the Institute, members of the Institute who are directors or partners therein or partners in the member's firm could render themselves liable to disciplinary action.
- (j) There are no restrictions on column width for advertisements for staff. (See also section E3, paragraph 91.)
- (k) The consultants may, if eligible, join the Management Consultants Association and a member who is a director, partner or employee of the consultants may, if eligible, join the Institute of Management Consultants.
- (l) The consultants may inform the Management Consulting Services Information Bureaux of the British Institute of Management and of the Irish Management Institute of the services they can offer in the consultancy field. They may also be listed in specialised registers or similar publications. (Statement issued in 1969.)

*Paragraphs 5—7 [deal with the development of consultancy in the accountancy profession and ethical problems involved].*

'8. The advice or services of a consultant may be sought in one or other of the following ways:

- (a) the client may seek the advice of a consultant without previous reference to the existing accountant;
- (b) the client may seek the advice of a consultant after prior discussion and consultation with the existing accountant;
- (c) the client may seek the advice of a consultant on the specified request or recommendation of the existing accountant;
- (d) the existing accountant may himself seek the advice of a consultant with or without informing the client.

It may be thought that a distinction could be drawn between the ethical considerations which apply in the various categories above. In practice, however, the circumstances are unlikely to be so clearly distinguishable.

'9. The Council reaffirms that in the choice of his own professional advisers the wishes of the client must be paramount. Apart from the safeguard against the improper dismissal of an auditor, it is both undesirable and impracticable for the Council to attempt to restrict a client's freedom of choice.

'10. It therefore makes the following statement which covers the whole field of consultancy work irrespective of the origin of the consultant's introduction, and it places the emphasis on the behaviour of the consultant and the existing

practitioner in their relationship with the client and with one another and on the positive duty of members of the Institute towards fellow-practitioners. On that behaviour and the fulfilment of that duty depends the creation of an atmosphere of mutual confidence and trust in which alone consultancy within the profession can be encouraged.

'11. When the consultant is asked, otherwise than directly by the existing accountant, to provide advice or services, he should enquire whether the client has an existing accountant. If so it is normally desirable, as a matter of professional courtesy, for the consultant to notify the existing accountant that he is undertaking the work and to indicate the general nature of the request. Circumstances sometimes arise when the client insists that the existing accountant should not be informed. The consultant should decide whether the client's reasons are adequate and in case of doubt may refer to the Institute. In the absence of special circumstances a mere disinclination by the client for communication with the existing accountant would be an unsatisfactory reason.

'12. Whatever the nature of the introduction it is desirable for the consultant, in so far as it is practicable, to keep the existing accountant informed as to the general nature of the work which the consultant is doing. This may be done either by the consultant himself or, if the client so requests, by the client. The existing accountant for his part should keep in touch with the consultant so as to give him any assistance within his power. From time to time the consultant may be asked by the client to undertake additional work of a type which is clearly distinct from that originally undertaken. In such cases the consultant should regard this as a separate request to provide advice or services and should communicate with the existing accountant as indicated in the previous paragraph.

'13. A member called upon to render services of whatever kind to the client of another accountancy practitioner who is continuing in his relationship with that client has not merely the negative duty of refraining from soliciting any work which is being performed by that other practitioner but the positive duty of taking all steps reasonably open to him to support the other practitioner in retaining his relationship. The latter has an equivalent duty to his professional colleague to support the relationship between the client and the consultant.

'14. Failure to observe the standards of conduct set out in this statement could render a member liable to disciplinary action. (Statement issued in 1968.)'

### **'Section E8—Activities through companies**

*Paragraph 1 [deals with ethical aspects of the use of companies].*

#### **'Mechanised accounting or computer services**

'2. The Council wishes to draw the attention of members for their guidance to the following points:

- (a) Members should be encouraged in the interests of clients and of the profession as a whole to provide mechanised accounting and computer services, it being recognised that the opportunity to do so will be taken in increasing degree by others.
- (b) Such services should not be advertised, nor should soliciting be allowed, other than by direct communication with other members of the profession who are in practice.
- (c) Such services may be offered through an unlimited company but not, in the case of practising members, through limited companies.
- (d) A member offering such services should not normally accept auditing, taxation or other conventional accountancy work from any client introduced to him by the client's own professional accountant for the provision of mechanised accounting or computer services.
- (e) In the event of an introduction for mechanised accounting or computer services other than through the existing accountant it is desirable that the member should communicate as a matter of professional courtesy with the existing accountant notifying him of the special work he has been asked to undertake.

#### **'Company registrars and data processing services**

'3. This statement is concerned with the ethical problems which arise in providing company registrar and data processing services. The Council takes the view that members, whether or not in public practice, should be permitted to operate, in accordance with the provisions of this statement, a firm or company (limited or unlimited) to provide such services.

'4. A member or firm of public accountants in which a member is a partner (hereinafter referred to as "the member's firm") may, subject to registration with the Institute, operate a limited or unlimited company or firm (hereinafter referred to as "the specialist firm"), whether or not associated with non-members, to provide company registrar and/or data processing services.

'5. A member may be a partner or director of the specialist firm.

'6. The specialist firm may use a name and/or description indicative of its activities but should not use the description "chartered accountants". A member who is a director of or partner in the specialist firm may, however, use after his name the designatory letters to which he is entitled.

'7. A member may mention the name of the specialist firm in connection with any articles in the Press or in lectures which he may be asked to write or deliver. The issue of a brochure to a non-client in response to an unsolicited request is also permitted.

'9. The specialist firm should not be used to attract work to the member's firm (if any) or an associated firm or company. In the event of a complaint the onus would be on each member who is a director of, or partner in, or proprietor of (i) the specialist firm, and (ii) the member's firm or associated firm to satisfy the Council that he had not solicited the work. If any such member were unable so to satisfy the Council he could render himself liable to disciplinary action.

'10. It is recognised that some members offering company registrar and data processing services feel at a disadvantage in competition with organisations not subject to restrictions on advertising and solicitation.  
Accordingly:

- (a) The specialist firm may, with the approval of the Council, advertise to the public the services it offers and solicit business, provided that it does not have a name or address which associates it with the member's firm or an associated firm; *or*
- (b) The specialist firm may have the same or a similar name and/or address as the member's firm but may not advertise or solicit for work. Publicity for the specialist firm and its services is, however, permitted.

'11. Members may be employed by firms or companies, whether or not registered under this statement, which offer company registrar and data processing services. Such members should not accept other accountancy work which might be offered to them as a result of such employment.'

## APPENDIX 2

(referred to in paragraphs 46 and 51)

### **The Institute of Chartered Accountants of Scotland**

#### **Guidance relating to advertising issued to members between June 1965 and May 1973**

**Extracts from 'Advertising, Solicitation and Related Matters' published in  
*The Accountant's Magazine*, June 1965**

The Council of The Institute of Chartered Accountants of Scotland authorised on 6 May 1965 the publication of a document entitled 'Advertising, Solicitation and Related Matters' by way of guidance to members of the Institute. The introductory paragraphs read as follows:

'1. Under the Institute's Rules there is only one professional offence which can give rise to disciplinary proceedings against a member. The offence is "professional misconduct (which expression shall include any act or default discreditable to a member of the Institute)". The question whether any particular act or default amounts to professional misconduct falls to be decided by the Discipline Committee of the Institute or, on appeal, by the Council of the Institute. The Institute's Rules thus make no attempt to lay down any written code of ethics by which members must abide. This abstention from particularisation is deliberate: the reasons for it are:—

- (a) there has been a general consensus of opinion as to what is, or is not, "done" (and accordingly as to what is not, or what is, "discreditable") and
- (b) it would be unrealistic and undesirable to attempt to legislate by rule against all the acts or defaults on the part of members which could be imagined and which—merely having been imagined rather than perpetrated in fact—could then be listed as instances of professional misconduct.

'2. In publishing the present statement the Council intends no departure from the general proposition stated in paragraph 1 above: "professional misconduct" in its generic sense will remain the sole professional offence. The purpose of the present statement is somewhat different: the occasion for it arises because with the growth of new specialisations, some of them involving the use of extremely expensive equipment, the Council considers that some changes should be made in the views hitherto accepted as to what is, and what is not, "done".

'3. Hitherto it has been well understood that a member of the Institute with a view to attracting professional business, may not engage in any form of self-publicity, which expression includes the issue of any public statement or circular or advertising. It has also been well understood that a member is not permitted to do under the guise or through the medium of a company anything in relation to professional business which he is not allowed to do as an individual.

The Council is satisfied that, desirable as these propositions may be, their rigid application in modern circumstances could be very damaging and might produce as a practical result a situation whereby in certain fields members of the Institute would be at a serious disadvantage. The Council therefore hopes that the guidance given in the following paragraphs of this statement will avoid such an eventuality.'

*Specific guidance is then given to members in the following terms:*

'4. In these circumstances the Council offers the following guidance to members:

*General*

1. Except as hereinafter mentioned otherwise, no member of the Institute should, with a view to attracting professional business, engage in any form of self-publicity (which expression includes the issue of any public statement or circular, advertising and any form of solicitation).
2. As regards letter-headings used for public practice, while the use of letters indicating membership of reputable professional bodies is permissible, descriptive or designatory words other than "Chartered Accountant(s)" or "Accountant(s)" may not appear thereon.
3. An advertisement for staff may include the name of a member or his firm as the advertiser provided that the name is published in such a way as not to give the member or his firm undue publicity.
4. A member in public practice may communicate with his own clients by circular, or otherwise, on any subject that he wishes, provided that such clients do not to the member's knowledge retain in that field the services of another professional adviser.
5. A member in public practice may, by personal letter to another member of the profession in public practice or by direct approach to such a member seek professional work or offer his services, but, should not in this context issue any circular.
6. The provisions of paragraphs (4) and (5) above apply to services offered by any consortium of accountancy firms of which the member or his firm is a constituent.
7. A member engaging in accountancy work of a specialised nature, whether or not he is engaged in public practice, may allow his name with the professional designation "Chartered Accountant" or the designatory letters "C.A.", to be included in any register of specialists in his particular field, provided that such register shall have been approved for this purpose by the Council.

*Note:* For this purpose the Council has approved the Management Consulting Services Information Bureau established by the British Institute of Management and the Federation of British Industries.

### *Formation of Specialist Companies*

8. Since it is important to preserve the principle that the practice of the profession should be conducted by individuals or partnerships, members in public practice should not form limited companies for professional purposes without having obtained the prior consent of the Council, which consent would not be given to the formation by members in public practice of a limited company for management consultancy purposes.
9. Where members in public practice form a separate firm or unlimited company to carry on business as management consultants, the name of such separate firm or unlimited company should be distinguishable from that of the members' practising firm unless:—
  - (a) all the partners in the separate firm (or directors of the unlimited company) are chartered accountants; or
  - (b) the consent of the Council has been obtained.
10. In general, practising members should not form firms or companies with names descriptive of management consultancy or other services which they propose to render but, in the special case of computer and similar specialist services, a descriptive name may be allowed where the consent of the Council thereto has been obtained.

### *Management Accounting and Management Consultancy Services*

11. A member who is in public practice should not be a partner in, or director or employee of, any organisation which advertises (otherwise than in accordance with paragraph (13) below) that it provides management accounting services or management consultancy services, or which solicits business in respect of such services (otherwise than in accordance with paragraph (5) above).
12. A member who is not in public practice should not be a partner in, or director or employee of, an organisation which advertises (otherwise than in accordance with paragraph (13) below) that it provides management accounting services or management consultancy services.
13. Where an organisation (being a firm, a branch or department of a firm, a consortium of firms, a company, or an individual) provides management accounting services, or management consultancy services, and a member of the Institute is a partner in, or a director of, such organisation, he may permit the organisation:—
  - (i) to intimate in the accountancy press on the setting up of the organisation, or on any change in its constitution (or, in the case of an existing organisation, on the publication of this statement) the purpose for which the organisation has been set up; and
  - (ii) to describe itself as "Management Consultants" (or otherwise as may be appropriate),

provided that:—

(a) if such organisation describes itself as "Management Consultants" such member may use his designatory letters as a member of the Institute after his name on his business notepaper, but not the description "Chartered Accountant";

and

(b) no firm should describe itself both as "Chartered Accountants" and as "Management Consultants" on the same headed notepaper.

14. Any accountancy firm in public practice in which a member is a partner and which is eligible to do so may become a member, or affiliated member, of the Management Consultants Association.
15. Any member who is eligible to do so may become a member of the Institute of Management Consultants.

*Mechanised Accounting and Computer Services*

16. In any particular case where the Council so permits, a member in public practice may be a director of a limited company providing mechanised accounting or computer services.
17. There is no objection to a member who is not in public practice acting as an employee (other than a director) of a company which provides mechanised accounting or computer services, notwithstanding that its provision of such services is advertised.
18. Where a member (whether or not in public practice) is a partner in a firm, or director of a company, which provides mechanised accounting or computer services, and where in any particular case the Council so permits, he may allow such firm or company to advertise such services (it being envisaged that in considering any application for permission to advertise the Council would have regard to the scope and specialisation of the work and to the capital value of the equipment).

*Banks, etc.*

19. The foregoing guidance to members applies in relation to any organisation (such as a bank, an issuing house, or a trustee company) which offers services such as are akin to those given by accountants in public practice and where a member is a partner in, or director of, such organisation: provided that in relation to any such organisation the Council may grant dispensation from such of the foregoing provisions as it may think fit on being satisfied that the services in question either form only a minor part of the activities of the organisation or fall within specialised fields.'

Excerpt from *The Accountant's Magazine*, July 1966, p.511 et seq

**Advertising, solicitation and related matters**

The June 1965 issue contained at page 454 *et seq* a statement on this subject by the Council:

'The Council desires it to be known that, whilst the Council's statement of June, 1965, stands so far as the United Kingdom is concerned, it should not be construed as debarring members of the Institute from complying in respect of professional practice outwith the United Kingdom with the law or custom of the profession in each particular country in which they practice'.

### Statements issued in January 1971

#### Management consultancy

The following is the text of a joint statement on management consultancy issued by the Councils of The Institute of Chartered Accountants of Scotland, The Institute of Chartered Accountants in England and Wales, and The Institute of Chartered Accountants in Ireland. This is the first statement to be issued following the appointment of a joint committee of the three bodies on professional ethics.

*Paragraphs 1-3 are introductory and not relevant to advertising.*

4. (a) A member or firm in which a member is a partner (hereinafter referred to as "the member's firm") may, with the approval of the Council, operate in accordance with the provisions of this paragraph a limited or unlimited company or separate firm (hereinafter referred to as "the consultants") whether or not associated with non-members, to provide management consultancy services.
- (b) The consultants may have the same, or a similar, name and operate from the same address as the member's firm.
- (c) The consultants may use the description "management consultants", or other appropriate description (but *not* the description Chartered Accountants) and will not be bound by the present restrictions on publicity.
- (d) The consultants should not advertise or solicit work, but publicity for the consultants in the press, or on radio or television, for assignments carried out or to be carried out is permitted. The issue of a brochure to a non-client in response to an unsolicited request is also permitted.
- (e) A partner in the member's firm may be a director or partner of the consultants.
- (f) A member who is a director, partner, or employee of the consultants may describe himself personally as a Chartered Accountant and use the designatory letters to which he is entitled; he may mention the name of the consultants in connection with any articles in the press or any lectures which he may be asked to write or deliver.
- (g) Before accepting an assignment the consultants should communicate, as a matter of professional courtesy, with the auditor or accountant concerned, except in cases where the client advances valid reasons to the contrary (cases of doubt may be referred to the Institute) and thereafter should keep such auditor or accountant informed as to the general nature of the work which the consultants are doing.

- (h) Consultants called upon to render management consultancy services to the client of the accountancy practitioner who is continuing in his relationship with that client have not merely the negative duty of refraining from soliciting any work which is performed by that other practitioner but the positive duty of taking all steps reasonably open to them to support the other practitioner in retaining his relationship. The latter has an equivalent duty to his professional colleagues to support the relationship between the client and the consultants.
- (i) The consultants should not be used to attract audit or conventional accountancy work to the member's firm. In the event of a complaint the onus would be on the consultants to satisfy the Institute that they had not been instrumental in attracting work from an existing accountant. If the consultants are unable to satisfy the Institute, members of the Institute who are directors or partners therein or partners in the member's firm could render themselves liable to disciplinary action.
- (j) There are no restrictions on column width for advertisements for staff.
- (k) The consultants may, if eligible, join the Management Consultants Association and a member who is a director, partner or employee of the consultants may, if eligible, join the Institute of Management Consultants.
- (l) The consultants may inform the Management Consulting Services Information Bureaux of the British Institute of Management and of the Irish Management Institute of the services they can offer in the consultancy field. They may also be listed in specialised registers or similar publications.'

### **Company registrar and data processing services**

'1. This statement is concerned with the ethical problems which arise in providing company registrar and data processing services. The Council takes the view that members, whether or not in public practice, should be permitted to operate, in accordance with the provisions of this statement, a firm or company (limited or unlimited) to provide such services.

'2. A member or firm of public accountants in which a member is a partner (hereinafter referred to as "the member's firm") may, subject to registration with the Institute, operate a limited or unlimited company or firm (hereinafter referred to as "the specialist firm"), whether or not associated with non-members, to provide company registrar and/or data processing services.

'3. A member may be a partner or director of the specialist firm.

'4. The specialist firm may use a name and/or description indicative of its activities but should not use the description "chartered accountants". A member who is a director of or partner in the specialist firm may, however, use after his name the designatory letters to which he is entitled.

'5. A member may mention the name of the specialist firm in connection with any articles in the press or in lectures which he may be asked to write or deliver. The issue of a brochure to a non-client in response to an unsolicited request is also permitted.

'6. When the specialist firm is called upon to render services to the client of a member or firm of public accountants it is normally desirable as a matter of professional courtesy, for the specialist firm to notify such member or firm of the nature of the services to be rendered, unless the client gives a valid reason why such notice should not be given.

'7. The specialist firm should not be used to attract work to the member's firm (if any) or an associated firm or company. In the event of a complaint the onus would be on each member who is a director of or partner in, or proprietor of (a) the specialist firm, and (b) the member's firm or associated firm to satisfy the Council that he had not solicited the work. If any such member were unable so to satisfy the Council he could render himself liable to disciplinary action.

'8. It is recognised that some members offering company registrar and data processing services feel at a disadvantage in competition with organisations not subject to restrictions on advertising and solicitation.

Accordingly:—

- (a) the specialist firm may, with the approval of the Council, advertise to the public the services it offers and solicit business, provided that it does not have a name or address which associates it with the member's firm or an associated firm; or
- (b) the specialist firm may have the same or similar name and/or address as the member's firm but may not advertise or solicit for work. Publicity for the specialist firm and its services is, however, permitted.

'9. Members may be employed by firms or companies, whether or not registered under this statement, which offer company registrar and data processing services. Such members should not accept other accountancy work which might be offered to them as a result of such employment.'

### **Statements issued in January 1973**

#### **Members' intimations or advertisements of changes in partnership**

'It has been decided by the Council that it is now permissible to publish in the general press intimations or advertisements of changes in partnership, including amalgamations and changes of name, provided that—

- (a) the Council would not approve of anything in the nature of an advertising campaign; and
- (b) the Professional Conduct Committee has previously approved the form of the intimation or advertisement in question.'

## Extracts from Statements issued in May 1973

### Letter headings

#### *'Partners*

'1. Any person shown on a firm's letter heading is assumed to be a partner unless clearly otherwise described.

#### *'Associates*

'2. The description Associate may be used, but if any person described as an Associate is not a Chartered Accountant the firm may not describe itself as Chartered Accountants.

'3. Any firm which at the date hereof shows on its letter heading as an Associate any person who is not a Chartered Accountant, may continue to describe itself as "Chartered Accountants" so long as it would otherwise be entitled so to do. However, should a new Associate who is not a Chartered Accountant be listed, the firm will no longer be permitted to describe itself as "Chartered Accountants".

4. A partner may not be described as an Associate.

#### *'Managers, etc.*

'5. Any person who is a Manager may be shown as such on the letter heading, whether or not he is a Chartered Accountant. Other permissible descriptions include Senior Manager, Principal Manager and Assistant Accountant.

#### *'Consultant*

'6. On the letter heading used by a sole practitioner or by a partnership, the word "consultant" should not be used to describe the sole practitioner or, as the case may be, any partner, nor to describe any member of the staff.

'7. The word "consultant" may, however, be shown against the name of a person on the letter heading of a member or firm if that person is retained as a consultant to the member or firm and was previously either—

- (a) a partner or member of the staff of the member or firm; or
- (b) a person who carried on as a public accountant the practice or part of the practice carried on by the member or firm, or was a member of the staff of, or retained as a consultant by, such a person.

'8. The name of any other person similarly retained may be shown, provided that it may not be accompanied by designatory letters which refer to a qualification or professional description other than an accountancy qualification.

**'9. Where a member acquires the practice of a person who is not a chartered accountant (or where such a person retires from a partnership which thereafter describes itself on its letter heading as Chartered Accountants) and that person is retained as a consultant or as an employee care must be taken to ensure that the letter heading is not likely to lead anyone to assume that the person is a Chartered Accountant.'**

### APPENDIX 3

*(referred to in paragraphs 46 and 51)*

## **The Institute of Chartered Accountants in Ireland**

### **Submission to the Commission in 1969 regarding restrictions on Advertising**

‘23. Members must possess the qualities of integrity and independence if they are to uphold their status, continue in a position to give the best service to their clients and generally to retain the confidence of the public. The Institute is of the view that certain acts of advertising and soliciting are incompatible with these qualities of integrity and independence, especially when these acts are motivated by the desire for personal gain. Accordingly, it finds it necessary to put restrictions on these acts. However, the Institute is aware that to prohibit members entirely from bringing to the notice of the public the service they provide would be an undue restriction and, accordingly, it allows certain modes of advertising. The most important rules are as follows:

- (a) A member in practice may issue a circular to his own clients, provided that such clients do not, to his knowledge, retain the services of another professional adviser in that particular class of work.
- (b) A member in practice may communicate with other members of the profession in practice either by letter or by personal approach, to offer his services for professional work, but he may not issue circulars.
- (c) An advertisement in the public press may include the name of a member or his firm as the advertiser, provided that such name is not given undue prominence, in the following circumstances:
  - (i) Advertisements for staff or articled clerks in the member's own office;
  - (ii) Advertisements inserted on behalf of clients requiring staff or wishing to acquire or dispose of a business or property;
  - (iii) Advertisements for the sale of a business or property by a member acting as a trustee, receiver or liquidator.
- (d) A member engaged in professional work of a specialised nature may allow his name, with the designation "Chartered Accountant" or alternatively, the letters "FCA" or "ACA" to be included in any register of specialists in that field, provided that such register shall first have been approved by the Council of the Institute.
- (e) While proliferation of designatory letters is considered undesirable, members in practice may, if they wish, use letters indicating membership of reputable professional bodies, but any descriptive words other than "Chartered Accountant(s)" or "Accountant(s)" are not permitted.

- (f) The insertion in directories of the names of members and member firms is permissible provided the insertion does not appear in leaded type or in any form which might be regarded as being of an advertising character<sup>1</sup>.
- (g) A member who
- (i) is appointed to a position of national or local importance;
  - (ii) broadcasts on radio or television;
  - (iii) writes an article or letter or other contribution to the Press; or
  - (iv) is invited to give a lecture or attend a conference is permitted to make it known that he is a member of the Institute. A member who finds himself in any of these situations may therefore use his professional designation and describe himself as a chartered accountant as well as using his name, but in no circumstances may reference be made, in the case of a member in public practice, to the name or address of his firm<sup>2</sup>.
- (h) Members in practice should not publish or permit to be published in the public press any notice announcing a change in partnership or address, the opening of a new practice or office, or the closing of an office for special reasons such as death or holidays, unless such notice is inserted to comply with a statutory regulation<sup>3</sup>.

Announcements of this nature may, however, appear in the professional accountancy press and may, of course, be brought directly to the notice of clients by way of circular.<sup>4</sup>

### **Changes with regard to management consultancy which were published in a statement to members in December 1969**

#### **Management consultancy**

'1. The restrictions on publicity hitherto governing members of the Institute have prevented members from playing their full part in the development of management consultancy services. This has resulted in a loss of work to management consultancy organisations which are not bound by the same ethical restrictions. It has also resulted in a loss to the community as a whole since Chartered Accountants are especially well-equipped to provide these services.

'2. The function of the accountancy profession is to make available to the public the best possible professional and technical advice and services. In this respect the client's interests are paramount. The chartered accountant in public practice should be able to obtain for his client the best advice available from within the profession if he does not have the specialised knowledge and experience to enable him to undertake some particular assignment. He should be

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<sup>1</sup>Leaded type is now permitted.

*Note:* This change was notified to the Commission in Attachment B to a letter from the ICAI dated 12 November 1973.

<sup>2</sup>The name of the practising firm may now be given in relation to lectures, conferences, etc. this being now regarded as not contrary to the general principles of the introductory paragraph.

<sup>3</sup>Notices mentioned in this paragraph are now permitted.

*Note:* These changes were notified to the Commission in Attachment B to a letter from the ICAI dated 12 November 1973.

able to do this without fear of thereby losing to the consultant, or to a firm associated with the consultant, the audit or other services already provided.

'3. The Council's guidance to members is set out in paragraph 4 below. It is designed to meet the problems referred to in paragraphs 1 and 2 above by:

- (a) liberalising restrictions on the provision and publicising by members of management consultancy services; and
- (b) strengthening the position of practising members as regards referrals to consultants (in this connection particular attention is invited to paragraphs 4 (h) and (i) below).

'4. (a) A member or firm in which a member is a partner (hereinafter referred to as "the member's firm") may, with the approval of the Council, operate in accordance with the provisions of this section a limited or unlimited company or separate firm (hereinafter referred to as "the consultants") whether or not associated with non-members to provide management consultancy services.

(b) The consultants may have the same, or similar, name and operate from the same address as the member's firm.

(c) The consultants may use the description "management consultants", or other appropriate description (but not the description Chartered Accountants) and will not be bound by the present restrictions on publicity.

(d) The consultants should not advertise or solicit for work, but publicity for the consultants in the press, or on radio or television, for assignments carried out or to be carried out is permitted. The issue of a brochure to a non-client in response to an unsolicited request is also permitted.

(e) A partner in the member's firm may be a director or partner of the consultants.

(f) A member who is a director, partner or employee of the consultants may describe himself personally as a Chartered Accountant and use the designatory letters to which he is entitled; he may mention the name of the consultants in connection with any articles in the press or any lectures which he may be asked to write or deliver.

(g) Before accepting an assignment the consultants should communicate, as a matter of professional courtesy, with the auditor or accountant concerned, except in cases where the client advances valid reasons to the contrary (cases of doubt may be referred to the Institute) and thereafter should keep such auditor or accountant informed as to the general nature of the work which the consultants are doing.

(h) Consultants called upon to render management consultancy services to the client of an accountancy practitioner who is continuing in his relationship with that client have not merely the negative duty of refraining from soliciting any work which is being performed by

that other practitioner but the positive duty of taking all steps reasonably open to them to support the other practitioner in retaining his relationship. The latter has an equivalent duty to his professional colleagues to support the relationship between the client and the consultants.

- (i) The consultants should not be used to attract audit or conventional accountancy work to the member's firm. In the event of a complaint the onus would be on the consultants to satisfy the Institute that they had not been instrumental in attracting work from an existing accountant. If the consultants are unable so to satisfy the Institute, members of the Institute who are directors or partners therein or partners in the member's firm could render themselves liable to disciplinary action.
- (j) There are no restrictions on column width for advertisements for staff.
- (k) The consultants may, if eligible, join the Management Consultants Association and a member who is a director partner or employee of the consultants may, if eligible, join the Institute of Management Consultants.
- (l) The consultants may inform the Management Consulting Services Information Bureaux of the British Institute of Management and of the Irish Management Institute of the services they can offer in the consultancy field. They may also be listed in specialised registers or similar publications.'

#### **Company registrar and data processing services**

'1. This statement is concerned with the ethical problems which arise in providing company registrar and data processing services.

The Council takes the view that members, whether or not in public practice, should be permitted to operate, in accordance with the provisions of this statement, a firm or company (limited or unlimited) to provide such services.

'2. A member or firm of public accountants in which a member is a partner (hereinafter referred to as "the member's firm") may, subject to registration with the Institute, operate a limited or unlimited company or firm (hereinafter referred to as "the specialist firm"), whether or not associated with non-members, to provide company registrar and/or data processing services.

'3. A member may be a partner or director of the specialist firm.

'4. The specialist firm may use a name and/or description indicative of its activities but should not use the description "chartered accountants". A member who is a director of or partner in the specialist firm may, however, use after his name the designatory letters to which he is entitled.

'5. A member may mention the name of the specialist firm in connection with any articles in the press or in lectures which he may be asked to write or deliver. The issue of a brochure to a non-client in response to an unsolicited request is also permitted.

'6. When the specialist firm is called upon to render services to the client of a member or firm of public accountants it is normally desirable, as a matter of professional courtesy, for the specialist firm to notify such member or firm of the nature of the services to be rendered, unless the client gives a valid reason why such notice should not be given.

'7. The specialist firm should not be used to attract work to the member's firm (if any) or an associated firm or company. In the event of a complaint the onus would be on each member who is a director of, or partner in, or proprietor of (i) the specialist firm, and (ii) the member's firm or associated firm to satisfy the Council that he had not solicited the work. If any such member were unable so to satisfy the Council he could render himself liable to disciplinary action.

'8. It is recognised that some members offering company registrar and data processing services feel at a disadvantage in competition with organisations not subject to restrictions on advertising and solicitation. Accordingly:

- (a) The specialist firm may, with the approval of the Council, advertise to the public the services it offers and solicit business, provided that it does not have a name or address which associates it with the member's firm or an associated firm; or
- (b) The specialist firm may have the same or a similar name and/or address as the member's firm but may not advertise or so solicit for work. Publicity for the specialist firm and its services is, however, permitted.

'9. Members may be employed by firms or companies, whether or not registered under this statement, which offer company registrar and data processing services. Such members should not accept other accountancy work which might be offered to them as a result of such employment.'

## APPENDIX 4

(referred to in paragraph 46)

### The Association of Certified Accountants

#### Submission to the Commission in 1967 regarding restrictions on advertising

'40. The value of the work of the accountant to the community depends on the trust and confidence of the public. Therefore the accountant should be seen to be impartial and independent and any activities tending to impair that reputation should be discouraged. The view has been taken by the Association that the solicitation of professional work and the uncontrolled advertisement of professional services would have exactly that effect.

'41. Consequently members are prohibited from soliciting professional work and restricted in their activities in the nature of advertisement. The Council endeavours to retain a flexible attitude so as to keep these restrictions realistic, to adapt them to changing circumstances and conceptions and to make them no more limiting than is reasonably necessary. Members are encouraged to seek official guidance on this—as on other matters of behaviour—and do so with great frequency. The position is as follows:

- (a) General advertising in the national press and elsewhere is undertaken by the Association itself. This relates both to the services of certified accountants and also to the recruitment of students.
- (b) The Association also carries out an extensive circulation of the annual list of members, which has alphabetical and topographical sections. This is sent regularly to banks (including the larger branches), all HM Inspectors of Taxes, public libraries and chambers of commerce.
- (c) Members are permitted to advertise for employment provided that it is salaried employment and their sole occupation.
- (d) Practising members are not allowed to advertise for staff in such a way as to draw undue attention to their firms. That is to say, such advertisements must be reasonable in size and content and must not appear with undue frequency.
- (e) Notice of the commencement of a new practice, changes in partnership constitution and changes of address may appear in the accountancy press. Notice of the death or retirement of a partner or the dissolution of a partnership and the consequent changes may appear in the non-accountancy press on not more than one occasion in each publication.
- (f) A practising member contributing a letter or article to the public press may do so either in his own name without further description or under a *nom de plume*, eg Certified Accountant. The same applies to articles and letters in the technical press other than the accountancy press and to appearances on radio or television.

- (g) A member who is the author of a book on a technical matter within the professional or related fields is permitted to show his qualification as a member of the Association, on the title-page, cover, etc, of the book.
- (h) A member who is a candidate at a national or local election is allowed to refer to his membership of the Association, but if he is in practice he must not mention the name of his firm or the address at which he practises.
- (i) A practising member is permitted to appear in a classified or trade directory provided that his entry is of the standard size appropriate to that directory and inclusion is open to all other recognised accountants either generally or in the area to which the directory relates. An exception exists in the case of classified telephone directories in which entries in small bold type are allowed.
- (j) A practising member who holds a building society agency may allow his name, address and description to appear in any literature produced by the building society or in any advertisement inserted in the press by the society, provided that the reference is reasonable in size and otherwise.
- (k) Practising members are expected to use on their professional stationery, professional plates and signs only the description "Accountant" or "Certified Accountant". In particular, they are not allowed to use descriptions such as "Income Tax Consultant", "Tax Adviser", "Cost Consultant", or any other descriptions implying some specialism.

(referred to in paragraphs 55, 56 and 133)

## Restrictions on advertising of accountancy services abroad

1. The ICAEW was asked to obtain for us information about the restrictions on advertising pertaining to accountants operating in other EEC countries as well as in other major countries.

2. Replies, which varied in the details they contained, were passed on to us from Belgium, Denmark, France, West Germany, Holland and Luxembourg. The position in each of these countries appears as follows:

(i) *Belgium:* All personal publicity is forbidden by the two professional bodies in Belgium and is stated in the following terms:

‘Personal publicity—the following are forbidden:

- (a) all personal publicity, direct or indirect
- (b) the initiation of any proceedings or power of a publicity nature
- (c) all direct or indirect canvassing
- (d) the granting of authorisation by the “expert” for a third party to make use of his name for a commercial or publicity purpose.’

(ii) *Denmark:* The professional body states:

‘The following rules shall apply to advertisements and applications to clients:

- (1) It shall be permissible to advertise about commencement of a practice, removal, the taking over of a practice, joining or retirement from partnership and the like, but the advertisement shall be restricted to the information necessary.
- (2) Other individual advertising in dailies and periodicals shall be deemed to be but little desirable.
- (3) Should a member wish to advertise, the advertisement must be restricted to the name, occupation, address, telephone number, and office hours of the member (visiting card advertisement).
- (4) Insertions in telephone directories, other directories and handbooks etc. shall be restricted to such particulars as are necessary for the purposes of the directory etc. concerned. As regards works of the said nature having only local circulation, the District Committee concerned or the state authorised public accountants within the area of circulation of such

works shall make the necessary agreements on the lines of advertisements.

- (5) Printing on notepaper and other printed matter must be done in an unpretentious manner, specialities must not be indicated, nor must be stated designations which do not indicate completed training.
- (6) Signs must be displayed only in a suitable and unpretentious manner.
- (7) Circulars and leaflets must be used as joint advertisement throughout the country only by the FSR or within local areas with the consent of the District Committee. However, it is permissible to issue notices about establishment of a practice, removal, the taking over of a practice, and about joining or retirement from partnership, but such notices must state only actual facts.
- (8) It shall not be permissible to make unsolicited, personal applications to obtain clients, or to take the initiative to replace a colleague. However, at the taking over of a practice, personal application for the purpose of retaining clients taken over shall be permissible.
- (9) If a colleague dies, members must not apply to any of the clients of the deceased for the purpose of taking over his duties, except with the consent of the personal representative of the deceased.'

(iii) *France:*

All personal publicity is prohibited.

(iv) *West  
Germany:*

The statutory body to which all accountants must belong permits advertising in professional journals and in local daily newspapers for a limited number of times of the following factual information only:

- (a) Establishments of a new auditor's or authorised accountant's practice or if an auditor or authorised accountant passed an additional professional qualification.
- (b) The take-over of a practice.
- (c) Establishment of or change in a co-partnership.
- (d) Recognition of an auditing company or company of authorised accountants.
- (e) Change of location, address, telephone or telex.
- (f) Establishments of branch offices.
- (g) Staff vacancies.

The other German organisation to which 95 per cent of

professional accountants belong merely states that  
*'Publication and advertising:*

The Chartered Accountant is required to conduct himself in a manner worthy of the profession in publishing his occupation and in undertaking commissions. He is not allowed to advertise.'

(v) *Holland:* The professional body states that

'A registered accountant shall not:

- (a) advertise or allow advertising being made on his behalf;
- (b) pay any remuneration for the procurement of assignments.'

(vi) *Luxembourg:* The professional body prohibits all personal advertising.

### **The Union des Experts Comptables Economique et Financiers (UEC)**

3. The UEC is a world-wide organisation of accountants. All the major countries are represented on this body, which also has regional organisations. One of these regional organisations covers Europe<sup>1</sup>. The UEC publishes a quarterly journal and has committees which consider all technical aspects of accountancy. Under current UEC rules, adherence to which is at the moment voluntary, ethic matters are also pronounced upon and all personal publicity and canvassing, direct or indirect, all activities of a publicity nature and 'the use by a third party of an accountant's name for commercial or publicity purposes' is forbidden. Collective publicity is only allowed if it emanates from the UEC or, on a national level, from a legal institute or a representative professional body.

### **Australia, New Zealand, Canada and the United States<sup>2</sup>**

- 4. (i) *Australia:* There are two major professional bodies of accountants, the Institute of Chartered Accountants in Australia, whose rules follow closely those of the Institute of Chartered Accountants in England and Wales and the Australian Society of Accountants. Under the rules of the Institute 'It is a recognised principle that a member should not advertise or circularise, or in any way solicit or seek to acquire professional business or bring his name to the notice of the public in a manner which would bring discredit to the profession or lower the esteem in which the profession is held in the eyes of the public'. Notices of the retirement or death of a partner or of dissolution of partnership and notices of the commencement or resumption of a practice may be published in the public press, but must be confined to a bare announcement.
- (ii) *New Zealand:* The professional body is the New Zealand Society of Accountants. Under the Society's rules 'No member shall solicit professional work by such means as personal canvass, circular,

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<sup>1</sup>Union Européenne des Experts Comptables Economiques et Financiers.

<sup>2</sup>Information supplied by B G Harrison MSc, FCA, of the University of Aston Management Centre.

advertising in directories, year books, or the public press, or the exhibition of unduly large nameplates or painted or illuminated signs in any manner which may be construed as undignified'. Notices of address and partnership changes and announcements of the commencement or resumption of a practice may be made in the press, subject to being in visiting card style and restricted in size. Entries in directories are permitted. House journals may not be supplied to universities, and distribution outside the firm's or members' staff and clients is prohibited. Other documents or booklets should not be issued to non-clients except in response to an unsolicited request. Lists of chartered accountants may be included in business directories provided the names of all practitioners in the district are inserted free of charge to members. Circulars bearing a member's name must not be sent to the general public. Franking stamps on the face of an envelope, which bear the name and/or description of a firm are not considered to be compatible with professional standards.

- (iii) *Canada*: Under the Institute of Chartered Accountants' rules 'No practising member shall adopt any method of obtaining or attracting clients which in the opinion of the Council would tend to lower the dignity of the profession'. Members are permitted to publish their professional cards in any publication which is open to all members provided that the advertisement does not tend to lower the standard of dignity of the profession and complies with defined restrictions on size and content. Only a title approved by the Council may appear on a letterhead. Listings in classified directories and yellow pages are permitted, subject to specified restrictions. There are no rules specified on inclusion of a member's name on envelopes.
- (iv) *United States of America*: The main professional association is the American Institute of Certified Public Accountants. There is no common or national certificate of certified public accountancy in the United States. Under the Institute's rule on Solicitation and Advertising 'A member shall not seek to obtain clients by solicitation. Advertising is a form of solicitation and is prohibited'. Publication in a newspaper, magazine, etc. of an announcement or what is technically known as a 'card' is prohibited; so is the issue of a press release about mergers of firms or the opening of new offices, changes of address, etc. There are no rules about the inclusion of a member's name on envelopes. Newsletters, bulletins, house journals and other firm literature may be distributed to clients and non-clients subject to certain specified criteria. However, proposed revisions under consideration<sup>1</sup> permit the paid placement of professional dignified 'cards' in a newspaper or magazine for 3 consecutive days, the issuance of a press release within the geographic area announcing changes in partnership or address, and a press release or a public statement setting out a policy or position related to the practice of public accounting or addressed to a subject of public interest.

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<sup>1</sup>These had not been agreed by the beginning of 1975.

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