

A DISCLOSURE-BASED REGIME IS MORE THAN TRANSPARENCY: IT'S ABOUT CULTIVATING TRUST

Shift from silence to discourse

A TONGUE-IN-CHEEK DISCLAIMER on a professional's website asks visitors to click "I agree", accepting all risks and surprises lurking behind the wall. In essence, it says, "We are not inviting you, but you are welcome anyway." Restrained by strict advertising bans, professionals have perfected the art of silent self-promotion, relying on reverse solicitation where clients take the first step. Against this backdrop, the Institute of Chartered Accountants of India's October proposal to amend its Code of Ethics to permit advertising, albeit within ethical bounds, is a welcome change. Perhaps this will inspire other professions to replace the invitation-only aura with clear, confident outreach, paving the way for home-grown, world-class professional service giants in our expanding service economy.

For decades, professional regulation in India has rested on the belief that visibility equates to impropriety and that professionalism must shun publicity. It may have made sense in a closed, supply-driven economy where professionals served local communities and built reputation through word of mouth. But it jars with the realities of today's integrated, competitive marketplace where professional services power much economic activity and shape a nation's competitive advantage.

The debate is not simply about whether lawyers, accountants, doctors, and company secretaries should be permitted to advertise; it concerns how India regulates its professions and positions its service economy in a global order that prizes transparency, visibility, and trust.

India's journey to a market economy provides instructive lessons. The transformation of the securities market in the early 1990s illustrates the impact of shifting from control to disclosure. India's regulatory philosophy had relied on merit control: the state decided who could operate and what was "good" for the market. The reforms overturned that paternalistic model, with the Securities and Exchange Board of India (Sebi) replacing discretion with information. By ensuring accurate, adequate, accessible, and timely disclosure,

Sebi enabled investors to make their own choices. It unleashed market dynamism, deepened capital markets, improved efficiency, and enhanced accountability, placing India alongside the most developed markets. A similar evolution is underway in professional regulation. While the Sebi Act, framed for a market economy, mandates regulation and development of the securities market, the Chartered Accountants Act, enacted in pre-sovereign days, focused solely on regulation.

Recognising the evolving needs of a market-driven system, Parliament amended the Act in 2022 to explicitly include the development of the profession with regulation. Far from cosmetic, this change calls upon the regulator of the profession, and indeed all professional bodies, to evolve into market-savvy institutions that uphold standards, expand opportunities, foster competition, and cultivate a vibrant market for professional services.

Professions are regulated because markets for professional services, left to themselves, are prone to failure. Information asymmetry is inherent: professionals know far more about the service, its necessity, and quality than clients ever can. Clients often can't assess value or competence before or even after a service is delivered, making them reliant on trust. This imbalance exposes them to exploitation, inconsistent quality, and inflated fees.

Moreover, professional lapses can have systemic consequences: faulty audits can destabilise markets, and medical negligence can endanger lives. Thus, regulation exists to correct such market failures, safe-

guard clients and public interest, and establish a framework where professionalism and competition reinforce each other.

Responsible regulation relies on the strategic use of targeted tools to address market imperfections. Among these, disclosure is the most effective: it directly addresses information asymmetry by providing clients and the public with relevant, accurate, and comprehensible information about each professional. Additional

mechanisms—like robust entry standards, accountability measures, and open competition—complement disclosure, aligning professionals' incentives with the broader public interest. The aim is not to insulate professions from market forces but to make the market for professional services more informed, efficient, and trustworthy.

Advertising shapes perceptions but does little to correct information asymmetry. By contrast, a disclosure-based framework empowers clients to make informed choices by ensuring that essential information about each professional is timely and accessible.

Regulators should maintain a publicly accessible register of verified professionals, providing essential details, including qualifications, experience, areas of expertise, affiliations, notable contributions, performance indicators, integrity standing, and disciplinary history. Where relevant, anonymised outcome data, like success rates, value preservation metrics, or average case timelines, should be published. Regulators could further enhance transparency by standardising service categor-

ories and publishing indicative fee ranges, without limiting market-driven pricing. This visibility enables informed client choices, motivates quality performance, and strengthens regulatory oversight, while deterring unqualified practitioners.

The Insolvency and Bankruptcy Board of India has taken a step in this direction by publicly disclosing details about insolvency professionals. Professionals should supplement this with their own disclosures, covering experience, affiliations, noteworthy transactions, potential conflicts of interest, and tangible measures of service quality. They should communicate service offerings and fees with clarity. For those within firms or networks, disclosures should include details on governance, collective track record, quality assurance, fee structures, and any material developments. This layered approach lets clients assess both capability, reduces information gaps, and encourages competition on merit.

Regulators, too, must be transparent, disclosing their governance framework, decision-making processes, conflicts of interest, funding sources, performance metrics, and enforcement track record. Such openness lends credibility to their oversight and strengthens public trust.

Disclosure-based regimes are standard practice. In the US and the UK, professional directories, client reviews, and disciplinary databases are publicly accessible. Clients can access information about a professional's qualifications and conduct. This transparency is key to modern professional ethics, raising standards, fostering competition, and building client trust.

India's professional landscape stands at an inflection point. The next leap in professional regulation should mirror India's broader economic journey—from control to competition, restriction to responsibility, and secrecy to disclosure. A disclosure-based regime is more than transparency: it's about cultivating trust, earned through verified competence, ethical conduct, and measurable performance. By embracing openness and verified transparency, India can enhance public confidence in its professionals and build globally competitive markets for professional services.

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