



भारतीय प्रतिस्पर्धा आयोग
Competition Commission of India



Guidelines for empanelment of advocates/ law firms for representing and assisting Competition Commission of India and the Director General before various Courts/Tribunal etc.

In exercise of the powers conferred by sub-section (1) of section 36 and sub-section (2) of section 7 and sub-section (3) of section 53S, and 53T of the Competition Act, 2002 ('the Act') and further to the Regulations 51 and 52 of Competition Commission of India (General) Regulations, 2009, the Competition Commission of India (the 'Commission') hereby frames the following guidelines to provide the manner and to regulate the procedure for empaneling the advocates to represent and assist the Commission and the Director General, (the 'DG') before various courts/tribunal etc. and for determination of fee/payment /remuneration payable to such persons. These guidelines shall supersede all existing instructions in this regard, if any.

Definitions

For the purposes of these Guidelines, the terms used will have the following meaning;

- (i) 'Advocate' means an advocate, entered in any roll of advocates under the provisions of Advocates Act, 1961 (25 1961);
- (ii) The competent authority shall be the Commission or any officer so designated by the Commission.
- (iii) The court shall mean and include CMM Delhi, any High Court, Supreme Court or tribunals including COMPAT.
- (iv) 'Effective Hearing' shall mean a hearing in which either one or both or all the parties involved in a case are heard by the court. If the case is only mentioned and adjourned or only directions are given or judgment is pronounced, it would not constitute an effective hearing for the purposes of these guidelines but as non-effective hearing.
- (v) The term 'similar cases' shall mean two or more cases in which identical or substantially similar questions of law or facts are involved.

2. General

- (i) The Advocates shall be engaged only in cases initiated suo moto and combination cases where the Commission is a necessary party.
- (ii) Proforma matters where the Commission is a proforma party pending in different courts/tribunal may be taken care of by the officers of the Commission. However, the Advocates may be engaged if deemed necessary in exceptional cases by the Competent Authority.
- (iii) The size of the panel and number of Advocates in panel shall be determined by the Competent Authority from time to time based on the requirement and quantum of work. The volume of work shall be assessed on the basis of the pending cases in the preceding year and the fresh cases likely to be added in the succeeding year.
- (iv) Every panel shall consist of Advocates from diversified fields viz. constitutional law, competition law, civil law, commercial law, property law, taxation law, corporate law etc. depending upon the expertise, experience, performance and conduct of advocates in general or experience in dealing competition law cases or cases of the Commission, if any, in particular. Preference shall be given to the Advocates having expertise and experience in competition law.
- (v) Cases involving similar issues/points of law or otherwise interlinked or clubbed may be entrusted to the same Advocate as far as possible, while care shall be taken to avoid concentration of cases in the hands of one Advocate/a few advocates/law firm.
- (vi) The advocate shall not necessarily be empanelled for specific court and shall accept the work assigned to him and shall not refuse to accept any work without reasonable cause.
- (vii) Refusal by any advocate to accept any work otherwise than on grounds of conflict of interest, may entail removal of such advocate from the panel. [#]¹
- (viii) The empanelled Advocates will not delegate cases and themselves deal with the same. They may have to coordinate and work with designated Senior Advocates, if any, engaged in the case as well as with the officers of the Commission, if required.
- (ix) The Advocates empanelled under these guidelines shall not be employees of the Commission and therefore, shall not be eligible for any benefits available to its employees.

¹ # omitted vide decision of the Commission in its Special Meeting 12th of 2014-15 dated 23.09.2014. (#Similarly, no advocate as long as his name is on the panel shall contest any matter against the Commission).

- (x) The empanelled Advocate shall maintain absolute secrecy and confidentiality about the cases of the Commission as required under the Act and rules/regulations made thereunder.
- (xi) The advocates shall in full accept the terms and conditions of the empanelment as determined by the Commission from time to time.
- (xii) These guidelines shall also be applicable to the designated Senior Advocates of the High Courts and Supreme Court for all purposes except the requirement of empanelment.
- (xiii) In case of empanelment of Law Firms, all the terms and conditions for empanelment of the individual Advocates shall apply *mutatis mutandis* to them.
- (xiv) If required and considered appropriate by the Competent Authority, Attorney General of India/Solicitor-General of India/Additional Solicitor General/Advocate General/Designated Senior Advocates may be engaged to argue the cases on behalf of the Commission and the DG keeping in view the urgency and importance of a particular matter. They shall be engaged on case to case basis with the approval of the Competent Authority.

3. Tenure/term of Empanelment

The initial empanelment will be for three years or until further orders whichever is earlier. Performance of empanelled advocates shall be reviewed on annual basis. However, on completion of the term and satisfactory performance of the advocate, the empanelment may be renewed for a period of another three years by the Commission. The Commission reserves the right to terminate the empanelment of any advocate at any time.

4. Eligibility for Empanelment

- (i) The Advocates should be familiar with various branches of law especially those concerning competition law, constitutional /service law, labour law, contract law, commercial law, property laws and taxation etc.
- (ii) In addition to above, the Advocates are required to have the minimum professional/court practice experience as under:
 - a) For empanelment for the Supreme Court of India10 yrs. experience in Supreme Court.

- b) For empanelment for the High Court in India/COMPAT7 yrs. experience in High Court.
- c) For empanelment for the Subordinate Courts/Tribunals5 yrs. experience in Subordinate Courts/Tribunals.

Provided that the Competent Authority may relax the above conditions at its discretion, if otherwise found suitable in certain cases.

(iii) For considering empanelment for the Supreme Court, generally those Advocates who are regularly practising including Advocates-on-Record of the Supreme Court would be considered, if they are otherwise found to be competent and suitable.

5. Payment of Fee and Other Conditions

- (i) The fee payable to the Advocate shall be governed by the **Schedule** of fee structure annexed with these guidelines as amended from time to time.
- (ii) The advocate empanelled/engaged may claim the fee for appearance in cases of effective hearing.
- (iii) Where two or more cases involving substantially identical or similar questions of law or facts, one of such cases will be treated as a lead case and others as identical/connected cases and the advocate/counsel shall be paid full fee for the main case and 10% of the fee of main case, for each of the identical or similar/connected case subject to a maximum of 10 cases only.
- (iv) If AG/SG/ASG/Senior Advocate is required to appear in a court/tribunal which is situated at a place other than the place where he ordinarily practices he shall be entitled to travel, expenses for travel by air (Business class) or first class by train, road mileage for the journey from his office to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay. He will also be paid a lump sum amount of ₹2000/- as conveyance charges for performing local journey outside Delhi. He will also be entitled to a reasonable actual expenses for stay in Hotel, subject to a maximum of ₹ 7500 /- plus taxes per day and ₹1800/- Food charges per day.
- (iv-a) If an Advocate is required to appear in a court/tribunal which is situated at a place other than the place where he ordinarily practices he shall be entitled to travel, expenses for travel by air (Economy class) or first class by train, road mileage for the journey from his office to the airport/railway station and vice-versa and from the airport/railway station to the place of his stay. He will also be paid a lump sum amount of ₹1500/- as

conveyance charges for performing local journey outside Delhi. He will also be entitled to a reasonable actual expense for stay in Hotel, subject to a maximum of ₹ 4500 /- plus taxes per day and ₹1200/- Food charges per day.

- (v) The Competent Authority shall have the right in exceptional cases to order for payment of fee more than the fee mentioned in the schedule keeping in view the importance of the matter and the labour and effort put in by the advocate in a particular case. It shall also have the power to fix the fee for eventualities which have not been mentioned in the schedule or till the appropriate amendment is made in these guidelines by the Commission.
- (vi) No retainer fee shall be paid to any panel Advocate/law firm merely because such advocate/firm has been empanelled.

6. Procedure for Empanelment

The Competent Authority will consider the bio-data for empanelment only on merit after due notice in this regard is published on the website of the Commission. While considering the request from the advocates, following points shall be considered:

- (i) Length of practice and specialization in the area of law concerning the Commission.
- (ii) Proper and adequate infrastructure of an advocate such as office premises, number of junior advocates, assistants, clerks and fax, mobile phone, fixed phone, internet connection etc.
- (iii) Annual income-tax return filed with the Tax Authorities.
- (iv) Track record and integrity.
- (v) If considered necessary, an enquiry in the respective Bar Council/Bar Association about the claims and conduct of the advocate to be empanelled can also be made and credentials may be verified.
- (vi) If the advocate is empanelled by other regulators/organizations, opinion of those organizations may be obtained.

The above list is illustrative and not exhaustive. The Competent Authority may also consider any other factor relevant for empanelment.

7. Documents to be obtained from the Advocate

The Advocates will be required to furnish their Bio-data as per the format given in **Annexure-**

A. The attested copies of the following documents required to be submitted with application:

- i. High School certificate in support of age
- ii. Registration with Bar Council
- iii. Identity card issued by Bar Association / Bar Council
- iv. Copies of empanelment with other Organizations
- v. Certificates in support of educational qualifications
- vi. An undertaking from the advocate to the effect that all information furnished by him is correct.

8. Communication of Empanelment

After a decision to empanel the advocate is taken, a communication in writing to this effect shall be sent to the Advocate as per **Annexure-B** with acknowledgement and acceptance due. The process of empanelment shall be complete when Commission receives an acceptance letter from the advocate.

9. Right to Private Practice and Restrictions

- (i) An advocate shall have the right to private practice which should not, however, interfere with or be in conflict with the efficient discharge of his duties as an empanelled advocate of the Commission.
- (ii) An advocate shall not advise any party or accept any case against the Commission in which he has appeared or is likely to be called upon to appear or advice.
- (iii) [#*]²

10. Disablements

Disablement on the part of the Advocate shall mean and include any of the following:

- (i) Giving false information in the application for empanelment;
- (ii) Handing over the brief or matter to another advocate without prior written permission of the Commission;
- (iii) Failing to attend the hearing of the case without sufficient reason and prior information;
 - a. Not acting as per Commission's instructions or going against specific instructions;

² [#*] omitted vide decision of the Commission in its Special Meeting 12th of 2014-15 dated 23.09.2014. (#If the advocate happens to be a partner of a firm of lawyers or solicitors, it will be incumbent upon the firm not to entertain any case against the Commission arising in any court.).

- b. Not returning the brief when demanded or not allowing or evading to allow its inspection on demand;
- (iv) Misappropriation of the Commission's funds or earmarking, using the same towards his fee without Commission's permission.
- (v) Threatening, intimidating or abusing any of the Commission's employees, officers, or representatives;
- (vi) Making any of his associates or juniors to appear on behalf of any of the opposite parties in cases/appeal related to Commission's without permission;
- (vii) Committing an act tantamounting to contempt of court or professional misconduct;
- (viii) Conviction of the Advocate in any offence resulting into arrest or detention or disbarment by the Bar Council;
- (ix) Passing on information relating to Commission's case on to the opposite parties or their advocates which is likely to cause damage to the Commission's interests;
- (x) Giving false or misleading information to the Commission relating to the proceedings of the case; and
- (xi) Frequent adjournment being obtained or not objecting the adjournment moved by other party without sufficient reason.
- (xii) Empanelment shall be liable to be cancelled due to occurring of any of the above disablements on the part of the Advocate.

11. Removal of Difficulty

In the matter of implementation of these guidelines, if any, doubt or difficulty arises or doubt regarding the interpretation of any of the clause of these guidelines, the same shall be placed before the Commission and the decision of the Commission thereon shall be final.

ANNEXURE 'A'

FORMAT OF BIO DATA FOR ADVOCATE

- 1) Name
- 2) Date of birth,
Age (as on)
- 3) Educational qualifications
- 4) Date of Enrolment, Name of Bar Council
(enclose copy of enrolment certificate)
- 5) Period of practice
- 6) Details of Experience/practice
- 7) Area of practice
- 8) Specialization, if any (constitution/taxation/service etc.)
The details of a few important cases the Advocate has dealt with/handled and reported Judgment if any.
- 9) Whether Central Govt. counsel/pleader (indicate period)]
- 10) Brief list of clients e.g. Govt./organizations/Commissions/PSUs 11) The courts where the Advocate is regularly practicing
(Enclose Bar Association Membership Certificate)
- 12) Date of enrolment as an Advocate – on – record of the Supreme Court and Registration No.
- 13) Income Tax PAN number
- 14) Experience of Competition Law

A brief note on suitability for empanelment.

I declare that I have never been penalized by any bar council in any Disciplinary Proceedings. I also undertake to maintain absolute secrecy about the cases of the Commission as required under the Act, Rules and Regulations thereunder.

Signature of Advocate

Address (office & residence/chamber)

Tel. No.

Mobile No.

Fax No.

E-mail.

ANNEXURE 'B'

To,

Mr -----

Advocate

Dear Sir,

Sub: Empanelment as Commission's Advocate

This is with reference to your application dated ----- wherein you have evinced interest for empanelment as an advocate with the Commission. We are pleased to inform that your request has been considered favourably and you are advised to give your assent for empanelment on following terms and conditions (A copy of guidelines enclosed):

1. You will abide by Commission's terms and conditions and you will not claim any retainer fee or employment in Commission's service.
2. You will not accept any case against the Commission.
3. You will take necessary steps to protect the interest of the Commission in matters entrusted to you from time to time.
4. Empanelment does not confer any right or claim that you alone should be entrusted with the Commission's work.
5. You will personally deal with the case assigned to you in addition coordinating and working with designated Senior Advocate, if any, engaged in some matter.
6. The Commission may at any time, at its discretion, withdraw from you any proceedings/matter/ brief and may discontinue you as Commission's advocate without assigning any reason thereof and without paying any further fees.
7. You will keep Commission informed about the developments in the matters entrusted to you.
8. Unless a case is specially assigned to you by the Commission, you will not on your own receive Summons / Notices of the Commission's matters and even if you receive, if no Vakalatnama is given to you, you shall not otherwise deal with such cases. However, you will immediately inform the Commission in this regard.
9. You shall not use Commission's name or symbol, logo in your letter heads, sign boards name plates etc.
10. In case of any misconduct, the Commission will take appropriate action against you which includes filing complaint with Bar Council and recovery of financial loss caused to the Commission due to your misconduct.

11. In case of initiation of any disciplinary proceedings/ criminal proceedings against you, the Commission may remove you from the panel even without waiting for the conclusion of such proceedings.
12. Your performance will be reviewed on yearly basis and if your services are not required/ found upto the mark, Commission may remove you from panel and the cases/matters entrusted to you will be taken back from you.
13. You are required to maintain absolute secrecy about the cases of the Commission as required under the Act, relevant rules and regulations and you shall not divulge any details to an outsider or opponent as the case may be without written consent of the Commission.
14. You are requested to return the duly signed duplicate copy of this letter indicating your unconditional consent.

We look forward for better cooperation and hope for good relations with you.

Yours faithfully
(Authorized Signatory)

SCHEDULE OF FEES**I. FOR ATTORNEY GENERAL, SOLICITOR GENERAL, ADDITIONAL SOLICITOR GENERAL (ASG) AND SENIOR ADVOCATES**

Sl.No.	Name of Advocate	FEES *
(i)	Attorney General of India.	At a fee Upto ₹ 4,40,000 (Rupees Four Lakh & Forty Thousand only) {per appearance including other charges of conference fee and clerkage etc.}
(ii)	Solicitor General of India.	At a fee Upto ₹ 3,30,000 (Rupees Three Lakh & Thirty Thousand only) {per appearance including other charges of conference fee and clerkage etc.} ₹2,00,000 (Rupee Two Lakh Only) per Legal Opinion# ₹1,00,000 (Rupee One Lakh Only) per Settlement of a case#
(iii)	Senior Advocates & Govt. Law officers (ASGs)	At a fee Upto ₹2,20,000 (Rupees Two Lakh & Twenty Thousand only) {per appearance including other charges of conference fee and clerkage etc.}

***No fee shall be payable to the above counsels if case is adjourned without hearing.**

#As per approval dated 22.05.2020 w.r.t Solicitor General of India.

II. FEES FOR ADVOCATES/ADVOCATE ON RECORD (AOR)/LAW FIRM CATEGORY OF SERVICE**

Sl. No	Category of Service	SUPREME COURT	HIGH COURT	NCLAT	CMM
(i)	For effective hearing in arguing on behalf of the Competition Commission of India	Upto ₹30,000/-	Upto ₹20,000/-	Upto ₹20,000/-	Upto ₹15,000/-
(ii)	Conference fee	Upto ₹5,000/-	Upto ₹5,000/-	Upto ₹5,000/-	Upto ₹3,000/-
(iii)		SLP/Appeal	WP/LPA	Appeal	Reference
	(a) Drafting/ vetting charges	Upto ₹25,000/-	Upto ₹25,000/-	Upto ₹25,000/-	Upto ₹15,000/-
	(b) Drafting/ vetting of reply affidavit/ counter by CCI	Upto ₹5,000/-	Upto ₹5,000/-	Upto ₹5,000/-	Upto ₹5,000/-
	(c) Misc. applications/ Misc. affidavit etc.	Upto ₹5,000/-	Upto ₹5,000/-	Upto ₹5,000/-	Upto ₹2,000/-
(iv)	Clerkage	Upto 10% of fee subject to a maximum of ₹2000/-.			
(v)	Non-effective hearing	10% of effective hearing.			