

## CA Foundation New Format Questions & Answers

### **Q.1 what is proposal/offer. Explain types of offers?**

Ans –

**Meaning** - An offer is the starting point in the making of an agreement. An offer is also called 'proposal'

**Definition** - According to Section 2(a) of The Indian Contract Act, 1872, "A person is said to have made the proposal when he signifies to another his willingness to do or to abstain from doing anything with a view to obtaining the assent of that offer to such act or abstinence."

**For example:** Mr. A says to Mr. B, "Will you purchase my car for Rs.1, 00,000?" In this case, Mr. A is making an offer to Mr. B. Here A is the offeror and B is the offeree.

### **TYPES OF OFFER**

**1. Specific Offer:** A Specific offer is one which is made to a specific person. It can be accepted only by that person to whom it is made.

For example: Mr.A says to Mr.B, "Will you purchase my car for Rs.1,00,000?" This is a Specific offer made by A to B and only B can accept it.

**2. General Offer:** A general offer is one, which is made throughout the world and anybody can accept it.

**For example** - The police advertised in a newspaper that a reward of Rs.10, 000 would be given to the person who would give information about "Daku Gabbar Singh." This is a general offer and any person can accept it.

**3. Cross Offer:** When two parties make similar offers to each other without knowing the offer made by the other, the offers are called 'cross offer.' In such case, no contract will be created as no one has accepted the offer of others.

**For example:** A of Bombay offers B of Calcutta, "will you purchase my car for Rs.1,00,000 by writing a letter?" At the same time, B offers A, "Will you sell your car to me for Rs.80,000?" Neither A nor B has knowledge of the other's offer. The offers of A and B are called cross offers.

It is to be noted that A's offer will not be assumed to be the acceptance of B's offer. In the same way, B's offer will not be assumed to be the acceptance of A's offer. Therefore, there is no contract.

**4. Counter Offer:** When the offeree offers to accept the offer of offeror subject to some modifications or conditions, the offeree is called Counter Offer.

**For example:** Mr.A says to Mr.B, "Will you purchase my car for Rs.1,00,000?" Mr.B replies, "I will purchase your car, if you sell it for Rs.75,000." In this case, the offer of Mr.B is called counter offer.

**5. Standing Offer/ Open Offer/ Continuous Offer:**

**For example:** When we ask the newspaper vendor to supply the newspaper daily. In such case, we do not repeat our offer daily and the newspaper vendor supplies the newspaper to us daily. The offers of such types are called Standing Offer.

**6. Express and Implied Offer:**

➤ **Express Offer:** For example, A offers B, "will you purchase my car for Rs.1, 00,000 by writing a letter?" The offer of A is an expressed offer.

➤ **Implied Offer:** For example, public telephones or weighing machines in public places offer their services for a certain amount (one rupee). The offers of these machines are called implied.

## Q.2 When is Communication of Offer Complete?

**Ans** - The communication of offer is complete when it comes to the knowledge of the person to whom it is made. In case an offer is made by post, its communication will complete when the letter containing the offer reaches the offeree.

**Example** – Mr. Sharma of Agra sends a letter by post to Mr. Malhotra of Delhi offering to sell his CNC Machine for Rs 5,00,000. The letter is posted on 1st January and this letter reaches on 7th January. The communication of the offer is complete on 7th January.

**Q.3 When is Communication of Acceptance Complete,** The communication of acceptance is complete at different times for the proposer and acceptor.

The rules regarding the communication of acceptance are as under:

The communication of Acceptance is complete...	When does the communication of acceptance complete...
(i) As <b>against the proposer</b>	When it is put in a course of transmission to him, so as to be out of the power of the acceptor. In case of acceptance made by post, the proposer becomes bound by the acceptance as soon as the properly addressed and stamped letter of acceptance is duly posted even if such letter of acceptance is lost or delayed in post.
(ii) As <b>against the acceptor</b>	When it comes to the knowledge of the proposer. In case of acceptance made by post, the acceptor becomes bound by the acceptance only when the letter of acceptance is actually received by proposer.

Note: The time gap between the date on which the letter of acceptance is posted and the date on which the letter of acceptance is received by the proposer, can be utilized by the acceptor to withdraw his acceptance by speedier mode of communication so that the revocation notice reaches the proposer before the letter of acceptance.

**Example** – Mr. Sharma of Agra sends a letter by post to Mr. Malhotra of Delhi offering to sell his Laptop for Rs 50,000. The letter is posted on 1st January and this letter reaches Mr. Malhotra on 7th January. Mr. Malhotra sends his acceptance by post on 10th January but Mr. Sharma receives this letter of acceptance on 15th January. In this case the legal position relating to the communication of offer and acceptance is as under:

Communication	When does the communication	Reason

<b>(a) Completion Of offer</b>	7th January	The letter containing the offer reaches the offeree on 7 <sup>th</sup> January.
<b>(b) Communication of acceptance as against the Offeror/Proposer</b>	10 <sup>th</sup> January	The letter of acceptance is posted on 15 <sup>th</sup> January
<b>(c) Communication of acceptance as against the acceptor</b>	15 <sup>th</sup> January	The letter of acceptance is received by the proposer on 15 <sup>th</sup> January.

After posting the letter of acceptance on 10th January, Mr. Malhotra can withdraw his acceptance by a speedier mode of communication so that the revocation notice reaches the proposer before the letter of acceptance.

#### **Q.4 WHAT ARE THE PROVISIONS RELATING TO REVOCATION OF OFFER AND ACCEPTANCE?**

**Ans – Meaning of Revocation** The term 'revocation' means 'taking back' or 'withdrawal'.

**The Time Limit within which Offer can be Revoked** According to Section 5 of the Indian Contract Act, a proposal may be revoked at any time before the communication of its acceptance is complete as against the proposer, but not afterwards. We know that communication of acceptance is complete as against the proposer when a properly addressed and stamped letter of acceptance is duly posted by the acceptor. Hence, an offer can be revoked at any time before the letter of acceptance is duly posted by the acceptor. Thus, the proposer may revoke his offer by a speedier mode of communication which will reach before the letter of acceptance is posted by the acceptor.

**Example –** Mr. Sharma of Agra offers by a letter dated 1st January sent by post to sell his car to Mr. Malhotra of Delhi for Rs. 1,00,000. Y accepts the offer on 7<sup>th</sup> January at 1 p.m. by letter sent by post. Here, Mr. Sharma may revoke his offer at any time before 1 p.m. on 7th January but not afterwards.

**Time Limit within which Acceptance can be revoked:** According to Section 5 of the Indian Contract Act, "An acceptance may be revoked at any time before the communication of the acceptance is complete as against the acceptor, but not afterwards." We know that communication of acceptance is complete as against the acceptor when the letter of acceptance is actually received by the proposer. Hence, an acceptance can be revoked at any .time before the letter of acceptance is actually received by the proposer. Thus an acceptor may revoke his acceptance by a speedier mode of communication which will reach before the letter of acceptance is received by the proposer.

**Example** Mr. Sharma of Agra offers by a letter dated 1st January sent by post to sell his car to Mr. Malhotra of Delhi for Rs 1, 00,000. Mr. Malhotra accepts the offer on 7th January at 1 p.m. by a letter sent by post. Mr. Sharma receives the letter of acceptance on 15th January at 3 p.m. Here, Mr. Malhotra may revoke his acceptance at any time before 3 p.m. on 15th January but not afterwards.

#### **Q.5 what is Contract?**

Ans - According to Section 2(h) of the Indian Contract Act, 1872, "**An agreement enforceable by law is a contract.**" In other words, an agreement which can be enforced in a court of law is known as a contract.

**Q.6 What are the essential Elements of Contracts?**

Ans - **The following are the essential elements for a valid contract: -**

1. **Offer and acceptance:** Every contract involves two parties – one making the offer and the other accepting it. Thus, offer and acceptance are essential for every contract.

**For example:** Suppose Mr.A tells to Mr.B, "I offer you to buy my cycle for Rs.5,000." But Mr.B does not accept the offer. In this case, there will be no contract, as there is the absence of acceptance.

2. **Intention to create legal relationship:** Besides offer and acceptance, both the parties must have an intention to go to court, if the other party does not meet his promise. Normally, in social agreements, there is no intention to go to court. But in commercial agreement, there is always an intention to go to court.  
- Balfour vs. Balfour, 1919

Facts of the case	<b>Mr.A promised to pay his wife 30 every month as household allowance. Later, the husband failed to pay the amount.</b>
Decision in the case	<b>Held, the wife could not claim, as there was no intention to create legal obligation and therefore it is not enforceable by law.</b>

3. **Lawful consideration:** - Lawful consideration is the essential element of a contract. It is a general rule, "No consideration, No contract." Consideration means something in return, i.e. both parties must get something in return for the promise.

**For example:** Mr. A agrees to sell his wrist watch to B for Rs.500, For Mr. B, watch is one consideration and for A, Rs.500 is one consideration.

4. **Capacity to Contract:** - In a contract both the parties (i.e. offeror and acceptor) must be capable of entering into a contract. Section 11 clearly lays down that the following parties are capable of entering into a contract:

- (i) A major,
- (ii) Who is of sound mind, and
- (iii) Every man, who is not disqualified by law to enter into contract.

5. **Free Consent**

**For example:** Mr.A has two cars: - one black and the other red. He agrees to sell one of his cars to Mr.B. If A is thinking to sell black car and B is thinking to

buy Red car, then A and B do not agree on the same thing in the same sense and therefore there is no contract between the two.

6. **Lawful Object:** The object of the contract must be lawful. It must not be fraudulent, unlawful, immoral or opposed to public policy (Sec. 23).

**For example:** Mr.A agrees to give Rs.1,00,000 to Mr.B on the condition that Mr.B murders Mr.C. In this case, the object of the agreement is unlawful, therefore it will not be enforceable by law and hence, there will be no contract.

7. **Agreement not expressly declared void:** The agreement must not be declared void by the law in force. There are a large number of agreements, which have expressly been declared void as these are not in public interest.

**For example:** wagering agreements

8. **Possibility of Performance:** The agreement must be to do the act whose performance is possible. The agreement to do an act whose performance is impossible is not enforceable by law.

**For example:** Mr.A agrees to give Rs.1,000 to Mr.B provided B flies in the sky like birds. In this case, the agreement between A and B, is void.

9. **Legal formalities:** In some cases, where the law specially requires an agreement to be in writing or registered or attested, the agreement must be so, otherwise it shall not be enforceable.

**For example:** Property related agreements must be made in writing.

## Q.7 WHAT ARE THE DIFFERENT TYPES OF CONTRACTS?

Ans –

1. **Express Contract** Express contract is one which is made by words, spoken or written.

**Example I;** X says to Y " Will you buy my car for Rs 1,00,000?" Y says to X "I am ready to buy your car for Rs 1,00,000." It is an express contract made orally.

**Example II:** X writes a letter to Y, "I offer to sell my car for Rs,1,00,000 to you." Y send a letter to X, "I am ready to buy your car for Rs 1,00,000." It is an express contract made in writing.

2. **Implied Contract** An implied contract is one which is made otherwise)than by words spoken or written. It is inferred from the conduct of a person or the circumstances of the particular case.

**Example I:** A transport company runs buses on different routes to carry passengers. This is an implied offer by transport company. X boards a bus. This is-an implied acceptance by X. Now, there is an implied contract and X is bound to pay the prescribed fare.

**Example II:** X, a coolie in uniform picks up the baggage of Y to carry it from railway platform to the taxi without being asked by Y to do so and Y allows it. In this case there is an implied offer by the coolie and an implied acceptance by the passenger. Now, there is an implied contract between the' coolie and the passenger and the passenger is bound to pay for the services of the coolie.

**3. Tacit Contract** A tacit contract is one which is inferred from the conduct of parties.

**Example I:** *Withdrawing cash through ATM*

**Example II:** *Sale by fall of hammer at an auction sale*

**4. Executed Contract** It is a contract where both the parties to the contract have **performed** their respective obligations under the contract.

**Example:** *X offers to sell his car to Y for Rs 1,00,000. Y accepts X's offer. X delivers the car to Y and Y pays Rs 1,00,000 to X. It is an executed contract.*

**5. Executory Contract** It is a contract where both the parties to the contract have **still to perform** their respective obligations.

**Example:** *X offers to sell his car to Y for Rs 1,00,000. Y accepts X's offer. If the car has not yet been delivered by X and the price has not yet been paid by Y, it is an executory contract.*

**6. Unilateral Contract** An Unilateral contract is one sided contract in, which only one party has to perform his promise or obligation.

**7. Bilateral Contract** A bilateral contract is one in which both the parties have to perform their respective promises or obligations to do or forebear.

**8. Valid Contract** A contract which satisfies all the conditions prescribed by law is a valid contract.

**Example:** *X offers to sell his flat Y. Y accepts X's offer. This is a valid contract.*

**9. Void Contract** The term 'Void Contract' is a contradiction in terms. But according to Section 2(j) of the Indian Contract Act, 1872, "**A contract which ceases to be enforceable by law becomes void when it ceases to be enforceable.**" In other words, a void contract is a contract which was valid when entered into but which subsequently became void due to impossibility of performance, change of law or some other reason.

**Example:** *X offers to sell his flat to Y. Y accepts X's offer. Later on flat destroyed in earthquake. This contract was valid at the time of its formation but became void on impossibility of performance.*

**10. Voidable Contract** - As per Sec. 2(i) :-

**An agreement, which is enforceable by law at the option of one or more the parties, but not at the option of the other (s) is a voidable contract.**

**For example,** Mr. A, at gun-point, asks B to sell his scooter for Rs.500. Mr. B gives consent. The agreement is voidable at the option of B whose consent is not free.

It is to be noted that in a voidable contract, the contract will be voidable only at the option of the party, whose consent is not free; the contract will not be voidable at the option of the party who is no guilt. In the above example, the contract will not be voidable at the option of A, as he is on guilt.

**Unenforceable Contract:** An unenforceable contract is one, which is perfectly valid, but cannot be enforced by law due to some technical defects, such as under stamping. If the defect is removed, the contract can be enforced. For example where law requires contract to be made in writing but made by words of mouth.

### **PRACTICAL PROBLEMS**

1. *Salman Khan* invites *Shah Rukh Khan* to dinner. *SRK* accepts the invitation but fails to turn up. Can *Salman Khan* File case against *SRK* for the damage?

**Solution:** SK cannot claim any damages from SRK because the agreement between SK and SRK is not enforceable by law. It is a social agreement and the usual presumption in such agreement is that the parties do not intend to create legal relationship.

2. Ravi makes a promise to his wife Ravina to give her pocket money of Rs 1,000 per month. After 6 months, he stops making the payment. Can Ravina claim damages from Ravi.

**Solution:** Ravina cannot claim any damages from Ravi because the agreement between Ravi and Ravina is not enforceable by law. It is a social agreement and the usual presumption in such agreement is that the parties do not intend to create legal relationship.

3. Raju polished Rohit's shoes without being asked by Rohit to do so. Rohit does not make any attempt to stop Raju from, polishing the shoes. Is Rohit bound to make payment to Raju?

**Solution:** Rohit is bound to pay because he has accepted Raju's implied offer by conduct (i.e. by not stopping Raju from polishing the shoes).

4. Kartik agrees to let his flat to Krish for use as a gambling den on a monthly rent of Rs.20,000. After 3 months, Krish stops making the payment of rent. Advise Kartik

**Solution:** Kartik cannot recover anything. The agreement between Kartik and Krish is void because the object of the agreement is unlawful.

5. Amrish Puri threatens to kill Ranveer Singh if he (Ranveer Singh) does not sell his house to Amrish Puri to at Rs 1,00,000.

**Solution:** The contract between Amrish Puri and Ranveer Singh is a contract which is voidable at the option of Ranveer Singh because Ranveer Singh's consent is not free as it has been obtained by coercion.