

Responses to frequently asked questions May 2011

The PMCPA cannot approve any materials or activities. It can, however, give informal guidance based upon its interpretation of the Code and, where available, the outcomes of past cases. If a complaint were received about a matter upon which advice had been given, it would have to be considered in the usual way and on its own particular merits.

The following enquiries have been received during the last couple of months.

Question 1 Can a pharmaceutical company sponsor conference lanyards, badges and bags etc by paying the organiser for them and in return getting the company name on the items?

Answer No. Clauses 18.1 and 18.3 of the Code limit what items pharmaceutical companies can provide to health professionals and appropriate administrative staff at conferences and the items in question fall outside that limit.

Question 2 Can pharmaceutical companies give notepads, pens and pencils to conference organisers for them to put in conference bags?

Answer Yes, one or more companies could provide such items as long as the total cost of the items provided to an individual recipient does not exceed £6, excluding VAT. The perceived value to the recipient must be similar. The items may bear the names of the donor companies but not the name of any medicine or any information about medicines. Given the spirit of Clause 18.3 companies should ensure that no individual attendee will receive more than one notepad and one pen.

Question 3 Can a pharmaceutical company distribute notebooks, pens and pencils from an exhibition stand?

Answer No. An exhibition stand is not a *bona fide* meeting as meant by the supplementary information to Clause 18.3. In addition, at any one meeting an individual health professional can only receive notebooks, pens or pencils to a combined total cost of no more than £6, excluding VAT. It would be difficult for a company to distribute such items from an exhibition stand and ensure that this limit was not exceeded. The provision of notebooks, pen and pencils could be done via conference bags – see question 2 above. The spirit of the Code is that pharmaceutical companies should not distribute any items, other than promotional or educational literature, from exhibition stands.

Question 4 Can a pharmaceutical company provide notepads, pens and pencils with clinical trial materials? If so, can they bear the name of the trial as well as, or instead of, the company name?

Answer Notepads, pens and pencils can be provided with clinical trial materials. They should not be provided on an ad hoc basis. It could be argued that such materials are not promotional because they are not provided for a promotional purpose. They must not be provided by a representative. Bearing in mind the spirit of the Code, it might be best to follow Clause 18.3. Thus the notebooks, pens and pencils should not bear the name of the trial but could bear the name of the company providing them. They should not bear the name of a medicine or any information about medicines. The total cost of the items provided to an individual recipient must not exceed £6, excluding VAT. The perceived value to the recipient must be similar.

Question 5 Can a pharmaceutical company put an interactive programme on an exhibition stand that requires an attendee to make a series of judgements and choices regarding a treatment pathway? When would such a programme become a quiz, if it was not one already?

Answer Although such a programme may be regarded as simply educational material, depending on its content it could also be considered to be a quiz and thus subject to the requirements relating to quizzes in the supplementary information to Clause 18.1. Any assessment or evaluation of the delegates' decisions may mean that the interactive programme is a quiz.

A quiz would be acceptable if it related to the subject matter of the meeting and formed part of the meeting's formal proceedings. Exhibition stands are not considered to be a formal part of a meeting's proceedings.

Question 6 Can memory sticks be given out from exhibition stands?

Answer Memory sticks containing educational or promotional material can be given to health professionals. The storage capacity has to be commensurate with the amount of data to be stored. They can bear a company name but should not bear the name of any medicine.

Memory sticks bearing a company name would not be viewed as disguised promotion. However, the fact that a memory stick includes promotional material should be made clear to the recipient. The memory stick could have 'Promotional material from [company name]' printed on it. In addition when using the memory stick it would be preferable if it first opened a page making the contents and nature of the contents clear.

Memory sticks as described above can be given out from exhibition stands.

Question 7 Can appointment cards be provided as part of a patient support programme?

Answer Pharmaceutical companies cannot provide appointment cards or other general items of stationery.

Appointment cards do not appear to be in line with the examples of patient support items given in the supplementary information to Clause 18.3. However, it might be possible to provide an appointment card as part of a formal patient support programme where, to complete a treatment course, the patient will need more than one visit. This is more likely to be acceptable if other patient support materials are provided.

Question 8 Can anatomical models be given as a medical and educational good (MEG)?

Answer Anatomical models might meet the definition of a MEG if they enhanced patient care and benefitted the NHS or benefitted the NHS and maintained patient care. However such items must not be given to individuals for their personal benefit.

Question 9 How does the prohibition on medical and educational goods and services (MEGS) being provided to individuals for personal benefit apply to the provision of training or support to attend a conference?

Answer Support to attend a conference is covered by Clause 19 rather than as a MEG.

There would be some career development for health professionals given training on a particular matter but as long as that training met the requirements of Clause 19 then it would not be seen as provided for personal benefit. The wording in Clause 18.4 in relation to enhancing patient care or benefitting the NHS and maintaining patient care provides additional guidance. The wording of Clause 18.4 in relation to personal benefit was more in relation to the provision of physical items or service agreements.

With regard to pharmaceutical companies running courses that give continuing professional development points this is allowed provided that the arrangements meet Clause 19. The training should enhance patient care or benefit the NHS and maintain patient care.

Question 10 Can MEGS be offered from exhibition stands?

Answer MEGS cannot be offered from or distributed from promotional exhibition stands as they must not be linked to the promotion of a particular product. In addition it might be difficult to ensure that MEGS requested from exhibition stands were not given to individuals for their personal benefit.

Question 11 What are the requirements relating to the qualifications and registration of medical signatories?

Answer Medical signatories must be registered medical practitioners but need not be UK registered. There are no requirements in the Code relating to the actual qualifications of medical signatories. The advice usually given is that the proposed medical signatory should be capable of being registered in the UK without the need for additional tests of medical/clinical knowledge.

The supplementary information to Clause 14.1 states that when deciding whether a person can be a signatory, account should be taken of product knowledge, relevant experience both within and outwith the industry, length of service and seniority. In addition, signatories must have an up-to-date, detailed knowledge of the Code.

Pharmacists acting as signatories must be registered in the UK.

Details of signatories and their qualifications have to be provided to the Medicines and Healthcare products Regulatory Agency which will therefore be aware of the qualifications of all signatories.

Question 12 Can only economy air travel be provided to delegates sponsored to attend meeting?

Answer The supplementary information to Clause 19.1 states that companies should only offer or provide economy air travel to delegates sponsored to attend meetings. Delegates

can organise and pay at their own expense the genuine difference between economy travel and business class or first class.

Business or first class travel can be offered to those who have been engaged to chair or speak at a meeting. In this regard, token consultancy arrangements must not be used to justify such travel.

Developments in recent times have led to styles of travel being offered which include 'economy' in their title such as premium economy and are part way between economy travel and business travel.

There has so far been no ruling as to the acceptability or otherwise of premium economy and the like and in the event of a complaint it would be the Code of Practice Appeal Board which had the last word on the matter. It is, however, unlikely that the payment of a significantly more expensive fare than economy would ever be acceptable under the Code. The Authority's view is that the use of economy tickets puts companies beyond reproach.

Question 13 Can refreshments be provided from exhibition stands and, if so, what would be appropriate?

Answer The Code allows the provision of hospitality at scientific meetings and the like and there is no reason why this should not be offered from an exhibition stand. Obviously companies would have to be certain that the hospitality overall complied with the Code and that any hospitality provided from an exhibition stand was subsistence only and not at a level such as to induce a delegate to visit the stand. In the Authority's view companies should provide no more than non-alcoholic beverages, such as tea, coffee and water, and very limited quantities of sweets, biscuits or fruit. The Authority does not consider that hot dogs, ice-cream, waffles, etc should be provided at exhibition stands.

Question 14 Can a pharmaceutical company provide a diagnostic tool such as document with a series of questions for health professionals to use with their patients?

Answer The changes to the Code were not intended to preclude the use of such items. Such a document is not of any inherent value and does not amount to a gift to a health professional.