

Conquering the Code

Highlighting the shift from 'rules-based' to 'principles-based' ethical marketing practices.

How does this affect you and your company? Are you battling with what is 'fair market value' for such as gratuities and meals for HCPs?

We are constantly being asked for guidance on matters involving appropriate payments such as for honoraria, assignments, meals, etc.

Global marketing ethics trends show a move from rules-based decision to principles-based decisions.

In terms of the MCA Code, the CCO must check and approve compliance with the legislation, the Code of ethics and the product registration legal requirements, for all promotional activities. In so doing, the CCO will frequently be required to make and substantiate a judgment on whether the activity or material complies and is ethical.

The principle-based judgment of the CCO is needed to:

- assess whether the activity is of a promotional nature, e.g. in the case of market research or whether it personally enriches the HCP,
- assess whether there are adequate checks and balances in place to ensure compliance when implemented,
- assess whether the honorarium to be paid is reasonable with respect to the nature of the engagement, and
- assess if there is total transparency. HCP's are required to sign a contract in respect of payments.

Information and arguments informing an approval must be documented and kept on file for a period of 5 years. It should be available in the event that a complaint is lodged in respect of the activity.

For further information, an SOP in respect of CCO approvals is available at <http://www.marketingcode.co.za/wp-content/uploads/2019/04/Code-Compliance-SOP-template-190314.pdf>

These notes reflect the opinion of the EO. They are an aide to interpreting the Code but do not represent official MCA positions.