

Track Changes

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August 2020

PHARMIG Code of Conduct amended

The PHARMIG Code of Conduct – an instrument of self-regulation within the pharmaceutical industry

The PHARMIG Code of Conduct is an **instrument of self-regulation** established by the Association of the Austrian Pharmaceutical Industry that also contains rules on the promotional, advertising and marketing measures of pharmaceutical companies and on the interaction with health care professionals, health care organisations and patient organisations. All PHARMIG members (currently > 100) must comply with the Code of Conduct.

In the event of a breach of its provisions, a dispute resolution procedure is provided, in which **finances** of up to EUR 100,000 (in specific cases up to EUR 200,000) may be imposed. Not only member companies, but also competitors who are not members of PHARMIG, may initiate proceedings against a member.

Overview of the most important amendments

As of 1 July 2020, an **amendment** of the Code of Conduct has come into force which introduced several new provisions and clarifications:

- The Code of Conduct had already provided restrictive guidelines regarding undue benefits in relations between pharmaceutical companies and healthcare professionals. The code now also explicitly states that pharmaceutical companies shall not offer or give **undue benefits**, be it directly or indirectly, to any representatives of any **healthcare organisation** or **patient organisation**. Any benefits permitted by the PHARMIG Code and applicable law remain unaffected.
- Before the recent amendment, the Code of Conduct (only) **prohibited** pharmaceutical companies from **granting exclusive support** to any patient organisation. This will now also apply to **healthcare organisations** and their programmes. Therefore, the dependency of such institutions on pharmaceutical companies shall be avoided and any distortions of competition prevented.
- A new **prohibition on "product branding"** was introduced: the provision of informational or educational materials and items of medical utility is – under

certain conditions – considered legitimate as being of a non-promotional nature. An amendment was introduced, according to which such materials and items may include the pharmaceutical company's name but must not include the name of any prescription-only medicinal product – unless the name is essential for the correct use by the patient.

- There is now an explicit provision in the Code of Conduct that prohibits pharmaceutical companies from making **claims about effects not sufficiently supported by scientific evidence**. This mirrors jurisprudence on the prohibition of misleading advertising of pharmaceutical products under the Medicinal Product Act, even though the wording of such rather seems to be slightly more lenient (pursuant to to Sec 6 (3) of the Medicinal Product Act, a claim on the effect of a medicinal product is misleading, if such is not sufficiently supported by legal evidence or by practical experience).

Pharmaceutical companies that have adopted the Code of Conduct should ensure – as part of a comprehensive compliance programme – that they also comply with the new set of rules.

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