

**Allens**

Deutsche Bank Place  
Corner Hunter and Phillip Streets  
Sydney NSW 2000 Australia

**T** +61 2 9230 4000  
**F** +61 2 9230 5333  
www.allens.com.au

GPO Box 50  
Sydney NSW 2001 Australia  
DX 105 Sydney

ABN 47 702 595 758

**Allens > < Linklaters**

1 August 2014

Australian Competition and Consumer  
Commission  
23 Marcus Clarke Street  
Canberra ACT 2601  
AUSTRALIA  
Attention: Darrell Channing

**By Email**

Dear Mr Channing

**Medicines Australia Code of Conduct Review**

We refer to our recent telephone conversation regarding Medicines Australia's application for authorisation of Edition 18 of its Code of Conduct (**Code**). In that conversation, you raised a number of questions. We reproduce and answer those questions under the headings below.

**1 Will the Code require disclosure of food and beverage spending on healthcare professionals?**

The Code introduces a new requirement that the maximum cost of a meal (including beverages) provided by a member company to a healthcare professional within Australia must not exceed \$120 (excluding GST and gratuities). Currently Edition 17 of the Code is less prescriptive. The Code also continues to require that any meals or beverages offered by companies to healthcare professionals must be secondary to educational content. The Code does not require member companies to report transfers of value to healthcare professionals associated with the provision of food and beverages.

Please see Medicines Australia's submission at paragraph 4.3 for more detail.

**2 Will any transfers of value currently be reported under Edition 17 of the Code not be reported under Edition 18?**

The new transparency regime requires member companies to report on transfers of value to individual healthcare professionals **by name**. Specifically, such value transfers are the:

- Fees paid to individual healthcare professionals for speaking at an educational meeting or event (currently reported in aggregate);
- Sponsorship of an individual healthcare professional to attend an educational event (for example: airfares, accommodation or registration fees directly associated with the meeting (whether held within or outside Australia)) (currently reported in aggregate);
- Fees paid to individual healthcare professional consultants in Australia, or to their employers on their behalf, for specific services rendered by them (for example: consultancy services provided in relation to educational meetings, preparation of promotional materials or product

**Our Ref** 206029656:206029656 1.8.2014

position papers, assistance with training or any other advice to the company) (currently reported in aggregate); and

- Fees paid to individual healthcare professionals in their role as Advisory Board members (for example: Advisory Board sitting fees, accommodation and airfares (both within and outside Australia) associated with the activities of the Advisory Board) (currently reported in aggregate).

These new transparency measures reflect a significant endeavour on the part of Medicines Australia and its member companies to meet community expectations about transparency surrounding the relationship between member companies and healthcare professionals.

As noted in response to Question 1 above, the Code will be more prescriptive as to the value of food and beverage that may be provided at an educational meeting. The Code will impose a financial limit which will only be permitted to be reached in exceptional circumstances. That limit has been set at \$120 per person. Given this more prescriptive approach, the Code will no longer require member companies to report food and beverage expenditure on healthcare professionals.

In relation to educational meetings organised by third party organisations (such as a journal club meeting, a 'grand rounds' meeting, or an institution departmental meeting), if a member company pays for food and beverages associated with these meetings, this will continue to be reported under the "third party sponsorships" reporting requirements (Code section 41.3.5). Please see further information in response to question 4, below and Medicines Australia's submission at paragraph 4.6 for more detail.

### **3 Is sponsorship of educational meetings required to be reported under the Code?**

Member companies will be required to report from 1 October 2015 all sponsorships of independent educational meetings and symposia organised by third party organisations. Food and beverage spending at such events would not be reportable by individual healthcare professionals, however, the Code imposes a \$120 limit on these expenses.

Examples of sponsorships of independent educational events that must be reported include:

- financial sponsorship of a third party educational event;
- monetary contribution to support the conduct of institutional grand rounds, clinic meetings or journal club meetings; and
- purchasing space to provide a trade display at an educational event (including if this is the only sponsorship of an event).

Please see Medicines Australia's submission at paragraph 4.6 for more detail.

### **4 Can you provide a copy of the template that will be used to record transfers of value?**

A copy of the reporting template is provided at **Annexure A** (this template was also provided as Annexure 2 to Medicines Australia's submission).

### **5 Can you provide a copy of the Code of Conduct Guidelines for the Code?**

Guidelines for the Code have not yet been drafted. Medicines Australia will draft these guidelines if the Code is authorised.

### **6 Can information be published if healthcare professionals do not consent?**

Under the new reporting measures in the Code, each member company must obtain informed consent from healthcare professionals before they collect information for public release.

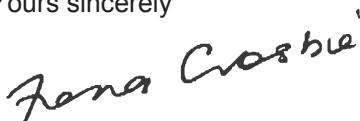
Please see Medicines Australia's submission at paragraph 4.4 for more detail.

**7 How will obtaining consent from healthcare professionals work in practice?**

Medicines Australia is currently preparing a template form that can be used by member companies to obtain consent from healthcare professionals. If authorisation is obtained for the Code, a copy of the consent template will be available on Medicines Australia's website.

We are happy to answer any further questions that the Commission may have.

Yours sincerely



**Fiona Crosbie**

Partner

Allens

Fiona.Crosbie@allens.com.au

T +61 2 9230 4383

**Lincoln Verass**

Associate

Allens

Lincoln.Verass@allens.com.au

T +61 2 9230 5007

**Annexure A- Reporting template**

**HCP Aggregate Transfer of Value (ToV) Report for the period 1/10/15 to 30/4/15**  
**Company Name: ABC Ltd**

Date of event or provision of service	Full name of HCP	Type of HCP <sup>(a)</sup>	Principal Practice Address	Description of Service <sup>(a)</sup>	Description of Event/Activity <sup>(a)</sup>	Payment made to <sup>(a)</sup>	Contributions to cost of events		Fees for Service or Consultancy
							Registration	Travel & Accommodation	
Apr-15	David B Lloyd	Medical Practitioner	No/Street/Suburb/City/State	Speaker	Independent National Meeting	HCP	\$	\$	\$
Apr-Nov 15		Pharmacist		Chairperson	Company Sponsored National Meeting	HCP's employer			
		Nurse Practitioner		Advisory Board	Independent International Meeting	Other			
		etc		Medical Writing Market Research Training Steering Committee Grants Committee Sponsorships Other Consulting	<b>Other?</b>				
<b>Aggregate total of ToVs where HCPs have not consented to data being reported individually</b>									
Aggregate ToVs							\$	\$	\$
Aggregate number of HCPs									

(a) These fields will have defined wording options and are not freeform.

(1) Data coming from consultancy contract or invite to function. Aim is to have limited options (pick list?) for these fields.

(1a) Data matched with companies HCP database to ensure consistency across contracts.

(2) Aggregated data from transactions captured from company accounts. The accounts would determine the category. This would be linked to a contract number to match it with the data in (1) fields.

(3) For validation reporting to HCPs (separate to publication) it may be necessary to list individual transaction values. These would have the actual date of payment / TOV and would add up to the total reported for that event. This could be in the same format depending on how the validation process works for each company.