

Compliant Grant Management

Join us as we overview the grant management process as aligned to the Medical Device Code of Ethical Marketing and Business Practice.

23 August 2022, 09:00-11:00, Virtual



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SAMED Competition Law Guidelines: Do's and Don'ts

Don't

Don't reach understandings or agreements or even hold discussions with a competitor (or even a potential competitor) on commercially sensitive topics such as selling or purchase prices, trading or credit terms (including delivery charges, minimum purchase quantities or interest rates) or billing practices, production, inventory, supply volumes, sales, costs, future business plans, budgets, upcoming tender or bids, or individual suppliers or customers.

Don't attend meetings with competitors or any industry body without written agenda or clear indication of the purpose.

Don't attend unscheduled gatherings with competitors or any industry body unless you know that they are for a bona fide purpose or that they are purely social gatherings.

Don't discuss business related topics at social functions.

Don't accept written non-public information or agree to the exchange of oral non-public information with Members who manufacture, market or sell (or could manufacture, market or sell) competing products.

Don't exchange any current or future information with your competitors (what your company intends to charge or do).

Don't participate in market surveys, or benchmarking exercises that allow access to any competitive information of any individual company. Any data published pursuant to a market survey must be aggregated and contain only aggregated/average data for at least 5 competitors.

Don't engage in joint negotiations, joint sales or joint buying without legal advice.

Don't agree to exclude competitors or engage in collective boycotts of suppliers or customers.

Do

Do read the SAMED Competition Law Compliance Guidelines as contained in the [SAMED Committee SOPs](https://samed.org.za/about-samed/our-committees/) (<https://samed.org.za/about-samed/our-committees/>)

Do discuss public policy, education, scientific developments, regulatory matters of general interest, general industry trends, appropriately aggregated and non-individualized (statistical) market surveys or benchmarking projects, publicly available information and historical information, but be prepared to terminate the discussion and record your disagreement if anyone mentions any of the subjects listed in the "Don't" list above.

Do insist that your company's individual, commercial information is kept confidential by anyone conducting a survey.

Do inform SAMED if you disagree with any of its decisions and keep a copy for your files of any such correspondence.

Do return commercially sensitive information you receive from any competitor, without keeping copies, and explain in writing that you do not wish to obtain such information.

Do inform your company counsel of any approaches seeking to exchange non-public information or coordinate conduct on the market.

Do ask SAMED to have counsel attend SAMED meetings if you or your company has any doubts.

1. The event must be primarily **dedicated** to objective **scientific and educational** activities
2. The conference organiser or grant recipient must be able to show the donor that the grant will only be used for a genuine educational purpose
3. **Industry** should **not have any control or responsibility** for the selection of program content, faculty, educational methods and materials of the third party organised event
4. Only the conference organiser or grant recipient (if different) can select the individual HCPs who will receive support to attend the educational conference
5. The **venue** must be conducive to the educational program
6. Companies **cannot provide educational grants as a quid pro quo** or with the intention to influence any decision to purchase, order, recommend, or market a product
7. Requests for educational grants should reflect the **actual, fair market value costs** of the intended educational activities
8. A company **may not provide an educational grant/donation to influence the recipient's decision** to purchase, order, recommend, or market any product or medical technology
9. All support for third party educational conferences should be **appropriately documented**

1. Whether the conference organiser or grant recipient is an **independent entity** (via registration certification)
2. Whether the conference organiser or grant recipient has **documentation of official government registration, corporate certification, or other necessary qualifications and approvals**
3. The size of the conference organiser or grant recipient and date on which it was formed
4. Whether the conference organiser or grant recipient **operates independently** from an **individual HCP** or is **affiliated with or employs an individual HCP, including HCPs who work for hospitals or are influential in the industry**
5. Whether the conference organiser, grant recipient, or any of its subsidiaries or affiliated entities are **under common control with, or otherwise related to, medical institutions**
6. Whether the conference organiser or grant recipient, including its principals and the immediate family of its principals, is (a) **affiliated with, owned by, or partially owned by the government or government officials** and/or (b) **recommended by government officials**
7. Whether the conference organiser or grant recipient **appears on a list of industry-approved entities** (if available) or a government list of restricted entities
8. Whether the conference organiser or grant recipient is willing to submit to an **audit of its books and records** upon request
9. Whether the conference organiser or grant recipient has **organized a similar event**, and if so, what are the event details and available feedback
10. Whether information about **previous grants provided** to the conference organiser or grant recipient **raises concerns**

Third Party Selection of Recipients of Grants

Over arching principle

Only the conference organiser or grant recipient (if different) can select the individual HCPs who will receive support to attend the educational conference

Key Aspects SAMED urges third parties heed the following in relation to selection of recipients of grants

- Selection process of grant recipients should be documented and be transparent and fair (available on request)
- Only the third party can select and invite the individual health care professionals who will receive support and no company should influence the selection of individual HCPs
- All individuals / members of the relevant professional association interested in a sponsorship should apply in writing to the organisers of the event / professional association (Application should include Personal details; a CV; Details of the meeting they require sponsorship to; Motivation for sponsorship; and Proof of membership of the relevant association if applicable)

Key Aspects SAMED urges third parties heed the following in relation to selection of recipients of grants

The following (not necessarily all) criteria for selection of grant recipients is suggested:

- Field and years of experience
- Active members of the society/associations that have assisted in the management, the organisation and attended meetings on a regular basis.
- HCPs that have been actively involved in their own original research and presentations to promote the discipline
- HCPs that have published peer reviewed articles
- Previous sponsorship should always be considered as an exclusion criteria for members, to ensure that others also be considered for sponsorship.
- Other factors such as historically disadvantaged individual's status, gender, geographical location in terms of rural and inaccessible locations, young practitioners and developing practitioners may also be considered

Practical examples

The company would like to provide a grant to an International Conference Organiser to enable them to support the attendance of HCPs from South Africa to their annual conference. They want to ensure the grant is used to support HCPs who will most benefit from the event. Is it acceptable to provide selection criteria?

Practical examples

ANSWER: Yes. For grants to congress organisers or societies it is acceptable to provide recommended criteria, providing the ultimate decision on recipient suitability rests with the event organisers. Based on the educational objectives of the event, criteria can include, but are not restricted to

- Speciality
- Country of residence of the HCP
- Expertise or experience level

Selection criteria should never direct the grant to a specific HCP.

Practical examples

A hospital has requested a grant to support the attendance of one of their employees to a conference. The conference requires expert knowledge and the company is concerned that the hospital may send someone too junior to benefit from the course. Can a company provide the grant on the provision that they must send the Head of Department only?

Practical examples

ANSWER: No. Because a Head of Department is too specific

Practical examples

A training hospital has requested support to send employees to a local conference. Can companies provide the grant conditional to them only sending trainee surgeons and not qualified surgeons?

Practical examples

ANSWER: Yes, if there are a large number of trainee surgeons, and the company is not thereby influencing the selection such that it points to one particular individual.

Practical examples

Is it appropriate for a company that has provided an educational grant to support HCP attendance at a third party organised educational event to receive the names of the HCPs benefiting from the educational grant?

Practical examples

ANSWER: Yes, in South Africa due to B-BBEE reporting requirements, companies may request / be provided a list of those recipients who have specifically benefited from a particular company's educational grant. However, such HCP names should only be received by the company once the educational grant agreement has been signed and the independent selection process of the HCPs has been completed, and after the event has taken place

FAQs

Continued medical education of HCPs is important for patient safety and for ensuring patients have access to the best possible care. What is the reason for the change in approach?

To preserve and enhance the independence of HCPs decision-making.

CONTINUED MEDICAL EDUCATION SUPPORT

How may companies support the training and education of HCPs in new medical technologies and therapies?

Companies can:

- continue to support individual HCPs to attend company arranged educational events;
- provide sponsorship to the relevant third party organisation
- provide direct support for individual HCPs to attend third party organized procedure / hands on training.

CONTINUED MEDICAL EDUCATION SUPPORT

A company has received a request from a medical society to provide a grant of R100 000 to support the attendance of two of their members (unnamed) to a local conference. How do they know if this is a reasonable amount to pay?

ANSWER: Companies should establish guidance on the fair market value costs for supporting HCPs to different categories of events in their market. This guidance should be available in the event of a complaint. See the section on fair market value in the Medical Device Code of Ethical Marketing and Business Practice.

SELECTION/SPONSORSHIP OF HCPs

The company must make it clear that while they may donate funds to these third party entities, they have no role in deciding who receives a grant.

Can part of the sponsorship for an event include having the donor / grant recipient invite a number of specific HCP's to its congress on behalf of the company?

ANSWER: Whilst the event agreement can include funds to support a defined number of HCPs to attend the event, the donor / grant recipient is responsible for selecting those HCPs and they cannot invite them “on behalf of” a company”, since that could potentially encourage the HCPs to support that particular company’s products.

SELECTION/SPONSORSHIP OF HCPs

A hospital has submitted a grant request to support the attendance of one of their employees to a third party arranged educational event. The hospital does not have the facilities to arrange travel. Can a company arrange the travel on behalf of the hospital?

ANSWER: No. Companies are not permitted to make logistics arrangements for individual HCPs attending or speaking at third party educational events. They can provide financial support to the hospital but the hospital must make all arrangements themselves.

SELECTION/SPONSORSHIP OF HCPs

An HCP is attending a third party organized educational event as faculty and has asked a company to support his expenses (travel, accommodation and registration). The event organisers selected him as a faculty member but they are not covering these costs. Is it acceptable for the company to provide this support?

ANSWER: No. The ban applies to all HCPs attending third party organized educational events, whether as a delegate or as faculty.

SELECTION/SPONSORSHIP OF HCPs

An event organiser has asked a company to recommend faculty for an upcoming event. The company knows a surgeon who will be a great speaker. Are they allowed to provide his name to the event organisers?

ANSWER: Yes. Companies are allowed to recommend faculty members but cannot select or influence the selection of faculty.

CONSULTING FEES TO HCPs

Can the company pay consulting fees and expenses for an HCP to participate as faculty at the company satellite symposium at a third party organized conference?

ANSWER: Yes. They can pay consulting fees (at fair market value).

If the HCP only attends the satellite symposium, then they can pay their travel expenses and any accommodation and meal costs associated with their attendance at the satellite meeting.

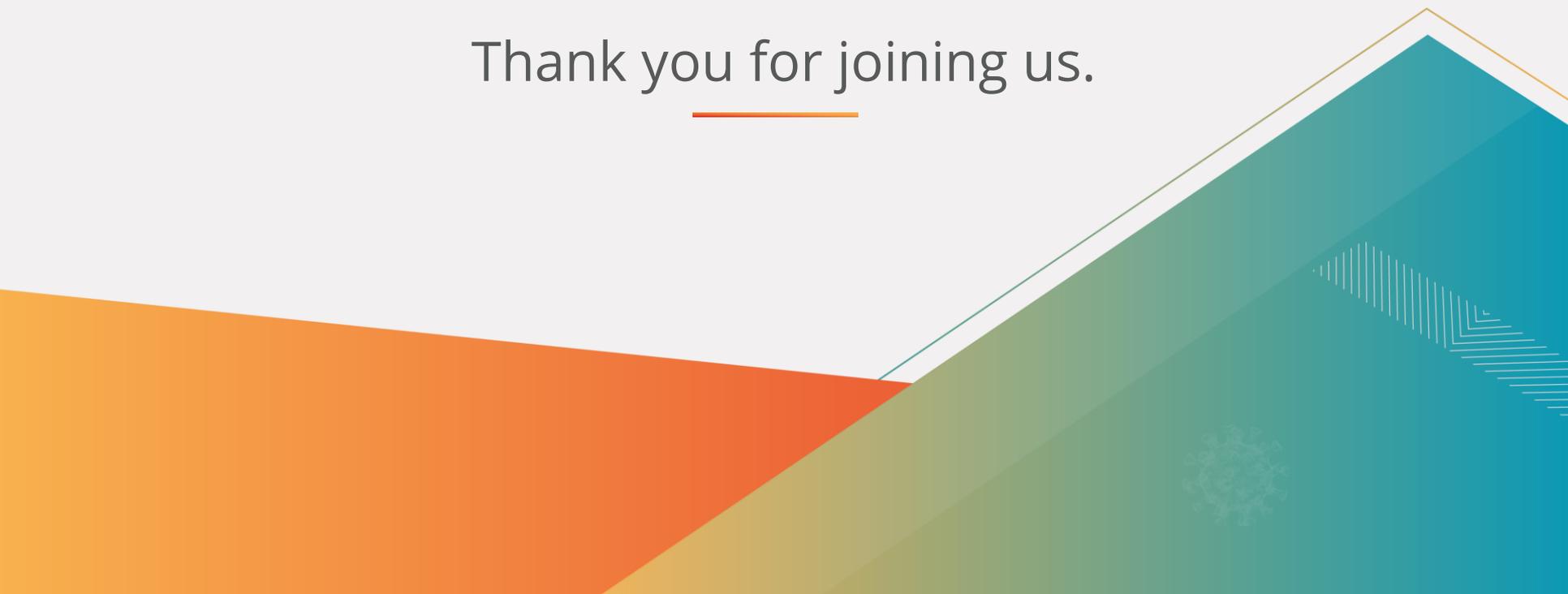
However, if the HCP also attends the third party organized conference associated with the satellite symposium, then the company cannot pay any associated travel expenses, with the exception of local transportation between the conference and the satellite symposium and also not for any accommodation and meal costs directly associated with the third party conference.

RECORDING OF GRANTS

How should a company record grants for HCOs to support HCP attendance at third party organised educational events? How will HCOs know that they can request these grants from a company? How will HCPs know if grants are available?

ANSWER: Companies should document grants and contracts in relation to grants. It is the responsibility of the HCOs to promote their grant offerings. In response to questions from HCPs it is acceptable to tell the HCPs that the company has grants available but companies must explain that they have no role in the selection of recipients of the awards.

Thank you for joining us.





Join the leaders of medtech in round table discussion through our

Captains of Industry Forum

We invite you to participate in a discussion on elevating the value of medtech with our industry stakeholders and how youth job creation could be leveraged to unblock public sector payments

1 September 2022, 09:00 – 11:00
Deloitte Johannesburg, 5 Magwa Cres,
Waterval City, Midrand



PURPOSE DRIVEN MEDTECH

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**SAMED ANNUAL
CONFERENCE**

**21-22
SEPTEMBER**

Indaba Hotel and Conference Centre

Contact [Caroline](mailto:caroline@samed.org.za) for more information
conference@samed.org.za



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