



PROMOTION OF PHARMACEUTICAL PRODUCTS AND THE BRIBERY ACT 2010

The Bribery Act came into force on 1 July 2011. It has attracted much controversy, and because of its jurisdictional reach beyond the borders of the UK, it has given rise to concern in various industries including the pharmaceutical industry and in particular in the areas of hospitality, gifts and other inducements to healthcare professionals.

It is therefore welcome that the Association of the British Pharmaceutical Industry's (ABPI) and the Prescription Medicines Code of Practice Authority (PMCPA) have agreed with the Serious Fraud Office (SFO) to develop a [Memorandum of Understanding](#) (MOU) providing clarification about the enforcement for breaches of the ABPI Code in cases where a breach of the Code is also a potential breach of the Act.

The Bribery Act 2010

The Bribery Act 2010 provides a legal framework to combat bribery by creating the following offences:

- The general offence of bribing another person (section 1);
- The general offence of being bribed (section 2);
- Bribery of Foreign public officials (section 6); and
- Failure of a commercial organisation to prevent bribery (section 7).

Further details about the Act are available [here](#).

The Memorandum of Understanding

The promotion of medicines to health professionals and to administrative staff is carried out within the ABPI Code of Practice 2011 which sets out an efficient, stringent and transparent self regulatory framework. Rules governing promotion, promotional meetings, hospitality and sponsorship are set out in clause 18 and 19 of the Code.

The MOU makes it clear that the SFO is supportive of this model of self regulation and that the SFO will not routinely intervene in matters covered by the Code or seek to prosecute unless it considers that this is in the public interest to do so.

The MOU emphasises the need for pharmaceutical companies to maintain robustly defined and implemented anti-bribery procedures but it is also made clear that the parties agree "that sensible proportionate promotional expenditure is entirely legitimate and not outlawed by the Bribery Act 2010."

For further information and advice please contact:

Thomas Bjorn

Solicitor

DD +44 (0)20 7553 9930

E tb@millerrosenfalck.com

I millerrosenfalck.com

The material contained in this article is provided for general purposes only and does not constitute legal or other professional advice. Appropriate legal advice should be sought for specific circumstances and before action is taken.