



Addendum 1: Administration of the Code of Marketing Conduct

The Canadian Generic Pharmaceutical Association (CGPA) believes that the administration and enforcement of the Code of Marketing Conduct should be the responsibility of the Agency charged with overseeing the drug program in the relevant jurisdiction. For example, in Ontario the Agency would be the Executive Officer of the Ontario public drugs program, whereas in Quebec, RAMQ would perform the Agency function. (The entity performing this function is referred to as the Agency in this document and in CGPA's Code of Marketing Conduct.)

In jurisdictions where there is no such agency, or where elements in this code are considered by the agency to be outside its terms of reference, then penalties for breaches of this code will be assessed by the National and Quebec Industry Practices Review Boards. These boards will consist of the senior sales person from each manufacturer whose products are available in Ontario and Quebec, whether or not they are members of CGPA, as well as the President of CGPA.

From time to time, the Boards can recommend to the Executive Committee of CGPA changes to the Code of Marketing Conduct that it decides are required. The final decision regarding the implementation of those changes will rest with the Executive Committee.

When a potential breach of the Code of Marketing Conduct is brought to the attention of the Board, the Board will engage an independent external arbitrator to assess whether or not an actual breach has occurred. If the arbitrator finds, or if it is found on appeal, that a definitive decision cannot be made because the Code of Marketing Conduct is ambiguous or not specific enough, the Board will recommend changes to the Code to add specificity or remove ambiguity.

A complaint can be registered with the Board by a supplier of generic pharmaceuticals upon payment of \$1,000, to be held in trust. The identity of the complaining company will not be made known to the company representatives on the Board. The Board will rule by simple majority, based on the evidence at their disposal, whether the claim is frivolous or whether it has merit. If the claim is deemed to be frivolous then the complaining company shall be so notified and the \$1000 shall be forfeited. If the claim is deemed to have merit then the case will be assigned to an external independent arbitrator, who will determine whether a breach has in fact occurred.

Persons or corporations who are not suppliers of generic pharmaceuticals may also make complaints to the Board, in which case no fee will be payable. The process for dealing with such a complaint will be the same as that described above.

The cost of arbitration will be borne by the complaining company if the complaint is found to be without merit. If a breach of the Code is found to have occurred then the cost of arbitration will be borne by the company responsible for the breach.

If the arbitrator finds that a judgement cannot be rendered because of ambiguity or lack of specificity in the Code then the cost of arbitration will be borne by CGPA, payable from a special fund set up for this purpose. Fines payable for breaches to the Code will go into this fund. At the end of each calendar year the balance in this fund will be donated to a suitable charity.

A supplier of generic products that is found to be in violation of the Code of Marketing Conduct may appeal the decision of the Industry Practices Review Board. The decision to appeal must be sent in writing to the Industry Practices Review Board within 30 calendar days of receipt of the decision of the Industry Practices Review Board. The parties to the appeal process will be as follows:

- A representative of the party found to be in breach of the Code
- Three independent arbitrators appointed by the Industry Practices Review Board

The appeal decision will be made by the independent arbitrators and will be final and binding on both parties.

In the event of an appeal being unsuccessful the arbitration costs associated with the appeal will be borne by the appealing company. If the appeal is successful the arbitration costs will be borne by the special fund set up by CGPA.