

*This translation is prepared to be used only as a reference material in order to precisely understand the original text of the Promotion Code of the Japan Pharmaceutical Manufacturers Association.*

*Users shall refer to the original Japanese text when interpreting or applying this code to any relevant cases in an adequate manner.*

## **Commentary on the JPMA Promotion Code for Prescription Drugs**

### **[Meaning of corporate ethics of pharmaceutical companies]**

Various legal regulations and self-regulations apply to the promotion activities for today's prescription drugs (hereinafter referred to as "drugs") and we are strongly requested to comply with them. Among the most important are the Pharmaceutical Affairs Law, Education and Training Guideline for Medical Representatives, the Fair Competition Code, and Guideline for Specifying Product Information Summaries for Prescription Drugs, to name only a few.

Why then have so many regulations been applied to the drug industry? Are these regulations in fact necessary to the industry?

As generally known, drugs have the following characteristics.

- (1) The nature of drugs is completely unknown from their appearance.
- (2) Drugs have both effects and side effects and the occurrence differs from patient to patient.
- (3) Thus drugs that are not accompanied by correct drug information cannot function as drugs.
- (4) Patients who require treatment are the only consumers and consumption cannot be created by sales promotion.

When we consider these characteristics of drugs, there should obviously be restraints to be observed voluntarily in promotional activities by pharmaceutical manufacturers.

Generally speaking, however, competition is liable to become so heated that restraints are left behind. We cannot deny that such behavior has been practiced by pharmaceutical manufacturers in the past. If a pharmaceutical company ignores the nature of drugs, it may cause significant damages to patients and the society in the form of adverse reactions or unnecessary use of drugs. As a result, it is clear that a significant damage to the society's trust in drugs and to the whole pharmaceutical industry will be self-inflicted, bringing miserable consequences both to the company and to the society. Needless to say, companies acquire nothing from such activities but loss.

The above mentioned various regulations are convincingly judged from the nature of

drugs. It is therefore essential that we view these regulations not as "restrictions" but, more positively, as "reflections of the expectations that the society has towards pharmaceutical companies", and embrace them as our own. It is easy to understand that corporate activities based on such ethical views establish priceless intangible assets in the form of "public trust" towards drugs and pharmaceutical companies. These facts will be even easier to understand, if you place yourself in the position of an individual patient or a member of the society and examine pharmaceutical companies.

As a member of a society (be it a family, a workplace or a community), everyone has their roles which are naturally expected to be played. The society works on the assumption that each member performs their certain anticipated role. Any society will tumble down if this precondition is damaged.

This rule also directly applies to companies. With respect to drugs, members of the society receive healthcare on the assumption that high-quality drugs are being used properly, irrespective of whether laws and regulations exist or not. It is also important for the pharmaceutical industry to perceive "Corporate Social Responsibility (CSR)", which is recently imposed by the society as an important mission.

The character "倫:rin" used as the first component of the Japanese word "倫理:rinri" (meaning "ethics") signifies our mutual expectations with regard to human and social relationships. Thus the word "倫理:rinri" signifies the root condition for the existence of society. And in our daily lives, this is mostly deemed as common sense. For instance, we say "promises must be kept" because that is one of the root conditions underpinning the society. There is a strict social rule that breaking promises results in loss of trust.

### **[Corporate Ethics of Pharmaceutical Companies in the IFPMA Code]**

The JPMA Promotion Code is the embodiment of principles and action standards for promotion activities of pharmaceutical companies. The JPMA Promotion Code is based on the desirable way of promotion activities that the society expects towards pharmaceutical companies, or the promotion activities pharmaceutical companies must carry out to meet the society's expectations. In other words, it is based on the corporate ethics of pharmaceutical companies towards promotion activity.

In the "IFPMA Code of Pharmaceutical Marketing Practice" (hereinafter referred to as

“IFPMA Code”), such desirable promotion activities and the promotion activities that must be carried out are described as follows.

“The ethical promotion of prescription medicines is vital to the pharmaceutical industry’s mission of helping patients by discovering, developing, and marketing new medicines. Ethical promotion helps to ensure that healthcare professionals have access to information they need, that patients have access to the medicines they need and that medicines are prescribed and used in a manner that provides the maximum healthcare benefit to patients.”

“IFPMA and its members are committed to educational and promotional efforts that benefit patients and promotional programs and collaborations that enhance the practice of medicine. The IFPMA also seeks to preserve the independence of the decisions taken by healthcare professionals in prescribing medicines to patients. The pharmaceutical industry has an obligation and responsibility to provide accurate information and education about its products to healthcare professionals in order to establish a clear understanding of the appropriate use of prescription medicines. Industry relationships with healthcare professionals must support, and be consistent with the professional responsibilities healthcare professionals have towards their patients. Pharmaceutical companies must maintain high ethical standards when conducting promotional activities and comply with applicable legal, regulatory and professional requirements. Through the promotion of this code, the IFPMA seeks to ensure that ethical promotional practices are established worldwide.”

The IFPMA Code also shows the following five “general principles” applied to promotion activities.

**Basis of Interaction:** Member Companies’ relationships with healthcare professionals are intended to benefit patients and to enhance the practice of medicine. Interactions should be focused on informing healthcare professionals about products, providing scientific and educational information and supporting medical research and education.

**Independence of Healthcare Professionals:** No financial benefit or benefit-in-kind (including grants, scholarships, subsidies, support, consulting contracts or educational or practice related items) may be provided or offered to a healthcare professional in exchange for prescribing, recommending, purchasing, supplying or administering

products or for a commitment to continue to do so. Nothing may be offered or provided in a manner or on conditions that would have an inappropriate influence on a healthcare professional's prescribing practices.

**Appropriate Use:** Promotion should encourage the appropriate use of pharmaceutical products by presenting them objectively without exaggerating their properties.

**Local Regulations:** In all cases, all relevant laws, local regulations, and industry codes must be observed and companies have a responsibility to check local requirements in advance of preparing promotional material or events in any specific country.

**Transparency of Promotion:** Promotion should not be disguised. Clinical assessments, post-marketing surveillance and experience programs and post-authorization studies must not be disguised promotion. Such assessments, programs, and studies must be conducted with a primarily scientific or educational purpose. Material relating to pharmaceutical products and their uses, whether promotional in nature or not, which is sponsored by a company should clearly indicate by whom it has been sponsored.

The JPMA Promotion Code is also based on these principles of the IFPMA Code.

## I. JPMA Promotion Code

### **1. Responsibility of Member Companies**

Member Companies shall assume responsibility for all promotional activities conducted by itself and its medical representatives. In thorough recognition of this principle, Member Companies shall be required to establish an in-house system to conduct appropriate promotional activities.

Member Companies shall have their subsidiary company (a company in which the Member Companies own over 50% of the shares) in Japan adhere to the JPMA Promotion Code.

Member Companies shall also require its holding companies or business partners who conduct sales and promotional activities of the Member Company's drugs in Japan to adhere to the JPMA Promotion Code.

(Commentary)

MRs act according to their company policies. Therefore, it will be difficult for the MRs to conduct activities if the company does not establish an internal system that ensures proper promotion activities without any deviation from the acceptable scope of activities specified in the JPMA Promotion Code.

By establishing such internal systems, Member Companies are required to assume responsibilities for the activities of MRs. And for the same purpose, Member Companies are encouraged to establish their own company codes for the same purpose.

Member Companies not only bear all responsibilities for their own promotion activities but are also required to make their subsidiaries comply with the JPMA Promotion Code and request parent companies and affiliates to comply with the Code. In particular, in the case of jointly carrying out promotion activities with subsidiaries, parent companies and affiliates, it is important to do so only after the companies confirm with each other that they adhere to the JPMA Promotion Code.

Responsibilities of the Member Companies for their overseas subsidiaries, licensees or distributors are set forth in Paragraph 11.

(1) To appoint qualified employees as medical representatives, and maintain continuous education and training programs for them.

(Commentary)

Pharmaceutical companies are required to accurately and continuously provide, collect, and disseminate to healthcare professionals all requisite information on quality, efficacy and safety, related to the use of drugs.

It is the medical representatives that bear this responsibility. The significance of these duties is realized through their daily operations, but they are also highly expected by those around. For this reason, in 1979, the “Education and Training Guideline for Medical Representatives” was established and is still effective as detailed in the “Research and Comprehensive Report Relating to the Status of Medical Representatives of Pharmaceutical Manufacturers (hereinafter referred to as the Comprehensive Report)” prepared as a Health Science Council Research Project for fiscal year 1990-91 (hereinafter referred to as “the Summary Report”).

This paragraph describes the necessity of continuous education & training for MRs to ensure that only appropriate persons are assigned to serve as MRs and to ensure continuous improvement of the quality of MRs.

It is to be noted that, as an effective means of ensuring further improvement of the quality of MRs, an “MR Certification System” has been introduced.

Improvement in the quality of MRs cannot be realized solely through the introduction of training programs provided by companies or the “MR Certification System”. It can be realized only when MRs are always conscious of the significance of their roles and the company has appropriate management policies and marketing attitude.

(2) To ensure that the evaluation/remuneration system of medical representatives should not be such as to induce unethical acts.
--

(Commentary)

Pharmaceutical companies also have the responsibility to establish fair performance evaluation and remuneration systems for MRs to promote proper promotion activities.

The attitude and activities of MRs engaged in promotion activities in the frontline is the key for the company to carry out proper promotion activities. The performance evaluation/remuneration system of MRs is likely to have substantial effects on the attitude and activities of MRs.

Therefore, not only performance but also the attitude and behavior to comply with statutory and regulatory requirements and self-regulations such as the JPMA Promotion Code should be reflected on personnel evaluation of MRs. Member Companies must avoid adopting the evaluation/remuneration system that may encourage MRs to commit any excessive sales promotion activity or any action that may have negative effect on the proper use of drugs.

(3) To provide in the most appropriate manner information such as indications, dosage and administration based on up-to-date scientific data, which should not deviate from the approved items for the drugs.
---

(Commentary)

Drugs may only be called drugs only after manufacturing and marketing approval is granted, and drug information must be supplied within the range of the approval.

Therefore, Member Companies must refrain from starting promotion activities until the marketing approval or approval for the extended indication is granted.

However, this cannot deprive medical/pharmaceutical experts as well as the general public of the right to know scientific/medical advancement. For instance, this provision does not restrict:

(1) The adequate and appropriate exchange of scientific information about a drug as exemplified by the presentation of research findings in a meeting of any academic society or scientific journal;

(2) The display of scientific exhibition materials about an unapproved drug in accordance with a separate guideline in a meeting of any international academic society. Although described as unapproved drugs, they must have been approved by some country, and in case they have not been approved by any country, such exhibition cannot be permitted. Moreover such exhibition may be permitted as an exceptional case, and associated scientific literature and related literature cannot be distributed.

;

(3) The supply of a reprint of a research paper or already reviewed scientific literature upon the request by a doctor; or

(4) The disclosure of medical information to stock holders in accordance with laws and

regulations.

It is often pointed out that even the “Summary Report” tends to emphasize only the advantage of the product while skipping the explanation about the weakness”. It is also pointed out that “unjustified and ambiguous explanations are occasionally presented” and that “healthcare professionals are occasionally encouraged to use products without being provided with adequate information”.

These problems occur because MRs want to promote use of their products, but Member Companies have to bear the responsibilities to make reliable data available and establish the guideline for the supply of data to have MRs refrain from committing such activities. Improper information supply damages the trust not only of the MR but also of the company.

Therefore, it is necessary for drug information to be supplied based on evidence-based up-to-date data in an appropriate manner.

Efficacy and safety of drugs are to be further verified through post-marketing safety control operations and post-marketing surveillance. This data should always be updated.

Scientific data supporting the promotional assertion or usage must be provided to healthcare professionals upon their request.

(4) To collect and disseminate drug information as accurately and promptly.
---

(Commentary)

The collection of drug information and communication of the collected results is extremely important since pharmaceutical companies have legal and ethical responsibilities to establish the proper use of drugs. It is essential for pharmaceutical companies to establish the Safety Control Management Department, assign the Safety Control Manager, establish the SOP for Post-marketing Safety Control Operations, and carry out post-marketing safety control operations properly and rapidly as specified in the “Ministerial Ordinance on Good Vigilance Practice (GVP Ordinance)”. Although it is the responsibility of MRs to collect drug information, appropriate direction by the Safety Control Implementation Manager is important for MRs to “properly and rapidly” implement the activities.

It is also essential to assign the Post-marketing Surveillance Manager, establish the SOP for PMS Operations and correctly perform post-marketing surveillances and studies in accordance with the “Ministerial Ordinance on Good Post-marketing Surveillance Practice (GPSP Ordinance)”. These are all important responsibilities of pharmaceutical companies.

Pharmaceutical companies also have the responsibility to ensure complete and immediate supply of important information about ADRs, precautions for use or warning to healthcare professionals.

(5) To establish in-house systems necessary to comply with all relevant laws and regulations and the industry's self-regulations.
---

(Commentary)

It is necessary to establish the internal system to ensure compliance with related laws and regulations and self-regulations for carrying out proper promotion activities.

In 2000, multiple Member Companies faced criminal penalty for the improper promotion of prescription drugs. Responding to this scandal, JPMA presented the Compliance Program/Guideline in 2001 and increased awareness of Member Companies on the need to establish their compliance system. The JPMA Promotion Code Committee requested Member Companies to establish the positions responsible for the management of the JPMA Promotion Code and for practical operations for the JPMA Promotion Code to promote definition of the responsibility system and the system to ensure compliance with the JPMA Promotion Code.

Establishing internal systems does not necessarily mean establishing a organization. The internal system may be established through periodical review by related departments, declaration of compliance policies by the top management, preparation of the practical manual, establishment of the training system and internal auditing of the status of compliance, may also mean establishing the internal system.

Ongoing review and maintenance of the internal system is also necessary. It is desirable to review and maintain the internal system referring to the “Guidance for the Maintenance of the Internal System for the Compliance with the JPMA Promotion Code” issued by the president of the JPMA Promotion Code Committee on January 24, 2001.

The relevant laws and regulations that need to be considered in the above activity includes, among others, the Pharmaceutical Affairs Law, the “Ministerial Ordinance on Good Vigilance Practice (GVP Ordinance)”, the “Ministerial Ordinance on Good Post-marketing Surveillance Practice (GPSP Ordinance)”, the Antimonopoly Law, the Law for Preventing Unjustifiable Extra or Unexpected Benefit and Misleading Representation and the Act for Protection of Computer Processed Personal Data Held by Administrative Organs.

Apart from these laws and regulations, it is specified in the Law on the Ethics for National Public Officers and the Code of Ethics for National Public Officers that national public officers are prohibited to commit activities that may cause public suspect or distrust on the fairness of the operational interaction with parties of interest. Therefore, pharmaceutical companies must maintain stronger morality when approaching public officers who may have a particular relation of interest with pharmaceutical companies.

Member Companies also must comply with self-regulations such as the Fair Competition Code, the “Guideline for the Preparation of Advertisements Placed for Prescription Drugs in Scientific Journals (Papers)”, the “Guideline for Specifying Product Information Summaries for Prescription Drugs” and the “Education and Training Guideline for Medical Representatives”.

## **2. Responsibility of the Top Management of Member Companies**

The top management of Member Companies shall undertake the following tasks with the awareness and responsibility as the top management, to meet the expectations of the society as a company closely related to the lives of people.

(Commentary)

In the “Charter for the Activities of Pharmaceutical Companies” enacted in November 1997 to increase awareness on corporate ethics of pharmaceutical companies and establish public trust on the pharmaceutical industry, “activities as the top management” are clearly described.

The top management of Member Companies should play a leading role and carry out “activities as the top management” as specified in the JPMA Charter for the Activities of Pharmaceutical Companies also for the promotion of prescription drugs.

“Responsibilities of the top management” are included in the JPMA Promotion Code based on the understanding that the attitude of the top management is extremely important for the compliance with the JPMA Promotion Code. It was suggested in the questionnaire survey performed for Member Companies after the 2000 scandal that “understanding by the top management is the most important for the enforcement of the JPMA Promotion Code” and that “the attitude of the top management to prevent recurrence is the most important to prevent scandals”.

“Responsibilities of the top management” are included in the JPMA Promotion Code also for the expression of the strong intention that MRs and staff of related departments should comply with the JPMA Promotion Code in solidarity under the supervision of the top management.

(1) To realize that achieving the spirit of the JPMA Promotion Code is their duty, and to thoroughly inform related persons as an example to others, and to establish in-house systems.
---

(Commentary)

Prescription drugs are life-related products and the expenses are borne by the public insurance.

Patients, as the consumer of prescription drugs, have no choice but to trust healthcare professionals, and completely entrust their most important life and health to them. Therefore, to meet the trust of patients, healthcare professionals are required to constantly improve their medical knowledge and skill, and supply the best available healthcare to patients.

Meanwhile, pharmaceutical companies have the responsibility to accurately and promptly provide, collect and disseminate proper drug information in a appropriate manner to ensure that healthcare professionals can provide the best available drug therapy for patients, and should strictly refrain from committing actions that may have negative effect on the proper use of drugs. The society expects the cost spent by pharmaceutical companies to be appropriate and efficient, since expenses for prescription drugs are borne by the public insurance.

Based on this understanding, the JPMA Promotion Code is the action standards for the

"responsibilities that Member Companies must obviously discharge", and for the "moderate manner with which they must voluntarily comply to" in the promotional activities of prescription drugs.

It is necessary for the top management of Member Companies to be fully aware of the importance of their roles in the implementation of the principles of the JPMA Promotion Code and to play leading roles to disseminate the JPMA Promotion Code and establish internal systems.

(2) To solve problems on their own responsibility, and endeavor to clarify the causes and prevent recurrences, when situations arise that contravenes the spirit of the JPMA Promotion Code.

(Commentary)

This provision is included based on the understanding that the responsibility of the top management is not limited to the communication and establishment of the internal system for the implementation of the principles of the JPMA Promotion Code, but it is also important that they take appropriate countermeasures when situations arise that may contravene the principles of the JPMA Promotion Code.

Looking at example cases of scandals related to corporate ethics in other industries, we have often seen poor handling by the top management have ended up to increased public criticism.

In the case of encountering a situation that contravene the principles of the JPMA Promotion Code, the top management should take the initiative to resolve the problem, investigate the cause and prevent recurrence at his/her own responsibility. This is the only way to maintain the public trust in pharmaceutical companies.

### **3. Medical Representatives' Activity Standards**

Medical representatives shall fully recognize their social mission as persons who participate in health care services in conducting promotional activities on behalf of their respective companies. They shall perform the following duties in a sincere and honest manner.

(Commentary)

In the "Summary Report", MRs are positioned as the "persons sharing responsibilities

in healthcare”. In both the “Summary Report” and the results of the questionnaire survey conducted by the Japan RAD-AR Council (currently renamed “Council for Proper Use of Drugs”), MRs are the most commonly acknowledged source of drug information for healthcare professionals. MRs are strongly expected to play roles as the “persons sharing responsibilities in healthcare”.

In March 1997, the JPMA Training Committee established the “Roles MRs Should Play”. In the document, there is a notation, “MRs are expected to provide, collect, and disseminate information useful to the patients and the healthcare professionals from the ethical point of view to ensure proper use of drugs as the “Partner in pharmaceutical treatment”.

MRs must also be well aware that the attitude and behavior of MRs have substantial effects on the image, which external parties, especially healthcare professionals, have for pharmaceutical companies.

Furthermore, MRs must also be conscious of the word “faithfully” in the statement “faithfully carry out”. “Faith” means sincerity and cordiality. MRs should implement the seven action standards for MRs described in the subparagraphs given the full awareness of their mission and position. They must implement these action standards with sincerity and cordiality, whether seen by others or not.

(1) To exert their best efforts to acquire knowledge concerning the package inserts of their drugs, as well as the medical and pharmaceutical knowledge constituting the basis thereof and to cultivate the abilities needed to present such information correctly.
---

(Commentary)

Package inserts specify the basic information for healthcare professionals in using pharmaceuticals, and the matters to be specified are determined by the Pharmaceutical Affairs Law. MRs are obligated to acquire knowledge of package inserts for their own company's products. If knowledge of package inserts is deepened to include the underlying medical and pharmaceutical knowledge, that knowledge becomes more realistic.

Simply acquiring knowledge, however, does not fully discharge the duty of MRs. They must be able to provide it correctly to healthcare professionals. The Comprehensive

Report mentions accuracy based on scientific backing and absence of bias in efficacy and safety, as aspects of "correctness",

(2) To conduct promotional activities according to the rules and methods established by their companies.

(Commentary)

In the past, MRs used to prepare original data and use them for promotion although such practice is rarely seen these days. Such practice is problematic since it is not known if the data provided in this manner is objective and comprehensive. It also happens that biased information prepared for internal use only are be externally used as promotional materials. Data prepared for internal use must only be used internally.

Although originality and ingenuity of MRs is encouraged, MRs must follow the procedures for proposing those ideas with originality and ingenuity to the company and implementing them under the responsibility and authorization of the company.

(3) To provide drug information such as indications, dosage and administration, which does not deviate from approved items for drugs, balanced and fair information on efficacy and safety of drugs shall also be provided.

(Commentary)

This subparagraph describes the activities of MRs corresponding to (3) of "responsibilities of Member Companies". No matter how much the companies prepare the latest evidence-based data, it will become useless unless the MRs use it properly.

When providing the information, MRs must not promote unapproved drugs or unapproved indications not included in the document prepared by the company and must impartially provide not only efficacy-related information but also safety-related information including the information on ADRs.

This is because the supply of information by MRs is to help healthcare professionals provide the best available drug therapy to patients, whereas the supply of information about unapproved drugs or unapproved indications or partial supply of information may impair the decision of the optimum prescription.

(4) To collect and disseminate drug information as accurately and promptly as possible.

(Commentary)

Proper use of drugs may be impaired and an irredeemable situation may arise, if an MR puts priority on promotion of their drugs to have them adopted or to have them prescribed more, rather than the collection of unfavorable information or time-consuming information of their drugs. .

Efficacy-/safety-related information at the time of approval of a drug have been obtained under certain restrictive conditions, and it would not necessarily be the same as the efficacy or ADRs/infections seen under varying post-marketing conditions or extensive use. For this reason, continued post-marketing surveillance/monitoring is necessary. At the same time, it is also necessary for reviewed/analyzed information to be disseminated to healthcare professionals in an appropriate manner to contribute to proper use of drugs.

Based on adequate understanding of the characteristics of drugs, MRs need to collect safety control information and properly and smoothly implement safety assurance measures based on the results as directed by the Safety Control Implementation Manager according to the SOP for Post-marketing Safety Control Operations.

Also post-marketing surveillances and studies must be performed correctly as directed by the Post-marketing Surveillance Manager according to the SOP for PMS Operations. These are also important duties of MRs.

Note) “Under certain restrictive conditions” refers to the following cases.

- [1] The data is obtained from a limited number of subjects.
- [2] The data is obtained from the patient populations with restrictions of concomitant medications, complications or age.
- [3] The treatment period was not long.
- [4] The specialist for the target disease served as the investigator.

(5) Not to slander or defame competitors or competitors' drugs.
---

(Commentary)

The reasons that this subject is stipulated are that since medical representatives handle prescription drugs, which are life-related products, they must conduct themselves as conscientious members of society, and must provide, collect and disseminate appropriate information.

Slandering or defaming other companies and products for the promotion of use of the company product will damage the dignity of drugs and pharmaceutical companies, and any decent member of society is not expected to commit such an action.

Large volume of accurate information on competitors and competitors' drugs are owned by the competitors. Thus it is the competitors that can provide, collect and disseminate accurate information, and it is their duty to perform these activities in a responsible manner.

If the information about other companies or products distributed by other companies is supplied by an MR who has partial information about the companies or products, it may mislead healthcare professionals and impair the provision of the best available drug therapy. Supply of negative information about other companies or their products as exemplified by the supply of the copy of a newspaper article describing the ADR to such products are deemed to be slander /defame. In the past, there were cases where MRs used to introduce to healthcare professionals mentioning them as “confidential”, “comparative data effective to appeal the superiority of the company product compared to the competing product” using the “internal-use-only” data that cannot be included in the promotional printed materials. Such provision of information using “internal-use-only” data can be deemed as slander/defame of other company’s products.

- (6) To abide by rules imposed by a medical institution and maintain discipline when visiting such a medical institution.
- (7) To strictly abide by relevant laws and regulations and behave sensibly with full recognition of themselves as medical representatives.

(Commentary)

Both subparagraphs require MRs to stick to decent activities. As already stressed, the attitude and behavior of MRs have substantial effects on the trust in the company and on the drug. JPMA established the “Council for the Improvement of MRs Activities in Hospitals” to assess and ensure the improvement of the way of MRs activities in large hospitals, and summarized it in a report.

This report includes the following comment: “Pharmaceutical companies comprise the industry of highly social and public nature in contributing to healthcare. Based on the understanding of this, MRs are required to comply with the laws and regulations,

maintain the dignity that the member of society is expected to have, and have high ethical awareness and decency. Establishing a mutual and trustful relationship with healthcare professionals is essential for smooth exchange of information for the proper use of the products.”

MRs, who handle drugs as life-related products, must understand related laws and regulations and self-imposed industry rules and act in compliance with them.

Also, the full understanding shall be shared that the national public officers, other public officers and “deemed public officers” are subject to the code of ethics restricting the supply and receipt of gifts and cash and cash equivalents.

Apart from public officers, original codes of ethics may be established for specific organizations and MRs shall act based on the understanding of the codes.

MRs should be always conscious that the hospitals and clinics are the places of medical care and medical research, and MRs should refrain from the activities and behaviors that may be unpleasant to hospital staff or patients. MRs shall act politely as visitors.

#### **4. Production and Use of Promotional Materials and Advertisements**

Member Companies shall fully realize that brochures, advertisements in medical journals, websites targeting at healthcare professionals, audiovisual materials such as slides and VTRs, and other promotional materials are important media in dissemination of drug information, and shall produce and use those materials in compliance with the Pharmaceutical Affairs Law and relevant self-regulations such as the Guideline for Specifying Product Information Summaries for Prescription Drugs. The statements contained therein shall be correct, fair, and objective, based on scientific data.

(Commentary)

As to regulatory requirements for advertisements, acceptable range and way of placement of drug advertisements are provided in Article 66 to 68 of the Pharmaceutical Affairs Law and the “Code of Fair Practice in the Advertising of Drug and Related Products”. In accordance with the requirements, self-regulations such as the “Guideline for the Preparation of Advertisements Placed for Prescription Drugs in Scientific Journals (Papers)” and the “Guideline for Specifying Product Information Summaries for Prescription Drugs” are established by the pharmaceutical industry to

ensure proper preparation of the Product Information Summaries and advertisements.

As repeatedly emphasized, drug information is indispensable in the use of drugs. Product Information Summaries and advertisements are important tools for supplying drug information, but must be prepared properly so that the contents, expression, and usage of such materials is not misinterpreted by healthcare professionals. Other promotional materials include poster display or exhibition panel at academic conference venues and electronic media (e.g. CD-ROMs, floppy disks, internet contents, emails).

Medical/pharmaceutical articles supplied upon request of healthcare professionals do not fall under this subparagraph; however, when a company voluntarily distributes such materials to healthcare professionals, they are treated as promotional materials provided in this subparagraph.

Cited data including figures and tables in the promotional materials and advertisements should correctly convey true meaning of original articles, be carefully written to avoid distortion, exaggeration, unfair emphasis or deletion that may cause misunderstanding, and always come with notes of the sources.

Furthermore, it is essential that the contents and expression in the Product Information Summaries and advertisements inserted in scientific journals (papers) be proper in accordance with the “Review Board Report” of the Review Board for Product Information Summaries.

Promotional materials such as advertising in direct mail or specialized journals (paper) must not be such as to misrepresent the inherent content. An example of a promotional material that misrepresents this inherent content, is an advertisement that is displayed as if it is a part of an article in a medical journal, and it is therefore necessary that a clear distinction be drawn between advertising and articles or editorial contents. Specifically, as shown in the message from the Chairman of the JPMA Promotion Code Committee dated August 15, 2002, advertising in the guise of articles or editorial contents that slanders or defames a competitors' product, by recommending non-approved indications or dosage and administration, or emphasizing adverse reactions only, must be strictly avoided.

Also for “product promotion materials” prepared and distributed by wholesalers, the

company in concern should cooperate and provide guidance to ensure the properness of the materials.

Internet is a means by which anyone can freely access all information, but when a pharmaceutical manufacturer uses its web-site to provide healthcare professionals with product-related information, it is required, under the relationship with the Code of Fair Practice in the Advertising of Drug and Related Products to restrict access to persons who are not healthcare professionals. However when it fulfills the conditions set forth below, the web-site concerned, so long as it does not infringe the laws of Japan (meaning does not appeal to patients or the general public), is recognized as appropriate provision of information even if using no particular method of establishing passwords..

[1] The name of the pharmaceutical company is provided and it is noted that the information is targeted at healthcare professionals and the access is allowed only if the person who intends to access the website confirms that the information is targeted at healthcare professionals;

[2] The information is appropriate for healthcare professionals;

[3] The content and the website are appropriate for healthcare professionals and the owner (author) of the linked website is apparently recognized, if the company's website targeting at healthcare professionals is linked with any external websites,.

Also in "6. Electronic materials, including Audiovisuals" in the IFPMA Code effective as of January 2007, similar website-related requirements are included.

For the preparation of the content supplied to healthcare professionals on the website, the JPMA Promotion Code and self-regulations shall be fulfilled as in the precautions shown in the document issued by the president of the JPMA Promotion Code Committee on March 6, 2001 (see P.53 of the JPMA Code Japanese Version) applied to other printed materials.

The following is the excerpt of the related part.

Product Information Summaries or advertisements about prescription drugs must not be supplied to the general public other than healthcare professionals (Code of Fair Practice in the Advertising of Drug and Related Products). Therefore, adequate caution must

be exercised to prevent exposure of calendars and posters containing product names to the general public when distributing the materials.

(1) Statements regarding indications, dosage and administration, and any other statements, shall not deviate from the approved items. When scientific data are presented at international scientific meetings based on the attached guidelines, such statements can also refer to unapproved drugs (except for drugs not approved in any country).

(Commentary)

Drugs are only permitted to be referred to as "drugs" within the scope for which they are approved, so there should from the first be no possibility of descriptions that deviate from this.

Actually, however, there are examples where exaggerating expressions or unfavorable information are provided in small letters in a poorly balanced manner, even if the way of description does not deviate the definition. These are misleading.

This subparagraph, therefore, regulates deviating expressions as a basic rule, and the following item (2) specifies concrete means of expression, and representative examples of matters to bear in mind.

It is further required that important items conforming to the approval, such as warnings and precautions, including contraindications, (target of administration, dosage, adverse reactions, interactions, etc.), be in agreement with the content specified in Product Information Summaries, and it is important that they be specified in accordance with the Guideline for Specifying Product Information Summaries for Prescription Drugs.

With the November 1998 revision of the IFPMA Code, based on the separately established "Guideline Concerning the Display of Academic Materials for Unapproved Drugs" (see P.47 of the JPMA Code Japanese Version), it is stated that in displaying scientific materials at international scientific meetings, reference may also be made to unapproved drugs. However, although such drugs are described as being unapproved, some country must have approved them, and in case they have not been approved by any country, such exhibition cannot be permitted. Moreover such exhibition may be permitted as an exceptional case, and the scientific literature concerned and related literature cannot be distributed. Note that this does not apply to providing, in response to a request by a physician, etc. reprints of papers reporting research results or academic papers that have

already been highly evaluated.

(2) No false, exaggerated or misleading expression shall be used regarding efficacy and safety. Advantageous claims relating to safety such as "there are few adverse reactions" shall not be cited without qualification and must be supplemented with a summary of data on which such claims are based.

(Commentary)

This is one of the matters to bear in mind specified in subparagraph (1). Emphasis by means of expression that guarantees efficacy or safety, or is superlative or equivalent thereto, is not appropriate. Specifically it is necessary to pay the most careful attention to phraseology for safety, and it is not permissible to use ambiguous phrases like "highly safe", "few adverse reactions" or "no deleterious effects" as features or catch phrases

Note that when stated, it is necessary, based on precise and objective data, to use concrete expressions such as "the incidence of adverse reactions is 12.3%" together with a summary of the data that backs this up.

It is also necessary, when citing results of animal experiments, to specify what animal species is used, and when citing the results of in vitro tests, to make this clear. Based on such results it is not permissible to use expressions that would guarantee efficacy or safety when used by humans.

(3) Fair statements shall be made by presenting both efficacy data and safety data, including adverse reactions.

(Commentary)

This item is also a matter to bear in mind. Attention must be paid that statements on efficacy information and safety information including adverse reactions, maintain balance in terms of the Product Information Summary as a whole or the advertisement as a whole. For example even in advertisements where space is limited, it is necessary to assure the fairness of the information by displaying warnings and precautions, including contraindications, fairly and in type as conspicuous and easy to read as efficacy and the like.

(4) Comparisons with other drugs shall be based on scientific data and, in principle, shall be made using their generic names.

(Commentary)

For healthcare professionals, comparing new drugs with drugs that have been previously

used and finding out where and in what way they differ is extremely important in deciding which drug to use. Thus it is imperative that they be introduced based on accurate data with scientific backing, in compliance with the Guideline for Specifying Product Information Summaries for Prescription Drugs, while avoiding ambiguous expressions that could lead to misunderstandings.

When making a comparison with another drug, the drug that is being compared against shall, in principle, be referred to using its generic name.

However when making a comparison with one's own company's product, or when the agreement of the company supplying the drug that is being compared against has been obtained, it may happen that the proprietary name is used. For this reason we have said "in principle".

Further, when in citing from the literature, the data of a competitor is used, the agreement of the company concerned must be obtained.

In using the results of clinical trials performed for comparison with drugs supplied by a competitor, careful attention must be paid to the contractual conditions between the companies concerned under the terms of the JPMA's "discussions regarding the supply and acceptance of drugs for comparison (comparators)". (Bear in mind that the contract conditions differ between the agreements concluded earlier than October 2005 and the agreements concluded after October 2005.)

(5) Competitors or competitors' drugs shall not be slandered or defamed.

(Commentary)

According to the Guideline for Specifying Product Information Summaries for Prescription Drugs, Member

Companies must take great care in preparing the Product Information Summaries so that they are not perceived as slander or defamation.

Conducting comparisons based on objective data has been referred to in the previous subparagraph but as is shown by the Guideline for Specifying Product Information Summaries for Prescription Drugs, even in Product Information Summaries and other printed matter for promotional use, it is not permissible to include everything just because it is a fact.

Including comparative data that emphasizes the advantages of one's own company's product, and is thus biased against a competitor's product, is deemed slander or defamation.

There is a possibility that supply of improper information including the falsified price-related information or misleading price comparison in promotional materials or promotion activities may be deemed as slander/defamation.

Careful attention is being paid to the introduction of clinical results and non-clinical results, such as animal studies, but areas in which attention tends to be insufficient include "background of development" and "analysis of interactions".

In "background of development" the purpose of development may in some cases be stated as developing a drug that represents an improvement over an existing drug. In such a case, excessive emphasis on the disadvantages of the existing drug could be taken as slander or defamation, and if included, the expression must be carefully crafted.

And when, in "analysis of interactions" data on use in combination is introduced, references centering on the combined drug with respect to the area under the curve (AUC) for blood concentration vs. time, or blood concentration could also be taken as slander or defamation, and care must be taken.

(6) Extraordinary data shall not be presented by using an expression that may give an impression that the data represent a universal fact.

(Commentary)

This subparagraph describes one aspect of the idea that drug information must be scientific, objective and fair.

Presenting data that happen to be favorable to one's own company's product by using expression that represents the data as a universal fact must be avoided. It is particularly necessary to refrain from citing only one markedly effective case or collections of markedly effective cases.

(7) Misleading or indecent photos, illustrations, etc., that are not suitable to the socially respected role of drugs shall not be used.

(Commentary)

Materials such as photos or illustrations, which appeal to the sense of sight, can mislead or

have a suggestive effect on the viewer. Photos or illustrations must not be such as to inhibit the correct understanding of drug information.

Drugs also have an image to society as drugs. Improving that image is the duty of persons involved in the pharmaceutical industry. When photos or illustrations are used, emphasis must not be merely on attracting attention; there must be nothing that damages its image as a drug. "Plays on words" having unclear meanings are not desirable.

As used here "etc." refers to figures and tables, catch phrases, phrases and abbreviations.

(8) When an advertisement is aimed mainly to promote only the name of a drug, the statements in such advertisement shall include the name (brand name), therapeutic category (product abbreviation), regulatory classification, generic name, and status of NHI drug price listing. The contact and address for more detailed information shall be given.

(Commentary)

In Western countries there are printed materials known as "reminders", which have the purpose of calling the product name to mind, but in Japan this type of materials must always be accompanied by drug information. As an exceptional case, there may be brand name advertisements printed in specialized journals. Since in such cases it is impossible, for considerations of space to include full information, items are to be so determined that the information is presented without distortion, and the contact and address for more detailed information must be given.

Therefore it has been decided not to cite information on safety (warnings and precautions, including contraindications) together with information on efficacy (catch copy, indications, and dosage and administration, etc).

As used here "product abbreviation" means an expression of characteristics in terms of a product or indications, and refers to the therapeutic category given in the package insert. For example, cephem antibiotic, xxx-type OO and the like. Thus it is not, in principle permissible to cite as the product abbreviation anything other than the therapeutic category in the package insert. Since information on efficacy is not to be given, the product abbreviation must be given together with the product name; it is not permissible to use it in the manner of catch copy on efficacy, separated from the product name.

Ball-point pens and such items bearing the product name can be thought to be objects not mainly intended as advertising, and decisions should be made based on item 8 on Gifts.

(9) Member Companies shall appoint a Management Representative, etc. for promotional materials and advertisings and establish an in-house auditing system so that only audited promotional materials and advertisements are used.

(Commentary)

With respect to Product Information Summaries for prescription drugs and advertisements in specialized journals (paper), an in-house inspection system has been established, centered on the person responsible for inspecting Product Information Summaries for prescription drugs (Note), but an inspection system must also be established to assure that other promotional materials are created and used properly. This is because once these materials are released outside a company, they will be deemed as the ones issued by the company.

(Note) A designated company employee, with sufficient knowledge and appropriate scientific or healthcare qualifications shall be responsible for the management of Product Information Summaries. Also, a senior company employee could be made responsible, provided that scientific advice can be received.

#### **5. Post-marketing safety control operations and post-marketing surveillance**

Member Companies are required to properly understand the purpose of establishing proper usage of the drug after marketing and shall carry out post-marketing safety control operations and post-marketing surveillance based on scientific fairness in compliance with related laws and regulations and self-regulations, and should not use these activities as a sales promotion tool.

(Commentary)

Accurate implementation of post-marketing safety control operations is an important requirement to obtain permissions as a marketing approval holder. Post-marketing safety control operations include safety assurance operations and early post-marketing phase vigilance (EPPV), etc. Safety assurance operations are defined in the GVP Ordinance as a “collection/assessment of safety control information and actions taken based on the result”.

Post-marketing surveillance is defined in the GPSP Ordinance as “Use Result Surveillance (including Designated Use Result Surveillance) or post-marketing clinical study performed to collect/detect, review or verify the information about the quality,

efficacy and safety of drugs”.

As mentioned above, post-marketing safety control operations and post-marketing surveillance, etc. bear importance related to the nature of drugs, and therefore, pharmaceutical companies have the social responsibility to constantly seek for a more effective and safer usage based on the post-marketing condition of the use of drugs (e.g. conditions of patient compliance, interaction with other drugs, treatment period, etc.) and the change of conditions (e.g. advancement of medical technology, change of assessment criteria, new pathologies, change in pathological images or pathogenic microorganisms, etc.).

Needless to say, such post-marketing safety control operations and post-marketing surveillance, etc. must be evidence based. If the data is ever to be used in a disguising manner for sales promotion, it would inflict damage on the inherent nature of drugs by one’s own doing and would invite considerable loss of trust in drugs and pharmaceutical companies.

Compliance with related laws and regulations such as the GVP Ordinance and the GPSP Ordinance, etc. and the Fair Competition Code is absolutely necessary, so that post-marketing safety control operations and post-marketing surveillance, etc. are not doubted or mistaken as a disguise for sales promotion.

## **6. Supply of Samples**

Samples are a way of providing drug information and may be supplied to the healthcare professionals to show the physical appearance of drugs or to help them evaluate and confirm the quality, efficacy, safety and other claims. In view of this purpose, Member Companies shall always supply clinical samples only in the minimum quantity necessary, together with related drug information.

(Commentary)

Pharmaceutical samples may be either clinical samples for trial use, or product samples for reference. The Fair Competition Code defines; "clinical samples are intended so that physicians can confirm and evaluate the quality, efficacy, safety and pharmaceutical characteristics of the drug concerned prior to clinical use, while product samples are intended so that healthcare professionals can confirm the characteristics of their appearance before using the prescription drug concerned", and it allows them to be provided free of charge. In other words, drug samples can be provided only within these

limits.

Even if it is not possible to claim reimbursement from health insurance, drug samples are not entirely free of inducing transactions.

Provision of pharmaceutical samples must always accompany information on the relevant drug, and to achieve the original purpose of pharmaceutical samples, only the minimum necessary quantity should be provided, even when it meets the specifications of the Fair Competition Code. The person responsible for the management of pharmaceutical samples must constantly monitor the provision of samples, and also must pay his/her closest attention to its operation and management.

### **7. Seminars and Study Meetings**

Seminars held by Member Companies about their drugs for healthcare professionals are to be academic events where scientific information is supplied.

Such seminars are to be held in an appropriate venue conducive to the purpose in principle in Japan.

If food and drinks or any social-gathering event or gift is offered in association with a seminar, they shall not be extravagant and shall not tarnish the dignity of pharmaceutical companies.

Payments in cash or cash equivalents are to be limited to the travel expenses (transportation expenses, accommodation expenses) and the remuneration for the lecturer, when holding a seminar.

Individuals accompanying invited healthcare professionals shall not participate in the social-gathering event and shall not receive travel expenses.

(Commentary)

Seminars and study meetings related to their own products that pharmaceutical manufacturers conduct for healthcare professionals are for the purposes of providing the latest scientific and academic information uniformly and efficiently to large numbers of healthcare professionals, and for carrying out the exchange of information on the same site.

Seminars and study meetings are also an important tool to supply information alike the information supply by MRs.

Events such as social gatherings held in conjunction with seminars or study meetings must be on a modest scale, so that they do not obscure the original objective of the

seminar or study meeting, or appear to a third party as unnatural.

The Fair Competition Code restricts seminars and study meetings to prevent them from being held to induce unfair transactions, while the JPMA Promotion Code takes this point up here on the understanding that using an opportunity set up for the provision of information as an excuse to offer entertainment, fundamentally undermines the status of pharmaceutical companies.

When pharmaceutical companies are involved in seminars or study meetings organized by healthcare professionals in any form, Member Companies must be restrained so as not to invite any misunderstandings.

Seminars and study meetings are defined in “7. Interactions with Healthcare Professionals” of the IFPMA Code. The main contents are as shown below.

**Appropriate Venue:** All events shall be held in an appropriate venue that is conducive to the scientific or educational objectives and the purpose of the Event or meeting. Companies should avoid using renowned or extravagant venues.

**Events Involving Foreign Travel:** No company may organize or sponsor an Event for healthcare professionals that takes place outside of their home country unless it is appropriate and justified to do so from the logistical or security point of view. International scientific congresses and symposia that derive participants from many countries are therefore justified and permitted.

**Sponsorship:** Sponsorship to healthcare professionals is limited to the payment of travel, meals, accommodation and registration fees.

- No payments are made to compensate healthcare professionals for time spent in attending the Event.
- Any sponsorship provided to individual healthcare professionals must not be conditional upon an obligation to prescribe, recommend or promote any pharmaceutical product.

**Payments for Speakers and Presenters:** Payments of reasonable fees and reimbursement

of out-of-pocket expenses, including travel and accommodation, may be provided to healthcare professionals who are providing genuine services as speakers or presenters on the basis of a written contract with the company at the Event.

Guests: Companies shall not pay any costs associated with individuals accompanying invited healthcare professionals.

Limits of Hospitality: Hospitality should be limited to refreshments and/or meals incidental to the main purpose of the Event and should only be provided:

- to participants of the Event and not their guests; and
- if it is moderate and reasonable as judged by local standards.

Entertainment: No stand-alone entertainment or other leisure or social activities is to be provided or paid for by Member Companies. At events, entertainment of a modest nature which is secondary to refreshments and/or meals is allowed.

Member associations are encouraged in the IFPMA Code to provide written guidance on the meaning of the terms “renowned”, “extravagant” and “moderate”, “modest” and “reasonable” as used in the code. In the JPMA Promotion Code, the definitions are provided in “Commentary about Terms Used in the JPMA Promotion Code for Prescription Drugs”.

The Fair Competition Code also defines the point to be adhered concerning seminars and study meetings.

Thus with respect to holding seminars and study meetings, it is necessary that pharmaceutical companies definitely comply with the Fair Competition Code, and that even when an act may not be deemed an violation of the Fair Competition Code, they must examine its suitability with an even more rigorous attitude in accordance with their ethical insight.

### **8. Gifts**

Member Companies shall not offer to the healthcare professionals any gift that could potentially affect the appropriate use of drugs or any gift that is not in good taste.

(Commentary)

The Fair Competition Code states that pharmaceutical manufacturers must not offer to medical institutions, etc. any premiums (gifts or monetary benefits offered to the opposite party in their commercial transactions as a means of attracting buyers) as a means to unfairly solicit transactions of prescription drugs.

In other words, it does not entirely restrict the offering of gifts, monetary benefits, etc., but rather restricts the offering of gifts, monetary benefits in forms of premiums, as a means to induce unfair transactions.

The JPMA Promotion Code includes the item on gifts (offering of gifts) to deal with the offering of gifts from the standpoint of what is appropriate for pharmaceutical companies to offer, irrespective of whether or not the offering of gifts is restricted by the Fair Competition Code. Nevertheless, complying with the Fair Competition Code when offering gifts classified as premiums is an overriding assumption, and any Member Company who violates this Code will face penal action.

Meanwhile, the offering of summer/winter gifts as social formalities are primarily not deemed as offers of premiums, and therefore are socially accepted. However, offers that are luxurious or excessive, or offers that are made in the guise of social formalities or as means of sales promotion, are not suitable to be offered by pharmaceutical companies.

Whether classified as premiums or not, gifts are frequently used as an advertising media, by printing the name of the company or product, and in such cases it is necessary that the name is displayed based on the relevant laws, regulations and self-regulations. In other words, Member Companies must be careful so that they are clearly distinguished from the materials for prescription drugs information, and are not mistaken as advertisements towards the general public outside of the healthcare field.

This issue is mentioned in the document issued by the Chairman of the JPMA Distribution Improvement Committee on April 1, 1994 (see P.50 of the JPMA Code Japanese Version) as “it is not desirable that the names of prescription drugs are placed conspicuously in view of the general public, and product names should not be printed on nametags or bags carried by MRs.”

The offering of goods is defined in “7. Interactions with Healthcare Professionals” and “7.6 Gifts and Items of Medical Utility” of the IFPMA Code. Gifts that can be offered

are classified into promotional aids, items of medical utility and cultural courtesy gifts, and the explanation is given.

**Promotional Aids:** Promotional aids or reminder items may be provided or offered to healthcare professionals and appropriate administrative staff, provided the gift is of minimal value and relevant to the practice of the healthcare professional.

**Items of Medical Utility:** Items of medical utility may be offered or provided free of charge provided that such items are of modest value and are beneficial to the provision of medical services and for patient care.

**Cultural Courtesy Gifts:** In some countries, if allowed under local law and in accordance with local practice, an inexpensive gift not related to the practice of medicine may be given on an infrequent basis to healthcare professional in acknowledgment of significant national, cultural or religious holidays.

On the other hand, it is specified that “gifts for the personal benefit of healthcare professionals (including, but not limited to, music CDs, DVDs, sporting or entertainment tickets, electronic items) must not be provided or offered.”

It is specified in the IFPMA Code that member associations shall provide guidance using local currency, on the precise value for “minimal”, “modest value” and “inexpensive”. Member associations shall also clearly define what constitutes significant national, cultural or religious holidays or events. In the JPMA Promotion Code, the definitions are provided in “Commentary of the Terms Used in the JPMA Promotion Code for Prescription Drugs”.

Specific requirements for the offering of above mentioned promotional aids and items of medical utility are also specified in the Fair Competition Code. Offer of summer/winter gifts in events of social formalities are deemed acceptable in the Fair Competition Code, but with the expression that extravagant/excessive gifts should not be offered, without specifying the definition on the precise value. It is most obvious that pharmaceutical companies must comply with the Fair Competition Code when offering gifts. However, they must also examine its suitability with an even more rigorous attitude based on the ethical awareness as a pharmaceutical company, even when they are not deemed a violation of the Fair Competition Code.

Meanwhile, caution must be exercised for the regulation that national public officers

and other public officers and “deemed public officers” are subject to the code of ethics restricting supply and receipt of gifts. Apart from public officers, original codes of ethics may be established within specific institutions or organizations, and therefore thorough confirmation is necessary.

#### **9. Provision of cash or its equivalents**

Member Companies shall not offer, either directly or indirectly, any cash or its equivalents to medical institutions, etc., for the purpose of potentially influencing the appropriate use of drugs.

(Commentary)

The purpose of this subparagraph is the same as that of “Offering of gifts”. While gifts are ordinarily offered to a specific individual, monetary benefits can also be accepted by institutions. According to the definition in the Fair Competition Code, “medical institutions, etc.” is used, and this comprises both organizations and healthcare professionals or other individuals.

Even justified receipt and payment of cash and cash equivalents by pharmaceutical companies and medical institutions tend to cause doubt or mistrust among society or patients. Such doubt or mistrust has negative effects on the trustful relationship between healthcare professionals and patients and may damage the trust in pharmaceutical companies. Since the trust of patients in healthcare professionals and pharmaceutical companies is the precondition of the proper use of drugs, greatest attention must be paid in offering cash and cash equivalents to prevent such offers from causing mistrust.

With respect to the offering of cash and cash equivalents to individual healthcare professionals, it is specified in the IFPMA Code that “Payments in cash or cash equivalents (such as gift certificates) must not be offered to healthcare professionals.”

This requirement is based on the principle that “nothing may be offered or provided in a manner or on conditions that would have an inappropriate influence on a healthcare professional’s prescribing practices” in “2. General Principles” of the IFPMA Code.

In Japan, congratulatory or condolence payments are often offered to individual healthcare professionals as social formalities. The JPMA Promotion Code defines that a reasonable condolence payment given for a national, cultural or religious reason is not

deemed as an offer of cash or cash equivalent that may affect the healthcare professional's prescribing practices or the proper use of drugs. On the other hand, Member Companies shall refrain from giving congratulatory payments, as the interpretation or range of congratulatory events are difficult to be specified, and that congratulatory payments are likely to cause public misunderstandings. The range and amount of reasonable condolence payment is defined in the "Commentary on the Terms Used in the JPMA Promotion Code for Prescription Drugs".

The WHO Ethical Criteria for Medicinal Drug Promotion forbids healthcare professionals from accepting such offers of goods or monetary benefits, stating that "healthcare professions shall not request or be provided with promotional items in material or monetary form that would influence the prescribing of the healthcare professionals"

Pharmaceutical companies may pay remunerations for receiving consulting services from healthcare professionals. But consignment of consulting services must never be used as a disguise to justify the payment of cash and cash equivalents to healthcare professionals. When receiving consultation, the following requirements must be fulfilled.

[1] A legitimate need for the services has been clearly identified in advance of requesting the services and entering into arrangements with the prospective consultants.

[2] The criteria for selecting consultants are directly related to the identified purpose and the persons responsible for selecting the consultants have the expertise necessary to evaluate whether the particular healthcare professionals meet those criteria.

[3] The number of healthcare professionals retained is not greater than the number reasonably necessary to achieve the identified purpose.

[4] A written contract which specifies the nature of the services to be provided and the basis for payment of those services.

[5] The retaining company maintains records concerning the services provided by consultants and makes appropriate use of them.

[6] The hiring of the healthcare professional to provide the relevant service is not an

inducement to prescribe a particular product.

Meanwhile, caution must be exercised for the regulation that national public officers and other public officers and “deemed public officers” are subject to office routine regulations and the code of ethics restricting any offers of consultant service or supply and any receipt of cash and cash equivalents.

Apart from public officers, original office routine regulations or codes of ethics may be established within specific institution or organizations to restrict any offers of consultant service or payments and receipt of cash and cash equivalents and therefore thorough confirmation is necessary.

**10. Relation with the Fair Competition Code of the Ethical Drug Manufacturing Industry**

Member Companies must actively and strictly follow the Fair Competition Code of the Ethical Drug Manufacturing Industry based on high ethical awareness.

(Commentary)

The Fair Competition Code is a pharmaceutical industry’s self-imposed rule to ensure fair and orderly competition based on the Act against Unjustifiable Premiums and Misleading Representations under the authorization of the Fair Trade Commission. Therefore although the Fair Competition Code is established voluntarily by the industry, it is legally substantiated.

Meanwhile, the JPMA Promotion Code on the other hand, consists of voluntary rules of the pharmaceutical industry that have the purpose of indicating the status of promotional activities and standards of conduct required of the industry, responding to the expectations of society. Obviously the promotional activities required of pharmaceutical enterprises include compliance with the Fair Competition Code.

The reason for addressing the relationship between the Fair Competition Code and the JPMA Promotion Code is that Member Companies must not limit themselves to a position of simply complying with the Fair Competition Code, but must conduct themselves so that, even though there is an act that does not infringe the Fair Competition Code or an act that is not clearly outlined, they will be moved to re-evaluate its suitability with an even more stringent attitude in accordance with their ethical self-examination.

Drugs are life-related products of which true value is invisible, and for this reason, improvement and maintenance of public trust in drugs can be nurtured only through pharmaceutical companies' daily endeavors. Trust nurtured for the period of ten years may be destroyed instantly by a company's thoughtless action. It is essential that Member Companies conduct their promotional activities bearing constantly in mind that society's trust in drugs is the foundation of the pharmaceutical industry's existence.

## **11. Promotional activities outside Japan**

### (1) Provision of information on drugs in overseas

To the overseas healthcare professionals, Member Companies shall provide, either directly or indirectly through local agents, information on drugs globally consistent, and in accordance with relevant pharmaceutical affairs laws, regulations, and promotion codes applicable in such countries.

(Commentary)

Overseas promotion activities must be consistent with the pharmaceutical regulations and promotion code enforced in the relevant nation.

Member Companies should supply internationally consistent and the same quality information, wherever possible within the range of the regulations and promotion code enforced in the relevant nation, with respect to the indications, dosage and administration, contraindication, warning, precautions and ADRs. In particular, information concerning the safety of drugs should be appropriate and consistent.

This is also applicable to not only when directly provided by Member Companies but also when provided indirectly by distributors.

It is also specified in the IFPMA Code that "healthcare professionals in developing countries should have access to similar data to those being communicated in developed countries."

Safety-related significant information such as the information on serious and previously unknown ADRs must be reported to the regulatory authorities of the relevant nation on a priority basis.

(2) Subsidiary companies overseas

When an overseas subsidiary company of a Member Company (a company in which the Member Company holds over 50% of the equity or shares) conducts promotional activities, the Member Company shall ensure that the subsidiary will adhere to the promotion code established by the national organization of pharmaceutical companies of the country, or, if no such local code exists, to the IFPMA Code.

(3) Overseas licensees and agents

Member Companies entering into licensing and agency agreements shall require their licensees and agents to respect the promotion code established by the national organization of pharmaceutical companies of the country or the IFPMA Code.

(Commentary)

Member Companies need to have their overseas subsidiaries (whose majority shares are owned by the companies), licensees and distributors comply with or pay respect to the promotion code established by the pharmaceutical organization of the relevant nation during their promotion activities.

If there is no relevant promotion code in the nation, Member Companies shall request them to comply with or pay respect to the IFPMA Code.

It is desirable to include request for compliance in the license agreement or the agency agreement or make a written agreement in advance.

This subparagraph does not, by means of the JPMA Code, regulate the conduct of the licensee or agent; rather it regulates the conduct of the Member Companies themselves, and clarifies the supervisory responsibility of Member Companies over their subsidiaries.

(4) Activities overseas for the Japanese healthcare professionals

When Member Companies undertake activities aimed at the Japanese healthcare professionals overseas by holding seminars or study meetings or at scientific meetings overseas, they shall comply with the JPMA Promotion Code.

(Commentary)

Member Companies must also comply with the JPMA Promotion Code when offering gifts, cash or cash equivalents or food and drinks to Japanese healthcare professionals in foreign countries.

As shown in the document issued by the president of the JPMA Promotion Code Committee on February 18, 2003 (see P.55), pharmaceutical companies are required to act modestly for Japanese healthcare professionals in the meetings of academic societies held in foreign countries based on ethical awareness.

(5) Activities in Japan for healthcare professionals from overseas

When Member Companies invite healthcare professionals from overseas to seminars or study meetings in Japan, they shall comply with the promotion code established by the national organization of pharmaceutical companies of the country, or, if no such local code exists, to the IFPMA Code.

(Commentary)

When inviting foreign healthcare professionals to domestic seminars or study meetings and offering gifts, cash or cash equivalents or food and drinks, Member Companies must comply with related laws and regulations and promotion code of the nation.

Offer of unjustifiable interest to foreign public officers is prohibited in the Unfair Competition Prevention Law, and this shall also be borne in mind for the interactions with foreign public officers.

## **Commentary on the Terms Used in the JPMA Promotion Code for Prescription Drugs**

### **Proper use of drugs**

“Proper use of drugs” is defined as follows in the final report issued by the advisory board for the Director-general of Pharmaceutical Affairs Bureau, MHW, “Council for Desirable Way of Drugs toward the 21<sup>st</sup> Century” (May 1993): “Proper use of drugs refers to a cycle of determination of the optimal pharmaceutical preparation, dosage form and dosage regimen for the condition of the patient based on correct diagnosis, dispensing the pharmaceutical preparation based on the decision, patient’s sufficient understanding of the pharmaceutical preparation, correct use, evaluation of the effects and ADRs and feedback to the prescription. Appropriate provision of drug information to healthcare professionals and patients and sufficient understanding is essential to ensure proper use. It is possible to achieve the purpose of a drug only when necessary information is supplied.”

Drugs can be harmful rather than effective under improper use and proper use is naturally indispensable for drugs. Since it is the healthcare professionals who use drugs, pharmaceutical companies must follow a series of basic procedures in a reliable manner for providing correct drug information to healthcare professionals, collect information on ADRs immediately and disseminate the results of assessment/analysis without delay to healthcare professionals to contribute to the proper use of drugs. Misleading healthcare professionals by providing biased information or unfair promotion of company products through the activities violating the Fair Competition Code will surely result in improper use of drugs.

### **Company code**

Pharmaceutical companies engaged in production and supply of drugs as life-related products are required to have high ethical awareness. Pharmaceutical companies are required to have the attitude of self-rule based on their own ethics. The company code is the embodiment of the self-rule. The company code may cover the principles of the JPMA Promotion Code, original management policies of the Member Company, original items and specific rules of the JPMA Promotion Code, but what is important is that the company code has the “principles for promotion activities of the company”.

### **IFPMA**

IFPMA (International Federation of Pharmaceutical Manufacturers & Associations, Geneva, Switzerland) is a non-profit non-governmental organization established in 1968 representing industry organizations and research-oriented global pharmaceutical companies from about sixty developing and industrialized nations of the world. The JPMA acts as one of the key members of the IFPMA.

The IFPMA Code of Pharmaceutical Marketing Practice sets out standards for the ethical promotion of pharmaceutical products to healthcare professionals to ensure that Member Companies' interactions with healthcare professionals are appropriate and perceived as such. The IFPMA requests all Member Associations and Member Companies, and Companies under the Member Associations, to comply with the IFPMA Code.

#### The IFPMA Code of Pharmaceutical Marketing Practice

The IFPMA Code of Pharmaceutical Marketing Practice (IFPMA Code) was enacted in 1981 and underwent some revisions. The present code was approved in 2006. The IFPMA acknowledges the role of Ethical Criteria for Medicinal Drug Promotion provided by the World Health Organization (WHO) and the role of relevant codes of ethics developed by the World Medical Association, International Council of Nurses and the International Federation of Pharmacists. The IFPMA Code sets forth standards for the ethical promotion of pharmaceutical products to healthcare professionals, and for Member Companies' interactions with them.

It is a requirement of IFPMA membership that Member Companies of IFPMA member associations (e.g. Member Companies of JPMA) and IFPMA Member Companies must comply with ethical standards set forth in the IFPMA Code and that IFPMA member associations, subject to local laws and regulations, adopt codes that meet local requirements but are consistent with, and as comprehensive as, the IFPMA Code.

IFPMA Member Companies must comply directly with applicable national codes of member associations where such codes exist. In all other territories, i.e. where there are no local codes or appropriate laws and regulations, or where a Member Company is not a member of local/regional association, the IFPMA Code acts as a default code for the activities of Member Companies and the IFPMA operating procedures apply.

WHO

(World Health Organization)

The World Health Organization (Geneva) was established in 1946 as one of the UN special agencies in charge of public health representing about 190 nations in the world. WHO acts to provide high-level health to people in the world and is operated by general assembly, board of directors and secretariat. Japan has been a member of WHO since 1951.

#### Ethical Criteria for Medicinal Drug Promotion provided by WHO

Ethical Criteria for Medicinal Drug Promotion was adopted unanimously by 167 member nations in the general assembly in 1988.

The main objective of ethical criteria for medicinal drug promotion is to “support and encourage the improvement of health care through the rational use of medicinal drugs”. Ethical criteria for drug promotion must “lay the foundation for proper behavior concerning the promotion of medicinal drugs” and “assist in judging if promotional practices related to medicinal drugs are in keeping with acceptable ethical standards.”

These criteria apply to both prescription and non-prescription medicinal drugs (over-the-counter drugs) and are encouraged to be adapted by governments, healthcare professionals, patients, consumer organization, educational organizations and general public.

#### Medical Representatives (MRs)

MRs are defined by the MR Education & Accreditation Center of Japan as “persons who meet healthcare professionals representing companies to mainly provide, collect, and disseminate information on the quality/efficacy/safety of drugs for the purpose of promoting proper use of drugs”.

This definition is effective in the JPMA Promotion Code. Judged from the significance of the roles of MRs, the action standards of MRs are specified in the JPMA Promotion Code.

In Article 2-4 of GVP Ordinance, MRs are defined as “persons who meet healthcare professionals to mainly collect and supply safety control information to contribute to proper use of drugs.”

### Healthcare professionals

In general, those engaged in medical care are called healthcare professionals.

The term, “healthcare professionals”, is used in the Medical Service Law, the Fair Competition Code and the IFPMA Code as well as in the JPMA Promotion Code as is used in the Pharmaceutical Affairs Law and the Medical Service Law (though the Japanese translation was somewhat different before it was revised in 2006).

In the Medical Service Law, “healthcare professionals” refer to “doctors, dentists, pharmacists, nurses and other persons engaged in medical service.”

In the JPMA Promotion Code, “healthcare professionals” refer to “doctors, dentists, pharmacists, nurses, public health nurses, maternity nurses, dental hygienists, dental technicians, radiological technologists, physical therapists, occupational therapists, clinical laboratory technologists, hygienic technologists, visual trainers, clinical engineering experts, prosthetic technologists, emergency care technologists, nutritionists, welfare caretakers, care managers among other professionals”.

In the IFPMA Code, “healthcare professional means any member of the medical, dental, pharmacy or nursing professions or any other person who in the course of his or her professional activities may prescribe, recommend, purchase, supply, or administer a pharmaceutical product” and there is no significant difference in the definitions of healthcare professionals in the JPMA Promotion Code.

### Healthcare service providers

In the Operating Standards of the Fair Competition Code healthcare service providers are collectively defined as “doctors, dentists, pharmacists, public health nurses, nurses and other persons engaged in medical service.”

### Healthcare-related personnel

In the Pharmaceutical Affairs Law and the Code of Fair Practice in the Advertising of Drug and Related Products, the term “healthcare-related personnel” refers more broadly than healthcare professionals.

In the “Q&A for the Guideline for the Preparation of Advertisements Placed for Prescription Drugs in Scientific Journals (Papers)”, healthcare-related personnel are

explained as “to include employees of wholesalers and medical/pharmaceutical students as well as healthcare professionals such as doctors, dentists, pharmacists and nurses”.

### Promotion

In WHO’s Ethical Criteria for Medicinal Drug Promotion, "promotion refers to all informational and persuasive activities by manufacturers and distributors, the effect of which is to induce the prescription, supply, purchase and/or use of medicinal drugs.”

“To induce use” means “to convince someone to use”. Even if we can encourage the use of medicines, the reality is that we cannot create the demand. This is because the consumers are limited to the patients who need treatment, and sales promotion does not create patients. “To induce use” is acceptable only through supply of proper drug information because, without the supply of proper drug information, medicinal compounds cannot act as “drugs”. In other words, optimal prescription appropriate to the condition of the patient is unlikely to be achieved without the supply of proper drug information and accurate understanding by healthcare professionals. Misleading healthcare professionals by supplying biased information or unfair promotion of company products by offering cash and cash equivalents or gifts will impair optimal prescription and is not deemed as proper promotion.

“Promotion” in WHO’s Ethical Criteria for Medicinal Drug Promotion is based on the nature of drugs.

“Promotion” in the JPMA Promotion Code means the same as above and does not mean “sales promotion” as it has a unique meaning “that promotion derives from the nature of drugs”.

“All information” used in WHO’s Ethical Criteria for Medicinal Drug Promotion naturally includes information on ADRs judged from “rational use of medicinal drugs” in the objectives of the criteria.

In promotion, the supply of ADR-related information and understanding by healthcare professionals will contribute to proper use. Such a trustful use of drugs will eventually reinforce trust in drugs and pharmaceutical companies.

Although there is no specific description about the relation between the promotion and

collection of ADR-related information in WHO's Ethical Criteria for Medicinal Drug Promotion, promotion refers to, in the JPMA Promotion Code, "pharmaceutical companies' provision/collection/dissemination of drug information to healthcare professionals to contribute to proper use of drugs" since collection of ADR-related information is a series of activities that will result in communication based on the analysis/evaluation of the results.

In the IFPMA Code, "promotion means any activity undertaken, organized or sponsored by a Member Company which is directed at healthcare professionals to promote the prescription, recommendation, supply, administration or consumption of its pharmaceutical product(s) through all media, including the Internet."

#### Drug information

Information exchanged between MRs and healthcare professionals is classified into general information and drug information.

General information refers to the information concerning common sense of a member of society/employee of a company.

Drug information refers to the information concerning medical/pharmaceutical area.

Medicinal compounds are allowed to be treated as drugs within the range of approval and it is unlikely that explanations about indications or dosage regimen deviate from the range of approval.

Healthcare professionals may inquire about the information beyond the range of approval as exemplified by the data obtained for obtaining the approval of new indication. Nothing will prevent the supply of such information. What we should understand is that such information cannot be used for promotional purposes.

It shall be always borne in mind that drug information must be evidence-based, impartial and objective to prevent the misleading of healthcare professionals.

#### Code

"Code" is defined in the dictionary as "summarization of laws and general rules". In the JPMA Promotion Code, "code" refers to "documentation of action standards for

promotion activities agreed upon and mutually promised by Member Companies”.

#### Lecture meetings

In the IFPMA Code, “events refer to all symposia, congresses and other promotional, scientific or professional meetings for healthcare professionals organized or sponsored by a company”. Lecture meetings in the JPMA Promotion Code correspond to these events.

It is specified in the IFPMA Code that “companies should avoid using renowned or extravagant venues.”

In the JPMA Promotion Code, “renowned venue” is interpreted as the “place well known by the general public for sightseeing or recreation rather than the meeting site, when they first hear the name of the venue” and “extravagant venue” is interpreted as the “place considered at first thought by the general public to be extravagant for a meeting place”.

It is specified in the IFPMA Code that “refreshments and/or meals incidental to the event can be offered only when it is moderate and reasonable as judged by local standards”.

In the JPMA Promotion Code, “moderate and reasonable” is interpreted as “the amount of money usually payable by healthcare professionals and considered at first thought by the general public not to be extremely high”.

It is specified in the IFPMA Code that “at events, entertainment of a modest nature which is secondary to refreshments and/or meals is allowed”.

In the JPMA Promotion Code, “modest” is interpreted as “the degree which makes the general public consider incidental to meals and supportive of pleasant talk over meals”.

#### Gifts

The following are the specifications in the IFPMA Code:

[1] Promotional Aids: Promotional aids or reminder items may be provided or offered to healthcare professionals and appropriate administrative staff, provided the gift is of minimal value and relevant to the practice of the healthcare professional.

[2] Items of Medical Utility: Items of medical utility may be offered or provided free of charge provided that such items are of modest value and are beneficial to the provision of medical services and for patient care.

[3] Cultural Courtesy Gifts: In some countries, if allowed under local law and in accordance with local practice, an inexpensive gift not related to the practice of medicine may be given on an infrequent basis to healthcare professionals in acknowledgment of significant national, cultural or religious holidays.

In the JPMA Promotion Code:

[1] “Of minimal value” is interpreted as “approximately 3,000 yen, the criteria shown for acceptable inexpensive gifts in the Fair Competition Code”.

[2] “Of modest value” for items of medical utility is interpreted as “approximately 3,000 to 5,000 yen, the value considered modest even by patients and the general public” for gifts not related to company drugs based on the specifications/price criteria shown in the Fair Competition Code.

[3] “Significant national, cultural or religious holidays” are interpreted as “summer (Bon festival), Year end or New Year holidays” and gifts given in these seasons are interpreted as summer/winter and New Year gifts. Other “cultural courtesy gifts” include “gifts given at congratulatory and condolence occasions widely accepted as the custom of society”.

“Inexpensive” is interpreted as “approximately 3,000 to 5,000 yen, the value considered modest for the general public”. The “value of congratulatory and condolence gifts”, cannot be uniformly indicated as it would be different depending on the content or event, but can be interpreted as “the value that does not make the general public feel skeptical about for the content or event”.

#### Condolence payment

Condolence payment is interpreted as condolence money for funerals. The acceptable amount of condolence money for funerals unlikely to affect the prescribing practice of healthcare professionals is considered usually about 10,000 yen.