



Cooperation and Competition Panel

Advertising Guidelines

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Contents

1 EXECUTIVE SUMMARY	3
2 INTRODUCTION	4
3 FRAMEWORK FOR ADVERTISING RULES.....	5
4 THE CCP'S ROLE IN RELATION TO PROMOTIONAL ACTIVITY	5
PROCESS BY WHICH ADVERTISING AND MISLEADING INFORMATION CASES ARRIVE WITH THE CCP	5
5 ACCEPTANCE CRITERIA FOR REFERRALS AND APPEALS.....	6
6 PROCESS.....	8
APPLICATION, NOTICE OF ACCEPTANCE AND RESPONSE	8
INFORMATION GATHERING.....	9
REPRESENTATIONS AND FINALISING A RECOMMENDATION.....	10
PUBLISHING AND CONFIDENTIALITY	10
7 ASSESSMENT	10
8 RECOMMENDATIONS.....	11
Appendix 1	
PROCESS FOR REFERRALS AND APPEALS REGARDING PROMOTIONAL ACTIVITY	12
Appendix 2	
SUBMISSION CONTENT	13
Appendix 3	
INFORMAL ADVICE	14
Appendix 4	
CODE OF PRACTICE FOR THE PROMOTION OF NHS FUNDED SERVICES	15

1 EXECUTIVE SUMMARY

1. These guidelines set out the approach that the Cooperation and Competition Panel (CCP) takes when considering advertising and misleading information referrals and appeals under the Principles and Rules for Cooperation and Competition (Principles and Rules) which were published by the Department of Health in July 2010 and came into effect in October 2010.¹
2. The Department of Health and Monitor, the CCP's co-sponsors, require that the CCP provide advice on matters of compliance with the Principles and Rules. In the context of advertising and misleading information, the CCP considers complaints referred from Strategic Health Authorities (SHAs) and Primary Care Trusts (PCTs) and appeals against decisions of SHA dispute resolution panels. Following an investigation of a complaint referred, or an appeal, the CCP is responsible for advising the Secretary of State or Monitor (in the case of NHS Foundation Trusts (FTs)) on whether there has been a breach of the Principles and Rules².
3. In relation to advertising and misleading information, organisations advertising NHS-funded services are expected to comply with Principle 9 of the Principles and Rules. In summary, this principle aims to encourage promotional activity as long as it is consistent with patients' interests and the brand and reputation of the NHS. More specifically, organisations providing NHS-funded services are expected to comply with *the Code of Practice for the Promotion of NHS Funded Services* (the Code).
4. Concerns regarding advertising or misleading information should first be taken up with the organisation responsible for providing that information (the promoter). Where these concerns cannot be resolved the applicant should contact either:
 - The Advertising Standards Authority (the ASA) for matters relating to the Committee of Advertising Practice (CAP) and Broadcast Committee of Advertising Practice (BCAP) Codes (the ASA Codes) (see paragraphs 9 and 10); or
 - The relevant PCT or SHA for matters concerning NSH specific breaches of the Code and Principles and Rules.
5. Where a complaint is brought to a PCT or an SHA, it may address the complaint through a dispute resolution process or it may refer the matter to the CCP. Where a complaint is considered through an SHA's dispute resolution process, and a party wishes to contest the outcome of that process, it can ask the CCP to consider the matter.
6. Once the CCP has accepted an advertising and misleading information referral or appeal, it will normally reach a decision and issue advice and recommendations within 40 working days. The final decision in relation to any dispute rests with the relevant decision maker to which the CCP has provided its advice. This may be the Secretary of State for Health (or any person or

¹ The *Principles and Rules for Cooperation and Competition* are available on the CCP's website at www.ccp-panel.gsi.gov.uk. The Principles and Rules were first published in December 2007 as part of the 2008/2009 Operating Framework.

² It is likely that the role of SHAs (and the CCP) will change significantly in the future. These guidelines will be updated, as necessary, to reflect these changes.

organisation acting under delegated authority from the Secretary of State) or, in relation Foundation Trusts, Monitor.

2 INTRODUCTION

7. These guidelines set out the CCP's approach to advertising and misleading information referrals and appeals under the Principles and Rules published by the Department of Health in July 2010, which came into effect in October 2010. The CCP is required to advise the Secretary of State for Health (or any person or organisation acting under delegated authority from the Secretary of State) or Monitor (in relation to FTs) whether the promotional activity is consistent with the Code and the Principles and Rules.
8. The Code sets out rules that apply to all providers of NHS commissioned services. The Code is intended to ensure that promotional material is accurate and fair, to protect patients, the public and referring clinicians from misleading or offensive material. The Principles and Rules state that advertisers of NHS funded services must adhere to this Code. Some parts of the Code correspond to the CAP and BCAP ASA Codes. These are administered by the ASA. The Code also contains a number of NHS-specific provisions which the CCP will oversee. Appendix 5 sets out those Code rules which are NHS-specific and will therefore be overseen by the CCP.
9. The Code also extends some rules which are contained in the ASA Codes regarding accuracy, balance and fairness to verbal statements made by providers in relation to NHS-funded services: Rule 24 of the Code provides that "*All provisions in this Code relating to the need for accuracy, balance and fairness apply to oral representations as well as to printed materials*". As the ASA does not have powers to deal with verbal statements, the CCP will oversee the Code rules so far as they relate to verbal statements, subject to the acceptance criteria set out at Section 5 below being met.
10. The relevant provision of the Principles and Rules and the CCP's approach to that provision are set out below.
Principle 9 of the Principles and Rules provides:
Appropriate promotional activity is encouraged as long as it remains consistent with patients' best interests and the brand and reputation of the NHS.
 - Rule: Commissioners and providers must comply with the ASA's Advertising Codes and the Code of Practice for the Promotion of NHS-funded services.
11. The actions and behaviours associated with the Principles and Rules are set out in the full version of the Principles and Rules, available at www.ccpanel.org.uk.
12. These guidelines describe how the Principles and Rules are applied and cover the following topics:
 - Section 3: rationale for advertising rules
 - Section 4: the CCP's role in relation to promotional activity
 - Section 5: acceptance criteria for referrals and appeals
 - Section 6: process
 - Section 7: assessment

- Section 8: recommendations
- Appendices:
 - Flowchart illustrating the process referrals and appeals
 - Submission content
 - Informal advice
 - Code of Practice for the Promotion of NHS Funded Services

13. As the CCP gains more experience in dealing with advertising matters and policy develops, these guidelines will no doubt need to be revised. Consistent with this, the CCP may find it necessary to deviate from these guidelines in the context of any dispute that raises novel issues. Where this is the case, the CCP will acknowledge that it has deviated from its guidelines and will set out its reasons for doing so.

14. These Guidelines supplement the CCP's Rules of Procedure and are designed to provide information on the procedures that the CCP uses in considering advertising and misleading information referrals and appeals. In the event of any conflict between the Rules of Procedure and the Advertising Guidelines, the Rules of Procedure will take precedence once they have been finalised.³

3 RATIONALE FOR ADVERTISING RULES

15. In order for patients to effectively exercise choice, they require information about the different services available. Patients' ability to choose between competing providers is supported by the provision of comparable information about providers through the NHS Choices website.⁴ Providers are also able to advertise or promote their services.

16. The promotion of NHS-funded healthcare services is an effective and important method of informing patients of the different providers and services available to assist them when making choices. Additionally, the effect of promotional activity will encourage providers to customise information about their services available to patients.

17. While promotional activity can be expected to benefit patients, this will not be the case where the information provided to patients is false or misleading. As a result, there is a need for the regulatory framework provided by the Principles and Rules and the Code.

4 THE CCP'S ROLE IN RELATION TO PROMOTIONAL ACTIVITY

Process by which advertising and misleading information cases arrive with the CCP

18. The CCP will receive matters regarding promotional activities for decision via two avenues:
- i. referral from an SHA and/or PCT on the basis that the CCP is better placed to investigate the complaint; or
 - ii. on appeal from a decision of the relevant SHA.

³ The CCP's draft *Rules of Procedure* are available on the CCP's website at www.ccp-panel.gsi.gov.uk.

⁴ See <http://www.nhs.uk/ServiceDirectories/Pages/ServiceSearchTreatmentAtoZ.aspx>

19. The CCP’s role in relation to alleged breaches of the Code is therefore twofold:
- i. it plays an advisory role to SHAs and PCTs where a matter cannot be resolved locally. For example, a patient is concerned that a leaflet promoting maternity care services at their local hospital contains too much complex medical terminology (rule 9 of the Code). In the first instance, the patient (now the ‘applicant’) brings their concerns relating to compliance with the Code to the attention of their local PCT. The PCT may be able to resolve complaints locally, through discussion with the promoter(s) in question and with the support of their SHA. If the dispute cannot be resolved at a local level, the PCT or SHA may refer the matter to the CCP for adjudication; and
 - ii. it acts as an appellate body in relation to decisions taken by SHA dispute resolution panels regarding alleged breaches of the Code, subject to the acceptance criteria set out in section three of these guidelines. For example, an independent provider of NHS-funded primary care services is concerned about stories it has heard from patients that gifts are being given to some of their GPs by a representative of the local acute trust, in order to induce referrals (rule 28 of the Code). The independent provider (now the ‘applicant’) directs its complaint in the first instance to its local PCT and utilises the PCT’s dispute resolution procedures. The PCT decides that the gifts are appropriate ‘promotional aids’ under rule 29 of the Code and so do not breach the Principles and Rules. The applicant could then choose to utilise the dispute resolution procedures of the relevant SHA. If the applicant is not satisfied with the decision made the SHA, they could then appeal to the Panel.

5 ACCEPTANCE CRITERIA FOR REFERRALS AND APPEALS

20. The CCP may receive complaints referred by SHAs (and/or PCTs) where they consider that they need expert advice on whether a breach of the Principles and Rules has occurred.
21. The CCP will also consider disputes relating to advertising and misleading information on an appeals basis. Disputes should, in the first instance, be taken up with the relevant promoter. Where these concerns cannot be resolved the applicant should take up their concern with the relevant PCT or SHA. Where an SHA is unable to resolve concerns over an advertising decision, each SHA has its own dispute resolution process, details of which are available on the relevant SHA website – see Table 1. Where an applicant wishes to contest the outcome of the SHA dispute resolution process, it may ask the CCP to consider the matter.

Table 1

Strategic Health Authority	Information on dispute resolution procedures available at:
East of England	www.eoe.nhs.uk
East Midlands	www.eastmidlands.nhs.uk
London	www.london.nhs.uk
North East	www.northeast.nhs.uk

North West	www.northwest.nhs.uk
South Central	www.southcentral.nhs.uk
South East Coast	www.southeastcoast.nhs.uk
South West	www.southwest.nhs.uk
West Midlands	www.westmidlands.nhs.uk
Yorkshire and the Humber	www.yorksandhumber.nhs.uk

22. In all circumstances, the CCP must consider whether referrals or appeals regarding promotional activity meet its acceptance criteria. The acceptance criteria are:

- i. The content of the dispute is covered by the Principles and Rules;
- ii. The applicant provides all relevant, available information to enable the CCP to carry out an analysis of the issues. The applicant's submission must include the information set out in Appendix 2, *Guidance on the content of submissions*;
- iii. In relation to appeals only, that local dispute resolution procedures under the auspices of the relevant SHA have been exhausted;⁵
- iv. The CCP considers that it is the most appropriate body to consider or resolve the issue (i.e. over other regulators including the ASA); local Trading Standards bodies and the Office of Fair Trading (OFT)). The CCP will usually be the most appropriate body provided that the complaint falls within the NHS-specific parts of the Code (see paragraph 9 above);
- v. There are no relevant on-going legal proceedings or investigations. Relevant legal proceedings or investigations are those which deal with the same issue(s) and are brought elsewhere. Proceedings or investigations are considered to be on-going when the matter has been filed in a court or tribunal (or where an investigation has been commenced by professional or government regulatory bodies) and the matter has not been determined by the court, tribunal or other body where the proceedings were filed or commenced. If proceedings or investigations are commenced once the CCP has accepted a complaint, this may result in the CCP's process being terminated or suspended at the discretion of the CCP; and
- vi. In relation to appeals only, the dispute is not trivial, vexatious or an abuse of the CCP's procedures:
 - a dispute may be trivial where the appeal relates to only part of the SHA or PCT's decision, and because of this, the appeal would not materially change the outcome of that decision;
 - a dispute may be vexatious or an abuse of the CCP's procedures where, for instance:

⁵ Where the SHA has not dealt with the complaint within a reasonable timeframe, the CCP may decide to deal with the dispute directly.

- the applicant has made several applications or complaints regarding the same or very similar subject matter and these have been rejected, or the CCP is satisfied that they have been dealt with appropriately, or are no longer relevant; or
 - the applicant attempts to mislead the CCP, for instance by providing false, misleading or incomplete information in its submission.
- vii. Appeals must be made within 25 working days of a decision being taken at the local level;⁶ and
- viii. For appeals only, the applicant must be party to the original dispute being appealed to the CCP.
23. If an application does not meet the acceptance criteria, the CCP will write to the applicant briefly explaining the reasons for this.

6 PROCESS

24. The CCP will maintain a process that is independent, objective, fair, prompt and efficient.
25. In summary, once the CCP has accepted a referral or an appeal, it will inform the SHA or PCT and ensure that all parties receive copies of the relevant complaint. All parties will be informed of the expected timetable and key steps in the process, which is generally as follows:
- i. the promoter will have the opportunity to respond to the complaint within a specified timeframe;
 - ii. the CCP engages with parties and any third parties as it considers appropriate (for example by sending information requests or holding meetings);
 - iii. the CCP formulates a view on the complaint and produces a draft recommendation; this is sent to the promoter and applicant, and to the referring body for final representations and comments on factual accuracy and for the parties to identify confidential information to be excised from the recommendation;
 - iv. the CCP may hold (further) meetings with the parties;
 - v. the CCP takes into account any representations and finalises its decision; and
 - vi. within 40 working days from publication of the Notice of Acceptance, the CCP gives the final recommendation to the parties and Sponsors and publishes a non-confidential version on its website.

Application, Notice of Acceptance and Response

26. The initial application for a referral or requesting an appeal will form the basis of the applicant's case and the promoter will be expected to respond to this submission. It is therefore important that the application conveys the applicant's case comprehensively and accurately; at a minimum it should comply with the requirements set out in Appendix 2 *Guidance on the contents of submissions*.

⁶ The day of the decision is the first day of the 25 working day period.

27. Once the CCP has decided to accept the matter it will publish a Notice of Acceptance on its website. The promoter will be provided with a copy of the applicant's submission.
28. At the start of the referral or appeal process, the CCP will also write to the parties to inform them that the CCP is dealing with the matter and setting out the timetable that it expects to follow. The CCP will invite a response, within a specified timeframe, from the parties in reply to the applicant's submission. A copy of the response will be provided to the applicant. If the response is not provided on time, the CCP may not be able to take it into account.

Information gathering

29. Third parties may respond to invitations to comment which are published on the CCP's website. Responses to the invitation to comment will generally have to be provided within the deadline indicated in the relevant notice published on the CCP's website. Submissions should be made as early as possible so that they can be considered, verified and taken into account properly. Whenever possible, third parties should substantiate and support any points raised by examples, documents and other evidence. It may be more difficult for the CCP to take into account assertions that are not supported by evidence.
30. In addition to inviting interested parties to comment on the complaint or dispute appeal via its website, the CCP may also request specific information from third parties (including the referrer).
31. Requests for such information will normally allow a short deadline for response so that the CCP can comply with the appeal timetable; the CCP will specify what information is required and fix the timescale for responding each time it makes an information request. If that deadline cannot be met, it may be necessary to suspend the timetable ("stop the clock") until the requested information is provided. A notice to this effect will be published on the CCP's website. If, despite repeated requests, information is not forthcoming, the CCP may decide whether or not it is appropriate to proceed with the appeal without the requested information or to set the appeal aside.
32. Where appropriate the CCP may seek external economic and/or clinical expertise and launch its own economic studies to inform its investigation. Clinical input will be sought from members of the CCP's Clinical Reference Group⁷ in the first instance. Where the Group's members do not have the relevant clinical expertise, they will assist in identifying individuals with relevant clinical knowledge.
33. Current policy and legislation⁸ gives weight to patient and public involvement in the NHS. The CCP may therefore seek the views of the relevant Local Involvement Networks (LINKs) provided that, in the opinion of the CCP, this would be useful and appropriate. Other (patient) organisations are free to respond to the invitation to comment on the CCP's website.
34. The CCP will publish on its website non-confidential versions of key documents and information provided by the parties and third parties.

⁷ www.ccp-panel.org.uk/about-the-ccp/clinical-reference-group.html

⁸ The Local Government and Public Involvement in Health Act established Local Involvement Networks from April 2008.

35. The CCP may decide to have meeting or hearings with relevant parties (i.e. the parties to the appeal and, if appropriate, third parties). Panel Members may attend the meetings or hearings.

Representations and finalising a recommendation

36. The CCP will assess all the information received in the course of the referral or appeal process and prepare a draft recommendation outlining its provisional findings.

37. The CCP will send its draft advice (and any recommendations) to the applicant and the promoter for any final representations, indicating a deadline for response. The CCP may hold meetings with the parties and this stage.

38. Having taken into account any representations from the parties, the CCP will finalise its decision. A non-confidential version of the final recommendation will be published on the CCP's website. The CCP will also provide a copy to the parties.

39. The CCP expects to reach a decision and publish its recommendation within 40 working days from the date of publishing the Notice of Acceptance, subject to any extension of the timetable due to a delay in responding to information requests, and any extension agreed with the relevant Sponsor.

PUBLISHING AND CONFIDENTIALITY

40. The CCP will publish on its website non-confidential versions of key documents submitted by the parties and received from third parties. The CCP will also publish non-confidential versions of decisions, notices to stop the clock or set aside the referral or appeal dispute, and its final advice and recommendations.

41. Before publication, the parties will be offered the opportunity to request the excision of confidential information from the public version of the documents and to check factual accuracy. The CCP may publish or disclose information where it is compelled by law or the Courts or where it is reasonably necessary to facilitate the CCP's exercise of its functions or in the interest of transparency.

42. To the extent that the CCP's reasoning in any decision relies on confidential information, the CCP will make this information available to the relevant Sponsor, subject to the Sponsor confirming that it shall treat such information as confidential and that it shall use the relevant information only for the purpose of its decision.

7 ASSESSMENT

43. In assessing referrals and appeals, the CCP will consider whether or not promotional material has breached the Code and the Principles and Rules.

44. The CCP's substantive approach will be informed by analogous regimes for protection of consumers from misleading advertising in other sectors. Under the Control of Misleading Advertisements Regulations 1988 (as amended) an advertisement is misleading *'if in any way, including its presentation, it deceives or is likely to deceive the persons to whom it is addressed or*

whom it reaches and if, by reason of its deceptive nature, it is likely to affect their economic behaviour or, for those reasons, injures or is likely to injure a competitor of the person whose interests the advertisement seeks to promote' (Reg. 2(2)).

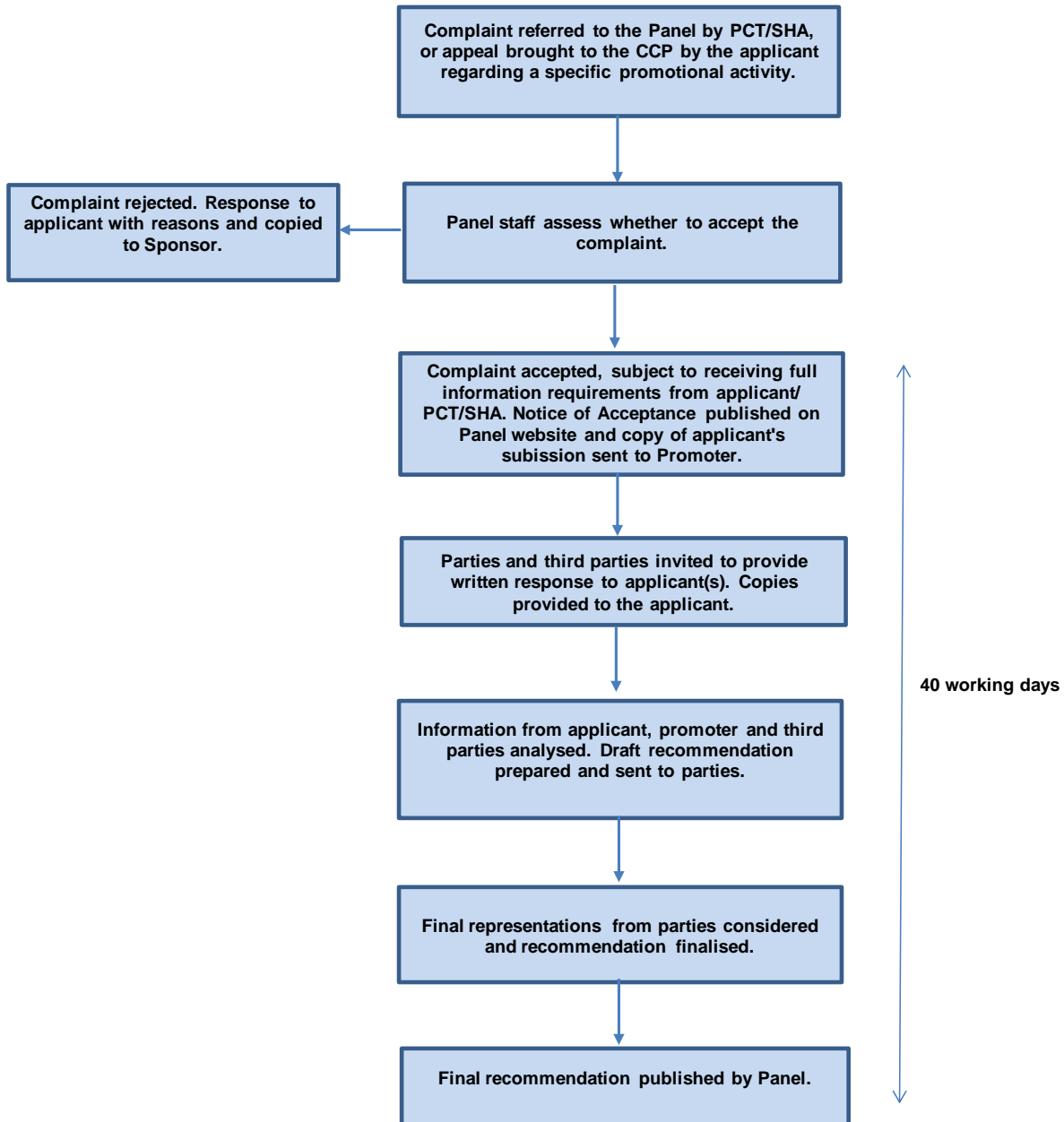
45. In most cases, the CCP will assess the likely effect of promotional activity under the Code as follows:
- i. identify the audience to whom the promotional material is addressed;
 - ii. determine how the average member of the target audience would be likely to interpret the promotional material (including identifying whether the target audience has any particular features in terms of, e.g. age or disability, that needs to be considered); and
 - iii. determine whether it would affect the behaviour of the target audience in using NHS-funded services.

8 RECOMMENDATIONS

46. Upon completing a referral or appeals process, the CCP's recommendations may include one or more of the following:
- dismissing the complaint; or
 - upholding the complaint and recommending appropriate enforcement action to the responsible referrer, Secretary of State (or delegated authority) or Monitor , including:
 - i. contractual remedies and/or sanctions;
 - ii. removal of the promoter's details from the NHS Choices website;
 - iii. recommending a letter to be sent from the Secretary of State for Health to the promoter or its professional body;
 - iv. publication by the promoter of a retraction/apology in appropriate media (including the NHS Choices website); or
 - v. any other recommendation the CCP deems fit in the specific circumstances of the case.
47. The CCP's recommendations will depend on the legal options available in each case. When deciding on an appropriate recommendation, the CCP will have regard to its effectiveness, the associated cost and the principle of proportionality.⁹ The CCP may also take into consideration prior cases as precedents for remedies.

⁹Between two recommendations that the CCP considers equally effective, it will choose the recommendation which imposes the least cost or is least restrictive.

PROCESS FOR REFERRALS AND APPEALS REGARDING PROMOTIONAL ACTIVITY



SUBMISSION CONTENT

1. All initial applications (for both referrals and appeals) to the CCP should include the following information:
 - name, addresses, telephone number and email address of the applicant;
 - name and title of the person(s) authorised to represent the applicant;
 - evidence that each of the acceptance criteria has been met;
 - details of the advertising or promotional activity that forms the basis of the complaint (e.g. copy of the advertisement/s);
 - a statement as to the desired outcome or resolution; and
 - a non-confidential version of the entire submission for publication on the CCP's website).

2. A party wishing to file a request for an appeal must include the following additional details in its submission:
 - a detailed statement of reasons for appealing against the local decision;
 - a full copy version of the decision being appealed; and copies of all previous decisions relating to the matter (including those of the relevant PCT or SHA).

INFORMAL ADVICE

3. The CCP is willing to provide informal advice to those who have concerns about the application of the Principles and Rules to promotional activity. Parties seeking informal advice are not required to meet the acceptance criteria outlined in section 5. Informal advice by the CCP is not, however, binding on the CCP and does not replace the CCP's assessment of a matter on appeal or referral (see below). The CCP will only provide advice on the application of the Principles and Rules. It is not able to provide advice on the application of other laws and regulations that may apply to promotional activity by providers.
4. The purpose of providing informal advice is to allow providers to plan promotional activities which are consistent with the Principles and Rules. To ensure that CCP resources are used effectively, and to safeguard the Panel's role as an appeal body, the CCP reserves the right not to give informal advice in any case. In particular, the CCP will not provide advice about promotional activity where a complaint or potential complaint about the provider's conduct has already been brought to the attention of the relevant PCT or the CCP, or where the CCP considers that the giving of informal advice would or might prejudice the CCP's consideration of any matter.
5. Informal advice on promotional activity will generally be given orally and will represent the view of CCP staff, usually given by the Director of the CCP or other senior members of staff. The advice will be based on information provided by the party (or parties) requesting the informal advice. To provide informal advice, the CCP will need information about the proposed promotional activity and why the party thinks it may raise concerns under the Principles and Rules. Although submissions are not expected to be extensive, the quality and accuracy of the CCP's advice will, to a large extent, depend on the information provided. The CCP recommends parties provide clear, full and accurate information when preparing submissions for informal advice.
6. There is no administrative timetable for the provision of informal advice, but the CCP will endeavour to accommodate parties' timeframes as much as possible.
7. Given that informal advice is aimed at assisting providers to identify potential concerns under the Principles and Rules at the planning stage, the CCP will not have tested the information provided by the parties externally. Informal advice should be kept confidential and in no way be used by the recipient as advice on which third parties can rely. Any correspondence between the CCP and a party requesting informal advice must also be kept confidential and not forwarded outside that party's organisations. The CCP will not disclose informal advice to any other party, but may permit parties to share the advice with Sponsors with its express, prior consent. If a party receives informal advice and then discloses it to third parties without the CCP's express, prior consent, the CCP will consider whether it is appropriate to provide informal advice to the party which made the disclosure in future.
8. In the first instance, parties seeking informal advice (or simply wishing to discuss whether to request informal advice) should contact the CCP on the details provided on its website at www.ccp-panel.org.uk.

CODE OF PRACTICE FOR THE PROMOTION OF NHS FUNDED SERVICES

NHS-SPECIFIC CODE RULES¹

Code Rule no.	Content
General Principles	
	Providers should consider accessibility by different sectors of the population.
9	Promotional activity should be appropriate for the intended audience, for example communications aimed at patients should avoid medical jargon.
Protecting the reputation and brand policy of the NHS	
12	Promotional activity must not contravene the values and brand policy of the NHS, including the use of the NHS logo (please see www.nhsidentity.nhs.uk).
13	No promotional activity should be undertaken that undermines the reputation of the NHS, NHS logos or trademarks (or services supplied under those logos or trademarks) or otherwise brings the same into disrepute. Promotional activity should not undermine public confidence in the NHS. The logo is trademarked and may not be used by providers to promote non-NHS services or products.
14	No promotional activity should be undertaken that undermines the reputation of any individual providers, clinicians or other health professionals or otherwise brings the same into disrepute.
Direct marketing to the public and referring clinicians	
15	Direct marketing to the public, their carers or advocates or to referring clinicians is only permissible where marketers comply with all relevant data protection legislation, the NHS Confidentiality Code of Practice and Mailing Preference Service requirements.
16	Mailing lists must be kept up to date. Requests to be removed from promotional mailing lists must be complied with promptly and no name may be restored except at the addressee's request or with their permission.
Information, claims and comparisons	
17	No marketing communication should mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise.
18	Comparative claims are permitted in the interests of vigorous competition and public information. They should neither mislead nor be likely to mislead. ²
19	Before distributing or submitting a marketing communication for publication, marketers must hold documentary evidence to prove all claims, whether direct or implied, that are capable of objective substantiation.
20	Claims in promotional material must be capable of standing alone as regards accuracy, and, in general, claims should not be qualified by the use of footnotes and the like.
21	Providers must be open about the source and date of the data used in any promotional activity.
22	Providers should use only the most recently available data if they wish to use statistical information or claims based on statistical information in their promotions.
Provider representatives	
23	Representatives of providers must act in accordance with high ethical standards, must not receive benefits based on referrals and must make it clear that they are representatives of the provider. Their statements are promotional activity.
Expenditure	
25	Providers will be expected to recognise the potential effect on the reputation of the NHS or disproportionate expenditure on promotional activity. The cost of TV or cinema promotion is unlikely to be justifiable.
26	Responsibility for appropriate promotional expenditure lies with provider organisations' boards.
27	The expenditure figure should be published in the annual report or other appropriate format when an annual report is not produced.
Gifts, inducements and promotional aids to referring clinicians and commissioners	
28	No gift, benefit in kind or pecuniary advantage should be offered or given to clinicians, other health professionals, administrative staff or commissioners as an inducement to refer or commission services.
29	Promotional aids, whether related to a particular service or of general utility, may be distributed to members of the health professions, appropriate administrative staff and commissioners, provided that the promotional aids are inexpensive and relevant to the practice of their profession or employment. ¹²
	[¹² : Promotional aids must be inexpensive and relevant to the recipients' work and are more

¹ The full text of the Code can be found at: www.dh.gov.uk/en/Consultations/Responsestoconsultations/DH_083556.

² An example of a misleading comparison would be for a provider to state that patients being treated by them could expect to be home in half the time than if they were treated by a particular competitor, where the provider making that statement was treating a significantly less complicated case mix than their competitor.

	likely to be acceptable if they benefit patient care. An inexpensive promotional aid means one that has cost the donor no more than £6, excluding VAT. The perceived value to the recipient must be similar. Items of general utility that are acceptable promotional aids for health professionals, administrative staff and commissioners include stationery items, such as computer accessories for business use, pens, pads, diaries and calendars, and clinical items such as nail brushes, surgical gloves, tongue depressors, tissues and peak flow meters.]
	Items provided on long-term or permanent loan are regarded as gifts and subject to the requirements of this Code.
	Items for the personal benefit of health professionals, commissioners or administrative staff must not be offered or provided.
	The offering of reasonable hospitality is permitted where this is offered at purely professional or scientific events where it is subordinate to the main scientific objective of the event and is offered only to clinicians, health professionals, commissioners or relevant administrative staff.
	These events must be held in appropriate venues conducive to the main purpose of the event. The level of subsistence offered must be appropriate and not out of proportion to the occasion. The costs involved must not exceed the level that the recipients would normally choose when paying for themselves.
Inducements to the public	
	No financial inducements or benefits for treatment (including by way of sales promotions) shall be offered to the public, their carers or advocates, nor any inducements or benefits that could be perceived as damaging to their health.
Testimonials and endorsements	
	Testimonials and endorsements must be based on genuine experience, given freely without either financial payment or other inducement, and must not be used to denigrate another provider.
	Testimonials and endorsements must be representative of patients' views generally as substantiated by patient surveys. They must also comply with the general principles set out in this Code.
	Testimonials from children may be used if they are given with the consent of a parent or guardian.
	Quotations must be faithfully reproduced (except where adaptation or modification is required in order to comply with the Code) and must accurately reflect the meaning of the author. The precise source of the quotation must be identified.
	The utmost care must be taken to avoid ascribing claims or views to authors when these no longer represent the current views of the authors concerned.
Sponsorship	
	Providers of NHS-funded services are permitted to undertake sponsorship where it is not associated with matters, and co-sponsors are not associated with matters, that are damaging to health or associated with gambling, alcohol, tobacco, weight control or politics.
	All sponsorship should comply with relevant NHS guidance on the subject, NHS brand policy and guidelines and any local NHS guidance.
	Providers may sponsor materials relating to health or healthcare but must ensure that it is clear from the outset that those materials are so sponsored. Sponsored materials may be treated as promotional activity for the purposes of this Code.
	Providers must not engage in 'product placement' activity, i.e. inclusion of, or reference to, them, their products or services within a film or programme in return for payment or other valuable consideration (whether the recipient of that payment or other valuable consideration is the programme- or film-maker or any other third party).