

Swedish authorities muscle in on industry/health service relationship

Corporate “freebies” in terms of sponsorships and gifts provided by pharmaceutical companies to individuals in the medical profession have come under increased scrutiny in Europe recently. Governments and regulators are keen to eradicate what they often perceive to be a diluted form of corruption that has a direct impact on the successful marketing of drugs. Amongst European countries in which authorities have stepped up their enforcement activities concerning pharmaceutical marketing practices and other relationships with healthcare professionals, Sweden offers an example of particularly stringent rules. Linda Horton and Andreas Blomquist, respectively partner and lawyer at Hogan and Hartson’s Brussels office, discuss the recent development of strict rules concerning the Swedish pharmaceutical industry’s dealings with its healthcare sector

Enforcement in the pharmaceutical industry is on the rise in Sweden. A chief prosecutor responsible for fraud cases has recently been investigating alleged corruption in the industry. The investigation has resulted in at least two cases being pursued.

The tougher approach from the regulatory side follows new agreements that have been reached, between the pharmaceutical industry and the organisations representing local governments, doctors, and the national drug purchasing authority, on the various forms of cooperation between pharmaceutical companies and public-sector medical professionals.



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The agreements stem from controversy that erupted in Sweden in 2002, and that continues, regarding pharmaceutical companies’ payments to send doctors to conferences with minimal scientific content, at luxurious locations. The new agreements aim to ensure that activities involving the pharmaceutical industry and the healthcare sector are conducted in a responsible and relevant manner.

The new agreement with the Swedish Federation of County Councils extends to all employees within the public healthcare sector, in their contacts with pharmaceutical companies and with Swedish marketing companies within the pharmaceutical industry. It applies, as well, to subcontractors.

... agreement on co-operation

1 January of this year marked the entry into force of the new agreement between the Swedish Association of the Pharmaceutical Industry and the Swedish Federation of County Councils(1) on the various types of cooperation between pharmaceutical companies and medical professionals in the public healthcare sector.(2) Similar agreements have been signed between the same industry association and the Swedish Medical Association and, as of January 27, 2005, between the industry association and a government body known as Apoteket.(3)

With these agreements, drug companies’ ability to offer lavish marketing events and conferences to professionals has been severely limited. Restrictions include a cap on the level of reimbursement of travel expenses and costs for accommodation and food (50%); a requirement for invitations to scientific conferences to be sent to hospital management only, who then will decide which healthcare professionals may attend; a ban on offering social activities (e.g. golf, theatre) in connection with conferences; and a ban on sponsorship of events organised by healthcare professionals themselves, such as hospital staff parties.

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The Swedish marketing companies have furthermore undertaken to ensure that the rules set out in the agreement are observed by their parent companies, and other subsidiaries of their parent companies, in their activities in, or targeted at, the Swedish market. Similarly, public healthcare, hospital and clinic management is expected to ensure that the terms of the agreement extend to private healthcare subcontractors through reference to the agreement in applicable sections of their contracts.

... all councils must agree

The agreement is legally binding on the parties, and it is supervised by the Swedish industry association’s marketing practices committee (Namnden for bedomning av lakemedelsinformation), which can issue decisions and levy fines of up to about

€ 22,500 (SEK 250,000) when it deems them necessary. However, it should be noted that the Swedish county councils have considerable autonomy in healthcare.

And even though all county councils are members of the Swedish Federation of County Councils, which has itself signed the

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agreement, every county must also agree separately to the terms of the agreement. Some county councils have not yet done this; others have taken the radical step of closing down their contacts and cooperation with the industry.

Furthermore, recent enforcement actions make clear that Swedish authorities hold strict views of pharmaceutical industry marketing practices. Just last month a major Swedish newspaper reported that a chief prosecutor who has been investigating corruption in the pharmaceutical industry has chosen several cases for enforcement action from among ones that already have received negative findings from the Swedish industry association's marketing practices committee. In one case, he is reportedly considering bringing a charge against a major company for sending approximately 30 doctors and nurses to a conference, paid for by the company, in Prague.

Currently, the criminal punishment for bribery is mainly focused on personal sanctions, however, the chief prosecutor responsible for fraud cases has proposed tougher sanctions specifically focusing on companies as a complement to personal sanctions. In the wake of the chief prosecutor's strict enforcement, local prosecutors have also increased their scrutiny of the sector.

Just one week after the chief prosecutor responsible for fraud cases announced his investigation, a prosecutor in the south of Sweden opened a separate preliminary investigation into findings that the county council of Jonkoping has permitted pharmaceutical companies to finance conferences and educational trips.

Employees within the health department at the county council have, according to the prosecutor, taken part in trips that could be classified as purely tourist travel. The investigation also concerns

by pharmaceutical company employees and has subsequently been transferred to the office of the chief prosecutor responsible for fraud for further investigation.

The Swedish tougher stance on information and promotion activities could be seen as part of a new trend affecting the pharmaceutical industry's marketing practices in Europe. Both Germany and Norway have taken similar measures recently.

- The industry's agreement with the group representing local governments reflects the traditional importance in Sweden of local governments, county councils, and regions. These local authorities possess considerable autonomy and the power to tax, and they provide Swedish citizens most public services.
- Agreement on forms of cooperation between pharmaceutical companies and medical professionals in the public healthcare sector. To be found on <http://www.lif.se/Branschinformation/Overenskommelser/agreements-LIF-CountyCouncils.asp>
- According to Swedish law, only Apoteket AB – a fully state-owned company – is allowed to sell medicines in Sweden. An effect of this authorised monopoly is that pharmaceutical companies urge officials of Apoteket to select their products. A government directive in recent years that Apoteket, as well as doctors prescribing drugs, must always choose the least expensive equivalent drug, to minimise the costs, is believed to have limited somewhat the importance of marketing activities and to have increased focus on pricing issues and formulary choices. *

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