Anti gift mechanism in France: new provisions

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History of the French regulation

**Key dates**

- **1993**: 1st anti-gift Law
  - Prohibition of gifts provided to HCP

- **2011**: Compulsory declarative requirements within a notice regime and publication of advantages / gifts provided to HCP on a public website « Transparence-Santé »

- **2017**: Notice regime becomes an authorisation regime

- **2019**: Prohibition of gifts extended to students, professional associations and Professional orders

- **2020**: Precisions on the authorisation process threshold and the types of gifts and conventions covered

**New provisions**

1 October 2020: entry into force of the new provisions
Overview of the new provisions

- **Core principle**: prohibition of all sorts of advantages, originally to HCP and now expended to students, professional associations and professional orders.

- **Exception to the principle**: advantages of negligible value can be permitted below a determined threshold and subject to the following requirements:
  - A contract is compulsory.
  - The contract is subject to a declaration/authorization procedure depending on the threshold.
  - Criminal prosecution in case of non respect of the procedure.
Who’s concerned?

By the prohibition to receive advantages:
- HCP, chiropractors, osteopaths, psychotherapists
- Students
- Associations comprising HCP and students
- Certain category of public servants

By the prohibition to provide advantages:
- Persons manufacturing and selling health products in France
- Persons providing healthcare services
The following items are not considered as advantages (and therefore permitted under specific conditions):

- Remuneration, compensation and payment for expenses provided for in an agreement
- Incomes from patent exploitation related to a health product
- Commercial benefits provided in an agreement and subject to the purchase of goods or services within conditions set up by the French Public Health code
- Advantages in cash or in kind regarding the practice of the beneficiary and of negligible value, without exceeding the required threshold
Advantages are therefore permitted if they are:

- Remuneration, compensation and payment of expenses for activities of research, research enhancement, scientific evaluation, advice, services, or commercial promotion, as long as the remuneration is proportionate to the fair market value and does not exceed what the recipients would normally be willing to pay for themselves.

- Donations to associations comprising HCP and students

- Hospitality offered, whether directly or indirectly, during exclusively scientific or professional events, or during promotional events, as long as this hospitality is reasonable, limited to the main objective of the event

- Funding or participation in the funding of professional training or professional development actions
  
  ➔ Subject to the following prerequisites:
  
  - A contract is compulsory
  - The contract is subject to a declaration/authorization procedure depending of the threshold
List of advantages of negligible value permitted

Advantages of negligible value and related to the profession of the beneficiary:

- **Improvised meals**: 30€ within the limit of 2 per year
- **Health products samples for health purposes or demonstration item**: 20€ within the limit of 3 per year (except exemptions)
- **30€ per book or revue per year, within the limit of 150€/year for subscriptions**: NB: these gifts are prohibited by the code of ethics of Leem in France
- **Office items or any other product or service**: 20€ per year
- **Any other product or service related to the profession of the beneficiary**: 20€/year
- **Samples**
- **Provided for educational or training purposes for HCPs**
- **Educational purposes for patients or given to the patient for test or adjustment purposes and for a temporary use**
- **Without amount limit for products provided to HCP at the request of the authorities**

NB: these gifts are prohibited by the code of ethics of Leem in France
Declaration/authorization regime: threshold (1)

GENERAL RULE:

- Declaration procedure is applicable to contracts providing for an advantage which value is lower or equal to the threshold

- Authorization regime is applicable to contracts providing for an advantage which value is strictly higher to the threshold
# Declaration/authorization regime: threshold (2)

**Amount above which a convention is subject to authorization:**

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<th><strong>Donations exclusively aimed at the funding of activities of research, research enhancement or scientific evaluation</strong></th>
<th><strong>Hospitality offered during exclusively professional or scientific events, or during promotional events or service provision (inclusive of VAT)</strong></th>
<th><strong>Funding or participation in the funding of professional training of professional development actions</strong></th>
<th><strong>Donations intended for another purpose related to health</strong></th>
<th><strong>Donations benefiting to associations registered for public purposes, including the ones aimed at funding activities of research, research enhancement or scientific evaluation exclusively</strong></th>
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| **HCP, medical assistant, osteopaths, chiropractors and psychotherapists**  
200€/hour  
Within the limit of:  
- 800€/mid-day  
- 2 000€/total convention | 5 000€ | 1 000 € | - | - |
| **Students on initial training, persons benefiting for continuing education**  
80€/hour  
Within the limit of:  
- 320€/mid-day  
- 800€/total convention | 1 000€ | - | - | - |
| **Associations comprising HCPs or students**  
200€/hour  
Within the limit of:  
- 800 €/ mid-day  
- 2 000 €/ total convention | 8 000€ | - | 1 000€ | 10 000€ |