

Chapter 5

Marketing Malpractices and Unethical Promotions

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Introduction: Selling Pills Like Perfume

In a country where more than 60% of total health expenditure is out-of-pocket, one might assume that drug marketing would focus on evidence, outcomes, and affordability. Instead, India's pharmaceutical marketing resembles a **sales war zone**, where companies spend billions annually not on R&D, but on **persuading doctors to prescribe high-margin branded drugs**—regardless of medical necessity or patient cost.

This chapter investigates the unregulated marketing practices of Indian pharmaceutical firms—from doctor bribery and sponsorships to ghost-writing, prescription manipulation, and the failure of self-regulation through the **Uniform Code of Pharmaceutical Marketing Practices (UCPMP)**.

1. The Anatomy of Pharma Marketing in India

Pharmaceutical firms in India allocate **as much as 20-30% of revenue to marketing**, significantly more than their investment in research and innovation [1].

Key strategies include:

- **Sales reps (Medical Representatives):** Over **8 lakh strong**, their primary job is to **convert prescriptions** through personal engagement.
- **Gifts & Incentives:** Branded items, domestic and foreign travel, gadgets, cash-equivalents.
- **Sponsorships:** All-expense paid conferences, speaker fees, international CMEs (often thinly disguised holidays).

An estimated **10,000 crore (~\$1.2 billion)** is spent annually on promotional incentives in India [2].

2. Understanding the UCPMP: A Code Without Teeth

The **Uniform Code for Pharmaceutical Marketing Practices (UCPMP)** was introduced in 2014 and revised in 2019. It was meant to serve as a **voluntary ethical guideline**.

Key provisions:

- Prohibits gifting and cash incentives to prescribers
- Bars pharma from sponsoring entertainment or holidays
- Mandates disclosure of sponsorships and affiliations

| **Table 1: UCPMP Provisions vs Realities** |

Provision	Compliance in Practice
No gifts to doctors	Widely violated
No paid holidays	Frequent CME-linked tours
No cash or cash equivalents	Reported via indirect routes
Monitoring agency	Not yet empowered

Source: Ministry of Chemicals & Fertilizers, UCPMP Draft 2019 [3]

The UCPMP remains **non-binding**, with **no legal penalties** for violations. The Indian Medical Association (IMA), Medical Council (now NMC), and NPPA have **no coordinated enforcement mechanism**.

3. Doctor Gifting: The Unspoken Economy

Multiple reports, including from parliamentary committees and media exposés, have documented massive spending on doctors:

- **2022:** An Indian drug major spent **1,000 crore on “prescriber engagement”** over 5 years [4]
- **Common gifts include:** iPhones, LED TVs, ACs, refrigerators, gold coins, and branded accessories
- **Modus operandi:** Route expenses via **marketing firms**, “educational services”, or “consultancy honoraria”

| **Table 2: Common Doctor Incentives by Value Tier** |

Incentive Type	Estimated Value Range
Branded stationery	500–5,000
Home appliances, gadgets	10,000–50,000
Foreign travel + stay	1–3 lakh
Conference honoraria	10,000–2 lakh
Direct cash (covert)	Variable (untraceable)

Source: AIOCD whistleblower disclosures, Transparency International India [5]

Doctors are incentivized to **prescribe specific brands**, even if alternatives are more effective or affordable. The **branded generics market thrives on this economy**.

4. The “Speaker” and CME Loophole

Pharma companies often sponsor doctors as “speakers” at **educational events**—including international conferences in **London, Dubai, Thailand, and the U.S.** These include:

- **First-class flights and 5-star accommodation**
- **Honoraria** of 50,000 to 2 lakh per session
- Family members invited under “companions” clause

While Continuing Medical Education (CME) is essential, **there’s little regulatory vetting** of speaker selection, topic quality, or relevance. Many CMEs are **thinly disguised promotional events** [6].

5. Influence Beyond Doctors: Retailers and Hospitals

a) Chemists and Distributors

- Offered **extra margins, volume bonuses, and travel vouchers**
- Encourage sale of **branded generics with highest profit**, regardless of necessity

| **Table 3: Chemist Incentives for Non-DPCO Drugs** |

Incentive Format	Common Value
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Extra trade margin	10-20% above MRP cap
Foreign trip (on volume basis)	1-2 lakh/trip
Festival gifts (cash/kind)	10,000+

b) Corporate Hospitals and Chain Pharmacies

- Negotiate **bulk procurement discounts** from companies
- **Set prescription protocols** favouring partner brands
- Use **diagnostic bundles** and **tied-in drugs** to increase patient bills

The **hospital-pharma nexus** inflates treatment costs, especially for surgeries, oncology, and ICU care [7].

6. Ghost-writing and Medical Journals

Some companies **ghostwrite research articles** in support of their products, and have them published under **senior doctors' names** in regional or even international journals. These are then:

- Quoted in CME slides
- Circulated as scientific evidence to justify prescribing
- Shared by medical reps as “peer-reviewed endorsements”

This practice **corrupts the evidence base**, particularly in psychiatry, dermatology, and antibiotics—fields dominated by **aggressive marketing rather than long-term outcome studies** [8].

7. Role of Regulatory Bodies: NMC, MCI, CDSCO

- The erstwhile **Medical Council of India (MCI)** had provisions to discipline doctors for unethical practices.
- The new **National Medical Commission (NMC)** has retained similar powers, but **implementation remains weak**.
- Only **18 doctors have faced action** for accepting pharma bribes since 2015 [9].

Enforcement is rare because most incentives are **indirect, undocumented, or routed through third parties**.

CDSCO (drug regulator) has **no legal role in regulating marketing conduct**, creating a regulatory vacuum.

8. Public Health Impact: Beyond Just Cost

Marketing manipulation impacts:

- **Overprescription** of antibiotics, vitamins, painkillers
- **Use of irrational combinations** (e.g., cough syrups with 3–5 active ingredients)
- **Ignoring generic or essential medicines**
- **Increased antimicrobial resistance (AMR)**

A 2020 study across Delhi and Lucknow showed that **76% of prescriptions included at least one unnecessary drug**, often linked to marketing-driven behaviour [10].

9. International Comparisons: India’s Outlier Status

| Table 4: Regulation of Pharma Marketing–Global Snapshot |

Country	Legal Ban on Gifts	Mandatory Disclosure	Public Registry
USA	Yes (Sunshine Act)	Yes	Yes
France	Yes	Yes	Yes
UK	Yes	Yes	Yes
India	No	No	No

Source: WHO, OECD Health Reports 2022 [11]

India has **no “Sunshine Law”** mandating pharma companies to publicly disclose their payments to doctors. This creates **opacity and denial**, even among medical bodies.

10. Proposed Reforms: What Can Be Done?

a) Make UCPMP Legally Enforceable

Transform it into a **binding code**, with clear penalties and independent oversight.

b) Mandatory Public Disclosure

Force all companies to **declare all payments, gifts, and sponsorships** to healthcare providers, annually.

c) Cap on Marketing Spend

Introduce a **spending ceiling** (as % of revenue), and allow tax deductions only for **scientific promotion**.

d) Hospital Formularies Based on Efficacy

Ban brand-tied prescribing in hospitals. Use **essential medicine lists (EMLs)** and evidence-based guidelines.

e) Empowered Patient Feedback Systems

Launch apps or portals where patients can report suspicious prescription patterns anonymously.

Conclusion: Prescription for Profit, Not Patient

Marketing malpractice in Indian pharma is not an aberration— it is an industry norm. With few regulations, no disclosure obligations, and a culture of normalized corruption, **India's drug prescriptions are often driven by profit, not patient welfare.**

Until there is **political will to criminalize unethical marketing**, and **systemic support for generic, evidence-based medicine**, India's drug system will remain compromised— regardless of how many laws are on paper.

References

1. Transparency International. India Pharmaceutical Promotion and Ethics Survey. 2021.
2. AIOCD. Marketing Practices in Indian Pharma Industry. Internal Memo, 2020.
3. Ministry of Chemicals & Fertilizers. UCPMP 2019 Draft Code. Government of India.
4. The Wire. Doctor-Pharma Nexus: A 1000 Crore Scandal. Investigative Report, 2022.
5. Transparency International India. Whistleblower Reports - 2019-2022.
6. Indian Journal of Medical Ethics. Medical Conferences or Pharma Junkets? IJME. 2021;28(3):175-80.

7. Public Health Foundation of India. Pricing and Procurement in Private Hospitals. 2020.
8. The BMJ. Ghost-writing in Medical Journals: A Growing Scandal. *BMJ* 2018;361:k3670.
9. National Medical Commission (NMC). Disciplinary Actions Database. 2015–2022.
10. WHO India. Rational Prescription Study: Delhi-Lucknow Zone. WHO-SEARO 2020.
11. OECD. Health Systems Transparency Index. OECD Report 2022.