



# Indian Society for Clinical Research

The Capital, 1802, 18th Floor, Plot No. C- 70, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051

Contact No: **+91-8454827775**

Email: [info@iscr.org](mailto:info@iscr.org)

Website: [www.iscr.org](http://www.iscr.org)

<b><u>For Use at ISCR meetings Only</u></b>	
<b><u>For information of ISCR AMO members/or their agents</u></b>	<b><u>Note: If you need a copy of this Do's and Don'ts document, kindly write to info@iscr.org</u></b>

## **Competition Law: Do's and Don'ts**

### **Indian Society for Clinical Research (ISCR) Do's and Don'ts of Competition Law As are Applicable to Accredited Member Organizations and /or their agents.**

Introduction: ISCR is a society registered under the Charity Commissioner's office. ISCR has many Accredited Member Organizations (AMOs) which are involved in the research and development of medicines and/or medical devices. ISCR also has individual members who belong to academia, ethics committees, investigators, patients / patient group representatives. The Do and Don't's of Competition law are applicable to AMOs and /or their agents/ employees participating in ISCR meetings/activities. Competition law has always had an impact on how trade or the industry associations should conduct their meetings. Trade associations carry out a valuable work for public benefit. Their activities and support helps in: 1) Improving standards; 2) Industry specific education and encouraging research; and 3) advocacy for Pro-stakeholder policies that promote welfare of their members.

While ISCR is not a Trade association from a definition standpoint it is still pertinent to note that the major group of professionals in the society belongs to the industry and hence competition Act would be relevant to the activities carried out by the AMO/its agents while being part of society activities. All the relevant provisions of competition law meant for trade associations could therefore apply to ISCR. Trade associations find explicit mention in Section 19(1) of the Act. Furthermore, trade associations may be covered under Section 2 (I) (v) of the Act under the heading "Association of Persons". "Association of enterprise" as mentioned in Section 3 of the Act, may also be considered as trade association. Most of the prohibited conduct of trade associations may fall in the category of cartelization and the Act provides for stringent penalty for cartel behaviour. **The penalty provided is ten per cent of the turnover or three times the profits, whichever is greater**

## **1. The Dos and Don'ts of Competition Law**

### **1. 1. Dos**

- Take excessive care when collecting information from members and avoid any activity that directly or indirectly enables sharing of such sensitive information which may lead to supporting any anti-competitive practice;
- Make sure that membership of the association is granted on the basis of an objective and qualitative criteria;
- There are no entry or exit barrier on members or membership;



# Indian Society for Clinical Research

The Capital, 1802, 18th Floor, Plot No. C- 70, 'G' Block, Bandra Kurla Complex, Bandra (E), Mumbai – 400 051

Contact No: **+91-8454827775**

Email: [info@iscr.org](mailto:info@iscr.org)

Website: [www.iscr.org](http://www.iscr.org)

- There is a transparent and fair procedure to deal with appeals in case of refusal to grant or suspension of membership;
- Set up a code of conduct (Do's and Don't's) for members that entails enforcement of ethical and fair market practices;
- If the association is involved in setting standards or industry policies relating to the supply of products or services, it is imperative to ensure that such standard setting process is open and transparent. The standard terms should also be non-binding and effectively accessible to members and non-members.

## 1. 2. Don'ts

- Don't advise or require that members set particular prices for their products or services.
- Don't impose terms and conditions on members for selling their products.
- Don't help or facilitate sharing of competitively sensitive information by members. For example, information relating to the price and quantities of members' products or services is generally competitively sensitive.
- Don't organise or support a boycott by members against targeted businesses or individual.
- Never set up such rules or codes that restricts or reduces competition among members,
- Don't mandate membership of the Association or a No Objection Certificate from the Association for operating/dealing with other players in the market.
- Don't impose contractual conditions different from any association-developed standard conditions on members or restrict any member to offer/accept any kind of contractual conditions
- Don't allow discussions that go off agenda, especially on topics that are commercially sensitive

The don't list is only indicative not exhaustive. There can be many other instances which may lead to violation of competition law.