

CLINICAL COMMISSIONING GROUP EMPLOYEE v PFIZER

Email about a webinar

A head of medicines and prescribing at a clinical commissioning group (CCG), complained about an email sent by a third party event organiser to another member of staff at the CCG.

The email was headed 'Don't miss the webinar. Understanding the Clinical and Practical Aspects for the Self-Administration of Sayana Press (medroxyprogesterone acetate)'. Details of the speakers (faculty) were named; a medical employee from Pfizer UK, a general practitioner with a special interest in gynaecology who was also a member of women's health forum and a nurse consultant in sexual health services. Details of the agenda followed and what appeared to be a separate advertisement for Sayana Press. The invitation concluded 'Thank you for your kind attention' followed by the Pfizer logo and prescribing information.

The complainant did not believe that the recipient of the email would have signed up to receive promotional material from Pfizer, therefore the email should not have been sent without prior consent. On closer inspection, the webinar seemed to be nothing more than a thinly disguised promotional event to increase the use of Sayana Press.

The complainant stated that whilst the manufacturer's name was clearly listed just above the prescribing information at the end of the 'webinar' information, the words 'this webinar is sponsored by' did not appear anywhere in the communication. The complainant thought such information needed to be explicit. The use of a third party event organiser to circulate the invitation together with the use of the word 'faculty' was alleged to be a cynical attempt to confer unwarranted educational authority to a purely promotional event and to circumvent the Code.

The detailed response from Pfizer is given below.

The Panel noted Pfizer's submission that the recipient had agreed to receive emails. The opt-in statement was clear that details of pharmaceutical company promotional meetings might also be sent. The Panel considered that prior permission had been obtained and no breach of the Code was ruled.

The Panel also ruled no breach of the Code as the limitation on frequency of mailings did not apply to emails as these could only be sent with prior permission.

In relation to the allegation of disguised promotion, the Panel considered that the recipient's initial impression was important. In the recipient's inbox the email appeared as from the sender and the third party and the subject heading was 'Understanding the Clinical

and Practical Aspects for the Self-Administration of Sayana Press (medroxyprogesterone acetate)'. On opening the email no indication was given in the heading that it was from a pharmaceutical company. The sender's address bore no apparent link to a pharmaceutical company. A reader had to scan down past the meeting details and what appeared to be an advertisement and claims before reaching the company name. The printed invitation was provided and the first mention of Pfizer was on page 3. The Panel considered that it was not sufficiently obvious at the outset that the email was a promotional email from a pharmaceutical company. The first part of the email gave very little indication of the nature of the meeting. In the Panel's view, the length of the email was such that the pharmaceutical company's involvement and that the email contained prescribing information would not appear until the recipient had scrolled down to the bottom of the email. Although a Pfizer employee was listed as being part of the faculty it was not sufficiently clear at the outset that both the email and the meeting were promotional. The Panel considered the promotional nature of the email was disguised and a breach of the Code was ruled.

The Panel also ruled a breach as the declaration of sponsorship was not sufficiently prominent to ensure that readers were aware of it at the outset.

A head of medicines and prescribing at a clinical commissioning group (CCG), complained about an email sent by a third party events organiser to another member of staff at the CCG.

The email was headed 'Don't miss the webinar. Understanding the Clinical and Practical Aspects for the Self-Administration of Sayana Press (medroxyprogesterone acetate)'. Details of the speakers (faculty) were named these being a Pfizer medical employee, a GP with special interest in gynaecology and a member of women's health forum and a nurse consultant in sexual health services. This was followed by details of the agenda and what appeared to be a separate advertisement for Sayana Press which was described as 'A convenient self-administered subcut LARC [long acting reversible contraceptive] that gives the "I-barely-have-a-moment" woman a choice'. The invitation concluded with 'Thank you for your kind attention. Pfizer Ltd' was followed by the Pfizer logo and prescribing information.

Sayana Press was indicated for long-term contraception and each subcutaneous injection provided contraception for at least 13 weeks.

COMPLAINT

The complainant alleged that the email was in breach of Clauses 11.2, 12 and 22 of the Code.

Clause 11.2 – Distribution of Promotion Material

The complainant did not believe that the recipient would have signed up to receive promotional material from Pfizer, but might have subscribed to receive information about relevant prescribing related educational events. The complainant did not think the webinar qualified as an educational event and therefore it should not have been sent to the recipient without her express prior consent.

Clause 12 – Disguised Promotion

The complainant stated that the email had been sent by a company which gave the impression of being involved in educational events. The event was called a 'webinar' and the term 'faculty' had been used to highlight some of the participants.

On closer inspection, it seemed to be nothing more than a thinly disguised promotional event to increase the use of Sayana Press – a product which was not even approved for use locally.

Clause 22 – Meetings, Hospitality and Sponsorship

The complainant referred to the supplementary information to Clause 22.4, Sponsorship and Reports of Meetings:

'Attention is drawn to Clause 9.10 which requires that all material relating to medicines and their uses, whether promotional or not, which is sponsored by a pharmaceutical company must clearly indicate that it has been sponsored by that company.'

The complainant stated that whilst the manufacturer's name was clearly listed just above the prescribing information at the end of the 'webinar' information, the words 'this webinar is sponsored by' did not appear anywhere in the communication. The complainant thought that any such information needed to be absolutely explicit. The use of a third party 'event organiser' to circulate the 'webinar' invitation together with the use of the word 'faculty' was alleged to be a cynical attempt to confer unwarranted educational authority to a purely promotional event and to circumvent the requirements of Clause 11.2.

When writing to Pfizer the Authority asked it to respond to Clauses 9.9 and 9.10 in addition to those clauses cited by the complainant (Clauses 11.2, 12.1 and 22.4).

The clauses cited by the complainant and the Authority were the same in the 2016 Code as in the 2015 Code and thus the Panel referred to the 2016 Code.

RESPONSE

Pfizer stated that the purpose of the live webinar was to educate health professionals and other relevant decision makers with an interest in women's health on the use of Sayana Press. Presentations were delivered by expert clinicians in sexual health who also advised on the use of the product and the selection of appropriate patients

for self-administration. There was a question and answer session followed by a brief summary of key learnings from the webinar.

The recipient's email address was registered on the women's health forum database. The database contained the following opt-in statements which were ticked by the recipient:

'Please tick if you would like to receive information about future events or medical education from [the forum].

Please tick if you would like to receive information from our partners this may include relevant promotional meetings run by pharmaceutical companies.'

Pfizer stated that neither of the above statements were pre-ticked, they were proactive opt-in statements which were very clear and must be completed in order to opt-in.

Both the third party and the forum had separate databases. For the purposes of the Sayana Press live webinar, the two parties agreed on a combined database to manage the subscriptions. Therefore upon registration to the forum database, the recipient's email address was added to the distribution to receive the invitation to the live webinar. The address was removed from the combined database and the forum database after the unsubscribe request was received in early January 2016.

Pfizer stated that the decision to combine databases was made by the forum and third party. It was important to highlight that the forum's permission wording (ticked by the recipient) expressly allowed for personal data to be shared with forum's partners (which would include organisations such as the third party) in relation to promotional events. By ticking the box, the individual provided consent for his/her information to be passed to organisers of promotional events.

Clauses 9.9 and 11.2 – prior permission of recipient; distribution of promotional material

Pfizer stated that the email invitation was distributed by the third party in December 2015 and a reminder email was sent in January 2016, to invitees who had given their permissions.

Pfizer submitted that there was no breach of Clause 9.9 because there was a valid permission, and no breach of Clause 11.2 which it submitted applied to mailings and not to emails provided there was prior consent which there was in this case.

Clause 12.1 – Disguised promotion

Pfizer stated that the email invitation sent for the webinar showed that the content was promotional. There was no attempt to disguise it as a non-promotional event. Sayana Press was a branded pharmaceutical product and was clearly advertised throughout the invitation. There was a Pfizer speaker on the agenda and a prominent Pfizer logo

underneath 'Pfizer Ltd' indicating that it was a Pfizer sponsored event. Further, there was prescribing information on the invitation as required for promotional content, together with the adverse event reporting statement, date of preparation and unique reference number. Pfizer therefore denied a breach of Clause 12.1.

Clauses 9.10 and 22.4 – Declaration of sponsorship

Pfizer acknowledged that whilst the invitation did not specifically state the exact nature of Pfizer's sponsorship, there was no attempt to disguise the event sponsor as could be seen from the clear inclusion of the Pfizer logo underneath 'Pfizer Ltd'. Given the addition of all the mandatory requirements for promotional material as described above, Pfizer submitted that it was clear that it was a Pfizer sponsored promotional webinar about its branded medicine Sayana Press and therefore did not breach Clauses 9.10 or 22.4.

For the reasons detailed above Pfizer submitted it was not in breach of Clauses 9.9, 9.10, 11.2, 12.1 or 22.4 of the Code.

PANEL RULING

The Panel noted Pfizer's submission that the recipient of the email had agreed to receiving emails from partners of the forum's database. The third party, which sent the email in question was one of these partners. The opt-in statement was clear that details of pharmaceutical company promotional meetings might also be sent. The Panel considered that prior permission had been obtained and no breach of Clause 9.9 was ruled.

The Panel noted that Clause 11.2 referred to the frequency of distribution and the volume of promotional material distributed. The supplementary information was clear that the limitations on frequency of mailings did not apply to emails as these could only be sent with prior permission. The Panel noted its ruling of no breach of Clause 9.9 above. The Panel therefore ruled no breach of Clause 11.2.

The Panel noted the supplementary information to Clause 12.1 referred to emails including that they must not give the impression that they were non-

promotional and the identity of the responsible pharmaceutical company must be obvious. The supplementary information to Clause 9.1 included that declarations of sponsorship must be sufficiently prominent to ensure readers were aware of such sponsorship at the outset. In this regard, the Panel considered that the recipient's initial impression of the email was important. In the recipient's inbox the email appeared as from the name of the sender and the third party and the subject heading was 'Understanding the Clinical and Practical Aspects for the Self-Administration of Sayana Press (medroxyprogesterone acetate)'. On opening the email no indication was given in the heading that it was from a pharmaceutical company. The sender's address bore no apparent link to a pharmaceutical company. A reader had to scan down past the meeting details and what appeared to be an advertisement and claims before reaching the company name, Pfizer. The printed invitation was provided with the certificate and the first mention of the company name was on page 3. The Panel considered that it was not sufficiently obvious at the outset that the email was promotional and from a pharmaceutical company. The first part of the email gave very little indication of the nature of the meeting. In the Panel's view, the length of the email was such that the pharmaceutical company's involvement and that the email contained prescribing information would not appear until the recipient had scrolled down to the bottom of the email. Although a Pfizer employee was listed as being part of the faculty it was not sufficiently clear at the outset from what would be the first screen that both the email and the meeting were promotional. The Panel considered the promotional nature of the email was disguised and a breach of Clause 12.1 was ruled.

The Panel also ruled a breach of Clause 22.4 as the declaration of sponsorship was not sufficiently prominent to ensure that readers were aware of it at the outset. It decided that its ruling of a breach of Clause 22.4 covered the alleged breach of Clause 9.10 and decided not to make a separate ruling in that regard.

Complaint received **5 January 2016**

Case completed **19 February 2016**