

ANONYMOUS CONTACTABLE v NOVO NORDISK

Alleged promotion of Tresiba to the public

An anonymous, contactable complainant complained about the promotion of Tresiba (insulin degludec) to the public through a posting on LinkedIn.

The communication mentioned a Novo Nordisk employee by name and gave contact details including his/her Novo Nordisk email address. The communication was a link entitled 'Tresiba® -1/4 (insulin degludec) demonstrates significantly lower rates of hypoglycemia vs insulin...'.¹

Tresiba was a basal insulin for the treatment of diabetes mellitus in certain patients.

The complainant stated that he/she believed this communication on LinkedIn to be in breach of advertising regulations for advertising medicines to the public.

The detailed response from Novo Nordisk is given below.

The Panel noted that Novo Nordisk UK had issued a press release dated 13 June 2016 for UK medical media comparing Tresiba rates of hypoglycaemia with insulin glargine. The press release gave contact details for Novo Nordisk and agency staff who were all named in the LinkedIn communication at issue.

The Panel noted Novo Nordisk's submission that the LinkedIn communication appeared to be as a result of Novo Nordisk's press release and an app which brought news articles to users based on their interests and connections within LinkedIn and highlighted to users when people they were connected with were mentioned in the news. According to Novo Nordisk it was not something that the company or its staff had instigated or knew about until the complaint was received. The fact that the application relied on an algorithm did not absolve Novo Nordisk from responsibility. The Panel noted that LinkedIn was widely used in the pharmaceutical industry. It was not inconceivable that Novo Nordisk and/or its staff had been the subject of previous communications placed by the LinkedIn application. In the Panel's view companies should remain vigilant and needed to ensure that they took reasonable steps to prevent relevant secondary postings of their material.

Nevertheless the Panel did not consider that on the evidence before it Novo Nordisk had advertised a prescription only medicine to the public. The Panel also considered that the particular circumstances did not indicate a failure to maintain high standards nor did they bring discredit upon or reduce confidence in the pharmaceutical industry and thus no breaches of the Code were ruled including Clause 2.

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COMPLAINT

The complainant stated that he/she believed this communication on LinkedIn to be in breach of advertising regulations for advertising medicines to the public.

When writing to Novo Nordisk the Authority asked it to respond in relation to the requirements of Clauses 2, 9.1 and 26.1 of the Code.

RESPONSE

Novo Nordisk submitted that it was very concerned to receive this complaint. It took these matters very seriously and had conducted a thorough investigation.

Novo Nordisk submitted that the appearance of the link referring to Tresiba on LinkedIn was not posted by the Novo Nordisk member of staff. The individual had many years' experience within the pharmaceutical industry at a variety of companies with extensive knowledge of the Code.

Novo Nordisk provided details of the employees' activity within LinkedIn. The last activity was to update his/her user profile. The employee had not posted any product related news or links to product related news items.

It appeared from the link within the email from the complainant that the linked headline came from a German news group. Novo Nordisk issued a certified press release regarding Tresiba to UK specialist/medical publications only and a copy of the press release which stated that it was for UK medical media only was provided.

During Novo Nordisk's investigations it also appeared that the individual was mentioned in the post rather than attributed to posting the link.

Novo Nordisk submitted that the posting had occurred via the LinkedIn Pulse app. Novo Nordisk had learned that this application automatically brought news articles to users based on their interests and connections within LinkedIn.

According to the LinkedIn help page, it was curated by LinkedIn's editorial team. This application also highlighted to users when people they were connected to were mentioned in the news. As the individual was listed as a contact on the original press release, he/she had been highlighted by this algorithm. Novo Nordisk therefore believed that this news link might have been sent to a small number of people who had downloaded this application and were also contacts of the individual within LinkedIn.

Novo Nordisk submitted that it had absolutely no intent to undertake any activity to promote Tresiba to the public. Following its investigation, Novo Nordisk submitted it was not in breach of Clauses 26.1 (advertising to the public), 9.1 (maintaining high standards) nor Clause 2 (discredit to the industry).

As a result of this complaint and Novo Nordisk's awareness of this feature on LinkedIn, the individual had changed relevant privacy settings to prevent being mentioned in a news related post in the future. Novo Nordisk was also recirculating its social media policy to all UK staff to ensure they remained fully compliant in this respect.

PANEL RULING

The Panel noted that Novo Nordisk UK had issued a press release dated 13 June 2016 for UK medical media comparing Tresiba rates of hypoglycaemia with insulin glargine. The press release included contact details for the individual Novo Nordisk and staff at the company's agency.

The Panel noted that Clause 26.1 which prohibited the advertising of prescription only medicines to the public reflected UK and EU law. The Panel could only make decisions regarding the Code.

The Panel noted Novo Nordisk's submission that the LinkedIn communication appeared to be as a result of Novo Nordisk's press release in which the individual was listed as a contact and an app which brought news articles to users based on their interests and connections within LinkedIn and highlighted to users when people they were connected with were mentioned in the news. According to Novo Nordisk it was not something that the company or its staff had instigated or knew about until the complaint was received. The Panel was very surprised that this issue had not come to light previously. It was unsure whether similar postings had been made to the contacts of the two agency staff named in the communication at issue. The fact that the application relied on an algorithm did not absolve Novo Nordisk from responsibility. The Panel noted that LinkedIn was widely used in the pharmaceutical industry. It was not inconceivable that Novo Nordisk and/or its staff had been the subject of previous communications placed by the LinkedIn application. In the Panel's view companies should remain vigilant and needed to ensure that they took reasonable steps to prevent relevant secondary postings of their material.

Nevertheless the Panel did not consider that on the evidence before it Novo Nordisk had advertised a prescription only medicine to the public and therefore ruled no breach of Clause 26.1. The Panel also considered that the particular circumstances did not indicate a failure to maintain high standards nor did they bring discredit upon or reduce confidence in the pharmaceutical industry and thus no breaches of Clauses 9.1 and 2 were ruled.

Complaint received	16 June 2016
Case completed	18 August 2016