CASE AUTH/2947/3/17

ANONYMOUS v SANOFI

Representatives' call rates

An anonymous, contactable complainant complained about representatives' call rates set by Sanofi.

The complainant gave details of Sanofi's expected call rate, minimum frequency and number of working days and explained that representatives' target customer bases varied. However, the target call rate was still set the same. The call rate/frequency was unrealistic to achieve in some instances. With 30 targets as an example, delivery on the company requirement would mean calling over 20 times in the year.

The complainant stated that if an appointment with a health professional was obtained, as an example, for 4 months' time then the ask had been what was being done to obtain one sooner as that was much too far away. There was a push for activity. If the customer could not be seen in relation to the Code this target still applied due to management or overall call rates. It put pressure to achieve this with a weekly report of activity and putting pressure on existing or newly built customer relations. This would lead to customers refusing to see representatives. Failure to achieve the expected call rate per day might result in performance plans to hit the required standard that might lead to disciplinary action against individuals if activity and sales were not achieved.

The complainant added that although the current focus was to maximise on the lead product, whilst maintaining the heritage product, numerous representatives had not been given this training or given a refresher. The complainant found it difficult to understand how representatives could be bonused on a product with no training and nearing the end of Quarter 1.

The detailed response from Sanofi is given below.

The Panel noted that the anonymous complainant appeared to be an employee of Sanofi. There appeared to be a difference of opinion between the complainant and the company regarding the number of targets for representatives.

The Panel noted that according to a redacted email provided by the complainant, the number of actual contacts per day was described as being well below the national level but accepted due to the number of new people and representatives were to deliver the expected higher call rate. The Panel considered that it was beholden on companies to make sure that such contact rates were placed within the context of the requirements of the Code. In addition, it would be helpful if representatives were given guidance and training on how such increased contact rates could be achieved.

The Panel examined the materials provided by Sanofi. The representatives' 2016 training gave the sales force key performance indicators (KPIs) and stated 'Contacts per day: […] (contacts equalled 'calls and meetings in accordance with ABPI requirements'). It further stated that the average frequency assumed the average number of times a customer was seen in 2016. Each of the 2 pages which discussed KPIs bore the following statement in contrasting black font: 'Provision must be taken in accordance with Clause 15.4 … whereby no more than 3 unsolicited faces-to-faces calls can be made per annum. If the limit were reached with no offer of request to revisit or attendance at a group meeting this customer may no longer be visited in 2016'. This latter statement also appeared on two pages of the representatives' training for 2017.

The Panel noted the average frequency of contacts per annum for 2016 ranged between 10 and 5 by account type. The company did not define the difference between calls and contacts. Comparable information did not appear in the 2017 training material which referred to a coverage and frequency percentage.

The Panel considered that there was a range in the number of target customers and an expectation that the representatives would focus on these. Although Sanofi had not defined the difference between calls and contacts in the materials they were clear that there were limitations on unsolicited calls in the ABPI Code. In relation to call rates, the Panel did not consider that the complainant had shown, on the balance of probabilities, that representatives had over called on health professionals and ruled no breach of the Code. With regard to the briefing material, although the 2016 and 2017 training material might have been clearer, including a definition of certain terms, the Panel did not consider that either advocated a course of action that was likely to lead to a breach of the Code with regard to calls on health professionals. No breach was ruled.

The Panel noted the briefing email provided by the complainant. It referred to, *inter alia*, delivery of the KPI of expected target customers per day and a minimum frequency of contacts with hospital doctors and nurses. The Panel noted its comments above about the need to make the requirements of the Code clear. This was particularly important when discussing an increased daily contact rate. The email was silent about the relevant requirements of the Code and in the Panel's view could not rely on the representatives' training material in this regard. Breaches of the Code were ruled including that high standards had not been maintained.

With regard to the complainant's allegation that training had not been provided for the heritage product, the Panel noted that the relevant product had not been named by the complainant. Sanofi assumed the heritage product was Lantus and had provided details about the training provided on that product. The Panel considered that in the circumstances the complainant had not proved his/her complaint on the balance of probabilities. The Panel therefore ruled no breach of the Code.

An anonymous, contactable complainant complained about representatives' call rates set by Sanofi.

COMPLAINT

The complainant gave details of the Sanofi Diabetes expected call rate, the minimum frequency and number of working days.

The complainant explained that representatives' target customer bases varied; some had as few as 30 whilst others had 120. However, the target call rate was still set the same. The target ask did not warrant the number. The call rate/frequency was unrealistic to achieve in some instances. With 30 targets as an example, delivery on the company requirement would mean calling over 20 times in the year.

The complainant stated that if an appointment with a health professional was obtained, as an example, for 4 months' time then the ask had been what was being done to obtain one sooner as that was much too far away. When mentioned this was difficult to achieve the response had been 'It is what it is'. There was a push for activity. If the customer could not be seen in relation to Clause 15.4 this target still applied due to management or overall call rates. It put pressure to achieve this with a weekly report of activity sent out and putting pressure on existing or newly built customer relations. This would lead to customers refusing to see representatives. Failure to achieve the expected call rate might result in performance plans to hit the required standard that might lead to disciplinary action against individuals if activity and sales were not achieved.

The complainant added that although the current focus was to maximise on the lead product, whilst maintaining the heritage product, numerous representatives had not been given this training (nor others given a refresher that might have had something some years ago). Initially representatives were informed that there would be training and having chased it up and asked if there was training, the answer had been 'There is no training'. The complainant found it difficult to understand how representatives could be bonused on a product with no training and nearing the end of Quarter 1.

The complainant provided a redacted copy of an email, 'Business Reviews – Focus and Action 2017', which referred to the expected number of contacts per day and a minimum frequency with hospital doctors and hospital nurses in 2017.

When writing to Sanofi, the Authority asked it to consider the requirements of Clauses 9.1, 15.1, 15.4 and 15.9.

RESPONSE

Sanofi stated that it took its obligation under the Code very seriously and was concerned to have received such a complaint, which appeared to originate from a member of staff. An internal investigation had included interviews with some members of staff however, particular care in this case had been taken to protect the complainant and as such the individual who wrote the email provided by the complainant had not been interviewed. Sanofi did not consider that this had adversely effected its response and it believed it had the information required to respond in full.

Sanofi stated that, in its view, the case hinged on two aspects, the first how representatives' activity and performance were monitored and subsequently rewarded and secondly how that was communicated to the representatives.

Sanofi explained that the redacted email provided by the complainant had been sent by a diabetes sales manager to all the representatives in his/her area. It was also copied to one of the regional business managers, two NHS outcomes managers and a medical science liaison (MSL).

Sanofi explained that representative performance was monitored, measured and rewarded in a variety of ways. There was a sales force incentive scheme which provided bonuses to representatives based purely on sales data, such as sales vs target and/or market share. This incentive scheme did not include any call rate measures. Details of the diabetes incentive schemes for 2016 and 2017 were provided.

Representatives were also managed within a company-wide performance management cycle which fed into an end of year appraisal. The performance management used a series of measures of the 'what' and the 'how' to measure both achievements and behaviours. For the sales teams this performance management cycle produced a performance rating at the end of the year which was used to calibrate performance across all sales teams. There was no additional bonus attached to this rating for the sales teams but it did feed into annual salary reviews and was considered during other management processes such as development and talent planning and promotions etc. Performance was assessed using a balance between output measures (such as sales) and input measures (such as call rates, meetings held and customer-facing days).

For call rates specifically in 2016 and 2017 these measures accounted for 15% of the overall performance measures. In both years the expectation for call rates was the same for the expected number of contacts a day on target customers.

The sales teams were briefed at the beginning of each year with regard to both the sales incentive scheme and the performance management measures which would be used for that year. Sanofi provided copies of certified briefing materials which

were presented at the beginning of the year kick-off meetings for 2016 and 2017.

Sanofi stated that target customers were defined based on involvement with diabetes and whether the company's therapies were suitable for their patients, insulin initiator status, customer type (consultant, diabetes specialist nurse, GP, practice nurse). Details of the average number of targets in secondary care and primary care and the range were provided.

Sanofi stated that it did not set individualised contact rates based on the number of target customers in a sales area. However, it was clear that this contact rate must be viewed in conjunction with the criteria set out within Clause 15 of the Code and no individual would be penalised or performance managed on the basis of this one key performance indicator alone.

Sanofi explained that its diabetes sales teams had promoted Toujeo (insulin glargine in a pre-filled pen) and Lyxumia (lixisenatide) throughout 2016. For 2017 they would promote Toujeo and Lantus (insulin glargine in a vial). Sanofi assumed that the complainant's reference to 'heritage product' referred to Lantus. In that regard representatives who were with the organisation pre-2016 would have received detailed Lantus training as they were promoting the product at this time. New joiners in 2016 completed an eLearning module on Lantus (copy provided) as part of their initial diabetes training course; this was continued despite the product not being promoted. All new joiners from 2017 onwards would receive Lantus training when they joined the organisation; this would consist of the same eLearning module as above plus face-to-face training during their initial diabetes training course. A copy of the agenda for this training was provided. In addition, an optional Lantus refresher training session was provided for the sales force in February 2017 and an agenda for this was provided; a copy of the pre-reading for attendees at this training was provided. This training was provided by teleconference/webinar and attended by 40 members of the sales force. Sanofi concluded that, based on its investigation, it did not consider that its current process for incentivising and performance managing its sales team was inappropriate or likely to lead to action which would breach the Code. Whilst call rates were used as part of the performance management process they did not have any impact on the attainment or level of the representative's bonus payments. Sanofi denied any breach of Clauses 9.1, 15.1, 15.4 and 15.9.

PANEL RULING

The Panel noted that the complainant was anonymous. The Constitution and Procedure for the Prescription Medicines Code of Practice Authority stated that anonymous complaints would be accepted but that like all other complaints, the complainant had the burden of proving his/her complaint on the balance of probabilities. All complaints were judged on the evidence provided by the parties.

The Panel noted that the anonymous complainant appeared to be an employee of Sanofi. There appeared to be a difference of opinion between the complainant and the company regarding the number of targets for representatives. The complainant referred to the range as being between 30 to 120 whereas Sanofi stated that this was higher and wider in both secondary care and primary care.

The Panel noted that according to the redacted email provided by the complainant, the number of actual contacts per day was described as being well below the national level but accepted due to the number of new people and representatives were to deliver the higher expected call rate. The Panel considered that it was beholden on companies to make sure that such contact rates were placed within the context of the requirements of the Code. In addition, it would be helpful if representatives were given guidance and training on how such increased contact rates could be achieved.

The Panel examined the materials provided by Sanofi. The representatives' training (dated January 2016) gave the sales force key performance indicators (KPIs) and stated 'Contacts per day: […] (contacts equalled 'calls and meetings in accordance with ABPI requirements'). It further stated that the average frequency assumed the average number of times a customer was seen in 2016. Each of the 2 pages which discussed KPIs bore the following statement in contrasting black font: 'Provision must be taken in accordance with Clause 15.4 … whereby no more than 3 unsolicited faces-to-faces calls can be made per annum. If the limit were reached with no offer of request to revisit or attendance at a group meeting this customer may no longer be visited in 2016'. This latter statement also appeared on two pages of the representatives' training for 2017.

The Panel noted the average frequency of contacts per annum for 2016 ranged between 10 and 5 by account type. The company did not define the difference between calls and contacts. Comparable information did not appear in the 2017 training material which referred to a coverage and frequency percentage.

The Panel considered that there was a range in the number of target customers and an expectation that the representatives would focus on these. Although Sanofi had not defined the difference between calls and contacts in the materials they were clear that there were limitations on unsolicited calls in the ABPI Code. In relation to call rates, the Panel did not consider that the complainant had shown, on the balance of probabilities, that representatives had over called on health professionals. The Panel ruled no breach of Clause 15.4. With regard to the briefing material, although the 2016 and 2017 training material might have been clearer, including a definition of certain terms, the Panel did not consider that either advocated a course of action that was likely to lead to a breach of the Code with regard to calls on health professionals. No breach of Clause 15.9 was ruled.

The Panel noted the briefing email provided by the representative and dated 16 January 2017. It

referred to, *inter alia*, delivery of the KPI of the expected call rate on target customers per day and a minimum frequency of 8 contacts with hospital doctors and nurses. The Panel noted its comments above about the need to make the requirements of the Code clear. This was particularly important when discussing an increased daily contact rate. The email was silent about the relevant requirements of the Code and in the Panel's view could not rely on the representatives' training material in this regard. A breach of Clause 15.9 was ruled.

With regard to the complainant's allegation that training had not been provided for the heritage product, the Panel noted that the relevant product had not been named by the complainant. Sanofi assumed the heritage product was Lantus and had provided details about the training provided on that product. The Panel considered that in the circumstances the complainant had not proved his/her complaint on the balance of probabilities. The Panel therefore ruled no breach of Clause 15.1.

Noting its ruling of a breach of Clause 15.9 in relation to the email the Panel considered that Sanofi had failed to maintain high standards and therefore ruled a breach of Clause 9.1.

Complaint received **22 March 2017**

Case completed **14 July 2017**