

ANONYMOUS v BRISTOL-MYERS SQUIBB

Colour of inverted triangle

An anonymous, non-contactable complainant complained about the incorrect colour of the inverted triangle used by Bristol-Myers Squibb Pharmaceuticals Limited on its 'Current products' website page. The complainant stated that the website had been recently certified with the date of preparation listed as May 2018 and the inverted triangle had been used 6 times and none with the correct black colour.

The detailed response from Bristol-Myers Squibb is given below.

The Panel noted that Bristol-Myers Squibb had immediately removed the webpage when it was informed of the complaint as four triangles on the webpage were dark navy and a further two were dark grey.

The Panel noted Bristol-Myers Squibb's submission that the website in question was a publicly visible, non-promotional, UK corporate website. The Panel considered that the complainant had not established that the website was promotional and required the black inverted triangle symbol thus no breach of the Code was ruled.

The Panel noted that contrary to Bristol-Myers Squibb's view, it was not only promotional material that required the inclusion of a black triangle. The Panel noted that in addition, the inverted black triangle symbol needed to be included on material which related to a medicine which was subject to additional monitoring and which was intended for a patient taking that medicine.

The webpage in question included the medicine name and links to the electronic Medicines Compendium to enable the visitor to view the relevant summary of product characteristics (SPC) or patient information leaflet (PIL). In the Panel's view, the inverted black triangle was a well-known and established symbol. Its appropriate use was an important part of medicines regulation. Thus, in the Panel's view failure to publish the triangle in the correct colour was, at the very least, inappropriate and might potentially cause confusion. This was a serious matter. The Panel ruled that high standards had not been maintained in breach of the Code.

An anonymous, non-contactable complainant complained about the colour of the inverted triangle used by Bristol-Myers Squibb Pharmaceuticals Limited on its 'Current products' website page (URL <https://www.bms.com/gb/our-medicines.html>).

COMPLAINT

The complainant stated that the website (ref MLTUK1701479-04) had been recently certified with the date of preparation listed as May 2018. The complainant alleged that Bristol-Myers Squibb's UK website displayed the inverted triangle in incorrect colours for the relevant

medicines. The triangle appeared in a shade of navy blue four times and in grey twice on the 'Current products' website page. Thus, the inverted triangle had been used 6 times on the webpage and none with the correct black colour.

The complainant submitted that the company should have maintained better oversight of the content of the website through the approval process and that high standards had not been maintained.

The complainant stated that the appropriate use of the black triangle was an important part of medicines regulation. Thus, the failure to publish the triangle in the correct colour on the website, at the very least was inappropriate and might potentially cause confusion.

When writing to Bristol-Myers Squibb, the Authority asked it to consider the requirements of Clauses 4.10 and 9.1.

RESPONSE

Bristol-Myers Squibb stated that the website in question was a publicly visible, non-promotional, UK corporate website, intended and approved for a UK audience only.

As identified by the complainant, the website included a page which listed Bristol-Myers Squibb's UK current marketed products. The page was certified as a non-promotional item on 3 May 2018 and the entire corporate website went live on 15 May. A copy of the approval certificate was provided.

Bristol-Myers Squibb noted that Clause 4.10 stated that, when required by the licensing authority, all promotional material must show an inverted black equilateral triangle to denote that additional monitoring was required in relation to adverse events. It was decided to include the black triangle symbol on the webpage at issue on the relevant products in the spirit of transparency, to indicate the monitoring requirements of those products even though there was no requirement under the Code to do so. The page included the medicine name and links to the electronic Medicines Compendium to enable the visitor to view the relevant summary of product characteristics (SPC) or patient information leaflet (PIL).

The complainant correctly highlighted that four triangles on the page were dark navy and a further two were dark grey, which appeared next to statements explaining what the symbol indicated. Bristol-Myers Squibb was grateful to the complainant for noting this. Bristol-Myers Squibb noted that on 11 June 2018 when it was informed of the complaint, it immediately removed the page at issue from the corporate website.

Bristol-Myers Squibb acknowledged that the triangles should be black and this was an oversight on its part. However, it denied a breach of Clause 4.10 which specifically related to promotional material. The page referred to by the complainant was not promotional in nature or intent and therefore the colour of the triangles was not subject to that specific clause requirement, which remained an important distinction.

Bristol-Myers Squibb stated that it was fully committed to compliance with the Code and denied any breach of Clause 9.1. The proposed corporate website page was checked and certified as a non promotional item. The working website was also checked for appearance and functionality before being published. The triangles were a very dark navy and dark grey in colour. On some screens, depending on screen and software, the triangles appeared black.

They also appeared black on screen to those involved in checking it. However, Bristol-Myers Squibb accepted that it was a mistake on its part that they were not black.

Bristol-Myers Squibb reiterated that on first being notified about the issue, it pulled the page from the website. The company did not therefore believe that it had failed to maintain high standards in that respect.

PANEL RULING

The Panel noted that Clause 4.10 stated that when required by the licensing authority, all promotional material must show an inverted black equilateral triangle to denote that additional monitoring was required in relation to adverse reactions. The Panel noted that Bristol-Myers Squibb had immediately removed the webpage at issue from the corporate website when it was informed of the complaint as the complainant had correctly highlighted that four triangles on the webpage were dark navy and a further two were dark grey.

The Panel noted Bristol-Myers Squibb's submission that the website in question was a publicly visible, non-promotional, UK corporate website. The Panel noted that Clause 4.10 only required a black triangle to be included on promotional material and considered that the complainant had not established that the website was promotional and thus no breach of Clause 4.10 of the Code was ruled.

The Panel noted Bristol-Myers Squibb's submission that it had decided to include the black triangle symbol on the webpage at issue on the relevant products' section in the spirit of transparency, to indicate the monitoring requirements of those products even though it considered that there was no requirement under the Code to do so. That was not so. The Panel noted that contrary to Bristol-Myers Squibb's view, it was not only promotional material that required the inclusion of a black triangle. The Panel noted that in addition, Clause 26.3 required the inverted black triangle symbol to be included on material which related to a medicine which was subject to additional monitoring and which was intended for a patient taking that medicine. The Panel noted that Clause 26.3 had not been raised by the case preparation manager and thus considered the matter in relation to Clause 9.1 of the Code.

The webpage in question included the medicine name and links to the electronic Medicines Compendium to enable the visitor to view the relevant summary of product characteristics (SPC) or patient information leaflet (PIL). In the Panel's view, the inverted black triangle was a well-known and established symbol. Its appropriate use was an important part of medicines regulation. Thus, in the Panel's view failure to publish the triangle in the correct colour was, at the very least, inappropriate and might potentially cause confusion. This was a serious matter. The Panel considered that high standards had not been maintained. A breach of Clause 9.1 was ruled.

Complaint received **8 June 2018**

Case completed **15 August 2018**