

# COMPLAINANT v LILLY

## Rheumatology website

A complainant who described him/herself as a concerned UK health professional complained about the Eli Lilly rheumatology website ([www.lillyrheumatology.co.uk](http://www.lillyrheumatology.co.uk)) stating that it was unclear whether the site was promotional or a resource for health professionals. On reaching the website the complainant confirmed that he/she was a health professional and initially the content appeared to focus on congresses and medical educational activities. However, under the 'our products' tab there was information on Olumiant (baricitinib) and Taltz (ixekizumab). There were no statements that this was a promotional site, and there was no link to prescribing information.

The complainant stated that Olumiant did not have a black triangle, although one was later evident on its own page. The complainant further alleged that on the 'our products' page Olumiant incorrectly had a grey triangle rather than a black one.

The complainant noted that throughout the website there were mechanisms to share links and content with others via email. The complainant referred to three examples and alleged that it was not clear to the recipient that the resultant email had been crafted by Lilly and led to a promotional website.

The complainant noted that the guidelines on how to use Lilly's twitter feed did not appear to have been updated since October 2016.

The detailed response from Lilly appears below.

With regard to the allegation that there was no statement to inform the user that the website was promotional, the Panel noted that the first page of the site following confirmation of the user as a UK health professional was the homepage which, *inter alia*, invited the reader to view highlights of a scientific conference in the education centre and a rheumatoid arthritis survey in the 'Our Projects' section. The Panel noted that the top of the webpage featured the Lilly logo and the tabs 'Home', 'About Lilly', 'Our projects', 'Our products', 'Education Centre' and 'Contact Us'. The Panel noted Lilly's submission that the website contained information about Lilly's products and was therefore promotional.

The Panel noted that the Code did not require promotional material to be labelled as such, however, it must not be disguised and the identity of the responsible pharmaceutical company must be obvious from the outset. Context was important. The Panel considered that although the website contained a variety of information, including general disease information etc, it would, nonetheless, be sufficiently clear to health professionals who accessed this website that it was a Lilly website and

that it was promotional. The Panel did not consider that the complainant had established, on the balance of probabilities, that the promotional nature of the website was disguised, and no breach of the Code was ruled.

The Panel noted Lilly's submission that if visitors clicked through to read about Lilly's products, every page had a prominent link to the prescribing information. Links to the summary of product characteristics (SPCs) and prescribing information for Olumiant and Taltz were included on the relevant pages of the 'Our Products' section of the website. The Panel considered that the links to the prescribing information in the 'Our Products' section met the requirements of the Code and ruled no breach was ruled.

The Panel noted that the complainant had not stated upon which webpage Olumiant did not have a black triangle. On digital material the Code required the black triangle symbol to be located adjacent to the first mention of the product as that was likely to be considered the most prominent display of the name of the product. The Panel considered that it was not possible to identify from the complaint, nor from Lilly's response, which mention of Olumiant on the website the complainant had referred to. The complainant bore the burden of proof and had not clearly identified the subject matter of the complaint. The Panel therefore ruled no breach of the Code.

The Panel noted the complainant's allegation that Olumiant did not have a black triangle but a grey one in the 'Our Products' pages. The complainant had not provided a screenshot of the webpage in question. In the Panel's view, based on the printed webpages provided by Lilly, the inverted triangle on the 'Our Products' pages did not appear grey as alleged and no breach of the Code was ruled in this regard.

With regard to the sharing content from the site with others via email, the Panel noted that in the three examples cited by the complainant the URL links from the emails in question referred to Lilly. However, an email about congress highlights made no mention of Lilly in the subject line nor in the email text. The Panel considered that it was not sufficiently clear to recipients of those emails that Lilly had created the email template for one health professional to send to another. In the Panel's view, Lilly's involvement in facilitating health professionals to share content from its rheumatology website would not be sufficiently clear to email recipients and it considered that Lilly had failed to maintain high standards in this regard. A breach of the Code was ruled.

The Panel noted Lilly's submission that the emails in question provided links to non-promotional content;

**the company had, however, acknowledged that the website was a promotional website. The Panel noted Lilly's submission that recipients of the email who clicked on the links would first go to a self-declaration page before viewing any content. The Panel noted its comments above that promotional material did not need to be labelled as such, however, it must not be disguised, and the identity of the responsible pharmaceutical company must be obvious at the outset. The Panel noted that the self-declaration page featured the Lilly logo and referred to information for health professionals. In the Panel's view, the complainant had not proved, on the balance of probabilities, that the material accessed from the emails in question constituted disguised promotion and no breach of the Code was ruled.**

**With regard to the allegation that the guidelines on how to use Lilly's twitter feed had not been updated since 2016, the Panel noted Lilly's submission that the guidelines contained administrative instructions unrelated to any of Lilly's products. It was certified as a non-promotional item on first use to demonstrate that it had been through a rigorous approval process, however, Lilly considered that re-certification was not required by the Code.**

**The Panel noted that the Code required material which was still in use to be re-certified at intervals of no more than two years to ensure that it continued to conform with the relevant regulations relating to advertising and the Code. The twitter guidelines in question did not refer to a Lilly medicine. The Panel noted that the guidelines were certified on 1 November 2016 and that the complaint was received on 4 November 2018. The Panel noted Lilly's submission that the guidelines were accurate at the date of the complaint. Whilst the Panel was concerned about the ongoing oversight of the guidelines, it did not consider that the complainant had provided evidence that the guidelines constituted promotional material that required re-certification under the Code. No breach was ruled.**

A complainant who described him/herself as a concerned UK health professional complained about the Eli Lilly rheumatology website [www.lillyrheumatology.co.uk](http://www.lillyrheumatology.co.uk).

## **COMPLAINT**

The complainant stated that he/she was not sure if the website was a promotional website for Lilly's products or whether it was a resource for health professionals. On reaching the website at issue the complainant confirmed that he/she was a health professional. The website did not state it was promotional, and initially it appeared to focus on congresses and medical educational activities. However, under the 'our products' tab there was information for Lilly's two products Olumiant (baricitinib) and Taltz (ixekizumab). There were no statements that this was a promotional site, and there was no link visible to prescribing information.

The complainant stated that Olumiant did not have a black triangle, although one was later evident on its own page. The complainant further alleged

that on the 'our products' page (<https://www.lillyrheumatology.co.uk/ourproducts>), Olumiant incorrectly had a grey triangle rather than a black one.

The complainant noted that throughout the website there were mechanisms to share links and content with others. For example, a link on a particular webpage created an email with the subject 'Discover Lilly Rheumatology on Social Media' with the content of the message 'Click this link to discover the value of social media in healthcare [link stated]'. Another webpage similarly created an email with the subject line 'Who is Lilly in Rheumatology?' and the content 'Click this link to find out more about Lilly's heritage [link stated]'. Further, the congress highlights page created an email that had the subject Congress Highlights with Click here to watch and download video highlights from the key rheumatology congresses [link stated]'. The complainant alleged that in none of these cases was it clear to the recipient that the email had been crafted by Lilly and was leading them to a promotional website.

The complainant noted that there were guidelines on how to use Lilly's twitter feed, but they were very old and did not appear to have been updated since October 2016.

When writing to Lilly, the Authority asked it to consider the requirements of Clauses 4.6, 4.10, 9.1, 12.1 and 14.5 of the Code.

## **RESPONSE**

Lilly stated that its website contained a variety of content about rheumatoid arthritis, event highlights, Lilly's investment in the therapy area and its licensed medicines. It was very clear from the outset that this was a Lilly website that contained information about Lilly products and was therefore a promotional website. There was no restriction in the Code to providing high quality educational content in promotional material, and no requirement to label promotional material as such. Lilly did not accept that the material at issue breached Clauses 12.1 or 9.1 of the Code.

Lilly stated that to view the content, visitors had to self-certify that they were health professionals, otherwise they were directed to a section of the site suitable for members of the public. Every section of the website was presented transparently and no content was visible to readers until they had certified their status.

Lilly explained that if visitors clicked through to read about Lilly's products, every page of content had a prominent link to the prescribing information and to the relevant summary of product characteristics (SPC). Copies of downloaded pages were provided. Lilly submitted that the website complied with Clause 4.6.

Lilly stated that it took patient safety extremely seriously. A black triangle was included at the first and most prominent reference to the brand name on each content page as a reminder that the product

was subject to further monitoring. Lilly submitted that the position, size and colour of the triangle was consistent with the Code, and compliant with Clause 4.10.

Lilly submitted that the functionality on the website to email other health professionals with links to non-promotional content was presented as a simple tool for health professionals to use if they chose to. Clicking on the link generated a template email to be sent from one health professional to another. The recipient received an email from their colleague with a link. If he/she clicked on the link then (as a first time visitor to the website) they were taken to the self-declaration page before viewing any content. None of the email, the self-declaration page or the linked content were promotional or disguised.

Lilly stated that the Twitter user guidelines (copy provided) contained administrative instructions unrelated to any of Lilly's products, which it had certified as a non-promotional item on first use. This was done in order to record in Zinc that the guidelines had been through a rigorous approval process, and PMCPA guidance had recognised that companies' certification practices might go further than required by Clause 14 of the Code. The guidelines were accurate at the date of the complaint, and did not require recertification under the Code.

Following a request for further information, Lilly submitted that there was a prominent link to the SPC and prescribing information on the Taltz webpage (copy provided). Following a further request for information, Lilly supplied additional pages from the website at issue, including the homepage, the webpages that would generate the email templates referred to by the complainant, and content from the congress highlights webpages including the video transcripts.

## PANEL RULING

The Panel noted that Clause 12.1 stated that promotional material and activities must not be disguised.

The Panel noted the complainant's allegation that the website initially appeared to focus on congresses and medical educational activities and there was no statement to inform the user that the website was promotional.

The Panel noted that, according to Lilly, before viewing website content, users would be presented with a self-declaration page featuring the Lilly logo. The self-declaration page had two options: information for UK health professionals, and information for patients prescribed Lilly rheumatology products/members of the public. The Panel noted that the first page of the site following confirmation of the user as a UK health professional was the homepage which referred, *inter alia*, to a named scientific conference and invited the reader to view highlights in the education centre, and a rheumatoid arthritis survey in the 'Our Projects' section. The Panel noted that the top of the webpage

featured the Lilly logo and the tabs 'Home', 'About Lilly', 'Our projects', 'Our products', 'Education Centre' and 'Contact Us'. Lilly had submitted that the website in question contained information about Lilly's products and was therefore a promotional website.

The Panel noted that the Code did not require promotional material to be labelled as such, however, it must not be disguised and the identity of the responsible pharmaceutical company must be obvious from the outset. Context was important. The website contained a variety of information, including, general disease information, Lilly's commitment to the therapy area, scientific conference activity and information on Lilly's medicines; the different sections of the website were labelled, and each section appeared to contain Lilly's logo. Noting its comments above, the Panel considered that it would be sufficiently clear to health professionals who accessed this website that it was a Lilly website and that it was promotional. The Panel did not consider that the complainant had established, on the balance of probabilities, that the promotional nature of the website was disguised, and no breach of Clause 12.1 was ruled.

The Panel noted the complainant's allegation that there was no visible link to prescribing information. Clause 4.6 required that promotional material on the internet must contain a clear prominent statement as to where the prescribing information can be found. Lilly submitted that should visitors click through to read about Lilly's products, every page of content had a prominent link to the prescribing information. The Panel noted that each Olumiant webpage in the 'Our Products' section contained links to the summary of product characteristics (SPC) and prescribing information and that the 'Our products' section included information about Taltz, including links to its SPC and prescribing information. The Panel considered that the links to the prescribing information in the 'Our Products' section met the requirements of the Code and ruled no breach of Clause 4.6.

The Panel noted the complainant's allegation 'Olumiant does not have a black triangle, although one is later evident on its own page'. It was not clear to the Panel from either party as to which webpage the complainant had referred. 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 events. The supplementary information stated that for digital communications the black triangle symbol should be located adjacent to the first mention of the product as this was likely to be considered the most prominent display of the name of the product. As the complainant bore the burden of proof and had not clearly identified the subject matter of the complaint, the Panel ruled no breach of Clause 4.10.

The Panel noted the complainant's allegation that Olumiant did not have a black triangle but a grey one in the 'Our Products' pages. The complainant

had not provided a screenshot of the webpage in question. In the Panel's view, based on the printed webpages provided by Lilly, the inverted triangle on the 'Our Products' pages did not appear grey as alleged and no breach of Clause 4.10 was ruled in this regard.

The Panel noted the complainant's allegation that throughout the website there were mechanisms for users to share links and content with others. The Panel noted that the complainant referred to three examples and alleged that in none of these cases was it clear to the recipient that the email had been crafted by Lilly and was leading the reader to a promotional website.

The Panel noted Lilly's submission that the website provided functionality and aided a health professional to share content from the site with others. The congress highlights webpage featured an email icon with the text 'share by email'. The email template featured 'Congress Highlights' in the subject line and the body of the email stated 'Click here to watch and download video highlights from the key rheumatology congresses' with a URL link to the congress highlights section of the Lilly rheumatology website. The Panel noted that the 'Social Feeds' and 'Heritage' webpages in the 'About Lilly' section also featured email icons with the text 'share by email'. The email templates generated from these icons included the subject lines 'Who is Lilly in Rheumatology' and 'Discover Lilly Rheumatology on Social Media'. The content of the email templates stated: 'Click this link to find out more about Lilly's heritage' and 'Click this link to discover the value of social media in healthcare', respectively.

The Panel noted that the URL links from the emails in question referred to Lilly. However, the congress highlights email did not refer to Lilly in either the subject line or in the email text. The Panel considered that it was not sufficiently clear to recipients of those emails that Lilly had created the email template for one health professional to send to another. In the Panel's view, Lilly's involvement in facilitating health professionals to share content from its rheumatology website would not be sufficiently clear to email recipients and it considered that Lilly had failed to maintain high standards in this regard. A breach of Clause 9.1 was ruled.

The Panel noted Lilly's submission that the emails in question provided links to non-promotional content. In the Panel's view, whilst the webpages accessed from the URL links in question did not appear to mention a Lilly medicine, the Lilly Rheumatology website contained promotional content about Lilly medicines, and was therefore a promotional website, as acknowledged by Lilly. The Panel noted Lilly's

submission that recipients of the email who clicked on the URL links would first go to a self-declaration page before viewing any content. The Panel noted its comments above that promotional material did not need to be labelled as such, however, it must not be disguised, and the identity of the responsible pharmaceutical company must be obvious at the outset. The self-declaration page featured the Lilly logo and referred to information for health professionals. In the Panel's view, the complainant had not proved, on the balance of probabilities, that the material accessed from the emails in question constituted disguised promotion and no breach of Clause 12.1 was ruled.

In response to the complainant's allegation that guidelines on how to use Lilly's Twitter feed did not appear to have been updated since 2016, Lilly had submitted that the guidelines contained administrative instructions unrelated to any of its products; it was certified as a non-promotional item on first use to demonstrate that it had been through a rigorous approval process, however, Lilly considered that re-certification was not required by the Code.

Clause 14.5 stated that material which was still in use must be re-certified at intervals of no more than two years to ensure that it continued to conform with the relevant regulations relating to advertising and the Code. The Panel noted that the Twitter guidelines in question did not refer to a Lilly medicine, however, there was information directed towards patients which requested them not to use Lilly's social media channels to report side effects; alternative channels for reporting side effects were provided. The terms and conditions stated, *inter alia*, '... please do not communicate with us on our medicines' and that Lilly reserved the right not to respond to communications that named any medicine. The Panel noted that the guidelines were certified on 1 November 2016 and that the complaint was received on 4 November 2018; Lilly had submitted that the guidelines were accurate at the date of the complaint. Whilst the Panel was concerned about the ongoing oversight of the guidelines, it did not consider that the complainant had provided evidence that the guidelines constituted promotional material that required re-certification under Clause 14.1 or educational material for the public or patients which related to diseases or medicines which required re-certification under Clause 14.3. In that regard, the Panel therefore ruled no breach of Clause 14.5.

**Complaint received** **4 November 2018**

**Case completed** **24 May 2019**