CASE AUTH/3336/4/20 ***NO BREACH OF THE CODE***

ANONYMOUS v BIO PRODUCTS LABORATORY

Articles about an unlicensed medicine in the lay press

An anonymous complainant, who described him/herself as a consultant intensivist working at an NHS trust, complained about a series of statements made by Bio Products Laboratory which had appeared on-line in the Daily Mail (20 April 2020) and The Telegraph (22 April 2020) about its unlicensed 'hyperimmune' product for the treatment of coronavirus/Covid-19.

The complainant was concerned that the Bio Products Laboratory statements were not only highly speculative but also misleading. To the best of his/her knowledge, the potential new 'hyperimmune' product for the prophylactic management of coronavirus infection was yet to be manufactured and to be tested in clinical trials. Only then would it be subjected to regulatory scrutiny before a marketing authorization was issued. The complainant queried whether Bio Products Laboratory had started to promote its new 'hyperimmune' product in the absence of clinical efficacy, safety and tolerability data and a marketing authorisation? The complainant added that he/she was seriously concerned that the product was already being promoted to the general public potentially raising false hopes. This was particularly worrisome since the biology of the virus and the subsequent development of Covid-19 were yet to be fully elucidated.

In confirming his/her status as a health professional, the complainant further noted that a LinkedIn posting about the Daily Mail article, promoted unlicensed medicines and an unlicensed indication to the public. Furthermore, it made a claim as to the benefit/risk profile of the product using the word 'safe' without qualification. Any statements on side effects must be consistent with the summary of product characteristics (SPC) (but there was not one!), accurate, balanced, fair, objective, up to date, unambiguous, not misleading and capable of substantiation, which was not the case with the Bio Products Laboratory posting.

The complainant also added that choice of the word 'jab' in the Daily Mail article was misleading as 'jab' was an ambiguous word that could be perceived as 'vaccination' by the general public.

The detailed response from Bio Products Laboratory is given below.

The Panel noted that the articles in question referred to the work Bio Products Laboratory was doing in relation to the pandemic and its specialism. Each press article referred to antibody research and the need for more work, including clinical trials. The complainant referred to the two press articles and an employee's comment on Bio Products' LinkedIn post which linked to the two articles.

The Panel noted that whilst no specific product was mentioned within the Daily Mail or The Telegraph articles or the employee's comment on the LinkedIn post in question, the

company's potential antibody therapy 'hyperimmune shots' was referred to in the Daily Mail and The Telegraph articles. It was clear that no such product was available yet and thus Bio Products Laboratory did not have a prescription only medicine available at the time and on this very narrow technical point, the Panel ruled no breaches of the Code.

The Panel noted Bio Products Laboratory's submission that the journalists had approached the company and no transcripts of either interview was available and no written statements were provided to the Daily Mail. The Panel did not know exactly what had been said during the interviews. The company had not commented on the accuracy or otherwise of the articles in the Daily Mail or The Telegraph. On the evidence provided it appeared to the Panel that Bio Products Laboratory had set the potential availability of 'hyperimmunes' within the context of an aim to be manufacturing them once standards had been agreed. Further it was clear that more research was needed. On balance, the Panel did not consider that at the time of the publication of the Telegraph article Bio Products Laboratory had misled readers and ruled no breach of the Code in relation to The Telegraph article.

The Panel did not consider that the statement within the Daily Mail article attributed to the first Bio Products Laboratory employee was misleading with regard to the availability of its hyperimmune product as alleged; it was clear that further work was needed. The Panel ruled no breach of the Code in relation to the Daily Mail article.

The Panel noted Bio Products Laboratory's submission that although the complainant assumed that the first employee had used the word 'jab' to describe hyperimmune shots, he did not. According to the Daily Mail article, the first employee was quoted as describing an intramuscular injection of a hyperimmune, it appeared that it was the author of the Daily Mail article who chose how to describe the shot as this was not in quotes. The Panel further noted that the Daily Mail article referred to the first employee's statement that it could be given to frontline healthcare workers to provide protection against coronavirus until a vaccine became available. The Panel did not consider that it had been misleadingly implied that Bio Products Laboratory's hyperimmune was a vaccine as alleged and no breach of the Code was ruled.

In addition, the Panel did not agree with the complainant that the comments about possible products from Bio Products Laboratory would give the public false hope as alleged; it was clear that further work was needed in relation to Bio Products' potential hyperimmune treatment. The Panel therefore ruled no breach of the Code.
In the Panel's view, it was not necessarily unacceptable for a company to refer in general terms to its pipeline products or work it was doing in response to the current pandemic on its corporate accounts. However, language, context, location, layout, intended audience and overall impression were important factors. The Panel noted its comments and rulings above about the articles shared via a LinkedIn post by Bio Products Laboratory. The Panel did not consider that the LinkedIn comment on the post with regards to Bio Products Laboratory's work as part of the Covig-19 Plasma Alliance to develop a safe solution to help combat the Covid-19 pandemic was misleading or described a specific Bio Products Laboratory medicine as being safe or promoted an unlicensed medicine to the public as alleged and therefore ruled no breaches of the Code.

The Panel noted its comments and rulings above and ruled no breaches of the Code.

An anonymous complainant, who described him/herself as a consultant intensivist working at an NHS trust in England, complained about a series of statements made by Bio Products Laboratory which had appeared on-line in the Daily Mail (20 April 2020) and The Telegraph (22 April 2020) about its unlicensed 'hyperimmune' product for the treatment of coronavirus/Covid-19. The complainant provided a link to each article and also an extract from each.

The article in the Daily Mail was headlined 'Can Coronavirus victims' blood plasma save lives? Straw-coloured fluid packed with antibodies may be key to saving critically ill patients'. The extract provided by the complainant read:

> 'They will take longer to develop, but several companies, including Bio Products Laboratory, a Hertfordshire-based company that makes medicines from plasma, are already working on them. Identifying the right antibodies to include in the recipe will be key but a jab could be available by September, says [name and job title] at Bio Products Laboratory. 'It could be given to frontline healthcare workers to provide protection against coronavirus until a vaccine becomes available,'.

The Telegraph article was headlined 'UK research on Covid-19 treatment using survivors' blood "going at snail's pace"'. The extract provided by the complainant read:

> 'The next most sophisticated antibody therapy is so-called "hyperimmune" shots, which concentrate the antibodies from a transfusion into a small quantity that can be stored in a phial and administered in an injection rather than through an IV drip - saving time and effort in hospitals. Britain has a single hyperimmune production facility, run by Bio Products Laboratory (BPL) at Elstree, Hertfordshire.
>
> Injection of hope
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> [name and job title], says that such injections have two purposes. "One, if you're a struggling patient, then immediately you get the injection, you have antibodies fighting the infection. What we're hoping is that will reduce the number of people going into ICU. Two, you could regularly inject frontline health workers. So they're always carrying antibodies in a prophylactic way". He says the Elstree factory, which currently processes 400 litres of plasma a week, could produce such hyperimmune shots by the end of July. "I'd like to be bringing something out in three months," […] said. He emphasised that such hyperimmunes are "not vaccines, they are a stop gap" and would not be ready to treat patients in the current "first peak" of the disease. "But I've seen predictions of six or more peaks in the next 12 months – we need to have a more effective holding position for then."'

COMPLAINT

The complainant submitted that as an NHS doctor, he/she was concerned that the Bio Products Laboratory statements were not only highly speculative but also misleading. To the best of his/her knowledge, the potential new 'hyperimmune' product for the prophylactic management of coronavirus infection was yet to be manufactured and to be tested in clinical trials. Only then would it be subjected to regulatory scrutiny before a marketing authorization was issued. The complainant queried whether Bio Products Laboratory had started to promote its new 'hyperimmune' product in the absence of clinical efficacy, safety and tolerability data and a

marketing authorisation? The complainant added that he/she was seriously concerned that the product was already being promoted to the general public potentially raising false hopes. This was particularly worrisome since the biology of the virus and the subsequent development of Covid-19 were yet to be fully elucidated.

In confirming his/her status as a health professional, the complainant further noted that a LinkedIn posting about the Daily Mail article, posted by a second named employee, promoted unlicensed medicines and an unlicensed indication to the public. Furthermore, it made a claim as to the benefit/risk profile of the product using the word 'safe' without qualification. Any statements on side effects must be consistent with the summary of product characteristics (SPC) (but there was not one!), accurate, balanced, fair, objective, up to date, unambiguous, not misleading and capable of substantiation, which was not the case with the Bio Products Laboratory posting.

The complainant also added that choice of the word 'jab' in the Daily Mail article was misleading as 'jab' was an ambiguous word that could be perceived as 'vaccination' by the general public.

The additional matters raised by the complainant were added to the complaint.

When writing to Bio Products Laboratory, the Authority asked it to consider the requirements of Clauses 2, 7.2, 9.1, 26.1 and 26.2.

RESPONSE

Bio Products Laboratory stated that it was fully committed to compliance with the Code and applicable laws and regulations. It believed in the industry's system of self-regulation and valued the Code as a useful source of guidance.

As an initial matter, Bio Products Laboratory noted that it had deleted the posts on LinkedIn that linked to the Daily Mail and The Telegraph articles and the employee's comment . Although Bio Products Laboratory considered that its employees' statements to the Daily Mail and The Telegraph, its posts linking to the Daily Mail and The Telegraph articles, and the employee's comment on LinkedIn, were consistent with the Code, Bio Products Laboratory wanted to avoid any potential for confusion.

Interviews with Daily Mail and The Telegraph

Bio Products Laboratory explained that it was separately contacted by the Daily Mail and The Telegraph; the company did not solicit either inquiry.

The Daily Mail emailed the company on 8 April 2020 with a request:

> 'I am writing a piece for the Mail's health features section about the various medical uses of blood plasma.
>
> The "hook" is coronavirus but after looking into it I can see that there are so many other uses. I wondered if you have an expert who can talk me through what it is and why it is so useful, as well as some (non-coronavirus) examples of how it is used? I know your website cites three main areas: immunology, coagulation

> disorders and critical care and it would be great to find out more about each of these.
> Any help you can give will be fantastic.'

Bio Products Laboratory subsequently made a named employee available to the Daily Mail because he was best situated to discuss blood plasma therapies generally.

The Daily Mail published its article, 'Can coronavirus victims' blood plasma save lives? Straw-coloured fluid packed with antibodies may be key to saving critically ill patients' on 20 April 2020. The article described how medicines derived from human plasma worked, discussed prior clinical trials evaluating the use of plasma to treat SARS and MERS, described ongoing studies involving direct transfusions of plasma from individuals recovering from Covid-19 (ie, convalescent plasma), and finally described how a hyperimmune for Covid-19 could work with reference to the use of hyperimmunes to treat other infectious diseases such as rabies and tetanus. The article was approximately 1300 words long and included one statement attributed to the named employee and one sentence that purported to quote him. The employee was not consulted on the final copy for the Daily Mail article.

A special correspondent from The Telegraph first emailed Bio Products Laboratory on 20 April with a request:

> 'Given the global interest in convalescent plasma treatment, I am writing an article for the Telegraph about the issue, notably the hyperimmune collaboration which you are a part of. I am hoping to speak to an executive to hear more about this initiative. Do let me know who might be available. I won't take long and I am keen to ensure I get a good level of expert input before proceeding with the piece.'

Bio Products Laboratory made another named employee, available to The Telegraph because he was a company representative to the steering committee for the CoVIg-19 plasma alliance, the alliance referenced by The Telegraph in its initial inquiry (the 'Alliance'). The company also provided materials which related to the Alliance.

The Telegraph published the article, 'UK research on Covid-19 treatment using survivors' blood 'going at snail's pace' on 22 April 2020 (copy provided). The approximately 1300-word article described the role of antibodies in fighting viruses and describing the view of a Nobel prize winning scientist and an international society regarding the potential of convalescent plasma, the goals of ongoing trials involving direct transfusion of convalescent plasma, and the potential for hyperimmunes as another form of antibody therapy. This article included four paragraphs attributing statements or quotations to the second employee who was not consulted on the final text for the article.

No written statements were provided to the Daily Mail, and no transcripts were available of either of the interviews.

Professional Status of LinkedIn followers/contacts

Bio Products Laboratory stated that its LinkedIn page was not intended as a vehicle to communicate with health professionals or patients about its medicines. The LinkedIn page had just over 3,000 followers who appeared to be primarily employees, potential employees and individuals interested in the plasma industry. The company's posts, reflecting this audience,

highlighted individual contributions, employee events, new starters, job announcements, relevant disease awareness events, and more recently news stories relating to Covid-19. The central purpose of the company's LinkedIn page was to raise the company's profile as an employer and key member of the plasma industry.

The contacts of the second employee included primarily present and former colleagues. To the employee's knowledge, none of his contacts were doctors (other than colleagues and former colleagues) or individuals taking medicines made by Bio Products Laboratory.

Clause 2

Bio Products Laboratory submitted that its activities to support the development of a hyperimmune to treat Covid-19 did not bring discredit to the pharmaceutical industry and there was no basis for a ruling of a breach of Clause 2.

The Covid-19 pandemic presented an extraordinary challenge from a public health perspective and required the pharmaceutical industry to be innovative and nimble and for all potential medical solutions to be investigated. The Alliance represented a great example of collaboration that had the potential to accelerate the development and production of a hyperimmune product, and the company fully supported the goals of the Alliance.

PMCPA repeatedly stated that Clause 2 was reserved for cases of particular censure. Indeed, the PMCPA had not found a breach of Clause 2 in any of the completed cases involving postings on LinkedIn. This case should be no different. Bio Products Laboratory submitted that it had not advertised, promoted, or provided information about any of its medicines. The first employee had provided background information about blood therapies generally. The second employee had provided information about the company's capacity to produce a hyperimmune in the course of an interview about the Alliance. Bio Products Laboratory had done exactly what the pharmaceutical industry should do at a time like this - provide background information to ensure that media articles were informed and collaborate to accelerate the development of solutions. These were not the types of actions that should give rise to sanctions under Clause 2.

Clause 9.1

Bio Products Laboratory submitted that it had maintained high standards and there was no basis for ruling a breach of Clause 9.1.

The company stated it was proud of the role it was playing in addressing the threat that Covid-19 presented. The company was operating 51 plasma collection centers in the US, and those centers had recently begun to collect convalescent plasma. In the UK its production facility was producing essential medicines for use by those with immune and bleeding disorders and in critical care settings. The company was working with the UK Government and the Alliance in an effort to accelerate the development of solutions that leveraged blood plasma.

As stated above, the responses to the Daily Mail and The Telegraph respectively were factual, balanced and not intended to encourage discussion of hyperimmunes by patients with their doctors. The employees merely responded to requests for background for articles in major national newspapers.

The company submitted that its posts, in which no specific Bio Products Laboratory product was mentioned, were similar to the tweet at issue in Case AUTH/3167/2/19 where the PMCPA found no breach on all counts. This was not like cases where a company posted a link to a press release or described results from a study of a specific branded medicine. The company had described hyperimmunes generally, its capacity to produce a hyperimmune, and its participation in the Alliance. Both interviews were prompted by unsolicited contacts through a general email address for the company, and neither interview related to its products. Moreover, to the extent that The Telegraph article was viewed as relating to a Bio Products Laboratory hyperimmune product, the second employee was clear that hyperimmunes were not vaccines and would not be ready to treat patients in the current first peak of the disease. The July 2020 date reflected Bio Products Laboratory's aspiration and aligned with the anticipated start of the National Institutes of Health (NIH)-funded clinical trial in which the Alliance's hyperimmune would be tested against other hyperimmune products. In short, when viewed in context with The Telegraph article, it was clear that the LinkedIn post merely described the company's readiness to help at this time of extraordinary and urgent need.

Bio Products Laboratory believed that the second employee's comment was likewise appropriate, despite use of the word 'safe' for several reasons. Firstly, the comment did not refer to any Bio Products Laboratory medicine, reference was made to a medicine that the Covig-19 Plasma Alliance was seeking to develop. Secondly, the employee did not characterize the hyperimmune as safe. He/she described the aim of the Alliance to *develop* a safe medicine. The company appreciated the risks associated with describing medicines as safe, but this was not one of those situations; the second employee had merely described the aim of all clinical research.

Clause 7.2

Bio Products Laboratory submitted that neither its answers to the questions from the Daily Mail and The Telegraph, nor its posts were misleading and as such it denied a breach of Clause 7.2.

The statements criticized by the complainant were not made in isolation and should be viewed in context. The Daily Mail and The Telegraph articles presented valuable perspectives on the ongoing search for medicines that could help address the threat of Covid-19. The articles took great care to describe the role of antibodies, the role of plasma-based therapies, and, in the case of The Telegraph article, the slow pace of research to evaluate whether plasma-based therapies could play a role in the current fight with Covid-19. The articles quoted Nobel prize winners and other experts; they did not refer to any medicine by name. The articles referred only to categories of medicines, particular antibodies that had been identified, and the potential of plasma-based medicines. Notably, the statements attributed to the first employee appeared in one paragraph of an approximately 1300-word article written by the Daily Mail, and the statements attributed to the second employee appeared in only four paragraphs of a similar length article from The Telegraph.

Bio Products Laboratory stated that it was important to focus on the actual words. The second employee described that Bio Products Laboratory *could produce* hyperimmune shots by July and the '*aim for BPL to be manufacturing* [hyperimmune shots] by the end of July 2020'. These comments were made in the course of providing background on the Alliance and knowing that the NIH-funded clinical trial, including the Alliance's hyperimmune product, was scheduled to begin this summer. It was made clear that hyperimmunes were not vaccines and that hyperimmunes would not be available during the 'first peak'. The Alliance's goal was described

to produce a hyperimmune 'once standards are agreed'. Viewed together, it was clear that Bio Products Laboratory had described its readiness to help; it had not promised the availability of a Bio Products Laboratory hyperimmune.

The company noted that although the complainant assumed that the first employee had used the word 'jab' to describe hyperimmune shots, that was not so he/she described an intramuscular injection of a hyperimmune, it was the author of the Daily Mail article who chose how to describe the shot.

When viewed in context, it was clear that neither the employees nor the company had provided misleading information about a Bio Products Laboratory medicine or hyperimmunes generally.

Clause 26.1

The company stated that it had not advertised a prescription-only Bio Products Laboratory medicine and as such there was no breach of Clause 26.1.

The employees were interviewed in connection with articles that related to plasma-based medicines generally. The article in the Daily Mail described how plasma-derived medicines worked, discussed prior clinical trials evaluating the use of plasma to treat SARS and MERS, described ongoing studies involving direct transfusions of convalescent plasma and finally described how a hyperimmune for Covid-19 could work with reference to the use of hyperimmunes to treat other infectious diseases such as rabies and tetanus. The Telegraph described the role of antibodies in fighting viruses and gave the view of a Nobel prize winning scientist and an international society about the potential of convalescent plasma, the goals of ongoing trials involving direct transfusion of convalescent plasma and the potential for hyperimmunes as another form of antibody therapy.

Neither the articles nor the posts sought to encourage a conversation between a doctor and patient about a Bio Products Laboratory hyperimmune. The statements attributed to the first employee described the administration of a hyperimmune through intramuscular injection in the context of the different approaches that were being considered. The statements attributed to the second employee and the LinkedIn post from Bio Products Laboratory about the article in The Telegraph focussed on the production timeline for a potential hyperimmune. The second employee's comment on LinkedIn referred to the research and development related goal of the Alliance.

As in Case AUTH/3167/2/19, there was no direct or indirect reference to a specific Bio Products Laboratory medicine in either newspaper article, the posts from Bio Products Laboratory regarding those articles or the comment by the second employee.

Clause 26.2

Bio Products Laboratory did not agree that it had raised unfounded hopes or presented information that was misleading about the safety of a Bio Products Laboratory product. Accordingly, the company denied a breach of Clause 26.2.

When the articles in the Daily Mail and The Telegraph were read in full, it was clear that a hyperimmune globulin product had the potential to be one option but that much work remained to be done before such a medicine could be available. Indeed, the point of The Telegraph

article was that research was not going as quickly as it could. This was the context in which the second employee described the aspiration for the company to be manufacturing by July 2020. This did not promise either availability or that hyperimmunes were a solution to the Covid-19 pandemic. It merely described the company's readiness to help.

The interviews with the newspapers were not solicited by the company and were not intended to uncover specific information about its products. Bio Products Laboratory responded to unsolicited requests from major national newspapers seeking background for stories related to blood plasma-based therapies and, in the case of The Telegraph interview, the activities of the Alliance, including its planned initiation of a clinical trial to evaluate a hyperimmune starting in the summer of 2020.

This was not a situation where a manufacturer had encouraged the public to ask their doctor about a medicine that was pending approval or had been recently approved. This was another situation where the PMCPA could and should look to Case AUTH/3167/2/19 as precedent for concluding that no breach had occurred.

Conclusion

Bio Products Laboratory submitted that it had not intended to promote or otherwise provide information about any of its medicines when it responded to the Daily Mail's and The Telegraph's requests for comments and shared those articles. The company had only provided background for articles that related to plasma-based therapies and highlighted the steps it had taken to fight, and the company's readiness to help with the fight, against Covid-19. The company regretted that the complainant thought its comments and posts were inappropriate, and it had removed those posts to avoid any confusion. The company denied any breach of the Code.

PANEL RULING

The Panel noted that the articles in question referred to the work Bio Products Laboratory was doing in relation to the pandemic and its specialism. Each press article referred to antibody research and the need for more work, including clinical trials. The Telegraph article referred to the global alliance of plasma suppliers to pool knowledge and manufacturing capabilities. Understandably there would be much interest in the work being done by pharmaceutical companies and others to investigate possible treatments for Covid-19. However, companies must ensure that materials and activities complied with the Code.

The complainant referred to the two press articles and an employee's comment on Bio Products' LinkedIn post which linked to the two articles. The Panel noted that Clause 26.1 prohibited the promotion of prescription only medicines to the public. Clause 26.2 stated that information about prescription only medicines which was made available either directly or indirectly to the public must be factual, presented in a balanced way, must not raise unfounded hopes of successful treatment and must not encourage members of the public to ask their health professional to prescribe a specific prescription only medicine.

The Panel noted that whilst no specific product was mentioned within the Daily Mail or The Telegraph articles or the comment on the LinkedIn post in question, the company's potential antibody therapy 'hyperimmune shots' was referred to in the Daily Mail and The Telegraph articles. It was clear that no such product was available yet and thus Bio Products Laboratory

did not have a prescription only medicine available at the time. There was no prescription only medicine at the time of publication of the articles in the Daily Mail or The Telegraph or when the LinkedIn post or the employee's comment upon it were published. Clauses 26.1 and 26.2 only applied to prescription only medicines. On this very narrow technical point, the Panel ruled no breach of Clauses 26.1 and 26.2 of the Code.

Clause 7.2 stated that information, claims and comparisons must be accurate, balanced, fair, objective and unambiguous and must be based on an up-to-date evaluation of all the evidence and reflect that evidence clearly. They must not mislead either directly or by implication, by distortion, exaggeration, or undue emphasis.

The Panel then considered the content of the Daily Mail article, The Telegraph article and the LinkedIn post and the employees comment in question in relation to the requirements of Clause 7.2.

The Panel noted that The Telegraph article described transfusions of blood plasma from patients who had recovered at least 28 days before, purifying it and giving it back to patients currently fighting the disease, hoping the boost in antibodies would help them and referred to ongoing trials to establish the concentration, or tier of antibodies required to make the most difference. The article then referred to the next most sophisticated antibody therapy, 'hyperimmune' injections, which concentrated the antibodies from a transfusion into a small quantity that could be stored in a phial and administered in an injection rather than through an IV drip – saving time and effort in hospitals. The article explained that Britain had a single hyperimmune production facility, run by Bio Products Laboratory at Elstree, Hertfordshire.

The Panel noted that the second employee's comments reported in The Telegraph article included that:

> 'such injections have two purposes. "One, if you're a struggling patient, then immediately you get the injection, you have antibodies fighting the infection. What we're hoping is that will reduce the number of people going into ICU. Two, you could regularly inject frontline health workers. So they're always carrying antibodies in a prophylactic way."
>
> He says the Elstree factory, which currently processes 400 litres of plasma a week, could produce such hyperimmune shots by the end of July. "I'd like to be bringing something out in three months," … said. He emphasised that such hyperimmunes are "not vaccines, they are a stop gap" and would not be ready to treat patients in the current "first peak" of the disease.'

The Panel noted the company's submission that the July 2020 date reflected Bio Products Laboratory's aspiration and aligned with the anticipated start of the NIH-funded clinical trial in which the Alliance's hyperimmune would be tested against other hyperimmune products.

The Panel noted that The Telegraph article did not mention that the July 2020 date reflected Bio Products Laboratory's aspiration although the quotation referred to by the complainant included 'I'd like to be bringing something out in three months' and a further comment from the second employee reported in the article stated:

> ‘But currently [BPL] is part of an unprecedented global alliance of six major plasma suppliers to pool knowledge and manufacturing capabilities to produce enough hyperimmunes once standards are agreed.’

The Panel noted that The Telegraph article referred to research on Covid-19 treatment using antibodies from survivors’ blood not going as quickly as it could.

The Panel noted Bio Products Laboratory’s submission that the journalists had approached the company and no transcript of the interview was available. The Panel did not know exactly what had been said by the second employee during his interview with The Telegraph. The company had not commented on the accuracy or otherwise of the articles in the Daily Mail or The Telegraph. The Panel noted that the LinkedIn post on Bio Products Laboratory’s corporate account stated ‘BPL’S […] comments on “hyperimmune” shots and the aim for BPL to be manufacturing them by the end of July 2020’ before providing links to The Telegraph and Daily Mail articles. On the evidence provided it appeared to the Panel that Bio Products Laboratory had set the potential availability of ‘hyperimmunes’ within the context of an aim to be manufacturing them once standards had been agreed. Further it was clear that more research was needed. On balance, the Panel did not consider that at the time of the publication of the article Bio Products Laboratory had misled readers and ruled no breach of Clause 7.2 in relation to The Telegraph article.

The Panel noted that the Daily Mail article stated:

> ‘The UK is gearing up to start trials — with experts predicting the first patients could be treated within a fortnight. NHS Blood and Transplant (NHSBT) is starting to collect plasma from people who have recovered from the virus and says it is working hard to get the green light to use it in trials to determine whether it improves patients’ speed of recovery and chances of survival.’

The Daily Mail article referred to the possibility of blood plasma saving lives and included other references for the need for further work with the UK preparing to start trials. The Panel noted that the above was in relation to plasma containing antibodies but the article further stated that in relation to this treatment:

> ‘it’s unclear when the best time is to collect plasma from donors, how much to give patients and at what point to give it. Also collecting and infusing enough plasma to treat large numbers of patients would be a huge challenge.’

The article referred to another option which was not infusing patients with whole plasma but just the specific antibodies that protected against coronavirus. The article stated:

> ‘Concentrated in high amounts, they should be more powerful and could be given in an injection that took a few seconds, rather than via a lengthy infusion. These treatments, known as hyperimmune immunoglobulins, could also potentially be made in large quantities and stored in hospitals, for use when needed.’

The article explained that they would take longer to develop, but several companies, including Bio Products Laboratory, a Hertfordshire-based company that made medicines from plasma, were already working on them.

The Panel noted that the Daily Mail article attributed the following statement to the first employee:

> ‘Identifying the right antibodies to include in the recipe will be key but a jab could be available by September, says […] at Bio Products Laboratory. “It could be given to frontline healthcare workers to provide protection against coronavirus until a vaccine becomes available”, he adds.’

The Panel noted Bio Products Laboratory’s submission that no written statements were provided to the Daily Mail, and no transcript of the interview was available. The Panel did not consider that the statement within the Daily Mail article attributed to the Bio Products Laboratory employee was misleading with regard to the availability of its hyperimmune product as alleged; it was clear that further work was needed. The Panel ruled no breach of Clause 7.2 in relation to the Daily Mail article.

The Panel noted Bio Products Laboratory’s submission that although the complainant assumed that the first employee had used the word ‘jab’ to describe hyperimmune shots, he did not. According to the Daily Mail article, the first employee was quoted as describing an intramuscular injection of a hyperimmune, it appeared that it was the author of the Daily Mail article who chose how to describe the shot as this was not in quotes. The Panel further noted that the Daily Mail article referred to the first employee’s statement that it could be given to frontline healthcare workers to provide protection against coronavirus until a vaccine became available. The Panel did not consider that the first employee had misleadingly implied that Bio Products Laboratory’s hyperimmune was a vaccine as alleged and no breach of Clause 7.2 was ruled.

In addition, the Panel did not agree with the complainant that the comments about possible products from Bio Products Laboratory would give the public false hope as alleged; it was clear that further work was needed in relation to Bio Products’ potential hyperimmune treatment. The Panel therefore ruled no breach of Clause 9.1.

The Panel note that the LinkedIn comment by the second employee that appeared below the LinkedIn post sharing the two articles on the company’s corporate LinkedIn account stated:

> ‘BPL is proud to be part of the Covig-19 Plasma Alliance. We are all working together, with partners and regulators, to collect convalescent plasma, develop a safe medicine and to start manufacturing as quickly as possible. We aim to provide one solution (out of the many which are needed) to help to combat the Covid-19 pandemic’.

In the Panel’s view, it was not necessarily unacceptable for a company to refer in general terms to its pipeline products or work it was doing in response to the current pandemic on its corporate accounts. However, language, context, location, layout, intended audience and overall impression were important factors. The Panel noted its comments and rulings above about the articles shared via a LinkedIn post by Bio Products Laboratory. The Panel did not consider that the LinkedIn comment on the post with regards to Bio Products Laboratory’s work as part of the Covig-19 Plasma Alliance to develop a safe solution to help combat the Covid-19 pandemic was misleading or described a specific Bio Products Laboratory medicine as being safe or promoted an unlicensed medicine to the public as alleged and therefore ruled no breach of Clauses 7.2 and 9.1.

The Panel noted its comments and rulings above and ruled no breach of Clauses 9.1 and 2.

Complaint received **23 April 2020**

Case completed **7 January 2021**