

COMPLAINANT v PFIZER

Alleged promotion of Covid-19 vaccine on LinkedIn

A complainant who described him/herself as a concerned member of the general public, complained about the use of LinkedIn by Pfizer UK Ltd to promote its Covid-19 vaccine. The complainant referred in particular to a LinkedIn post which read 'So proud of the whole Pfizer team. What an amazing achievement #vaccines #proud'.

The complainant stated that Pfizer UK employees had been all over social media praising their company on the rapid approval by the Medicines and Healthcare products Regulatory Agency (MHRA). The complainant referred to the congratulatory posting described above from a named senior UK employee and noted that it was linked to a BBC article entitled 'Covid-19: Pfizer/BioNTech vaccine judged safe for use in UK' (photograph of linked article provided). The complainant alleged that use of the word 'safe' in the linked article, in reference to the Pfizer/BioNTech vaccine, was in breach of the Code. The complainant also alleged further breaches of the Code to be considered. The detailed response from Pfizer is given below.

The Panel noted Pfizer's submission that the LinkedIn material was created by a senior UK employee who had around 900 professional contacts in his/her LinkedIn account, approximately 10% of whom were health professionals. The Panel considered that the employee's contacts thus included health professionals and members of the public. The LinkedIn post contained a link to a BBC news article entitled 'Covid-19: Pfizer/BioNTech vaccine judged safe for use in UK'. The Panel considered that the senior employee had effectively created his/her own material about the Pfizer/BioNTech vaccine for which the company would be held responsible under the Code but noted Pfizer's submission that neither the content of the LinkedIn post, nor the article to which it linked had been certified by the company for distribution in the UK.

The Panel noted that the BBC news article stated in its unqualified headline that the Pfizer/BioNTech vaccine had been judged 'safe' for use in UK. In that regard the Panel noted that the Code required pharmaceutical companies not to use the word 'safe' without qualification. A breach of the Code was ruled.

The Panel considered that the LinkedIn post was clearly promotional; it was a positive message about a Pfizer medicine being shared by a senior Pfizer employee. The Panel did not consider that the promotional nature of the material was disguised and so no breach of the Code was ruled.

The Panel noted that whilst the Pfizer/BioNTech vaccine had been granted a temporary authorisation to permit its supply, the vaccine had not been granted a marketing authorisation and so had not been legally classified as a prescription only medicine. The Panel noted that Clause 26.1 only applied to prescription only medicines; the

Pfizer/BioNTech vaccine had not been classified as such and so, on that very narrow technical point, the Panel did not consider that a prescription only medicine had been advertised to the public and no breach of the Code was ruled.

The Panel noted that Pfizer had a UK Social Media Policy dated December 2019 which stated that for all social media activity, the audience should be considered as the general public. It was also stated that any direct or indirect reference to, or link to information about licensed or unlicensed medicines (Pfizer or non-Pfizer medicines) must be avoided. The Panel thus considered that the instructions to staff were clear and unambiguous. The senior employee who created the LinkedIn post completed training on the policy in November 2019. The Panel noted Pfizer's submission that the senior employee had made an error of judgement. The LinkedIn post had been removed eight days after it was posted.

The Panel considered that it appeared that the senior employee had acted in breach of company policy and training resulting in the uncertified promotion of the vaccine on social media prior to the grant of its marketing authorisation. High standards had not been maintained and a breach of the Code was ruled.

The Panel noted its comments and rulings above and considered that a senior employee placing an uncertified promotional post on his/her personal LinkedIn account which linked to an article describing the vaccine in question as safe, meant that Pfizer had brought discredit upon, and reduced confidence in, the pharmaceutical industry; a breach of the Code was ruled.

A complainant who described him/herself as a concerned member of the general public, complained about the use of LinkedIn by Pfizer UK Ltd to promote its Covid-19 vaccine. The complainant referred in particular to a LinkedIn post which read 'So proud of the whole Pfizer team. What an amazing achievement #vaccines #proud'.

COMPLAINT

The complainant stated that Pfizer UK employees had been all over social media praising their company on the rapid approval by the Medicines and Healthcare products Regulatory Agency (MHRA). The complainant referred to the congratulatory posting described above from a named senior UK employee and noted that it was linked to a BBC article entitled 'Covid-19: Pfizer/BioNTech vaccine judged safe for use in UK' (photograph of linked article provided). The complainant alleged that use of the word 'safe' in the linked article, in reference to the Pfizer/BioNTech vaccine, was in breach of Clauses 7.9 and 7.10 of the Code. The complainant also alleged breaches of Clauses 9.1 and 2 and suggested that Clauses 12.1 and 26.1 should also be considered.

The complainant stated that it would appear that the vaccine was to be administered to patients in the UK as soon as the following week and would appreciate if the matter was dealt with as a priority.

When writing to Pfizer, the Authority asked it to consider the requirements of Clauses 2, 7.9, 7.10, 9.1, 12.1 and 26.1 of the Code.

RESPONSE

Pfizer explained that the LinkedIn post at issue was posted on 2 December 2020 by an individual colleague, via his/her personal LinkedIn account. The post stated 'So proud of the whole Pfizer team. What an amazing achievement' and contained a link to a BBC news article entitled 'Covid-19: Pfizer/BioNTech vaccine judged safe for use in UK' (copy provided). Neither the content of the post, nor the article that it linked to were certified by Pfizer for distribution in the UK.

The person who posted the material on LinkedIn had around 900 professional contacts in his/her LinkedIn account, approximately 10% of which were health professionals; he/she removed the post and linked article from the LinkedIn site on 10 December 2020.

Pfizer explained that on 2 December 2020, the Pfizer/BioNTech vaccine was granted temporary authorisation in the UK by the MHRA under Regulation 174 of the Human Medicines Regulation 2012. This permitted the supply of identified Covid-19 mRNA Vaccine BNT162b2 batches, based on the safety, quality and efficacy data submitted by Pfizer/BioNTech to MHRA between 1 October and 2 December 2020. That authorisation was not a marketing authorisation and consequently no summary of product characteristics (SPC) was currently available. Instead information for prescribers was supplied via Regulation 174 Information for Health Professionals. All available batches of the vaccine were supplied directly to the UK Government for distribution as part of the national vaccination campaign implemented according to the criteria set by the Joint Committee on Vaccination and Immunisation (JCVI). There was currently no private or other supply of the vaccine in the UK.

Pfizer stated that it provided comprehensive guidance and training to colleagues on personal use of social media in relation to Pfizer business. Pfizer UK's policy on individuals' use of social media was set out in its 'Social Media Policy for Pfizer UK Colleagues and Contingent Workers 01-Dec-2019' (copy provided). In summary the policy stated the following in relation to interacting with social media related to Pfizer business:

- If colleagues wished to interact with social media content related to Pfizer business, they must first disclose their association with Pfizer
- Colleagues might 'like', share or comment on any content published by a Pfizer UK owned social media account
- Colleagues must not interact with any content posted by Pfizer organisations based outside the UK
- Colleagues might 'like', share or comment on posts about Pfizer from third parties, as long as the content did not directly or indirectly reference (or link to) information on licensed or unlicensed medicines
- If writing a comment or post related to Pfizer business, colleagues must not reference or link to information on licensed or unlicensed medicines.

Pfizer stated that all UK colleagues received online training on that policy via Pfizer's global training system. Training was only considered complete when the colleague had answered all knowledge check questions correctly. The colleague whose LinkedIn post was now at issue, completed the training with a score of 100% in November 2019. A one-page summary of the policy was also available to colleagues to support day-to-day implementation. Regular reminders of the key policy points were included in any written and verbal briefings on topics on which colleagues might consider interacting with social media.

On 2 December 2020 Pfizer UK issued an internal briefing informing colleagues that the Pfizer-BioNTech Covid vaccine had received temporary authorisation from the MHRA. The bulletin included relevant questions and answers related to the temporary authorisation and concluded with a section reminding colleagues of the key elements of the UK Social Media policy that would be particularly relevant at that time.

Since receiving this complaint, Pfizer had also developed a Covid-19/vaccines specific version of its one-page social media policy summary. This was made available to colleagues on 7 January 2021 with the aim of providing further support and clarity on implementation of Pfizer's social media policy in the current environment.

Pfizer stated that the LinkedIn post at issue was not consistent with its policy on individual colleague use of social media as the post provided a direct link to an article containing information on a Pfizer medicine. The colleague that issued the LinkedIn post had played a significant role in the work that led to the temporary authorisation and supply of the Pfizer/BioNTech vaccine in the UK; his/her intention was to share his/her pride in the achievement of that key milestone in the UK's response to the current public health crisis, with his/her professional LinkedIn network and he/she did not intend to share specific information about the vaccine by doing that. The colleague made an error of judgement in his/her assessment of the appropriateness of the post and the linked article under the Pfizer social media policy. Whilst the post and its linked content were not consistent with Pfizer's policy, Pfizer did not consider that they breached the Code as detailed below.

With regard to Clause 7.9, Pfizer stated that it recognised the important restrictions around the use of the term 'safe' in all of its materials. The term 'safe' was used in the shared BBC article in the context of the MHRA's assessment that the Pfizer/BioNTech vaccine met the strict standards of safety, efficacy and quality required for temporary authorisation of supply. The BBC news article reported that and stated 'Pfizer/BioNTech vaccine judged safe for use in UK' and 'Britain's medicines regulator, the MHRA, said the jab, which offered 95% protection against Covid-19 illness, was safe to be rolled out'. In that regard, the article did not refer to the vaccine as being safe *per se*, and Pfizer considered that 'safe' was used with appropriate qualification. Furthermore, the article did not state that the vaccine had no adverse reactions and instead quoted the chair of the Commission on Human Medicine expert working group who stated at the Downing Street Coronavirus Data Briefing on 2 December 2020 that 'the safety of the vaccine was similar to other vaccines and most of the side effects were very mild and usually last for a day or so'. That was reported in the BBC news article as "Most of the side effects are very mild, similar to the side effects after any other vaccine and usually last for a day or so" said the chair of the Commission on Human Medicine expert working group'. That statement could be substantiated by the information contained in Section 4.8, Undesirable Effects, of the Regulation 174 Information for Health Professionals on Pfizer/BioNTech COVID-19 vaccine. Pfizer stated that it thus did not consider that the use of the term 'safe' in the BBC news article, shared by the Pfizer colleague, represented a breach of Clause 7.9.

With regard to Clause 7.10, Pfizer stated that the linked BBC news article did not exaggerate any property of the Pfizer/BioNTech vaccine. It objectively reported the news that the vaccine had received temporary authorisation for supply in the UK. The article particularly focused on the logistics of implementing the national immunisation programme including highlighting some of the challenges that the Pfizer/BioNTech vaccine's cold storage requirements posed. It briefly mentioned the vaccine's posology and efficacy data presented in Sections 4.2 - Posology and method of administration and 5.1 - Pharmacodynamic properties, of the Regulation 174

Information for Health Professionals. This was balanced with the quotation about expected side effects from the chair of the Commission on Human Medicine expert working group, 'Most of the side effects are very mild, similar to the side effects after any other vaccine and usually last for a day or so'. That statement was substantiated by the information contained in Section 4.8, Undesirable Effects, of the Regulation 174 Information for Health Professionals. The article also referred to other vaccines that were in use or likely to be authorised soon. The article presented a balanced and considered overview of the information available on the date of publication. It did not make any exaggerated, all-embracing claims about the vaccine and no superlatives were used to describe it. The information provided about the vaccine in the article could be robustly substantiated and as such Pfizer did not believe that it represented a breach of Clause 7.10.

Pfizer stated that in line with the requirements of its personal use social media policy, the colleague had clearly identified his/her association with the company in his/her LinkedIn profile. Anyone who viewed the post would see a prominent statement detailing the colleague's role within Pfizer before accessing the link that had been shared. Anyone viewing the post would clearly see that the article being shared was about a Pfizer medicine and was being shared by a Pfizer employee. In that regard Pfizer did not believe that the post was disguised, and it therefore denied a breach of Clause 12.1.

With regard to Clause 26.1, Pfizer noted that the colleague shared the BBC news article on the LinkedIn professional networking site. Whilst the colleague's LinkedIn contacts were not limited to health professionals and other relevant decision makers, they were connections that had been made through working in healthcare and the pharmaceutical industry and as such were all likely to have a professional interest in the information.

Pfizer stated that whilst Clause 26.1 did not specifically define the term 'advertising' it understood that the relevant elements of the definition of 'promotion' set out in Clause 1.2 of the Code should be considered ie 'any activity undertaken by a pharmaceutical company or with its authority which promoted the administration, consumption, prescription, purchase, recommendation, sale, supply or use of its medicine.' As such, activity that influenced 'consumption', 'purchase' or 'use of a Pfizer medicine' by a member of the public might be considered relevant to the prohibition on advertising a prescription medicine to the public. Given that the information contained in the shared BBC news article was widely available via many channels and the fact that the vaccine could only be purchased by central Government for administration according to the strict criteria determined by the JCVI, it was difficult to see how sharing the BBC news article could impact the consumption, purchase, or use of the vaccine by a member of the public. As the colleague's LinkedIn post made clear, the purpose in sharing the article was to share his/her pride in the fact that the MHRA had granted a temporary authorisation. For those reasons, Pfizer did not consider that the sharing of the BBC news article by a Pfizer colleague represented a breach of Clause 26.1.

Pfizer noted that it had comprehensive policies and training in place covering colleagues' personal use of social media in relation to Pfizer business, and in that regard the company considered that it had maintained high standards as required by Clause 9.1. On this occasion a colleague made an error of judgement in the application of company policy due to the exceptional and unprecedented circumstances of the temporary authorisation of the vaccine in the global pandemic. The colleague's post was transparent with regards his/her association with Pfizer and the information shared was accurate, balanced and did not make any inappropriate or exaggerated claims about the safety or efficacy of the vaccine. Given the

arrangement in the UK for the central supply and administration of the vaccine by the Government, Pfizer did not consider that the colleague's post was able to promote the administration, consumption, prescription, purchase, recommendation, sale, supply or use of the vaccine to either health professionals or members of the public. Pfizer stated that it did, however, recognise the concerns associated with this error of judgement and had issued an additional briefing on its social media policy as applied to vaccines to supplement the comprehensive existing policy, resources and training. Pfizer stated that it did not consider that this situation had brought discredit upon, or reduced confidence in the industry and the company therefore denied a breach of Clause 2.

PANEL RULING

The Panel noted that LinkedIn was different to some other social media platforms in that it was a business and employment-orientated network and was primarily, although not exclusively, associated with an individual's professional heritage and current employment and interests; its application was not limited to the pharmaceutical industry or to health care. In the Panel's view, it was of course not unacceptable for company employees to use personal LinkedIn accounts; the Code would not automatically apply to all activity on a personal account. The Panel noted that compliance challenges arose when the personal use of social media by pharmaceutical company employees overlapped with their professional responsibilities or the interests of the company. The Panel noted that material could be disseminated or highlighted by an individual on LinkedIn in a number of ways, by posting, sharing, commenting or 'liking'. The Panel understood that if an individual 'liked' a post it increased the likelihood that the post would appear in his/her connections' LinkedIn feeds, appearing as '[name] likes this'. In the Panel's view, activity conducted on social media that could potentially alert one's connections to the activity might be considered proactive dissemination of material. In addition, an individual's activity and associated content might appear in the individual's list of activities on his/her LinkedIn profile page which was visible to his/her connections; an individual's profile page was also potentially visible to others outside his/her network depending on the individual's security settings. Company employees should assume that such activity would therefore, potentially, be visible to both those who were health professionals or other relevant decision makers and those who were members of the public. In that regard it was imperative that they acted with extreme caution when using all social media platforms, including LinkedIn, to discuss or highlight issues which impinged on their professional role or the commercial/research interests of their company. Whether the Code applied would be determined on a case-by-case basis, taking into account all of the circumstances including, among other things, content and distribution of the material. If an employee's personal use of social media was found to be in scope of the Code, the company would be held responsible. The Panel considered that companies should assume that the Code would apply to all work-related, personal LinkedIn posts/activity by their employees unless, for very clear reasons, it could be shown otherwise. Any material associated with a social media post, for example a link within a post, would be regarded as being part of that post. Companies must have comprehensive and up to date social media policies that provide clear and unequivocal guidance on what was, and what was not, acceptable and it was extremely important that employees were trained upon them and followed them.

The Panel noted Pfizer's submission that the LinkedIn material was created by a senior UK employee who had around 900 professional contacts in his/her LinkedIn account, approximately 10% of whom were health professionals. The Panel considered that the employee's contacts thus included health professionals and members of the public. The LinkedIn post contained a link to a BBC news article entitled 'Covid-19: Pfizer/BioNTech vaccine judged safe for use in UK'. The Panel considered that the senior employee had effectively created his/her own

material about the Pfizer/BioNTech vaccine for which the company would be held responsible under the Code but noted Pfizer's submission that neither the content of the LinkedIn post, nor the article to which it linked had been certified by the company for distribution in the UK.

The Panel noted that the BBC news article stated in its unqualified headline that the Pfizer/BioNTech vaccine had been judged 'safe' for use in UK. In that regard the Panel noted that Clause 7.9 of the Code required pharmaceutical companies not to use the word 'safe' without qualification. A breach of Clause 7.9 was ruled.

The Panel noted that the complainant had alleged a breach of Clause 7.10 but had not given any reasons for that beyond the use of the word 'safe'. The Panel considered that the requirements of Clause 7.10 were different to those of Clause 7.9. Noting its ruling of a breach of Clause 7.9 above, the Panel did not consider that the complainant had discharged his/her burden of proof as to why the material at issue was additionally in breach of Clause 7.10. It was not for the Panel to make out the complainant's complaint. No breach of Clause 7.10 was ruled.

In relation to Clause 12.1 the Panel considered that the LinkedIn post was clearly promotional; it was a positive message about a Pfizer medicine being shared by a senior Pfizer employee. The Panel did not consider that the promotional nature of the material was disguised and so no breach of Clause 12.1 was ruled.

The Panel noted that whilst the Pfizer/BioNTech vaccine had been granted a temporary authorisation to permit its supply, the vaccine had not been granted a marketing authorisation and so had not been legally classified as a prescription only medicine. The Panel noted that Clause 26.1 only applied to prescription only medicines; the Pfizer/BioNTech vaccine had not been classified as such and so, on that very narrow technical point, the Panel did not consider that a prescription only medicine had been advertised to the public and no breach of Clause 26.1 was ruled.

The Panel noted that Pfizer had a UK Social Media Policy dated December 2019 which stated that for all social media activity, the audience should be considered as the general public. It was also stated that any direct or indirect reference to, or link to information about licensed or unlicensed medicines (Pfizer or non-Pfizer medicines) must be avoided. The Panel thus considered that the instructions to staff were clear and unambiguous. The senior employee who created the LinkedIn post completed training on the policy in November 2019. The Panel noted Pfizer's submission that the senior employee had made an error of judgement. The LinkedIn post had been removed eight days after it was posted.

The Panel considered that it appeared that the senior employee had acted in breach of company policy and training resulting in the uncertified promotion of the vaccine on social media prior to the grant of its marketing authorisation. High standards had not been maintained and a breach of Clause 9.1 was ruled.

The Panel noted that a ruling of a breach of Clause 2 was seen as a sign of particular censure and reserved for such and promotion prior to the grant of a marketing authorisation was an example of an activity likely to be in breach of Clause 2. The Panel noted its comments and rulings above and considered that a senior employee placing an uncertified promotional post on his/her personal LinkedIn account which linked to an article describing the vaccine in question as safe, meant that Pfizer had brought discredit upon, and reduced confidence in, the pharmaceutical industry; a breach of Clause 2 was ruled.

Complaint received **4 December 2020**

Case completed **8 June 2021**