

**CASE AUTH/3437/12/20**

## **COMPLAINANT v PFIZER**

### **Alleged promotion of Covid vaccine on LinkedIn**

**A complainant who described him/herself as a concerned UK health professional, complained about the promotion of a Covid-19 vaccine on LinkedIn by Pfizer Ltd.**

**The complainant provided a screenshot of, and a link to, a named Pfizer UK employee's personal LinkedIn account which included a LinkedIn post from a senior executive at Pfizer UK.**

**Above a photograph of someone's upper arm about to be injected with a syringe, the LinkedIn post at issue read:**

**'So proud of the whole Pfizer team. What an achievement #vaccines #proud'.**

**Beneath the photograph, the post included the statement 'Covid Pfizer vaccine approved for use next week in the UK' and appeared to link to a [bbc.co.uk](http://bbc.co.uk) article.**

**The complainant referred to promotion to the general public and noted that there appeared to be two senior figures at Pfizer who were continuing to flout the rules in a pretty blatant manner.**

**The detailed response from Pfizer is given below.**

**The Panel noted Pfizer's submission that the senior UK employee who created the LinkedIn post on his/her personal account had around 900 professional contacts, approximately 10% of whom were health professionals and the second UK employee who liked the post had around 500 professional contacts, approximately 5% of whom were health professionals. The contacts of both employees 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 first 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 Pfizer for distribution in the UK.**

**The Panel noted Pfizer's submission that the Pfizer/BioNTech vaccine was granted temporary authorisation in the UK by the MHRA on 2 December 2020 and the material at issue was posted the same day on the senior UK employees personal LinkedIn account.**

The Panel noted Pfizer's submission that given that the information contained in the shared BBC news article was widely available and as 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 the sharing of the BBC news article could have had any impact on the consumption, purchase, or use of the vaccine by a member of the public.

The Panel, however, noted the broad definition of promotion as stated in Clause 1.2; it encompassed 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 medicines.

The Panel noted that the LinkedIn post at issue referred to the approval of the Covid Pfizer vaccine for use the following week in the UK and linked to an article which stated in its headline that the vaccine had been judged 'safe' for use in the UK. In that regard the Panel noted that the Code required pharmaceutical companies not to use the word 'safe' without qualification.

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 promoted 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. It further stated that 3rd party social media related to Pfizer business which included colleague posts as an example could only be 'liked' or shared if they did not include direct or indirect reference to, or link to information about licensed or unlicensed medicines (Pfizer or non-Pfizer). 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 and the employee who 'liked' the post completed the training in October 2019. The Panel noted Pfizer's submission that the two employees had made an error of judgement and the LinkedIn activity in question had been removed following receipt of the complaint.

The Panel considered that it appeared that both employees had acted in breach of company policy and training resulting in the promotion of the vaccine prior to the grant of its marketing authorisation on LinkedIn. The Panel was particularly concerned that the person who had created the initial LinkedIn post was a senior employee. High standards had not been maintained and a breach of the Code was ruled.

The Panel considered that a senior employee placing an uncertified promotional post on his/her personal LinkedIn account which linked to an article about the company's vaccine prior to the grant of its marketing authorisation which was 'liked' by a further

**employee, meant that Pfizer had brought discredit upon and reduced confidence in the pharmaceutical industry; a breach of Clause 2 was ruled.**

A complainant who described him/herself as a concerned UK health professional, complained about the promotion of a Covid-19 vaccine on LinkedIn by Pfizer Ltd.

## **COMPLAINT**

The complainant provided a screenshot of, and a link to, a named Pfizer UK employee's personal LinkedIn account which included a LinkedIn post from a senior executive at Pfizer Vaccines UK.

Above a photograph of someone's upper arm about to be injected with a syringe, the LinkedIn post at issue read:

'So proud of the whole Pfizer team. What an achievement #vaccines #proud'.

Beneath the photograph, the post included the statement 'Covid Pfizer vaccine approved for use next week in the UK' and appeared to link to a [bbc.co.uk](http://bbc.co.uk) article.

The complainant referred to promotion to the general public and noted that there appeared to be two senior figures at Pfizer who were continuing to flout the rules in a pretty blatant manner.

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

## **RESPONSE**

Pfizer submitted that the LinkedIn post at issue was posted on 2 December 2020 by an individual colleague, via his/her personal LinkedIn account. The post contained the wording '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). The post was subsequently 'liked' by a second Pfizer colleague, but no further comments were posted by the second colleague. Neither the content of the Pfizer colleague's post, nor the article that it linked to were certified by Pfizer for distribution in the UK.

The colleague who created the original post had around 900 professional contacts in his/her LinkedIn account, approximately 10% of whom were health professionals. The second colleague had around 500 professional contacts, approximately 5% of which were health professionals. The colleague who created the original post removed the post and linked article from the LinkedIn site on 10 December 2020 which removed the post from the second colleague's activity feed.

Pfizer explained that on 2 December 2020, the Pfizer/BioNTech vaccine was granted temporary authorisation in the UK by the Medicines and Healthcare products Regulatory Agency (MHRA) under Regulation 174 of the Human Medicines Regulation 2012. That permitted the supply of identified Covid-19 mRNA Vaccine BNT162b2 batches, based on the safety, quality and efficacy data submitted by Pfizer/BioNTech to the MHRA between 1 October to 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 (copy provided). 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 available 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 individual 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.

All UK colleagues received online training on this policy via an interactive module in 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 the subject of this complaint, completed the training with a score of 100% on in November 2019. The second colleague, who 'liked' the post completed the training with a score of 100% in October 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 that colleagues might consider interacting with social media on.

On 2 December 2020 Pfizer UK issued an internal briefing informing colleagues that the Pfizer/BioNTech 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 the company's social media policy in the current environment.

The LinkedIn activity in question was not consistent with Pfizer's policy on individual colleague's use of social media as the original post provided a direct link to an article containing information about a Pfizer medicine. The intention of both colleagues was to share their pride in the achievement of the key milestone of receiving the temporary authorisation and supply of the Pfizer/BioNTech vaccine in the UK in response to the current public health crisis, with their

professional LinkedIn networks and they did not intend to share specific information about the vaccine by doing that. Both colleagues made an error of judgement in their 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 believe that they represented a breach of the Code as set out below.

The Pfizer colleagues shared and 'liked' the BBC news article on the LinkedIn professional networking site. Whilst the colleagues' 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.

Whilst Clause 26.1 of the Code did not specifically define the term 'advertising' Pfizer understood that the relevant elements of the definition of the term 'promotion' set out in Clause 1.2 of the Code should be considered. Here promotion was defined as '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 the sharing of the BBC news article could have had any impact on the consumption, purchase or use of the vaccine by a member of the public. As the colleagues' LinkedIn posts made clear, the purpose in sharing the article was to share their pride in the fact that the MHRA had granted a temporary authorisation. Pfizer thus did not believe that the sharing of the BBC news article by colleagues represented a breach of Clause 26.1.

Pfizer stated 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, it considered that it had maintained the high standards required by Clause 9.1. Two colleagues made an error of judgement in the application of company policy due to the exceptional and unprecedented circumstances of the temporary authorisation of Pfizer's vaccine in the global pandemic. The colleagues' LinkedIn accounts were transparent with regard to their 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 believe that the colleagues' actions on LinkedIn were 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 did, however, recognise the concerns associated with these two errors 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 did not believe that the situation had brought discredit upon, or reduced confidence in the industry and it therefore denied a breach of Clause 2 of the Code.

## **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 and then subsequently 'liked' by a second UK employee. The senior employee who created the original post had around 900 professional contacts in his/her LinkedIn account, approximately 10% of whom were health professionals and the second employee had around 500 professional contacts, approximately 5% of whom were health professionals. The Panel considered that the contacts of both employees 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 first 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 Pfizer for distribution in the UK.

The Panel noted Pfizer's submission that the Pfizer/BioNTech vaccine was granted temporary authorisation in the UK by the MHRA on 2 December 2020. The Panel noted Pfizer's submission that on the same day, the LinkedIn post at issue, which linked to the BBC news

article, was posted by an individual senior Pfizer employee on his/her personal LinkedIn account and was subsequently 'liked' by a second Pfizer employee.

The Panel noted Pfizer's submission that 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 the sharing of the BBC news article could have had any impact on the consumption, purchase, or use of the vaccine by a member of the public.

The Panel, however, noted the broad definition of promotion as stated in Clause 1.2; it encompassed 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 medicines.

The Panel noted that the LinkedIn post at issue referred to the approval of the Covid Pfizer vaccine for use the following week in the UK and linked to an article which stated in its headline that the vaccine had been judged 'safe' for use in the UK. In that regard the Panel noted that the Code required pharmaceutical companies not to use the word 'safe' without qualification.

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 promoted 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. It further stated that third party social media related to Pfizer business which included colleague posts as an example could only be 'liked' or shared if they did not include direct or indirect reference to, or link to information about licensed or unlicensed medicines (Pfizer or non-Pfizer). 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 and the person who 'liked' the post completed the training in October 2019. The Panel noted Pfizer's submission that the two employees had made an error of judgement and the LinkedIn activity in question had been removed following receipt of this complaint.

The Panel considered that it appeared that both employees had acted in breach of company policy and training resulting in the promotion of the vaccine prior to the grant of its marketing authorisation on LinkedIn. The Panel was particularly concerned that the person who had created the initial LinkedIn post was a senior employee. 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 about the company's vaccine prior to the grant of its marketing authorisation which was 'liked' by a further employee, 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**        **4 June 2021**