CASE AUTH/3442/12/20 ***NO BREACH OF THE CODE***

COMPLAINANT v GLAXOSMITHKLINE

Alleged promotion to the public on LinkedIn

A complainant who described him/herself as a concerned health professional complained about two LinkedIn posts by GlaxoSmithKline UK Limited.

The first post announced the start of a Phase 3 clinical trial to evaluate a candidate vaccine that if successful could help protect babies against RSV [respiratory syncytial virus] from birth thanks to maternal immunisation. The post included a photograph of a senior executive alongside the quotation 'Advancing our portfolio of RSV vaccine candidates based on robust available data is a major step towards GSK's goal of reducing RSV-associated disease burden around the world'.

The second post referred to the start of a Phase 3 clinical trial with GlaxoSmithKline and Vir Biotechnology's Covid-19 antibody treatment in hospitalised adults and invited readers to learn more about GlaxoSmithKline's contributions and solutions to the pandemic. The post included a photograph of a senior executive alongside the quotation 'With new infections and hospitalization rates reaching record highs, the world needs multiple options to help combat this pandemic. GSK is developing solutions to fight this virus, from prevention through treatment, to provide relief from COVID-related illness'.

The complainant alleged that the first post was clearly promoting GlaxoSmithKline's new product to the public before it obtained a licence. With regard to the second LinkedIn post, the complainant stated that it seemed that GlaxoSmithKline promoting to the general public was not an isolated error, but an ongoing decision.

The detailed response from GlaxoSmithKline is given below.

The Panel noted GlaxoSmithKline's submission that the LinkedIn account referred to in the complaint, was the GlaxoSmithKline corporate account which had over 2.5 million followers at the time of posting. GlaxoSmithKline noted that at the time of its response, the account had over 2.8 million followers including around 225000 from the UK.

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. However, language, context, location, layout, intended audience and overall impression were important factors.

The Panel noted that the RSV vaccine candidate referred to in the first LinkedIn post was not classified as a prescription only medicine when the LinkedIn post was made. On that very narrow technical point, the Panel ruled no breach of the Code as a prescription only medicine had not been promoted to the public.

The Panel noted GlaxoSmithKline's submission that the LinkedIn post regarding the RSV candidate vaccine was an enhanced post, with a paid campaign, which formed part of the corporate communications strategy to enhance the corporate image and reputation of the company. The paid campaign was targeted to those 25 years old or more, with an interest in science, technology, investors, science news etc in an effort to convert them to followers. It thus appeared to the Panel that the post was not restricted to followers of GlaxoSmithKline's corporate LinkedIn account.

The Panel noted GlaxoSmithKline's submission that the post announced the start of a Phase 3 trial of a candidate RSV vaccine, which by its very nature, meant the product was some considerable time from licence. The post was made, at the very best, at least 3 years before the related product could become an approved medicine. The Panel further noted GlaxoSmithKline's submission that the post contained no information related to efficacy and was clear that the candidate vaccine might not succeed as evidenced by the terms 'if successful' and 'could help'.

The Panel queried if the quote from a senior GlaxoSmithKline executive, which appeared within the LinkedIn post at issue, 'Advancing our portfolio of RSV vaccine candidates based on robust available data is a major step towards GSK's goal of reducing RSV-associated disease burden around the world' might be seen as a claim for all of the company's candidate RSV vaccines including the one entering a Phase 3 trial as referred to within the post.

However, on balance, on the evidence available and noting its comments above, the Panel did not consider that the LinkedIn post at issue promoted one of GlaxoSmithKline's unlicensed RSV candidate vaccines to the public as alleged and no breach of the Code was ruled.

With regard to the second post, the Panel noted GlaxoSmithKline's submission that providing basic factual information about the launch of a Phase 3 trial of a possible antibody treatment did not promote that potential treatment prior to licence, but simply informed the public that work was ongoing and that some progress was being made in the fight against the pandemic. GlaxoSmithKline submitted that the tone was factual and non-promotional, did not discuss efficacy results to date, the likelihood of success or the possible timelines.

The Panel further noted GlaxoSmithKline's submission that the GSK/Vir antibodies were not currently licensed for use in any disease area, so were not able to be prescribed and were only available through registered clinical trials.

The Panel noted that GlaxoSmithKline and Vir Biotechnology's Covid-19 antibody treatment was not classified as a prescription only medicine when the LinkedIn post was made. On that very narrow technical point, the Panel ruled no breach of the Code as a prescription only medicine had not been promoted to the public.

The Panel noted GlaxoSmithKline's submission that the link within the post navigated to the GlaxoSmithKline Covid-19 response page titled 'Our response to CoViD-19', which was hosted on the GlaxoSmithKline corporate website and discussed GlaxoSmithKline's collaborations with other companies relating to the pandemic. On the landing page after the introductory paragraphs, it described what adjuvants were and why they could be particularly useful in a pandemic to explain why GlaxoSmithKline were providing their

adjuvant to a number of other companies which were developing vaccines. There was nothing on this particular page about the Covid-19 antibody mentioned in the post, but there was a tab labelled 'Developing Covid-19 treatments', within which there was information about antibody therapy and top line information about GlaxoSmithKline's collaborations and investigations, and how it was looking at its asset library in this therapy area; it did not mention any trial results but aimed to reassure that GlaxoSmithKline were contributing to the global effort. There was also a third tab relating to vaccines pricing and access. GlaxoSmithKline noted that also on the landing page was a link to a complete overview of the GlaxoSmithKline response to Covid 19.

On the evidence available, the Panel did not consider that the LinkedIn post meant that GlaxoSmithKline had promoted an unlicensed medicine to the public as alleged and therefore ruled no breach of the Code.

The Panel noted its comments and rulings above and consequently ruled no breach of Clause 2.

A complainant who described him/herself as a concerned health professional complained about two LinkedIn posts by GlaxoSmithKline UK Limited. Screenshots of both posts were provided.

The first post announced the start of a Phase 3 clinical trial to evaluate a candidate vaccine that if successful could help protect babies against RSV [respiratory syncytial virus] from birth thanks to maternal immunisation. The post included a photograph of a senior executive alongside the quotation 'Advancing our portfolio of RSV vaccine candidates based on robust available data is a major step towards GSK's goal of reducing RSV-associated disease burden around the world'.

The second post referred to the start of a Phase 3 clinical trial with GlaxoSmithKline and Vir Biotechnology's Covid-19 antibody treatment in hospitalised adults and invited readers to learn more about GlaxoSmithKline's contributions and solutions to the pandemic. The post included a photograph of a senior executive alongside the quotation 'With new infections and hospitalization rates reaching record highs, the world needs multiple options to help combat this pandemic. GSK is developing solutions to fight this virus, from prevention through treatment, to provide relief from COVID-related illness'.

COMPLAINT

With regard to the first post, the complainant alleged that having posted the material, and having the post promoted by LinkedIn, GlaxoSmithKline was clearly promoting its new product to the public before it obtained a licence. With regard to the second LinkedIn post, the complainant submitted that it seemed that GlaxoSmithKline promoting to the general public was not an isolated error, but an ongoing decision.

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

RESPONSE

GlaxoSmithKline submitted that both posts formed part of the corporate reputation communications strategy to enhance the corporate image and reputation of the company with the informed public. The need for such a campaign was based on the results of market

research, conducted in 2014 and repeated most recently in 2019, which sought to determine how the UK public perceived GlaxoSmithKline as a company amongst its industry peers and how its image and reputation could be further enhanced. One of the key findings of that research was that the company should be more transparent in its research activities as well as with the various stakeholders with whom it engaged. Both of the posts related to key milestones in areas of high unmet need, showing how GlaxoSmithKline was committed to improving global health, was collaborative and was making progress.

GlaxoSmithKline noted that the first LinkedIn post related to the commencement of a Phase 3 trial for an RSV candidate vaccine but the complainant gave no arguments or evidence as to why he/she considered it was promotion to the public.

The post announced the start of a Phase 3 trial, which by its very nature, meant the product was some considerable time from licence. The trial would typically take 18 to 24 months, and a further couple of months to submit to the regulators assuming the data allowed it. From there, again if the data allowed it, any authorisation was likely to be at least another 12 to 18 months so the post was made, at the very best, at least 3 years before the related product could become an approved medicine. GlaxoSmithKline noted that Clause 26.1 prohibited advertising prescription medicines to the public. The company reiterated that the post referred to a candidate vaccine that was still in development, it was not a licensed medicine (prescription or otherwise) and, as such, could not be in breach of Clause 26.1 which related specifically to prescription only medicines. GlaxoSmithKline noted that previous cases had ruled accordingly on this narrow technical point (eg Cases AUTH/3051/6/18 and AUTH/3287/12/19).

In 2017 the World Health Organization (WHO) estimated that RSV caused around 33 million serious respiratory infections a year. This resulted in more than 3 million hospitalisations and nearly 60,000 deaths in children under 5 years of age every year. Currently there were no licensed vaccines against RSV. GlaxoSmithKline was pursuing a full portfolio of vaccines against RSV, tailored to the different age groups most at risk of infection from the virus and had three different candidate RSV vaccines. In 2016 the WHO reported there were 60 candidate RSV vaccines, with 16 being in Phases 1 – 3 (link provided).

GlaxoSmithKline submitted that the post contained no information related to efficacy and made clear that the candidate vaccine might not succeed ('if successful', 'could help'), which reinforced the fact that this was not about promotion to the public but was to improve transparency and enhance the company's corporate reputation as a vaccine producer and global health advocate. The associated quotation reinforced the GlaxoSmithKline goal of reducing RSV burden globally using robust scientific data. The purpose of the post was to enhance GlaxoSmithKline's reputation in terms of being at the forefront of scientific endeavour for the benefit of entire world, not just developed countries and to improve transparency about its research activities.

In accordance with GlaxoSmithKline policies, and to ensure high standards of Code compliance were maintained, the post was reviewed prior to publication by a registered physician who was an experienced signatory. The company denied a breach of Clause 9.1.

In light of the above, GlaxoSmithKline refuted the allegations and did not believe it had promoted a prescription medicine to the public (Clause 26.1), it had maintained high standards (Clause 9.1) and as such had not brought the industry into disrepute (Clause 2).

With regard to the Covid-19 antibody study, GlaxoSmithKline noted that the screenshot provided by the complainant related to the news that a Phase 3 clinical trial for a Covid-19 antibody treatment had started. Again, the complainant had provided no specific evidence or arguments as to why he/she considered that it promoted to the public.

Unarguably, the Covid-19 pandemic had called for exceptional responses by governments, healthcare, industry and individuals and similarly there was unparalleled public interest and desire for knowledge on progress in these areas. This was exemplified by the unprecedented nature of communications to the public about prescription and investigative medicines related to treating or preventing Covid-19. Even the UK Chief Scientific Officer, the ABPI, AstraZeneca and the Department of Health, announced the arrival of the Oxford vaccine on social media (screenshots provided), which GlaxoSmithKline believed was absolutely the right thing to do in the crisis.

GlaxoSmithKline submitted that trustworthy communications had been shown to be particularly important in this era of fake news and misinformation. Providing basic factual information about the launch of a Phase 3 trial of a possible antibody treatment did not promote that potential treatment prior to licence, but simply informed the public that work was ongoing and that some progress was being made in the fight against the pandemic. GlaxoSmithKline submitted that the tone was factual and non-promotional, did not discuss efficacy results to date, the likelihood of success or the possible timelines.

GlaxoSmithKline further noted that the LinkedIn post did not identify a particular product as it referred to 'GSK and Vir Biotechnology antibody treatment' with no mention of the specific antibody concerned (the GSK/Vir collaboration was looking at two separate antibodies for use in Covid 19; Vir 7831 and 7832) and according to GAVI, the international vaccine alliance, over 70 antibodies were currently being investigated for use in Covid-19 (link to the reference provided). Unlike some antibody treatments being investigated for Covid-19, the GSK/Vir antibodies were not currently licensed for use in any disease area, so were not able to be prescribed and were only available through registered clinical trials.

The associated photograph with a quotation from a senior executive reinforced the messaging that these were exceptional times with rising infection and hospitalisation rates, and that no one intervention would be the solution, but there was a need for multiple options. It also highlighted the GlaxoSmithKline approach to this as a worldwide problem that needed worldwide solutions which formed part of its corporate messaging. GlaxoSmithKline submitted that the purpose of the post was to enhance the image of the company and its reputation as a scientific powerhouse and collaborator by giving a basic factual update on progress in the fight against the pandemic and to increase the transparency of GlaxoSmithKline's research activities.

As the antibody was not yet a licensed medicine (prescription or otherwise), GlaxoSmithKline submitted that the post could not be in breach of Clause 26.1 which related to prescription only medicines and previous cases had ruled accordingly on this narrow technical point as mentioned above.

In accordance with GlaxoSmithKline policies and to ensure high standards of Code compliance were maintained, the post was reviewed prior to publication by a registered physician who was an experienced signatory. GlaxoSmithKline denied a breach of Clause 9.1.

In light of the above, GlaxoSmithKline refuted the allegations and did not believe it had promoted a prescription medicine to the public (Clause 26.1), had maintained high standards (Clause 9.1) and as such had not brought the industry into disrepute (Clause 2).

In response to a request for further information, including for information that had not previously been provided as requested by the case preparation manger, GlaxoSmithKline submitted that the first post referred to in the complaint (the post about RSV) had no links to any further information.

The second post referred to by the complainant, about the Covid 19 antibody study, contained a link. GlaxoSmithKline noted that the complainant did not refer to the further material in their complaint nor did they provide a screenshot of the fully opened post with the details of the link in it. However, to reassure the PMCPA and provide a full response, GlaxoSmithKline explained that the link within the post navigated to the GlaxoSmithKline Covid 19 response page which was hosted on the GlaxoSmithKline corporate website. This page (screenshot provided) discussed GlaxoSmithKline's collaborations with other companies in a factual, scientifically focused and informational tone. GlaxoSmithKline submitted that its purpose was made explicitly clear in the opening paragraphs, providing context relating to the pandemic and how GlaxoSmithKline was responding. The page was intended as an overview of the efforts GlaxoSmithKline was making and was clearly labelled as 'Our response to CoViD-19' so the reader was clear as to the purpose of the page.

GlaxoSmithKline submitted that the page provided factual information on what the company was doing to help combat the global pandemic. On the landing page after the introductory paragraphs, it described what adjuvants were and why they could be particularly useful in a pandemic to explain why GlaxoSmithKline was providing its adjuvant to a number of other companies who were developing vaccines. There was nothing on this particular page about the CoViD 19 antibody mentioned in the post, but there was a tab labelled 'Developing Covid 19 treatments' (screenshot provided) within which there was information about antibody therapy and top line information about GlaxoSmithKline's collaborations and investigations, and how it was looking at its asset library in this therapy area in a factual, balanced and non-promotional style. It did not mention any trial results but aimed to reassure that GlaxoSmithKline was contributing to the global effort. There was also a third tab relating to vaccines pricing and access.

GlaxoSmithKline noted that also on the landing page was a PDF that could be clicked on which had a complete overview of the GlaxoSmithKline response to CoViD 19. The versions of these pages that were live at the time of the complaint were provided.

According to GlaxoSmithKline, the page was part of its corporate communication strategy to demonstrate and reassure visitors that it was contributing to the global pandemic and taking its social responsibilities seriously.

GlaxoSmithKline referred to the introduction to the PMCPA Constitution and Procedure, which stated that the Authority was not an investigatory body as such. 'It is essentially an adversarial process in which the evidence taken into account comes from the complainant and respondent company'. And went on, 'A complainant has the burden of proving their complaint on the balance of probabilities'. GlaxoSmithKline stated that despite this, the Authority requested that copies of the material linked to the post were provided, yet there had been no complaint in this regard as the complainant made no mention of any concerns about the linked material. GlaxoSmithKline referred to a previous case considered by the Authority, which limited its

considerations to the social media posts themselves when no mention of concerns with the linked materials had been made (Case AUTH/2612/6/13), and GlaxoSmithKline believe the same principle should apply here. The complaint appeared to be that the post itself promoted a product before it was licensed, not that the post plus associated linked content did, as the complainant did not refer to the linked content. Therefore, GlaxoSmithKline did not believe the linked material should be taken into consideration.

GlaxoSmithKline submitted that the LinkedIn account referred to in the complaint, was the GlaxoSmithKline corporate account, not an individual's personal account, which had over 2.5 million followers at the time of posting. GlaxoSmithKline submitted that currently its LinkedIn account had over 2.8 million followers and provided demographics of the followers make up.

GlaxoSmithKline submitted that the account was managed by the global communications team and that it had robust procedures and processes in place to ensure compliance with the ABPI Code and associated regulations related to social media. The global communications team ensured that social media posts relating to diseases, medicines or assets were examined by an ABPI signatory who also determined if they needed certification (by being education for the public). In addition, GlaxoSmithKline submitted it had social media plans reviewed by Legal when considered necessary (eg when related to quarterly results).

GlaxoSmithKline submitted that a very limited number of personnel were authorised to post on social media using the corporate accounts. These limited few received enhanced training on the ABPI Code of practice by a well-established external trainer in February 2020, in addition to training from both internal and external experienced ABPI signatories. Internal processes were complied with and both these posts were examined by ABPI signatories prior to publication.

For completeness, GlaxoSmithKline included the GlaxoSmithKline Social Media Guidance for employees but this particular case related to the use of the Global Headquarters LinkedIn account, not the actions of an employee on their personal account which was what this Guidance applied to.

GlaxoSmithKline stated that the RSV posting was an enhanced post with a paid campaign. It formed part of the corporate communications strategy to enhance the corporate image and reputation of the company. GlaxoSmithKline submitted that LinkedIn had particularly opaque algorithms, and unlike some other social media platforms, publishing a post did not automatically mean all your followers would be served it in their timeline. LinkedIn look at interactions with similar posts and would determine whether or not an individual would be interested in seeing it, even though they might have opted to follow the company. GlaxoSmithKline submitted that one of the reasons for having a social media presence was to engage as many followers as possible so they could read about the company, its achievements, its ethos and potentially consider to invest in, or work for, the company. The paid campaign was targeted to those 25 years old or more, of all genders, with an interest in science, technology, investors, science news etc in an effort to convert them to followers.

GlaxoSmithKline strongly refuted the accusation that there has been an ongoing decision to promote to the public, and the complainant had not submitted any evidence or arguments to make this case apart from the screenshots provided of these two LinkedIn posts. This was the first complaint relating to the use of the Global corporate LinkedIn account. The only previous finalised case involving LinkedIn was Case AUTH/3130/12/18 which involved a contractor sharing an independently authored article in direct contravention of GlaxoSmithKline Social media guidance. Another one, Case AUTH/3482/12/20, had not yet been ruled on but also

involved third party publication of an article on LinkedIn without the knowledge or authority of GlaxoSmithKline and not a posting on the GlaxoSmithKline corporate LinkedIn account.

In Case AUTH/3230/7/19, GlaxoSmithKline was found in breach of promoting to the public via twitter, when a tweet relating to the quarterly results included the name of a prescription medicine and its indication. As a result of that ruling, GlaxoSmithKline amended the processes for review and approval of social media posts relating to financial information, retrained all relevant staff on the ABPI requirements using a highly respected external trainer in February 2020, and had further training sessions with internal and external ABPI signatories in an effort to ensure it was an isolated error and that the ruling was learnt from to ensure there was no promotion to the public in the future.

Turning to the current complaints, GlaxoSmithKline submitted that the RSV post did not refer to a specific medicine (GlaxoSmithKline had three candidate RSV vaccines and there were 60 candidate vaccines worldwide), made no claims and was very clear the vaccine was still in development but announced the start of a Phase 3 trial for a vaccine that could potentially have real global impact.

GlaxoSmithKline submitted that the Covid-19 antibody study post was particularly newsworthy in these unprecedented times and was hashtagged to signpost the information as being relevant to media and investors, both of whom used social media (Twitter and LinkedIn particularly) as a source of news and would refer to company platforms as a primary source of company information. The post did not refer to a specific medicine (the GSK/Vir collaboration had two monoclonal antibody treatments under investigation for CoViD-19 and there were numerous others from other companies) and did not discuss efficacy results. The post was simply part of the corporate communications to show GlaxoSmithKline was progressing in its bid to help with the pandemic effort.

GlaxoSmithKline submitted that it had robust policies, procedures and processes in place to ensure compliance with the ABPI Code and associated regulations related to social media which were continually reviewed in light of relevant Code rulings.

Both of these posts were signed off as part of a social media plan by experienced ABPI signatories, who were both GMC registered physicians.

Following Case AUTH/3130/12/18, GlaxoSmithKline implemented a robust procedure to retrain, remind and reinforce its social media policy with staff and contractors, and it maintained that the posts in question were not promotional, but informative corporate announcements that were of relevance to the professional audience on LinkedIn.

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; its application, however, was not limited to the pharmaceutical industry or to health care.

The Panel noted GlaxoSmithKline's submission that the LinkedIn account referred to in the complaint, was the GlaxoSmithKline corporate account which had over 2.5 million followers at the time of posting. GlaxoSmithKline noted that at the time of its response, the account had over 2.8 million followers including over 225,000 from the UK. In the Panel's view, activity conducted on social media that could potentially alert one's followers to the activity might be

considered proactive dissemination of material and any material associated with a LinkedIn post, for example a link within a post, would be regarded as being part of that post.

The Panel noted Clause 3.1 prohibited the promotion of a medicine prior to the grant of its marketing authorisation. Once the marketing authorisation had been granted, Clause 26.1 prohibited the promotion of prescription only medicines to the public.

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. However, language, context, location, layout, intended audience and overall impression were important factors.

The Panel noted that the first LinkedIn post related to the commencement of a Phase 3 trial for a candidate vaccine for respiratory syncytial virus (RSV). The post stated 'Today we've announced the start of a Phase 3 clinical trial to evaluate a candidate vaccine, that if successful, could help protect babies against #RSV from birth thanks to #Maternalimmunisation'. The post was accompanied by a photograph of a senior executive, which appeared alongside the quotation 'Advancing our portfolio of RSV vaccine candidates based on robust available data is a major step towards GSK's goal of reducing RSV-associated disease burden around the world'.

The Panel noted that the RSV vaccine candidate referred to in the first LinkedIn post was not classified as a prescription only medicine when the LinkedIn post was made. Clause 26.1 only applied to prescription only medicines. On that very narrow technical point, the Panel ruled no breach of Clause 26.1 of the Code.

The Panel noted GlaxoSmithKline's submission that the LinkedIn post regarding the RSV candidate vaccine was an enhanced post, with a paid campaign, which formed part of the corporate communications strategy to enhance the corporate image and reputation of the company. The Panel noted GlaxoSmithKline's explanation that LinkedIn had particularly opaque algorithms, and unlike some other social media platforms, publishing a post did not automatically mean all your followers would be served it in their timeline. LinkedIn looked at interactions with similar posts and would determine whether or not an individual would be interested in seeing it, even though they might have opted to follow the company. One of the reasons for having a social media presence was to engage as many followers as possible so they could read about the company, its achievements, its ethos and potentially consider to invest in, or work for, the company. The paid campaign was targeted to those 25 years old or more, with an interest in science, technology, investors, science news etc in an effort to convert them to followers. It thus appeared to the Panel that the post was not restricted to followers of GlaxoSmithKline's corporate LinkedIn account.

The Panel noted GlaxoSmithKline's submission that the post announced the start of a Phase 3 trial of a candidate RSV vaccine, which by its very nature, meant the product was some considerable time from licence. The trial would typically take 18 to 24 months, and a further couple of months to submit to the regulators assuming the data allowed it. From there, again if the data allowed it, any authorisation was likely to be at least another 12 to 18 months away so the post was made, at the very best, at least 3 years before the related product could become an approved medicine. The Panel further noted GlaxoSmithKline's submission that the post contained no information related to efficacy and was clear that the candidate vaccine might not succeed as evidenced by the terms 'if successful' and 'could help'.

The Panel queried if the quote from a senior GlaxoSmithKline executive, which appeared within the LinkedIn post at issue, 'Advancing our portfolio of RSV vaccine candidates based on robust available data is a major step towards GSK's goal of reducing RSV-associated disease burden around the world' might be seen as a claim for all of the company's candidate RSV vaccines including the one entering a Phase 3 trial as referred to within the post.

However, on balance, on the evidence available and noting its comments above, the Panel did not consider that the LinkedIn post at issue promoted one of GlaxoSmithKline's unlicensed RSV candidate vaccines to the public as alleged and no breach of Clause 9.1 was ruled.

The Panel noted that the second LinkedIn post in question stated '#News for #investors and #media: @NIHs [National Institutes of Health] ACTIV Phase 3 clinical trial begins with GSK and @Vir_ Biotechnology #COVID19 antibody treatment in hospitalised adults. Learn more about our contributions and solutions to the pandemic' followed by a link and was accompanied by a photograph of another senior GlaxoSmithKline executive, adjacent to the quote 'With new infection and hospitalization rates reaching record highs, the world needs multiple options to help combat this pandemic. GSK is developing solutions to fight this virus, from prevention through treatment, to provide relief from COVID-related illness'.

The Panel noted GlaxoSmithKline's comments regarding the Authority's request for copies of the material linked to the post, as the complainant made no mention of any concerns about the linked material and there had been no complaint in this regard. The Panel considered the matter carefully and whilst noting that the complainant did not specifically refer to the link within the post, he/she had referred to the LinkedIn post as an example of promoting to the public. The Panel, noting its comments above, considered that any associated link would be considered as part of the post itself. The Panel considered each complaint on the allegations made and the evidence provided by each party; it was also important to have the complete material, in order to understand the context.

The Panel noted GlaxoSmithKline's submission that providing basic factual information about the launch of a Phase 3 trial of a possible antibody treatment did not promote that potential treatment prior to licence, but simply informed the public that work was ongoing and that some progress was being made in the fight against the pandemic. GlaxoSmithKline submitted that the tone was factual and non-promotional, did not discuss efficacy results to date, the likelihood of success or the possible timelines.

The Panel further noted GlaxoSmithKline's submission that unlike some antibody treatments being investigated for Covid-19, the GSK/Vir antibodies were not currently licensed for use in any disease area, so were not able to be prescribed and were only available through registered clinical trials.

The Panel noted that GlaxoSmithKline and Vir Biotechnology's Covid-19 antibody treatment was not classified as a prescription only medicine when the LinkedIn post was made. Clauses 26.1 only applied to prescription only medicines. On that very narrow technical point, the Panel ruled no breach of Clause 26.1 of the Code.

The Panel noted that 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 Panel noted GlaxoSmithKline's submission that the link within the post navigated to the GlaxoSmithKline Covid-19 response page titled 'Our response to CoViD-19', which was hosted on the GlaxoSmithKline corporate website and discussed GlaxoSmithKline's collaborations with other companies relating to the pandemic and how GlaxoSmithKline was responding. On the landing page after the introductory paragraphs, it described what adjuvants were and why they could be particularly useful in a pandemic to explain why GlaxoSmithKline were providing their adjuvant to a number of other companies which were developing vaccines. There was nothing on this particular page about the Covid-19 antibody mentioned in the post, but there was a tab labelled 'Developing Covid-19 treatments', within which there was information about antibody therapy and top line information about GlaxoSmithKline's collaborations and investigations, and how it was looking at its asset library in this therapy area; it did not mention any trial results but aimed to reassure that GlaxoSmithKline were contributing to the global effort. There was also a third tab relating to vaccines pricing and access. GlaxoSmithKline noted that also on the landing page was a PDF that could be clicked on which had a complete overview of the GlaxoSmithKline response to Covid 19.

On the evidence available, the Panel did not consider that the LinkedIn post meant that GlaxoSmithKline had promoted an unlicensed medicine to the public as alleged and therefore ruled no breach of Clause 9.1.

The Panel noted its comments and rulings above and consequently ruled no breach of Clause 2.

Complaint received **19 December 2020**

Case completed **2 September 2021**