CASE AUTH/3573/10/21

HEALTH PROFESSIONAL v GLAXOSMITHKLINE

GlaxoSmithKline Global UK Website

An anonymous, contactable complainant who described themselves as a health professional alleged that GlaxoSmithKline UK Limited's Global UK website promoted its product pipeline across all therapy areas to UK health professionals.

The complainant stated that the pipeline webpage gave compound number/generic name/brand name, indication and mode of action of all pipeline products.

The complainant stated that this full information of therapeutic contents was not suitable for UK health professionals and alleged that a medicine must not be promoted prior to the grant of the marketing authorisation which permitted its sale or supply. The complainant further alleged that as pipeline had been promoted, high standards had not been upheld and the promotional pipeline content did not look to be certified.

The complainant stated that the investors page, accessible to UK health professionals and the public, promoted medicines. The complainant stated that the content was 'Our Pharmaceuticals business has a broad portfolio of innovative and established medicines in respiratory, HIV, immuno-inflammation and oncology. We are strengthening our R&D pipeline through a focus on immunology, human genetics, and advanced technologies to help us deliver transformational new medicines for patients. Key products Trelegy – Asthma/COPD Nucala – Severe Asthma Triumeq/Tivicay – HIV'. The complainant alleged that mention of three licensed key products alongside indication was promotion to the public and this was also promotion to UK health professionals which required prescribing information and an adverse event reporting statement which were not available on the page. It also appeared that the material was not certified.

The detailed response from GlaxoSmithKline is given below.

In relation to the alleged promotion of pipeline to UK health professionals, the Panel noted that the webpage at issue, headed 'Our Pipeline', contained a table containing a list of products describing the compound number/generic name, indication, phase and mode of action/vaccine type. The webpage was introduced by the text:

> **'We invest in scientific and technical excellence to develop and launch a pipeline of new products that meet the needs of patients and payers.**
>
> **Our medicines and vaccines in development are classified into three stages: phase I, phase II and phase III. These studies into the safety and efficacy of investigational products provide data to support applications to regulators for approval.**

> **The content of our development pipeline will change over time as new projects progress from research to development and from development to the market.'**

In the Panel's view, the style of the table, within a section of the website clearly labelled as Research and development, appeared low key and included scientific information about potential products. The Panel did not consider that the complainant had established that the webpage in question was directed to, or limited to, an audience of health professionals and other relevant decision makers and thus was advertising to that audience and nor that the pipeline webpage constituted promotion of medicines to health professionals prior to the grant of their marketing authorisation. The Panel therefore ruled no breaches of the Code.

The Panel noted the complainant's allegation that the promotional pipeline content did not look to be certified and, noting its comments above, that it did not consider that the complainant had established that the webpage at issue was promotional, on the very narrow allegation, the Panel ruled no breach of the Code.

In relation to the allegation that the Investor page was promoting to the public and health professionals, the Panel noted that the investors webpage headed 'About GSK', within a section labelled for investors, was introduced by the text:

> **'We are a science-led global healthcare company with a special purpose to improve the quality of human life by helping people do more, feel better, live longer'**

followed by GlaxoSmithKline's 2020 turnover, number of global businesses and years of innovation.

Beneath this was the heading 'What we do' followed by the statement 'We aim to bring differentiated, high-quality and needed healthcare products to as many people as possible, preventing and treating disease and keeping people well with our scientific and technical know-how and talented people'.

The section below highlighted by the complainant was headed 'Pharmaceuticals' and stated 'Our Pharmaceuticals business has a broad portfolio of innovative and established medicines in respiratory, HIV, immuno-inflammation and oncology. We are strengthening our R&D pipeline through a focus on immunology, human genetics and advanced technologies to help us deliver transformational new medicines for patients'. The Panel noted this was followed by 'Key products' listing Trelegy- Asthma/COPD; Nucala - Severe Asthma; and Triumeq/Tivicay – HIV.

The Panel noted GlaxoSmithKline's submission that the webpage at issue was not immediately visible to visitors to GlaxoSmithKline's corporate website, it was located in the clearly labelled investor section.

The Panel noted GlaxoSmithKline's submission that it was clear that the target audience was neither health professionals nor the general public but investors, and contained the information that they would expect to find about a publicly listed company, and the information had been repeatedly signposted as such. The Panel further noted GlaxoSmithKline's submission that, as a publicly listed company, it was expected, and in some cases, required, to make available factual information relating to licensed

medicines as well as unlicensed products/indications in the pipeline for the purposes of informing shareholders, the stock exchange on which it was listed and other interested parties, such as financial media of key business and financial developments.

The Panel noted GlaxoSmithKline's submission that the mention of the three key products and therapy areas they were used in were secondary to provide context and allow investors to track which products were particularly successful and drove sales.

Whilst the Panel considered that the information on the webpage at issue was aimed at investors and appeared to include information relevant to that audience, it considered that the entire webpage might be seen as implying that the three products Trelegy, Nucala, and Triumeq/Tivicay were 'established', 'high-quality' and 'innovative' treatments that were needed for the indications listed; in the Panel's view, this constituted promotional claims for the three medicines and therefore did not meet the requirements of the Code.

The Panel, noting its comments above, considered that the key prescription only medicines listed, within the context of the webpage, had been promoted to the public and breaches of the Code were ruled.

The Panel considered that high standards had not been maintained in this regard and a breach of the Code was ruled.

The Panel considered that the particular circumstances of this case did not warrant a ruling of a breach of Clause 2 which was a sign of particular censure and was reserved for such use and no breach was ruled.

The Panel noted its comments above and considered that the webpage in question was neither directed to, nor limited to, an audience of health professionals and other relevant decision makers and thus was not advertising to that audience. The Panel, noting the intent of the webpage, therefore considered that the allegations relating to the promotion to health professionals and associated requirements were not relevant and thus ruled no breaches of the Code.

An anonymous, contactable complainant who described themselves as a health professional alleged that GlaxoSmithKline UK Limited's Global UK website promoted its product pipeline across all therapy areas to UK health professionals.

COMPLAINT

The complainant stated that the webpage https://www.gsk.com/en-gb/research-and-development/our-pipeline#our-pipeline gave compound number/generic name/brand name, indication and mode of action of all pipeline products.

The complainant stated that this full information of therapeutic contents was not suitable for UK health professionals. The complainant alleged a breach of Clause 11.1 in that a medicine must not be promoted prior to the grant of the marketing authorisation which permitted its sale or supply. The complainant further alleged that as pipeline had been promoted, high standards had not been upheld, in breach of Clauses 5.1 and 2. The complainant stated that the promotional pipeline content did not look to be certified and alleged a breach of Clause 8.1.

The complainant stated that the investors page, https://www.gsk.com/en-gb/investors/about-gsk/, which was accessible to UK health professionals and members of the public, promoted medicines. The complainant stated that the content was 'Our Pharmaceuticals business has a broad portfolio of innovative and established medicines in respiratory, HIV, immuno-inflammation and oncology. We are strengthening our R&D pipeline through a focus on immunology, human genetics, and advanced technologies to help us deliver transformational new medicines for patients. Key products Trelegy – Asthma/COPD Nucala – Severe Asthma Triumeq/Tivicay – HIV'. The complainant alleged that mention of three licensed key products alongside indication was promotion to the public in breach of Clauses 26.1, 26.2, 9.1 and 2. This was also promotion to UK health professionals which required prescribing information and an adverse event reporting statement which were not available on the page. Breaches of Clauses 12.1, 12.9, 9.1 and 2 were alleged as well as Clause 8.1 as it appeared the material was not certified.

When writing to GlaxoSmithKline the Authority asked it to consider the requirements of Clauses 11.1, 5.1, 2 and 8.1 of the 2021 Code as cited by the complainant in relation to the allegations about the pipeline products webpage and Clauses 26.1, 26.2, 12.1, 12.9, 9.1 and 2 of the 2021 Code as cited by the complainant, as well as Clause 5.1 in relation to the allegations about the investors page.

RESPONSE

GlaxoSmithKline stated that it was very disappointed to receive a complaint regarding its corporate website. As a UK-based, global pharmaceutical company and industry leader GlaxoSmithKline strove to maintain the highest standards and ensured that it abided by the spirit and the letter of the Code in its day-to-day operations.

The GlaxoSmithKline corporate website was maintained by the Global Digital team rather than the UK local operating company. As the team were UK-based, GlaxoSmithKline acknowledged that their activities were within the scope of the Code.

The function of the corporate website was to act as a repository of information about GlaxoSmithKline (a global-, science-led pharmaceutical company) and as such, the corporate website was the first port of call for potential or current investors, employees, clinical triallists, journalists, business analysts and anyone who wished to find out more about GlaxoSmithKline and its activities. The entire website was non-promotional and intended to serve its various audiences in a factual and informative way, with clear signposting indicating the subject matter or target audience for the pages contained on the website.

Complaint 1: Alleged promotion of pipeline to UK health professionals

GlaxoSmithKline stated that without providing any further evidence or argument, the complainant asserted that, on this page, compound number/generic name/brand name, indication and mode of action of all pipeline products were given. This full information of therapeutic contents was not suitable for UK health professionals in breach of Clause 11.1. From this presumed breach, the complainant asserted consequential breaches of Clauses 5.1, 2 and 8.1.

1a) Clear signposting

GlaxoSmithKline submitted that the page that the complainant referred to was within the Research and development section of the GlaxoSmithKline corporate website. The information was not immediately visible to visitors to the website but could be accessed by visitors to GSK.com by using the navigation tabs and searching for it. The company did not link to this pipeline page directly via social media, and nor was it a direct link from the homepage, it required deliberate two-step navigation on the part of the reader to find it, whichever route they took to access it.

The most common way to access the page in question was firstly, hovering or clicking on the Research and development tab at the top of the corporate homepage.

This immediately brought up another signpost indicating the subject matter with the headline 'Research and development' in large bold font and from there 'Our pipeline' was one of the topics that could then be clicked.

GlaxoSmithKline submitted that the navigation could clearly be seen in the top left, 'Home>research and development>our pipeline', thus it was clear that anyone having accessed the page would have been repeatedly alerted that the intention was to provide information on research and development of the GlaxoSmithKline pipeline.

1b) Not promotional material for health professionals

GlaxoSmithKline stated that the pipeline page itself was clear that it related to medicines in development and provided a simple introduction to the phases of medicine development in language that was evidently not directed to health professionals but to a broader audience seeking basic information. Both the text and the table on the pipeline page made it obvious that the products talked about were all investigational products in development, with no assumptions made or implied relating to efficacy or safety. The text made it clear that the studies 'provide data to support applications to regulators for approval', reflecting the reality that there were no guarantees of success and clearly explained that the page gets updated once a project had moved from development to market (authorisation).

GlaxoSmithKline submitted that the bulk of the page was taken up with a table which provided low key, factual information of pipeline products; the compound number/generic name, the indication, the phase and the mode of action/vaccine type. The information provided was the minimum required for interested parties to identify an asset, understand which therapy area it was being investigated in, which phase of development it was in and what its mode of action was. There was no detailed information about any individual asset, and no claims about efficacy (either implied or in general).

1c) Not promotion prior to marketing authorisation

GlaxoSmithKline stated that, as discussed above, the pipeline products were presented in a table, with only the compound number/generic name, the indication, the phase and the mode of action/vaccine type presented. The page was two clicks away from the homepage, and in a clearly labelled area.

As noted in previous cases (Cases AUTH/3274/10/19, AUTH/3203/6/19 and AUTH/3414/11/20), the Panel had repeatedly stated it was 'not necessarily unacceptable for a company to refer in

general terms to its pipeline products on its corporate website'. The Panel had further noted that 'language, context, location, layout, intended audience and overall impression were important factors'.

Clause 4.6 required that companies must include on the homepage of their website details of where their clinical trials could be found, indicating that it was not only acceptable to provide information on research and development, but that it was a responsibility to do so.

The page as presented on GSK.com, the company's corporate website, was intended to provide information on a science- and research-led pharmaceutical company, of which a pipeline was an integral component. The page itself was located within a clearly labelled and signposted research and development section of the corporate website, which was not directly linked to from the homepage. The context of the page to a visitor to the GlaxoSmithKline corporate website, from both its location and the corresponding text embedded within the pipeline page itself and the research and development main page, made it clear that it was designed to inform visitors of the research interests and current research strategy of GlaxoSmithKline.

GlaxoSmithKline stated that the intended audience for the page was broad; those who had an interest in pipeline developments and who might visit GSK.com to seek out this information. As discussed above, its location required the visitor to actively search for the information. It was provided in a non-promotional, factual way both in tone and presentation. The language was low key, objective and informational, the formatting and layout business-like. In addition, the layout of the page did not place prominence to any particular product or research area and was presented to the visitor as a simple table.

There were no claims, nor descriptions around efficacy with any pipeline asset (either implied or in general), with the minimum possible information given (compound name, indication, phase and mode of action) to still allow an understanding of the information presented to the intended audience. The overall context, and impression of this webpage, was one of a scientific and factual page consistent with corporate information.

Therefore, GlaxoSmithKline denied a breach of Clause 11.1 as GlaxoSmithKline had not promoted any medicine prior to marketing authorisation.

This corporate information provided a basic summary for a broad audience to demonstrate GlaxoSmithKline's commitment to research. As per the ruling in Case AUTH/3414/11/20, 'The Panel noted that the webpage in question was neither directed to, nor limited to, an audience of health professionals and other relevant decision makers and thus was not advertising to that audience. The Panel, therefore, considered that the allegations relating to the promotion to health professionals were not relevant. The Panel ruled no breaches of the Code'.

As such, GlaxoSmithKline denied a breach of Clause 8.1 which required the certification of promotional material. GlaxoSmithKline did not believe this was promotional material and therefore did not need to be certified as such.

1d) High standards and confidence in the industry

GlaxoSmithKline noted that the complainant had alleged breaches of Clauses 5.1 and 2 without providing argument or evidence as to the basis of these allegations. The GSK.com corporate website had clearly defined, sign posted sections (About us, Products, Careers, Investors,

Media, Research and development, Responsibility) so that visitors could be clear on the subject matter contained in each section or the target audience it was relevant to, so as to make an informed choice as to the page that would satisfy the reason they came to GlaxoSmithKline corporate website.

GlaxoSmithKline stated that the page in question was updated regularly in line with expected (quarterly) financial announcements to the Stock Market, and on the day of key investor events, such as the investor day held on 23 June 2021. Similarly, the 'Pipeline changes' tab was also updated every results day with assets that had been added/progressed/removed so investors could see the company's Research and Development strategy in action. This was in an effort to ensure that the information disseminated to investors, regulators, and financial institutions was reproduced accurately on a reference page that they might return to. This page was reviewed by the portfolio management teams, and an experienced lawyer before publication. As outlined above, GlaxoSmithKline believed it had demonstrated above that it had not breached Clauses 11.1 and 8.1 and with the process to ensure the pipeline page was regularly updated, GlaxoSmithKline had maintained high standards and denied breaching Clause 5.1.

In addition, the robustness of GlaxoSmithKline's pipeline demonstrated its dedication to research and development. This was far from bringing discredit to, or reducing confidence in, the pharmaceutical industry but showed GlaxoSmithKline's continued commitment to the development of new treatments and therapies to help patients, and thus upheld confidence in the pharmaceutical industry as required in Clause 2. As discussed above, GlaxoSmithKline refuted the allegations of breaching Clauses 11.1, 5.1 and 8.1, as alleged, and as such, GlaxoSmithKline also denied a breach of Clause 2.

Complaint 2: Investor page

The complainant asserted that the investors page, which was accessible to UK health professionals and members of the public, promoted medication. The complainant noted that the content was 'Our Pharmaceuticals business has a broad portfolio of innovative and established medicines in respiratory, HIV, immuno-inflammation and oncology. We are strengthening our R&D pipeline through a focus on immunology, human genetics and advanced technologies to help us deliver transformational new medicines for patients. Key products Trelegy – Asthma/COPD Nucala – Severe Asthma Triumeq/Tivicay – HIV' and alleged that mention of three licensed key products alongside mention of indication was promotion to the public in breach of Clauses 26.1, 26.2, 9.1 and 2.

GlaxoSmithKline noted that the complainant further alleged that it was also promotion to UK health professionals which required prescribing information and adverse event (AE) reporting which was also not available on the page. This was in breach of Clause 12.1, 12.9, 9.1 and 2. He/she then further stated that 'The content was not promotionally certified' and alleged a breach of Clause 8.1.

2a) Clear signposting

GlaxoSmithKline submitted that the page the complainant referred to was a subpage of the clearly labelled Investor section of GSK.com. This page was not immediately visible to visitors to the website but was able to be accessed by visitors to GSK.com by using the navigation tabs and searching for it. To access the page in question required hovering on the clearly labelled Investor tab at the top of the corporate homepage.

This immediately brought up another signpost indicating the intended audience with the headline 'Investors' in large bold font and 'Information and tools for investors including share and dividend information, share price analysis, latest news and corporate reporting' immediately underneath. In addition, there was a picture of GlaxoSmithKline's Chief Financial Officer (CFO), with a sub headline 'Quarterly results' in a large bold font, and 'Discover our latest financial performance announcement and search for historical quarterly result materials' immediately underneath, so the reader could be in no doubt at whom the following pages were targeted and their purpose. From there, within the investors section, the 'About us' tab could be clicked.

The navigation could clearly be seen in the top left; Home,>Investors>About GSK, thus it was unquestionably clear that the target audience for this information was neither health professionals nor the general public, but for investors, and contained the information that they would expect to find about a publicly listed company, and the information had been repeatedly signposted as such.

GlaxoSmithKline submitted that as a publicly listed company, it was expected, and in some cases, required, to make available factual information relating to licensed medicines as well as unlicensed products/indications in the pipeline for the purposes of informing shareholders, the stock exchange on which it was listed and other interested parties, such as financial media of key business and financial developments.

For the general public, there was a clearly labelled 'About Us' section in the main navigation bar at the top of the homepage. This provided top line information about what GlaxoSmithKline did, what its values were, the areas it worked in and the money it made which was suitable for the general public.

2b) Not promotion to the public

GlaxoSmithKline noted that the complainant alleged that the investors page referred to in the complaint, promoted medication to the public and to UK health professionals. The mention of three licensed key products, Trelegy – Asthma/COPD, Nucala – Severe Asthma and Triumeq/Tivicay – HIV, alongside mention of indication was promotion to the public, in breach of Clauses 26.1, 26.2, 9.1 and 2. Although the complainant provided minimal argument or evidence, it would appear that he/she believed the mention of a product name, plus its indication, automatically meant the company had promoted the product. This was patently untrue. Companies might include a product name and indication in many different non-promotional materials as long as the materials were non-promotional in nature, content and usage and complied with any specific requirements for that activity (eg, patient support material to those already prescribed a medicine, reference materials on a company website, press releases etc).

Clause 26.2 allowed for the provision of non-promotional information about prescription only medicines to the public, and the supplementary information specifically addressed the provision of financial information to inform shareholders (ie investors) and these corporate investor pages formed part of the quarterly financial announcements that GlaxoSmithKline provided to the financial community:

'**Clause 26.2 (26.2) Financial Information**

> Information made available in order to inform shareholders, the Stock Exchange and the like by way of annual reports and announcements etc might relate to both existing medicines and those not yet marketed. Such information must be non-promotional, accurate, presented in a factual and balanced way and not misleading, taking into account the information needs of the target audience.'

GlaxoSmithKline stated that the intention of the page was clear; it focused on the financial success of the company, as it was these numbers that were not only presented first on the page, but also highlighted and coloured to stand out. The mention of the products and therapy areas they were used in were clearly secondary, to provide context and allowed investors to track which products were particularly successful and driving sales. As required by the supplementary information, the content took into account the needs of the target audience providing them with a brief overview of GlaxoSmithKline's business units, highlighting its research focus within each unit, as well as the key products and the areas that they were marketed in for each unit. This was presented very simply as product name and therapeutic area.

As per supplementary information to Clause 26.2, this information was required by the target audience to enable them to follow their investments and understand the potential impact of news announcements they might see relating to GlaxoSmithKline. The information was factual, with no information relating to efficacy of any products and with a clear emphasis on the financial returns and focus of the company. The content was factual and non-promotional, with no wording that could be construed as encouraging a member of the public to ask for the prescription of a specific medicine.

The layout and wording of the page, the fact it was not immediately visible to all visitors to the website but was included within a specific, signposted section of the corporate website, called 'Investors' reinforced GlaxoSmithKline's assertion that it was to provide the corporate financial information and did not constitute promotion of prescription medicines to the public. Therefore, GlaxoSmithKline denied a breach of Clause 26.1.

The page complained about contained content that was meeting the needs of the target audience of investors. It was factual, presented in a balanced way, did not raise unfounded hopes of successful treatment, and neither was it misleading with regards to safety, nor encouraging of the public to seek a specific prescription medicine. As such, GlaxoSmithKline denied breaching Clause 26.2.

2c) Alleged breach of Clause 9.1

GlaxoSmithKline stated that the complainant alleged a breach of Clause 9.1, but as this related to training of personnel involved in the preparation and approval of materials, it was possible the complainant had used the 2019 Code and was concerned regarding high standards. GlaxoSmithKline would address this below. In terms of training for personnel involved in preparing and approving materials, GlaxoSmithKline could reassure the Authority that it had robust training policies and procedures in place. The Global Digital team who prepared these pages had been trained on the Code by both internal and external trainers. GlaxoSmithKline believed they had ensured all personnel were fully conversant with the Code and were adequately experienced to examine them prior to publication and therefore denied breaching Clause 9.1.

2d) High standards and upholding confidence in the industry

GlaxoSmithKline stated that on the assumption that the complainant meant to allege a breach of Clause 5.1 of the 2021 Code rather than 9.1, GlaxoSmithKline confirmed that it believed it had upheld high standards. This page was updated regularly in line with expected financial announcements to the Stock Market, and on the day of key investor events, such as the investor day held 23 June 2021. Prior to publication, it was reviewed and examined by the investor relations team as part of the corporate communication team. Therefore, given this and that GlaxoSmithKline strongly believed it had not breached Clauses 26.1, 26.2 and 9.1, GlaxoSmithKline believed it had maintained high standards and denied breaching Clause 5.1.

GlaxoSmithKline stated that it shared the relevant information with investors and financial markets, whilst ensuring that it was adequately signposted not to be reached by accident, and once on the page, further signposted to ensure the reader was aware who the page was intended for. The content was financially focussed, factual and non-promotional. As such, and given the other arguments GlaxoSmithKline had made above, GlaxoSmithKline denied that the page had bought discredit to, or reduced confidence in, the industry and denied a breach of Clause 2.

2e) Not promotion to UK health professionals

GlaxoSmithKline noted that the complainant also stated that this page was promotion to UK health professionals, despite the page being clearly labelled and signposted for investors. The intention of the page was clear; it focused on the financial success of the company, as it was these numbers that were not only presented first on the page, but also highlighted and coloured to stand out. The mention of the products and therapy areas they were used in were clearly secondary, to provide context and allowed investors to track which products were particularly successful and driving sales. There was no specific directing of a UK health professional audience to these pages, and as shown by the focus of the page being on financial information, there was no intention to promote medicines to health professionals with these pages, with no efficacy information or claims of any description and health professionals were not directed to these pages by any promotional communications. As such, this page was not promoting medicines to health professionals so did not require prescribing information nor adverse event reporting, and GlaxoSmithKline denied breaching Clauses 12.1 and 12.9.

2f) Alleged breach of Clause 9.1

GlaxoSmithKline noted that the complainant alleged a breach of Clause 9.1, but as this related to training of personnel involved in the preparation and approval of materials, it was possible the complainant had used the 2019 Code and was concerned regarding high standards. GlaxoSmithKline stated it would address this below. In terms of training for personnel involved in preparing and approving materials, GlaxoSmithKline could reassure the Authority that it had robust training policies and procedures in place. The Global Digital team who prepared these pages had been trained on the Code by both internal and external trainers. GlaxoSmithKline believe they had ensured all personnel were fully conversant with the Code and were adequately experienced to examine them prior to publication and therefore denied breaching Clause 9.1.

2g) High standards and upholding confidence in the industry

GlaxoSmithKline stated that, on the assumption that the complainant meant to allege a breach of Clause 5.1 of the 2021 Code rather than 9.1, GlaxoSmithKline confirmed that it believed it had upheld high standards. This page was updated regularly in line with expected financial announcements to the Stock Market, and on the day of key investor events, such as the investor day held 23 June 2021. Prior to publication, it was reviewed by the investor relations team, as part of the corporate communication team. Therefore, given this, and that GlaxoSmithKline strongly believed it had not breached Clauses 12.9, 12.1 and 9.1, GlaxoSmithKline believed high standards had been maintained and denied breaching Clause 5.1.

As discussed in GlaxoSmithKline's response, this page was non-promotional, with company information provided for investors and potential investors, and as such, was not required to be 'promotionally certified' as suggested by the complainant. Therefore, GlaxoSmithKline denied breaching Clause 8.1.

The regular update of this page with the release of the results and key Investor events, meant GlaxoSmithKline was ensuring its investors, and the financial markets had access to accurate financial and business information from the day of announcement. Given that GlaxoSmithKline refuted all allegations of breaches, as detailed above, GlaxoSmithKline denied that the page had failed to uphold confidence in the industry and denied a breach of Clause 2.

PANEL RULING

Point 1: Alleged promotion of pipeline to UK health professionals

In the Panel's view, it was not necessarily unacceptable for a company to refer, in general terms, to its pipeline products on its corporate website, however, language, context, location, layout, intended audience and overall impression were important factors. Such references should not otherwise constitute promotion of an unlicensed medicine.

The Panel noted that the webpage at issue, headed 'Our Pipeline', contained a table containing a list of products describing the compound number/generic name, indication, phase and mode of action/vaccine type. The webpage was introduced by the text:

> 'We invest in scientific and technical excellence to develop and launch a pipeline of new products that meet the needs of patients and payers.
>
> Our medicines and vaccines in development are classified into three stages: phase I, phase II and phase III. These studies into the safety and efficacy of investigational products provide data to support applications to regulators for approval.
>
> The content of our development pipeline will change over time as new projects progress from research to development and from development to the market.'

The Panel noted GlaxoSmithKline's submission that the webpage was not immediately visible to visitors, it was located within the 'Research and development' section of the GlaxoSmithKline corporate website. The pipeline page was not a direct link from the homepage, it required deliberate two-step navigation on the part of the reader to find it, whichever route they took to access it. The Panel noted GlaxoSmithKline's submission that the intended audience for this page was broad including those who had an interest in pipeline developments and who might

visit GSK.com to seek out this information and searching for it. It was not directed to health professionals.

The Panel further noted GlaxoSmithKline's submission that the information provided was the minimum required for interested parties to identify an asset, understand which therapy area it was being investigated in, which phase of development it was in and what its mode of action was. There was no detailed information about any individual asset, and no claims about efficacy (either implied or in general).

In the Panel's view, the style of the table, within a section of the website clearly labelled as 'Research and development', appeared low key and included scientific information about potential products. The Panel did not consider that the complainant had established that the webpage in question was directed to, or limited to, an audience of health professionals and other relevant decision makers and thus was advertising to that audience and nor that the pipeline webpage constituted promotion of medicines to health professionals prior to the grant of their marketing authorisation. The Panel therefore ruled no breach of Clause 11.1. The Panel noted its rulings above and consequently ruled no breach of Clauses 5.1 and 2.

The Panel noted the complainant's allegation that the promotional pipeline content did not look to be certified. The Panel noted its comments above that it did not consider that the complainant had established that the webpage at issue was promotional and thus, on the very narrow allegation, the Panel ruled no breach of Clause 8.1.

Point 2: Investor page promoting to the public and health professionals

The Panel noted that the investors webpage at issue available at the time of the complaint, headed 'About GSK', within a section labelled for investors, was introduced by the text:

> 'We are a science-led global healthcare company with a special purpose to improve the quality of human life by helping people do more, feel better, live longer'

followed by GSK's 2020 turnover, number of global businesses and years of innovation.

Beneath this was the heading 'What we do' followed by the statement 'We aim to bring differentiated, high-quality and needed healthcare products to as many people as possible, preventing and treating disease and keeping people well with our scientific and technical know-how and talented people'.

The section below highlighted by the complainant was headed 'Pharmaceuticals' and stated 'Our Pharmaceuticals business has a broad portfolio of innovative and established medicines in respiratory, HIV, immuno-inflammation and oncology. We are strengthening our R&D pipeline through a focus on immunology, human genetics and advanced technologies to help us deliver transformational new medicines for patients'. The Panel noted this was followed by 'Key products' listing Trelegy- Asthma/COPD; Nucala - Severe Asthma; and Triumeq/Tivicay – HIV.

The Panel noted GlaxoSmithKline's submission that the webpage at issue was not immediately visible to visitors to GlaxoSmithKline's corporate website, it was located in the clearly labelled investor section.

The Panel noted GlaxoSmithKline's submission that it was clear that the target audience for this information was neither health professionals nor the general public but investors, and contained the information that they would expect to find about a publicly listed company, and the information had been repeatedly signposted as such. The Panel further noted GlaxoSmithKline's submission that, as a publicly listed company, it was expected, and in some cases, required, to make available factual information relating to licensed medicines as well as unlicensed products/indications in the pipeline for the purposes of informing shareholders, the stock exchange on which it was listed and other interested parties, such as financial media of key business and financial developments.

In this regard, the Panel noted that the supplementary information to Clause 26.2, Financial Information, stated that information made available in order to inform shareholders, the Stock Exchange and the like by way of annual reports and announcements etc, might relate to both existing medicines and those not yet marketed. Such information must be non-promotional, accurate, presented in a factual and balanced way and not misleading, taking into account the information needs of the target audience. Business press releases should identify the business importance of the information and should only be aimed at the intended financial and investment audience.

The Panel noted GlaxoSmithKline's submission that the mention of the three key products and therapy areas they were used in were secondary to provide context and allow investors to track which products were particularly successful and drove sales.

Whilst the Panel considered that the information on the webpage at issue was aimed at investors and appeared to include information relevant to that audience, it considered that the entire webpage might be seen as implying that the three products Trelegy, Nucala, and Triumeq/Tivicay were 'established', 'high-quality' and 'innovative' treatments that were needed for the indications listed; in the Panel's view, this constituted promotional claims for the three medicines and therefore did not meet the requirements of the supplementary information to Clause 26.2.

The Panel, noting its comments above, considered that the key prescription only medicines listed, within the context of the webpage, had been promoted to the public and a breach of Clauses 26.1 and 26.2 were ruled.

The Panel considered that high standards had not been maintained in this regard and a breach of Clause 5.1 was ruled.

The Panel considered that the particular circumstances of this case did not warrant a ruling of a breach of Clause 2 which was a sign of particular censure and was reserved for such use and no breach was ruled.

The Panel noted that whilst the complainant raised Clause 9.1 of the 2021 Code which stated that all relevant personnel, including representatives and members of staff, and others retained by way of contract concerned in any way with the preparation or approval of material or activities covered by the Code, must be fully conversant with the Code and the relevant laws and regulations, he/she did not provide any further details or evidence in this regard.

The Panel noted GlaxoSmithKline's submission that in terms of training for personnel involved in preparing and approving materials, it had robust training policies and procedures in place.

The Global Digital team who prepared the webpages at issue had been trained on the Code by both internal and external trainers and GlaxoSmithKline had ensured all personnel were fully conversant with the Code and were adequately experienced to examine the webpages prior to publication. The Panel did not consider that the complainant had made out his/her allegation in relation to Clause 9.1 and the Panel therefore ruled no breach of Clause 9.1.

The Panel noted its comments above and considered that the webpage in question was neither directed to, nor limited to, an audience of health professionals and other relevant decision makers and thus was not advertising to that audience. The Panel, noting the intent of the webpage, therefore considered that the allegations relating to the promotion to health professionals and associated requirements were not relevant. The Panel thus ruled no breach of Clauses 12.1 and 12.9 and consequently no breach of Clauses 5.1 and 2. The Panel, for the same reasons, subsequently ruled no breach of Clause 8.1.

Complaint received **27 October 2021**

Case completed **7 September 2022**