
CASE AUTH/1869/7/06

PRIMARY CARE TRUST CHIEF PHARMACIST v DAIICHI-SANKYO

Olmetec spreadsheets

The chief pharmacist at a primary care trust complained about three spreadsheets left by a representative of Daiichi-Sankyo at a GP practice.

The spreadsheets were headed, in handwriting, 'Cozaar', 'Aprovel' and 'Diovan' and listed various antihypertensives. The costs of 50 patients at each of two doses of Cozaar, Aprovel or Diovan were given on the relevant spreadsheets and all of them stated the costs of Olmetec 10mg for 50 patients and Olmetec 20mg for 50 patients. In addition a box in the top right hand corner of each sheet headed 'cost benefit' calculated the current cost, the Sankyo cost and the reduction in cost for each. A note at the bottom stated that the products listed did not necessarily reflect equivalent efficacy. Olmetec (olmesartan) was Daiichi-Sankyo's product.

The spreadsheets referred to dispensing and wholesaler discounts and included a column headed 'profit per script'. These were filled out for all the medicines mentioned.

The complainant alleged that promoting medicines on the basis of profit was unacceptable although dispensing practices might appreciate such information. In this instance, the practice was a non-dispensing practice and therefore to refer to profit was at best misleading and at worst designed to influence prescribing in the worst possible way by focussing on cost.

The Panel noted that the charts had been provided to the practice manager after a promotional call. Daiichi-Sankyo stated that the practice manager had specifically asked for a cost comparison as he was interested in setting up a practice formulary thus the information provided was in response to an individual enquiry.

The Panel noted that the Code stated, *inter alia*, that replies made in response to individual enquiries from appropriate administrative staff were exempt from the definition of promotion but only if they related solely to the subject matter of the letter or enquiry, were accurate and did not mislead and were not promotional in nature. The relevant supplementary information referred to the exemption applying only to unsolicited enquiries. The Panel did not know if the representative had promoted Olmetec to the practice manager and if such a discussion had referred to cost. If that had been so then the practice manager's request was not unsolicited. In any event the Panel considered that the spreadsheets went beyond what was necessary to answer the enquiry. The inclusion of the drug tariff reimbursement price, dispensing discount, wholesaler discount and profit per script was more information than was needed for a non-dispensing practice. Thus the spreadsheets could not take the benefit of the exemption from promotion given in the Code.

The Panel considered that the representative had in effect produced her own promotional material which had not been certified and nor did it include prescribing information. Focusing on profit in a non-dispensing practice would not influence prescribing as alleged. Nonetheless it was misleading to show to a non-dispensing practice how much profit could be made. A breach of the Code was thus ruled. The Panel considered that the

representative by producing and supplying the spreadsheets to the practice manager had not complied with the Code and thus a further breach of the Code was ruled.

The chief pharmacist at a primary care trust complained about three spreadsheets left by a representative of Daiichi-Sankyo UK Ltd at a GP practice.

Two spreadsheets were for a named surgery and had been headed, in handwriting, 'Cozaar' and 'Aprovel' respectively. The third spreadsheet did not have the printed name of a surgery at the top but had been headed, in handwriting, 'Diovan'. Each spreadsheet listed various antihypertensives. The costs of 50 patients at each of two doses of Cozaar, Aprovel or Diovan were given on the relevant spreadsheets and all of them stated the costs of Olmetec 10mg for 50 patients and Olmetec 20mg for 50 patients. In addition a box in the top right hand corner of each sheet headed 'cost benefit' calculated the current cost, the Sankyo cost and the reduction in cost for each. A note at the bottom stated that the products listed did not necessarily reflect equivalent efficacy. Olmetec (olmesartan) was Daiichi-Sankyo's product.

The spreadsheets referred to dispensing and wholesaler discounts and included a column headed 'profit per script'. These were filled out for all the medicines mentioned.

COMPLAINT

The complainant was very concerned that a Daiichi-Sankyo representative had left the spreadsheets with a GP practice. The spreadsheets compared the prices of different ACE inhibitors, angiotensin receptor blockers and calcium channel blockers. It featured 'profit per script'. From the headings which were inadequately obscured, they presumably were meant for another practice.

The complainant alleged that promoting medicines on the basis of profitability was unacceptable although it could be understood why dispensing practices might appreciate such information. In this instance, the practice was a non-dispensing practice and therefore to show prescribers how much profit they could make was at best misleading and at worst designed to influence prescribing in the worst possible way by focussing on cost.

When writing to Daiichi-Sankyo the Authority asked it to respond in relation to Clauses 7.2 and 9.2 of the Code.

RESPONSE

Daiichi-Sankyo noted the complainant alleged that its representative had left the cost spreadsheet with the practice implying that such action was proactive and part of a promotional exercise. This was not so. After a normal promotional call the representative followed up the request that was asked by providing information to the practice manager. This incident therefore constituted the provision of information following a request and was not part of a specific promotional activity. Daiichi-Sankyo referred to

Clause 1.2 of the Code where it stated that replies made in response to individual enquiries from members of health professions etc were not included in the Code, provided they were not promotional (see above) and were factual, accurate, informative etc. This was in effect a request for information. It was provided outside the call and therefore was not strictly within the Code.

Daiichi-Sankyo submitted that the practice manager specifically asked the representative for a cost comparison and further information as he was interested in helping set up a practice formulary. The representative provided the information requested by using an interactive spreadsheet she already had. Although this was designed for use with dispensing practices and not to be left with customers, she felt that as this was a 'one off' request it was appropriate to provide it. The representative zeroed out the non-relevant information, ie profit section in the top left hand corner and changed the parameters to 100% non-dispensing to avoid confusion so that the 'profit benefit' column was defunct. The sheets were then printed as a comparator sheet, five times for each of the comparator treatments. The representative posted the information to the customer, including the additional requested information as clinical reprints.

The representative asked the practice manager for surgery specific data to help indicate a more realistic comparative number, however the practice manager stated that it was not possible to provide this information. As a consequence the representative had selected a nominal 100 patients for comparison purposes. The box in the top right hand side of the spreadsheet indicated the potential reduction in cost.

Daiichi-Sankyo noted that a few days later the representative received a brief call from a pharmacist at the local PCT stating that they were not happy with the information that had been provided to the practice manager; the pharmacist was not willing to discuss the incident other than to make it clear that this type of information should not be provided again. The representative apologised and the call was summarily terminated. At the time the representative did not understand why the pharmacist was upset about the information that had been provided as no further detail was provided. The representative emailed the practice manager to apologise for the incident. The practice manager who was unaware that there had been an issue was surprised by the email; he had not separately complained or raised a concern about the incident or the information provided.

The requested information was provided solely for the use of the practice manager. Daiichi-Sankyo did not know how the information was provided to the pharmacist both at the PCT or the complainant.

Daiichi-Sankyo submitted that it was unable to comment on the scope of the Code in relation to a complaint made by a third party recipient of information which was not intended for their use. This was of particular importance as the complaint implied that the representative might have promoted solely, or at least mainly, on the basis of cost. The company strongly refuted this accusation. The provision of the relevant data was in a follow-up

action by post and was generated following a legitimate promotional product call for which the representative had been fully trained. As stated above the request was outside the formal promotional call. This provision of the spreadsheets had not constituted a promotional action as the information was not discussed in a call it was merely provided as had been requested. The representative had completed her call in the usual way and, during the call mentioned comparative efficacy, tolerability and cost. A resulting direct question from the practice manager after the promotional call resulted in the representative extracting and posting the chart in question with other accompanying material.

Daiichi-Sankyo conceded that the representative's actions were not in line with established process for information requests as these would normally be handled through the medical information service. However, the representative's inexperience (less than 6 months' industry experience) and her initiative prompted her to spontaneously provide information to the practice manager without considering the consequences. This issue had been addressed with the representative by planning re-training around information requests and further reiteration of guidance for use of the spreadsheet. The provision of information was not in breach of Clause 7.2.

With regard to Clause 9.2, Daiichi-Sankyo did not consider that the activity had failed to recognise the special nature of medicines as the question raised (and answered) applied specifically to comparative costs. The professional standing of the practice manager was clearly recognised by the representative who provided requested information. The provision of the spreadsheet was unlikely to have caused offence because it was requested and no complaint or suggestion of offence to the practice manager had arisen as a result.

It must be borne in mind that the spreadsheets reached the complainant second hand as they were not primarily intended for him and he received no explanation from the company, but nonetheless there was nothing contained within that might have offended. As he was not present at the promotional call Daiichi-Sankyo failed to understand how the complainant could imply that the representative had promoted solely on the matter of cost which was not the case.

Finally Daiichi-Sankyo stated that the usual internal process would be for the representative to refer a specific question to the Medical Services Department to answer. The representative was new to pharmaceutical work and as she had the data to hand she decided to provide it as a result of this request and as a good service to her customer. While not strictly within its usual procedures Daiichi-Sankyo did not believe that this was a breach of the Code, nor that the actions might have caused offence. There might have been a lack of understanding of the process and use of the spreadsheet by the representative, and although the process was reasonably laid out in documentation, this was not followed. Daiichi-Sankyo had already rectified this issue.

In conclusion Daiichi-Sankyo denied a breach of either Clause 7.2 or 9.2. In response to a request for comments in relation to Clause 15.2 of the Code the company did not believe that the representative had breached Clause 15.2 of the Code. The representative responded to a specific request from the practice manager and promptly provided the information required. The information was factual and correct and did not form part of either a promotional visit or a promotional exercise. The request for information came outside a promotional call.

Daiichi-Sankyo again noted that the complainant received the document from the practice manager and not from the representative who was not aware that the data might be passed to a third party. Furthermore the practice manager who requested the information did not and had not complained about the conduct of, or the data provided by, the representative.

The representative had apologised to the practice manager immediately after being told of the complaint even though the practice manager was unaware that a complaint had been made. Daiichi-Sankyo submitted that this illustrated another example of proper and courteous professional behaviour by the representative.

Daiichi-Sankyo recognised that the representative's action might not have been in line with the normal internal process for information requests, however high ethical standards and the requirements of the Code were not compromised.

The representative ensured that the material provided in response to this 'one off' customer request was accurate and relevant. This information met the needs of the customer and did not contravene Clause 15.2.

PANEL RULING

The Panel noted Daiichi-Sankyo's submission that the charts had been provided to the practice manager after a normal promotional call. Daiichi-Sankyo stated that the practice manager had specifically asked for a cost comparison and further information as he was interested in setting up a practice formulary; thus the information was provided in response to an individual enquiry.

The Panel noted that Clause 1.2 of the Code stated, *inter alia*, that replies made in response to individual enquiries from health professionals or appropriate administrative staff were exempt from the definition of promotion but only if they related solely to the subject matter of the letter or enquiry, were accurate and did not mislead and were not promotional in nature. The relevant supplementary information referred to the exemption applying only to unsolicited enquiries. The Panel did not know if the representative had promoted Olmetec to the practice manager and if such a discussion had referred to cost. If that had been so then the practice manager's request was not unsolicited. In any event the Panel considered that the spreadsheets went beyond what was necessary to answer the practice manager's enquiry. The inclusion of the drug tariff

reimbursement price, dispensing discount, wholesaler discount and profit per script was more information than was needed for a non-dispensing practice. Thus the spreadsheets could not take the benefit of the exemption from promotion given in Clause 1.2 of the Code.

The Panel considered that the representative had in effect produced her own promotional material which had not been certified nor did it include prescribing information. Focusing on profit in a non-dispensing practice would not influence prescribing as alleged. Nonetheless it was misleading to show to a non dispensing practice how much profit could be made.

A breach of Clause 7.2 was thus ruled. The Panel considered that the representative by producing and supplying the spreadsheets to the practice manager had not complied with the Code and thus a breach of Clause 15.2 of the Code was ruled.

The Panel considered that its ruling of Clause 15.2 covered the situation and thus ruled that there was no breach of Clause 9.2 of the Code.

Complaint received	19 July 2006
Case completed	2 October 2006