
CASE AUTH/1879/7/06

NO BREACH OF THE CODE

PARAGRAPH 17/DIRECTOR v JANSSEN-CILAG

Cost of a promotional aid

During the consideration of Case AUTH/1868/7/06 the Panel queried whether a stethoscope offered as a promotional aid to GPs met the requirements of the supplementary information to the Code that such items must cost the donor company no more than £6 excluding VAT and have a similar perceived value to the recipient.

The Panel noted that, in addition to the requirements regarding actual and perceived value, promotional aids had to be relevant to the recipient's work. There was no doubt that a stethoscope was relevant to a GP's work. The stethoscopes at issue had cost Janssen-Cilag £2.20 each. The Panel noted the company's submission regarding the perceived value of a stethoscope. It appeared that whilst some stethoscopes could cost a lot more than £6 each, there were many which did not. The Panel accepted that from its photograph the stethoscope on offer did not appear to be an expensive one. No breach of the Code was ruled.

COMPLAINT

During the consideration of Case AUTH/1868/7/06 the Panel noted that readers were invited to claim a free stethoscope and queried whether the offer met the requirements of the supplementary information to Clause 18.2 that promotional aids must cost the donor company no more than £6 excluding VAT and have a similar perceived value to the recipient. The Panel decided to take the matter up with Janssen-Cilag as a complaint under Paragraph 17 of the Constitution and Procedure for the Authority.

When writing to Janssen-Cilag the Authority asked the company to respond in relation to Clause 18.1 of the Code.

RESPONSE

Janssen-Cilag noted that Clause 18.2 allowed promotional aids to be distributed to health professionals provided that they were inexpensive and relevant to the practice of their profession. A stethoscope was definitely relevant to the practice of medicine. The company was also aware of the price restrictions on promotional aids and also importantly that the perceived value to the recipient should also not exceed £6 (excluding VAT) such that the offer could not be misconstrued in respect of Clause 18.1.

Stethoscopes varied in their cost and also worth (both real and perceived) to health professionals. A good stethoscope such as a Littmanns could cost in excess of £60 and this definitely would not be consistent with the Code. At the other extreme there was a myriad of stethoscopes available of much lower quality and price. The cost to Janssen-Cilag of the stethoscope offered within the Tramacet edetail aid was £2.16 and thus fulfilled the cost requirements stated in the Code.

With regard to perceived value, it was important that the stethoscope did not appear to be of good or exceptional quality, and indeed the picture of it in the edetail aid would indicate to most health professionals that the stethoscope offered was inexpensive.

The target audience for the Tramacet edetail aid was GPs, and as the item was provided electronically, the company contended that individuals who would have received and read it would be familiar with other electronic media, such as on the internet. There were several readily available sources of inexpensive

stethoscopes on the internet with prices starting from 50p on ebay, and at several other sites at fixed prices of £3.99 and £4.60, which would indicate to a health professional that such stethoscopes were commodity items and not of a special value.

Janssen-Cilag therefore contended that the stethoscope fulfilled the requirements laid out within Clause 18.1 and 18.2 (including supplementary information) and so the company denied a breach of the Code in that respect.

PANEL RULING

The Panel noted that the supplementary information to Clause 18.2 of the Code stated that promotional aids could cost a donor company no more than £6 each, excluding VAT. The perceived value to the

recipient had to be similar. Promotional aids also had to be relevant to the recipient's work.

There was no doubt that a stethoscope was relevant to a GP's work. The stethoscopes at issue had cost Janssen-Cilag £2.20 each excluding VAT but including the charge for the artwork. The Panel noted the company's submission regarding the perceived value of a stethoscope. It appeared that whilst some stethoscopes could cost a lot more than £6 each there were many which did not. The Panel accepted that from its photograph the stethoscope on offer did not appear to be an expensive one. No breach of Clause 18.1 was ruled.

Proceedings commenced 11 August 2006

Case completed

5 September 2006