

ANONYMOUS v GENUS and PROSTRAKAN

Tabphyn MR journal advertisement

An anonymous complainant alleged that an advertisement for Tabphyn MR (tamsulosin) included a hanging comparison, 'Spend fewer pennies on the treatment of BPH', and was misleading. The advertisement, published in Prescriber on 5 February, referred to Genus and ProStrakan and the matter was taken up with both companies.

The complainant provided a copy of a price list from a company specialising in generic medicines which showed a tamsulosin MR product (Stronazon) with an invoice price of £3.69 per pack of 30x400mg and a promotional price of £3.32.

Genus explained that it held the marketing authorization for Tabphyn. The product had been licensed to ProStrakan in March 2006. Genus had had no involvement in promotion of any kind for the product after March 2006 and had no knowledge of the advertisement in question.

The Panel noted the ProStrakan corporate logo and website address appeared in the advertisement which also included the statement 'Further information is available on request from: Genus Pharmaceuticals Ltd'. Both medical information enquiries and adverse event reports should be directed to Genus. It thus appeared from the advertisement that Genus had a current role beyond being the marketing authorization holder. The Panel considered that Genus was jointly responsible with ProStrakan for the advertisement under the Code.

The Panel ruled a breach of the Code as it considered that the claim 'Spend fewer pennies on the treatment of BPH' was a hanging comparison. It was not clear whether the comparison was with other generic or branded formulations of tamsulosin or all other treatments for BPH.

The Panel noted ProStrakan's submission that the price list used by the complainant was not in the public domain. The Panel also noted that at the date of the advertisement, according to data available to ProStrakan, Tabphyn MR was the least expensive tamsulosin product at NHS list price - £7.99 for one month's treatment. The basic price for tamsulosin 400mg modified release capsules (30) was £8.68 (Drug Tariff January 2007). The Panel considered that although it might be possible to buy tamsulosin at less than the NHS list price, it was not unreasonable for companies to base price comparisons on prices that were publicly available. Thus the Panel ruled no breach of the Code.

An anonymous complainant complained about an advertisement (ref M014/042) for Tabphyn MR

(tamsulosin) which featured the claim 'Spend fewer pennies on the treatment of BPH [benign prostatic hyperplasia]' beneath the brand name. The advertisement, published in Prescriber on 5 February, referred to Genus Pharmaceuticals Ltd and ProStrakan Group plc and so the matter was taken up with both companies.

COMPLAINT

The complainant alleged that the advertisement clearly breached Clause 7.2 of the Code. It was a hanging comparison and it was misleading. The complainant provided a copy of a price list from a company specialising in generic medicines which showed a tamsulosin MR product (Stronazon) with an invoice price of £3.69 per pack of 30x400mg and a promotional price of £3.32.

Case AUTH/1968/2/07

RESPONSE

Genus explained that it held the marketing authorization for Tabphyn. The product had been licensed to ProStrakan on 10 March 2006. Genus had had no involvement in promotion of any kind for the product after March 2006 and had no knowledge of the advertisement in question for which the date of preparation was given as December 2006.

Case AUTH/1969/3/07

RESPONSE

ProStrakan stated that when the advertisement was approved one month's treatment with Tabphyn MR was £7.99. The list price quoted in MIMS February 2007 for generic tamsulosin was £8.68. In addition an internet search for the prices of approved generic products showed that in relation to tamsulosin and BPH, Tabphyn MR was the least expensive product available at NHS listed price. A copy of the results from the internet search were provided.

The price list used by the complainant as the basis for the complaint was not in the public domain, and as such ProStrakan was unaware of the prices offered.

As ProStrakan always compared its prices with NHS official list prices it considered that it was not in breach of Clause 7.2.

However, in light of this new information ProStrakan had now withdrawn all promotional materials with

the claim in question.

Case AUTH/1968/2/07

PANEL RULING

The Panel noted that details for each company appeared on the advertisement. The corporate logo for ProStrakan, together with its website address appeared in the bottom right hand corner of the main photograph. Small text in the top right hand corner of the advertisement read 'Further information is available on request from: Genus Pharmaceuticals Ltd'. Boxed text stated that both medical information enquiries and adverse event reports should be directed to Genus. It thus appeared from the advertisement that Genus had a current role in relation to the product beyond being the marketing authorization holder. That would certainly be the impression given to the reader. The Panel thus considered that Genus was jointly responsible with ProStrakan for the advertisement under the Code.

Cases AUTH/1968/2/07 and AUTH/1969/2/07

PANEL RULING

The Panel considered that the claim 'Spend fewer

pennies on the treatment of BPH' was a hanging comparison as alleged. It was not clear whether the comparison was with other generic or branded formulations of tamsulosin or all other treatments for BPH. A breach of Clause 7.2 was ruled.

The Panel noted the cost data showing tamsulosin MR (Stronazon) capsules at £3.32, February 2007 as provided by the complainant. It also noted ProStrakan's submission that the price list used by the complainant was not in the public domain. The Panel also noted that at the date of the advertisement, according to data available to ProStrakan, Tabphyn MR was the least expensive tamsulosin product at NHS list price - £7.99 for one month's treatment. The basic price for tamsulosin 400mg modified release capsules (30) was £8.68 (Drug Tariff January 2007). The Panel considered that although it might be possible to buy tamsulosin at less than the NHS list price, it was not unreasonable for companies to base price comparisons on prices that were publicly available. Thus the Panel ruled no breach of Clause 7.2.

Complaint received 28 February 2007

Case completed AUTH/1968/2/07 15 May 2007

AUTH/1969/2/07 13 April 2007