

HEALTHCARE CONSORTIUM v DAIICHI-SANKYO

Conduct of representative

A medicines management team leader complained on behalf of a local healthcare consortium that a Daiichi-Sankyo representative, promoting Olmetec (olmesartan), had stated that the medicines management team was to be disbanded. This was not so and could be construed as misleading GPs so that they would prescribe Olmetec.

The detailed response from Daiichi-Sankyo is given below.

The Panel noted that a general practice manager had reported a conversation they had had with a Daiichi-Sankyo representative. It appeared that the complainant had not been party to that conversation. The practice at issue had not agreed to the disclosure of its identity. When told from which healthcare consortium the complaint had come, Daiichi-Sankyo stated the call record of one representative could match the little information provided.

The Panel noted that whilst the company denied the allegation, one of its representatives had, when accompanied by his manager, asked a practice manager whether the Department of Health White Paper, 'Equity and Excellence: Liberating the NHS', meant that primary care trusts would be disbanded. The representative and his manager were left with the impression that the practice manager would explain the implications of the White Paper to the representative at a later date.

The Panel noted that the White Paper set out the new proposed NHS funding and accountability structure. Given the implications and sensitivity of the issues raised, the Panel considered it was entirely foreseeable that representatives might discuss the White Paper with those they called upon. If representatives raised this matter it was beholden upon the company to ensure that they had been appropriately briefed. The White Paper was published on 12 July; the primary care sales team were briefed on it on 23 September, some 10 weeks after the representative identified by the company spoke to a practice manager about the issue and approximately 4 weeks after the receipt of this complaint. The Panel queried whether representatives should have been briefed on the White Paper earlier given that they were proactively raising it with health professionals.

The Panel considered that on the balance of probabilities the representative had discussed the implications of the White Paper with a practice manager. However, it was not possible to determine on the balance of probabilities whether the representative had stated that the medicines

management team would be disbanded as alleged. The parties' accounts differed. The Panel thus ruled no breach of the Code.

A medicines management team leader at a healthcare consortium complained about the conduct of an unidentified representative from Daiichi-Sankyo UK Ltd at a practice within the consortium.

COMPLAINT

The complainant had stated that the healthcare consortium had been informed by one of its practice managers that a Daiichi-Sankyo representative, promoting Olmetec (olmesartan), had told a practice that the medicines management team was to be disbanded. This was incorrect, and could be construed as misleading GPs so they would prescribe Olmetec.

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The medical centre at issue did not want to be identified to Daiichi-Sankyo. When told from which healthcare consortium in the UK the complaint came, the company asked for further information before it submitted its response. The complainant did not respond to this request.

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When writing to Daiichi-Sankyo, the Authority asked it to consider the requirements of Clauses 7.2 and 15.2 of the Code.

RESPONSE

Daiichi-Sankyo stated that five of its employees worked within the area in question, but based on the minimal information provided it was difficult to accurately identify who might have had the alleged discussion. Daiichi-Sankyo took this allegation very seriously and had conducted an internal investigation based on assumptions; it noted that it could not respond as completely and accurately as it would like to, as it did not fully understand who was involved, when, where, with whom, and whether the complainant was present during the alleged conversation.

Daiichi-Sankyo submitted that 31 practices formed the healthcare consortium in question and it had inspected the notes that had been logged within the company's call reporting system with health professionals based at these practices over the two months preceding the complaint. There was only one record that could match with the little

information provided. On Tuesday, 3 August, this representative, accompanied by his manager, visited a named medical centre and met the practice manager. The representative and the manager recalled that at the outset the representative asked the practice manager 'What do you know about the White Paper?' which had been published by the Department of Health (DoH), 12 July 2010. In the brief conversation that followed the representative and the manager recalled the representative asking whether the proposals in the White Paper meant that primary care trusts (PCTs) would be disbanded. The practice manager didn't know but implied that she would get more information and explain the implications to the representative at a later date. The representative had a very good professional working relationship with this practice manager, and that she had supported his understanding of the local environment in the past so this would not be out of the ordinary. The representative had not met with, or had any communication with this practice manager since 3 August 2010.

The representative explicitly denied 'telling the practice that the medicines management team was to be disbanded'. He claimed that he would only use the phrase 'medicines management team' when asking a health professional what the local medicine management team's opinion was on certain treatments or protocols.

The company strongly believed that the discussion as recalled by the representative and his manager did not constitute a breach of either Clauses 7.2 or 15.2. Daiichi-Sankyo was concerned that the complainant, described as a lead GP, had made allegations based on a conversation at which he was not present, and had not provided any further details or information as requested by the Authority.

Daiichi-Sankyo explained that it had not provided its field based teams with any briefing materials that referred to the disbandment of medicines management teams; however a presentation was delivered on Thursday 23 September to its primary care sales team on the DoH White Paper 'Equity and Excellence: Liberating the NHS'. This was factual in content and did not provide any instruction on how it should be interpreted. This presentation was certified on Monday, 20 September ie some time after the complaint was made. A copy of the presentation and the associated certificate was provided. There had been no other representative briefings associated with the White Paper.

PANEL RULING

The Panel noted that a general practice manager had reported a conversation they had had with a Daiichi-Sankyo representative to their local healthcare consortium. It appeared that the complainant had not been party to that

conversation. Via the complainant, the practice at issue had not agreed to the disclosure of its identity to Daiichi-Sankyo although the company did know the geographical region. Daiichi-Sankyo stated that it was consequently difficult to identify the representative at issue. The Panel noted that, as stated in the introduction to the Constitution and Procedure, the names of individuals complaining from outside the industry were kept confidential save in those exceptional circumstances where disclosure was necessary to enable the matter to be properly investigated. Such disclosure was only made with the complainant's consent.

The Panel noted that whilst the company denied the allegation, it had identified and interviewed a representative who, when accompanied by his manager, had asked a practice manager whether the DoH White Paper 'Equity and Excellence: Liberating the NHS' meant that PCTs would be disbanded. The representative and his manager were left with the impression that the practice manager would explain the implications of the White Paper to the representative at a later date.

The Panel noted that the White Paper referred to the establishment of GP commissioning consortia. PCTs were not part of the new proposed NHS funding and accountability structure. Given the huge implications and sensitivity of the issues raised in the White Paper, the Panel considered it was entirely foreseeable that representatives might discuss its implications with health professionals/appropriate administrative staff. If representatives raised this matter it was beholden upon the company to ensure that they had been appropriately briefed. The White Paper was published on 12 July; the primary care sales team received a presentation on it on 23 September, some 10 weeks after the representative identified by the company spoke to a practice manager about the issue and approximately 4 weeks after the company was notified by the Authority about the present complaint. The Panel queried whether representatives should have been briefed on this earlier given that they were proactively raising it with health professionals.

The Panel considered that on the balance of probabilities the representative had discussed the implications of the White Paper with a practice manager. However it was not possible to determine on the balance of probabilities whether the representative had stated that the medicines management team would be disbanded as alleged. The parties' accounts differed. The Panel thus ruled no breach of Clauses 7.2 and 15.2 of the Code.

Complaint received	10 August 2010
Case completed	29 October 2010