

VOLUNTARY ADMISSION BY ASTELLAS

Too many pages of advertising

Astellas voluntarily admitted that the 5 December 2012 edition of Pulse included a one page Vesicare (solifenacin) advertisement plus a double-sided bound insert for the medicine. This was a potential breach of the Code.

The Authority's Constitution and Procedure required the Director to treat a voluntary admission as a complaint.

Astellas stated that its preliminary investigation suggested that it was not the fault of either Astellas or its agency which cancelled the additional advertisement in early November. Pulse had admitted full liability.

The detailed response from Astellas is given below.

The Panel noted that Astellas had initially booked a single page advertisement for the 5 December issue of Pulse but decided to replace it with a two page bound insert. Emails were clear about the revised instructions. Pulse confirmed the new instructions but mistakenly printed both the single page advertisement and the two page bound insert.

The Panel noted Astellas's submission that Pulse had admitted full responsibility for the error. However, it was an established principle under the Code that pharmaceutical companies were responsible for work undertaken by third parties on their behalf. The Panel considered that Astellas had been let down by its publisher.

The Panel noted that the 5 December issue of Pulse contained three pages of advertising for Vesicare, contrary to the requirements of the Code which limited advertising for a particular product to no more than two pages. A breach of the Code was ruled.

Astellas Pharma Ltd made a voluntary admission in relation to Vesicare (solifenacin) advertisements published in Pulse 5 December 2012.

Paragraph 5.6 of the Authority's Constitution and Procedure stated that the Director should treat a voluntary admission as a complaint.

COMPLAINT

Astellas noted that in the 5 December edition of Pulse there were three pages of advertisements for Vesicare; a one page advertisement plus a double-sided bound insert. This was a potential breach of Clause 6.3.

Astellas stated that its preliminary investigation suggested that it was not the fault of either the company or its agency which cancelled the additional advertisement in early November. Astellas had an

email from Pulse in which it admitted full liability and also the cancellation notification sent to Pulse from its agency dated 5 November.

When writing to Astellas, the Authority asked it to comment in relation to Clause 6.3 of the Code.

RESPONSE

Astellas stated that the initial arrangement was for a one page Vesicare advertisement (ref VES12419UK) to appear in the 5 December 2012 issue of Pulse. However, Astellas decided to withdraw this advertisement and replace it with a two page bound insert with both the original Vesicare (ref VES12419UK) advertisement alongside the VIP - Vesicare Information Programme (ref VES12431UK) patient support programme advertisement in order to highlight the availability of the free VIP service. Hence, the one page advertisement was dropped and the bound insert was chosen to limit the advertising of Vesicare, including VIP, to the permitted maximum of two pages as specified in Clause 6.3.

However, Astellas was informed by its agency on 5 December 2012 that Pulse carried the one page advertisement in error, in addition to the requested two page Vesicare and VIP bound insert. Astellas immediately investigated the reasons for this potential breach of Clause 6.3.

Astellas noted that on 6 November 2012 an email sent by the publisher of Pulse to Astellas's agency, confirmed the paperwork to remove the one page advertisement and replace it with the bound insert for the 5 December 2012 issue of Pulse. Unfortunately, although the publisher confirmed it would act on Astellas's agency's clear instructions, this did not happen and the 5 December issue of Pulse carried both the one page advertisement and the bound insert taking the total to three pages of Vesicare advertisements in spite of all the precautions taken by Astellas and the media buyer. The publisher subsequently admitted liability for this error and apologised in an email sent on 5 December 2012 and assured Astellas that this would not happen again.

Astellas submitted that it had very robust policies and procedures to ensure compliance with the Code. It had a standard operating procedure (SOP) for the withdrawal and recall of promotional and non-promotional materials but it did not have specific written guidance on the exchange of one advertisement slot for another. However, the communications between media buyer and publisher could not have been clearer and Astellas could not understand how this basic error had occurred. Astellas considered that it had been badly let down by the publisher.

In summary, Astellas submitted that the accidental publication of three pages of Vesicare advertisements occurred solely due to a mistake by Pulse and not an agency of Astellas and it therefore did not consider that it could be held accountable for a breach of Clause 6.3 as all reasonable steps were taken to prevent this.

Astellas hoped this clarified the situation and demonstrated that there was nothing more it could have done in this particular instance.

PANEL RULING

The Panel noted that Astellas had initially arranged for Pulse to publish a single page advertisement (ref VES12419UK) in the 5 December issue of the journal. It then decided to replace this advertisement with a two page bound insert consisting of the advertisement originally intended for publication alongside an advertisement for the Vesicare information programme. The Panel noted that emails were clear about the revised instructions; Pulse confirming that it had removed the one page

advertisement and replaced it with the bound insert. The Panel further noted Astellas's submission that Pulse had then mistakenly printed both the single page and the two page bound advertisements.

The Panel noted Astellas's submission that Pulse had admitted full responsibility for the error. However, it was an established principle under the Code that pharmaceutical companies were responsible for work undertaken by third parties on their behalf. The Panel considered that Astellas had been let down by its publisher.

The Panel noted that the 5 December issue of Pulse contained three pages of advertisement for Vesicare, contrary to the requirements of Clause 6.3 which limited advertising for a particular product to no more than two pages. A breach of that clause was ruled.

Complaint received	12 December 2012
Case completed	7 February 2013