

# ANONYMOUS v UCB

## Declaration of support to patient organisation

An anonymous, non-contactable complainant, described as a neurologist, complained about two aspects of the UK website for UCB Pharma.

The detailed response from UCB is given below.

The complainant alleged that UCB had flouted the requirement to declare payments or benefits in kind made to UK patient organisations. The complainant referred to the company's support of a health board (via a patient organisation) by providing a specialist nurse to train health professionals. No declaration of this support was included on the company's website.

The Panel noted UCB's submission that the activity at issue was a joint working project and it had publicly declared its involvement in that project as required by the Code. UCB had submitted that the amounts it had paid to the patient group in relation to that project were fee for service payments. The Panel considered that these payments should have been declared in accordance with the Code. There was no declaration of these payments on the company's website. However, the company had been asked to respond in relation to the declaration of payments of financial support as opposed to fees for service and so the Panel ruled no breach of the Code in that regard.

The Code required that an executive summary of joint working agreements be made publicly available before arrangements were implemented. UCB had published an executive summary of the agreement on its website; no breach of the Code was ruled in this regard.

The complainant understood that the UCB website should be approved internally and re-approved every two years but noted that in May 2013, the website continued to carry an approval date of March 2011.

The Panel noted UCB's explanation regarding the dates and codes which appeared at the bottom of its corporate website pages. The Panel noted that although the website commissioning date of March 2011 appeared in the bottom left-hand corner of every webpage, the significance of the date was not explained. However, in the right-hand corner of every page, and in the same size font, the date of the last update was clearly stated. The Panel did not consider that the complainant had demonstrated that relevant pages of the website had not been recertified as required by the Code. No breaches of the Code were ruled.

An anonymous, non-contactable complainant, described as a neurologist, complained about two aspects of the UK website for UCB Pharma Ltd ([www.ucbpharma.co.uk](http://www.ucbpharma.co.uk)).

### 1 Failure to declare support for patient organisation

#### COMPLAINT

UCB emphasised that it was committed to the highest standards of corporate conduct and maintained a compliance programme in accordance with industry standards. As a member of the ABPI, UCB was committed to operate in a professional, ethical and transparent manner and abide by the Code.

UCB noted that Clause 23.7 dealt with the public declaration requirements in relation to working with patient organisations.

The support of the health board (via the patient group) referred to in the complaint related to a joint working project, which was described in more detail below. Accordingly, Clause 18.5 which dealt with joint working between one or more pharmaceutical companies and health authorities and trusts was relevant.

The joint working project at issue was between the patient group, health board, another named pharmaceutical company and UCB. The ultimate beneficiaries of the project would be people with epilepsy through services provided by the health board. The objectives of the project were to improve and develop the provision of such services by the health board.

UCB stated that in accordance with Clause 18.5, the parties entered into a written joint working agreement to record the roles and responsibilities of each of the parties and other terms governing the implementation of the project. UCB offered to provide a copy of the joint working agreement if necessary but noted that it was subject to confidentiality restrictions and required consent from all the parties involved.

In addition, in accordance with the requirements of Clause 18.5, an executive summary of the joint working project was made publicly available by UCB shortly afterwards on its UK website under the 'Partners' webpage. Similarly, an executive summary was also made publicly available by the other named pharmaceutical company, on its website under 'Joint Working'.

As this was a joint working project and therefore governed by Clause 18.5, UCB submitted that it had faithfully publicly declared its involvement in it as required by the Code, and that the website disclosure met the requirements of Clause 18.5.

UCB strongly believed that it was not in breach of the Code and that the complainant appeared to have

misinterpreted UCB's corporate website and the location of its public declarations and disclosures.

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On receipt of UCB's response in which it submitted that the activity at issue was a joint working project, the Authority invited any further comments that UCB wanted to make in relation to Clause 18.5. The company stated that it did not wish to make any further comment.

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In response to a request from the Panel for further information, UCB provided details of the amounts paid to the patient group in relation to the joint working project. UCB submitted that these were fee for service payments in response to individual invoices and not donations.

UCB stated that, in summary, the patient group's responsibilities as a joint working partner under the joint working agreement were to:

- provide an epilepsy nurse specialist to deliver training
- be a direct link to government
- manage PR
- publish results
- provide secretariat support
- prepare training materials
- liaise with professional bodies and CPD accreditation
- monitor and audit quality objectives and key performance indicators
- produce high quality evidence-based patient information resources.

UCB provided a copy of the joint working agreement and accompanying business case which detailed the patient group's role within and contribution to the project and UCB's financial obligation to the patient

## PANEL RULING

The Panel noted that Clause 23.7 stated that each company must make publicly available, at a national or European level, a list of patient organisations to which it provided financial support and/or significant indirect/non-financial support, which must include a description of the nature of the support that was sufficiently complete to enable the average reader to form an understanding of the significance of the support. The list of organisations being given support must be updated at least once a year. The published information must include the monetary value of financial support and of invoiced costs. For significant non-financial support that could not be assigned a meaningful monetary value, the published information must describe clearly the non-monetary value that the organisation received.

The Panel noted UCB's submission that Clause 23.7 dealt with the public declaration requirements in relation to working with patient organisations but that as the support of the health board (via a patient group) referred to in the complaint related to a joint working project, it was governed by Clause 18.5 and

UCB had publicly declared its involvement in that project as required by the Code.

The Panel noted that joint working projects were originally expected to be between the industry and the NHS. It noted that the Department of Health defined joint working as situations where, for the benefit of patients, one or more pharmaceutical companies and the NHS pooled skills, experience and/or resources for the joint development and implementation of patient centred projects and shared a commitment to successful delivery. There was no reason, however, why patient organisations should not also be involved. In joint working projects the wording of Clause 18.5 referred to joint working between pharmaceutical companies and health authorities and trusts and the like which would include patient organisations. In the Panel's view companies would have to consider the requirements of both Clause 18.5 and Clause 23 in relation to joint working projects which involved patient organisations. Thus if joint working involved payments from a pharmaceutical company to a patient organisation such as a donation or fee for service, the payments should be declared in accordance with Clause 23. The Panel noted that Clause 23 did not include any exemptions for payments made to patient organisations in relation to joint working.

The Panel noted that the joint working agreement provided by UCB stated that the other named pharmaceutical company and UCB should comply with the requirements of the Code and their own internal codes of practice to ensure that all involvement with the patient group, including the amount of funding and the percentage that such funding represented to the patient group, would be declared on the companies' corporate websites. The patient group gave its approval to such disclosure.

UCB had submitted that the amounts it had paid to the patient group in relation to the joint working project were fee for service payments. The Panel considered that these payments should have been declared in accordance with Clause 23.8. There was no declaration of these payments on the company's website. The company had not been asked to respond in relation to Clause 23.8 and so the Panel could make no ruling in that regard. The company had been asked to respond in relation to Clause 23.7. As this covered the declaration of payments of financial support as opposed to fees for service, the Panel ruled no breach of Clause 23.7; the payments in question were not covered by that clause.

Clause 18.5 required, *inter alia*, that an executive summary of joint working agreements be made publicly available before arrangements were implemented. Given that the complainant referred only to declaration of involvement the Panel only considered the joint working project in relation to this narrow aspect.

The Panel noted UCB's submission that the joint working project between the patient group, the health board, other named pharmaceutical company and UCB aimed to improve and develop the provision of services by the health board for epilepsy

patients. The Panel noted that the parties had entered into a written agreement which recorded the roles and responsibilities of the parties and the financial arrangements as well as other terms and conditions governing the project's implementation. In addition, UCB had published on its website an executive summary of the joint working agreement in accordance with Clause 18.5. Overall, the Panel considered that the public declaration of the joint working project met the requirements of Clause 18.5 and no breach of that clause was ruled.

## 2 Failure to re-approve website content

### COMPLAINT

The complainant understood that the UCB website should be approved internally and re-approved every two years. The complainant noted, however, that in May 2013 the website continued to carry an approval date of March 2011.

When writing to UCB, the Authority asked it to respond in relation to Clauses 14.1 and 14.5 of the Code.

### RESPONSE

UCB noted that Clause 14 dealt with the certification requirements for certain materials, in particular promotional material (Clause 14.1), meetings involving travel outside the UK (Clause 14.2) and material expressly covered by Clause 14.3. Corporate websites *per se* did not require certification under the Code. However, where a particular webpage or information held on a corporate website contained material which fell within the scope of Clauses 14.1, 14.2 or 14.3, certification was required. UCB examined all information on its corporate website to ensure that it complied with the Code and to confirm whether or not certification under Clause 14 was required. If certification was required, then all necessary steps were taken to comply with the requirements of Clause 14 including Clause 14.5 with respect to re-certification.

The complaint related specifically to UCB's UK website. This was a functional corporate website which could be accessed by the public and contained general information about UCB's UK operations. In particular, it had separate webpages on 'Patients' (wherein UCB declared its support for patient organisations in the UK) and 'Partners' (wherein it had declared the joint working project described in Point 1 above).

In addition, the website contained information that would normally be expected to be made available to the public via a corporate website, including UCB's history, culture and values, information for job seekers, corporate social responsibility activities, research and development and a media room containing copies of UCB's latest press releases.

With regard to the dates which appeared at the bottom of each webpage, UCB explained that: the bottom right-hand side of each webpage had a reference date labelled 'Last update: ...'. The date

recorded here might differ for each webpage and indicated the last date on which that particular page was updated by UCB. The bottom, left-hand side of every webpage was the code and date '10MIS0004a/March 2011'. This described the original website commissioning internal reference number and date. The commissioning date, March 2011, was the same for all webpages because that was the date that UCB commissioned the corporate website as a whole, and therefore it would not change. The internal reference number did not indicate certification for the purposes of the Code.

UCB assumed that the complainant had referred to the website commissioning number and date and, as explained above, that particular reference number and date did not refer to any 'approval date' for Code purposes. UCB noted that press releases on its corporate website also carried their own individual reference numbers, which indicated that in accordance with the Code, these had been examined to ensure that they did not contravene it.

Currently, the only item and webpage on UCB's corporate website that required certification pursuant to Clause 14 was the executive summary of the joint working project referred to at Point 1 above. The executive summary was thus duly certified before it was uploaded. UCB stated that as evident from the dates shown at the bottom right-hand side 'Last update: 2013-04-08', that specific webpage was last updated on 8 April 2013 and, furthermore, the executive summary itself recorded the date of preparation at the bottom of that executive summary as March 2013 ('UK/12MIS0062a/Date of preparation March 2013'). It was this number and date which referred to certification.

Based on the above explanation of the dates on UCB's corporate website pages and the requirements of Clause 14, UCB submitted that it had complied with Clauses 14.1 and 14.3 and was not in breach, and that the complainant had misinterpreted the information contained on the footer of UCB's corporate webpages.

Finally, although UCB firmly believed it was not in breach of the Code for the reasons described above, following the resolution of this case, it would try to clarify its website in an effort to prevent any similar misinterpretation in the future.

### PANEL RULING

The Panel noted that the complainant had not highlighted specific pages on the website but had made a general allegation that the website continued to carry an approval date of March 2011. The complainant understood that the website should have been approved internally and re-approved every two years.

The Panel noted that the Code required promotional material (Clause 14.1), meetings involving travel outside the UK (Clause 14.2) and material expressly covered by Clause 14.3 to be certified and recertified at intervals of no more than two years if still in use (Clause 14.5).

The Panel noted UCB's submission that not all pages on its corporate website required certification and recertification in line with the Code but all information on its corporate website was examined to ensure that it complied with the Code and was certified and recertified in line with Clause 14 where required.

The Panel noted UCB's explanation regarding the dates and codes which appeared at the bottom of its corporate website pages. In the bottom left-hand corner of every page was the same code and date (10MIS0004a/March 2011) which was an internal reference number and date assigned when the website was first commissioned. This number and date would therefore not change and did not indicate certification for purposes of the Code. In the bottom right-hand corner of each webpage was a statement 'Last update:.....' and the date recorded here might be different for each webpage indicating the date the particular webpage was last updated by UCB.

The Panel further noted UCB's submission that press releases on its website carried their own individual reference number and date of preparation which related to certification/examination of the material in line with the Code.

The Panel noted that although the website commissioning date of March 2011 appeared in the bottom left-hand corner of every webpage, the significance of the date was not explained. However, in the right-hand corner of every page, and in the same size font, the date of the last update was clearly stated. The complainant had not referred to any particular page of the website but on the assumption that he/she had at least looked at the page detailing support for patient organisations, the Panel noted that that page was last update on 26 March 2013. The Panel did not consider that the complainant had demonstrated that relevant pages of the website had not been recertified as required by the Code. No breach of Clauses 14.5 and 14.1 was ruled.

<b>Complaint received</b>	<b>21 May 2013</b>
<b>Case completed</b>	<b>9 July 2013</b>