

ANONYMOUS, NON CONTACTABLE v BOEHRINGER INGELHEIM

Engagement of a consultant and his/her training and consultancy company

An anonymous, non-contactable complainant raised concerns about a therapy area specific training and consultancy company and its owner, a health professional who delivered services including practice audits, health professional mentoring, education and classroom based training workshops funded by a number of named pharmaceutical companies including Boehringer Ingelheim. These services had been delivered in a number of named clinical commissioning groups (CCGs) in one area. In addition, the health professional was a specialist nurse employed on a contractual basis by a number of NHS organisations including a city based community healthcare organisation (CHO). In his/her role as a nurse within that organisation the health professional had prescribing responsibility and influence within one of the CCGs named by the complainant.

The complainant alleged that the training and consultancy company had conducted industry funded clinical audits in several GP surgeries in the area in question which were identifiable as they had highly irregular use of the sponsoring company's product. The patients of several surgeries in one CCG were either initiated onto or switched to the sponsor's medicine with little consideration given to alternative therapies. The pattern of disproportionate increases in product sales could be directly linked back to the pharmaceutical company which had funded the training and consultancy company.

The complainant referred to a series of accredited training workshops delivered by the training and consultancy company in partnership with a named CCG which was completely funded by industry. The complainant was concerned about the potential substantial financial support to the training and consultancy company for these workshops due to reservations about the ethics of that organisation and because its owner was directly contracted to the local city based CHO. In the complainant's view industry's financial support for these courses was staggering and could be perceived as an attempt to 'buy the business'.

The complainant alleged that the training and consultancy company had told pharmaceutical companies that if they failed to provide support, their products would not be used in the CCG in which he/she had prescribing responsibility. The complainant stated that his/her company's local representative felt highly pressured to offer funding as he/she had been threatened that if he/she failed to support training events the health professional in question would simply get the money from another pharmaceutical company. The complainant stated that this highly coercive behaviour was completely unacceptable and he/she assumed that similar pressure had been exerted on other pharmaceutical companies. In addition the complainant noted that services provided by industry were in some cases very similar to the

offerings developed by the training and consultancy company and alleged that the health professional in question had left individuals in no doubt that if their company attempted to partner in CCGs where he/she wanted to deliver programmes there could be consequences for their sales in the area in which he/she had prescribing responsibility.

The detailed response from Boehringer Ingelheim is given below.

The Panel had no contact details for the complainant and so could not ask him/her for further details. The complainant had the burden of proving his/her complaint on the balance of probabilities; he/she had not provided any evidence in support of the allegations.

The Panel noted that the complainant began by stating that he/she wished to complain about the conduct of the training and consultancy company and subsequently referred to its owner. In this regard the Panel noted that the Code applied solely to the conduct of pharmaceutical companies.

The Panel considered that the scope of the complaint included the engagement of the health professional in question and/or the activities of his/her company with health professionals, whether the company's activities were delivered by its owner or other individuals. However, when considering such matters the totality of a pharmaceutical company's interactions with the health professional in question would nonetheless be relevant.

The Panel noted that the complainant had provided a website address for the training and consultancy company which named the health professional in question as the Director and another health professional as the nurse liaison lead. The Panel noted that the named health professional was contracted by the NHS to work at a number of GP surgeries in addition to his/her role at the city based CHO.

The Panel noted that Boehringer Ingelheim's first interaction with the named health professional was in relation to an evening meeting held in 2014 at a GP practice and organised by the CCG in which the health professional had prescribing responsibility. Boehringer Ingelheim submitted that the CCG had decided to use the health professional's services and his/her speaker's fee was paid directly by Boehringer Ingelheim. The Panel noted that the complainant bore the burden of proof and considered that the complainant had not established on the balance of probabilities that there was any evidence to show that the engagement of the health professional was an inducement to prescribe or otherwise inappropriate as alleged. No breach of the Code was ruled, including no breach of Clause 2.

The Panel noted that the same CCG organised two courses, each over two days, using the training and consultancy company. Each course was sponsored by Boehringer Ingelheim and another company. Boehringer Ingelheim subsequently submitted that the courses were organised by the training and consultancy company. At the request of the CCG the contracts for each course were with the training and consultancy company and described it as the organiser. The signature required for the training and consultancy company was that of the named health professional. The Panel noted Boehringer Ingelheim's submission that it was not aware of the relationship between the training and consultancy company and the local CCG/city based CHO. In that regard, however, the Panel noted from the materials provided, Boehringer Ingelheim should have been well aware of the health professional's dual role within the CCG and as the owner of the training and consultancy services company.

The Panel further noted the author of an email from a therapeutic area team lead at the city based CHO to the local representative requesting funding for the courses at issue was also a colleague of the named health professional at the training and consultancy company. In this colleague's role at the CCG in which the health professional had prescribing responsibility, he/she had previously held discussions with Boehringer Ingelheim's representative about supporting training with the named health professional. The company paid for exhibition stands at the two meetings. The Panel noted that the agenda for each course set out a detailed accredited education programme over two days. The Panel noted that the complainant bore the burden of proof and considered that the complainant had not established on the balance of probabilities that either the provision of sponsorship or the level of sponsorship was an inducement to prescribe or otherwise inappropriate in relation to the matters alleged and no breach of the Code was ruled.

The Panel noted Boehringer Ingelheim's submission that it had not funded any clinical audits in this therapeutic area in a named area. It had at the request of the city based CHO funded a meeting to provide training for practices to use a free clinical audit tool which had been developed by a university. The person who requested the funding was linked to the training and consultancy company. Payment was made directly to the university. Boehringer Ingelheim had no role in relation to the development of the tool or its subsequent use. The Panel also noted the company's submission that it did not know whether the named health professional attended the training meeting in July 2016. The Panel noted that there was no evidence that the request for sponsorship and/or the decision to sponsor was linked to the use of Boehringer Ingelheim's medicines. The Panel noted that the complainant bore the burden of proof and considered that the complainant had not established on the balance of probabilities that there was any evidence to show that sponsorship of the training day was an inducement to prescribe or otherwise inappropriate in relation to the matters alleged. No breach of the Code was ruled including no breach of Clause 2.

There was no evidence before the Panel that Boehringer Ingelheim had engaged in any relevant activities in relation to medical and educational goods and services and/or entered into contracts with certain organisations governed by the Code and the Panel ruled no breach of the Code accordingly.

An anonymous, non-contactable complainant who described themselves as an employee of one of the many manufacturers of therapies in a particular therapy area, complained about the conduct of a therapy area specific training and consultancy company run by a named health professional, that delivered a range of services to, *inter alia*, the NHS including services that were funded by named pharmaceutical companies including Boehringer Ingelheim Limited.

COMPLAINT

The complainant stated that the named health professional, in addition to his/her role at his/her company was also a specialist nurse employed on a contractual basis by a number of NHS organisations including a city based community healthcare organisation (CHO). In his/her role as a nurse within that organisation he/she had prescribing responsibility and influence within a named clinical commissioning group (CCG) area. The services offered ranged from in practice audits, health professional mentoring and education, to classroom based training workshops. These offerings had been delivered in a number of named local CCGs. Funding was provided for these initiatives through various mechanisms within the Code ie independent stand meetings.

The complainant stated that he/she had previously raised concerns within his/her organisation in relation the legitimacy of the training and consultancy company business model, in particular how it received funding from the pharmaceutical industry which unfortunately included on-going financial and logistical support from the complainant's own company. The complainant's concerns had been raised internally with management but no action had been taken to rectify the situation and the complainant believed that his/her job would be at risk if his/her confidentiality in raising these issues was not protected.

The complainant explained that the training and consultancy company had conducted industry funded 'clinical audits' in several surgeries across a named part of a city, those practices were very easy for medicines management to identify as they had highly irregular use of the sponsor's product. In several surgeries in a named CCG patients were either initiated onto or switched to the sponsors' medicine with little consideration given to alternative therapies. The pattern of disproportionate increases in product sales could be directly linked back to the pharmaceutical companies' funding support to the training and consultancy company. The complainant explained that unfortunately to protect his/her anonymity, he/she was unable to provide a very detailed narrative but would endeavour to

give enough information so that the training and consultancy company and the pharmaceutical companies that used it were held to account.

The complainant stated that at the beginning of 2016 the training and consultancy company started to deliver a series of training workshops in partnership with the CCG in which the named health professional had prescribing responsibility which were accredited by the Royal College of General Practitioners (RCGP) and the Royal College of Nursing (RCN). The delivery of the workshops was, and continued to be completely funded by industry. The complainant articulated his/her concerns to his/her line manager regarding the company potentially providing substantial financial support to the training and consultancy company for these workshops due to his/her reservations about the ethics of that organisation and because its owner was directly contracted to the city based CHO.

The complainant stated that the amount of money that industry had pumped into these courses was staggering, and in his/her opinion the risk that the support could be perceived as an attempt to 'buy the business' had led him/her to continuously try to dissuade his/her company from being involved. Unfortunately the concerns the complainant foresaw had materialised into major conflict of interest and anti-competitive issues whereby the training and consultancy company had told potential industry partners that if they failed to provide support, their products would not be used in the CCG in which the complainant stated that the named health professional had prescribing responsibility and influence. The complainant stated that his/her company's local representative felt highly pressured to offer the training and consultancy company funding as the individual had been threatened that if he/she failed to support training events the named health professional would simply get the money from another pharmaceutical company. According to the complainant this was highly coercive behaviour and clearly completely unacceptable and one could only assume that similar pressure had been exerted on all other pharmaceutical companies.

An additional issue that recently came to light was that most of the organisations working in the therapy area provided a range of industry-developed services that were deployed in partnerships with NHS organisations; these services were in some cases very similar to the offerings developed by the training and consultancy company. The named health professional had left individuals in no doubt that if their organisation attempted to partner in CCGs where he/she wanted to deliver the programmes there could be consequences for their sales in the area in which he/she had prescribing responsibility.

In the complainant's view the NHS and industry should be able to collaborate in highly transparent projects that benefited all stakeholders. Having to turn to the PMCPA to whistle-blow on his/her own organisation and the unacceptable behaviour of an organisation that it was actively engaged with was the low point of his/her career in the pharmaceutical industry. The complainant stated

that the cavalier attitude of management within his/her own organisation and an inability for him/her to sit on the side-lines as the actions of a few undermined those of many and once again brought the industry into disrepute was too much to stomach. The complainant felt incredibly disillusioned that the industry and his/her company continued to work alongside an organisation that operated in a manner that was simply unacceptable in 2016. Unfortunately, industry was not an innocent party in the affair; all of the companies that had been involved with the training and consultancy company needed to reassess how they conducted business. The complainant appreciated that the evidence given in the complaint might not be detailed enough for the Authority to act but he/she hoped that there was enough information to at least investigate the relationship between the named health professional and a number of pharmaceutical companies. The great shame was that he/she might well be delivering much needed training and support for health professionals, however, the path he/she had decided to follow to extract financial support from industry had sullied what could have otherwise been a noble endeavour. The complainant hoped his/her complaint was seen as a genuine cry for help from the PMCPA as he/she had been ignored by those in positions of power within his/her organisation. The complainant stated that this complaint was motivated by a strong desire to do what was right; he/she was reasonably certain that if the issues outlined were investigated, his/her position within his/her company and probably the industry would become untenable.

The complainant provided a website address for the training and consultancy company.

When writing to Boehringer Ingelheim, the Authority asked it to consider the requirements of Clauses 2, 9.1, 18.1, 19.1, 19.2, 21 and 23.1 of the Code with regard to the clinical audit and with regard to training workshops delivered in partnership with a named clinical commission group (CCG). The case would be considered under the requirements of the Code relevant to the time the activities took place. The clause numbers cited above were relevant to the 2015 and 2016 Codes.

RESPONSE

Boehringer Ingelheim submitted that it had worked with the CCG in which the named health professional was stated to have prescribing responsibility and the city based CHO in response to a need identified by them to improve local training in a particular therapy area. At the request of the CCG, the services of the health professional and his/her company had been provided by a contractual agreement between Boehringer Ingelheim and them.

Boehringer Ingelheim submitted that it supported training meetings for general practitioners in 2014 and 2016 and a 'train the trainer' meeting for a medical education goods and service (MEGS) called PRIMIS offered by Boehringer Ingelheim. PRIMIS was a free audit tool developed by a university, for which Boehringer Ingelheim offered funding (via a

MEGS) for training from the university on how to use it. Boehringer Ingelheim's only involvement in delivering the training was in a purely administrative capacity. In addition, Boehringer Ingelheim had supported the named health professional's attendance at a national UK meeting.

Boehringer Ingelheim had not commissioned patient reviews or clinical audits by the CCG or the city based CHO, the training and consultancy company or the named health professional. Boehringer Ingelheim was not aware of the behaviour described by the complainant where the training and consultancy company was alleged to have put improper pressure on pharmaceutical companies to support training events or to refrain from deploying similar services in the area.

Following notification of this complaint, all ongoing and future activity involving the training and consultancy company had been placed on hold and a certified field force briefing had been issued to that effect, a copy was provided. Boehringer Ingelheim provided details of relevant interactions.

Sponsorship of independently organised meeting in 2014

In 2014, the CCG in which the complainant stated that the named health professional had prescribing responsibility and influence organised an evening education meeting for which it used the services of the named health professional in his/her capacity as a nurse educator. The activity was approved via Boehringer Ingelheim's internal approval process and a contract was put in place between Boehringer Ingelheim and the named health professional for the services provided (a copy of the contract and agenda was provided).

Sponsorship of two independently organised meetings in 2016

In 2016, the same CCG organised a two day education and training meeting for which it requested financial support. The training and consultancy company's services were used at this meeting at the CCG's request, contracts were put in place directly between Boehringer Ingelheim and the training and consultancy company to facilitate payment. This was approved by Boehringer Ingelheim's internal approval process.

The same CCG organised a further course sponsored by Boehringer Ingelheim and again at the CCG's request, contracts were put in place directly between Boehringer Ingelheim and the training and consultancy company to facilitate payment. This was approved by Boehringer Ingelheim's internal approval process.

The course was accredited by the RCN and the RCGP and Boehringer Ingelheim's sponsorship was clearly stated on the agenda.

Train-the-trainer PRIMIS training in 2016

In February 2016 an initial introduction to PRIMIS was provided and a subsequent discussion with

the named health professional resulted in the city based CHO requesting support to conduct a 'train the trainer' PRIMIS training meeting; a contract was put in place between Boehringer Ingelheim and the city based CHO for financial support for this meeting which was approved by Boehringer Ingelheim's internal approval process.

Sponsorship of the named health professional to a UK national congress

In March 2016, and at his/her request, Boehringer Ingelheim supported the named health professional to attend a national UK congress and this was approved by Boehringer Ingelheim's internal approval process. An agreement was put in place with the named health professional for this activity.

Boehringer Ingelheim addressed each of the clauses cited as follows:

Clause 23.1: The services provided were used to provide training to a city based CHO and a named CCG at their request. The city based CHO and the CCG at which the named health professional had prescribing responsibility identified the need for the services to be delivered and that the named health professional/the training and consultancy company had the required expertise to meet their need. The contract in each case included provisions requiring the obligation to declare support from Boehringer Ingelheim.

Clause 21: The training services provided by the named health professional and the training and consultancy company complied with Clause 19.1 and no inducements to prescribe, supply, administer, recommend, buy or sell any medicine had been made. Boehringer Ingelheim had no input to the training other than to provide requested funding.

Clauses 19.1 and 19.2: The training services provided by the named health professional and the training and consultancy company were provided as a MEGS pursuant to Clause 19.1 to benefit the NHS and enhance patient care by improving health professionals' knowledge of best practice care in a particular therapy area. Boehringer Ingelheim had no input into the training delivered by either the named health professional or the training and consultancy company and had funded this training at the express request of CCG in which the health professional had prescribing responsibility.

The PRIMIS training was delivered by a university and funded by Boehringer Ingelheim as a MEGS to support use of the independently developed PRIMIS audit tool. Boehringer Ingelheim had no input into the PRIMIS training and was not involved in the subsequent use of PRIMIS by the city based CHO. No inducements to prescribe, supply, administer, recommend, buy or sell any medicine had been made. Appropriate contracts had been put in place for all activities and all payments had been, or would be, appropriately disclosed as transfers of value.

Clause 18.1: No gift, pecuniary advantage or benefit had been offered to any health professional in connection with the promotion of medicines or as

an inducement to prescribe, supply, administer, recommend, buy or sell any medicine. Boehringer Ingelheim had had no input or influence over any of the training delivered by the named health professional, the training and consultancy company, the university, or the subsequent use of the PRIMIS tool.

Clauses 9.1 and 2: Given the above, Boehringer Ingelheim submitted that high standards had been maintained and that neither its involvement with the named health professional nor the training and consultancy company had reduced confidence in the pharmaceutical industry or brought discredit upon it. The company thus denied breaches of Clauses 9.1 and 2.

In response to a request for further information, Boehringer Ingelheim submitted the following:

Funding for audits

Boehringer Ingelheim stated that it had not directly supported the training and consultancy company to conduct clinical audits and it was not aware that it had funded any which had been carried out by that company. Boehringer Ingelheim had not funded any relevant clinical audits in the named region. The only service currently supported by Boehringer Ingelheim in relation to relevant clinical audits was funding to a university via a MEGS to train practices to use PRIMIS, a free clinical audit tool developed by the university. The training, developed and provided by the university and Boehringer Ingelheim, was not involved in any aspect of it or the subsequent use of the tool. Boehringer Ingelheim declined a request from the CCG in which the named health professional had prescribing responsibility in July 2016 to fund the remote installation of PRIMIS at 10 practices. This request was subsequently cancelled pending the outcome of this complaint.

Boehringer Ingelheim had not supported or funded the training and consultancy company to conduct anything that might be described as a 'nurse-led review or clinic to assess [relevant patients]'.

Meetings

Boehringer Ingelheim submitted that the CCG in which the named health professional had prescribing responsibility had decided to use the services of his/her training and consultancy company with no input from Boehringer Ingelheim. The local representative had several meetings with the CCG which subsequently led to a request from it to specifically use the named health professional's training and consultancy company to deliver local education meetings in 2016. The two-day training courses were sponsored by Boehringer Ingelheim and this activity was submitted for approval as per Boehringer Ingelheim's processes and procedures and the funds came from a budget for field force funded activities. This was not designated as a joint activity with Lilly.

Boehringer Ingelheim directly funded the named health professional as a speaker at an evening meeting in the same CCG in 2014 and his/her speaker fee was assessed against fair market value. The

contracts between Boehringer Ingelheim and the health professional's company for two educational meetings demonstrated that the financial support received by the training and consultancy company was for an exhibition stand. This was assessed as a commercial sponsorship opportunity not as a speaker engagement. Boehringer Ingelheim submitted that as such it was not necessary to assess the cost against fair market value.

The requests for the sponsorship of the educational meetings were placed through the appropriate approval system via representatives. The request for financial support in the same CCG in April and July 2016 came from a health professional at the CCG as did the request for PRIMIS training (copies were provided).

Boehringer Ingelheim provided copies of entries in its customer relationship management (CRM) system for the representatives' interactions with the named health professional. One attachment provided an overview of all 2016 entries involving the named health professional. There were no entries and therefore no interactions for 2015 or any prior year. Details of interactions from February through to July were provided. The two interactions in February and the one in March were to discuss a clinical paper folder, which was not offered, and the PRIMIS offering and to find out information and develop access to the CCG with which he/she was associated. The meeting in June referred to the set-up of a PRIMIS 'train the trainer' session which was held in 2016; there were no call notes for this call.

Boehringer Ingelheim submitted that it disagreed with the complainant's statement that there was a risk that the support by industry of the educational courses run by the training and consultancy company could be perceived as an attempt to 'buy the business' because 'the amount of money that industry has pumped into these courses was staggering'. The CCG associated with the named health professional highlighted in February 2016 that there was a need to improve the level of local education in a specific therapy area and specifically requested support for the educational courses run by that health professional's company. This was documented in the CRM entry with the CCG and opportunities to support relevant training with the named health professional were explored in February 2016. These courses were accredited by the RCGP and the RCN so appeared to be appropriate courses. While in hindsight it would have been more appropriate for the sponsorship contract for these courses to have been between Boehringer Ingelheim and the CCG rather than Boehringer Ingelheim directly paying the named health professional's company, the involvement of the training and consultancy company in these courses was always at the request of the CCG and/or the city based CHO. Boehringer Ingelheim was not aware of the nature of the relationship between the training and consultancy company and the CCG/the city based CHO, however, it was aware that the CCG worked with the training and consultancy company to deliver therapy specific education. The only other payments made by Boehringer Ingelheim to the named health

professional were relatively modest sums for speaking at a meeting in 2014 and travel expenses for attending a national congress in 2016. While a Boehringer Ingelheim representative had discussed the PRIMIS 'train the trainer' session with the named health professional, Boehringer Ingelheim did not know whether he/she attended this training session as it was Boehringer Ingelheim's policy not to attend these sessions. The request for the training session came from the city based CHO.

The company had spoken to the local representative and his/her manager about interactions with the CCG/the city based CHO and the named health professional and there had not been pressure to support relevant education training or the training and consultancy company/the named health professional from any party.

Requests for sponsorship to attend the annual UK congress were placed through the appropriate approval system via a representative. A copy of the named health professional's unsolicited request for support to attend was provided. A copy of the agreement was provided. Boehringer Ingelheim did not routinely request a copy of receipts for attendance at the conference therefore it was not able to supply a receipt for attendance.

PANEL RULING

The Panel noted that the anonymous complainant was non contactable and so could not be asked to provide further details. Anonymous complaints were accepted and like all complaints judged on the evidence provided by the parties. The complainant had the burden of proving his/her complaint on the balance of probabilities. The complainant had not provided any evidence in support of the allegations.

The complaint raised concerns about the interactions of certain pharmaceutical companies, including Boehringer Ingelheim, and the training and consultancy company run by the named health professional. The complainant stated that the named health professional, a nurse, was employed on a contractual basis by a number of NHS organisations including the named city based CHO. Reference was made to his/her prescribing responsibility and alleged influence in a named CCG area and to the training and consultancy company services provided locally. The training and consultancy company offerings were said to range from practice audits, health professional mentoring and education to classroom based training workshops. More detailed allegations were made in relation to audits and workshops. The complainant alleged that the amount of money that industry had pumped into these courses was 'staggering' and could be perceived as an attempt to 'buy the business'. The complainant also generally referred to the Authority investigating the relationship between the named health professional and certain pharmaceutical companies. In this regard the Panel noted that it could only consider specific matters raised in the complaint.

The Panel noted that the complainant began by stating that he/she wished to complain about the

conduct of the training and consultancy company, referred to grave concerns about it and the path which the complainant alleged had been taken by its owner, the named health professional, to extract financial support from the industry including highly coercive behaviour; in this regard the Panel noted that the Code applied solely to the conduct of pharmaceutical companies.

The Panel considered that the complaint was broader than the two matters identified by the case preparation manager, ie audits and specific workshops. The complainant had referred generally to training and support for health professionals delivered by the named health professional but paid for by the pharmaceutical industry. Boehringer Ingelheim had, however, responded to all matters raised in the complaint and the Panel ruled accordingly. The Panel considered that the scope of the complaint included the engagement of the named health professional and/or the training and consultancy company activities, with health professionals, whether such activities were delivered by its owner, the named health professional or other individuals. However, when considering such matters the totality of a company's interactions with the named health professional would, nonetheless, be relevant.

The Panel noted that the complainant had provided a website address for the training and consultancy company and this had been provided to all respondent companies. The website listed the named health professional as the Director and another health professional as the nurse liaison lead. The Panel noted that the named health professional was contracted by the NHS to work at a number of surgeries in addition to his/her role at the named city based CHO.

The Panel noted that the complainant had raised concerns in relation to a number of pharmaceutical companies which were taken up with each company individually. Companies made differing submissions about the training and consultancy company and the role and status of the named health professional. Each case was considered on its merits.

In addition, the Panel noted that the case preparation manager had stated that matters would be considered in relation to the requirements of the Code applicable when the matters at issue occurred. In this regard the Panel noted that Boehringer Ingelheim had paid the named health professional to speak at a meeting in October 2014 at a GP practice. The Panel noted that there was a difference between the 2014 and 2016 Codes in the supplementary information to Clause 2 in that the supplementary information to the 2016 Code gave 'unacceptable payments' as an example of a breach of that clause. This difference was potentially relevant to the matter at issue and thus all matters pertaining to the October 2014 meeting were ruled under the requirements of the 2014 Code.

The Panel noted that Boehringer Ingelheim's first interaction with the named health professional appeared to be in relation to an evening meeting

held in June 2014 at a GP practice and organised by the CCG in which the complainant stated that he/she had prescribing responsibility and influence; this was inconsistent with the company's submission that it had not interacted with him/her before 2016. Boehringer Ingelheim had paid the named health professional's speaker fee. The Panel noted that, contrary to the company's submission that the fee had been assessed against fair market value, appendix 2 to the speaker agreement dated the same day as the meeting, a compliance questionnaire which included an assessment of fair market value, had not been completed. Boehringer Ingelheim submitted that the CCG had organised the meeting and decided to use the named health professional's services; the named health professional/the training and consultancy company was paid directly by Boehringer Ingelheim. The Panel noted that the complainant bore the burden of proof and considered that the complainant had not established on the balance of probabilities that there was any evidence to show that the engagement of the named health professional was an inducement to prescribe or otherwise inappropriate as alleged. No breach of Clauses 18.6 and 20.1 of the 2014 Code was ruled. No breach of Clauses 9.1 and 2 of the 2014 Code was also ruled.

The Panel noted that according to Boehringer Ingelheim, the same CCG organised two courses, each over two days, using the training and consultancy company's services, in April and July 2016. Each course was sponsored by Boehringer Ingelheim and another company. Boehringer Ingelheim subsequently submitted that the courses were organised by the training and consultancy company. Boehringer Ingelheim also stated that at the request of the CCG the contracts for each course were with the training and consultancy company. The contracts described the training and consultancy company as the organiser. The signature required for the training and consultancy company was that of the named health professional. The Panel noted Boehringer Ingelheim's submission that it was not aware of the relationship between the training and consultancy company and the CCG/the city based CHO. In that regard, however, the Panel noted in an email from the named health professional in February 2016 to Boehringer Ingelheim requesting sponsorship for his/her attendance at a UK conference, he/she signed him/herself as a therapy area specific specialist nurse from a named hospital. Further, call notes from February and March 2016 showed that discussions with the named health professional had centred around fact finding and developing access with key customers in the CCG with which he/she was associated. It thus appeared that Boehringer Ingelheim should have been well aware of the named health professional's dual role as a health professional within the CCG and the owner of the training and consultancy company.

The Panel further noted an email in March 2016 from the team lead at the community specialist service division at the city based CHO to the local representative requesting funding for the courses at issue. According to the training and consultancy company website, details of which were provided

by the complainant, the author of that email was, in addition to his/her NHS role, a colleague of the named health professional at the training and consultancy company and the Panel noted that in his/her role at the CCG associated with the named health professional, he/she had previously held discussions with Boehringer Ingelheim's representative about supporting training with the named health professional. The company paid for exhibition stands at the April and July meetings. The Panel disagreed with Boehringer Ingelheim's submission that as this activity was not a speaker engagement and was assessed as a commercial opportunity it was not necessary to assess the cost against fair market value. The Panel noted that although the fair market value requirement in Clause 23 applied to the company's appointment of consultants, when supporting a healthcare organisation such as the training and consultancy company, the company still had to ensure that the sponsorship arrangements, including the amount of money paid, complied with the Code. In particular, the decision to sponsor an event and the level of funding should not be such that they could be seen as an inducement to prescribe. The Panel noted that the agenda for each course set out a detailed education programme over two days and the course was accredited by the RCN and the RCGP. The Panel noted that the complainant bore the burden of proof and considered that the complainant had not established on the balance of probabilities that either the provision of sponsorship or the level of sponsorship was an inducement to prescribe or otherwise inappropriate in relation to the matters alleged. No breach of Clauses 18.1 and 19.2 was ruled.

The Panel noted Boehringer Ingelheim's submission that it had not funded any relevant clinical audits in a named area. It had at the request of the city based CHO (dated 19 July) funded a meeting on 21 July 2016 to provide training for practices to use PRIMIS, a free clinical audit tool which had been developed by a university. The Panel noted that the person who requested the funding was, according to the training and consultancy company website, linked to the training and consultancy company. Payment was made directly to the university. The company had no role in relation to the development of the tool or its subsequent use. Contacts between the local representative and the named health professional in relation to PRIMIS took place in February and June 2016. A request from the CCG associated with the named health professional to fund the remote installation of PRIMIS in 10 local practices had been declined. The Panel also noted the company's submission that it did not know whether the named health professional attended the training meeting in July 2016. The Panel noted that there was no evidence that the request for sponsorship and/or the decision to sponsor was linked directly or indirectly to the use of Boehringer Ingelheim's medicines. The Panel noted that the complainant bore the burden of proof and considered that the complainant had not established on the balance of probabilities that there was any evidence to show that sponsorship of the training day was an inducement to prescribe or otherwise inappropriate in relation to the matters alleged. No breach of Clauses 18.1 and 19.2 was ruled.

The Panel noted its rulings above and whilst it had some concerns, it did not consider that the complainant had provided any evidence to establish a breach of Clauses 9.1 or 2. No breach of those clauses were ruled.

The Panel noted that Boehringer Ingelheim had also been asked to respond to Clauses 19.1 and 21 of the 2016 Code. There was no evidence before the Panel that Boehringer Ingelheim had engaged in any relevant activities and the Panel ruled no breach of Clauses 19.1 and 21 accordingly.

The Panel considered that Boehringer Ingelheim's sponsorship of the named health professional to attend the UK conference in 2016 was outside the

scope of the complaint and the company made no rulings in this regard.

During its consideration of this case, the Panel was concerned about the company's submission that it did not routinely request copies of receipts for attendance at the UK conference and considered that it was vulnerable in this regard. The sponsorship agreement provided was unsigned and referred to sponsorship 'To a maximum of' [figure stated]. This appeared to be based on the named health professional's estimate of his/her expenditure which gave little detail.

Complaint received **3 August 2016**

Case completed **19 December 2016**
