

# HEALTH PROFESSIONAL CONSULTANT TO A PHARMACEUTICAL COMPANY v JOHNSON & JOHNSON

## Nicorette advertisement

A complaint was received in a private capacity from a health professional who stated that he/she worked as a consultant to a pharmaceutical company.

The complaint concerned an online advertisement for Nicorette (nicotine) issued by Johnson & Johnson published in Pulse.

The complainant provided a screenshot of a banner advertisement. It included 'Nicorette. Do something incredible'. The complainant did not believe that the word 'incredible' was suitable. This information did not appear to be balanced and was exaggerated. The claim was taken directly from material aimed at the general public and it appeared that Johnson & Johnson had not undertaken a sufficiently robust review when translating to promotion aimed at health professionals.

The detailed response from Johnson & Johnson is given below.

The Panel noted that the banner advertisement continuously revolved through four banners, one after the other, over 10 seconds. The statement at issue 'Do something incredible' appeared immediately adjacent to the Nicorette product logo on the first, second and fourth banner and in the Panel's view would be read as describing a quality of the product. The statement was unqualified on banners 1 and 4, but appeared adjacent to the product logo and question 'HOW DO YOU EMPOWER THEM TO QUIT FOR GOOD?' on the second banner. The third banner read 'Combination NRT is 43% more effective than patch alone' which Johnson & Johnson stated referred to combination NRT in general, all brands and formulations; the Panel considered that some readers might nonetheless not unreasonably associate that claim with Nicorette given the adjacent prominent picture of Nicorette product packs and the claim 'Nothing beats Nicorette dual support' on that banner.

The Panel did not agree with Johnson & Johnson's submission that the statement in question 'Do something incredible' related to the focus of the banners ie how do you empower patients to quit for good and that the health professional could make an informed opinion of the therapeutic value of Nicorette in the context of a quit attempt. Johnson & Johnson also submitted that a patient's achievement in quitting smoking was incredible and not the Nicorette brand. The Panel considered that the difficulty smokers had in quitting would be well understood by the audience and that success would not unreasonably be considered to be an incredible feat. However, whether one considered the first, second and fourth banners individually or the cumulative effect of all four the Panel considered

that the implication was that the statement in question related to a feature of Nicorette, that the product itself had incredible features and/or that health professionals would be doing something incredible by prescribing it. The implication was misleading and exaggerated and breaches of the Code ruled.

The complainant stated at the time of submitting the complaint that he/she was a health professional who worked as a consultant to Novartis. It had previously been decided, following consideration by the then Code of Practice Committee and the ABPI Board of Management, that private complaints from pharmaceutical company employees had to be accepted. To avoid this becoming a means of circumventing the normal procedures for intercompany complaints, the employing company would be named in the report. The complainant would be advised that this would happen and be given an opportunity to withdraw the complaint.

This issue came to the fore many years ago when an employee of a pharmaceutical research company complained in a private capacity about a journal advertisement issued by GlaxoSmithKline UK Ltd (Case AUTH/1498/7/03). In Case AUTH/1498/7/03 it was decided that the pharmaceutical research company would be named in the case report whilst making it clear that the complaint was made in a private capacity.

The case preparation manager decided that the principles set out above would apply to consultants. Consultancy status should not be used to circumvent the normal rules for inter-company complaints.

The complainant was advised that if he/she wished to proceed with the complaint in a private capacity Novartis would be named in the case report; and the respondent company would be informed of his/her professional status and the connection with pharmaceutical companies. The complainant so agreed.

Novartis stated that it had no knowledge of, or involvement in, the complaint and did not know the complainant's identity.

The complaint concerned an online advertisement for Nicorette (nicotine) issued by Johnson & Johnson Limited and was published in Pulse (ref UK/NI/16-7663).

## COMPLAINT

The complainant provided a screenshot of a banner advertisement. It included 'Nicorette. Do something incredible'. The complainant alleged that whilst he was sure that Nicorette was a useful treatment in

smoking cessation, he/she did not believe that the word 'incredible' was suitable. The complainant referred to the definitions 'impossible to believe' or 'difficult to believe/extraordinary'.

This information did not appear to be balanced and was exaggerated. The claim was taken directly from material aimed at the general public (<https://www.nicorette.co.uk/get-motivated-stop-smoking/do-something-incredible>) and it appeared that Johnson & Johnson had not undertaken a sufficiently robust review when translating to promotion aimed at health professionals.

When writing to Johnson & Johnson attention was drawn to the requirements of Clauses 7.2 and 7.10 of the Code.

## RESPONSE

Johnson & Johnson stated that the advertisement in question was a 'rolling banner' whereby the reader of the website would see each of four rolling banners which flicked through automatically, one after the other (copy provided). The advertisement should be considered as one piece rather than four individual banners.

The tagline 'Do something incredible' had been used globally by Johnson & Johnson for several years. The tagline was a 'call to action' to encourage smokers to make a quit attempt and highlighted the incredible journey that quitters go on to overcome their addiction to tobacco products and ultimately stop smoking. Previous 'Do something incredible' campaigns and advertising had focused on patient stories as a means to motivate smokers to consider quitting tobacco smoking. The tagline was associated with making an attempt to quit smoking rather than using a product to help the patient do so.

Johnson & Johnson stated that according to the World Health Organisation smoking was still one of the most preventable causes of death worldwide; one out of every 2 smokers would die from their habit. Quitting smoking was extremely hard, and research showed that it could take a smoker several attempts to break free from their addiction. Yet quitting smoking remained one of the most important things a smoker could do for their health; and by extension, helping a patient quit could be one of the most effective and cost-effective health interventions a health professional could make.

Johnson & Johnson submitted that the most effective way to quit smoking was with the use of health professional support and pharmacological support. However, quit rates for patients attempting to stop smoking with NHS support had been declining for several years, as documented by the health and social care information centre. Therefore, in recent times the tagline had been used to not only encourage and support smokers to quit smoking, but also to encourage health professionals to support their patients to quit smoking; to help them 'Do something incredible' by breaking free from tobacco and increase their chances of living a long and healthy life.

The dictionary defined 'incredible' as meaning not just 'impossible to believe', but also 'difficult to believe; extraordinary' and synonyms includes 'remarkable', 'marvellous' and 'wonderful'. The term was used therefore in advertising to highlight that quitting smoking, or facilitating someone to quit smoking, was actually quite extraordinary and wonderful. Johnson & Johnson disagreed that the 'Nicorette. Do something incredible' tagline was unbalanced or exaggerated.

The advertisement should be considered in the context of the rolling banners. On the second banner was the question, 'How do you empower them to quit for good?'. Given the great difficulties health professionals faced in helping their patients to quit and the large numbers of failed quit attempts, in this context the health professional could 'do something incredible' by encouraging and helping patients to quit smoking. Equally, those patients who managed to quit for good had achieved something incredible regardless of how this was achieved; behavioural support, pharmacological products or willpower alone.

Furthermore, on banner 3, Johnson & Johnson stated that 'combination NRT is 43% more effective than patch alone'. This claim referred to combination nicotine replacement therapy (NRT) in general, all brands and formulations, and this highlighted that it was the act of quitting smoking that was incredible and not Nicorette brand.

It was unfortunate that the complainant did not approach the company directly to discuss the advertising, particularly because, as someone who had been working as a consultant to the industry, they were probably well aware of the self-regulation process. The company was sure that if it had had the opportunity it could have reassured the complainant and reached a mutually satisfactory conclusion to this complaint.

The complainant also included pages from the Nicorette website aimed at consumers. Nicorette was a general sales list (GSL) product therefore the information from the consumer website was subject to the Proprietary Association of Great Britain (PAGB) Code and had been fully reviewed and approved by both Johnson & Johnson and the PAGB.

Regarding Clause 7.2 Johnson & Johnson submitted that the tagline 'Do something incredible', in context, was balanced, fair and unambiguous. The focus of the rolling banners advertisement was the message within the banners ie, 'How do you empower them to quit for good?'. Encouraging the healthcare professional to support a patient through a quit attempt was not unbalanced and did not mislead either directly or by implication. The healthcare professional could generate an informed opinion of the therapeutic value of the Nicorette NRT medicine in the context of helping a patient through a quit attempt. Stopping smoking was indeed an incredible achievement that many patients could realise, with such support.

## PANEL RULING

The Panel noted that the banner advertisement, published in Pulse today online, continuously revolved through four banners, one after the other, over 10 seconds. The Panel noted that the supplementary information to Clause 4.1 which covered prescribing information and other obligatory information stated in relation to electronic journals, *inter alia*, that the first part of an advertisement in an electronic journal, such as the banner, was often the only part of the advertisement that is seen by readers. The first part was often linked to other parts and in such circumstances the linked parts would be considered as one advertisement. The Panel considered that the purpose of the relevant supplementary information was, *inter alia*, to ensure that the prescribing information and other obligatory information were an integral part of the advertisement thus satisfying the requirements of Clause 4.1. The Panel noted that the link to the prescribing information was not the subject of the present complaint.

The Panel considered that there were differences between a static banner on which one proactively clicked to link to other material including the prescribing information, and a series of continuously revolving banners. The length of time that each banner was displayed within a revolving series would vary, could not be influenced by the reader and might be longer or shorter than those in the material in question which were displayed for 2.5 seconds each. The Panel considered that such cases should be considered individually in relation to the requirements of the Code. The Panel did not consider Johnson & Johnson's submission that the material should be viewed as one advertisement rather than four individual banners: this was not a point raised by the complainant.

The Panel noted that the statement at issue 'Do something incredible' appeared immediately adjacent to the Nicorette product logo on the first,

second and fourth banner and in the Panel's view would be read as describing a quality of the product. The statement was unqualified on banners 1 and 4, but appeared adjacent to the product logo and question 'HOW DO YOU EMPOWER THEM TO QUIT FOR GOOD?' on the second banner. The third banner read 'Combination NRT is 43% more effective than patch alone' which Johnson & Johnson stated referred to combination NRT in general, all brands and formulations; the Panel considered that some readers might nonetheless not unreasonably associate that claim with Nicorette given the adjacent prominent picture of Nicorette product packs and the claim 'Nothing beats Nicorette dual support' on that banner.

The Panel did not agree with Johnson & Johnson's submission that the statement in question 'Do something incredible' related to the focus of the banners ie how do you empower patients to quit for good and that the health professional could make an informed opinion of the therapeutic value of Nicorette in the context of a quit attempt. Johnson & Johnson also submitted that a patient's achievement in quitting smoking was incredible and not the Nicorette brand. The Panel considered that the difficulty smokers had in quitting would be well understood by the audience and that success would not unreasonably be considered to be an incredible feat. However, whether one considered the first, second and fourth banners individually or the cumulative effect of all four the Panel considered that the implication was that the statement in question related to a feature of Nicorette, that the product itself had incredible features and/or that health professionals would be doing something incredible by prescribing it. The implication was misleading and exaggerated and a breach of Clauses 7.2 and 7.10 was ruled.

**Complaint received**                      **16 January 2017**

**Case completed**                              **18 May 2017**