

NHS FOUNDATION TRUST DEPUTY DIRECTOR OF PHARMACY v ASTRAZENECA

Arimidex mailing

The deputy director of pharmacy at an NHS foundation trust complained that an Arimidex (anastrozole) mailing, sent by AstraZeneca, appeared to be non-promotional because the envelope had 'Happy Birthday' printed on the front.

The Panel noted that on the pre-paid envelope at issue 'Happy Birthday' appeared below the recipient's address; a border of 10 stylized candles ran along the bottom edge. The flap on the reverse stated the address to which the envelope should be returned if undelivered. The envelope did not feature a company name nor any other text or design to indicate that the material originated from a pharmaceutical company or was otherwise related to promotion. The Panel considered that the envelope gave the misleading impression that it contained something other than promotional material. The envelope thus constituted disguised promotion of a medicine. A breach of the Code was ruled.

The deputy director of pharmacy at an NHS foundation trust, complained about an Arimidex (anastrozole) mailing (ref AZ 06/05 ARIM 05 16722) sent by AstraZeneca UK Limited. The mailing was sent to mark the fact that Arimidex had been available for 10 years. The envelope had ten stylised candles along its bottom front edge with 'Happy Birthday' written above. The mailing had been sent in November 2005 to all potential Arimidex customers ie breast cancer consultants, specialist registrars, breast cancer nurses, gynaecologists and key pharmacists.

COMPLAINT

The complainant alleged that 'Happy Birthday' on the front of the envelope indicated that this was non-promotional material which was not so. No other wording on the envelope indicated otherwise. The complainant alleged a breach of Clause 10.1, which required that envelopes must not be used for the dispatch of promotional material if they bore words that implied that the contents were non-promotional.

RESPONSE

AstraZeneca submitted that each of the following four points about the envelope in question should have suggested to the recipient that this was not a personal greeting sent by a private individual but was likely to be a promotional offering: the front of the envelope was printed with candles and the words 'Happy Birthday', but it was clear that this printing was an integral part of the envelope; there was a Royal Mail 'postage paid' stamp printed on the front, also as an integral part of the envelope; the name and address of the recipient was attached to the envelope with a pre-

printed adhesive label and the reverse of the envelope carried the printed statement 'If undelivered please return to: 42 Somers Road, RUGBY CV22 7XB' in the same colours as the front. Taken together all four points should have conclusively demonstrated to the recipient that this was a commercial mailing and not sent by a private individual.

AstraZeneca apologised unreservedly if this mailing actually arrived on the birthday of the complainant, thereby giving the impression that it might be an unexpected personal greeting. However, the company rejected the assertion that this envelope was in breach of Clause 10.1 as it considered that the nature of the envelope clearly marked it as containing a commercial, promotional mailing.

PANEL RULING

The Panel noted that the mailing had been sent in November 2005. The complaint was thus considered under the provisions of the 2003 Code. The supplementary information to Clause 10.1 stated, *inter alia*, that 'Envelopes must not be used for the dispatch of promotional material if they bear words implying that the contents are non-promotional, for example that the contents provide information relating to safety'.

The Panel noted that the envelope at issue was white with a pre-paid postage stamp in the top right hand corner. The text 'Happy Birthday' appeared below the recipient's address and running along the bottom edge of the envelope was a border of 10 stylized candles. The flap on the reverse of the envelope stated the address to which the envelope should be returned if undelivered. The envelope featured neither a company name nor any other text or design to indicate that the material originated from a pharmaceutical company or was otherwise related to promotion.

The Panel noted AstraZeneca's submission about the design of the envelope but considered that these factors alone were insufficient to negate the misleading impression that the envelope contained something other than promotional material. The envelope thus constituted disguised promotion of a medicine. A breach of Clause 10.1 was ruled.

Complaint received	5 January 2006
Case completed	3 February 2006